IDAHO BOARD OF HEALTH AND WELFARE
MINUTES
November 19, 2015

The Board of Health and Welfare convened at:
Pete T. Cenarrusa Building
450 W. State Street
Boise, Idaho 83720

BOARD MEMBERS PRESENT

Darrell Kerby, Chairman
Richard Armstrong, Secretary
James Giuffré
Janet Penfold
Richard Roberge, MD
Tom Stroschein
Stephen Weeg
Senator Lee Heider
Tammy Perkins

STAFF PRESENT

Russ Barron, Deputy Director, Welfare and Family and Community Services
Denise Chuckovich, Deputy Director, Behavioral Health, Medicaid, Public Health, and Office of Healthcare Policy Initiatives
David N. Taylor, Deputy Director, Support Services
Ross Edmunds, Division Administrator, Behavioral Health
Gary Moore, Division Administrator, Family and Community Services
Tamara Prisock, Division Administrator, Licensing and Certification
Elke Shaw-Tulloch, Division Administrator, Public Health
Miren Unsworth, Deputy Division Administrator, Family and Community Services
James Aydelotte, State Registrar, Vital Records & Health Statistics Bureau Chief, Public Health
Wayne Denny, EMS Bureau Chief, Public Health
Jamie Teeter, Bureau Chief, Behavioral Health
Tom Shanahan, Public Information Manager
Bruce Cheeseman, EMS Program Manager, Public Health
Patrick Guzzle, Food Protection Program Manager, Public Health
Heidi Graham, Civil Rights Manager, Support Services
Michelle Weir, Program Manager, Family and Community Services
Trina Clark, Policy Program Manager, Behavioral Health
Stephanie Miller, Adoption Specialist, Family and Community Services
Tauscha Huerta, Administrative Assistant to the Board
Kim Thurston, Administrative Assistant

OTHERS PRESENT

Nicole McKay, Lead Deputy Attorney General
Dennis Baylam, Lithum

CALL TO ORDER

Following proper notice in accordance with Idaho Code, Section 67-2343, and pursuant to call by the Chairman, the meeting of the Idaho Board of Health and Welfare was called to order by Darrell Kerby, Chairman of the Board, at 8:10 a.m., Thursday, November 19, 2015, at the Pete T. Cenarrusa Bldg., 450 W. State Street, Boise, Idaho.

ROLL CALL

Vice-Chairman Strochein, called the roll. Roll call showed **nine (9)** members present. With **six (6)** voting members present, Chairman Kerby declared a quorum. Absent and excused were Wendy Jaquet and Representative Wood.

WORK SESSION

Chairman Kerby opened the floor for a public working session. There being no items to discuss for this agenda topic, the Board advanced to the next order of business.

PUBLIC COMMENT PERIOD

Chairman Kerby opened the floor for public comment. There being none, the Board advanced to the next order of business.

ADOPTION OF MINUTES FROM BOARD MEETING ON MAY 14, 2015

Motion: Janet Penfold moved that the minutes of the August 20, 2015, Board of Health and Welfare meeting be adopted as prepared.

Second: Tom Stroschein

Vote: Ayes: **Giuffré, Kerby, Penfold, Roberge, Stroschein, Weeg,**
Nays: None

Motion Carried

SUMMARY OF RULES

Division Administrator Tamara Prisock distributed a list of rules the Department will be presenting to the 2016 Idaho Legislature.

SUMMARY OF LEGISLATIVE PROPOSALS

Division Administrator Tamara Prisock discussed and distributed handouts that contained a summary of legislative proposals the Department will be presenting to the 2016 Idaho Legislature.

APPROVAL OF RULES

Food Safety and Sanitation Standards for Food Establishments (The Idaho Food Code), Docket No. 16-0219-1501:

Presenter: Patrick Guzzle, Public Health Food Protection Program Manager, presented the Food Safety & Sanitation Standards for Food Establishments rule docket for the Board's approval.

This rule updated definitions that have caused confusion. Specific language is also being added to clarify a "cottage food" operation in Idaho. There has not been any indication that the foods included in the proposed definition of "Cottage Foods" have ever caused a foodborne illness in the State of Idaho.

Motion: James Giuffré moved that the Idaho Board of Health and Welfare adopt the "Pending" rules for the "Food Safety and Sanitation Standards for Food Establishments (The Idaho Food Code)" presented under Docket No. 16-0219-1501, with an effective date of July 1, 2016.

Second: Dr. Roberge

Vote: Ayes: **Giuffré, Kerby, Penfold, Roberge, Stroschein, Weeg**
Nays: None

Motion Carried.

Rules Governing Certified Family Homes Docket No. 16-0319-1502:

Presenter: Tamara Prisock, License and Certification Division Administrator, presented the Rules Governing Certified Family Homes rule docket for the Board's approval.

This rule allows an increase in fees to keep the Licensing and Certification Program self-sustaining. One-time application fee is increased $25.00, the monthly certification fee is increased $5.00, and the cost for "Basic Medication Awareness" is $60.00.

Motion: James Giuffré moved that the Idaho Board of Health and Welfare adopt the "Pending Fee" rules for the "Rules Governing Certified Family Homes" presented under Docket No. 16-0319-1502, with an effective date of July 1, 2016.

Second: Janet Penfold

Vote: Ayes: **Giuffré, Kerby, Penfold, Stroschein, Weeg**
Nays: **Roberge**

Motion Carried.

Emergency Medical Services (EMS) - Advisory Committee (EMSAC)
Docket No. 16-0101-1501:

Presenter: Bruce Cheeseman, EMS Program Supervisor, presented the EMS Advisory Committee (EMSAC) rule docket for the Board's approval.

This rule adds EMSAC responsibilities for the new EMS Education chapter requirements, "do not resuscitate" directives from the EMS chapter being repealed, and updates references to both chapters.

Motion: Dr. Roberge moved that the Idaho Board of Health and Welfare adopt the "Pending" rules for the "Emergency Medical Services (EMS) - Advisory Committee (EMSAC)," presented under Docket No. 16-0101-1501, with an effective date of July 1, 2016.

Second: Stephen Weeg

Vote: Ayes: **Giuffré, Kerby, Penfold, Roberge, Stroschein, Weeg**
Nays: None

Motion Carried.

Emergency Medical Services (EMS) - Rule Definitions
Docket No. 16-0102-1501:

Presenter: Bruce Cheeseman, EMS Program Supervisor, presented the EMS Rule Definitions rule docket for the Board's approval.

This rule updates and aligns definitions for the new chapter on EMS education and the EMS personnel licensing chapter.

Motion: Janet Penfold moved that the Idaho Board of Health and Welfare adopt the "Pending" rules for the "Emergency Medical Services (EMS) - Rule Definitions," presented under Docket No. 16-0102-1501, with an effective date of July 1, 2016.

Second: Tom Stroschein

Vote: Ayes: **Giuffré, Kerby, Penfold, Roberge, Stroschein, Weeg**
Nays: None

Motion Carried.

Emergency Medical Services (EMS) - Agency Licensing Requirements
Docket No. 16-0103-1501:

Presenter: Bruce Cheeseman, EMS Program Supervisor, presented the Emergency Medical Services (EMS) - Agency Licensing Requirements rule docket for the Board's approval.

This rule amends and aligns with new EMS education chapter and updates operational declarations, agency record requirements, and references to new and repealed chapter of rules.

Motion: James Giuffré moved that the Idaho Board of Health and Welfare adopt the "Pending" rules for the "Emergency Medical Services (EMS) - Agency Licensing Requirements" presented under Docket No. 16-0103-1501, with an effective date of July 1, 2016.

Second: Janet Penfold

Vote: Ayes: **Giuffré, Kerby, Penfold, Roberge, Stroschein, Weeg**
Nays: None

Motion Carried.

Emergency Medical Services (EMS) - Education, Instructor, and Examination Requirements
Docket No. 16-0105-1501:

Presenter: Bruce Cheeseman, EMS Program Supervisor, presented the Education, Instructor and Examination Requirements rule docket for the Board's approval.

This is a new chapter of rules to implement and provide updated initial education, instructor, and examination requirements to meet ever-changing technology and techniques used to protect the health and safety of the public in the provision of emergency medical services.

Motion: Dr. Roberge moved that the Idaho Board of Health and Welfare adopt the "Pending" rules for the new chapter "Emergency Medical Services (EMS) - Education, Instructor, and Examination Requirements" presented under Docket No. 16-0105-1501, with an effective date of July 1, 2016.

Second: James Giuffré

Vote: Ayes: **Giuffré, Kerby, Penfold, Roberge, Stroschein, Weeg**
Nays: None

Motion Carried.

Emergency Medical Services (EMS) - Personnel Licensing Requirements
Docket No. 16-0107-1502:

Presenter: Bruce Cheeseman, EMS Program Supervisor, presented the Personnel Licensing Requirements rule docket for the Board's approval.

This rule amends the EMS personnel licensing rules to provide flexibility for continuing education venues and early submissions for licensure renewals. It also updates licensure timelines, and the EMS Physician Commission Standards Manual to the current edition. Replaced by Docket No. 0107-1502.

Motion: Tom Stroschein moved that the Idaho Board of Health and Welfare adopt the "Pending" rules for the "Emergency Medical Services (EMS) - Personnel Licensing Requirements," presented under Docket No. 16-0107-1502, with an effective date of July 1, 2016.

Second: Dr. Roberge

Vote: Ayes: **Giuffré, Kerby, Penfold, Roberge, Stroschein, Weeg**
Nays: None

Motion Carried.

Emergency Medical Services (EMS) - Complaints, Investigations, and Disciplinary Actions Docket No. 16-0112-1501:

Presenter: Bruce Cheeseman, EMS Program Supervisor, presented the Complaints, Investigations, and Disciplinary Actions rule docket for the Board's approval.

This rule amends and aligns with new EMS education chapter, and updates to align with agency and personnel licensing requirements for clarity of enforcement actions. Professional standards have been removed and placed in the appropriate licensing chapter.

Motion: Dr. Roberge moved that that the Idaho Board of Health and Welfare adopt the "Pending" rules for the "Emergency Medical Services (EMS) - Complaints, Investigations, and Disciplinary Actions" presented under Docket No. 16-0112-1501, with an effective date of July 1, 2016.

Second: Janet Penfold

Vote: Ayes: **Giuffré, Kerby, Penfold, Roberge, Stroschein, Weeg**
Nays: None

Motion Carried.

Emergency Medical Services
Docket No. 16-0203-1501:

Presenter: Bruce Cheeseman, EMS Program Supervisor, presented the Emergency Medical Services rule docket for the Board's approval.

Rules from this chapter have been either moved into other chapters or are no longer needed.

Motion: Dr. Roberge moved that the Idaho Board of Health and Welfare adopt the "Pending" rules for the chapter repeal of the "Emergency Medical Services," presented under Docket No. 16-0203-1501, with an effective date of July 1, 2016.

Second: Stephen Weeg

Vote: Ayes: **Giuffré, Kerby, Penfold, Roberge, Stroschein, Weeg**
Nays: None

Motion Carried.

DIRECTOR'S REPORT

Last year Idaho was awarded a $40 million grant from the Center for Medicare and Medicaid Innovation (CMMI) to implement the Idaho Statewide Healthcare Innovation Plan (SHIP). The goal of SHIP is to redesign Idaho's healthcare delivery system to improve the health of all Idahoans. Key features are:

1. Transform 165 primary care practices to patient centered medical homes (PCMH).
2. Strengthen Health Information Technology (HIT) by connecting primary care practices to the Idaho Health Data Exchange (IHDE)
3. Develop telehealth, data collection, and analytics capacities to improve healthcare delivery.

Director Armstrong describes how data and analytics are vital to the transformation and how they drive numerous processes and programs that support healthcare transformation. The Department is currently looking at how to combine health information data from resources, such as the Department of Public Health, Medicaid, SHIP, and the Idaho Health Data Exchange.

Governor Otter tasked Director Armstrong and Tammy Perkins to meet with every member of the Idaho Legislature to review a proposal for providing primary medical services to the "gap" population without expanding Medicaid. Meetings thus far have been extremely positive. The primary concern has been how to provide funding without using federal dollars.

APPROVAL OF RULES (continued)

Use and Disclosure of Department Records
Docket No. 16-0501-1501:

Presenter: James Aydelotte, State Registrar, Vital Records & Health Statistics Bureau Chief presented the Use and Disclosure of Department Records rule docket for the Board's approval.

This rule adds clarification that any person designated in §54-1142(1), Idaho Code, has "a direct and tangible interest" in the death certificate of a decedent.

Motion: Janet Penfold moved that the Idaho Board of Health and Welfare adopt the "Pending" rules for the "Use and Disclosure of Department Records," presented under Docket No. 16-0501-1501, with an effective date of July 1, 2016.

Second: Dr. Roberge

Vote: Ayes: **Giuffré, Kerby, Penfold, Roberge, Stroschein, Weeg**
Nays: None

Motion Carried.

Child and Family Services
Docket No. 16-0601-1501:

Presenter: Stephanie Miller, Family and Community Services Adoption Specialist, presented the Child and Family Services rule docket for the Board's approval.

This rule amends rules to align with federal requirements for guardianships and adoption assistance programs, and relative notification for foster care.

Motion: Stephen Weeg moved that the Idaho Board of Health and Welfare adopt the "Pending" rules for the "Child and Family Services" presented under Docket No. 16-0601-1501, effective Sine Die 2016.

Second: James Giuffré

Vote: Ayes: **Giuffré, Kerby, Penfold, Roberge, Stroschein, Weeg**
Nays: None

Motion Carried.

Rules Governing Standards for Child Care Licensing
Docket No. 16-0602-1501:

Presenter: Michelle Weir, Family and Community Services Program Manager, presented the Rules Governing Standards for Child Care Licensing rule docket for the Board's approval.

This rule amends these rules to align with federal requirements regarding foster care and application of the "reasonable and prudent parent standard."

Motion: Janet Penfold moved that the Idaho Board of Health and Welfare adopt the "Pending" rules for the "Rules Governing Child Care Licensing" presented under Docket No. 16-0602-1501, with an effective date of July 1, 2016.

Second: Tom Stroschein

Vote: Ayes: **Giuffré, Kerby, Penfold, Roberge, Stroschein, Weeg**
Nays: None

Motion Carried.

Behavioral Health Sliding Fee Schedules
Docket No. 16-0701-1501:

Presenter: Jamie Teeter, Behavioral Health Bureau Chief, presented the Behavioral Health Sliding Fee Schedules rule docket for the Board's approval.

This rule amends these rules to combine fee schedules into one table, remove obsolete language and tables, and update references for behavioral health services to rates set in Department contracts.

Motion: Stephen Weeg moved that the Idaho Board of Health and Welfare adopt the "Pending" rules for the "Behavioral Health Sliding Fee Schedules" presented under Docket No. 16-0701-1501, with an effective date of July 1, 2016.

Second: Janet Penfold

Vote: Ayes: **Giuffré, Kerby, Penfold, Roberge, Stroschein, Weeg**
Nays: None

Motion Carried.

Behavioral Health Programs
Docket No. 16-0715-1501:

Presenter: Jamie Teeter, Behavioral Health Bureau Chief, presented the Behavioral Health Programs (New Chapter) rule docket for the Board's approval.

This is a new chapter for implementing and developing a behavioral health system of care. Each behavioral health program will pay a flat fee of $100 per each program location.

Motion: James Giuffré moved that the Idaho Board of Health and Welfare adopt the "Pending Fee" rules for the new chapter "Behavioral Health Programs" presented under Docket No. 16-0715-1501, with an effective date of July 1, 2016.

Second: Tom Stroschein

Vote: Ayes: **Giuffré, Kerby, Penfold, Roberge, Stroschein, Weeg**
Nays: None

Motion Carried.

Alcohol and Substance Use Disorders Services
Docket No. 16-0717-1501:

Presenter: Jamie Teeter, Behavioral Health Bureau Chief, presented the Alcohol and Substance Use Disorders Services rule docket for the Board's approval.

Alcohol and substance use disorders treatment and recovery support services and program requirements from chapter repeal have been added to this chapter of rules. Changes have been made to the proposed rules to clarify definitions, terminology, and references.

Motion: Tom Stroschein moved that the Idaho Board of Health and Welfare adopt the "Pending" rules for the "Alcohol and Substance Use Disorders Services" presented under Docket No. 16-0717-1501, with an effective date of July 1, 2016.

Second: Stephen Weeg

Vote: Ayes: **Giuffré, Kerby, Penfold, Roberge, Stroschein, Weeg**
Nays: None

Motion Carried.

Alcohol and Substance Use Disorders Treatment and Recovery Support Services Facilities and Programs
Docket No. 16-0720-1501:

Presenter: Jamie Teeter, Behavioral Health Bureau Chief, presented the Alcohol and Substance Use Disorders Treatment and Recovery Support Services Facilities and Programs rule docket for the Board's approval.

Repeal of Chapter.

Motion: Stephen Weeg moved that the Idaho Board of Health and Welfare adopt the "Pending" rules for the chapter repeal of the "Alcohol and Substance Use Disorders Treatment and Recovery Support Services Facilities and Programs" presented under Docket No. 16-0720-1501, with an effective date of July 1, 2016.

Second: Janet Penfold

Vote: Ayes: **Giuffré, Kerby, Penfold, Roberge, Stroschein, Weeg**
Nays: None

Motion Carried.

PUBLIC HEALTH, MEDICAID, BEHAVIORAL HEALTH and STATE HEALTHCARE INNOVATION PLAN (SHIP) REPORT

Division of Medicaid:

- Deputy Director Denise Chuckovich reported that next spring the Division of Medicaid will be offering primary care clinics that function as patient centered medical homes (PCMH) an alternative payment model, paying for value instead of volume. Medicaid will also be adding a Healthy Connections care management payment as well as Healthy Connections medical home payment for those clinics that have attained national PCMH recognition.

Division of Public Health:

- In April 2015, Governor Otter authorized the establishment of a Food and Drug Administration (FDA)-approved Epidiolex expanded access program for treatment-resistant epilepsy in children. This executive order directs the Department to implement and oversee the program. However, the Department is still waiting for approval from the Drug Enforcement Administration (DEA) before the new drug can be offered.
- Idaho does not have laws around surrogacy so there is a good deal of discussion regarding what surrogacy laws in Idaho should include. The Bureau of Vital Records has

convened stakeholder groups and is currently working with legislators who are drafting legislation.

- The Division of Public Health is involved in a year-long process to obtain national accreditation. Public health department accreditation is a measurement of health department performance against a set of nationally recognized, practice-focused, and evidenced-based standards. The Public Health Division is pursuing national public health department accreditation to improve service, value, and accountability to stakeholders.

Behavioral Health Division

- The Behavioral Health Crisis Center of East Idaho has now been in operation for one (1) year and has had over 1,100 admissions since its opening.
- The federal courts have approved the negotiated agreement for the Jeff D. lawsuit. The Division of Behavioral Health is currently developing an implementation plan.
- Typically Behavioral Health Integration is considered from the perspective of integrating behavioral healthcare into a primary care setting. The Division of Behavioral Health is looking into whether it might be appropriate to bring primary care physicians to the behavioral health setting; this is called reverse integration.

State Healthcare Innovation Plan (SHIP)

- SHIP has several contracts in place and is currently accepting applications for the Health Information Technology (HIT) Payer Project Manager position.
- The project management contractor, Mercer, has worked with the SHIP team to develop the operational plan. That plan will be submitted to the Center for Medicare and Medicaid Innovation (CMMI) December 1, 2015.
- The data analytics request for proposals (RFP) is due on November 24, 2015.
- The PCMH Contract has been awarded to Briljent.
- Idaho's seven (7) public health districts (PHD) serve as the local facilitators of regional effort for healthcare transformation. Each regional health collaborative consists of PHD directors and 2 physicians, the chair and co-chair. The Office of Healthcare Policy Initiatives (OHPI) held a regional collaborative kick-off November 5, 2015. The purpose of the workshop was to help the public health districts and Regional Collaboratives co-chairs establish a shared understanding about the RC's role in SHIP.
- SHIP has received over 100 applications from primary care practices wanting to become part of the SHIP PCMH transformation. There are 55 available spots for the model test year one (1).

DIVISION OF WELFARE AND FAMILY AND COMMUNITY SERVICES (FACS) REPORT

Welfare

- Open enrollment with Your Health Idaho began November 1, 2015, and will run through January 31, 2015. The Department operates the call center and processes all of the advanced premium tax credits (APTC) for Your Health Idaho. The call center currently receives an average of about 1,000 calls a day and keeps hold times below an average of five (5) minutes with a standard two (2)-day turnaround.
- As a strategic initiative within the Department's Strategic Plan, the Division of Welfare has been working on changing the "stigma" of Welfare by developing an initiative called Live Better. The goal of this initiative is to change the perception from an entitlement program mindset to more of an empowerment mindset; where people feel empowered

through these programs and use them as a support to moving to self-reliance, not as an alternative to work. Two (2) goals of this initiative are:

1. Develop a more customer centric website that will not only provide information and access to Department programs, but to also list other community resources, tools, guides, and connections that will enable individuals to connect with nutrition education, financial planning, employment and training, health initiatives, etc.
2. Modify the communication of our offices to support an empowerment mindset.

- The Department is currently planning for the implementation of staggered issuance of the Supplemental Nutrition Assistance Program (SNAP) over the first ten (10) days of the month. This change will be implemented July 1, 2016.

FACS

- The Division of FACS is currently looking at obtaining better outcomes for the children we serve in foster care. The goal is to reduce the trauma inflicted on children once they are in the care of the state by reducing the amount of times a child is moved from home to home and reducing the time is takes to reach permanency.
- The Southwest Idaho Treatment Center (SWITC) and Tyler House are the two (2) centers that provide services to individuals with developmental disabilities. Currently, there are 24 individuals residing at SWITC and five (5) individuals residing at Kyler House. The average length of stay for both combined is 34 months.

DIVISION OF SUPPORT SERVICES REPORT

Deputy Director David Taylor discussed changes the Department has made to the budget submission. These receipts and expenditures are listed by major program, fund source, and standard class for fiscal years 2016 and 2017.

Mr. Taylor also discussed and distributed handouts for the proposed decision units for fiscal year 2017.

A bill that was signed by President Obama to fund the federal government, preventing a government shutdown, expires December 11, 2015. Negotiations for a long-term budget plan are currently underway.

OFFICER ELECTION FOR BOARD CHAIR

Idaho Code requires the annual election of a Board Chair.

Motion: Stephen Weeg nominated Darrell Kerby for the Chair of the Idaho Board of Health and Welfare.

Second: Dr. Roberge

Roll Call Vote:

Ayes: **Giuffré, Penfold, Roberge, Stroschein, Weeg**
Nays: None

Motion Carried.

OFFICER ELECTION FOR BOARD VICE-CHAIR

Idaho Code requires the annual election of a Board Vice-Chair.

Motion: Stephen Weeg nominated Commissioner Tom Stroschein for the Vice-Chair of the Idaho Board of Health and Welfare.

Second: Janet Penfold

Roll Call Vote:
Ayes: **Giuffré, Kerby, Penfold, Roberge, Weeg**
Nays: None

Motion Carried.

BOARD MEETING DATES FOR YEAR 2016

February 18, 2016
May 19, 2016
August 18, 2016
November 17, 2016

ADJOURNMENT

The next meeting of the Idaho Board of Health and Welfare is scheduled to be held February 18, 2016. There being no further business to come before the Board, Chairman Kerby adjourned the meeting at 2:00 p.m.

Respectfully signed and submitted by:

_____
Darrell Kerby, Chairman

_____
Richard M. Armstrong, Secretary

_____
Tauscha Huerta, Administrative Assistant

ATTACHMENT 1

IDAHO BOARD OF HEALTH AND WELFARE
MINUTES
August 20, 2015

The Board of Health and Welfare convened at:
Pete T. Cenarrusa Building
450 W. State Street
Boise, Idaho 83720

BOARD MEMBERS PRESENT

Darrell Kerby, Chairman
Richard Armstrong, Secretary
Jim Giuffré
Wendy Jaquet
Richard Roberge, M.D.
Tom Stroschein
Janet Penfold
Stephen Weeg
Senator Lee Heider
Tammy Perkins

STAFF PRESENT

Denise Chuckovich, Deputy Director, Behavioral Health, Medicaid, and Managed Care Services
David N. Taylor, Deputy Director, Support Services
Gary Moore, Division Administrator, Family and Community Services
Paul Spannknebel, Division Administrator, Operational Services
Tamara Prisock, Division Administrator, Licensing and Certification
Niki Forbing-Orr, Public Information Officer
Diane Foote, Administrative Assistant to the Board

OTHERS PRESENT

Nicole McKay, Lead Deputy Attorney General
Sara Stover, Division of Financial Management
Jarod Tatro, Senior Budget & Policy Analyst

CALL TO ORDER

Following proper notice in accordance with Idaho Code, Section 67-2343, and pursuant to call by the Chairman, the meeting of the Idaho Board of Health and Welfare was called to order by Darrell Kerby, Chairman of the Board, at 8:40 a.m, Thursday, August 20, 2015, at the Pete T. Cenarrusa Bldg., 450 W. State Street, Boise, Idaho.

ROLL CALL

Director Armstrong, Secretary, called the roll. Roll call showed **ten (10)** members present. With **seven (7)** voting members present, Chairman Kerby declared a quorum. Absent and excused was Representative Wood.

PUBLIC COMMENT PERIOD

Chairman Kerby opened the floor for public comment. There being none, the Board advanced to the next order of business.

ADOPTION OF MINUTES FROM BOARD MEETING ON May 14, 2015

Motion: Stephen Weeg moved that the minutes of the May 14, 2015 Board meeting be adopted with edits requested.

Second: Janet Penfold

Roll Call Vote:

Ayes: **Giuffré, Jaquet, Kerby, Roberge, Stroschein, Weeg, Penfold**
Nays: None

Motion Carried

DEPUTY ATTORNEY GENERAL'S REVIEW OF PETITION PROCESS FOR THE BOARD

REVIEW AND DELIBERATION OF Appeal #14-975

Nicole McKay, Deputy Attorney General, requested to reverse the agenda and discuss Appeal #14-975 prior to reviewing petition process.

The parties have stipulated to a stay of appeal until the spring meeting. Absent a resolution, Palouse Area Care and Transport (PACT) will file a petition for an appeal hearing and oral argument before the Board in the spring and will lose no appeal rights because of the stay.

Nicole discussed roles and responsibilities of the Board of Health and Welfare when an appeal has been filed that falls under the Board's jurisdiction. The Board is to make a decision upon the information on record, including briefing, testimony, and four corners of evidence.

The Board granted the stay of the appeal with a motion by Wendy Jaquet, seconded by Tom Stroschein and all in favor for the motion to carry.

Board Member Jim Giuffre requested the Director and Department staff review the primary responsibilities of the Board and determine if additional clarity is needed in the decision-making process of the Board.

COMMENTS FROM BOARD MEMBERS

Board members discussed several items such as negotiated rulemaking for ambulance and fire services in the community.

Commissioner Stroschein thanked the Department for their support of behavioral health and recovery centers. He stressed that crisis centers are needed to complete the process.

CONCURRENCE OF APPOINTMENT FOR GARY MOORE AS FAMILY AND COMMUNITY SERVICES DIVISION ADMINISTRATOR

Director Armstrong introduced Gary Moore to the Board members and enumerated many of his accomplishments while working for the Department of Health and Welfare. Director Armstrong described the strengths and skills Mr. Moore exhibited while Hospital Administrative Director for State Hospital North (2008-2011) as the same skills needed in FACS. Gary was able to implement a work flow change with employees to increase efficiency in order to serve more people and improve moral. Child protection will be a major task of his to undertake in his new position as he and staff are determined to shorten the time children are waiting to be placed in permanence

Mr. Moore has been traveling the state to visit with department staff in the regions and to learn and understand the operational processes.

Motion: Stephen Weeg moved that the Idaho Board of Health and Welfare concur with the Director's appointment of Gary Moore as the Family and Community Services Division Administrator for the Idaho Department of Health and Welfare.

Second: Darrell Kerby

Roll Call Vote:
Ayes: **all**
Nays: None

Motion Carried

HEALTH, MEDICAID, BEHAVIORAL HEALTH and STATE HEALTH INNOVATION PLAN (SHIP) UPDATES

Deputy Director Denise Chuckovich discussed the status of programs and how each division is part of healthcare transformation with a workgroup focused on population issues and how to impact health on population as oppose to the individual.

Regional collaboratives are hiring staff for the patient-centered home model and the Health Division is expanding telehealth and focusing on rural health care to identify health clinics to develop the home model along with Behavioral health utilizing telehealth for counseling.

The Expanded Access Program provides an FDA-approved drug, Epidiolex, to children with treatment-resistant epilepsy in Idaho. The program will serve up to 25 children between the ages of 0-18 and administered in a clinical setting with a local neurologist specializing in epilepsy. Enrollment is expected to begin this fall with an expected program cost of $223,500.

The Division of Public Health continues to track individuals who have returned to Idaho or are passing though Idaho who have visited Ebola-affected countries in Africa. Monitoring includes any changes in CDC guidance and regular reporting to CDC. According to CDC guidance, several levels of hospital readiness exist for serious infectious disease situations:

- Frontline: Capability to isolate and stabilize
- Assessment: Idaho has a handful of hospitals volunteering to be prepared to isolate and do minimal treatment for up to 96 hours and then have the patient transported to a treatment hospital.
- Treatment: Idaho does not have a treatment hospital, but Sacred Heart in Spokane has agreed to be the treatment hospital for all of Region X (AK, WA, OR and ID).

Medicaid is taking the lead on payment reform and engaged to move away from paying for volume into paying for value.

The Health Home Pilot program implemented January 1, 2013 is seeing terrific results. Enrollment peaked at over 10,000 participants with Health Homes numbering 24 different health care organizations operating in over 50 service locations through the state.

The Idaho Falls Crisis Center, which opened December of 2014, has had approximately 950 admissions to date. A second center is projected to open in November or December of 2015 with DHW requesting a third crisis center in the next legislative cycle.

The Jeff D. lawsuit reached a settlement agreement approved by Federal Court in early July. Our department, in partnership with other child serving agencies in Idaho, will have until March of 2016 to implement a plan. DHW will then have four years to implement the new system.

The agreement focuses on four areas for change:

- Maximizing Medicaid resources
- Delivery of Services
- Greater emphasis on the most needy children and their families
- Quality assurance committed to improving the children's health system

SHIP contracts have been awarded to Mercer for technical assistance on project management and with IHDE to improve care coordination. Intent to award was given to Briljent for technical assistance to transform primary care practices across the stat into Patient Care Medical Homes. Contracts have also been signed with the seven Health Districts to develop Regional Health Collaboratives to support the integration of each PCMH with the broader medical neighborhood.

STRATEGIC PLAN UPDATE

Division Administrator Tamara Prisock presented an update on the Plan regarding communicating the goals and implementation. Handouts for the Board members included a timeline of work completed and work to do, along with high-level talking points. Also shared were articles from the Department's Info Net and Headline News which highlight specific initiatives for department staff. Future articles will be forwarded to the Board.

The Leadership team will be developing performance measures to monitor and working on a process for a performance review.

DIVISION OF SUPPORT SERVICES REPORT

Deputy Director David Taylor gave the Board members hand-outs and discussed each subject:

- FY2015 Recap:
  - Summary of fiscal year 2015 funds for the Department of Health and Welfare was discussed.
- 2017 Budget Request:
  - Supplemental request: Describe changes to the appropriation that adds to or adjusts spending authority in the current fiscal year (SFY 2016).
  - Maintenance Items: Request for resources needed to continue current levels of service (SFY 2017).
  - Line Items: Additional decision units requesting funding for new or expanded activities after maintenance of current operations (SFY 2017).
- Possible federal shut-down.

DIRECTOR'S REPORT

Director Armstrong presented on primary care for low-income and uninsured adults. Historically, assistance has been in the form of crisis care which is expensive and least effective. The option of care coordination allows direct influence of disease progression and cost escalation using private sector partners.

Board member Stephen Weeg reported an update on the health exchange. Idaho is 4th in the nation with 90,000 enrolled in the third year of the exchange all while utilizing their own technology – the first and only state to do so. Nearly 55,000 Idahoans screened last year are too poor for the tax credit which makes them perfect candidates for the Director's proposed program.

APPOINTMENT OF CHAIR AND VICE-CHAIR NOMINATION COMMITTEE

Darrell Kerby appointed Board members Stephen Weeg and Wendy Jaquet to serve on the Nomination committee.

ADJOURNMENT

The next meeting of the Idaho Board of Health and Welfare is scheduled to be held November 19, 2015. There being no further business to come before the Board, Chairman Kerby adjourned the meeting at 12:45pm

Respectfully signed and submitted by:

_____
Darrell Kerby, Chairman

_____
Richard M. Armstrong, Secretary

_____
Diane Foote, Administrative Assistant

ATTACHMENT 2

RULES FOR 2016 LEGISLATIVE SESSION
Status as of 11/19/2015

IDAPA 16 Docket No. / Authority	Chapter Title	Effective Date	Description	Presenter	Controversial	Public Participation
Division of Public Health						
0101-1501 Joint	Emergency Medical Services (EMS) - Advisory Committee (EMSAC)	7/1/16	Adds EMSAC responsibilities for the new EMS Education chapter requirements, "do not resuscitate" directives from the EMS chapter being repealed, and updates references to both chapters.	Wayne Denny ***or*** Bruce Cheeseman	No	22 meetings held around the state in April and May
0102-1501 Joint	Emergency Medical Services (EMS) - Rule Definitions	7/1/16	Updates and aligns definitions for the new chapter on EMS education, and the EMS personnel licensing chapter.	Wayne Denny ***or*** Bruce Cheeseman	No	22 meetings held around the state in April and May
0103-1501 Joint	Emergency Medical Services (EMS) - Agency Licensing Requirements	7/1/16	Amends and aligns with new EMS Education chapter, and updates operational declarations, agency record requirements, and references to new and repealed chapter of rules.	Wayne Denny ***or*** Bruce Cheeseman	No	22 meetings held around the state in April and May
0105-1501 Joint	Emergency Medical Services (EMS) - Education, Instructor, and Examination Requirements	7/1/16	New chapter of rules to implement and provide updated initial education, instructor, and examination requirements to meet ever-changing technology and techniques used to protect the health and safety of the public in the provision of emergency medical services.	Wayne Denny ***or*** Bruce Cheeseman	Somewhat	22 meetings held around the state in April and May
0107-1501 Joint	Emergency Medical Services (EMS) - Personnel Licensing Requirements	1/1/15T (extend)	Amends the EMS personnel licensing rules to provide flexibility for continuing education venues and early submissions for licensure renewals. Updates licensure	Wayne Denny ***or*** Bruce Cheeseman	No	10 meetings held around the state with EMS Personnel Summer and Fall

RULES FOR 2016 LEGISLATIVE SESSION
Status as of 11/19/2015

IDAHO DEPARTMENT OF HEALTH & WELFARE

IDAPA 16 Docket No. / Authority	Chapter Title	Effective Date	Description	Presenter	Controversial	Public Participation
			timelines, and the EMS Physician Commission Standards Manual to the current edition. Replaced by Docket No. 0107-1502.			of 2014
0107-1502 oint	Emergency Medical Services (EMS) - Personnel Licensing Requirements	7/1/16	Amends and aligns with new EMS education chapter, and includes temporary rule changes for continuing education venue and license renewal cycle requirements adopted and extended under Docket 16-0107-1501. Professional standards for licensing have been added from IDAPA 16.01.12.	Wayne Denny ***or*** Bruce Cheeseman	No	22 meetings held around the state in April and May
0112-1501 oint	Emergency Medical Services (EMS) - Complaints, Investigations, and Disciplinary Actions	7/1/16	Amends and aligns with new EMS education chapter, and updates to align with agency and personnel licensing requirements for clarity of enforcement actions. Professional standards have been removed and placed in the appropriate licensing chapter.	Wayne Denny ***or*** Bruce Cheeseman	No	22 meetings held around the state in April and May
201-1401 SE Council	Rules of the Idaho Time Sensitive Emergency System Council	Sine Die 2016	This chapter is for a time sensitive emergency system of care that sets standards for trauma, stroke, and heart attack centers based on nationally accepted practices. Fees are charged on a voluntary basis for hospitals that choose to become a designated center for one or more type or level as a designated center for which it meets the standards.	Dr. Bill Morgan, Chair	No	Negotiated rulemaking meetings held in Boise at the monthly TSE Council meetings

RULES FOR 2016 LEGISLATIVE SESSION
Status as of 11/19/2015

IDAPA 16 Docket No. / Authority	Chapter Title	Effective Date	Description	Presenter	Controversial	Public Participation
0202-1501 EMS Physician Commission	Rules of the EMS Physician Commission	7/1/16	Updated the edition number of the revised Scope of Practice Manual that is incorporated by reference.	Dr. Curtis Sandy, Chair	No	Quarterly meetings of the Commission provide for public input.
0203-1501 Joint	Emergency Medical Services	7/1/16	Repeal of Chapter. Rules from this chapter have been either moved into other chapters or are no longer needed.	Wayne Denny ***or*** Bruce Cheeseman	No	22 meetings held around the state in April and May
0219-1501 Board	Food Safety & Sanitation Standards for Food Establishments (The Idaho Food Code)	7/1/16	Updates to the 2013 FDA Model Food Code that better reflect industry practices and current food safety standards. Specific language is being added to clarify a "cottage food" operation in Idaho. Updates to definitions that have caused confusion are also being made.	Patrick Guzzle	Somewhat	30 Negotiated rulemaking meetings held around the state in April and May 9 Public Hearings held around the state in September
Division of Welfare						
0301-1501 Director	Eligibility for Health Care Assistance for Families and Children	Sine Die 2016	Aligns rules with federal regulations to ensure compliance with those regulations for Transitional Medicaid eligibility and authorized employment that are being removed.	Cheri Bourn ***or*** Camille Schiller	No	None
0304-1501 Director	Food Stamp Program in Idaho	7/1/16	Aligns rules with federal requirements to reduce food stamp applicant resource limits for certain households, and clarifies the description of such households.	Malinda Reissig ***or*** Kristen Matthews	No	None

RULES FOR 2016 LEGISLATIVE SESSION
Status as of 11/19/2015

IDAHO DEPARTMENT OF HEALTH & WELFARE

IDAPA 16 Docket No. / Authority	Chapter Title	Effective Date	Description	Presenter	Controversial	Public Participation
0305-1501 Director	Eligibility for Aid to the Aged, Blind and Disabled (AABD)	1/1/15T	Clarifies participant liability for pre-existing medical expenses based on guidance received from the Centers for Medicaid and Medicare (CMS). A definition is being added to clarify what pre-existing medical expenses are when determining patient liability.	Callie Harrold ***or*** Camille Schiller	No	None
0305-1502 Director	Eligibility for Aid to the Aged, Blind and Disabled (AABD)	Sine Die 2016	Aligns rules with federal requirements for eligibility and current business practices for determining countable self-employment income. Authorized employment and self-employment standard deductions are being removed.	Callie Harrold ***or*** Camille Schiller	No	None
0402-1201 Director	Idaho Telecommunication Service Assistance Program Rules	Sine Die 2016	Aligns rules with state policies and the Department's current business practices for contracting with qualified entities to provide services.	Kristin Matthews	No	None
0413-1501 Director	Emergency Food Assistance Program	Sine Die 2016	Aligns rules with state policies and the Department's current business practices for contracting with qualified entities to provide services.	Kristin Matthews	No	None
0414-1501 Director	Low Income Home Energy Assistance Program (LIHEAP)	Sine Die 2016	Aligns rules with state policies and the Department's current business practices for contracting with qualified entities to provide services.	Kristin Matthews	No	None

RULES FOR 2016 LEGISLATIVE SESSION
Status as of 11/19/2015

IDAPA 16 Docket No. / Authority	Chapter Title	Effective Date	Description	Presenter	Controversial	Public Participation
416-1501 Director	Weatherization Assistance Program in Idaho	Sine Die 2016	Aligns rules with state policies and the Department's current business practices for contracting with qualified entities to provide services	Kristin Matthews	No	None
Division of Medicaid						
309-1501 Director	Medicaid Basic Plan Benefits	7/1/2016	Amends rules to align with current Medicaid practices regarding school-based services and therapy services. Requirements are being amended to remove unnecessary regulatory burden on providers in their efforts to remain in compliance with these rules.	Frede' Trenkle-MacAllister	Somewhat	3 negotiated rule meetings held around the state in June 3 Public Hearings held in October in Pocatello, Boise & Coeur d'Alene
309-1502 Director	Medicaid Basic Plan Benefits	2/1/16T	Amends these rules toward outcome-based health care policy initiatives to meet 2015 legislative intent language. Provides services and provider reimbursement changes needed to support the new model of care for participants. Removes outdated language and adds references needed to support the new model.	Matt Wimmer	No	3 negotiated meetings held in Boise, Pocatello, & Coeur d'Alene in June 3 Public Hearings held in Boise, & Coeur d'Alene in October
309-1503 Director	Medicaid Basic Plan Benefits	Sine Die 2016	Amends and adds clarification of exceptions regarding third party liability for early and periodic screening and diagnosis services billed to third-party insurers.	Matt Wimmer	No	None

RULES FOR 2016 LEGISLATIVE SESSION
Status as of 11/19/2015

IDAPA 16 Docket No. / Authority	Chapter Title	Effective Date	Description	Presenter	Controversial	Public Participation
0310-1501 Director	Medicaid Enhanced Plan Benefits	7/1/2016	Amend rules to align with federal requirements to ensure participants receiving home and community based serves live in and receive services in setting that comply with required qualities of settings, service delivery methods and person-centered planning process.	Stephanie Perry ***or*** Matt Wimmer	Somewhat	5 Negotiated meetings held in June via video conference 3 Public Hearings held in Boise, ID Falls, & Coeur d'Alene in October
0313-1501 Director	Consumer-Directed Services	7/1/2016	Amends rules to align with federal requirements to ensure participants receiving home and community based serves live in and receive services in setting that comply with required qualities of settings, service delivery methods and person-centered planning processes.	Stephanie Perry ***or*** Matt Wimmer	Somewhat	5 Negotiated meetings held in June via video conference 3 Public Hearings held in Boise, ID Falls, & Coeur d'Alene in October
0316-1501 Director	Premium Assistance	Sine Die 2016	Repeal of Chapter	Matt Wimmer	No	None
Division of Licensing and Certification						
0319-1502 Joint	Rules Governing Certified Family Homes	7/1/16	Fees are being increased to keep the licensing and certification program self-sustaining. One time application fee increased $25, monthly certification fee increased $5, and "Basic Medication Awareness" training provided for $60.	Tamara Prisock	Somewhat	3 Negotiated meetings held in Boise, Pocatello, and Coeur d'Alene in May and June

RULES FOR 2016 LEGISLATIVE SESSION
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IDAHO DEPARTMENT OF HEALTH & WELFARE

IDAPA 16 DOCKET NO. / AUTHORITY	CHAPTER TITLE	EFFECTIVE DATE	DESCRIPTION	PRESENTER	CONTROVERSIAL	PUBLIC PARTICIPATION
Division of Family and Children's Services						
601-1501 oint	Child and Family Services	Sine Die 2016	Amends rules to align with federal requirements for guardianships and adoption assistance programs, and relative notification for foster care.	Stephanie Miller	No	None
602-1501 oint	Rules Governing Standards for Child Care Licensing	7/1/16	Amends rules to align with federal requirements regarding foster care and application of the "reasonable and prudent parent standard."	Michelle Weir	No	None
Operational Services						
501-1501 Joint	Use and Disclosure of Department Records	7/1/16	Adds clarification that any person designated in §54-1142(1), IC, has "a direct and tangible interest" in the death certificate of a decedent.	James Aydelotte	No	None
Division of Behavioral Health						
0701-1501 Joint	Behavioral Health Sliding Fee Schedules	7/1/2016	Amends rules to combine fee schedules into one table, remove obsolete language and tables, and update references for behavioral health services to rates set in Department contracts.	Jamie Teeter	No	None
0710-1501 Director	Behavioral Health Development Grants	Sine Die 2016	Repeal of Chapter	Jamie Teeter	No	None
0715-1501 Joint	Behavioral Health Programs (New Chapter)	7/1/2016	New chapter for implementing and developing a behavioral health system of care. Each behavioral	Jamie Teeter	No	3 Negotiated meetings in June around the state

RULES FOR 2016 LEGISLATIVE SESSION
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IDAHO DEPARTMENT OF HEALTH & WELFARE

IDAPA 16 Docket No. / Authority	Chapter Title	Effective Date	Description	Presenter	Controversial	Public Participation
			health program will pay a flat fee of $100 per each program location.			with conference call in available 2 Public Hearings in September with 9 locations around the state via video-conference
0717-1501 Joint	Alcohol and Substance Use Disorders Services	7/1/2016	Amends rules towards integrated behavioral health programs that include mental health and alcohol and substance use disorders treatment and recovery support services and programs. Some requirements added from repeal of chapter IDAPA 16.07.20.	Jamie Teeter		3 Negotiated meetings in June around the state with conference call in available 2 Public Hearings in September with 9 locations around the state via video-conference
0720-1501 oint	Alcohol and Substance Use Disorders Treatment and Recovery Support Services Facilities and Programs	7/1/2016	Repeal of Chapter	Jamie Teeter		3 Negotiated meetings in June around the state with conference call in available 2 Public Hearings in September with 9 locations around the state via video-conference

SUMMARY OF LEGISLATIVE PROPOSALS FOR 2016 SESSION

IDAHO DEPARTMENT OF HEALTH & WELFARE

TITLE	DESCRIPTION	FISCAL IMPACT	DIVISION	CONTACT	CONTROVERSIAL	STATUS
Civil Monetary Penalties	This legislation is to reduce the minimum Civil Monetary Penalty (CMP) rate for each item or service improperly claimed from 25% to 10% and requires the Department to promulgate rules clarifying the methodology used when computing and assessing a CMP. The proposal also grants the Department authority to apply the Civil Monetary Penalty when there is a "failure to obtain a criminal history background check clearance."	Based on SFY 2015 data, we could expect to receipt $230,800 in CMPs, leaving an estimated general fund need of $346,200. An ongoing general fund appropriation not to exceed $346,200 would be needed to maintain the operations of the Medicaid Program Integrity Unit.	Support Services	Steve Bellomy or Dave Taylor	No	Proposal approved, awaiting draft routing slip
Criminal History Background Checks	The Department is charged with conducting background checks on individuals who provide care or services to vulnerable adults or children and are identified in rule as being required to have a criminal history and background check. Idaho Code 56-1004A, *Criminal History and Background Checks*, codifies this mandate. Section 11 of the statute references a lapsed federal subsidy for this program. This legislation is to remove this outdated section of the Code.	There is no fiscal impact to this proposal. The current fee schedule is adequate to fund the operation of the program without the lapsed federal subsidy.	Support Services	Steve Bellomy or Dave Taylor	No	Proposal approved, awaiting draft routing slip

TITLE	DESCRIPTION	FISCAL IMPACT	DIVISION	CONTACT	CONTROVERSIAL	STATUS
Standards for Foster Care	This legislation is meant to delegate limited authority to foster parents to provide enrollment consent for foster child activities that schools and others may require, and that foster parents may be reluctant to give without liability protection. The legislation does not change the status or rights of a biological parent or guardian, or the role of the Idaho Department of Health and Welfare as the legal custodian or guardian of a child.	No fiscal impact	Family and Community Services	Miren Unsworth	No	Proposal approved, awaiting draft routing slip
Therapeutic Stabilization and Transition Center	This legislation will allow for part of the Southwest Idaho Treatment Center facility to be secured for those residents who are violent and dangerous to others, protecting vulnerable clients and the community.	Fiscal impacts have not yet fully been determined.	Family and Community Services	Cameron Gilliland	Yes	Proposal approved, awaiting draft routing slip
Membership on the Dev. Disabilities Council	This legislation will open Council membership to parents of individuals with developmental disabilities. Current requirements restrict membership to those who work in the disability field in some way.	No fiscal impact	DD Council	Christine Pisani	No	Proposal approved, awaiting draft routing slip

TITLE	DESCRIPTION	FISCAL IMPACT	DIVISION	CONTACT	CONTROVERSIAL	STATUS
Qualifying Charitable Center	This legislation changes the Legend Drug Act to designate the Department's Regional Behavioral Health Centers and State Charitable Institutions as "qualifying charitable clinic(s) or center(s)" under the Act. This will allow the Regional BH Centers to accept donated medications that includes unused Patient Assistance Program Medications. These donated medications may then be dispensed to indigent clients with a valid prescription order.	There is no fiscal impact; however, without this proposed legislation the Department may need to limit the availability of medications provided to indigent clients through the Regional Behavioral Health Centers or seek additional funds at an estimated cost of $1,456,286 to continue to provide these medications.	Behavioral Health	Ross Edmunds and Anne Bloxham	No	Proposal approved, awaiting draft routing slip
Recognition of EMS Personnel Licensure Interstate Compact Act (REPLICA)	This legislation allows Idaho EMS to become part of the Recognition of EMS Personnel Licensure Interstate Compact Act (REPLICA). This would allow Idaho EMS to participate in the rules and governance of the Commission that manages REPLICA. Benefits of Idaho's membership in REPLICA include: legal recognition for licensed EMS personnel from Idaho and other member states to legally provide EMS at large-scale emergencies such as wildland fires; allow licensed EMS personnel from communities along the Idaho border to legally provide EMS in both Idaho and bordering member states without having to maintain licensure in both states; and provides licensure reciprocity for EMS personnel who move to Idaho from a member state without undergoing additional testing.	$3000 per year from the EMS Dedicated Fund	Public Health	Wayne Denny	No	Proposal approved, awaiting draft routing slip

ATTACHMENT 3

IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE

16.02.19 - THE IDAHO FOOD CODE

DOCKET NO. 16-0219-1501

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2016 Idaho State Legislature for final approval. In accordance with Section 67-5224(5)(a) and (b), Idaho Code, as specified here in this notice the pending rule becomes final and effective on July 1, 2016, after review by the legislature, unless the rule is approved or rejected in part by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is affected by concurrent resolution, the concurrent resolution shall specify the date.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 37-121 and 39-1603, Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change.

The text of the pending rule has been amended in accordance with Section 67-5227, Idaho Code. Only those sections that have changes that differ from the proposed text are printed in this bulletin. The complete text of the proposed rule was published in the September 2, 2015, Idaho Administrative Bulletin, Vol. 15-9, pages 88 through 102. Based on comments received on the proposed rules, amendments have been made for clarification of farmers markets, roadside stands, and agriculural markets.

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars ($10,000) during the fiscal year as a result of this rulemaking:

This rulemaking has no fiscal impact to state general funds or any other funds.

INCORPORATION BY REFERENCE: Pursuant to Section 67-5229(2)(a), Idaho Code, documents have been incorporated by reference into these rules to give them the force and effect of law. The document is "Food Code, 2013 Recommendations of the United States Public Health Service Food and Drug Administration," Publication PB2013-110462. The document currently incorporated in these rules, is being updated from the 2001 edition to the 2013 edition.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning the pending rule, contact Patrick Guzzle 208-334-5936.

DATED this _____ day of _____, 2015.

Tamara Prisock
DHW - Administrative Rules Unit
450 W. State Street - 10th Floor
P.O. Box 83720
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THE FOLLOWING IS THE PENDING TEXT FOR DOCKET NO. 16-0219-1501
(Only Those Sections With Amendments Are Shown.)

001. TITLE, SCOPE AND APPLICABILITY.

01. Title. The title of this chapter is IDAPA 16.02.19, "Food Safety and Sanitation Standards for Food Establishments," and may also be known as "The Idaho Food Code." (4-6-05)

02. Scope. The purpose of these rules is to establish standards for the provision of safe, unadulterated and honestly presented food for consumption by the public. These rules provide requirements for licensing, inspections, review of plans, employee restriction, and license suspensions for food establishments and food processing plants. Also included are definitions and set standards for management, personnel, food operations, equipment and facilities. (4-6-05)

03. These Rules Apply to Food Establishments. Food establishments as defined in Section 39-1602, Idaho Code must follow these rules. Those facilities include but are not limited to the following: (4-6-05)

a. Restaurants, catering facilities, taverns, kiosks, vending facilities, commissaries, cafeterias, mobile food facilities, temporary food facilities; and (4-6-05)

b. Schools, senior centers, hospitals, residential care and treatment facilities, nursing homes, correctional facilities, camps, food banks, and church facilities; and (4-6-05)

c. Retail markets, meat, fish, delicatessen, bakery and supermarkets, convenience stores, health food stores, and neighborhood markets; and (4-6-05)

d. Food, water and beverage processing and bottling facilities that manufacture, process and distribute food, water and beverages within the state of Idaho, and are not inspected for food safety by a federal agency. (4-6-05)

04. These Rules Do Not Apply to These Establishments. These rules do not apply to the following establishments as exempted in Idaho Code. (4-6-05)

a. Agricultural markets as exempted in Section 39-1602, Idaho Code. (4-6-05)

b. Bed-and-breakfast operations that prepare and offer food for breakfast only to guests. The number of guest beds must not exceed ten (10) beds as defined in Section 39-1602, Idaho Code.' (4-6-05)

c. Day care facilities regulated by Sections 39-1101 through 39-1119, Idaho Code. (4-6-05)

d. Licensed outfitters and guides regulated by Sections 36-2101 through 36-2119, Idaho Code. (4-6-05)

e. Low-risk food establishments, as exempted in Section 39-1602, Idaho Code, which offer only ~~non-potentially hazardous~~ non-time/temperature control for safety (non-TCS) foods. ~~(4-6-05)~~(____)

f. Farmers market vendors and roadside stands that only offer or sell non-time/temperature control for safety (non-TCS) foods or cottage foods. (____)

~~f~~g. Non-profit charitable, fraternal, or benevolent organizations that do not prepare or serve food on a regular basis as exempted in Section 39-1602, Idaho Code. Food is not considered to be served on a regular basis if it is not served for more than five (5) consecutive days on no more than three (3) occasions per year for foods which are ~~not potentially hazardous~~ non-time/temperature control for safety (non-TCS). For all other food, it must not be served more than one (1) meal per week. ~~(4-6-05)~~(____)

~~g~~h. Private homes where food is prepared or served for family consumption or receives catered or

home-delivered food as exempted by Section 39-1602, Idaho Code. (4-6-05)

~~h~~i. Cottage food operations, when the consumer is informed and must be provided contact information for the cottage food operations as follows: (____)

i. By a clearly legible label on the product packaging; or a clearly visible placard at the sales or service location that also states: (____)

ii. The food was prepared in a home kitchen that is not subject to regulation and inspection by the regulatory authority; and (____)

iii. The food may contain allergens. (____)

05. How to Use This Chapter of Rules. The rules in this chapter are modifications, additions or deletions made to the federal publication incorporated by reference in Section 004 of these rules. In order to follow these rules the publication is required. Changes to those standards are listed in this chapter of rules by listing which section of the publication is being modified at the beginning of each section of rule. (4-6-05)

(BREAK IN CONTINUITY OF SECTIONS)

004. INCORPORATION BY REFERENCE.
The Department is adopting by reference the "Food Code, 20~~0~~13 Recommendations of the United States Public Health Service Food and Drug Administration," ~~*published by National Technical Information Service,*~~ Publication ~~*PB2002-100819*~~ PB2013-110462. A certified copy of this publication may be reviewed at the main office of the Department of Health and Welfare. It is also available online at ~~*http://www.fda.gov/Food/FoodSafety/RetailFoodProtection/FoodCode/FoodCode2001/default.htm*~~ http://www.fda.gov/Food/GuidanceRegulation/RetailFoodProtection/FoodCode/ucm374275.htm. This publication is being adopted with modifications and additions as follows: ~~*(4-6-05)*~~(____)

01. Chapter 1, Purpose and Definitions. Additions and modifications have been made to this chapter. See Sections 100 - 199 of these rules. (4-6-05)

02. Chapter 2, Management and Personnel. Modifications have been made to this chapter. See Sections 200 - 299 of these rules. (4-6-05)

03. Chapter 3, Food. Modifications have been made to this chapter. See Sections 300-399 of these rules. (4-6-05)

04. Chapter 4, Equipment, Utensils, and Linens. This chapter has been adopted with no modifications. (4-6-05)

05. Chapter 5, Water, Plumbing and Waste. This chapter has been adopted with no modifications. (4-6-05)

06. Chapter 6, Physical Facilities. Modifications have been made to ~~*T*~~this chapter ~~*has been adopted with no modifications*~~. See Sections 600-699 of these rules. ~~*(4-6-05)*~~(____)

07. Chapter 7, Poisonous or Toxic Materials. Modifications have been made in this chapter. See Sections 700 - 799 of these rules. (4-6-05)

08. Chapter 8, Compliance and Enforcement. Modifications have been made in this chapter. See Sections 800-899 of these rules. (4-6-05)

09. Annexes 1 Through 7 Are Excluded. These sections have not been adopted. (4-6-05)

(BREAK IN CONTINUITY OF SECTIONS)

006. CONFIDENTIALITY OF RECORDS AND PUBLIC RECORDS REQUESTS.
Any disclosure of information obtained by the Department is subject to the restrictions in Title 74, Chapter 1, Idaho Code. Restrictions contained in Section 39-610, Idaho Code, and the Idaho Department of Health and Welfare Rules, IDAPA 16.05.01, "Use and Disclosure of Department Records," must also be followed. (4-6-05)

01. Contested Hearing and Appeal Records. All contested case hearings are open to the public, unless ordered closed at the discretion of the hearing officer based on compelling circumstances. A party to a hearing must maintain confidentiality of discussions that warrant closing the hearing to the public. (4-6-05)

02. Inspection Report. A completed inspection report is a public document and is available for public disclosure to any person who requests the report as provided in Idaho's Public Records Law, Title 74, Chapter 1, Idaho Code. (4-6-05)

03. Medical Records. Medical information given to the Department or regulatory authority will be confidential and must follow IDAPA 16.05.01, "Use And Disclosure of Department Records." (4-6-05)

04. Plans and Specifications. Plans and specifications submitted to the regulatory authority as required in Chapter 8 of the 20~~0~~13 Food Code referenced in Section 004 of these rules, must be treated as confidential or trade secret information under Section 74-107, Idaho Code. ~~(4-6-05)~~(____)

(BREAK IN CONTINUITY OF SECTIONS)

100. PURPOSES AND DEFINITIONS.
Sections 100 through 199 of these rules will be used for modifications and additions to Chapter 1 of the 20~~0~~13 Food Code as incorporated in Section 004 of these rules. ~~(4-6-05)~~(____)

101. -- 109. (RESERVED)

110. DEFINITIONS AND ABBREVIATIONS -- A THROUGH K.
The definitions defined in this section are modifications or additions to the definitions ~~*given*~~ and terms provided in the 20~~0~~13 Food Code. ~~(4-6-05)~~(____)

01. Agricultural Market. ~~*Any fixed or mobile retail food establishment engaged in the sale of raw or fresh fruits, vegetables and nuts in the shell. It may also include the sale of factory-sealed non-potentially hazardous foods*~~ Any venue where a fixed or mobile retail food establishment can engage in the sale of raw or fresh fruits, vegetables, and nuts in the shell. It may also include the sale of factory sealed non-time/temperature control for safety foods (non-TCS). *Agricultural market means the same as "farmers market" or "roadside stand."* ~~(4-6-05)~~(____)

02. Board. The State of Idaho Board of Health and Welfare as established in Section 56-1005, Idaho Code. (4-6-05)

03. Commissary. A commissary is a place where food containers or supplies are stored, prepared, or packaged for transit, sale, or service at other locations. (____)

0~~3~~4. Consent Order. A consent order is an enforceable agreement between the regulatory authority and the license holder to correct violations that caused the actions taken by the regulatory authority. (4-6-05)

05. Core Item. Modifications to Section 1-201.10(B) by amending the term "core item" to mean the same as "non-critical item." (____)

06. Cottage Food Operation. A cottage food operation is when a person or business prepares or produces cottage food products in the home kitchen of that person's primary residence or other designated kitchen or location. (____)

07. **Cottage Food Product**. Cottage food products are non-time/temperature control for safety (non-TCS) foods that are sold directly to a consumer. Examples of cottage foods may include but are not limited to: baked goods, fruit jams and jellies, fruit pies, breads, cakes, pastries and cookies, candies and confections, dried fruits, dry herbs, seasonings and mixtures, cereals, trail mixes and granola, nuts, vinegar, popcorn and popcorn balls, and cotton candy. ( )

08. **Critical Item**. A provision of this code that if in noncompliance, is more likely than other violations to contribute to food contamination, illness, or environmental health hazard. A critical item includes items with a quantifiable measure to show control of hazards such as but not limited to, cooking, reheating, cooling, and hand washing. Critical item means the same as "priority item." Critical item is an item that is denoted with a superscript (P). ( )

0~~4~~9. **Department**. The Idaho Department of Health and Welfare as established in Section 56-1002, Idaho Code. (4-6-05)

~~05~~10. **Director**. The Director of the Idaho Department of Health and Welfare as established in Section 56-1003, Idaho Code. (4-6-05)

~~06~~11. **Embargo**. An action taken by the regulatory authority that places a food product or equipment used in food production on hold until a determination is made on the product's safety. (4-6-05)

~~07~~12. **Enforcement Inspection**. An inspection conducted by the regulatory authority when compliance with these rules by a food establishment is lacking and violations remain uncorrected after the first follow-up inspection to a routine inspection. (4-6-05)

*13. **Farmers Market**. Any fixed or mobile retail food establishment at which farmer producers sell agricultural products directly to the general public. Farmers market means the same as "agricultural market" and "roadside stand."* ( )

~~08~~1~~3~~4. **Food Establishment**. Modifications to Section 1-201.10~~(36) by deleting Section 1-201.10(36)(c)(iii)~~ amends the definition of "food establishment" as follows:~~.~~ ~~(4-6-05)~~( )

a. Delete Subparagraph 3(c) of the term "food establishment" in the 2013 Food Code; ( )

b. Add Subparagraph 3(h) to the term "food establishment" to clarify that a cottage food operation is not a food establishment. ( )

~~09~~1~~4~~5. **Food Processing Plant**. Modification to Section 1-201.10~~(37) by deleting Section 1-201.10(37)(b)~~ amends the definition of "food processing plant" by deleting Subparagraph 2 of the term "food processing plant" in the 2013 Food Code. ~~(4-6-05)~~( )

1~~0~~5~~6~~. **High-Risk Food Establishment**. A high-risk food establishment does the following operations: (4-6-05)

a. Extensive handling of raw ingredients; (4-6-05)

b. Preparation processes that include the cooking, cooling and reheating of ~~potentially hazardous~~ time/temperature control for safety (TCS) foods~~.~~; or ~~(4-6-05)~~( )

c. A variety of processes requiring hot and cold holding of ~~potentially hazardous~~ time/temperature control for safety (TCS) foods. ~~(4-6-05)~~( )

1~~1~~6~~7~~. **Intermittent Food Establishment**. An intermittent food establishment is ~~one~~ a food vendor that operates for a period of time, not to exceed three (3) days per week, at a single, specified location in conjunction with a recurring event and that offers time/temperature control for safety (TCS) foods to the general public. Examples of a recurring event may be a farmers' or community market, or a holiday market. An intermittent food establishment does

not include the vendor of farm fresh ungraded eggs at a recurring event. ~~(4-2-08)~~(____)

111. DEFINITIONS AND ABBREVIATIONS -- L THROUGH Z.
The definitions defined in this section are modifications or additions to the definitions ~~given~~ and terms provided in the 20~~0~~13 Food Code. ~~(4-6-05)~~(____)

01. License. The term "license" is used in these rules the same as the term "permit" is used in the 20~~0~~13 Food Code. ~~(4-6-05)~~(____)

02. License Holder. The term "license holder" is used in these rules the same as the term "permit holder" is used in the 20~~0~~13 Food Code. ~~(4-6-05)~~(____)

03. Low-Risk Food Establishment. A low-risk food establishment provides factory-sealed pre-packaged ~~non-potentially hazardous~~ non-time/temperature control for safety (non-TCS) foods. The establishment may have limited preparation of ~~non-potentially hazardous~~ non-time/temperature control for safety (non-TCS) foods only. ~~(4-6-05)~~(____)

04. Medium-Risk Food Establishment. A medium-risk food establishment includes the following: (4-6-05)

a. A limited menu of one (1) or two (2) items; or (4-6-05)

b. Pre-packaged raw ingredients cooked or prepared to order; or (4-6-05)

c. Raw ingredients requiring minimal assembly; or (4-6-05)

d. Most products are cooked or prepared and served immediately; or (4-6-05)

e. Hot and cold holding of ~~potentially hazardous~~ time/temperature control for safety (TCS) foods is restricted to single meal service. ~~(4-6-05)~~(____)

05. Mobile Food Establishment. A mobile food establishment is a food establishment selling or serving food for human consumption from any vehicle or other temporary or itinerant station and includes any movable food service establishment, truck, van, trailer, pushcart, bicycle, watercraft, or other movable food service with or without wheels, including hand-carried, portable containers in or on which food or beverage is transported, stored, or prepared for retail sale or given away at temporary locations. (____)

06. Non-Critical Item. A non-critical item is a provision of this Code that is not designated as a critical item or potentially-critical item. A non-critical item includes items that usually relate to general sanitation, operation controls, sanitation standard operating procedures (SSOPs), facilities or structures, equipment design, or general maintenance. Non-critical item means the same as CORE ITEM. (____)

07. Potentially-Critical Item. A potentially-critical item is a provision in this Code whose application supports, facilitates, or enables one (1) or more critical items. Potentially critical item includes an item that requires the purposeful incorporation of specific actions, equipment, or procedures by industry management to attain control of risk factors that contribute to foodborne illness or injury such as personnel training, infrastructure or necessary equipment, HACCP plans, documentation or record keeping, and labeling. Potentially-critical item means the same as priority foundation item. A potentially-critical item is an item that is denoted in this code with a superscript (Pf). (____)

08. Priority Item. Modification to Section 1-201.10(B) by amending the term "priority item" to read priority item means the same as critical item. (____)

09. Priority Foundation Item. Modification to Section 1-201.10(B) by amending the term "priority foundation item" to read priority foundation item means the same as potentially-critical item. (____)

10~~5~~. Regulatory Authority. The Department or its designee is the regulatory authority authorized to

enforce compliance of these rules. (4-6-05)

a. The Department is responsible for preparing the rules, rule amendments, standards, policy statements, operational procedures, program assessments and guidelines. (4-6-05)

b. The seven (7) Public Health Districts and the ~~*Bureau of Facility Standards*~~ Division of Licensing and Certification have been designated by the Director as the regulatory authority for the purpose of issuing licenses, collecting fees, conducting inspections, reviewing plans, determining compliance with the rules, investigating complaints and illnesses, examining food, embargoing food and enforcing these rules. ~~(4-6-05)~~(____)

~~06~~11. **Risk Control Plan**. Is a document describing the specific actions to be taken by the license holder to address and correct a continuing hazard or risk within the food establishment. (4-6-05)

*12. **Roadside Stand**. Any fixed or mobile retail food establishment at which an individual farmer producer sells own agricultural products directly to consumers. Roadside stand means the same as "agricultural market" and "farmers market."* (____)

112. -- 199. (RESERVED)

200. MANAGEMENT AND PERSONNEL.
Sections 200 through 299 of these rules will be used for modifications and additions to Chapter 2 of the 20~~0~~13 Food Code as incorporated in Section 004 of these rules. ~~(4-6-05)~~(____)

(BREAK IN CONTINUITY OF SECTIONS)

210. DEMONSTRATION OF KNOWLEDGE.
Modification to Section 2-102.11. The person in charge of a food establishment may demonstrate knowledge on the risks of foodborne illness or health hazards by one (1) of the following. (4-6-05)

01. No Critical Violations. Complying with the 20~~0~~13 Food Code by not having any critical violations at the time of inspection; or ~~(4-6-05)~~(____)

~~*02. **Certification**. Being a certified food protection manager who has shown proficiency of required information through passing a test that is part of an accredited program; or*~~ ~~(4-6-05)~~

~~*03. **Time of Inspection Interview**. Responding correctly to the inspector's questions as they relate to the specific food operations as listed in Section 2-102.11(C) of the 2001 Food Code as incorporated in Section 004 of these rules; or*~~ ~~(4-6-05)~~

0~~4~~2. **Approved Courses**. Completion of the Idaho Food Safety and Sanitation Course, or an equivalent course designed to meet the same training as the Idaho Food Safety and Sanitation Course. (4-6-05)

03. **Certified Food Protection Manager**. Modification to Section 2-102.12(A). Beginning July 1, 2018, at least one employee that has supervisory and management responsibility and the authority to direct and control food preparation and service must be a certified food protection manager who has shown proficiency of required information through passing a test that is part of an accredited program. (____)

~~*211. -- 219. (RESERVED)*~~

~~*220. EMPLOYEE HEALTH.*~~

~~*01. **Reporting of Norovirus**. Addition to Section 2-201.11. The addition of Norovirus to illnesses required to be reported.*~~ ~~(4-2-08)~~

~~*a. A person diagnosed or ill with Norovirus within the past forty-eight (48) hours is required to report*~~

~~the illness to the person in charge.~~ ~~(4-2-08)~~

~~b. A food employee, who lives in the same household and has knowledge of a person who is diagnosed with Norovirus, is required to report that information to the person in charge.~~ ~~(4-2-08)~~

~~02. **Exclusion and Restrictions**. Addition to Section 2-201.12. In addition, the person in charge of a food establishment must:~~ ~~(4-2-08)~~

~~a. Notify the regulatory authority to obtain guidance on proper actions needed to protect the public if there is reason to suspect that any employee has a disease that is communicable through food as listed in IDAPA 16.02.10, "Idaho Reportable Diseases";~~ ~~(4-2-08)~~

~~b. Exclude a food employee diagnosed with an infection from Norovirus when symptomatic;~~ ~~(4-2-08)~~

~~c. Restrict a food employee diagnosed with an infection from Norovirus when asymptomatic; and~~ ~~(4-2-08)~~

~~d. Exclude a food employee diagnosed with an infection from Norovirus whether symptomatic or asymptomatic when serving a highly susceptible population.~~ ~~(4-2-08)~~

~~03. **Removal of Exclusion and Restrictions**. Addition to Section 2-201.13. In addition, the person in charge may remove an employee diagnosed with Norovirus from restriction or exclusion when one (1) of the following conditions is met:~~ ~~(4-2-08)~~

~~a. Written medical documentation is provided from a licensed medical practitioner;~~ ~~(4-2-08)~~

~~b. Forty-eight (48) hours have passed since the employee became asymptomatic; or~~ ~~(4-2-08)~~

~~c. Employee did not develop symptoms and more than forty-eight (48) hours have passed since the employee was diagnosed with Norovirus.~~ ~~(4-2-08)~~

2~~2~~11. -- 299. (RESERVED)

300. FOOD.
Sections 300 through 399 of these rules will be used for modifications and additions to Chapter 3 of the 20~~0~~13 Food Code as incorporated in Section 004 of these rules. ~~(4-6-05)~~(____)

(BREAK IN CONTINUITY OF SECTIONS)

326. -- ~~349.~~ ~~(RESERVED)~~

~~**350. TEMPERATURE REQUIREMENTS.**~~
~~Modifications are being made to the temperature guidelines in the following sections of the 2001 Food Code.~~ ~~(4-6-05)~~

~~01. **Specifications for Receiving Potentially Hazardous Food**. Modification to Section 3-202.11(D). Food that is cooked to a temperature and for a time specified under Sections 3-401.11 through 3-401.13 and received hot, must be at a temperature of 57°C (135°F) or above.~~ ~~(4-6-05)~~

~~02. **Preventing Contamination from In-Use Utensils, Between-Use Storage**. Modification to Section 3-304.12(F). In a container of water, if the water is maintained at a temperature of at least 57°C (135°F) and the container is cleaned at a frequency specified under Subparagraph 4-602.11(D)(7).~~ ~~(4-6-05)~~

~~03. **Plant Food Cooking for Hot Holding**. Modification to Section 3-401.13. Fruits and vegetables that are cooked for hot holding must be cooked to a temperature of 57°C (135°F).~~ ~~4-6-05)~~

~~04. **Reheating for Hot Holding Ready to Eat Food**. Modification to Section 3-403.11(C). Food taken from a commercially processed hermetically sealed container, or from an intact package from a food processing plant that is inspected by the food regulatory authority that has jurisdiction of the plant, must be heated to a temperature of at least 57°C (135°F) for hot holding. (4-6-05)~~

~~05. **Cooling Cooked Potentially Hazardous Food**. Modification to Section 3-501.14(A). Cooked potentially hazardous food must be cooled: (4-6-05)~~

~~a. Within two (2) hours from 57°C (135°F) to 21°C (70°F); and (4-6-05)~~

~~b. Within six (6) hours from 57°C (135°F) to 5°C (41°F) or less, or to 7°C (45°F) or less as specified under Section 3-501.16(A)(2)(b) provided the food is cooled from 57°C (135°F) to 21°C (70°F) within the first two (2) hours. (4-6-05)~~

~~06. **Potentially Hazardous Food, Hot and Cold Holding**. Modification to Section 3-501.16(A)(1). Potentially hazardous food must be maintained at 57°C (135°F) or above, except that roasts cooked to a temperature and for a time specified under Section 3-401.11(B) or reheated as specified in Section 3-403.11(E) may be held at a temperature of 54°C (130°F). (4-6-05)~~

~~351. **VARIANCE REQUIREMENTS FOR FOOD ESTABLISHMENTS.** Modifications to Section 3-502.11. Sections 3-502.11(E) and (F), are not adopted. (4-6-05)~~

~~352.~~ 354. **(RESERVED)**

355. FOOD PROCESSING PLANTS.
Food processing plants, establishments, canning factories or operations must meet the requirements in Chapters 1 through 8 of the 20~~0~~13 Food Code, and Subsections 355.01 through 355.0~~5~~7 of ~~these~~ this rule~~s~~. ~~(4-6-05)~~(____)

01. **Thermal Processing of Low-Acid Foods**. Low-acid food products processed using thermal methods for canning must meet the requirements of 21 CFR 113. (4-6-05)

02. **Processing of Acidified Foods**. Acidified food products must meet the requirements of 21 CFR 114. (____)

0~~2~~3. **Bottled Water Processing**. Bottled drinking water processed in Idaho must be from a licensed processing facility that meets the requirements of 21 CFR 129. Bottled drinking water must also meet the quality and monitoring requirements in 21 CFR 165. (4-6-05)

0~~3~~4. **Approval of Process Methods**. A variance by the regulatory authority must be approved and granted for specialized processing methods for products listed in Section 3-502.11. (4-6-05)

0~~4~~5. **Labels**. Proposed labels must be submitted to the regulatory authority for review and approval before printing. (4-6-05)

0~~5~~6. **Testing**. The license holder is responsible for chemical, microbiological or extraneous material testing procedures to identify failures or food contamination of food products being processed or manufactured by the license holder. (4-6-05)

0~~6~~7. **Quality Assurance Program**. The license holder or his designated person must develop and submit to the regulatory authority for review and approval a quality assurance program or HACCP plan which covers the food processing operation. The program must include the following: (4-6-05)

a. An organization chart identifying the person responsible for quality control operations; (4-6-05)

b. A process flow diagram outlining the processing steps from the receipt of the raw materials to the production and packaging of the finished product(s) or group of related products; (4-6-05)

c. A list of specific points in the process which are critical control points that must have scheduled monitoring; (4-6-05)

d. Product codes that establish and identify the production date and batch; (4-6-05)

e. A manual covering sanitary maintenance of the facility and hygienic practices to be followed by the employees; and (4-6-05)

f. A records system allowing for review and evaluation of all operations including the quality assurance program results. These records must be kept for a period of time that exceeds the shelf life of the product by six (6) months or for two (2) years, whichever is less. (4-6-05)

(BREAK IN CONTINUITY OF SECTIONS)

600. PHYSICAL FACILITIES.
Sections 600 through 699 of these rules will be used for modifications and additions to Chapter 6 of the 20~~0~~13 Food Code as incorporated in Section 004 of these rules. ~~(4-6-05)~~(____)

601. -- 619. (RESERVED)

620. PRIVATE HOMES AND LIVING OR SLEEPING QUARTERS, USE PROHIBITION.
Modifications to Section 6-202.111. ~~A~~ Except for cottage food operations, a private home, a room used as living or sleeping quarters, or an area directly opening into a room used as living or sleeping quarters may not be used for conducting food establishment operations. Residential care or assisted living facilities designed to be a homelike environment, are exempted from Section 6-202.111. ~~(4-6-05)~~(____)

621. -- 699. (RESERVED)

700. POISONOUS OR TOXIC MATERIALS.
Sections 700 through 799 of these rules will be used for modifications and additions to Chapter 7 of the 20~~0~~13 Food Code as incorporated in Section 004 of these rules. ~~(4-6-05)~~(____)

(BREAK IN CONTINUITY OF SECTIONS)

800. COMPLIANCE AND ENFORCEMENT.
Sections 800 through 899 of these rules will be used for modifications and additions to Chapter 8 of the 20~~0~~13 Food Code as incorporated in Section 004 of these rules. ~~(4-6-05)~~(____)

801. -- 829. (RESERVED)

830. APPLICATION FOR A LICENSE.

01. To Apply for a Food Establishment License. To apply for an Idaho food establishment license, the application and fee is submitted to the "regulatory authority" as defined in Section 111 of these rules. ~~(4-6-05)~~(____)

02. Food License Expiration. The license for an Idaho food establishment expires on December 31st of each year. (4-6-05)

03. Renewal of License. A renewal application and a license fee must be submitted to the regulatory authority by December 1st of each year for the next calendar year starting January 1st. (4-6-05)

04. Summary Suspension of License. A license may be immediately suspended under Section 831 of

these rules. Reinstatement of a license after a summary suspension does not require a new application or fee unless the license is revoked. (4-6-05)

05. Revocation of License. When corrections have been made to a food establishment whose license has been revoked under Section 860 of these rules, a new application and fee must be submitted to the regulatory authority. (4-6-05)

06. License is Non-Transferable. A license may not be transferred when ownership changes according to Section 8-304.20, of the 20~~01~~13 Food Code. The new owner must apply for his own license. ~~(4-6-05)~~(____)

831. SUMMARY SUSPENSION OF LICENSE.
The regulatory authority may summarily suspend a license to operate a food establishment when it determines an imminent health hazard exists. (4-6-05)

01. Reasons a Summary Suspension May Be Issued. When a food establishment does not follow the principles of food safety, or a foodborne illness is found, or an environmental health hazard exists and public safety cannot be assured by the continued operation of the food establishment, a summary suspension may be issued. The following are some reasons the regulatory authority may determine a summary suspension is necessary: (4-6-05)

a. Inspection of the food establishment shows uncorrected critical violations; (4-6-05)

b. Examination of food shows the food is unsafe; (4-6-05)

c. Review of records shows that proper steps for food safety have not been met; (4-6-05)

d. An employee working with food is suspected of having a disease that is communicable through food; or (4-6-05)

e. An imminent health hazard exists. (4-6-05)

02. Prior Notification Is not Required for a Summary Suspension. Upon providing a written notice of summary suspension to the license holder or person in charge, the regulatory authority may suspend a food establishment's license without prior warning, notice of hearing, or hearing. (4-6-05)

03. Written Notice of Summary Suspension. The regulatory authority must give the license holder or person in charge a written notice when suspending a license. The notice must include the following: (4-6-05)

a. The specific reasons or violations the summary suspension is issued for with reference to the specific section of the 20~~01~~13 Food Code which is in violation; ~~(4-6-05)~~(____)

b. A statement notifying the food establishment its license is suspended and all food operations are to cease immediately; (4-6-05)

c. The name and address of the regulatory authority representative to whom a written request for re-inspection can be made and who can certify the reasons for the suspension have been eliminated; (4-6-05)

d. A statement notifying the food establishment of its right to an informal hearing with the regulatory authority upon submission of a written request within fifteen (15) days of receiving the summary suspension notice; and (4-6-05)

e. A statement informing the food establishment that proceedings for revocation of its license will be initiated by the regulatory authority, if violations are not corrected. (4-6-05)

f. The right to appeal to the Department as provided in Section 861 of these rules. (4-6-05)

04. Length of Summary Suspension. The suspension will remain in effect until the conditions cited in

the notice of suspension no longer exist and their elimination has been confirmed by the regulatory authority during a re-inspection. (4-6-05)

05. Re-Inspection of Food Establishment. The regulatory authority will conduct a re-inspection of the food establishment within two (2) working days of receiving a written request stating the condition for the suspension no longer exists. (4-6-05)

06. Reinstatement of License. The regulatory authority will immediately reinstate the suspended license if the re-inspection determines the public health hazard no longer exists. The regulatory authority will provide a written notice of reinstatement to the license holder or person in charge. (4-6-05)

832. -- 839. (RESERVED)

840. INSPECTIONS AND CORRECTION OF VIOLATIONS.
Modification to Section 8-401.10. (4-6-05)

01. Inspection Interval Section 8-401.10(A). Except as specified in Section 8-401.10(C), the regulatory authority must inspect a food establishment at least once a year. (4-6-05)

02. Section 8-401.10(B). This section has not been adopted. (4-6-05)

03. Section 8-401.10(C). This section is adopted as published. (4-6-05)

04. Section 8-405.11. This section is adopted with the following modifications: ( )

a. Delete Section 8-405.11(B)(1); and ( )

b. Amend Section 8-405-11(B)(2) to ten (10) calendar days after the inspection for the permit holder to correct critical or potentially-critical items or HACCP plan deviations. ( )

841. INSPECTION SCORES.
The regulatory authority must provide the license holder an inspection report with a total score indicating the number of critical item violations and the number of repeat critical violations added together. Repeat violations are those observed during the last inspection. The inspection report will also score the total number of ~~non-critical~~ potentially-critical violations and non-critical violations and the number of repeat ~~non-critical~~ potentially-critical violations and non-critical violations. These scores will be used to determine if a follow-up inspection or a written report of correction is needed to verify corrections have been made. ~~(4-6-05)~~( )

01. Medium-Risk Food Establishment. If the critical violations exceed three(3), or the ~~non-critical~~ potentially-critical violations exceed six (6), or non-critical violations exceed eight (8), an on-site follow-up inspection is required for verification of correction by the regulatory authority. ~~(4-6-05)~~( )

02. High-Risk Food Establishment. If the critical violations exceed five (5), or the ~~non-critical~~ potentially-critical violations exceed eight (8), or non-critical violations exceed eight (8), an on-site follow-up inspection is required for verification of correction by the regulatory authority. ~~(4-6-05)~~( )

03. Written Violation Correction Report. A written violation correction report by the license holder may be provided to the regulatory authority if the total inspection score of the food establishment does not exceed those listed in Section 845 of these rules. The report must be mailed within five (5) days of the correction date identified on the inspection report. (4-6-05)

842. -- 844. (RESERVED)

845. VERIFICATION AND DOCUMENTATION OF CORRECTION.
In addition to Section 8-405.20 of the 20~~0~~13 Food Code, the on-site follow-up inspection may not be required for verification of correction if the regulatory authority chooses to accept a written report of correction from the license holder. ~~(4-6-05)~~( )

01. Written Report of Correction. The regulatory authority may choose to accept a written report of correction from the license holder stating that specific violations have been corrected. The license holder must submit this report to the regulatory authority within five (5) days after the correction date identified on the inspection report. (4-6-05)

a. Medium-risk food establishment. If the critical violations do not exceed three (3), or the ~~non-critical~~ potentially-critical violations do not exceed six (6), or the non-critical violations do not exceed six (6), a follow-up inspection is not required for verification of correction. ~~(4-6-05)~~(____)

b. High-risk food establishment. If the critical violations do not exceed five (5), or the ~~non-critical~~ potentially-critical violations do not exceed eight (8), or the non-critical violations do not exceed eight (8), a follow-up inspection is not required for verification of correction. ~~(4-6-05)~~(____)

02. Risk Control Plan. The regulatory authority may require the development of a risk control plan as verification of correction. The risk control plan must provide documentation on how the license holder will obtain long term correction of critical violations that are repeated violations, including how control will be monitored and who will be responsible. (4-6-05)

846. -- 849. (RESERVED)

850. ENFORCEMENT INSPECTIONS.

01. Follow-Up Inspection. If a follow-up inspection reveals that critical, potentially-critical, or non-critical violations identified on a previous inspection have not been corrected or still exist, an enforcement inspection may be made. ~~(4-6-05)~~(____)

02. Written Notice. The license holder will receive written notice on the inspection form of the specific date for an enforcement inspection. This date must be within fifteen (15) days of the current or follow-up inspection. (4-6-05)

03. Enforcement Inspections on Consent Order. When a compliance conference results in a consent order and includes a compliance schedule to correct violations without further regulatory action, all inspections by the regulatory authority to satisfy the compliance schedule will be considered enforcement inspections until the next annual inspection. (4-6-05)

04. Regulatory Action. If the violations have not been corrected by the date of the enforcement inspection, regulatory action will be initiated to revoke the license issued to the food establishment. (4-6-05)

(BREAK IN CONTINUITY OF SECTIONS)

860. REVOCATION OF LICENSE.
The regulatory authority may revoke the license issued to a food establishment when the license holder fails to comply with these rules or the operation of the food establishment is a hazard to public health. (4-6-05)

01. Reasons a License May Be Revoked. (4-6-05)

a. The license holder violates any term or condition in Section 8-304.11 of the 20~~0~~13 Food Code. ~~(4-6-05)~~(____)

b. Access to the facility is denied or obstructed by an employee, agent, contractor or other representative during the performance of the regulatory authority's duties. It is not necessary for the regulatory authority to seek an inspection order to gain access as permitted in Section 8-402.40 of the 20~~0~~13 Food Code, before proceeding with revocation. ~~(4-6-05)~~(____)

c. A public health hazard or critical violation remains uncorrected after being identified by the regulatory authority and an enforcement inspection confirms the violation or hazard still exists. See Section 850 of these rules on enforcement inspections. (4-6-05)

d. A non-critical violation remains uncorrected after being identified by the regulatory authority and an enforcement inspection confirms the violation still exists. See Section 845 of these rules on verification and documentation of correction. (4-6-05)

e. Failure to comply with any consent order issued after a compliance conference. See Section 861 of these rules on compliance conference. (4-6-05)

f. Failure to comply with a regulatory authority's summary suspension order. See Section 831 of these rules on summary suspension of a license. (4-6-05)

g. Failure to comply with an embargo order. See Section 851 of these rules on adulterated or misbranded food. (4-6-05)

h. Failure to comply with a regulatory authority order issued when an employee is suspected of having a communicable disease. See ~~*Section 220 of these rules*~~ Chapter 2 of the 2013 Food Code on employee health. ~~*(4-6-05)*~~(____)

02. Notice to Revoke a License. The regulatory authority must notify the license holder of the food establishment in writing of the intended revocation of the license. See Section 861 of these rules for appeal process. The notice must include ~~*the*~~ Subsections 860.02.a. through 860.02.c. of ~~*these*~~ this rule~~*s*~~: ~~*(4-6-05)*~~(____)

a. The specific reasons and sections of the Idaho Food Code which are in violation and the cause for the revocation; ~~*and*~~ ~~*(4-6-05)*~~(____)

b. The right of the license holder to request in writing a compliance conference with the regulatory authority within fifteen (15) days of the notice; and (4-6-05)

c. The right of the license holder to appeal in writing to the Department of Health and Welfare. See Subsection 861.02 of these rules. (4-6-05)

d. The following is sufficient notification of the license holder's appeal rights: "You have the right to request in writing a compliance conference with (name and address of designated health district official) within fifteen (15) days of the receipt of this notice. You may also appeal the revocation of your license to the Director of the Department of Health and Welfare by filing a written appeal with the Department as provided in IDAPA 16.05.03, "Rules Governing Contested Case Proceeding and Declaratory Rulings," within fifteen (15) days of the receipt of this notice, or if a timely request is made for a compliance conference and the matter is not resolved by a consent order, within five (5) working days following the conclusion of the compliance conference." (4-6-05)

03. Effective Date of Revocation. The revocation will be effective fifteen (15) days following the date of service of notice to the license holder, unless an appeal is filed or a timely request for a compliance conference is made. If a compliance conference is requested and the matter is not resolved by a consent order, the revocation will be effective five (5) working days following the end of the conference, unless an appeal is filed with the Director of the Department of Health and Welfare within that time. See Section 861 of these rules for compliance conference, consent order and appeal process. (4-6-05)

COMMENTS

IDAHO DEPARTMENT OF
HEALTH & WELFARE

C.L. "BUTCH" OTTER – Governor
RICHARD M. ARMSTRONG – Director

TAMARA PRISOCK – Division Administrator
DIVISION OF LICENSING AND CERTIFICATION
Administrative Rules Unit
450 West State Street, 10th Floor
P.O. Box 83720
Boise, Idaho 83720-0036
PHONE 208-334-5500
FAX 208-334-6558
DHWRules@dhw.idaho.gov

LIST OF EXHIBITS

Proposed Rule

FOOD SAFETY & SANITATION STANDARDS FOR FOOD ESTABLISHMENTS (THE IDAHO FOOD CODE)

Docket Number: 16-0219-1501

Deadline for Comment: September 23, 2015

EXHIBIT NO.	SUBMITTED BY	DESCRIPTION	NO. PAGES
1	Legislative Services Office Elizabeth Bowen, Leg. Research Analyst Statehouse PO Box 83720 Boise, ID 83720-0054	Memorandum	1
2	Pamela L. Juker <Pamela.Juker@agri.idaho.gov> Department of Agriculture	E-mail	1
3	Legislative Services Office Elizabeth Bowen, Leg. Research Analyst Statehouse PO Box 83720 Boise, ID 83720-0054	Letter	1
4	Brian Campbell <bcampbell@nwfpa.org Northwest Food Processors Assoc.	E-mail/Memo	5

5	Patrick Guzzle - DHW Response to NWFPA Brian Campbell	E-mail	1
6	Public Hearings Intro/Closing Statement, Sign-in Sheets 9/8/15 - Sandpoint, ID (3:00 pm/5:00 pm) 9/9/15 - Hayden, ID (3:00 pm/5:00 pm) 9/10/15 - Moscow, ID (1:00 pm/3:00 pm) 9/11/15 - Lewiston, ID (1:00 pm/3:00 pm) 9/14/15 - Pocatello, ID (3:00 pm) 9/15/15 - Caldwell, ID (10:00 am/3:00 pm) 9/15/15 - Boise, ID (1:00 pm/7:00 pm) 9/15/15 - Idaho Falls, ID (3:00 pm) 9/15/15 - Twin Falls, ID (2:00 pm)	Documents	17
7	Michael Brown <mike@idahofood.org> Idaho food Policy Alliance	E-mail	1

Legislative Services Office
Idaho State Legislature

Serving Idaho's Citizen Legislature

Eric Milstead
Director

MEMORANDUM

TO: Rules Review Subcommittee of the Senate Health & Welfare Committee and the House Health & Welfare Committee

FROM: Legislative Research Analyst - Elizabeth Bowen

DATE: September 02, 2015

SUBJECT: Department of Health and Welfare

IDAPA 16.02.19 - Food Safety and Sanitation Standards for Food Establishments (The Idaho Food Code) - Proposed Rule (Docket No. 16-0219-1501)

The Department of Health and Welfare submits notice of proposed rulemaking at IDAPA 16.02.19. The proposed rule updates food establishment rules to be consistent with current industry practices and safety standards and incorporates the FDA's 2013 Model Food Code. Additionally, the proposed rule clarifies the status of cottage food operations and revises definitions for purposes of clarity.

Negotiated rulemaking was conducted, and there is no anticipated impact on the state general fund. According to the Department, the rulemaking is authorized pursuant to Sections 39-3505 and 56-1005, Idaho Code.

cc: Department of Health and Welfare
Bev Barr and Frank Powell

Mike Nugent, Manager
Research & Legislation

Cathy Holland-Smith, Manager
Budget & Policy Analysis

April Renfro, Manager
Legislative Audits

Glenn Harris, Manager
Information Technology

Statehouse, P.O. Box 83720
Boise, Idaho 83720–0054

Tel: 208–334–2475
www.legislature.idaho.gov

Barr, Beverly A. - CO 10th

Subject: FW: Definition of "agricultural market"

From: Pamela L. Juker [mailto:Pamela.Juker@agri.idaho.gov]
Sent: Monday, August 17, 2015 1:48 PM
To: Guzzle, Patrick L. - CO 4th
Subject: RE: Definition of "agricultural market"

Patrick,
This is what we would propose for definitions (after much research and surveying other states).

- **Farmers Market: Any fixed or mobile retail food establishment at which farmer-producers sell agricultural products directly to the general public including a variety of fresh fruits and vegetables, meats, dairy products, products of a cottage food production operation and commercially prepackaged foods.**

- **Roadside stand: A fixed or mobile retail food establishment at which an individual farmer-producer sells his/her agricultural products directly to consumers.**

From: Guzzle, Patrick L. - CO 4th [mailto:GuzzleP@dhw.idaho.gov]
Sent: Monday, July 20, 2015 9:38 AM
To: Pamela L. Juker
Subject: Definition of "agricultural market"

Pam:
We never really came to a resolution on IDHW's definition of "agricultural market". Do you guys have a definition of "farmer's market" that you use?

The current definition reads:

AGRICULTURAL MARKET - **IDAPA 16.02.19.110.01**

1) Any venue where fixed or mobile retail FOOD ESTABLISHMENT can engage in the sale of raw or fresh fruits, vegetables and nuts in the shell. It may also include the sale of factory SEALED non-TIME/TEMPERATURE CONTROL FOR SAFETY FOODS.

Patrick L. Guzzle, MA, MPH, REHS
Idaho Food Protection Program Manager
Phone: (208) 334-5936
Fax: (208) 332-7307

Division of Public Health
Idaho Department of Health and Welfare

Public Health Serving with
Integrity
Dependability
Accountability
Humility and
Openness to Change and Innovation

Legislative Services Office
Idaho State Legislature

Serving Idaho's Citizen Legislature

Eric Milstead
Director

September 22, 2015

Bev Barr and Frank Powell
Admin. Procedures Section
Department of Health and Welfare
PO Box 83720
Boise, ID 83720-0036

Dear Bev Barr and Frank Powell:

The Senate and House Subcommittees for review of administrative rules have reviewed the proposed changes to the Department of Health and Welfare rules:

IDAPA 16.02.19 - Food Safety and Sanitation Standards for Food Establishments (The Idaho Food Code) - Proposed Rule - Docket No. 16-0219-1501

No meeting will be held, and we are pleased to report that no objections will be filed.

Sincerely yours,

Elizabeth Bowen
Legislative Research Analyst

ELB/jk

cc:

Mike Nugent, Manager
Research & Legislation

Cathy Holland-Smith, Manager
Budget & Policy Analysis

April Renfro, Manager
Legislative Audits

Glenn Harris, Manager
Information Technology

Statehouse, P.O. Box 83720
Boise, Idaho 83720–0054

Tel: 208–334–2475
www.legislature.idaho.gov

Barr, Beverly A. - CO 10th

Subject: FW: Idaho Cottage Food Comments
Attachments: Idaho cottage foods IT.docx

From: Brian Campbell [bcampbell@nwfpa.org]
Sent: Monday, September 21, 2015 3:35 PM
To: Guzzle, Patrick L. - CO 4th
Subject:

Sent from my Verizon Wireless 4G LTE DROID

Idaho Department of Health and Welfare

Re: Docket No. 16-0219-1501, Proposed Rulemaking

The Northwest Food Processors Association (NWFPA) represents food processing companies across Idaho. Our members place the highest priority in providing food products to consumers that are worthy of their trust that consuming them is safe. NWFPA supports public health policy to that end. It is for this reason that NWFPA is submitting these comments with regard to proposed amendments to the Idaho "Food Safety and Sanitation Standards for Food Establishments," IDAPA Chapter 16.02.19, also known as the Idaho Food Code.

NWFPA vigorously supports adoption of the 2013 Food Code by Idaho Department of Health and Welfare (IDHW). The 2013 edition is the eighth edition of the Food Code and represents the latest thinking by food safety professionals across the country about practical, science-based procedures for mitigating foodborne illness. It is the gold standard for protecting people consuming food products that they purchase at retail or foodservice establishments and helps to ensure them that they will have equal protection from foodborne illness whether they are in Boise, Blackfoot, New York, Los Angeles or any place else in the country.

The value of a national standard for safe food practices is that foodborne illness knows no boundaries. Consumers should not have to grapple with a patchwork of different food safety standards depending on where they are. As IDHW moves to adopt this latest code, the agency is helping to protect Idahoans from foodborne illness when they are at home, at their grocery store, in a restaurant, or when they travel by recognizing the need for and supporting consistency in food safety standards throughout the country.

However, NWFPA members are concerned that the agency's concurrent attempt to exempt cottage food establishments from these standards is counterproductive to consistent, science-based approach to public health and endangers Idahoans. We oppose this action because it jeopardizes the confidence in the safety of the food supply that food processors work so hard to establish and maintain and the strength of the State regulatory systems upon which food processors rely.

Section 001.04(h) of the docket proposes to add to establishments not subject to the rules:

> *Cottage food operations, when the consumer is informed and must be provided contact information for the cottage food operations as follows:*
>
> - *By a clearly legible label on the product packaging; or a clearly visible placard at the sales or service location that also states:*
> - *The food was prepared in a home kitchen that is not subject to regulation and inspection by the regulatory authority; and*
> - *The food may contain allergens.*

NWFPA opposes this exemption for these reasons:

1. **The home kitchen operation, which is not subject to regulation and inspection by the regulatory authority, is not consistent with best practices recommendations by the nation's regulatory food safety experts.**

This exemption is contrary to the recommendation of the very Food Code that IDHW proposes to adopt in this same docket. Chapter 3 of the 2013 Food Code says the following:

> *"Food should be purchased from commercial supplies under regulatory control. Home kitchens, with their varieties of food and open entry to humans and pet animals, are frequently implicated in the microbial contamination of food. Because commercial items seldom are eaten right away, the home kitchen's limited capacity for maintaining food at proper temperatures may result in considerable microbial growth and toxin production by microorganisms introduced through the diverse sources of contamination. Controlled processing is required for the safe preparation of food entering commerce."*
>
> *Chapter 3, 2013 Food Code*

The Association of Food and Drug Officials (AFDO), which is a national association representing state and federal food safety regulatory professionals from across the country, has recognized the controversial and difficult nature of providing oversight to these businesses which is both sensitive to their unique needs while being reasonably protective of public health. To that end, they have developed a guidance document for best practices in the regulation of cottage food businesses. The intent of this document, like the Food Code itself, is to provide uniform standards for adoption across the country.

The AFDO guidance has among its prerequisite requirements the following:

> *All cottage food operations must be permitted annually by the regulatory authority on forms developed by that authority. The permit will identify a specific listing of the food products allowed to be produced by the cottage food operation.*
>
> *Prior to permitting, the regulatory authority will examine the premises of the cottage food operation to determine it to be in substantial compliance with the requirements of this guidance document.*

These requirements are warranted for public health safety, not only to function as an enforcement mechanism to the business, but to serve as educational vehicles to assist the business owner in establishing a operation that will remain viable and not destroyed because foodborne illness tragedies have put them out of business. They do that by addressing such issues as:

> Are the operation's personnel trained to handle food safely?
> Are the product recipes really low risks for microbial hazards (non-time/temperature control for safety (non-TCS) foods)? How about foods that require acid to control microbial hazards?
> Are there other hazards, such as physical or chemical hazards, that may render the food unsafe?
> Are the products prepared consistently with the recipes to ensure safety?
> Are there other domestic activities being conducted in the area besides the person preparing the food that may contaminate it, such as dishwashing, clothes washing, cleaning, tending babies or pets?

Is the equipment sufficient to produce a safe product?
Are the ingredients stored and handled in a way that they are free of rodents and insects?
Are the food preparers not ill when handling the food product?
Is the water supply potable?
Are the raw agricultural materials handled in a way to prevent cross-contamination of the finished product? How about the solid and liquid waste?

All of these and more are factors that the health inspector can assist the business owner in identifying and correcting before the product is made and potentially endangers someone's safety.

2. **The proposed rules send confusing food safety messages to consumers and leave cottage food businesses and consumers unprotected.**

The proposed rules require that the consumer is informed and must be provided contact information for the cottage food operations by a clearly legible label on the product packaging or a clearly visible placard at the sales or service location.

A label statement or placard, in this context, is not protective of public health. While company contact information is an important part of all food labeling schemes, it is designed to be reactive. Its purpose is to provide the consumer or the regulatory body the information needed to contact the producer of the product *after* someone has been damaged by it. It is needed to seek reparations and to help prevent further damage.

Labeling a product made in a home kitchen is a great way to tell consumers that this food is regulated *differently* than their traditional counterparts. However, allowing food sold with no regulatory oversight jeopardizes food safety. There must be middle ground that achieves minimal oversight to allow these businesses to flourish AND protects the public health. Removing these foods from any regulatory oversight not only puts the cottage food producer at risk, but also puts public health at risk too.

The Food Safety Modernization Act, enacted in 2011, requires food processors to institute systems in their operations that prevent food hazards. This law contains an exemption to for these very small processors who sell directly to end-users. However, there is a catch. They must document either that they have oversight by an appropriate body or they have identified potential hazards in the food being produced, are implementing preventive controls to address them and are monitoring to ensure the controls are effective. IDHW's proposal leaves cottage foods businesses with no oversight and few means to comply with federal law. IDHW's proposed exemption walks away from creating a buffer between the Idaho cottage foods industry and the federal government.

Another area of concern is the definition of a cottage food operation. Section 110.06 of the docket reads:

> *Cottage Food Operation. A cottage food operation is when a person or business prepares or produces cottage food products in the home kitchen of that person's primary residence or other designated kitchen or location.*

The issue is that a home kitchen and a, "...other designated kitchen or location" seems to be very broad. A strict reading of this would appear that any location, other than a "primary residence" may be allowed

to operate a cottage food operation. We respectfully request that the phrase, "other designated kitchen or location" is removed from the rule so that people understand that we indeed are discussing a kitchen location in a citizen's primary residence.

NWFPA appreciates and supports that IDHW seeks to improve the safety of the food supply for Idahoans. However, we respectfully disagree with the proposal to exempt cottage foods businesses from regulatory oversight by the agency. We believe that the AFDO model serves as a good compromise for the special needs of these very small businesses, assists them in complying with federal law, and is sufficiently protective of public health. Furthermore, reasonable oversight in the AFDO model provides consistency consumers depend upon when purchasing foods regardless of their location. We believe this approach will help that sector grow their businesses and become viable contributors to their communities. We urge language to be added that does not completely remove foods sold in Idaho from regulatory oversight. We strongly support the AFDO model and hope Idaho retains some reasonable level of regulatory oversight that ensures food safety. Thank you for the opportunity to provide comments.

Regards,

Brian Campbell, Director
Food Safety and Policy

Barr, Beverly A. - CO 10th

From: Guzzle, Patrick L. - CO 4th
Sent: Tuesday, September 22, 2015 9:08 PM
To: bcampbell@nwfpa.org
Cc: Turner, Kathy - CO 4th; Barr, Beverly A. - CO 10th
Subject: FW: Idaho Cottage Food Comments
Attachments: Idaho cottage foods IT.docx

Brian:
It was nice to see you again at the WAFDO conference. I hope you'll forgive my informal reply to your comments, but I won't be back in my office until next week and I wanted to reply to your comments about the proposed language for cottage foods.

1. I understand your opposition to the exemption. Please understand that the proposed rule would codify our practice of the last several years. The Health Districts and I have had several conversations over this issue over the years. I do not mean, in any way, to minimize your concerns - they are valid concerns. However, we have allowed non-TCS foods sold directly-to-end consumer for many years - without regulation. During the public meeting process, I hosted 27 public meetings and traveled over 3,500 miles throughout Idaho to meet, specifically, with cottage food producers. During those meetings, I heard consistent and repeated messages to not change our current practice of allowing these non-TCS foods without regulation. I have also been told that no additional resources (either personnel or dollars) will be made available to the Food Protection Program at this time. Because of the lack of resources, I simply cannot take on the creation of a sub-program specific to cottage foods.

2. Again, I recognize your opposition to the minimum labeling requirements. Once again, you bring up valid concerns. We have had a similar rule in place for the past 10+ years. Like my comments for your first opposition, this proposed rule effectively codifies what has been our practice for several years.

. The intention of the language regarding the use of "...other designated location" is to allow for kitchen operations that might not be in the person's primary residence. For example, I know of at least one cottage food operator that has set up a kitchen in an outbuilding on her property. All of the necessary equipment and utensils are in place. In fact, her kitchen meets all the intentions of other, fully approved and inspected kitchens because she also produces other foods that are not subject to the proposed cottage food exemption. Without language that would allow another "...designated location", she would not be able to use the kitchen facility that is already approved as it is not her primary, domestic kitchen.

Again, I do appreciate your comments. The proposed rules codify what has already been allowed for several years. The proposed rules were based on feedback that I received from 27 different public meetings. Again, in no way do I intend to minimize your stated concerns.

Thanks again for your comments.

Patrick Guzzle
Idaho Food Protection Program Manager

From: Brian Campbell [bcampbell@nwfpa.org]
Sent: Monday, September 21, 2015 3:35 PM
To: Guzzle, Patrick L. - CO 4th
Subject:

Sent from my Verizon Wireless 4G LTE DROID

INTRODUCTORY and CLOSING STATEMENTS
For PUBLIC HEARINGS

Let the record show that I am *Carolee Cooper* designated as the Facilitator for this public hearing by the Administrator for the Division of Public Health in the Department of Health and Welfare. It is 3:00 o'clock p.m. on *September 14th 2015.* We are in the *conference rooms 1 &2 of Southeastern Idaho Public Health located at 1901 Alvin Ricken Dr. Pocatello, Idaho*, and this is the time and place set to receive oral and written comments, as provided for in Section 67-5222, Idaho Code, for the proposed rulemaking under IDAPA 16.02.19 "Rules Governing Food Safety and Sanitation Standards for Food Establishments (The Idaho Food Code)" found in Docket No. 16-0219-1501.

The purpose of this proceeding is to gather facts, views, and arguments from all interested persons relative to the proposed rules so that they may receive consideration by the Department of Health and Welfare. I will accept written statements or documents today if relevant and signed by the persons presenting them. The materials will be included as exhibits in the record for this hearing, which I will submit to the Administrative Procedures Section following the close of this hearing.

Let the record show that the notice of this hearing was published in the Idaho Administrative Bulletin on Wednesday, September 2, 2015, as required by Section 67-5221, Idaho Code. This publication was timely made and other necessary notice requirements have been met.

This public hearing is an informal proceeding. There is no right to cross-examine a person offering comments, nor is there a right to counsel or subpoena. No objections or procedures of a technically legal nature will be accepted. As the Facilitator, I am the sole regulator of the course of the presentations, including, but not limited to, a determination that the comments are outside the scope of the rule or that comments are unduly repetitious. I am not here to answer questions or to explain any part of the proposed rules. If you have questions or concerns regarding this rulemaking, please contact Patrick Guzzle, Idaho Food Protection Program Manager at (208) 334-5936.

All those interested persons attending this proceeding are asked to sign in on the roster by the entrance, indicating a desire, if any, to make an oral presentation. After a brief statement made by the Department of Health and Welfare summarizing the information upon which the proposed action is based, each person will be given an opportunity to speak at least once prior to any person being heard a second time.

At this time, the Department of Health and Welfare's statement will be read into the record, followed by the opportunity for oral comments.

These proposed rules update the current Idaho Food Code to better reflect industry practices and current food safety standards. This proposed rule incorporates, by reference, the 2013 FDA Model Food Code. Also included in these proposed rules is specific language that clarifies the status of "cottage food" operations in Idaho.

Based on comments that have been received during the negotiated rulemaking meetings, the proposed updates to the Idaho Food Code have been modified and include the following: 1) Clarification of definitions that have caused confusion; 2) Clarification of "cottage food operations" and a list of specific foods considered "cottage foods products;" and 3) Clarification of necessary requirements for producers of "acidified foods."

This concludes the Department's statement. Next, I will call upon those persons who indicated on the sign-in roster a wish to comment. Since these proceedings are being recorded, I ask that those who wish to speak come forward to the microphone, speak clearly, and provide your name, spelling your surname, prior to beginning your comments.

CLOSING STATEMENT

This public hearing started at *3:00 p.m.* and is now closed at *3:30 p.m.*.. The record of this hearing, together with submitted written comments, will be transmitted to the Department's Administrative Rules Unit. Anyone may submit further written comments to the Administrative Rules Unit, at the Department of Health and Welfare, P.O. Box 83720, Boise, Idaho 83720-0036. All written comments must be received by September 23, 2015.

Idaho Food Code Public Hearing

Date 9-8-15

Hearing Start Time: 3:00 pm

Location, Conference room name Panhandle Health District, Meeting Room

Address, City ~~Sand~~ 322 Main Sandpoint

Attendee	Organization	Signature	Desire to Comment? Yes/No
John Dowling	PHD	[illegible]	NO
Kathryn Kolberg	PHD	Kathryn Kolberg	NO

IDAHO DEPARTMENT OF HEALTH & WELFARE
DIVISION OF PUBLIC HEALTH

Idaho Food Code Public Hearing

Date 9-8-15

Hearing Start Time: 5:00 pm

Location, Conference room name Panhandle Health District, meeting Room

Address, City 322 Marion Sandpoint

Attendee	Organization	Signature	Desire to Comment ? Yes/No

Idaho Food Code Public Hearing

Date 9-9-15

Hearing Start Time: 3:00 pm

Location, Conference room name Panhandle Health, Shoshone Room

Address, City Hayden, ID 8500 N. Atlas Rd.

Attendee	Organization	Signature	Desire to Comment ? Yes/No
Erik Ketner	PHD	Erik Ketner	No
JOHN PORRA	SRCF	[illegible]	NO
BRAD TUFTO	U.S. FDA	[illegible]	NO
Meagan Arrott	CDA Tribe	[illegible]	NO

IDAHO DEPARTMENT OF HEALTH & WELFARE
DIVISION OF PUBLIC HEALTH

Idaho Food Code Public Hearing

Date 9-9-15

Hearing Start Time: 5:00 pm

Location, Conference room name Panhandle Health, Shoshone room

Address, City 8500 N. Atlas, Hayden

Attendee	Organization	Signature	Desire to Comment ? Yes/No
ERIC REDMOND	State Rep	[illegible]	
Erik Kolner	PHD	[illegible]	No

IDAHO DEPARTMENT OF HEALTH & WELFARE
DIVISION OF PUBLIC HEALTH

Idaho Food Code Public Hearing

Date ~~9-9-15~~ 9-10-15

Hearing Start Time: 1:00 pm

Location, Conference room name Public Health - Idaho North Central District Conference Room

Address, City 333 E. Palouse River Dr Moscow

Attendee	Organization	Signature	Desire to Comment ? Yes/No
Ed Mar-Goo	PH-INCD	[signature]	No
Nancy Becker	PH-INCD	Nancy M. Becker	No
Kay Maurin	on behalf of Rep. C. Troy	Kay Maurin	No
RAY TEMPLETON	REDNECK SEASONINGS	Ray Templeton	NO
Marcia Taylor	Taylormade Kitchen	Marcia Taylor	no
Denise Wetzel		Denise Wetzel	No
Bentleigh Perley	Tapped	[signature]	No
Michael Brown	Idah Food Policy Coalition	[signature]	YES
Kay Pierson	Kays Krumek	Kay Pierson	NO
N. Otto Nielson	Tapped	[signature]	No
Cindy Agidius		CINDY AGIDIUS	NO

IDAHO DEPARTMENT OF HEALTH & WELFARE
DIVISION OF PUBLIC HEALTH

Idaho Food Code Public Hearing

Date ~~9-9-15~~ 9-10-15

Hearing Start Time: 3:00 pm

Location, Conference room name Public Health - Idaho North Central District Conference Room

Address, City 333 E. Palouse River Dr. Moscow

Attendee	Organization	Signature	Desire to Comment ? Yes/No
Jessica Brierly	Americorps	Jessica Brierly	
Jon Jordan	Applebees	Jon Jordan	
David Pierce	Moscow Farmer's Market	David A Pierce	
Nancy Bedu	PH INCD	Nancy M Bedu	
Ed Mangee	PH-INCD	Ed A. [illegible]	NO

Idaho Food Code Public Hearing

Date 9-11-15

Hearing Start Time: 1:00 pm

Location, Conference room name Large Conference Room, Public Health Idaho North Central District

Address, City 215 10th Street Lewiston

Attendee	Organization	Signature	Desire to Comment ? Yes/No
Ed Marcos	PH - INCD	[illegible]	No
LaWanda Thomasso	NICI IDOC	[illegible]	

Idaho Food Code Public Hearing

Date 9-11-15

Hearing Start Time: 3:00 pm

Location, Conference room name Large Conference Room, Public Health Idaho North Central District

Address, City 215 10th Street Lewiston

Attendee	Organization	Signature	Desire to Comment ? Yes/No
Ed Manges	PH-IRCD	[illegible]	No

Idaho Food Code Public Hearing

Date: September 14, 2015
Hearing Start Time: 3:00 p.m.
Location: Rooms 1&2
Southeastern Idaho Public Health 1901 Alvin Ricken Dr.; Pocatello, ID; 83201

Attendee	Organization	Signature	Desire to Comment ? Yes/No
Carolee A Cooper	SIPH	[illegible]	NO

Idaho Food Code Public Hearing

Date: Sept 15, 2015

Hearing Start Time: 10:00 AM

Location, Conference room name Community Room, Southwest District Health

Address, City 13307 Miami Lane Caldwell

Attendee	Organization	Signature	Desire to Comment ? Yes/No
Nanci Canary	Basics Inc	Nanci Canary	Yes
Kelly Berg	SWDH	Kelly B	no
CJ Solhs	SWDH	CJ Solhs	No

Idaho Food Code Public Hearing
Date 9-15-15
Hearing Start Time: 3:00pm
Location, Conference room name Community Room, Southwest District Health
Address, City Caldwell

Attendee	Organization	Signature	Desire to Comment ? Yes/No

Idaho Food Code Public Hearing

Date; 9/15/2015

Hearing Start Time: 1 pm Mountain Time

Location: Central District Health Department, Syringa Room
707 N. Armstrong Place, Boise, Idaho 83704

Attendee	Organization	Signature	Desire to Comment ? Yes/No
Christina Mullikin	Cutter's Grand BBQ	[illegible]	Yes
Michael Mullikin	Cutter's Grand BBQ	[illegible]	Yes

IDAHO DEPARTMENT OF HEALTH & WELFARE
DIVISION OF PUBLIC HEALTH

OPEN 1200 pm

NO ATTENDEES 7:34 pm

closed 7:34 pm.

TA

Idaho Food Code Public Hearing

Date; 9/15/2015

Hearing Start Time: 7 pm Mountain Time

Location: Central District Health Department, Syringa Room
707 N. Armstrong Place, Boise, Idaho 83704

Attendee	Organization	Signature	Desire to Comment ? Yes/No

IDAHO DEPARTMENT OF HEALTH & WELFARE
DIVISION OF PUBLIC HEALTH

Idaho Food Code Public Hearing
Date: September 15, 2015
Hearing Start Time: 3:00PM
Location: South Conference Room at Eastern Idaho Public Health
1250 Hollipark Drive, Idaho Falls

Attendee	Organization	Signature	Desire to Comment ? Yes/No
MARYBETH WETZEL	IDJC	Mary Beth Wetzel	NO
Vincent McHenry	EIPH	[illegible]	NO

IDAHO DEPARTMENT OF HEALTH & WELFARE
DIVISION OF PUBLIC HEALTH

Idaho Food Code Public Hearing
September 15, 2015
Hearing Start Time: 2:00 pm MST
South Central Public Health District – Katz B Conference Room
1020 Washington St. N, Twin Falls, ID

Attendee	Organization	Signature	Desire to Comment ? Yes/No
LINDA F. MONTGOMERY	Farm Bureau	Linda F. Montgomery	No.

Barr, Beverly A. - CO 10th

From: Guzzle, Patrick L. - CO 4th
Sent: Thursday, October 15, 2015 2:41 PM
To: Barr, Beverly A. - CO 10th
Subject: FW: Information related to comments on proposed Idaho Food Code

Bev:
Below are some other comments that I received last week pertaining to the updated Idaho Food Code. The comments start after the email that is addressed to me from Michael Brown. Thanks.

Patrick L. Guzzle, MA, MPH, REHS
Idaho Food Protection Program Manager
Phone: (208) 334-5936
Fax: (208) 332-7307

From: Michael Brown [mailto:mike@idahofood.org]
Sent: Thursday, October 08, 2015 8:30 AM
To: Guzzle, Patrick L. - CO 4th
Cc: Pete Kennedy, Esq.
Subject: Re: Information related to comments on proposed Idaho Food Code

Patrick:

The Idaho Food Policy Alliance and Farm-to-Consumer Legal Defense Fund would like to offer the following information to the board in response to the written comments of NWFP:

The Northwest Food Processor Association lobbyist is not correct in claiming that cottage food producers have to be subject to some sort of regulation in order to be compliant with FSMA.

Under the Federal Food, Drug and Cosmetic Act (FFDCA), those producers having to register with FDA as a food facility would be subject to FSMA's food safety requirements unless their sales are under $500,000 and more than have of that from either direct to consumers, grocery stores or restaurants. Under this exemption, they would still need either to show that they were under state regulation or to create a modified food safety plan.

Cottage food producers don't need this exemption. Under FFDCA, retail food establishments aren't required to register as a "food facility." FDA regulations define a "retail food establishment" as an entity that derives over half of its sales from direct sales to consumers. Almost all states, including Idaho, have cottage food laws requiring that all sales be direct-to-consumer.

Pete Kennedy, Esq.
Farm-to-Consumer Legal Defense Fund

Michael C. Brown
Executive Director
Idaho Food Policy Alliance
208 835 3737

ATTACHMENT 4

IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE

16.03.19 - RULES GOVERNING CERTIFIED FAMILY HOMES

DOCKET NO. 16-0319-1502 (FEE RULE)

NOTICE OF RULEMAKING - ADOPTION OF PENDING FEE RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2016 Idaho State Legislature for final approval. Pursuant to Section 67-5224(5)(c), Idaho Code, this pending rule will not be final and effective until it has been approved by concurrent resolution of the legislature because of the fee being imposed or increased through this rulemaking. Pursuant to Section 67-5224(5)(b), Idaho Code, as provided herein the pending fee rule becomes final and effective on effective on July 1, 2016.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 39-3505, and 56-1005, Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change.

The CFH program is a self-sustaining licensing and certification program. These rules were adopted to update and increase fees to cover the cost of administering the certified family homes program. The updates include:

1) The one-time application fee to become a CFH provider is being increased by $25;
2) The monthly certification fee for the CFH providers is being increased by $5 per month; and
3) A "Basic Medication Awareness" training course provided by the Department is being added for $60.

Changes are being made to the pending rule to move the Basic Medication Awareness Course Fee into a three numbered section on its own in Section 403. The complete text of the proposed rule was published in the September 2, 2015, Idaho Administrative Bulletin, Vol. 15-9, pages 138 and 139.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased. This fee or charge is being imposed pursuant to Sections 56-264 and 56-1007, Idaho Code.

Fee increases are being made in this rulemaking in order to maintain this self-sustaining program for Certified Family Homes. The one-time application fee is being increased to $175, the monthly certification fee is being increased to $30, and a medication assistance training provided by the Department is being added for $60.

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars ($10,000) during the fiscal year as a result of this rulemaking:

The CFH program is meant to be a self-sustaining program. The increase to the fees is to cover costs of certification for CFH providers. The annual certification cost is increasing from $300 to $360 per year for an approximate total of $828,000 for SFY 2017. New CFH applications which include a site survey inspection fee is increased to $175 per application for an approximate total of $39,900. Medication Awareness training is being offered for $60 per new CFH providers for an approximate total of $13,680.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Karen Vasterling at (208) 239-6263.

DATED this _____ day of _____, 2015.

Tamara Prisock
DHW - Administrative Rules Unit

450 W. State Street - 10th Floor
P.O. Box 83720
Boise, ID 83720-0036
(208) 334-5500 phone; (208) 334-6558 fax
E-mail: **dhwrules@dhw.idaho.gov**

THE FOLLOWING IS THE PENDING TEXT OF FEE DOCKET NO. 16-0319-1502
(Only Those Sections With Amendments Are Shown.)

109. APPLICATION AND CERTIFICATION FEES FOR CERTIFIED FAMILY HOMES.

01. Application Fee Amount. An applicant to become a certified family home provider is required to pay to the Department at the time of application a one-time non-refundable application fee of one hundred ~~fifty~~ seventy-five ($1~~50~~75) dollars.
~~(3-21-12)~~(____)

02. Certification Fees. A certified family home provider is required to pay to the Department a certification fee of ~~twenty-five~~ thirty ($~~25~~30) dollars per month. This amount will be billed to the provider quarterly, and is due and payable within thirty (30) days of date of the invoice. Failure of the provider to pay certification fees when due may cause the Department to take enforcement action described in Section 913 of these rules.
~~(3-21-12)~~(____)

[PROPOSED RULE SUBSECTION 109.03 HAS BEEN MOVED TO SECTION 403.]

(BREAK IN CONTINUITY OF SECTIONS)

401. -- 4~~99~~02. (RESERVED)

403. ~~(RESERVED)~~ BASIC MEDICATION AWARENESS COURSE FEE.
A "Basic Medication Awareness for Certified Family Homes" course is provided by the Department at a cost of sixty dollars ($60). This course is approved to meet the medication assistance requirements in Sections 100 *and 400* of these rules. A certified family home provider may elect to take the Department's course, in place of the "Assistance with Medications" course available through the Idaho Professional Technical Education Program. The fee for the Department's "Basic Medication Awareness for Certified Family Homes" course must be paid at the time the provider or substitute caregiver takes the course.
(____)

404. -- 499. (RESERVED)

COMMENTS

IDAHO DEPARTMENT OF
HEALTH & WELFARE

C.L. "BUTCH" OTTER – Governor
RICHARD M. ARMSTRONG – Director

TAMARA PRISOCK – Division Administrator
DIVISION OF LICENSING AND CERTIFICATION
Administrative Rules Unit
450 West State Street, 10th Floor
P.O. Box 83720
Boise, Idaho 83720-0036
PHONE 208-334-5500
FAX 208-334-6558
DHWRules@dhw.idaho.gov

LIST OF EXHIBITS

Proposed Fee Rule

RULES GOVERNING CERTIFIED FAMILY HOMES

Docket Number: 16-0319-1502

Deadline for Comment: September 23, 2015

EXHIBIT NO.	SUBMITTED BY	DESCRIPTION	NO. PAGES
1	Legislative Services Office Elizabeth Bowen, Leg. Research Analyst Statehouse PO Box 83720 Boise, ID 83720-0054	Memorandum	1
2	Wanda Warden <wardenservices@yahoo.com>	E-Mail	1
3	Eva Blecha <geblecha@msn.com>	E-mail (9/23/15)	3
4	Eva Blecha <geblecha@msn.com>	E-mail (9/24/15)	2
5	Tamara Prisock, Div. Administrator Division of Licensing & Certification Idaho Department of Health & Welfare <prisockt@dhw.idaho.gov>	E-Mail (9/28/15)	1
6	Legislative Services Office Elizabeth Bowen, Leg. Research Analyst Statehouse PO Box 83720 Boise, ID 83720-0054	Letter	1

Legislative Services Office
Idaho State Legislature

Eric Milstead
Director

Serving Idaho's Citizen Legislature

MEMORANDUM

TO: Rules Review Subcommittee of the Senate Health & Welfare Committee and the House Health & Welfare Committee

FROM: Legislative Research Analyst - Elizabeth Bowen

DATE: September 15, 2015

SUBJECT: Department of Health and Welfare

IDAPA 16.03.19 - Rules Governing Certified Family Homes - Proposed Rules (Docket No. 16-0319-1501)

IDAPA 16.03.19 - Rules Governing Certified Family Homes (Fee Rule) - Proposed Rule (Docket No. 16-0319-1502)

The Department of Health and Welfare submits notice of proposed rulemaking at IDAPA 16.03.19.

The first proposed rule was developed subsequent to the Legislature's adoption of Senate Bill 1043, which exempted veterans' medical foster homes from the certification requirements of Chapter 35, Title 39, Idaho Code. The proposed rule revises the existing rule in order to be consistent with Senate Bill 1043 and also to update certification requirements for certified family homes (CFH). Negotiated rulemaking was conducted, and there is no anticipated fiscal impact on the state general fund. The Department states that this rulemaking is authorized pursuant to Sections 39-3505 and 56-1005, Idaho Code.

The second proposed rule is a fee rule that increases certain fees, including the application fee to become a CFH provider, which will be $175, and the monthly certification fee for CFH providers, which will be $30. The rule also adds a basic medication awareness training course for $60. The purpose for the fee increase is to cover costs for the CFH program. Negotiated rulemaking was conducted, and there is no anticipated fiscal impact on the state general fund. The Department states that this rulemaking is authorized pursuant to Sections 39-3505 and 56-1005, Idaho Code.

cc: Department of Health and Welfare
Tamara Prisock

Mike Nugent, Manager
Research & Legislation

Cathy Holland-Smith, Manager
Budget & Policy Analysis

April Renfro, Manager
Legislative Audits

Glenn Harris, Manager
Information Technology

Statehouse, P.O. Box 83720
Boise, Idaho 83720–0054

Tel: 208–334–2475
www.legislature.idaho.gov

Barr, Beverly A. - CO 10th

From: Wanda Warden <wardenservices@yahoo.com>
Sent: Wednesday, September 23, 2015 4:20 PM
To: DHWRules Mailbox
Subject: Docket 16-0319-1501

Compliance with Department Criminal History Check
Can you please explain why this change is being made. I do not see the necessity to have CHBC that are specific to only the Certified Family Home Program. If the background check is current and contains the same level information and history what advantage is there in having it specific to the program. The criminal history unit is understaffed and it can take a long time to get CHBC waivers back when they are running behind (months). If someone has a CHBC that is current and equivalent it seems redundant and expensive to bog down a system that is barely functioning at times.CHBC are expensive and this will again increase costs for providers (some of which have not had a raise in over 15 years DD waiver traditional services)-I know you are licensing and certification, not reimbursement, however, your licensing and certification rules are increasing our costs and the reimbursement department seems to be unaware of this.

Specificity of Training
Quality training is already a struggle for providers due to limited availability and high costs. Limiting training only to current resident diagnoses and needs means training for future residents is not countable. I keep hearing Dr. apt count but I do not see it in rule. Online training that requires testing for CEU is a nice option, but I was told that would not count toward classroom training.

ROOM, UTILITIES AND MEALS
Diet prescribed by health care professional concerns me in regards to those residents who may have very expensive supplements or be on a tube feeding diet. This could result in those residents being limited to institutional care due to community providers not having the resources to afford very expensive diets/supplements.

Resident Funds
Not allowed to deposit-does this mean a resident could not write a provider a check to cover costs of vacations or expensive group activities. This does not come up all the time and documentation is very important but when coordinating some things like vacations. We have had residents write provider a check to cover motel, etc. as paying for things as a group is sometimes more affordable and practical

Wanda Warden
713-2694

CONFIDENTIALITY NOTICE: This e-mail transmission and any documents accompanying this transmission may contain personal information subject to such privacy regulations as the Health Insurance Portability and Accountability Act of 1996 (HIPAA). This information is intended only for the use of the authorized individual named above. Such authorized recipient of this information is prohibited from disclosing this information to any other party unless required to do so by law or regulation and is required to destroy the information after its stated need has been fulfilled. If you are not the intended recipient, you are hereby notified that any disclosures, copying, distribution, or action taken in reliance on the contents of these documents is strictly prohibited. If you have received this information in error, please notify the sender immediately and arrange for the destruction of these documents.

Barr, Beverly A. - CO 10th

From: Gary Eva BLECHA <geblecha@msn.com>
Sent: Wednesday, September 23, 2015 10:50 PM
To: DHWRules Mailbox; Vasterling, Karen - Reg6; Prisock, Tamara - Licensing & Certification
Subject: IDAPA 16 Docket No. 16-0319-1501

To Whom It May Concern;

I have several questions regarding the current Docket No. 16-0319-1501, Final Draft.

I disagree with several portions of the document and the process.

1. I am not understanding why the Department of Health and Welfare did not make every effort to involve providers in the development of the rules prior to Negotiated
Rulemaking. Why?

2. The Licensing and Certification Dept. has the email addresses, phone numbers, mailing address, Facebook account, twitter account, flash email capability and MedicAide Newsletter
that could have been utilized to inform all Certified Family Home Providers of the Administrative Bulletin notice of Negotiated Rulemaking for better participation of the process.
Why were these options not utilized?

3. I noticed that according to the Administrative Bulletins Tamara Prisock serves DHW-Administrative Rule Unit and serves as Administrator of Licensing and Certification. Is this a

conflict of interest or are they the same position?

4. Can you please explain why these changes will not have a fiscal impact on the general fund?
Because according to the Docket No 16-0319-1501 the CFH program is self-sustaining.
Yet, my understanding is that there will be approximately a 2% impact on the general fund to cover the additional cost to maintain the program per the comments for Negotiated
Rulemaking.
Has the number of complaints increased so substantially that additional funds are need to cover the cost of investigation and the new CFH guidelines per the comments?

Otherwise, no other items should have increased the cost of the program in fact there was a fee implemented to teach the "Basic Medication Awareness" program which was being
previously provided for free.

5. There appears to be numerous errors in Docket No 16-0319-1501 in which words were inserted or removed without being highlighted showing the change.

6. Several areas appear to be set up for a matter of a persons personal opinion rather than a professional, rule or statue. In some situations there are other measures in place which
check for quality, complaints, health and safety. This is an administrative cost that the CFH program should not be providing when there are other measures in place and it will
only increase the cost to maintain the program rather than maintain the current budget to remain self-sustaining.

7. There appears to be some conflicts which put providers at risk and without protection with the new HCBS and the new CFH guidelines.

8. There appears to be some sections that have been removed yet other areas in which that section has been referred to and it not available in the current Docket.

9. Initially, the HCBS guidelines were supposed to align with the CFH program but, then somewhere along the line it changed and will not be aligned. Can you please explain why?

My concerns are that these new changes are being **rushed** through without consideration or better efforts to include Stakeholders who are **financially invested** into the current CFH program to try and maintain self-sustaining.
Some of the changes conflict with each other, appear to be a monitored for health and safety based on a persons personal opinion rather than a professional opinion or other measures that are in place to monitor if reported. The HCBS guidelines and CFH guidelines being proposed could put providers at risk without protections in place for the providers. In addition, the HCBS goals are to give the same opportunities to participants as we have or our neighbors yet, restrictions are being recommended which appear to be a form of institutional type of care rather than a **home** in the community. The CFH providers have not seen a rate increase of any kind that would offset the burdens being continually placed on providers. The DD traditional program has had numerous supports removed which were part of the methodology **without ANY kind of rate adjustment since 1999**. The A & D Waiver has only seen a very minimal rate increase. **Now it appears that several Administrative duties and requirements are being placed on providers through Negotiated Rulemaking without consideration to "Adult Foster Care" rates. The excuse is not the CFH programs problem per comments, go to Medicaid yet Medicaid will**

not consider the administrative requirements and new guideline requirements of the CFH program being placed on providers yet "Elements of Care" are being mixed with RUF and Medicaid requirements through the CFH program. WHY?

With all due respect I appreciate your willingness and the positions you serve for the communities of Idaho which can not be easy.

Respectfully,

Eva Blecha

Barr, Beverly A. - CO 10th

From: Gary Eva BLECHA <geblecha@msn.com>
Sent: Thursday, September 24, 2015 12:00 AM
To: DHWRules Mailbox; Prisock, Tamara - Licensing & Certification; Vasterling, Karen - Reg6
Subject: Final Draft Docket No. 16-0319-1501

To Whom It May Concern;

Questions, Comments and Concerns;

1. Section 009 page 4 (03) - Can a visitor staying in a CFH home provide incidental care?
2. Section 100 page 6 (05) - A certification study will begin within 30 days. Why was "within 30 days" removed? What time frame can a new provider expect to be certified?
3. Section 100 page 7 (i) - Assistance with Medication Course - Can any Idaho Nursing Board approved course be taken? Some pharmacies teach the course.
4. Section 110 page 9 (iii) - Does the new guidelines comply with Fire Life and Safety standards or is it recommended by the Department for homes?
5. Section 110 page 9 (06b) - Does this only include the applicant or provider? Have you considered all other adults living in the home other than the participants because it it endangers the health, safety and welfare of any residents. Please explain?
6. Section 115 page 10 (01) - It was posted on the website that Internet training was considered classroom hours yet it has not been added as an option to classroom training. Please explain why?
7. Section 130 - page 11 - Was removed from Final Draft. Can you please explain why? Can providers still provide service for institutional and nursing home level of care?
8. Section 140 - page 12 (02 i) - Refers to Section 130 of "these rules" but, there is not a Section 130.
9. Section 150 - page 13 (02) - Legally was removed. Qualified person or organization either public or private could be used to inspect homes requesting certification. What is required for a person or organization to be "Qualified"? Is there a application or process?
10. Section 170 - page 14 (4b) - There is nothing in the verbiage for individuals who own their own furnishings. Can they have their own furnishing? Can the participant have their own furnishing if it does not meet the required standards?
11. Section 170 - Why does "Elements of Care" fall into the CFH guidelines if it is reimbursed through Medicaid and is monitored through Quality Assurance through Medicaid?
12. Section 170 - Why is "Elements of Care" mixed with RUF and CFH guidelines?

13. Section 175 - Rent Utilities and Meals - 3 daily nutritional meals and nutritional snacks. Who is going to determine what is nutritional? Do we have to measure out the food

per nutritional guidelines? Do we have to hire a dietician? Do we have to prepare a dietician approved menu? How do we comply with HCBS guidelines allowing

participant the same freedom and choices as you or I if we have to follow this guideline. How is this NOT a conflict with the HCBS guidelines? How do we comply

both requirements without being in violation of one of them? Isn't this taking it guideline to institutional level of care rather than a home? If we are responsible

for compliance 24 hours a day how do we ensure the participant is eating outside of the home with the DDA's or friends etc?

In the new draft we are being required to ensure that the participants receive adequate care, rooms are clean and their clothing is clean yet under the HCBS new guidelines we are required to follow the landlord tenant laws which clearly state we are to give adequate notice before entering the premises and if we remove **ANYTHING** from the participants room then they can call the police and an attorney. How does this protect the providers? Please explain how we are supposed to comply with these guidelines without being in violation of the Landlord Tenant Laws or the CFH guidelines and the HCBS guidelines?

Respectfully,

Eva Blecha

Barr, Beverly A. - CO 10th

From: Prisock, Tamara - Licensing & Certification
Sent: Monday, September 28, 2015 10:44 AM
To: Gary Eva BLECHA; Wanda Warden; Linda McConnell
Cc: Vasterling, Karen - Reg6; Barr, Beverly A. - CO 10th; Alonso, Cori - Reg6; Powell, Frank - CO 10th
Subject: Rule Docket 16-0319-1501 - Rules Governing Certified Family Homes

Thank you for your comments and questions. After reviewing your questions and concerns about rule docket 16-0319-1501 which published earlier this month, the Division of Licensing and Certification has pulled that docket to give us another year to work with certified family home providers and advocates on proposed changes. I want to note that, in addition to publishing the notice of negotiated rulemaking last spring, we did send a "blast" email to all certified family home providers announcing the meetings, and we also posted the announcement to the Department's CFH web site. We also discussed the proposed rule changes at both the April and July Community Care Advisory Council meetings. Despite all of the work we did to inform CFH providers about the proposed rule changes, your comments tell us that we still have more work to do. Starting next spring, we will again conduct negotiated rulemaking meetings to move forward with the changes proposed in docket 16-0319-1501.

The Division of Licensing and Certification will proceed with Docket 16-0319-1502, which proposes fee increases in order to cover the costs of operating the CFH Program.

I want to try to clarify a few things because your comments indicate that you continue to confuse CFH rules with Medicaid rules. First, you must remember that the CFH Program is part of the Division of Licensing and Certification in the Department of Health and Welfare. The CFH Program certifies certified family homes to be able to operate in Idaho, regardless of who is paying for the services. Certified Family Home rules and requirements apply to ALL certified homes, and many of those homes care for private pay individuals and do not serve Medicaid participants. The Division of Licensing and Certification does not oversee any Medicaid rules or policies.

The Division of Medicaid is an entirely separate division in the Department of Health and Welfare that administers Medicaid in Idaho. The Home and Community Based Services (HCBS) waiver is a Medicaid waiver, and all of the rules and reimbursement policies related to HCBS are administered by the Division of Medicaid, not my division. Any questions you have about Medicaid reimbursement need to be directed to someone in the Division of Medicaid, not to Karen Vasterling or to me. The MedicAide newsletter is a newsletter the Division of Medicaid uses to communicate Medicaid information to providers. The Division of Licensing and Certification does not publish information in that newsletter because that newsletter is only for Medicaid information. The Division of Medicaid is publishing a rule docket (Docket 16-0310-1501) proposing several changes, including changes to the HCBS waiver requirements for certified family homes. All of your questions and comments about the changes to HCBS rules need to be directed to Stephanie Perry in the Division of Medicaid. Her phone number is 364-1878, and her email address is perryS@dhw.idaho.gov

Again, thank you for your questions and comments, and we look forward to working with you on possible changes to the rules governing Certified Family Homes.

Tamara Prisock, Administrator
Division of Licensing and Certification
Idaho Department of Health and Welfare
Office: (208) 364-1971
Work Cell: (208) 859-7404
prisockt@dhw.idaho.gov

Legislative Services Office
Idaho State Legislature

Eric Milstead
Director

Serving Idaho's Citizen Legislature

October 02, 2015

Tamara Prisock
Admin. Procedures Section
Department of Health and Welfare
PO Box 83720
Boise, ID 83720-0036

Dear Tamara Prisock:

The Senate and House Subcommittees for review of administrative rules have reviewed the proposed changes to the Department of Health and Welfare rules:

IDAPA 16.03.19 - Rules Governing Certified Family Homes - Proposed Rules - Docket No. 16-0319-1501

IDAPA 16.03.19 - Rules Governing Certified Family Homes (Fee Rule) - Proposed Rule - Docket No. 16-0319-1502

No meeting will be held, and we are pleased to report that no objections will be filed.

Sincerely yours,

Elizabeth Bowen
Legislative Research Analyst

ELB/jk

cc:

Mike Nugent, Manager
Research & Legislation

Cathy Holland-Smith, Manager
Budget & Policy Analysis

April Renfro, Manager
Legislative Audits

Glenn Harris, Manager
Information Technology

Statehouse, P.O. Box 83720
Boise, Idaho 83720-0054

Tel: 208-334-2475
www.legislature.idaho.gov

ATTACHMENT 5

IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE

16.01.01 - EMERGENCY MEDICAL SERVICES (EMS) -- ADVISORY COMMITTEE (EMSAC)

DOCKET NO. 16-0101-1501

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2016 Idaho State Legislature for final approval. In accordance with Section 67-5224(5)(a) and (b), Idaho Code, as specified here in this notice the pending rule becomes final and effective on July 1, 2016, after review by the legislature, unless the rule is approved or rejected in part by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is affected by concurrent resolution, the concurrent resolution shall specify the effective date of the rule.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section 56-1023, Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change.

A new chapter containing EMS education requirements is being promulgated (IDAPA 16.01.05). As part of its responsibilities, EMSAC reviews educational curricula and standards. A citation to this new chapter is being added to the portion of the EMSAC rules that describes EMSAC responsibilities related to EMS education. In addition, the current EMS chapter (IDAPA 16.02.03) is being repealed and some requirements from that chapter (e.g., regarding advance "do not resuscitate" directives) are being moved into this chapter so that they remain in effect.

There are no changes to the pending rule and it is being adopted as originally proposed. The complete text of the proposed rule was published in the August 5, 2015, Idaho Administrative Bulletin, Vol. 15-8, pages 37 through 40.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased: NA

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars ($10,000) during the fiscal year as a result of this rulemaking:

The Emergency Medical Services (EMS) program is funded through dedicated funds. This rulemaking has no fiscal impact to those funds or to the state general fund. This rulemaking is intended to be cost-neutral.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Bruce Cheeseman at (208) 334-4000.

DATED this _____ day of _____, 2015.

Tamara Prisock
DHW - Administrative Rules Unit
450 W. State Street - 10th Floor
P.O. Box 83720
Boise, ID 83720-0036
(208) 334-5500 phone; (208) 334-6558 fax
E-mail: **dhwrules@dhw.idaho.gov**

THE FOLLOWING IS THE PENDING TEXT OF DOCKET NO. 16-0101-1501
(Only those Sections being amended are shown.)

110. EMS ADVISORY COMMITTEE MEMBERSHIP.
The Statewide EMS Advisory Committee must include the following representatives: (3-29-12)

01. Idaho Transportation Department. One (1) representative recommended by the Idaho Transportation Department, Office of Highway Operations and Safety. (3-29-12)

02. American College of Emergency Physicians (ACEP). One (1) representative recommended by the Idaho Chapter of American College of Emergency Physicians (ACEP). (3-29-12)

03. American College of Surgeons. One (1) representative recommended by the Committee on Trauma of the Idaho Chapter of the American College of Surgeons. (3-29-12)

04. Idaho Board of Nursing. One (1) representative recommended by the Idaho Board of Nursing. (3-29-12)

05. Idaho Medical Association. One (1) representative recommended by the Idaho Medical Association. (3-29-12)

06. Idaho Hospital Association. One (1) representative recommended by the Idaho Hospital Association. (3-29-12)

07. Idaho Association of Counties. One (1) representative of local government recommended by the Idaho Association of Counties. (3-29-12)

08. Career Third Service EMS/Ambulance Service. One (1) representative of a Career Third Service EMS/Ambulance Service. (3-29-12)

09. Volunteer Third Service EMS/Ambulance Service. One (1) representative of a volunteer third service EMS/ambulance service. (3-29-12)

10. Third Service Nontransport EMS Service. One (1) representative of a third service nontransport EMS service. (3-29-12)

11. Idaho Fire Chiefs Association. One (1) representative of a fire department-based EMS/ambulance service recommended by the Idaho Fire Chiefs Association. (3-29-12)

12. Fire Department-Based Nontransport EMS Service. One (1) representative of a fire department-based nontransport EMS service. (3-29-12)

13. Air Medical Service. One (1) representative of an air medical service. (3-29-12)

14. Emergency Medical Technician. One (1) Emergency Medical Technician who represents the interests of Idaho personnel licensed at that level. (3-29-12)

15. Advanced Emergency Medical Technician. One (1) Advanced Emergency Medical Technician who represents the interests of Idaho personnel licensed at that level. (3-29-12)

16. Paramedic. One (1) paramedic who represents the interests of Idaho personnel licensed at that level. (3-29-12)

17. Administrative County EMS Director. One (1) representative who is an Administrative County EMS Director. (3-29-12)

18. EMS Instructor. One (1) EMS instructor who represents the interests of Idaho EMS educators and evaluators. (3-29-12)

19. **Consumer**. One (1) Idaho citizen with experience involving EMS; (3-29-12)

20. **Private EMS Ambulance Service**. One (1) representative of a private EMS ambulance service. (3-29-12)

21. **American Academy of Pediatrics**. One (1) pediatrician who represents the interests of children in the EMS system recommended by the Idaho Chapter of the American Academy of Pediatrics. (3-29-12)

22. **Pediatric Emergency Medicine Physician**. One (1) board-certified, or equivalent, Pediatric Emergency Medicine Physician. (3-29-12)

23. **Public Health District**. One (1) representative from one (1) of Idaho's seven (7) public health districts. (____)

111. -- 119. **(RESERVED)**

120. **RESPONSIBILITIES OF THE EMS ADVISORY COMMITTEE.**
The EMS Advisory Committee will meet at least annually, or as needed, for the purposes of: (3-29-12)

01. ~~*Reviewing*~~ **Policies and Procedures**. Reviewing policies and procedures for provision of emergency medical services and recommending same to the EMS Bureau~~;~~. ~~(3-29-12)~~(____)

02. ~~*Establishing Standard Protocols for EMS Personnel to Respond to*~~ **Advance Do Not Resuscitate (DNR) Directives**. ~~*The protocols will be reviewed at least annually to determine if changes in protocol need to be made in order to reflect technological advances*~~ Establishing a standard protocol for EMS personnel to respond to advance DNR directives. ~~(3-29-12)~~(____)

a. The protocol will be reviewed at least annually to determine if changes in protocol should be made to reflect technological advances. The EMSAC must notify the Department of any changes made to the protocols. (____)

b. The Department will notify Idaho EMS personnel of the DNR protocol and any subsequent changes. (____)

c. The legal requirements for advance DNR directives are provided under Title 39, Chapter 45, Idaho Code. (____)

03. ~~*Reviewing*~~ **Educational Curricula and Standards**. Reviewing EMS education curricula, education standards, and examination processes described in IDAPA 16.01.05, "Emergency Medical Services (EMS) -- Education, Instructor, and Examination Requirements," and providing their recommend~~*ing*~~ations ~~*same*~~ regarding EMS education and examination to the EMS Bureau. ~~(3-29-12)~~(____)

04. **Personnel Licensing Policies and Standards**. Making recommendations to the EMS Bureau regarding implementation of personnel licensing policy and standards. (3-29-12)

05. ~~*Reviewing*~~ **Grant Applications**. Reviewing grant applications and making recommendations for eligibility and awards for the dedicated grant funds program in accordance with IDAPA 16.02.04, "Rules Governing Emergency Medical Services Account III Grants," Section 300. ~~(3-29-12)~~(____)

06. **Ambulance and Nontransport Services**. Reviewing and making recommendations on the licensing of ambulance and of nontransport services in Idaho. (3-29-12)

COMMENTS

IDAHO DEPARTMENT OF
HEALTH & WELFARE

C.L. "BUTCH" OTTER – Governor
RICHARD M. ARMSTRONG – Director

TAMARA PRISOCK – Division Administrator
DIVISION OF LICENSING AND CERTIFICATION
Administrative Rules Unit
450 West State Street, 10th Floor
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Boise, Idaho 83720-0036
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LIST OF EXHIBITS

Proposed Rule

EMERGENCY MEDICAL SERVICES (EMS) - ADVISORY COMMITTEE (EMSAC)

Docket Number: 16-0101-1501

Deadline for Comment: August 26, 2015

EXHIBIT NO.	SUBMITTED BY	DESCRIPTION	NO. PAGES
1	Legislative Services Office Elizabeth Bowen, Legislative Research Analyst Statehouse PO Box 83720 Boise, ID 83720-0054	Memorandum Rec'd 8/10/2015	2
2	Public Hearing - Webinar August 11, 2015	Sign-In Sheet	1
3	Legislative Services Office Elizabeth Bowen, Legislative Research Analyst Statehouse PO Box 83720 Boise, ID 83720-0054	Letter Rec'd 8/27/2015	2

Legislative Services Office
Idaho State Legislature

Eric Milstead
Director

Serving Idaho's Citizen Legislature

MEMORANDUM

TO: Rules Review Subcommittee of the Senate Health & Welfare Committee and the House Health & Welfare Committee

FROM: Legislative Research Analyst - Elizabeth Bowen

DATE: August 10, 2015

SUBJECT: Department of Health and Welfare

IDAPA 16.01.01 - EMS Services - Advisory Committee - Proposed Rule (Docket No. 16-0101-1501)

IDAPA 16.01.02 - Emergency Medical Services (EMS) - Rule Definitions - Proposed Rule (Docket No. 16-0102-1501)

IDAPA 16.01.03 - EMS Agency Licensing Requirements - Proposed Rule (Docket No. 16-0103-1501)

IDAPA 16.01.05 - EMS Education, Instructor, and Examination Requirements - Proposed Rule (Docket No. 16-0105-1501)

IDAPA 16.01.07 - EMS - Personnel Licensing Requirements - Vacation of Proposed Rulemaking (Docket No. 16-0107-1501)

IDAPA 16.01.07 - EMS- Personnel Licensing Requirements - Proposed Rule (Docket No. 16-0107-1502)

IDAPA 16.01.12 - EMS - Complaints, Investigations, and Disciplinary Actions - Proposed Rule (Docket No. 16-0112-1501)

The Department of Health and Welfare submits notice of proposed rulemaking at IDAPA 16.01.01, 16.01.02, 16.01.03, 16.01.05, 16.01.07, and 16.01.12.

1. IDAPA 16.01.01

The proposed rule adds a reference to a new rule, IDAPA 16.01.05, discussed below. Additionally, the proposed rule incorporates certain provisions from another rule, IDAPA 16.02.03, that is being repealed. Negotiated rulemaking was conducted. The Department states that the proposed rule is consistent with the rulemaking authority granted by Section 56-1023, Idaho Code. There is no anticipated fiscal impact to the state general fund.

2. IDAPA 16.01.02

The proposed rule updates an existing rule to reflect recent changes made to statutes and rules relating to emergency medical services (EMS). Specifically, the proposed rule includes several definitions of terms relating to education, evaluation, and paramedicine. Negotiated rulemaking was conducted. The Department states that the proposed rule is consistent with the rulemaking authority granted by Section 56-1023, Idaho Code. There is no anticipated fiscal impact to the state general fund.

3. IDAPA 16.01.03

The proposed rule amends existing EMS agency licensing requirements to be consistent with changes to statutes and rules relating to EMS. Provisions relating to record-keeping by EMS agencies have also been incorporated into the proposed rule. Negotiated rulemaking was conducted for related rules but not specifically for this rule. The Department states that the proposed rule is consistent with the rulemaking authority granted by Sections 56-1011 through 56-1023, Idaho Code. There is no anticipated fiscal impact to the state general fund.

4. IDAPA 16.01.05

The proposed rule provides updated education, instruction, and examination requirements for EMS personnel. The proposed rule replaces the education requirements found in IDAPA 16.02.03, which is being repealed. Negotiated rulemaking was conducted. The Department states that the proposed rule is consistent with the rulemaking authority granted by Section 56-1023, Idaho Code. There is no anticipated fiscal impact to the state general fund.

5. IDAPA 16.01.07

(a) Docket 16-0107-1501 -- This proposed rulemaking is being vacated in favor of the docket in (b) below.

(b) Docket 16-0107-1502 -- The proposed rule amends licensing requirements for EMS personnel to be consistent with the proposed rule at IDAPA 16.01.05, discussed above. The proposed rule also incorporates provisions from a rule, IDAPA 16.02.03, that is being repealed. Negotiated rulemaking was not conducted; however, the Department states that it has met with stakeholders around the state to discuss the rule. The proposed rule is based on concerns voiced during those meetings. According to the Department, the proposed rule is consistent with the rulemaking authority granted by Sections 56-1011 through 56-1023, Idaho Code. There is no anticipated fiscal impact to the state general fund.

6. IDAPA 16.01.12

The proposed rule amends existing language to be consistent with the proposed rule at IDAPA 16.01.05, discussed above. Negotiated rulemaking was not specifically conducted for this rule but was conducted for related rules. The Department states that the changes in this rule are being made for the sake of clarity. According to the Department, the proposed rule is consistent with the rulemaking authority granted by Sections 56-1011 through 56-1023, Idaho Code. There is no anticipated fiscal impact to the state general fund.

cc: Department of Health and Welfare
Tamara Prisock

PUBLIC HEARING
Idaho Department of Health and Welfare

*****Please Sign In*****

CHAPTER: EMS chapters: 16.01.01, 16.01.02, 16.01.03, 16.01.05, 16.01.07, 16.01.12
DOCKET NOs.: 16-0101-1501, 16-0102-1501, 16-0103-1501, 16-0105-1501 , 16-0107-1502, and 16-0112-1501

DATE: Tuesday, August 11, 2015
TIME: 10am MDT
LOCATION: 2224 East Penitentiary Road, Boise, ID 83712 (also available by webinar)
*Please provide a written copy of your comments for the official record on this rulemaking, if possible.

NAME (Please Print)	ADDRESS / E-MAIL	ORGANIZATION REPRESENTED	DO YOU WISH TO TESTIFY?

No attendees
Mtg started 10:20am
Closed 10:50am
No one joined on webinar
No statement was read.
No digital audio

Legislative Services Office
Idaho State Legislature

Serving Idaho's Citizen Legislature

Eric Milstead
Director

August 27, 2015

Tamara Prisock
Admin. Procedures Section
Department of Health and Welfare
PO Box 83720
Boise, ID 83720-0036

Dear Tamara Prisock:

The Senate and House Subcommittees for review of administrative rules have reviewed the proposed changes to the Department of Health and Welfare rules:

IDAPA 16.01.01 - EMS Services - Advisory Committee - Proposed Rule - Docket No. 16-0101-1501

IDAPA 16.01.02 - Emergency Medical Services (EMS) - Rule Definitions - Proposed Rule - Docket No. 16-0102-1501

IDAPA 16.01.03 - EMS Agency Licensing Requirements - Proposed Rule - Docket No. 16-0103-1501

IDAPA 16.01.05 - EMS Education, Instructor, and Examination Requirements - Proposed Rule - Docket No. 16-0105-1501

IDAPA 16.01.07 - EMS - Personnel Licensing Requirements - Vacation of Proposed Rulemaking - Docket No. 16-0107-1501

IDAPA 16.01.07 - EMS- Personnel Licensing Requirements - Proposed Rule - Docket No. 16-0107-1502

IDAPA 16.01.12 - EMS - Complaints, Investigations, and Disciplinary Actions - Proposed Rule - Docket No. 16-0112-1501

No meeting will be held, and we are pleased to report that no objections will be filed.

Sincerely yours,

Elizabeth Bowen

Mike Nugent, Manager
Research & Legislation

Cathy Holland-Smith, Manager
Budget & Policy Analysis

April Renfro, Manager
Legislative Audits

Glenn Harris, Manager
Information Technology

Statehouse, P.O. Box 83720
Boise, Idaho 83720–0054

Tel: 208–334–2475
www.legislature.idaho.gov

Elizabeth Bowen
Legislative Research Analyst

ELB/jk

cc:

ATTACHMENT 6

IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE

16.01.02 - EMERGENCY MEDICAL SERVICES (EMS) -- RULE DEFINITIONS

DOCKET NO. 16-0102-1501

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2016 Idaho State Legislature for final approval. In accordance with Section 67-5224(5)(a) and (b), Idaho Code, as specified here in this notice the pending rule becomes final and effective on July 1, 2016, after review by the legislature, unless the rule is approved or rejected in part by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is affected by concurrent resolution, the concurrent resolution shall specify the effective date of the rule.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section 56-1023, Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change.

A new chapter for EMS education requirements was promulgated and updates were made to this chapter to align it with the new chapter and to other the existing EMS licensing chapters. A clarification of the term "prehospital" is being made to the original proposed text in Section 013.

The text of the pending rule has been amended in accordance with Section 67-5227, Idaho Code. Only those sections that have changes that differ from the proposed text are printed in this bulletin. The complete text of the proposed rule was published in the August 5, 2015, Idaho Administrative Bulletin, Vol. 15-8, pages 41 through 48.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased: NA

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars ($10,000) during the fiscal year as a result of this rulemaking:

The Emergency Medical Services (EMS) program is funded through dedicated funds. This rulemaking has no fiscal impact to those funds or to the state general fund. This rulemaking is intended to be cost-neutral.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning the pending rule, contact Bruce Cheeseman at (208) 334-4000.

DATED this _____ day of _____, 2015.

Tamara Prisock
DHW - Administrative Rules Unit
450 W. State Street - 10th Floor
P.O. Box 83720
Boise, ID 83720-0036
(208) 334-5500 phone; (208) 334-6558 fax
E-mail: **dhwrules@dhw.idaho.gov**

THE FOLLOWING IS THE PENDING TEXT OF DOCKET NO. 16-0102-1501
(Only those Sections being amended are shown.)

001. TITLE AND SCOPE.

01. Title. The title of these rules is IDAPA 16.01.02, "Emergency Medical Services (EMS) -- Rule Definitions." (7-1-14)

02. Scope. These rules contain the definitions used throughout the Emergency Medical Services chapters of rules adopted by the Department. Those chapters include: (7-1-14)

a. IDAPA 16.01.01, "Emergency Medical Services (EMS) -- Advisory Committee (EMSAC)"; (7-1-14)

b. IDAPA 16.01.03, "Emergency Medical Services (EMS) -- Agency Licensing Requirements"; (7-1-14)

c. IDAPA 16.01.05, "Emergency Medical Services (EMS) -- Education, Instructor, and Examination Requirements"; (____)

~~e~~d. IDAPA 16.01.07, "Emergency Medical Services (EMS) -- Personnel Licensing Requirements"; and ~~(7-1-14)~~(____)

~~d~~e. IDAPA 16.01.12, "Emergency Medical Services (EMS) -- Complaints, Investigations and Disciplinary Actions."~~; and~~ ~~(7-1-14)~~(____)

~~**e.** IDAPA 16.02.03, "Emergency Medical Services."~~ ~~(7-1-14)~~

(BREAK IN CONTINUITY OF SECTIONS)

011. DEFINITIONS AND ABBREVIATIONS C THROUGH E.
For the purposes of the Emergency Medical Services (EMS) chapters of rules, the following definitions apply: (7-1-14)

01. Call Volume. The number of requests for service that an agency either anticipated or responded to during a designated period of time. (7-1-14)

02. Candidate. Any individual who is requesting an EMS personnel license under Sections 56-1011 through 56-1023, Idaho Code, IDAPA 16.01.07, "Emergency Medical Services (EMS) - Personnel Licensing Requirements." (7-1-14)

03. Certificate of Eligibility. Documentation that an individual is eligible for affiliation with an EMS agency, having satisfied all requirements for an EMS Personnel Licensure except for affiliation, but is not licensed to practice. (7-1-14)

04. Certification. A credential issued ~~to~~ by a~~n~~ ~~individual by the Department~~ designated certification body for a specified period of time indicating that minimum standards have been met. ~~(7-1-14)~~(____)

05. Certified EMS Instructor. An individual approved by the Department, who has met the requirements in IDAPA 16.0~~2~~1.0~~3~~5, "Emergency Medical Services (EMS) -- Education, Instructor, and Examination Requirements," to provide EMS education and training. ~~(7-1-14)~~(____)

06. CoAEMSP. Committee on Accreditation of Educational Programs for the Emergency Medical Services Professions. (____)

07. **Cognitive Exam.** Computer-based exam to demonstrate knowledge learned during an EMS education program. ( )

0~~6~~8. **Compensated Volunteer.** An individual who performs a service without promise, expectation, or receipt of compensation other than payment of expenses, reasonable benefits or a nominal fee to perform such services. This individual cannot be a part-time or full-time employee of the same organization performing the same services as a volunteer and employee. (7-1-14)

09. **Conflict of Interest.** A situation in which a decision by personnel acting in their official capacity is influenced by or may be a benefit to their personal interests. ( )

10. **Consolidated Emergency Communications System.** Facilities, equipment, and dispatching services directly related to establishing, maintaining, or enhancing a 911 emergency communications service defined in Section 31-4802, Idaho Code. ( )

11. **Core Content.** Set of educational goals, explicitly taught (and not taught), focused on making sure that all students involved learn certain material tied to a specific educational topic and defines the entire domain of out-of-hospital practice and identifies the universal body of knowledge and skills for emergency medical services providers who do not function as independent practitioners. ( )

12. **Course.** The specific portions of an education program that delineate the beginning and the end of an individual's EMS education. A course is also referred to as a "section" on the NREMT website. ( )

13. **Course Physician.** A physician charged with reviewing and approving both the clinical and didactic content of a course. ( )

~~07~~14. **Credentialing.** The local process by which licensed EMS personnel are authorized to provide medical care in the out-of-hospital, hospital, and medical clinic setting, including the determination of a local scope of practice. (7-1-14)

~~08~~15. **Credentialed EMS Personnel.** Individuals who are authorized to provide medical care by the EMS medical director, hospital supervising physician, or medical clinic supervising physician. (7-1-14)

~~09~~16. **Critical Care.** The treatment of a patient with continuous care, monitoring, medication, or procedures requiring knowledge or skills not contained within the Paramedic curriculum approved by the State Health Officer. Interventions provided by Paramedics are governed by the scope of practice defined in IDAPA 16.02.02, "Rules of the Idaho Emergency Medical Services (EMS) Physician Commission." (7-1-14)

1~~0~~7. **Critical Care Agency.** An ambulance or air medical EMS agency that advertises and provides all of the skills and interventions defined as critical care in IDAPA 16.02.02, "Rules of the Idaho Emergency Medical Services (EMS) Physician Commission." (7-1-14)

1~~1~~8. **Department.** The Idaho Department of Health and Welfare. (7-1-14)

1~~2~~9. **Director.** The Director of the Idaho Department of Health and Welfare or his designee. (7-1-14)

~~13~~20. **Division.** The Division of Public Health, Idaho Department of Health and Welfare. (7-1-14)

~~14~~21. **Emergency.** A medical condition, the onset of which is sudden, that manifests itself by symptoms of sufficient severity, including severe pain, that a prudent layperson, who possesses an average knowledge of health and medicine, could reasonably expect the absence of immediate medical attention to result in placing the person's health in serious jeopardy, or in causing serious impairments of bodily function or serious dysfunction of any bodily organ or part. (7-1-14)

~~15~~22. **Emergency Medical Care.** The care provided to a person suffering from a medical condition, the onset of which is sudden, that manifests itself by symptoms of sufficient severity, including severe pain, that a

prudent layperson, who possesses an average knowledge of health and medicine, could reasonably expect the absence of immediate medical attention to result in placing the person's health in serious jeopardy, or in causing serious impairments of bodily function or serious dysfunction of any bodily organ or part. (7-1-14)

~~16~~23. **Emergency Medical Responder (EMR).** An EMR is a person who: (7-1-14)

a. Has met the qualifications for licensure in Sections 56-1011 through 56-1023, Idaho Code, and IDAPA 16.01.07, "Emergency Medical Services - Personnel Licensing Requirements"; (7-1-14)

b. Is licensed by the Department under Sections 56-1011 through 56-1023, Idaho Code; (7-1-14)

c. Carries out the practice of emergency medical care within the scope of practice for EMR determined by the Idaho Emergency Medical Services Physician Commission (EMSPC), under IDAPA 16.02.02, "Rules of the Idaho Emergency Medical Services (EMS) Physician Commission"; and (7-1-14)

d. Practices under the supervision of a physician licensed in Idaho. (7-1-14)

~~17~~24. **Emergency Medical Services (EMS).** Under Section 56-1012(12), Idaho Code, emergency medical services or EMS is aid rendered by an individual or group of individuals who do the following: (4-11-15)

a. Respond to a perceived need for medical care in order to prevent loss of life, aggravation of physiological or psychological illness, or injury; (4-11-15)

b. Are prepared to provide interventions that are within the scope of practice as defined by the Idaho Emergency Medical Services Physician Commission (EMSPC), under IDAPA 16.02.02, "Rules of the Idaho Emergency Medical Services (EMS) Physician Commission"; (4-11-15)

c. Use an alerting mechanism to initiate a response to requests for medical care; and (4-11-15)

d. Offer, advertise, or attempt to respond as described in Section 56-1012(12), (a) through (c), Idaho Code. (4-11-15)

e. Aid rendered by a ski patroller, as described in Section 54-1804(1)(h), Idaho Code, is not EMS. (4-11-15)

~~18~~25. **Emergency Medical Services Advisory Committee (EMSAC).** The statewide advisory board of the Department as described in IDAPA 16.01.01, "Emergency Medical Services (EMS) - Advisory Committee (EMSAC)." EMSAC members are appointed by the Director of the Idaho Department of Health and Welfare to provide counsel to the Department on administering the EMS Act. (7-1-14)

~~19~~26. **EMS Agency.** Any organization licensed by the Department under Sections 56-1011 through 56-1023, Idaho Code, and IDAPA 16.01.03, "Emergency Medical Services (EMS) - Agency Licensing Requirements," that operates an air medical service, ambulance service, or non-transport service. (7-1-14)

~~20~~27. **EMS Bureau.** The Bureau of Emergency Medical Services (EMS) & Preparedness of the Idaho Department of Health and Welfare. (7-1-14)

28. **EMS Education Program.** The institution or agency holding an EMS education course. ( )

29. **EMS Education Program Director.** The individual responsible for an EMS educational program or programs. ( )

30. **EMS Education Program Objectives.** The measurable outcome used by the program to determine student competencies. ( )

~~21~~31. **EMS Medical Director.** A physician who supervises the medical activities of licensed personnel affiliated with an EMS agency. (7-1-14)

~~22~~32. **EMS Physician Commission (EMSPC).** The Idaho Emergency Medical Services Physician Commission created under Section 56-1013A, Idaho Code, also referred to as "the Commission." (7-1-14)

~~23~~3. **Emergency Medical Technician (EMT).** An EMT is a person who: (7-1-14)

a. Has met the qualifications for licensure in Sections 56-1011 through 56-1023, Idaho Code, and IDAPA 16.01.07, "Emergency Medical Services - Personnel Licensing Requirements"; (7-1-14)

b. Is licensed by the EMS Bureau under Sections 56-1011 through 56-1023, Idaho Code; (7-1-14)

c. Carries out the practice of emergency medical care within the scope of practice for EMT determined by the Idaho Emergency Medical Services Physician Commission (EMSPC), under IDAPA 16.02.02, "Rules of the Idaho Emergency Medical Services (EMS) Physician Commission"; and (7-1-14)

d. Practices under the supervision of a physician licensed in Idaho. (7-1-14)

~~24~~34. **Emergency Scene.** Any setting outside of a hospital, with the exception of the inter-facility transfer, in which the provision of EMS may take place. (7-1-14)

012. DEFINITIONS AND ABBREVIATIONS F THROUGH N.
For the purposes of the Emergency Medical Services (EMS) chapters of rules, the following definitions apply: (7-1-14)

01. **Formative Evaluation.** Assessment, including diagnostic testing, is a range of formal and informal assessment procedures employed by teachers during the learning process. ( )

0~~1~~2. **Full-Time Paid Personnel.** Personnel who perform a service with the promise, expectation, or receipt of compensation for performing such services. Full-time personnel differ from part-time personnel in that full-time personnel work a more regular schedule and typically work more than thirty-five (35) hours per week. (7-1-14)

0~~2~~3. **Glasgow Coma Score (GCS).** A scale used to determine a patient's level of consciousness. It is a rating from three (3) to fifteen (15) of the patient's ability to open his eyes, respond verbally, and move normally. The GCS is used primarily during the examination of patients with trauma or stroke. (7-1-14)

0~~3~~4. **Ground Transport Time.** The total elapsed time calculated from departure of the ambulance from the scene to arrival of the ambulance at the patient destination. (7-1-14)

0~~4~~5. **Hospital.** A facility in Idaho licensed under Sections 39-1301 through 39-1314, Idaho Code, and defined in Section 39-1301(a)(1), Idaho Code. (7-1-14)

06. **Instructor.** Person who assists a student in the learning process and meets the requirements to obtain instructor certification. ( )

07. **Instructor Certification.** A credential issued to an individual by the Department for a specified period of time indicating that minimum standards for providing EMS instruction under IDAPA 16.01.05, "Emergency Medical Services (EMS) -- Education, Instructor, and Examination Requirements," have been met. ( )

0~~5~~8. **Intermediate Life Support (ILS).** The provision of medical care, medication administration, and treatment with medical devices which correspond to the knowledge and skill objectives in the AEMT curriculum currently approved by the State Health Officer and within the scope of practice defined in IDAPA 16.02.02, "Rules of the Idaho Emergency Medical Services (EMS) Physician Commission," by persons licensed as AEMTs by the Department. (7-1-14)

0~~6~~9. **Investigation.** Research of the facts concerning a complaint or issue of non-compliance which may include performing or obtaining interviews, inspections, document review, detailed subject history, phone calls,

witness statements, other evidence, and collaboration with other jurisdictions of authority. (7-1-14)

~~07~~10. **License**. A document issued by the Department to an agency or individual authorizing specified activities and conditions as described under Sections 56-1011 through 56-1023, Idaho Code. (7-1-14)

~~08~~11. **Licensed Personnel**. Those individuals who are licensed by the Department as Emergency Medical Responders (EMR), Emergency Medical Technicians (EMT), Advanced Emergency Medical Technicians (AEMT), and Paramedics. (7-1-14)

~~09~~12. **Licensed Professional Nurse**. A person who meets all the applicable requirements and is licensed to practice as a Licensed Professional Nurse under Sections 54-1401 through 54-1418, Idaho Code. (7-1-14)

1~~0~~3. **Local Incident Management System**. The local system of interagency communications, command, and control established to manage emergencies or demonstrate compliance with the National Incident Management System. (7-1-14)

1~~1~~4. **Medical Supervision Plan**. The written document describing the provisions for medical supervision of licensed EMS personnel. (7-1-14)

1~~2~~5. **National Registry of Emergency Medical Technicians (NREMT)**. An independent, non-governmental, not for profit organization which prepares validated examinations for the state's use in evaluating candidates for licensure. (7-1-14)

1~~3~~6. **Non-transport Agency**. An agency licensed by the Department, operated with the intent to provide personnel or equipment for medical stabilization at an emergency scene, but not intended to be the service that will actually transport sick or injured persons. (7-1-14)

1~~4~~7. **Non-transport Vehicle**. Any vehicle operated by an agency with the intent to provide personnel or equipment for medical stabilization at an emergency scene, but not intended as the vehicle that will actually transport sick or injured persons. (7-1-14)

1~~5~~8. **Nurse Practitioner**. An Advanced Practice Professional Nurse, licensed in the category of Nurse Practitioner, as defined in IDAPA 23.01.01, "Rules of the Idaho Board of Nursing." (7-1-14)

013. DEFINITIONS AND ABBREVIATIONS O THROUGH Z.
For the purposes of the Emergency Medical Services (EMS) chapters of rules, the following definitions apply: (7-1-14)

01. **Optional Module**. Optional modules (OMs) are skills identified by the EMS Physician Commission that exceed the floor level Scope of Practice for EMS personnel and may be adopted by the agency medical director. ( )

0~~1~~2. **Out-of-Hospital**. Any setting outside of a hospital, including inter-facility transfers, in which the provision of EMS may take place. (7-1-14)

0~~2~~3. **Paramedic**. A paramedic is a person who: (7-1-14)

a. Has met the qualifications for licensure in Sections 56-1011 through 56-1023, Idaho Code, and IDAPA 16.01.07, "Emergency Medical Services - Personnel Licensing Requirements"; (7-1-14)

b. Is licensed by the EMS Bureau under Sections 56-1011 through 56-1023, Idaho Code; (7-1-14)

c. Carries out the practice of emergency medical care within the scope of practice for paramedic determined by the Idaho Emergency Medical Services Physician Commission (EMSPC), under IDAPA 16.02.02, "Rules of the Idaho Emergency Medical Services (EMS) Physician Commission"; and (7-1-14)

d. Practices under the supervision of a physician licensed in Idaho. (7-1-14)

04. **Paramedicine**. Providing emergency care to sick and injured patients at the advanced life support (ALS) level with defined roles and responsibilities to be credentialed at the Paramedic level. (____)

0~~3~~5. **Part-Time Paid Personnel**. Personnel who perform a service with the promise, expectation, or receipt of compensation for performing such services. Part-time personnel differ from the full-time personnel in that the part-time personnel typically work an irregular schedule and work less than thirty-five (35) hours per week. (7-1-14)

0~~4~~6. **Patient**. A sick, injured, incapacitated, or helpless person who is under medical care or treatment. (7-1-14)

0~~5~~7. **Patient Assessment**. The evaluation of a patient by EMS licensed personnel intending to provide treatment or transportation to that patient. (7-1-14)

0~~6~~8. **Patient Care**. The performance of acts or procedures under emergency conditions in responding to a perceived individual need for immediate care in order to prevent loss of life, aggravation of physiological or psychological illness, or injury. (7-1-14)

0~~7~~9. **Patient Movement**. The relatively short distance transportation of a patient from an off-highway emergency scene to a rendezvous with an ambulance or air ambulance. (7-1-14)

~~08~~10. **Patient Transport**. The transportation of a patient by ambulance or air ambulance from a rendezvous or emergency scene to a medical care facility. (7-1-14)

~~09~~11. **Physician**. A person who holds a current active license in accordance with Section 54-1803, Idaho Code, issued by the State Board of Medicine to practice medicine and surgery, osteopathic medicine and surgery, or osteopathic medicine in Idaho and is in good standing with no restrictions upon, or actions taken against, his license. (7-1-14)

1~~0~~2. **Physician Assistant**. A person who meets all the applicable requirements and is licensed to practice as a licensed physician assistant under Title 54, Chapter 18, Idaho Code. (7-1-14)

1~~1~~3. **Planned Deployment**. The deliberate, planned placement of EMS personnel outside of an affiliating agency's deployment model declared on the application under which the agency is currently licensed. (7-1-14)

1~~2~~4. **Prehospital**. A~~ny~~ setting ~~outside of a~~ *where emergency medical care is provided prior to or during transport to a* hospital~~, with the exception of transfers, in which the provision of EMS may take place. (7-1-14)~~ (____)

15. **Psychomotor Exam**. Practical demonstration of skills learned during an EMS education course. (____)

1~~3~~6. **Response Time**. The total time elapsed from when the agency receives a call for service to when the agency arrives and is available at the scene. (7-1-14)

1~~4~~7. **Skills Proficiency**. The process overseen by an EMS agency medical director to verify competency in psychomotor skills. (7-1-14)

1~~5~~8. **State Health Officer**. The Administrator of the Division of Public Health. (7-1-14)

19. **Summative Evaluation**. End of topic or end of course evaluation that covers both didactic and practical skills application. (____)

~~16~~20. **Supervision**. The medical direction by a licensed physician of activities provided by licensed personnel affiliated with a licensed ambulance, air medical, or non-transport service, including: (7-1-14)

a. Establishing standing orders and protocols; (7-1-14)

b. Reviewing performance of licensed personnel; (7-1-14)

c. Providing instructions for patient care via radio or telephone; and (7-1-14)

d. Other oversight. (7-1-14)

~~17~~21. **Third Service**. A public EMS agency that is neither law-enforcement nor fire-department based. (7-1-14)

~~18~~22. **Transfer**. The transportation of a patient from one (1) medical care facility to another. (7-1-14)

~~19~~23. **Uncompensated Volunteer**. An individual who performs a service without promise, expectation, or receipt of any compensation for the services rendered. An uncompensated volunteer cannot be a part-time or full-time employee of the same organization performing the same services as a volunteer and employee. (7-1-14)

COMMENTS

IDAHO DEPARTMENT OF
HEALTH & WELFARE

C.L. "BUTCH" OTTER – Governor
RICHARD M. ARMSTRONG – Director

TAMARA PRISOCK – Division Administrator
DIVISION OF LICENSING AND CERTIFICATION
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LIST OF EXHIBITS

Proposed Rule

EMERGENCY MEDICAL SERVICES (EMS) - RULE DEFINITIONS

Docket Number: 16-0102-1501

Deadline for Comment: August 26, 2015

EXHIBIT NO.	SUBMITTED BY	DESCRIPTION	NO. PAGES
1	Legislative Services Office Elizabeth Bowen, Legislative Research Analyst Statehouse PO Box 83720 Boise, ID 83720-0054	Memorandum Rec'd 8/10/2015	2
2	Public Hearing - Webinar August 11, 2015	Sign-In Sheet	1
3	Legislative Services Office Elizabeth Bowen, Legislative Research Analyst Statehouse PO Box 83720 Boise, ID 83720-0054	Letter Rec'd 8/27/2015	2

Legislative Services Office
Idaho State Legislature

Eric Milstead
Director

Serving Idaho's Citizen Legislature

MEMORANDUM

TO: Rules Review Subcommittee of the Senate Health & Welfare Committee and the House Health & Welfare Committee

FROM: Legislative Research Analyst - Elizabeth Bowen

DATE: August 10, 2015

SUBJECT: Department of Health and Welfare

IDAPA 16.01.01 - EMS Services - Advisory Committee - Proposed Rule (Docket No. 16-0101-1501)

IDAPA 16.01.02 - Emergency Medical Services (EMS) - Rule Definitions - Proposed Rule (Docket No. 16-0102-1501)

IDAPA 16.01.03 - EMS Agency Licensing Requirements - Proposed Rule (Docket No. 16-0103-1501)

IDAPA 16.01.05 - EMS Education, Instructor, and Examination Requirements - Proposed Rule (Docket No. 16-0105-1501)

IDAPA 16.01.07 - EMS - Personnel Licensing Requirements - Vacation of Proposed Rulemaking (Docket No. 16-0107-1501)

IDAPA 16.01.07 - EMS- Personnel Licensing Requirements - Proposed Rule (Docket No. 16-0107-1502)

IDAPA 16.01.12 - EMS - Complaints, Investigations, and Disciplinary Actions - Proposed Rule (Docket No. 16-0112-1501)

The Department of Health and Welfare submits notice of proposed rulemaking at IDAPA 16.01.01, 16.01.02, 16.01.03, 16.01.05, 16.01.07, and 16.01.12.

1. IDAPA 16.01.01

The proposed rule adds a reference to a new rule, IDAPA 16.01.05, discussed below. Additionally, the proposed rule incorporates certain provisions from another rule, IDAPA 16.02.03, that is being repealed. Negotiated rulemaking was conducted. The Department states that the proposed rule is consistent with the rulemaking authority granted by Section 56-1023, Idaho Code. There is no anticipated fiscal impact to the state general fund.

2. IDAPA 16.01.02

The proposed rule updates an existing rule to reflect recent changes made to statutes and rules relating to emergency medical services (EMS). Specifically, the proposed rule includes several definitions of terms relating to education, evaluation, and paramedicine. Negotiated rulemaking was conducted. The Department states that the proposed rule is consistent with the rulemaking authority granted by Section 56-1023, Idaho Code. There is no anticipated fiscal impact to the state general fund.

3. IDAPA 16.01.03

The proposed rule amends existing EMS agency licensing requirements to be consistent with changes to statutes and rules relating to EMS. Provisions relating to record-keeping by EMS agencies have also been incorporated into the proposed rule. Negotiated rulemaking was conducted for related rules but not specifically for this rule. The Department states that the proposed rule is consistent with the rulemaking authority granted by Sections 56-1011 through 56-1023, Idaho Code. There is no anticipated fiscal impact to the state general fund.

4. IDAPA 16.01.05

The proposed rule provides updated education, instruction, and examination requirements for EMS personnel. The proposed rule replaces the education requirements found in IDAPA 16.02.03, which is being repealed. Negotiated rulemaking was conducted. The Department states that the proposed rule is consistent with the rulemaking authority granted by Section 56-1023, Idaho Code. There is no anticipated fiscal impact to the state general fund.

5. IDAPA 16.01.07

(a) Docket 16-0107-1501 -- This proposed rulemaking is being vacated in favor of the docket in (b) below.

(b) Docket 16-0107-1502 -- The proposed rule amends licensing requirements for EMS personnel to be consistent with the proposed rule at IDAPA 16.01.05, discussed above. The proposed rule also incorporates provisions from a rule, IDAPA 16.02.03, that is being repealed. Negotiated rulemaking was not conducted; however, the Department states that it has met with stakeholders around the state to discuss the rule. The proposed rule is based on concerns voiced during those meetings. According to the Department, the proposed rule is consistent with the rulemaking authority granted by Sections 56-1011 through 56-1023, Idaho Code. There is no anticipated fiscal impact to the state general fund.

6. IDAPA 16.01.12

The proposed rule amends existing language to be consistent with the proposed rule at IDAPA 16.01.05, discussed above. Negotiated rulemaking was not specifically conducted for this rule but was conducted for related rules. The Department states that the changes in this rule are being made for the sake of clarity. According to the Department, the proposed rule is consistent with the rulemaking authority granted by Sections 56-1011 through 56-1023, Idaho Code. There is no anticipated fiscal impact to the state general fund.

cc: Department of Health and Welfare
Tamara Prisock

PUBLIC HEARING
Idaho Department of Health and Welfare

Please Sign In

CHAPTER: EMS chapters: 16.01.01, 16.01.02, 16.01.03, 16.01.05, 16.01.07, 16.01.12
DOCKET NOs.: 16-0101-1501, 16-0102-1501, 16-0103-1501, 16-0105-1501 , 16-0107-1502, and 16-0112-1501

DATE: Tuesday, August 11, 2015
TIME: 10am MDT
LOCATION: 2224 East Penitentiary Road, Boise, ID 83712 (also available by webinar)
*Please provide a written copy of your comments for the official record on this rulemaking, if possible.

NAME (Please Print)	ADDRESS / E-MAIL	ORGANIZATION REPRESENTED	DO YOU WISH TO TESTIFY?

No attendees
Mtg started 10:20am
Mtg closed 10:50am
No one joined on Webinar
No statement was read.
No digital audio

Legislative Services Office
Idaho State Legislature

Serving Idaho's Citizen Legislature

Eric Milstead
Director

August 27, 2015

Tamara Prisock
Admin. Procedures Section
Department of Health and Welfare
PO Box 83720
Boise, ID 83720-0036

Dear Tamara Prisock:

The Senate and House Subcommittees for review of administrative rules have reviewed the proposed changes to the Department of Health and Welfare rules:

IDAPA 16.01.01 - EMS Services - Advisory Committee - Proposed Rule - Docket No. 16-0101-1501

IDAPA 16.01.02 - Emergency Medical Services (EMS) - Rule Definitions - Proposed Rule - Docket No. 16-0102-1501

IDAPA 16.01.03 - EMS Agency Licensing Requirements - Proposed Rule - Docket No. 16-0103-1501

IDAPA 16.01.05 - EMS Education, Instructor, and Examination Requirements - Proposed Rule - Docket No. 16-0105-1501

IDAPA 16.01.07 - EMS - Personnel Licensing Requirements - Vacation of Proposed Rulemaking - Docket No. 16-0107-1501

IDAPA 16.01.07 - EMS- Personnel Licensing Requirements - Proposed Rule - Docket No. 16-0107-1502

IDAPA 16.01.12 - EMS - Complaints, Investigations, and Disciplinary Actions - Proposed Rule - Docket No. 16-0112-1501

No meeting will be held, and we are pleased to report that no objections will be filed.

Sincerely yours,

Elizabeth Brown

Mike Nugent, Manager
Research & Legislation

Cathy Holland-Smith, Manager
Budget & Policy Analysis

April Renfro, Manager
Legislative Audits

Glenn Harris, Manager
Information Technology

Statehouse, P.O. Box 83720
Boise, Idaho 83720–0054

Tel: 208–334–2475
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Elizabeth Bowen
Legislative Research Analyst

ELB/jk

cc:

ATTACHMENT 7

IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE

16.01.03 - EMERGENCY MEDICAL SERVICES (EMS) -- AGENCY LICENSING REQUIREMENTS

DOCKET NO. 16-0103-1501

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2016 Idaho State Legislature for final approval. In accordance with Section 67-5224(5)(a) and (b), Idaho Code, as specified here in this notice the pending rule becomes final and effective on July 1, 2016, after review by the legislature, unless the rule is approved or rejected in part by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is affected by concurrent resolution, the concurrent resolution shall specify the date.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section 56-1023, Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change.

The EMS Agency Licensing rules are adopted to align with a new chapter of rules that provide the education, instructor, and examination standards an individual must meet to be a licensed EMS provider in Idaho. No changes are being made in the pending rule and these rules are being adopted as published in the original proposed rules. The complete text of the proposed rule was published in the August 5, 2015, Idaho Administrative Bulletin, Vol. 15-8, pages 49 through 56.

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars ($10,000) during the fiscal year as a result of this rulemaking:

The Emergency Medical Services (EMS) program is funded through dedicated funds. This rulemaking has no fiscal impact to those funds or to the state general fund. This rulemaking is intended to be cost-neutral.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Bruce Cheeseman at (208) 334-4000.

DATED this _____ day of _____, 2015.

Tamara Prisock
DHW - Administrative Rules Unit
450 W. State Street - 10th Floor
P.O. Box 83720
Boise, ID 83720-0036
(208) 334-5500 phone; (208) 334-6558 fax
E-mail: **dhwrules@dhw.idaho.gov**

THE FOLLOWING IS THE PENDING TEXT FOR DOCKET NO. 16-0103-1501
(Only those Sections being amended are shown.)

204. GROUND EMS AGENCY -- OPERATIONAL DECLARATIONS.
An agency providing ground services is licensed with one (1) or more of the following operational declarations depending on the services that the agency advertises or offers. (7-1-14)

01. Prehospital. The prehospital operational declaration is available to an agency ~~with~~ that: ( )

a. Has primary responsibility for responding to calls for EMS within their designated geographic coverage area~~.~~; and ~~(7-1-14)~~( )

b. Is dispatched to prehospital emergency medical calls by a consolidated emergency communications system. ( )

02. Prehospital Support. The prehospital support operational declaration is available to an agency that: ( )

a. ~~p~~Provides support under agreement to a prehospital agency having primary responsibility for responding to calls for EMS within a designated geographic coverage area~~.~~; and ~~(7-1-14)~~( )

b. Is dispatched to prehospital emergency medical calls by a consolidated emergency communications system. ( )

03. Community Health EMS. The community health EMS operational declaration is available to an agency with a prehospital operational declaration or prehospital support operational declaration that provides personnel and equipment for medical assessment and treatment at a non-emergency scene or at the direction of a physician or independent practitioner. ~~(7-1-14)~~( )

04. Transfer. The transfer operational declaration is available to an ambulance agency that provides EMS personnel and equipment for the transportation of patients from one (1) medical care facility in their designated geographic coverage area to another. An agency with this operational declaration must declare which sending facilities it routinely responds to if requested. (7-1-14)

05. Standby. The standby operational declaration is available to an agency that provides EMS personnel and equipment to be staged at prearranged events within their designated geographic coverage area. (7-1-14)

06. Non-Public. The non-public operational declaration is available to an agency that provides EMS personnel and equipment intended to treat patients who are employed or contracted by the license holder. An agency with a non-public operational declaration is not intended to treat members of the general public. A non-public agency must maintain written plans for patient treatment and transportation. (7-1-14)

205. AIR MEDICAL AGENCY -- OPERATIONAL DECLARATIONS.
An agency providing air medical services is licensed with one (1) or ~~both~~ more of the following operational declarations depending on the services that the agency advertises or offers. Service levels, geographic coverage areas, and resources may differ between the operational declarations under which an agency is licensed. ~~(7-1-14)~~( )

01. Air Medical Transport. The air medical transport operational declaration is available to an air medical agency that provides transportation of patients by air ambulance from a rendezvous or emergency scene to a medical care facility within its designated geographic coverage area. (7-1-14)

02. Air Medical Transfer. The air medical transfer operational declaration is available to an Air Medical I agency that provides transportation of patients by air ambulance from one (1) medical care facility in its designated geographic coverage area to another. An agency with this operational declaration must declare which sending facilities it routinely responds to if requested. (7-1-14)

03. Air Medical Support. The air medical support operational declaration is available to an air medical agency that provides transportation of patients from an emergency scene to a rendezvous with a ground or air medical transport agency within its designated response area. ( )

(BREAK IN CONTINUITY OF SECTIONS)

300. EMS AGENCY -- GENERAL PERSONNEL REQUIREMENTS.
Personnel must be licensed according to IDAPA 16.01.07, "Emergency Medical Services (EMS) -- Personnel Licensing Requirements." (7-1-14)

01. Personnel Requirements for EMS Agency Licensure. Each agency must ensure availability of affiliated personnel licensed and credentialed at or above the ~~*agency's highest*~~ clinical level for the entire anticipated call volume for each of the agency's operational declarations. ~~*(7-1-14)*~~(____)

02. Personnel Requirements for an Agency Utilizing Emergency Medical Dispatch. An agency dispatched by ~~*a public safety answering point (PSAP)*~~ a consolidated emergency communications system that uses an emergency medical dispatch (EMD) process to determine the clinical needs of the patient must ensure availability of personnel licensed and credentialed at clinical levels appropriate to the anticipated call volume for each of the clinical levels the agency provides. ~~*(7-1-14)*~~(____)

03. Personnel Requirements for Prehospital ALS. A licensed Paramedic must be present whenever prehospital, prehospital support, or air medical transport ALS services are provided. (7-1-14)

(BREAK IN CONTINUITY OF SECTIONS)

305. AMBULANCE-BASED CLINICIANS -- PERSONNEL REQUIREMENTS.

01. Ambulance-Based Clinician Certified by Department. An EMS agency that advertises or provides out-of-hospital patient care by affiliating and utilizing a currently licensed professional nurse, advanced practice professional nurse, or physician assistant, as defined in IDAPA 16.01.02, "Emergency Medical Services (EMS) - Rule Definitions," must ensure that those individuals maintain a current ambulance-based clinician certificate issued by the Department. See Section 306 of these rules for exceptions to this requirement. (7-1-14)

02. Obtaining an Ambulance-Based Clinician Certificate. An agency, on behalf of an individual who desires an ambulance-based clinician certificate, must provide the following information on the Department's application for a certificate: (7-1-14)

a. Documentation that the individual holds a current, unrestricted license to practice issued by the Board of Medicine or Board of Nursing; and (7-1-14)

b. Documentation that the individual has successfully completed an ambulance-based clinician course; or (7-1-14)

c. Documentation that the individual has successfully completed an EMT course. (7-1-14)

03. Maintaining an Ambulance-Based Clinician Certificate. An ambulance-based clinician certificate is valid for as long as the holder of the certificate is continuously licensed by his respective licensing board. (7-1-14)

04. Revocation of an Ambulance-Based Clinician Certificate. The Department may revoke an ambulance-based clinician certificate based on the procedures for administrative license actions described in IDAPA 16.01.12, "Emergency Medical Services (EMS) -- Complaints, Investigations, and Disciplinary Actions." 7-1-14)

~~*05. Currently Practicing Ambulance-Based Clinicians. In order to continue the utilization of an ambulance-based clinician, an EMS agency must ensure that its currently practicing clinicians have obtained the Department-issued ambulance-based clinician certificate by July 1, 2015.*~~ ~~*(7-1-14)*~~

0~~6~~5. **Licensed Personnel Requirements and Ambulance-Based Clinicians.** An EMR/BLS, EMT/BLS, or AEMT/ILS agency may use ambulance-based clinicians to meet the licensed personnel requirements for agency licensure. (7-1-14)

0~~7~~6. **Agency Responsibilities for Ambulance-Based Clinicians.** The agency must verify that each ambulance-based clinician possess a current ambulance-based clinician certificate issued by the Department. The agency must ensure that any ambulance-based clinician meets additional requirements of the corresponding licensing board. (7-1-14)

(BREAK IN CONTINUITY OF SECTIONS)

535. EMS AGENCY -- RECORDS, DATA COLLECTION, AND SUBMISSION REQUIREMENTS. Each EMS agency must comply with the following records, data collection, and submission requirements ~~*required in IDAPA 16.02.03, "Emergency Medical Services," Section 435*~~. ~~*(7-1-14)*~~(____)

01. Records to be Maintained by Ambulance and Air Medical Agencies. Each EMS ambulance and air medical agency must maintain records of each ambulance and air ambulance response and submit them to the EMS Bureau at least quarterly in a form approved by the EMS Bureau. These records must include at least the following information: (____)

a. Name of ambulance service; (____)

b. Date of response; (____)

c. Time call received; (____)

d. Time en route to scene; (____)

e. Time arrival at scene; (____)

f. Time service departed scene; (____)

g. Time arrival at hospital; (____)

h. Location of incident; (____)

i. Description of illness/injury; (____)

j. Description of patient management; (____)

k. Patient destination; (____)

l. Ambulance unit identification; (____)

m. Identification and licensure level of each ambulance crew member on the response; and (____)

n. Response outcome. (____)

02. Records to Be Maintained by Non-Transport Agencies. Each non-transport agency must maintain records of each EMS response in a form approved by the EMS Bureau. Each applicant non-transport services agency who submits an application to the EMS Bureau after July 1, 2009, must submit records of each EMS response to the EMS Bureau at least quarterly in a form approved by the EMS Bureau. These records must include at least the following information: (____)

a. Identification of non-transport service; ( )

b. Date of response; ( )

c. Time call received; ( )

d. Time en route to scene; ( )

e. Time arrival at scene; ( )

f. Time service departed scene; ( )

g. Location of incident; ( )

h. Description of illness/injury; ( )

i. Description of patient management; ( )

j. Patient destination; ( )

k. Identification and licensure level of non-transport service personnel on response; and ( )

l. Response outcome. ( )

(BREAK IN CONTINUITY OF SECTIONS)

700. EMS AGENCY -- CRITERIA TO REQUEST AN AIR MEDICAL RESPONSE. Each ground EMS agency must establish written criteria for the agency's licensed EMS personnel that provides decision-making guidance for requesting an air medical response to an emergency scene. This criteria must be approved by the agency's medical director. The following conditions must be included in the criteria: (7-1-14)

01. Clinical Conditions. Each licensed EMS agency must develop written criteria based on best medical practice principles for requesting an air medical response for the following clinical conditions: (7-1-14)

a. The patient has a penetrating or crush injury to head, neck, chest, abdomen, or pelvis; (7-1-14)

b. Neurological presentation suggestive of spinal cord injury; (7-1-14)

c. Evidence of a skull fracture (depressed, open, or basilar) as detected visually or by palpation; (7-1-14)

d. Fracture or dislocation with absent distal pulse; (7-1-14)

e. A glasgow coma score of ten (10) or less; (7-1-14)

f. Unstable vital signs with evidence of shock; (7-1-14)

g. Cardiac arrest; (7-1-14)

h. Respiratory arrest (7-1-14)

i. Respiratory distress; (7-1-14)

j. Upper airway compromise; (7-1-14)

k. Anaphylaxis; (7-1-14)

l. Near drowning; (7-1-14)

m. Changes in level of consciousness; (7-1-14)

n. Amputation of an extremity; and (7-1-14)

o. Burns greater than twenty percent (20%) of body surface or with suspected airway compromise. (7-1-14)

02. **Complications to Clinical Conditions.** Each licensed EMS agency must develop a written policy that provides guidance for requesting an air medical response when there are complicating conditions associated with the clinical conditions listed in Subsection 700.01 of this rule. The complicating conditions must include the following: (7-1-14)

a. Extremes of age; (7-1-14)

b. Pregnancy; and (7-1-14)

c. Patient "do not resuscitate" status ~~*as described in IDAPA 16.02.03, "Emergency Medical Services," Section 400*~~. ~~*(7-1-14)*~~(____)

03. **Operational Conditions for Air Medical Response.** Each licensed EMS agency must have written criteria to provide guidance to the licensed EMS personnel for the following operational conditions: (7-1-14)

a. Availability of local hospitals and regional medical centers; (7-1-14)

b. Air medical response to the scene and transport to an appropriate hospital will be significantly shorter than ground transport time; (7-1-14)

c. Access to time sensitive medical interventions such as percutaneous coronary intervention, thrombolytic administration for stroke, or cardiac care; (7-1-14)

d. When the patient's clinical condition indicates the need for advanced life support and air medical is the most readily available access to advanced life support capabilities; (7-1-14)

e. As an additional resource for a multiple patient incident; (7-1-14)

f. Remote location of the patient; and (7-1-14)

g. Local destination protocols. (7-1-14)

(BREAK IN CONTINUITY OF SECTIONS)

816. AMBULANCE EMS AGENCY -- EQUIPMENT TO BE INSPECTED.
Each ambulance EMS agency must have the minimum equipment specified in the "Minimum Equipment Standards for Licensed EMS Services," incorporated by reference in Section 004 of these rules. (7-1-14)

01. **Medical Care Supplies.** Each ambulance must be equipped with medical care supplies and devices as specified in the agency minimum equipment standards unless Subsection 816.02 or 816.03 of this rule applies. (7-1-14)

02. ~~*Public Safety Answering Point Dispatch*~~ Consolidated Emergency Communications System. An agency dispatched by ~~*a public safety answering point (PSAP)*~~ a consolidated emergency communications system

that uses an emergency medical dispatch (EMD) process to determine the clinical needs of the patient must ensure the availability of medical care supplies and devices as specified in the agency minimum equipment standards that are appropriate for each response. ~~(7-1-14)~~(____)

03. **Agency Transferring Patients**. An agency transferring patients from one (1) medical care facility included in their designated geographic coverage area to another will be equipped with medical care supplies and devices appropriate for the patient identified by the sending facility. (7-1-14)

(BREAK IN CONTINUITY OF SECTIONS)

969. COMPLETE AND COMPLIANT RENEWAL APPLICATION.
When a renewal application is found to be complete and in compliance, the Department will notify the agency and ~~provide a list of not less than five (5) available dates and times within a thirty (30) day period in which to~~ schedule the required renewal inspection at a time and date that allows efficient use of Department resources and meets the needs of the agency. ~~(7-1-14)~~(____)

970. TIMEFRAME FOR RENEWAL INSPECTIONS.
Each agency must successfully complete an annual inspection ~~within the~~ no earlier than sixty (60) days and no later than thirty (30) days ~~period described in Sections 800 through 809 of these rules in order to obtain a renewed license~~ prior to the expiration date of the current license. ~~(7-1-14)~~(____)

(BREAK IN CONTINUITY OF SECTIONS)

~~982. -- 989. (RESERVED)~~

~~990. TRANSITION TO THE LICENSURE MODELS DESCRIBED IN THIS CHAPTER OF RULES.~~

~~01. Timeframe to Transition to the New Licensing Model. Each EMS agency licensed by the Department prior to July 1, 2014, will transition to a licensing model described in these rules at the expiration of its current agency license. A currently licensed agency must submit a licensure transition application, provided by the Department, in order to renew its agency license.~~ ~~(7-1-14)~~

~~02. Review Process of Transition Applications. Each licensure transition application submitted by a currently licensed agency is subject to the same Department application evaluation process described in Section 966 of these rules.~~ ~~(7-1-14)~~

9~~9~~82. -- 999. **(RESERVED)**

COMMENTS

IDAHO DEPARTMENT OF
HEALTH & WELFARE

C.L. "BUTCH" OTTER – Governor
RICHARD M. ARMSTRONG – Director

TAMARA PRISOCK – Division Administrator
DIVISION OF LICENSING AND CERTIFICATION
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LIST OF EXHIBITS

Proposed Rule

EMERGENCY MEDICAL SERVICES (EMS) - AGENCY LICENSING REQUIREMENTS

Docket Number: 16-0103-1501

Deadline for Comment: August 26, 2015

EXHIBIT NO.	SUBMITTED BY	DESCRIPTION	NO. PAGES
1	Legislative Services Office Elizabeth Bowen, Leg. Research Analyst Statehouse PO Box 83720 Boise, ID 83720-0054	Memorandum	2
2	Public Hearing - Webinar August 11, 2015	Sign-In Sheet	1
3	Legislative Services Office Elizabeth Bowen, Leg. Research Analyst Statehouse PO Box 83720 Boise, ID 83720-0054	Letter	2

Legislative Services Office
Idaho State Legislature

Eric Milstead
Director

Serving Idaho's Citizen Legislature

MEMORANDUM

TO: Rules Review Subcommittee of the Senate Health & Welfare Committee and the House Health & Welfare Committee

FROM: Legislative Research Analyst - Elizabeth Bowen

DATE: August 10, 2015

SUBJECT: Department of Health and Welfare

IDAPA 16.01.01 - EMS Services - Advisory Committee - Proposed Rule (Docket No. 16-0101-1501)

IDAPA 16.01.02 - Emergency Medical Services (EMS) - Rule Definitions - Proposed Rule (Docket No. 16-0102-1501)

IDAPA 16.01.03 - EMS Agency Licensing Requirements - Proposed Rule (Docket No. 16-0103-1501)

IDAPA 16.01.05 - EMS Education, Instructor, and Examination Requirements - Proposed Rule (Docket No. 16-0105-1501)

IDAPA 16.01.07 - EMS - Personnel Licensing Requirements - Vacation of Proposed Rulemaking (Docket No. 16-0107-1501)

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IDAPA 16.01.12 - EMS - Complaints, Investigations, and Disciplinary Actions - Proposed Rule (Docket No. 16-0112-1501)

The Department of Health and Welfare submits notice of proposed rulemaking at IDAPA 16.01.01, 16.01.02, 16.01.03, 16.01.05, 16.01.07, and 16.01.12.

1. IDAPA 16.01.01

The proposed rule adds a reference to a new rule, IDAPA 16.01.05, discussed below. Additionally, the proposed rule incorporates certain provisions from another rule, IDAPA 16.02.03, that is being repealed. Negotiated rulemaking was conducted. The Department states that the proposed rule is consistent with the rulemaking authority granted by Section 56-1023, Idaho Code. There is no anticipated fiscal impact to the state general fund.

2. IDAPA 16.01.02

The proposed rule updates an existing rule to reflect recent changes made to statutes and rules relating to emergency medical services (EMS). Specifically, the proposed rule includes several definitions of terms relating to education, evaluation, and paramedicine. Negotiated rulemaking was conducted. The Department states that the proposed rule is consistent with the rulemaking authority granted by Section 56-1023, Idaho Code. There is no anticipated fiscal impact to the state general fund.

3. IDAPA 16.01.03

The proposed rule amends existing EMS agency licensing requirements to be consistent with changes to statutes and rules relating to EMS. Provisions relating to record-keeping by EMS agencies have also been incorporated into the proposed rule. Negotiated rulemaking was conducted for related rules but not specifically for this rule. The Department states that the proposed rule is consistent with the rulemaking authority granted by Sections 56-1011 through 56-1023, Idaho Code. There is no anticipated fiscal impact to the state general fund.

4. IDAPA 16.01.05

The proposed rule provides updated education, instruction, and examination requirements for EMS personnel. The proposed rule replaces the education requirements found in IDAPA 16.02.03, which is being repealed. Negotiated rulemaking was conducted. The Department states that the proposed rule is consistent with the rulemaking authority granted by Section 56-1023, Idaho Code. There is no anticipated fiscal impact to the state general fund.

5. IDAPA 16.01.07

(a) Docket 16-0107-1501 -- This proposed rulemaking is being vacated in favor of the docket in (b) below.

(b) Docket 16-0107-1502 -- The proposed rule amends licensing requirements for EMS personnel to be consistent with the proposed rule at IDAPA 16.01.05, discussed above. The proposed rule also incorporates provisions from a rule, IDAPA 16.02.03, that is being repealed. Negotiated rulemaking was not conducted; however, the Department states that it has met with stakeholders around the state to discuss the rule. The proposed rule is based on concerns voiced during those meetings. According to the Department, the proposed rule is consistent with the rulemaking authority granted by Sections 56-1011 through 56-1023, Idaho Code. There is no anticipated fiscal impact to the state general fund.

6. IDAPA 16.01.12

The proposed rule amends existing language to be consistent with the proposed rule at IDAPA 16.01.05, discussed above. Negotiated rulemaking was not specifically conducted for this rule but was conducted for related rules. The Department states that the changes in this rule are being made for the sake of clarity. According to the Department, the proposed rule is consistent with the rulemaking authority granted by Sections 56-1011 through 56-1023, Idaho Code. There is no anticipated fiscal impact to the state general fund.

cc: Department of Health and Welfare
Tamara Prisock

PUBLIC HEARING
Idaho Department of Health and Welfare

*****Please Sign In*****

CHAPTER: EMS chapters: 16.01.01, 16.01.02, 16.01.03, 16.01.05, 16.01.07, 16.01.12
DOCKET NOs.: 16-0101-1501, 16-0102-1501, 16-0103-1501, 16-0105-1501 , 16-0107-1502, and 16-0112-1501

DATE: Tuesday, August 11, 2015
TIME: 10am MDT
LOCATION: 2224 East Penitentiary Road, Boise, ID 83712 (also available by webinar)
*Please provide a written copy of your comments for the official record on this rulemaking, if possible.

NAME (Please Print)	ADDRESS / E-MAIL	ORGANIZATION REPRESENTED	DO YOU WISH TO TESTIFY?

No attendees
Mtg started 10:20am
closed 10:50am
No one joined on Webinar
No statement was read.
No digital audio

Legislative Services Office
Idaho State Legislature

Serving Idaho's Citizen Legislature

Eric Milstead
Director

August 27, 2015

Tamara Prisock
Admin. Procedures Section
Department of Health and Welfare
PO Box 83720
Boise, ID 83720-0036

Dear Tamara Prisock:

The Senate and House Subcommittees for review of administrative rules have reviewed the proposed changes to the Department of Health and Welfare rules:

IDAPA 16.01.01 - EMS Services - Advisory Committee - Proposed Rule - Docket No. 16-0101-1501

IDAPA 16.01.02 - Emergency Medical Services (EMS) - Rule Definitions - Proposed Rule - Docket No. 16-0102-1501

IDAPA 16.01.03 - EMS Agency Licensing Requirements - Proposed Rule - Docket No. 16-0103-1501

IDAPA 16.01.05 - EMS Education, Instructor, and Examination Requirements - Proposed Rule - Docket No. 16-0105-1501

IDAPA 16.01.07 - EMS - Personnel Licensing Requirements - Vacation of Proposed Rulemaking - Docket No. 16-0107-1501

IDAPA 16.01.07 - EMS- Personnel Licensing Requirements - Proposed Rule - Docket No. 16-0107-1502

IDAPA 16.01.12 - EMS - Complaints, Investigations, and Disciplinary Actions - Proposed Rule - Docket No. 16-0112-1501

No meeting will be held, and we are pleased to report that no objections will be filed.

Sincerely yours,

Elizabeth Brown

Mike Nugent, Manager
Research & Legislation

Cathy Holland-Smith, Manager
Budget & Policy Analysis

April Renfro, Manager
Legislative Audits

Glenn Harris, Manager
Information Technology

Statehouse, P.O. Box 83720
Boise, Idaho 83720–0054

Tel: 208–334–2475
www.legislature.idaho.gov

Elizabeth Bowen
Legislative Research Analyst

ELB/jk

cc:

ATTACHMENT 8

IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE

16.01.05 - EMERGENCY MEDICAL SERVICES (EMS) -- EDUCATION, INSTRUCTOR, AND EXAMINATION REQUIREMENTS

DOCKET NO. 16-0105-1501 (NEW CHAPTER)

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2016 Idaho State Legislature for final approval. In accordance with Section 67-5224(5)(a) and (b), Idaho Code, as specified here in this notice the pending rule becomes final and effective on July 1, 2016, after review by the legislature, unless the rule is approved or rejected in part by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is affected by concurrent resolution, the concurrent resolution shall specify the effective date of the rule.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section 56-1023, Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change.

This new chapter of rules implements and provides updated initial education, instructor, and examination requirements to meet the ever-changing technology and techniques used to protect the health and safety of the public in the provision of emergency medical services (EMS). This new chapter replaces the education requirements currently found in IDAPA 16.02.03, "Emergency Medical Services."

There are no changes to the pending rule and it is being adopted as originally proposed. The complete text of the proposed rule was published in the August 5, 2015, Idaho Administrative Bulletin, Vol. 15-8, pages 57 through 69.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased: NA

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars ($10,000) during the fiscal year as a result of this rulemaking:

The Emergency Medical Services (EMS) program is funded through dedicated funds. This rulemaking has no fiscal impact to those funds or to the state general fund. This rulemaking is intended to be cost-neutral.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning the pending rule, contact Bruce Cheeseman at (208) 334-4000.

DATED this _____ day of _____, 2015.

Tamara Prisock
DHW - Administrative Rules Unit
450 W. State Street - 10th Floor
P.O. Box 83720
Boise, ID 83720-0036
(208) 334-5500 phone; (208) 334-6558 fax
E-mail: **dhwrules@dhw.idaho.gov**

THE FOLLOWING IS THE PENDING TEXT OF DOCKET NO. 16-0105-1501

IDAPA 16
TITLE 01
CHAPTER 05

16.01.05 - EMERGENCY MEDICAL SERVICES (EMS) -- EDUCATION, INSTRUCTOR, AND EXAMINATION REQUIREMENTS

000. LEGAL AUTHORITY.
The Idaho Board of Health and Welfare is authorized under Section 56-1023, Idaho Code, to adopt rules and standards concerning the administration of the Idaho Emergency Medical Services Act, Sections 56-1011 through 56-1023, Idaho Code. The Director is authorized under Section 56-1003, Idaho Code, to supervise and administer an emergency medical service program. ( )

001. TITLE AND SCOPE.

01. Title. The title of these rules is IDAPA 16.01.05, "Emergency Medical Services (EMS) -- Education, Instructor, and Examination Requirements." ( )

02. Scope. These rules include criteria and requirements for education programs conducting initial and optional module EMS education, certification of instructors, certification examinations, and optional module examinations. Continuing education requirements can be found in IDAPA16.01.07, "Emergency Medical Services (EMS) -- Personnel Licensing Requirements." ( )

002. WRITTEN INTERPRETATIONS.
In accordance with Section 67-5201(19)(b)(iv), Idaho Code, the Department may have written statements that pertain to the interpretation of this chapter, or to the documentation of compliance with these rules. ( )

003. ADMINISTRATIVE APPEALS.
Administrative appeals and contested cases are governed by the provisions of IDAPA 16.05.03, "Rules Governing Contested Case Proceedings and Declaratory Rulings." ( )

004. INCORPORATION BY REFERENCE.
The Department has incorporated by reference the following documents: ( )

01. Idaho EMS Education Standards, edition 2016-1. The Department has adopted the Idaho EMS Education Standards, edition 2016-1, and hereby incorporates these standards by reference. Copies may be obtained from the Department described in Section 005 of these rules, or online at: http://www.IdahoEMS.org. ( )

02. Idaho Bureau of EMS and Preparedness EMS Education Equipment List, edition 2016-1. The Department has adopted the Idaho Bureau of EMS and Preparedness EMS Education Equipment List, edition 2016-1, and hereby incorporates these standards by reference. Copies may be obtained from the Department described in Section 005 of these rules, or online at: http://www.IdahoEMS.org. ( )

03. Idaho EMS Bureau Vehicle Extrication Awareness Instructor Guidelines, edition 2016-1. The Department has adopted the Idaho EMS Bureau Vehicle Extrication Awareness Instructor Guidelines, edition 2016-1, and hereby incorporates these standards by reference. Copies may be obtained from the Department described in Section 005 of these rules, or online at: http://www.IdahoEMS.org. ( )

005. OFFICE -- OFFICE HOURS -- MAILING ADDRESS -- STREET ADDRESS -- TELEPHONE NUMBER -- INTERNET WEBSITE.

01. Office Hours. Office hours are 8 a.m. to 5 p.m., Mountain Time, Monday through Friday, except holidays designated by the state of Idaho. ( )

02. Mailing Address. The mailing address for the business office is Idaho Department of Health and Welfare, P.O. Box 83720, Boise, Idaho 83720-0036. ( )

03. Street Address. ( )

a. The business office of the Idaho Department of Health and Welfare is located at 450 West State Street, Boise, Idaho 83702. ( )

b. The Bureau of Emergency Medical Services and Preparedness is located at 2224 East Old Penitentiary Road, Boise, ID 83712-8249. ( )

04. Telephone. ( )

a. The telephone number for the Idaho Department of Health and Welfare is (208) 334-5500. ( )

b. The telephone number for the Bureau of Emergency Medical Services and Preparedness is (208) 334-4000. The toll-free, phone number is 1-877-554-3367. ( )

05. Internet Websites. ( )

a. The Department's internet website is found at http://www.healthandwelfare.idaho.gov. ( )

b. The Bureau of Emergency Medical Services and Preparedness internet website is found at http://www.idahoems.org. ( )

006. CONFIDENTIALITY OF RECORDS AND PUBLIC RECORDS ACT COMPLIANCE AND REQUESTS.

01. Confidentiality of Records. Any information about an individual covered by these rules and contained in the Department's records must comply with IDAPA 16.05.01, "Use and Disclosure of Department Records." ( )

02. Public Records Act. The Department will comply with Title 74, Chapter 1, Idaho Code, when requests for the examination and copying of public records are made. Unless otherwise exempted, all public records in the custody of the Department are subject to disclosure. ( )

007. -- 008. (RESERVED)

009. CRIMINAL HISTORY AND BACKGROUND CHECK REQUIREMENTS.
Certified EMS instructors must comply with the provisions in IDAPA 16.05.06, "Criminal History and Background Checks," to include: ( )

01. Initial Instructor Certification. Individuals seeking initial instructor certification must have successfully passed a criminal history and background check under the provisions in IDAPA 16.05.06, "Criminal History and Background Checks." ( )

02. Reinstatement of Instructor Certification. Individuals requesting reinstatement of instructor certification must have successfully passed a criminal history and background check under the provisions in IDAPA 16.05.06, "Criminal History and Background Checks." Denial without the grant of an exemption under IDAPA 16.05.06 will result in denial of reinstatement of certification. ( )

03. Additional Criminal History and Background Check. The Department may require an updated or additional criminal history and background check at any time, without expense to the candidate, if there is cause to

believe new or additional information will be disclosed. ( )

010. DEFINITIONS.
For the purposes of this chapter, the definitions in IDAPA 16.01.02, "Emergency Medical Services (EMS) -- Rule Definitions" apply. ( )

011. -- 074. (RESERVED)

075. INVESTIGATION OF COMPLAINTS FOR EMS EDUCATION PROGRAM AND PERSONNEL VIOLATIONS.
Investigation of complaints and disciplinary actions for EMS education program and personnel are provided under IDAPA 16.01.12, "Emergency Medical Services (EMS) -- Complaints, Investigations, and Disciplinary Actions." ( )

076. ADMINISTRATIVE ACTION IMPOSED FOR EMS INSTRUCTOR CERTIFICATION.
Any EMS instructor certificate may be suspended, revoked, denied, or retained with conditions for noncompliance with any standard or rule. Administrative actions on an instructor certificate, imposed by the EMS Bureau for any action, conduct, or failure to act which is inconsistent with the professionalism, or standards, or both, are provided under Sections 56-1011 through 56-1023, Idaho Code, and IDAPA 16.01.12, "Emergency Medical Services (EMS) -- Complaints, Investigations, and Disciplinary Actions." ( )

077. STANDARDS OF PROFESSIONAL CONDUCT FOR EMS EDUCATION PROGRAM AND EXAM PERSONNEL.
All personnel associated with a EMS education program or exam must adhere to the following standards: ( )

01. Professional Conduct. EMS education program and exam personnel must uphold the dignity and honor of the profession and abide by all federal, state, and local laws and statutes. They must ensure just and equitable treatment for all members of the profession in the exercise of academic freedom, professional rights, and responsibilities while following generally recognized professional principles. ( )

02. Personal Relationships. EMS education program and exam personnel must maintain a professional relationship with all students, both inside and outside the physical and virtual classroom. They must avoid conflicts of interest when accepting gifts, gratuities, favors, and additional compensation from students, colleagues, parents, patrons, or business personnel. ( )

03. Professional Integrity. EMS education program and exam personnel must exemplify honesty and integrity in the course of professional practice. They must refrain from the possession, use, or abuse of alcohol or illegal drugs while they are involved in the instruction of students. They must comply with state and federal laws and program policies relating to the confidentiality of student records, unless disclosure is required or permitted by law. ( )

04. Respectful Behavior. EMS education program and exam personnel must behave in a respectful and appropriate manner when dealing with students, colleagues, parents, patrons, and business or Department personnel, ensuring that they are always aware of their intended audience. ( )

078. -- 099. (RESERVED)

EMS EDUCATION PROGRAMS
(Sections 100 - 199)

100. GENERAL REQUIREMENTS FOR EMS EDUCATION PROGRAMS.
EMS education programs must meet all requirements in these rules. A program may be approved by the Department if all requirements are met. Each program must be approved and in good standing in order for graduates of courses provided by a program to qualify for access to an Idaho EMS certification examination. ( )

101. INSPECTION OF EMS EDUCATION PROGRAMS.

Representatives of the Department are authorized to enter an EMS education facility at reasonable times for the purpose of assuring that an EMS education program meets the provisions of these rules. ( )

102. EMS EDUCATION STANDARDS.

01. Initial Education. Curriculum utilized for initial education must be based upon the Idaho EMS Education Standards incorporated under Section 004 of these rules. ( )

02. Optional Module Education. Curriculum utilized for optional module education must be based upon the Idaho EMS Education Standards incorporated under Section 004 of these rules for the higher level scope of practice in which the skills, knowledge, and competency exist in the floor of the scope of practice. ( )

103. EMS EDUCATION PROGRAM ELIGIBILITY.
The following entities are eligible for approval as an EMS Education Program: ( )

01. EMS Agency. A licensed Idaho EMS agency, or applicant for agency licensure, that has met all of the agency licensure requirements in IDAPA 16.01.03, "Emergency Medical Services (EMS) -- Agency Licensing Requirements," with the exception of the personnel requirements in the case of an applicant agency. ( )

02. Governmental Entity. A recognized governmental entity within the State of Idaho; ( )

03. School. A proprietary, secondary, or post-secondary school as defined in Title 33, Idaho Code, and in accordance with IDAPA 08.01.11, "Registration of Post-Secondary Educational Institutions and Proprietary Schools"; or ( )

04. Hospital. An Idaho hospital as defined in IDAPA 16.03.14, "Rules and Minimum Standards for Hospitals in Idaho." ( )

104. EMS EDUCATION PROGRAM APPROVAL REQUIREMENTS.
The following requirements must be met in order to be approved as an EMS Education Program: ( )

01. All Programs. All EMS educational programs must: ( )

a. Have the infrastructure elements described in the Idaho EMS Education Standards; ( )

b. Use a curriculum that meets the Idaho EMS Education Standards; ( )

c. Utilize personnel to fill the roles as defined in Section 300; ( )

d. Provide sufficient quantities of supplies and equipment in good working order based on the curriculum and the minimum equipment list; and ( )

e. Have successfully completed a program review within the last three (3) years. ( )

02. Paramedicine Programs. Programs teaching paramedicine must be accredited by, or have a Letter of Review (LoR) from, the Committee on Accreditation of Educational Programs for the EMS Professions (CoAEMSP). A representative of the Department may attend the CoAEMSP site visit. Documentation of official correspondence between CoAEMSP and the program must be provided to the Department within thirty (30) days. ( )

105. EMS EDUCATION PROGRAM ACCOUNTABILITY.
The Department will hold each EMS Education Program to the standards and requirements in these rules and the declarations made by the program on their most recent approved application. ( )

106. EMS EDUCATION PROGRAM ADMINISTRATION.

01. General. Each EMS Education Program must: ( )

a. Register and maintain program information with the Department and the certification agency. ( )

b. Respond to all program-specific Department inquiries within fifteen (15) days; ( )

c. Submit supporting documentation requested during an audit to the Department within twenty-one (21) days of the request; ( )

d. Ensure that all program personnel are familiar with and conduct business according to these rules; and ( )

e. Notify the Department within fifteen (15) days of any sanction taken against an instructor that affects his ability to teach for the program. ( )

02. **Policies and Procedures**. The EMS Education Program must provide students with their policies and procedures for the following: ( )

a. Program-specific student enrollment eligibility requirements; ( )

b. Receipt and resolution of complaints, to include the Bureau's complaint process; ( )

c. Process for students who do not show adequate progress; and ( )

d. Program-specific requirements for successful completion of the course. ( )

107. EMS EDUCATION PROGRAM COURSE ADMINISTRATION.

01. **Education**. In order to prepare students to demonstrate the expected competencies, the EMS Education Program must: ( )

a. Deliver didactic education and psychomotor training that meets the objectives of the approved curriculum; ( )

b. Establish and maintain hospital/clinical and field/internship experience agreements to ensure student access in accordance with the Idaho EMS Education Standards; ( )

c. The majority of initial education must be taught by certified EMS instructors. ( )

02. **Evaluation**. In order to assure that students can demonstrate the expected competencies, the EMS Education Program must: ( )

a. Establish and enforce pass/fail criteria that include evaluation of student performance and competency during labs, didactic, clinical, and field internship training; ( )

b. Provide formative evaluations during a course to monitor the progress of students; and ( )

c. Provide a formal summative evaluation that includes a variety of clinical behaviors and judgements at the end of the course to measure the student's mastery of the objectives of the approved curriculum. ( )

108. EMS EDUCATION PROGRAM COURSE DOCUMENTATION.

01. **Records to be Submitted**. Each EMS Education Program must submit the following documentation to the Department as described below and in the format provided by the Department: ( )

a. Application for Course Registration Number (CRN) at least thirty (30) days prior to beginning a new course; ( )

b. Course beginning record (roster) within ten (10) days after the course beginning date; ( )

c. EMR and EMT Programs: Declare date and location of the formal summative evaluation within the (10) days immediately following the date the course begins; ( )

d. AEMT and Paramedic Programs: Proposed dates and locations of the didactic and psychomotor certification examinations within ten (10) days of the course beginning date; and ( )

e. Course completion record (roster) within ten (10) days after the student's course completion date. ( )

02. Records to be Maintained. Each EMS Education Program must maintain documentation of the following: ( )

a. Student competence in all areas listed in the Idaho EMS Education Standards for the level being taught; and ( )

b. Student attendance in all didactic instruction, skills laboratories, hospital/clinical experience, and field experience. ( )

03. Records Retention. All documentation related to a course or program must be retained for a minimum of five (5) years in a retrievable format. ( )

109. -- 199. (RESERVED)

CRITERIA FOR EMS EDUCATION
(Sections 200 - 299)

200. INITIAL EMS EDUCATION REQUIREMENTS. ( )

01. Content.

a. Idaho-Specific Content. All initial EMS courses must include the following Idaho-specific content, developed professionally and approved by the Department, if available: ( )

i. Physician Order for Scope of Treatment (POST); ( )

ii. Safe Haven; ( )

iii. Landing Zone Officer; and ( )

iv. Extrication Awareness. ( )

b. National Content. All initial EMS courses must include the following national content: ( )

i. Incident Command System ICS-100 and ICS-700; and ( )

ii. HazMat Awareness. ( )

02. Consistency with Scope of Practice. All curricula must be consistent with the Idaho scope of practice for licensed personnel as set forth in the EMS Physician Commission Standards Manual incorporated under IDAPA 16.02.02, "Rules of the Idaho Emergency Medical Services (EMS) Physician Commission," which aligns with the clinical level of the course. ( )

03. Consistency with State and National Standards. All curricula must be consistent with Idaho

EMS Education Standards incorporated under Section 004 of these rules, and the National EMS Scope of Practice Model. ( )

201. -- 209. (RESERVED)

210. OPTIONAL MODULE EMS EDUCATION.

01. Consistency with Scope of Practice. All optional module curricula must be consistent with the Idaho scope of practice for licensed personnel as set forth in the EMS Physician Commission Standards Manual, incorporated under IDAPA 16.02.02, "Rules of the Idaho Emergency Medical Services (EMS) Physician Commission," which aligns with the clinical level of the course. ( )

02. Consistency with State and National Standards. All optional module curricula must be consistent with Idaho EMS Education Standards incorporated under Section 004 of these rules, and the National EMS Scope of Practice Model. ( )

211. -- 299. (RESERVED)

EMS EDUCATION PROGRAM PERSONNEL REQUIREMENTS, QUALIFICATIONS, AND RESPONSIBILITIES
(Sections 300-399)

300. REQUIRED PERSONNEL FOR EMS EDUCATION PROGRAMS.

01. Program Director. Each program must identify an individual to serve as the Program Director. The Program Director may also serve as teaching faculty provided that faculty qualifications are met. ( )

02. Teaching Faculty. Each program must identify a sufficient number of teaching faculty who meet the qualifications described below in Subsections 301.02 and 301.03 of these rules. ( )

03. Course Physician. Each program must identify an individual to serve as the course physician. The course physician may also serve as teaching faculty, provided that faculty qualifications are met. ( )

301. EMS EDUCATION PROGRAM PERSONNEL QUALIFICATIONS.

01. Program Director. Program Directors must meet the following qualifications: ( )

a. Have completed an Education Program Orientation Course within the previous twenty-four (24) months. ( )

b. Have knowledge of current Idaho EMS Education Standards and the requirements for state certification and licensure. ( )

02. Instructor. Instructors must possess a current instructor certification issued by the Department. ( )

03. Adjunct Faculty or Guest Lecturers. Adjunct faculty and guest lecturers must be authorized by the course physician based on credentials, education, or expertise that corresponds to the knowledge and skill objectives they are teaching. ( )

04. Course Physician. Course physicians must meet the following qualifications: ( )

a. Be a Doctor of Osteopathy (DO) or Medical Doctor (MD) currently licensed to practice medicine with experience and current knowledge of emergency care of acutely ill and injured patients; and ( )

b. Have knowledge or experience in the delivery of out-of-hospital emergency care, including the

proper care and transport of patients, medical direction, and quality improvement in out-of-hospital care. ( )

302. EMS EDUCATION PROGRAM PERSONNEL RESPONSIBILITIES.
An individual can have multiple personnel responsibilities, but must meet the applicable personnel requirements under Section 301 of these rules and fulfill all the responsibilities of each position they fill. ( )

01. Program Director. The program director's responsibilities include: ( )

a. Administrative oversight of the program; ( )

b. Ensuring that the program remains in compliance with these rules; and ( )

c. Serving as the program's point of contact for the Department, or for a national EMS certification body, or both. ( )

02. Instructor. The instructor's responsibilities include: ( )

a. Delivery of didactic and psychomotor education that satisfies the curriculum objectives; ( )

b. Documentation of student performance and competency in accordance with the standards defined by the program; ( )

c. Following program policies, requirements, and these rules; ( )

d. Modeling positive behaviors and serving as a role model for students. ( )

03. Course Physician. The course physician's responsibilities are to provide: ( )

a. Medical oversight for all medical aspects of instruction; and ( )

b. Cooperative involvement with the program director. ( )

303. -- 399. (RESERVED)

EMS INSTRUCTOR CERTIFICATION
(Sections 400-499)

400. EMS INSTRUCTOR CERTIFICATION REQUIREMENTS.

01. Instructor Certification is Required. In order to serve as an EMS instructor, an individual must possess a current EMS instructor certificate issued by the Department. ( )

02. Instructor Certification Requirements. An individual applying for and meeting the requirements defined in this section will be issued an initial EMS instructor certificate. The requirements for initial EMS instructor certification are: ( )

a. Have successfully passed an Idaho criminal history and background check; ( )

b. Have completed a Department-sponsored EMS Education Program Orientation Course within the preceding twenty-four (24) months; ( )

c. Have completed a course that meets the requirements of an Adult Methodology Course as defined in Section 404 of these rules; ( )

d. Hold a current EMS license or EMS certificate at or above the instructor level requested; and ( )

e. Have held an EMS license or EMS certificate at or above the level of instruction requested for a minimum of three (3) years. ( )

03. **Duration of Certificate.** EMS instructor certificates are good for up to three (3) years and will be issued with an expiration date of June 30 no more than three (3) years after the date the application was approved by the Department. ( )

401. EMS INSTRUCTOR CERTIFICATE RENEWAL.
An individual applying for and meeting the EMS instructor certificate requirements defined in this rule will be issued a renewed EMS instructor certificate. To renew your instructor certificate you must: ( )

01. **Submit an Application.** Submit an application for EMS instructor recertification in the format provided by the Department prior to the expiration date of the current certificate. Certified EMS instructors may submit the renewal application and documentation to the EMS Bureau up to six (6) months prior to the current expiration date of the instructor certificate. ( )

02. **Teaching Time.** Document twenty-four (24) hours of teaching time during the current certification period. ( )

03. **Continuing Education.** Complete eight (8) hours of continuing education specific to adult education during the current certification period. ( )

04. **Education Program Orientation Course.** Complete a Department-sponsored program orientation course within their certification cycle. The program orientation course can be counted as instructor continuing education. ( )

05. **License or Certificate.** Possess a current Idaho EMS personnel license, a current Idaho certificate of eligibility, or a current national certification at or above the level of instructor certificate. ( )

402. LAPSED EMS INSTRUCTOR CERTIFICATE.

01. **Timely Submission.** An application is considered timely when it is submitted to the Department prior to the expiration date of the EMS instructor certificate being renewed. ( )

02. **Failure to Submit.** An EMS instructor certificate will expire if an instructor fails to submit a complete and timely renewal application. ( )

03. **No Grace Period.** The Department will not grant grace periods or extensions to an expiration date. ( )

04. **Application Under Review.** Provided the instructor submitted a timely renewal application, an EMS instructor certificate will not lapse while under review by the Department. ( )

05. **Additional Information.** The Department may request additional information from the instructor to address an application that was found to be incomplete or otherwise non-compliant with these rules. The Department will send the request to the instructor's last known address. The instructor has twenty-one (21) days from the date of notification to respond to the Department after which the certificate will be considered lapsed. ( )

06. **Reinstatement of a Lapsed Certificate.** Personnel with a lapsed EMS instructor certificate must complete the requirements listed in Subsection 400.02 of these rules to reinstate their instructor certificate. ( )

403. CERTIFICATION OF CURRENTLY APPROVED EMS INSTRUCTORS.

01. **Expiration of Approved Instructor Status.** EMS instructor certificates issued prior to July 1, 2016, will expire on June 30, 2019. ( )

02. Certification Process. An EMS instructor approved prior to July 1, 2016, must submit an application for renewal to the Department prior to June 30, 2019, in order to maintain an EMS instructor certificate. ( )

03. Certificate Requirements. Currently approved EMS instructors who wish to maintain EMS instructor certification must meet the following requirements: ( )

a. Have successfully passed an Idaho criminal history and background check; ( )

b. Have completed a Department-sponsored Education Program Orientation Course orientation course within the preceding twenty-four (24) months; ( )

c. Hold a current EMS license or EMS certificate at or above the instructor level requested; and ( )

d. Have held an EMS license or EMS certificate at or above the level of instruction requested for a minimum of three (3) years. ( )

04. Duration of Certificate. EMS instructor certificates are good for up to three (3) years and will be issued with an expiration date of June 30 no more than three (3) years after the date the application was approved by the Department. ( )

404. ADULT METHODOLOGY REQUIREMENTS FOR EMS INSTRUCTORS.
Adult methodology requirements consist of completion of one (1) or more courses, developed professionally and approved by the Department, based on content that includes the following instructional topics: ( )

01. The Adult Learner. ( )

02. Goals and Objectives. ( )

03. Learning Styles. ( )

04. Lesson Plans. ( )

05. Teaching Resources. ( )

06. Teaching Aids. ( )

07. Teaching Methods. ( )

08. Measurement and Evaluation Techniques. ( )

09. Remediation, Communication, and Feedback. ( )

405. -- 499. (RESERVED)

EMS EXAMINATIONS
(Sections 500 through 599)

500. STANDARDIZED EMS CERTIFICATION EXAMINATIONS.
A graduate of an EMS course must successfully complete psychomotor and cognitive certification examinations in order to qualify for EMS personnel licensure under IDAPA 16.01.07, "Emergency Medical Services (EMS) -- Personnel Licensing Requirements." ( )

01. EMR and EMT Psychomotor Examination. The psychomotor certification examination requirement for EMR and EMT course graduates can be met by any of the following: ( )

a. Successful completion of the end-of-course examination described in Subsection 107.02.c. of these rules. ( )

b. Successful completion of a level-appropriate psychomotor examination administered by the Department. ( )

02. **AEMT and Paramedic Psychomotor Examination.** The psychomotor certification examination requirement for AEMT and Paramedic course graduates can only be met by successfully completing a formal Department-sponsored certification psychomotor examination. ( )

03. **Cognitive Examination.** The cognitive certification examination requirement for all levels of course graduates can only be met by successfully completing the Idaho-approved certification cognitive examination. ( )

501. OPTIONAL MODULE EMS EXAMINATIONS.
Psychomotor and cognitive examinations must be completed at the EMR and EMT levels once didactic education and training are successfully completed, as described in the EMS Physician Commission Standards Manual incorporated under IDAPA 16.02.02, "Rules of the Idaho Emergency Medical Services (EMS) Physician Commission." ( )

502. EMS EXAM APPLICATIONS.
An organization other than the educational program that wishes to host a Department-administered examination must notify the Department at least sixty (60) days in advance of the proposed exam date. Educational programs must notify the Department in accordance with Section 108 of these rules. ( )

503. -- 998. (RESERVED)

999. OTHER VIOLATIONS THAT MAY RESULT IN FORMAL ADMINISTRATIVE ACTION.

01. **Unprofessional Conduct.** Any act that violates the standards of professional conduct in Section 077 of these rules. ( )

02. **Failure to Maintain Standards of Knowledge, Proficiency, or Both.** Failure to maintain standards of knowledge, or proficiency, or both, as required under these rules as well as: ( )

a. IDAPA 16.01.07, "Emergency Medical Services (EMS) -- Personnel Licensure Requirements"; and ( )

b. IDAPA 16.02.02, "Rules of the Idaho Emergency Medical Services (EMS) Physician Commission." ( )

03. **Mental Incompetency.** A lawful finding of mental incompetency by a court of competent jurisdiction. ( )

04. **Impairment of Function.** Performance of duties under an EMS instructor certificate while under the influence of alcohol, an illegal substance, or a legal drug or medication causing impairment of function. ( )

05. **Denial of Criminal History Clearance.** Any conduct, action, or conviction that does or would result in denial of a criminal history clearance under IDAPA 16.05.06, "Criminal History and Background Checks." ( )

06. **Discipline, Restriction, Suspension, or Revocation.** Discipline, restriction, suspension, or revocation by any other jurisdiction. ( )

07. **Danger or Threat to Persons or Property.** Any conduct, condition, or circumstance determined by the EMS Bureau that constitutes a danger or threat to the health, safety, or well-being of persons or property. ( )

08. Falsification of Applications or Reports. The submission of fraudulent or false information in any report, application, or documentation to the EMS Bureau. ( )

09. Attempting to Obtain a Certificate by Means of Fraud. Misrepresentation in an application, or documentation, for certification by means of concealment of a material fact. ( )

COMMENTS

IDAHO DEPARTMENT OF
HEALTH & WELFARE

C.L. "BUTCH" OTTER – Governor
RICHARD M. ARMSTRONG – Director

TAMARA PRISOCK – Division Administrator
DIVISION OF LICENSING AND CERTIFICATION
Administrative Rules Unit
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Boise, Idaho 83720-0036
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LIST OF EXHIBITS

Proposed Rule

EMERGENCY MEDICAL SERVICES (EMS) - EDUCATION, INSTRUCTOR, AND EXAMINATION REQUIREMENTS

Docket Number: 16-0105-1501

Deadline for Comment: August 26, 2015

EXHIBIT NO.	SUBMITTED BY	DESCRIPTION	NO. PAGES
1	Legislative Services Office Elizabeth Bowen, Legislative Research Analyst Statehouse PO Box 83720 Boise, ID 83720-0054	Memorandum Rec'd 8/10/2015	2
2	Public Hearing - Webinar August 11, 2015	Sign-In Sheet	1
3	Legislative Services Office Elizabeth Bowen, Legislative Research Analyst Statehouse PO Box 83720 Boise, ID 83720-0054	Letter Rec'd 8/27/2015	2

Legislative Services Office
Idaho State Legislature

Eric Milstead
Director

Serving Idaho's Citizen Legislature

MEMORANDUM

TO: Rules Review Subcommittee of the Senate Health & Welfare Committee and the House Health & Welfare Committee

FROM: Legislative Research Analyst - Elizabeth Bowen

DATE: August 10, 2015

SUBJECT: Department of Health and Welfare

IDAPA 16.01.01 - EMS Services - Advisory Committee - Proposed Rule (Docket No. 16-0101-1501)

IDAPA 16.01.02 - Emergency Medical Services (EMS) - Rule Definitions - Proposed Rule (Docket No. 16-0102-1501)

IDAPA 16.01.03 - EMS Agency Licensing Requirements - Proposed Rule (Docket No. 16-0103-1501)

IDAPA 16.01.05 - EMS Education, Instructor, and Examination Requirements - Proposed Rule (Docket No. 16-0105-1501)

IDAPA 16.01.07 - EMS - Personnel Licensing Requirements - Vacation of Proposed Rulemaking (Docket No. 16-0107-1501)

IDAPA 16.01.07 - EMS- Personnel Licensing Requirements - Proposed Rule (Docket No. 16-0107-1502)

IDAPA 16.01.12 - EMS - Complaints, Investigations, and Disciplinary Actions - Proposed Rule (Docket No. 16-0112-1501)

The Department of Health and Welfare submits notice of proposed rulemaking at IDAPA 16.01.01, 16.01.02, 16.01.03, 16.01.05, 16.01.07, and 16.01.12.

1. IDAPA 16.01.01

The proposed rule adds a reference to a new rule, IDAPA 16.01.05, discussed below. Additionally, the proposed rule incorporates certain provisions from another rule, IDAPA 16.02.03, that is being repealed. Negotiated rulemaking was conducted. The Department states that the proposed rule is consistent with the rulemaking authority granted by Section 56-1023, Idaho Code. There is no anticipated fiscal impact to the state general fund.

2. IDAPA 16.01.02

The proposed rule updates an existing rule to reflect recent changes made to statutes and rules relating to emergency medical services (EMS). Specifically, the proposed rule includes several definitions of terms relating to education, evaluation, and paramedicine. Negotiated rulemaking was conducted. The Department states that the proposed rule is consistent with the rulemaking authority granted by Section 56-1023, Idaho Code. There is no anticipated fiscal impact to the state general fund.

3. IDAPA 16.01.03

The proposed rule amends existing EMS agency licensing requirements to be consistent with changes to statutes and rules relating to EMS. Provisions relating to record-keeping by EMS agencies have also been incorporated into the proposed rule. Negotiated rulemaking was conducted for related rules but not specifically for this rule. The Department states that the proposed rule is consistent with the rulemaking authority granted by Sections 56-1011 through 56-1023, Idaho Code. There is no anticipated fiscal impact to the state general fund.

4. IDAPA 16.01.05

The proposed rule provides updated education, instruction, and examination requirements for EMS personnel. The proposed rule replaces the education requirements found in IDAPA 16.02.03, which is being repealed. Negotiated rulemaking was conducted. The Department states that the proposed rule is consistent with the rulemaking authority granted by Section 56-1023, Idaho Code. There is no anticipated fiscal impact to the state general fund.

5. IDAPA 16.01.07

(a) Docket 16-0107-1501 -- This proposed rulemaking is being vacated in favor of the docket in (b) below.

(b) Docket 16-0107-1502 -- The proposed rule amends licensing requirements for EMS personnel to be consistent with the proposed rule at IDAPA 16.01.05, discussed above. The proposed rule also incorporates provisions from a rule, IDAPA 16.02.03, that is being repealed. Negotiated rulemaking was not conducted; however, the Department states that it has met with stakeholders around the state to discuss the rule. The proposed rule is based on concerns voiced during those meetings. According to the Department, the proposed rule is consistent with the rulemaking authority granted by Sections 56-1011 through 56-1023, Idaho Code. There is no anticipated fiscal impact to the state general fund.

6. IDAPA 16.01.12

The proposed rule amends existing language to be consistent with the proposed rule at IDAPA 16.01.05, discussed above. Negotiated rulemaking was not specifically conducted for this rule but was conducted for related rules. The Department states that the changes in this rule are being made for the sake of clarity. According to the Department, the proposed rule is consistent with the rulemaking authority granted by Sections 56-1011 through 56-1023, Idaho Code. There is no anticipated fiscal impact to the state general fund.

cc: Department of Health and Welfare
Tamara Prisock

PUBLIC HEARING
Idaho Department of Health and Welfare

Please Sign In

CHAPTER: EMS chapters: 16.01.01, 16.01.02, 16.01.03, 16.01.05, 16.01.07, 16.01.12
DOCKET NOs.: 16-0101-1501, 16-0102-1501, 16-0103-1501, 16-0105-1501 , 16-0107-1502, and 16-0112-1501

DATE: Tuesday, August 11, 2015
TIME: 10am MDT
LOCATION: 2224 East Penitentiary Road, Boise, ID 83712 (also available by webinar)
*Please provide a written copy of your comments for the official record on this rulemaking, if possible.

NAME (Please Print)	ADDRESS / E-MAIL	ORGANIZATION REPRESENTED	DO YOU WISH TO TESTIFY?

No attendees
mtg started 10:20am
closed 10:50am
No one joined on Webinar
No statement was read
No digital audio

Legislative Services Office
Idaho State Legislature

Serving Idaho's Citizen Legislature

Eric Milstead
Director

August 27, 2015

Tamara Prisock
Admin. Procedures Section
Department of Health and Welfare
PO Box 83720
Boise, ID 83720-0036

Dear Tamara Prisock:

The Senate and House Subcommittees for review of administrative rules have reviewed the proposed changes to the Department of Health and Welfare rules:

IDAPA 16.01.01 - EMS Services - Advisory Committee - Proposed Rule - Docket No. 16-0101-1501

IDAPA 16.01.02 - Emergency Medical Services (EMS) - Rule Definitions - Proposed Rule - Docket No. 16-0102-1501

IDAPA 16.01.03 - EMS Agency Licensing Requirements - Proposed Rule - Docket No. 16-0103-1501

IDAPA 16.01.05 - EMS Education, Instructor, and Examination Requirements - Proposed Rule - Docket No. 16-0105-1501

IDAPA 16.01.07 - EMS - Personnel Licensing Requirements - Vacation of Proposed Rulemaking - Docket No. 16-0107-1501

IDAPA 16.01.07 - EMS- Personnel Licensing Requirements - Proposed Rule - Docket No. 16-0107-1502

IDAPA 16.01.12 - EMS - Complaints, Investigations, and Disciplinary Actions - Proposed Rule - Docket No. 16-0112-1501

No meeting will be held, and we are pleased to report that no objections will be filed.

Sincerely yours,

Elizabeth Brown

Mike Nugent, Manager
Research & Legislation

Cathy Holland-Smith, Manager
Budget & Policy Analysis

April Renfro, Manager
Legislative Audits

Glenn Harris, Manager
Information Technology

Statehouse, P.O. Box 83720
Boise, Idaho 83720–0054

Tel: 208–334–2475
www.legislature.idaho.gov

Elizabeth Bowen
Legislative Research Analyst

ELB/jk

cc:

ATTACHMENT 9

IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE

16.01.07 - EMERGENCY MEDICAL SERVICES (EMS) -- PERSONNEL LICENSING REQUIREMENTS

DOCKET NO. 16-0107-1502

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2016 Idaho State Legislature for final approval. In accordance with Section 67-5224(5)(a) and (b), Idaho Code, as specified here in this notice the pending rule becomes final and effective on July 1, 2016, after review by the legislature, unless the rule is approved or rejected in part by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is affected by concurrent resolution, the concurrent resolution shall specify the date.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section 56-1023, Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change.

The EMS Personnel Licensing rules are being adopted to align with a new chapter of rules being written that provide the education, instructor, and examination standards an individual must meet to be a licensed EMS provider in Idaho. Changes are being made to the pending rule to correct the licensing renewal continuing education table that did not list the Paramedic requirements in the original proposed rule docket. The complete text of the proposed rule was published in the August 5, 2015, Idaho Administrative Bulletin, Vol. 15-8, pages 71 through 78.

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars ($10,000) during the fiscal year as a result of this rulemaking:

The Emergency Medical Services (EMS) program is funded through dedicated funds. This rulemaking has no fiscal impact to those funds or to the state general fund. This rulemaking is intended to be cost-neutral.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Bruce Cheeseman at (208) 334-4000.

DATED this _____ day of _____, 2015.

Tamara Prisock
DHW - Administrative Rules Unit
450 W. State Street - 10th Floor
P.O. Box 83720
Boise, ID 83720-0036
(208) 334-5500 phone; (208) 334-6558 fax
E-mail: **dhwrules@dhw.idaho.gov**

THE FOLLOWING IS THE PENDING TEXT FOR DOCKET NO. 16-0107-1502
(Only those Sections being amended are shown.)

004. INCORPORATION BY REFERENCE.
~~*The Department has incorporated by reference the "Idaho Emergency Medical Services (EMS) Physician Commission Standards Manual," edition 20124-1. Copies of this Standards Manual may be obtained from the EMS Bureau described in Section 005 of these rules, or online at: http://www.emspc.dhw.idaho.gov.*~~ No documents have been incorporated by reference into these rules. ~~(3-29-12)~~(____)

(BREAK IN CONTINUITY OF SECTIONS)

006. CONFIDENTIALITY OF RECORDS AND PUBLIC RECORDS ACT COMPLIANCE AND REQUESTS.

01. Confidentiality of Records. Any information about an individual covered by these rules and contained in the Department's records must comply with IDAPA 16.05.01, "Use and Disclosure of Department Records." (3-29-12)

02. Public Records Act. The Department will comply with ~~*Sections 9-337 through 9-350*~~ Title 74, Chapter 1, Idaho Code, when requests for the examination and copying of public records are made. Unless otherwise exempted, all public records in the custody of the Department are subject to disclosure. ~~(3-29-12)~~(____)

(BREAK IN CONTINUITY OF SECTIONS)

075. INVESTIGATION OF COMPLAINTS FOR PERSONNEL LICENSING VIOLATIONS.
Investigation of complaints and disciplinary actions for personnel licensing are provided under IDAPA 16.01.12, "Emergency Medical Services (EMS) -- Complaints, Investigations, and Disciplinary Actions." (____)

076. ADMINISTRATIVE ACTION IMPOSED FOR LICENSE OR CERTIFICATION.
Any license or certification may be suspended, revoked, denied, or retained with conditions for noncompliance with any standard or rule. Administrative license or certification actions imposed by the EMS Bureau for any action, conduct, or failure to act which is inconsistent with the professionalism, or standards, or both, are provided under Sections 56-1011 through 56-1023, Idaho Code, and IDAPA 16.01.12, "Emergency Medical Services (EMS) -- Complaints, Investigations, and Disciplinary Actions." (____)

07~~5~~7. STANDARDS OF PROFESSIONAL CONDUCT FOR EMS PERSONNEL.

01. Method of Treatment. EMS personnel must practice medically acceptable methods of treatment and must not endeavor to extend their practice beyond their competence and the authority vested in them by the medical director. EMS personnel must not perform any medical procedure or provide medication that deviated from or exceeds the scope of practice for the corresponding level of licensure established under IDAPA 16.02.02, "Rules of the Idaho Emergency Medical Services (EMS) Physician Commission." ~~(3-29-12)~~(____)

02. Knowledge and Proficiency. EMS personnel must maintain standards of knowledge and proficiency as required by this chapter of rules and IDAPA 16.02.02, "Rules of the Idaho Emergency Medical Services (EMS) Physician Commission." (____)

~~*02. Commitment to Self-Improvement. EMS personnel must continually strive to increase and improve their knowledge and skills and render to each patient the full measure of their abilities.* (3-29-12)~~

03. Respect for the Patient. EMS personnel must provide all services with respect for the dignity of the patient, unrestricted by considerations of social or economic status, personal attributes, or the nature of health problems. (3-29-12)

04. Confidentiality. EMS personnel must hold in strict confidence all privileged information concerning the patient except as disclosure or use of this information is permitted or required by law or Department

(3-29-12)

rule.

05. Conflict of Interest. EMS personnel must not accept gratuities for preferential consideration of the patient and must guard against conflicts of interest. (3-29-12)

06. Professionalism. EMS personnel must uphold the dignity and honor of the profession and abide by its ethical principles and ~~should~~ must be familiar with existing laws governing the practice of emergency medical services and comply with those laws. EMS personnel must never perform duties of the profession while under the influence of alcohol, illegal substances, or legal drugs or medication causing impairment of function. ~~(3-29-12)~~(____)

07. Cooperation and Participation. EMS personnel must cooperate with other health care professionals and participate in activities to promote community and national efforts to meet the health needs of the public. (3-29-12)

08. Ethical Responsibility. EMS personnel must refuse to participate in unethical procedures, and assume the responsibility to expose incompetence or unethical conduct of others to the appropriate authority in a proper and professional manner. Misrepresentation in an application or documentation for licensure by means of concealment of a material fact is a violation of ethical responsibility. ~~(3-29-12)~~(____)

09. Integrity. EMS personnel must act with honesty and integrity and assure that reports, applications and documentation for which they are responsible are free of fraudulent and false information. (____)

07~~6~~8. -- 0~~9~~89. (RESERVED)

090. ADVANCE DO NOT RESUSCITATE (DNR) DIRECTIVES.
Licensed EMS personnel must follow the DNR protocol established by the Department. (____)

091. -- 099. (RESERVED)

(BREAK IN CONTINUITY OF SECTIONS)

106. TIME FRAME FOR PERSONNEL LICENSURE AFTER SUCCESSFUL COMPLETION OF EDUCATION COURSE.
An individual who has successfully completed an EMS education course is eligible to attempt the ~~certification~~ standardized examination for the appropriate level of licensure. ~~(3-29-12)~~(____)

01. Complete Standardized ~~Certification~~ Examination. A candidate must successfully complete all components of the standardized ~~certification~~ examination in a twelve (12) month period within twenty-four (24) months of completing an EMS training course in order to be eligible for an Idaho EMS personnel license. ~~(3-29-12)~~(____)

02. ~~Certification~~ Standardized Examination Not Completed. If all components of the standardized ~~certification~~ examination are not successfully completed in a twelve (12) month period within twenty-four (24) months of course completion, the candidate must repeat the initial training course and all components of the ~~certification~~ standardized examination in order to be eligible for an Idaho EMS personnel license. ~~(3-29-12)~~(____)

107. -- 109. (RESERVED)

110. INITIAL PERSONNEL LICENSURE.
Upon successful completion of an approved education course recognized by the EMS Bureau under IDAPA 16.0~~2~~1.0~~3~~5, "Emergency Medical Services -- Education, Instructor, and Examination Requirements," an individual may apply to the EMS Bureau for licensure. The candidate must meet the following: ~~(3-29-12)~~(____)

01. Candidate Age Requirements. An individual applying for licensure must meet the following age requirements: (3-29-12)

a. An EMR and EMT candidate must be either sixteen (16) or seventeen (17) years old with parental or legal guardian consent, or eighteen (18) years old. (3-29-12)

b. An AEMT and Paramedic candidate must be eighteen (18) year old. (3-29-12)

02. Declaration of Previous Applications and Licensures. A candidate must declare each state or jurisdiction in which he has applied for, been denied, or held an EMS license or certification. (3-29-12)

03. Authorization for Release of Information. A candidate must provide authorization for the EMS authority in other states or jurisdictions to release the candidate's registration, licensure, and certification information to the Idaho EMS Bureau. (3-29-12)

04. Provide Current Affiliation with EMS Agency. A candidate must declare all organizations in which they are allowed to practice as licensed personnel. A candidate must have a current affiliation with a licensed EMS agency that functions at, or above, the level of licensure being sought by the candidate. (3-29-12)

05. Valid Identification. A candidate must have a valid state driver's license, an Idaho identification card issued by a county driver's license examining station, or an identification card issued by the Armed Forces of the United States. (3-29-12)

06. Criminal History and Background Check. A candidate must successfully complete a criminal history and background check according to the provisions in IDAPA 16.05.06, "Criminal History and Background Checks." Denial without the grant of an exemption under the provisions in IDAPA 16.05.06, "Criminal History and Background Checks," will result in denial or revocation of licensure. (3-29-12)

07. Pass Standardized Examination. A candidate must successfully complete the standardized examination for the level of licensure on the application required under IDAPA 16.0~~2~~1.0~~3~~5, "Emergency Medical Services (EMS) -- Education, Instructor, and Examination Requirements." ~~(3-29-12)~~(____)

a. A candidate for EMR licensure must have successfully completed the standardized ~~certification~~ examination at the EMR level or higher within the preceding thirty-six (36) months. ~~(3-29-12)~~(____)

b. A candidate for EMT licensure must have successfully completed the standardized ~~certification~~ examination at the EMT level or higher within the preceding thirty-six (36) months. ~~(3-29-12)~~(____)

c. A candidate for AEMT licensure must have successfully completed the standardized ~~certification~~ examination at the AEMT level or higher within the preceding twenty-four (24) months. ~~(3-29-12)~~(____)

d. A candidate for Paramedic licensure must have successfully completed the standardized ~~certification~~ examination at the Paramedic level within the preceding twenty-four (24) months. ~~(3-29-12)~~(____)

08. Standardized Exam Attempts For Initial Licensure. A candidate for initial licensure is allowed to attempt to successfully pass the standardized exam as follows: (3-29-12)

a. An EMR candidate is allowed three (3) attempts to pass the exam, after which the initial EMR course must be successfully completed again before another three (3) attempts are allowed. (3-29-12)

b. An EMT candidate is allowed three (3) attempts to pass the exam, after which twenty-four (24) hours of remedial education must be successfully completed before another three (3) attempts are allowed. (3-29-12)

c. An AEMT candidate is allowed three (3) attempts to pass the exam, after which thirty-six (36) hours of remedial education must be successfully completed before another three (3) attempts are allowed. (3-29-12)

d. A Paramedic candidate is allowed three (3) attempts to pass the exam, after which forty-eight (48) hours of remedial education must be successfully completed before another three (3) attempts are allowed. (3-29-12)

09. Submit Required Licensure Fee. A candidate must submit the applicable initial licensure fee

provided in Section 111 of these rules. A candidate for EMR or EMT level of licensure has no fee requirement. (3-29-12)

(BREAK IN CONTINUITY OF SECTIONS)

116. PERSONNEL LICENSE TRANSITION.
Between the years of 2011 and 201~~6~~7, the scope of practice and the accompanying license levels for EMS personnel will change. The scope of practice for licensed EMS personnel is provided in ~~the~~ IDAPA 16.02.02, "Rules of the Idaho Emergency Medical Services (EMS) Physician Commission ~~Standards Manual incorporated by reference under Section 004 of these rules~~." Personnel licensed at the AEMT level can opt to either transition to the AEMT-2011 level, or they may remain at the AEMT-1985 level. In order to renew a license, personnel licensed at the EMR, EMT, or Paramedic level must transition and meet the following requirements. ~~(3-29-12)~~(____)

01. General Transition Requirements for Licensed Personnel. Licensed personnel transitioning to a new licensure level must: (3-29-12)

a. Successfully complete an Idaho-approved transition course appropriate for the level of licensure; (3-29-12)

b. Provide documentation of verification by the course physician of competency in the knowledge and skills identified in the appropriate transition course curriculum; and (3-29-12)

c. Include proof of completion of transition requirements with the license renewal application. All other license renewal requirements listed in Section 120 of these rules must be completed. The transition course may be counted towards the renewal continuing education requirements. (3-29-12)

~~**02. Transition Options Specific for Personnel Licensed at the AEMT Level.** Personnel licensed at the AEMT level have options specific to transitioning as follows:~~ ~~(3-29-12)~~

~~**a.** In addition to the general transition requirements under Subsection 116.01 of this rule, personnel licensed at the AEMT level may choose to transition to the AEMT-2011. To transition to the AEMT-2011 level, the applicant must successfully pass the Idaho-approved written and practical examinations for that level of licensure by the deadlines provided in Subsection 116.03.b of this rule.~~ ~~(3-29-12)~~

~~**b.** Personnel licensed at the AEMT level who choose not to complete the transition requirements according to Subsection 116.03.b. of this rule, will be allowed to renew their personnel license at the AEMT-1985 level, if all other license renewal requirements listed in Section 120 of these rules are met.~~ ~~(3-29-12)~~

0~~3~~2. Application Deadlines for Transition of Licensed Personnel. Licensed personnel who choose to transition must submit an "EMS Personnel License Transition Application" according to the following deadline dates: (3-29-12)

a. For personnel licensed at the EMR and EMT levels, an application for transition must be submitted after January 1, 2012, and before ~~September~~ March 3~~0~~1, 201~~6~~7, according to the effective date of the initial license or renewal date provided in the table below:

Table 116.0~~3~~2.a. PERSONNEL LICENSED AT EMR AND EMT LEVELS - TRANSITION DEADLINE DATES	
~~Effective Date of Initial License~~	~~Date Transition Requirements MUST be Completed~~
~~April 1, 2011 - September 30, 2011~~	~~September 30, 2014~~
~~October 1, 2011 - December 31, 2011~~	~~March 31, 2015~~

Table 116.03.a.
PERSONNEL LICENSED AT EMR AND EMT LEVELS - TRANSITION DEADLINE DATES

Effective Date of Renewed License	Date Transition Requirements MUST be Completed
~~April 1, 2011~~	~~March 31, 2014~~
~~October 1, 2011~~	~~September 30, 2014~~
~~April 1, 2012~~	~~March 31, 2015~~
~~October 1, 2012~~	~~September 30, 2015~~
~~April 1, 2013~~	~~March 31, 2016~~
October 1, 2013	September 30, 2016
April 1, 2014	March 31, 2017

~~(3-29-12)~~(____)

~~b. For personnel licensed at the AEMT and Paramedic levels, an application for transition must be submitted after January 1, 2013, and before September 30, 2015, according to the effective date of the initial license or renewal date provided in the table below:~~

~~**Table 116.03.b.**~~
~~**PERSONNEL LICENSED AT AEMT AND PARAMEDIC LEVELS - TRANSITION DEADLINE DATES**~~

~~Effective Date of Initial License~~	~~Date Transition Requirements MUST be Completed~~
~~April 1, 2012 - September 30, 2012~~	~~September 30, 2014~~
~~October 1, 2012 - December 31, 2012~~	~~March 31, 2015~~

~~Effective Date of Renewed License~~	~~Date Transition Requirements MUST be Completed~~
~~April 1, 2012~~	~~March 31, 2014~~
~~October 1, 2012~~	~~September 30, 2014~~
~~April 1, 2013~~	~~March 31, 2015~~
~~October 1, 2013~~	~~September 30, 2015~~

~~(3-29-12)~~(____)

04~~3~~. **Early Transition of Licensed Personnel.** Licensed personnel who meet all transition requirements and choose to transition prior to their license renewal date will be issued a license as follows: (3-29-12)

a. Continuing education completed between the effective date of the pre-transition license and the expiration date of the transitioned license may be used to meet requirements listed in Section 120 of these rules for renewal of the transition license; (3-29-12)

b. The new license will have the same expiration date as the current license; and (3-29-12)

c. The new license will have a new effective date, based on the date the transition was approved by the EMS Bureau. (3-29-12)

117. -- 119. (RESERVED)

120. PERSONNEL LICENSE RENEWAL.
Licensed personnel must provide documentation that they meet the following requirements: (3-29-12)

01. Documentation of Affiliation with EMS Agency. A candidate applying for renewal of licensure must be affiliated with a licensed EMS agency which functions at, or above, the level of licensure being renewed.

Documentation that the license holder is currently credentialed or undergoing credentialing by an affiliating EMS agency medical director must be submitted as assurance of affiliation for license renewal. (3-29-12)

02. Documentation of Continuing Education for Level of Licensure Renewal. A candidate for renewal of licensure must provide documentation of continuing education consistent with the license holder's level of licensure. All continuing education and skill proficiency requirements must be completed under the provisions in Sections 300 through 3~~3~~25 of these rules. The time frame for continuing education courses must meet the following requirements: ~~(3-29-12)~~(____)

a. All continuing education and skill proficiency requirements for renewal of an initial Idaho personnel license must be completed as follows: (3-29-12)

i. For EMR or EMT, within the thirty-six (36) months preceding ~~renewal~~ expiration. ~~(3-29-12)~~(____)

ii. For AEMT and Paramedic, within the twenty-four (24) months preceding ~~renewal~~ expiration. ~~(3-29-12)~~(____)

b. All continuing education and skill proficiency requirements for successive licenses must be completed between the effective and expiration dates of the license being renewed, or according to Section 116 or 125 of these rules. ~~(3-29-12)~~(____)

c. All continuing education and skill proficiency requirements for renewal of licenses obtained through conversion of a Certificate of Eligibility must be completed as follows: (3-29-12)

i. For EMR or EMT, within the thirty-six (36) months preceding ~~renewal~~ expiration. ~~(3-29-12)~~(____)

ii. For AEMT and Paramedic, within the twenty-four (24) months preceding ~~renewal~~ expiration. ~~(3-29-12)~~(____)

d. A licensee certified by a national EMS certification body may petition the Department to review the certification standards under which the licensee was certified. The Department may waive specific duplicated continuing educational requirements where appropriate. When an external education requirement is found to be more rigorous than these rules, the Department may elect to renew a license based on that education. (____)

03. Declarations of Convictions or Adjudications. A candidate for renewal of licensure must provide a declaration of any misdemeanor or felony adjudications. (3-29-12)

04. Time Frame for Application of Licensure Renewals. Documentation of license renewal requirements is due to the EMS Bureau prior to the license expiration date. Failure to submit a complete renewal application by the license expiration date renders the license invalid and the individual must not practice or represent himself as a license holder. (3-29-12)

05. Submit Required Licensure Renewal Fees. A candidate must submit the applicable license renewal fee provided in Section 111 of these rules. A candidate for EMR or EMT level of licensure has no fee requirement. (3-29-12)

121. -- 124. (RESERVED)

125. SUBMISSION OF EMS PERSONNEL LICENSURE APPLICATION AND DOCUMENTATION. Each EMS personnel license holder or candidate is responsible for meeting license renewal requirements and submitting completed license renewal documentation to the EMS Bureau by the current license expiration date. (3-29-12)

01. Earl~~iest~~y Submission ~~Date~~ for License Renewal. (____)

a. Licensed EMS personnel may submit renewal application and documentation to the EMS Bureau up to six (6) months prior to the current license expiration date. ~~(3-29-12)~~(____)

b. Continuing education (CE) taken after early submission of a renewal application may be counted as CE for the next licensure cycle. Prior to the expiration date of the current license, the licensee must submit written notification to the EMS Bureau of the intention to use those CE hours for the next licensure cycle. ( )

02. EMS Personnel License Expiration Date Falls on a Non-Work Day. When a license expiration date falls on a weekend, holiday, or other day the EMS Bureau is closed, the EMS Bureau will accept applications until the close of the next regular business day following the non-work day. (3-29-12)

(BREAK IN CONTINUITY OF SECTIONS)

131. REINSTATEMENT OF A LAPSED EMS PERSONNEL LICENSE.
An individual desiring to reinstate a lapsed personnel license must provide documentation that he meets the following requirements: (3-29-12)

01. Declaration of Previous Applications and Licensures. A reinstatement candidate must declare each state or jurisdiction in which he has applied for, been denied, or held an EMS license or certification. (3-29-12)

02. Authorization for Release of Information. A reinstatement candidate must provide authorization for the EMS authority in other states or jurisdictions to release the candidate's registration, licensure, and certification information to the Idaho EMS Bureau. (3-29-12)

03. Provide Current Affiliation with EMS Agency. A reinstatement candidate must declare all organizations in which they are allowed to practice as licensed personnel. The candidate must have a current affiliation with a licensed EMS agency that functions at, or above, the level of licensure being sought by the candidate. (3-29-12)

04. Documentation of Continuing Education for Lapsed License Reinstatement. A candidate for reinstatement of a lapsed license must provide documentation of continuing education consistent with the license holder's lapsed license. Continuing education requirements are provided in Sections 300 through 3~~3~~25 of these rules. The time frame for meeting the continuing education requirements for reinstatement are as follows: ~~(3-29-12)~~( )

a. The candidate must meet continuing education requirements under Sections 320 through 3~~3~~25 of these rules for the last valid licensure cycle; and ~~(3-29-12)~~( )

b. Additional continuing education hours in any combination of categories and venues, proportionate to the amount of time since the expiration date of the lapsed license, as follows: (3-29-12)

i. EMR -- Three-quarters (3/4) of one (1) hour of continuing education per month of lapsed time. (3-29-12)

ii. EMT -- One and one-half (1 ½) hours of continuing education per month of lapsed time. (3-29-12)

iii. AEMT -- Two and one-quarter (2 ¼) hours of continuing education per month of lapsed time. (3-29-12)

iv. Paramedic -- Three (3) hours of continuing education per month of lapsed time. (3-29-12)

05. Valid Identification for Reinstatement of Lapsed License. A reinstatement candidate must have a valid state driver's license, an Idaho identification card which is issued by a county driver's license examining station, or identification card issued by the Armed Forces of the United States. (3-29-12)

06. Criminal History and Background Check for Reinstatement of Lapsed License. A reinstatement candidate must successfully complete a criminal background check under the provisions in IDAPA 16.05.06, "Criminal History and Background Checks." Denial without the grant of an exemption under IDAPA 16.05.06 will result in denial of reinstatement of licensure. (3-29-12)

07. Pass Standardized Examination for Reinstatement. A reinstatement candidate must successfully complete the standardized examination for the lapsed level of licensure required under IDAPA 16.0~~2~~1.0~~3~~5, "Emergency Medical Services (EMS) -- Education, Instructor, and Examination Requirements." A candidate for reinstatement must successfully complete the standardized ~~certification~~ examination within the time period during which the license was lapsed. ~~(3-29-12)~~(____)

08. Standardized Exam Attempts For Reinstatement. A candidate for licensure reinstatement is allowed to attempt to successfully pass the standardized exam as follows: (3-29-12)

a. An EMR candidate is allowed three (3) attempts to pass the exam, after which the initial EMR course must be successfully completed again before another three (3) attempts are allowed. (3-29-12)

b. An EMT candidate is allowed three (3) attempts to pass the exam, after which twenty-four (24) hours of remedial education must be successfully completed before another three (3) attempts are allowed. (3-29-12)

c. An AEMT candidate is allowed three (3) attempts to pass the exam, after which thirty-six (36) hours of remedial education must be successfully completed before another three (3) attempts are allowed. (3-29-12)

d. A Paramedic candidate is allowed three (3) attempts to pass the exam, after which forty-eight (48) hours of remedial education must be successfully completed before another three (3) attempts are allowed. (3-29-12)

09. Submit Required Licensure Fee for Reinstatement. A candidate must submit the applicable reinstatement license fee provided in Section 111 of these rules. A candidate for reinstatement of an EMR or EMT level of licensure has no fee requirement. (3-29-12)

10. Expiration Date of a Reinstated License. The expiration date for a lapsed license that is reinstated is determined as provided in Section 115 of these rules. (3-29-12)

11. Reinstatement During Transition. A candidate may reinstate his lapsed license only if he has completed transition requirements for his level of licensure. Education obtained in a transition course may be used to meet the CEU requirements for reinstatement according to Section 300 of these rules. (3-29-12)

132. -- 139. (RESERVED)

140. RECOGNITION OF REGISTRATION, CERTIFICATION OR LICENSURE FROM OTHER JURISDICTIONS.

01. EMS Personnel Licensed or Certified in Other States. An individual, possessing an EMS personnel license or certification from a state other than Idaho, must have prior recognition or reciprocity granted by the EMS Bureau prior to providing emergency medical care in Idaho. The following applies: (3-29-12)

a. An individual certified or licensed in a state that has an interstate compact with Idaho that allows reciprocal recognition of EMS personnel may practice as licensed personnel as defined in the interstate compact. (3-29-12)

b. An individual who is currently licensed or certified by another ~~S~~state to provide emergency medical care can apply to the EMS Bureau for limited recognition to practice in Idaho~~. Limited recognition does not grant an individual the ability to practice outside of those specified and approved by the EMS Bureau.~~ as provided in Subsection 140.02 of this rule. ~~(3-29-12)~~(____)

02. Limited Recognition in Idaho. An individual, who is currently licensed or certified by another state to provide emergency medical care and applies to practice EMS within the confines of a specific incident, may be granted limited recognition by the EMS Bureau. Limited recognition allows an individual to practice EMS in Idaho only within the confines of the specific incident for which it was issued and only for a specified period of time not to exceed the duration of the incident for which it was issued. (____)

~~e~~03. Personnel with NREMT Registration or Current EMS Certification. An individual, possessing a current NREMT registration or a current EMS certification or license from another state at or above the level of licensure they are seeking in Idaho, is eligible for an Idaho EMS personnel licensure if they satisfy the requirements in Section 110 of these rules ~~prior to providing emergency medical care in Idaho~~. ~~(3-29-12)~~(____)

0~~2~~4. **Personnel Licensure Candidate Trained in Other States.** A candidate trained outside of Idaho must apply for and obtain an Idaho EMS license as required in Section 110 of these rules prior to providing emergency medical care in Idaho. A declaration that the candidate is fully eligible for EMS licensure in the state in which he was trained, must be obtained from the EMS licensing authority in that state and submitted to the EMS Bureau. (3-29-12)

~~03. **Individual With a NREMT Registration.** An individual possessing only a registration with the National Registry of Emergency Medical Technicians (NREMT) must obtain an Idaho EMS personnel license as required in Section 110 of these rules prior to providing emergency medical care in Idaho. (3-29-12)~~

(BREAK IN CONTINUITY OF SECTIONS)

300. CONTINUING EDUCATION AND SKILLS PROFICIENCY.

01. **Continuing Education Must Meet Objectives of Initial Course Curriculum.** All continuing education and skills proficiency assurance must be consistent with the objectives of the initial course curriculum or be a logical progression of those objectives. (3-29-12)

02. **Documentation of Continuing Education.** Licensed personnel must maintain documentation of all continuing education as follows: (3-29-12)

a. An EMR and EMT must maintain documentation of continuing education for four (4) years. (3-29-12)

b. An AEMT and Paramedic must maintain documentation of continuing education for three (3) years. (3-29-12)

03. **Transition to New Scope of Practice.** Education required to transition to a new scope of practice must meet the following: (3-29-12)

a. Within the same level of licensure, all transition education may count on an hour-for-hour basis in the appropriate categories within a single venue. When transition education hours exceed seventy-five percent (75%) of the total continuing education hours required, all continuing education hours can be in a single venue; and (3-29-12)

b. Education must be completed during a single license duration. (3-29-12)

~~04~~301. **CONTINUING EDUCATION RECORDS ARE SUBJECT TO AUDIT.** The EMS Bureau reserves the right to audit continuing education records to verify that renewal requirements have been met. (3-29-12)

01. Documentation Record. All documentation for continuing education hours must include: (____)

a. Name of attendee; (____)

b. Date education was completed; and (____)

c. Education sponsor or instructor. (____)

02. **Proof of Completion**. The following are acceptable formats for proof of completion of continuing education: ( )

a. Signed course roster; ( )

b. Certificate of completion; ( )

c. Electronic verification of completion of on-line course; ( )

d. Verification of attendance from EMS conference; ( )

e. Verification or proof of providing instruction; or ( )

f. Agency training record validated by agency administrator. ( )

30~~1~~2. -- 304. **(RESERVED)**

305. **CONTINUING EDUCATION CATEGORIES FOR PERSONNEL LICENSURE RENEWAL.**

01. ~~*Pediatric Assessment and Management*~~ Airway. ~~(3-29-12)~~( )

02. ~~*Anatomy and Physiology*~~ Cardiovascular. ~~(3-29-12)~~( )

03. ~~*Medical Terminology*~~ Trauma. ~~(3-29-12)~~( )

04. ~~*Pathophysiology*~~ Medical. ~~(3-29-12)~~( )

05. ~~*Life Span Development*~~ Operations. ~~(3-29-12)~~( )

06. ~~*Public Health*~~ Pediatrics. ~~(3-29-12)~~( )

~~07. *Pharmacology.*~~ ~~(3-29-12)~~

~~08. *Airway Management, Ventilation, and Oxygenation.*~~ ~~(3-29-12)~~

~~09. *Patient Assessment.*~~ ~~(3-29-12)~~

~~10. *Medical Conditions.*~~ ~~(3-29-12)~~

~~11. *Shock and Resuscitation.*~~ ~~(3-29-12)~~

~~12. *Trauma.*~~ ~~(3-29-12)~~

~~13. *Special Patient Populations. Such as bariatric, geriatric, obstetrics, pregnancy, etc.*~~ ~~(3-29-12)~~

~~14. *EMS Systems and Operations.*~~ ~~(3-29-12)~~

306. -- 309. **(RESERVED)**

310. **VENUES OF CONTINUING EDUCATION FOR PERSONNEL LICENSURE RENEWAL.** Continuing education for all personnel must include at least two (2) of the venues described in Subsections 310.01 through 310.12 of this rule for each licensure period. ( )

01. **Structured Classroom Sessions.** (3-29-12)

02. **Refresher Programs**. Refresher programs that revisit the original curriculum and have an evaluation component (3-29-12)

03. Nationally Recognized Courses. (3-29-12)

04. Regional and National Conferences. (3-29-12)

05. Teaching Continuing Education Topics. The continuing education topics being taught must fall under the categories in Section 305 of these rules. (3-29-12)

06. Agency Medical Director-Approved Self-Study or Directed Study. This venue is not allowed to be used for a certificate of eligibility continuing education requirement ~~*under Section 350 of these rules*~~. ~~*(3-29-12)*~~(____)

07. Case Reviews and Grand Rounds. (3-29-12)

08. Distributed Education. This venue includes distance and blended education using computer, video, audio, Internet, and CD resources (3-29-12)

09. Journal Article Review with an Evaluation Instrument. (3-29-12)

10. Author or Co-Author an EMS-Related Article in a Nationally Recognized Publication. ~~*The article must be published in an EMS-specific publication.*~~ ~~*(3-29-12)*~~(____)

11. Simulation Training. (____)

12. Evaluator at a State or National Psychomotor Exam. (____)

311. -- 319. (RESERVED)

320. ~~*EMR LEVEL*~~ LICENSE RENEWAL CONTINUING EDUCATION ~~*AND SKILLS PROFICIENCY*~~ REQUIREMENTS.

A~~*n EMR level*~~ license renewal candidate must provide documentation of the following continuing education hours provided in the table below during each licensure period. ~~*(3-29-12)*~~(____)

~~*01. EMR Level Continuing Education Hours Needed for License Renewal. A candidate must provide proof of successful completion of twenty-four (24) hours of continuing education. The types of continuing education courses and the number of hours required for EMR level licensure are:*~~ ~~*(3-29-12)*~~

~~*a. A minimum of two (2) hours in pediatrics;*~~ ~~*(3-29-12)*~~

~~*b. A minimum of three (3) hours in EMS Systems and Operations earned by completing state-approved Landing Zone Officer (LZO) and extrication awareness training. Continuing education hours are awarded as follows:*~~ ~~*(3-29-12)*~~

~~*i. For LZO training, two (2) hours in classroom presentation, or one (1) hour in distributed education;*~~ ~~*(3-29-12)*~~

~~*ii. For extrication awareness training, two (2) hours in classroom presentation, or one (1) hour in distributed education;*~~ ~~*(3-29-12)*~~

~~*c. Two (2) hours in six (6) categories other than pediatrics and EMS Systems and Operations listed in Section 305 of these rules, for twelve (12) continuing education hours; and*~~ ~~*(3-29-12)*~~

~~*d. Seven (7) hours of continuing education can be from any single category or combination of categories listed in Section 305 of these rules.*~~ ~~*(3-29-12)*~~

~~*02. Skills Proficiency for EMR Level License Renewal. A candidate must demonstrate proficiency in the skills necessary to provide safe and effective patient care at the EMR licensure level under the authority of IDAPA*~~

~~16.02.02, "Rules of the Idaho Emergency Medical Services Physician Commission," as follows:~~ ~~(3-29-12)~~

~~a. Recognize and manage acute traumatic and medical life threats or conditions based on patient assessment findings for pediatric, adult, geriatric, and special needs patients; and~~ ~~(3-29-12)~~

~~b. Specific skills for an EMR that includes:~~ ~~(3-29-12)~~

~~i. Airway, ventilation, and oxygenation;~~ ~~(3-29-12)~~

~~ii. Cardiovascular and circulation;~~ ~~(3-29-12)~~

~~iii. Immobilization;~~ ~~(3-29-12)~~

~~I. Medication administration;~~ ~~(3-29-12)~~

~~v. Normal childbirth;~~ ~~(3-29-12)~~

~~vi. Patient care reporting documentation; and~~ ~~(3-29-12)~~

~~vii. Safety and operations.~~ ~~(3-29-12)~~

TABLE 320 LICENSE RENEWAL CONTINUING EDUCATION (CE) REQUIREMENTS				
CE CATEGORIES	EMR 24 TOTAL CE Hours	EMT 48 TOTAL CE Hours	AEMT 54 TOTAL CE Hours	~~AEMT~~ PARAMEDIC ~~54~~ 72 TOTAL CE Hours
An individual must complete at least 1 hour of continuing education in each category.				
Airway, Respiration, and Ventilation	No more than 7 CE hours in any single category may be counted toward the total number of CE Hours needed for renewal.	No more than 14 CE hours in any single category may be counted toward the total number of CE Hours needed for renewal.	No more than 16 CE hours in any single category may be counted toward the total number of CE Hours needed for renewal.	No more than 22 CE hours in any single category may be counted toward the total number of CE Hours needed for renewal.
Cardiovascular				
Trauma				
Medical				
Operations: Landing Zone & Extrication Awareness				
Pediatrics	2 hours	4 hours	6 hours	~~6~~ 8 hours

( )

321. -- 324. (RESERVED)

325. ~~EMT LEVEL~~ LICENSE RENEWAL ~~CONTINUING EDUCATION AND~~ SKILLS PROFICIENCY REQUIREMENTS.

A~~n EMT level~~ license renewal candidate must ~~provide documentation of the following during each licensure period~~ demonstrate proficiency in the skills necessary to provide safe and effective patient care at the licensure level consistent with the scope of practice provided in IDAPA 16.02.02, "Rules of the Idaho Emergency Medical Services (EMS) Physician Commission." ~~(3-29-12)~~( )

~~01. **EMT Level Continuing Education Hours Needed for License Renewal.** A candidate must provide proof of successful completion of forty-eight (48) hours of continuing education. The types of continuing education courses and the number of hours needed for EMT level licensure are: (3-29-12)~~

~~a. A minimum of four (4) hours in pediatrics; (3-29-12)~~

~~b. A minimum of three (3) hours in EMS Systems and Operations earned by completing state-approved Landing Zone Officer (LZO) and extrication awareness training. Continuing education hours are awarded as follows: (3-29-12)~~

~~i. For LZO training, two (2) hours in classroom presentation, or one (1) hour in distributed education; (3-29-12)~~

~~ii. For extrication awareness training, two (2) hours in classroom presentation, or one (1) hour in distributed education; (3-29-12)~~

~~c. Four (4) hours in eight (8) categories other than pediatrics and EMS Systems and Operations listed in Section 305 of these rules for thirty-two (32) hours; and (3-29-12)~~

~~d. Nine (9) hours can be from any single category or combination of categories listed in Section 305 of these rules. (3-29-12)~~

~~02. **Venues Where Continuing Education May be Taken.** Continuing education for personnel licensed at the EMT level must include four (4) of the continuing education venues listed in Section 310 of these rules during each licensure period. (3-29-12)~~

~~03. **Skills Proficiency for EMT Level License Renewal.** A candidate must demonstrate proficiency in the skills necessary to provide safe and effective patient care at the EMT licensure level under the authority of IDAPA 16.02.02, "Rules of the Idaho Emergency Medical Services Physician Commission," as follows: (3-29-12)~~

~~a. Recognize and manage acute traumatic and medical life threats or conditions based on patient assessment findings for pediatric, adult, geriatric, and special needs patients; and (3-29-12)~~

~~b. Specific skills for an EMT that includes: (3-29-12)~~

~~i. Airway, ventilation, and oxygenation; (3-29-12)~~

~~ii. Cardiovascular and circulation; (3-29-12)~~

~~iii. Immobilization; (3-29-12)~~

~~iv. Medication administration; (3-29-12)~~

~~v. Normal and complicated childbirth; (3-29-12)~~

~~vi. Patient care reporting documentation; and (3-29-12)~~

~~vii. Safety and transport operations. (3-29-12)~~

~~326. -- 329. (RESERVED)~~

~~330. **AEMT LEVEL LICENSE RENEWAL CONTINUING EDUCATION AND SKILLS PROFICIENCY REQUIREMENTS.**~~
~~An AEMT license renewal candidate must provide documentation of the following during each licensure period: (3-29-12)~~

~~01. AEMT Level Continuing Education Hours Needed for License Renewal. A candidate must provide proof of successful completion of fifty-four (54) hours of continuing education. The types of continuing education courses and the number of hours needed for AEMT level licensure are:~~ ~~(3-29-12)~~

~~a. A minimum of six (6) hours in pediatrics;~~ ~~(3-29-12)~~

~~b. A minimum of three (3) hours in EMS Systems and Operations earned by completing state-approved Landing Zone Officer (LZO) and extrication awareness training. Continuing education hours are awarded as follows:~~ ~~(3-29-12)~~

~~i. For LZO training, two (2) hours in classroom presentation, or one (1) hour in distributed education;~~ ~~(3-29-12)~~

~~ii. For extrication awareness training, two (2) hours in classroom presentation, or one (1) hour in distributed education;~~ ~~(3-29-12)~~

~~c. Four (4) hours in nine (9) categories other than pediatrics and EMS Systems and Operations listed in Section 305 of these rules, for thirty-six (36) hours; and~~ ~~(3-29-12)~~

~~d. Nine (9) hours of continuing education can be from any single category or combination of categories listed in Section 305 of these rules.~~ ~~(3-29-12)~~

~~02. Venues Where Continuing Education for AEMT License Renewal May be Taken. Continuing education for personnel licensed at the AEMT level must include four (4) of the continuing education venues listed in Section 310 of these rules during each licensure period.~~ ~~(3-29-12)~~

~~03. Skills Proficiency for AEMT Level License Renewal. A candidate must demonstrate proficiency in the skills necessary to provide safe and effective patient care at the AEMT licensure level under the authority of IDAPA 16.02.02, "Rules of the Idaho Emergency Medical Services Physician Commission," as follows:~~ ~~(3-29-12)~~

~~a. Recognize and manage acute traumatic and medical life threats or conditions based on patient assessment findings for pediatric, adult, geriatric, and special needs patients; and~~ ~~(3-29-12)~~

~~b. Specific skills for an AEMT that includes:~~ ~~(3-29-12)~~

~~i. Advanced airway, ventilation, and oxygenation;~~ ~~(3-29-12)~~

~~ii. Cardiovascular and circulation;~~ ~~(3-29-12)~~

~~iii. Immobilization;~~ ~~(3-29-12)~~

~~iv. Medication administration;~~ ~~(3-29-12)~~

~~v. Normal and complicated childbirth;~~ ~~(3-29-12)~~

~~vi. Patient care reporting documentation;~~ ~~(3-29-12)~~

~~vii. Safety and transport operations; and~~ ~~(3-29-12)~~

~~viii. Vascular access.~~ ~~(3-29-12)~~

~~331. – 334. (RESERVED)~~

~~335. PARAMEDIC LEVEL LICENSE RENEWAL CONTINUING EDUCATION AND SKILLS PROFICIENCY REQUIREMENTS.~~
~~A paramedic license renewal candidate must provide documentation of the following during each licensure period.~~ ~~(3-29-12)~~

~~01. **Paramedic Level Continuing Education Hours Needed for License Renewal.** A candidate must provide proof of successful completion of seventy-two (72) hours of continuing education. The types of continuing education courses and the number of hours needed for paramedic level licensure are: (3-29-12)~~

~~a. A minimum of eight (8) hours in pediatrics; (3-29-12)~~

~~b. A minimum of three (3) hours in EMS Systems and Operations earned by completing state-approved Landing Zone Officer (LZO) and extrication awareness training. Continuing education hours are awarded as follows: (3-29-12)~~

~~i. For LZO training, two (2) hours in classroom presentation, or one (1) hour in distributed education; (3-29-12)~~

~~ii. For extrication awareness training, two (2) hours in classroom presentation, or one (1) hour in distributed education; (3-29-12)~~

~~c. Four (4) hours in eleven (11) categories other than pediatrics and EMS Systems and Operations listed in Section 305 of these rules, for forty-four (44) hours; and (3-29-12)~~

~~d. Seventeen (17) hours can be from any single category or a combination of categories listed in Section 305 of these rules. (3-29-12)~~

~~02. **Venues Where Continuing Education for Paramedic Level License Renewal May be Taken.** Continuing education for personnel licensed at the paramedic level must include six (6) of the continuing education venues listed in Section 310 of these rules during each licensure period. (3-29-12)~~

~~03. **Skills Proficiency for Paramedic Level License Renewal.** A candidate must demonstrate proficiency in the skills necessary to provide safe and effective patient care at the Paramedic licensure level under the authority of IDAPA 16.02.02, "Rules of the Idaho Emergency Medical Services Physician Commission," as follows: (3-29-12)~~

~~a. Recognize and manage acute traumatic and medical life threats or conditions based on patient assessment findings for pediatric, adult, geriatric, and special needs patients; and (3-29-12)~~

~~b. Specific skills for a Paramedic that includes: (3-29-12)~~

~~i. Advanced airway, ventilation, and oxygenation, to include endotracheal intubation; (3-29-12)~~

~~ii. Cardiovascular and circulation, to include cardiac rhythm interpretation; (3-29-12)~~

~~iii. Immobilization; (3-29-12)~~

~~iv. Medication administration, to include parenteral drug administration; (3-29-12)~~

~~v. Normal and complicated childbirth; (3-29-12)~~

~~vi. Patient care reporting documentation; (3-29-12)~~

~~vii. Safety and transport operations; (3-29-12)~~

~~viii. Vascular access; and (3-29-12)~~

~~ix. Manual defibrillation. (3-29-12)~~

~~336. – 349. (RESERVED)~~

~~350. CONTINUING EDUCATION AND SKILLS PROFICIENCY FOR RENEWAL OF CERTIFICATE OF ELIGIBILITY REQUIREMENTS.~~
~~A certificate of eligibility renewal candidate must provide documentation demonstrating completion of the following during each period of eligibility.~~ ~~(3-29-12)~~

~~01. Examination. A candidate must have successfully completed the standardized examination designated by the EMS Bureau for the certificate of eligibility.~~ ~~(3-29-12)~~

~~02. Continuing Education for Certificate of Eligibility Licensure Level. A candidate must provide proof of successful completion of continuing education hours for the types of continuing education courses, the number of hours needed for a specific certificate of eligibility licensure level, and in the venues as required for the following:~~ ~~(3-29-12)~~

~~a. EMR licensure level renewal required in Section 320 of these rules.~~ ~~(3-29-12)~~

~~b. EMT licensure level renewal required in Section 325 of these rules.~~ ~~(3-29-12)~~

~~c. AEMT licensure level renewal required in Section 330 of these rules.~~ ~~(3-29-12)~~

~~d. Paramedic licensure level renewal required in Section 335 of these rules.~~ ~~(3-29-12)~~

~~351. -- 399. (RESERVED)~~

~~400. INVESTIGATION OF COMPLAINTS FOR PERSONNEL LICENSING VIOLATIONS.~~
~~Investigation of complaints and disciplinary actions for personnel licensing are provided under IDAPA 16.01.12, "Emergency Medical Services (EMS) - Complaints, Investigations, and Disciplinary Actions."~~ ~~(3-29-12)~~

~~401. ADMINISTRATIVE LICENSE OR CERTIFICATION ACTION.~~
~~Any license or certification may be suspended, revoked, denied, or retained with conditions for noncompliance with any standard or rule. Administrative license or certification actions imposed by the EMS Bureau for any action, conduct, or failure to act which is inconsistent with the professionalism, or standards, or both, are provided under Sections 56-1011 through 56-1023, Idaho Code, and IDAPA 16.01.12, "Emergency Medical Services (EMS) - Complaints, Investigations, and Disciplinary Actions."~~ ~~(3-29-12)~~

~~402~~326. -- 999. (RESERVED)

COMMENTS

IDAHO DEPARTMENT OF
HEALTH & WELFARE

C.L. "BUTCH" OTTER – Governor
RICHARD M. ARMSTRONG – Director

TAMARA PRISOCK – Division Administrator
DIVISION OF LICENSING AND CERTIFICATION
Administrative Rules Unit
450 West State Street, 10th Floor
P.O. Box 83720
Boise, Idaho 83720-0036
PHONE 208-334-5500
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DHWRules@dhw.idaho.gov

LIST OF EXHIBITS

Proposed Rule

EMERGENCY MEDICAL SERVICES (EMS) - PERSONNEL LICENSING REQUIREMENTS

Docket Number: 16-0107-1502

Deadline for Comment: August 26, 2015

EXHIBIT NO.	SUBMITTED BY	DESCRIPTION	NO. PAGES
1	Legislative Services Office Elizabeth Bowen, Leg. Research Analyst Statehouse PO Box 83720 Boise, ID 83720-0054	Memorandum	2
2	Public Hearing - Webinar August 11, 2015	Sign-In Sheet	1
3	Legislative Services Office Elizabeth Bowen, Leg. Research Analyst Statehouse PO Box 83720 Boise, ID 83720-0054	Letter	2

Legislative Services Office
Idaho State Legislature

Eric Milstead
Director

Serving Idaho's Citizen Legislature

MEMORANDUM

TO: Rules Review Subcommittee of the Senate Health & Welfare Committee and the House Health & Welfare Committee

FROM: Legislative Research Analyst - Elizabeth Bowen

DATE: August 10, 2015

SUBJECT: Department of Health and Welfare

IDAPA 16.01.01 - EMS Services - Advisory Committee - Proposed Rule (Docket No. 16-0101-1501)

IDAPA 16.01.02 - Emergency Medical Services (EMS) - Rule Definitions - Proposed Rule (Docket No. 16-0102-1501)

IDAPA 16.01.03 - EMS Agency Licensing Requirements - Proposed Rule (Docket No. 16-0103-1501)

IDAPA 16.01.05 - EMS Education, Instructor, and Examination Requirements - Proposed Rule (Docket No. 16-0105-1501)

IDAPA 16.01.07 - EMS - Personnel Licensing Requirements - Vacation of Proposed Rulemaking (Docket No. 16-0107-1501)

IDAPA 16.01.07 - EMS- Personnel Licensing Requirements - Proposed Rule (Docket No. 16-0107-1502)

IDAPA 16.01.12 - EMS - Complaints, Investigations, and Disciplinary Actions - Proposed Rule (Docket No. 16-0112-1501)

The Department of Health and Welfare submits notice of proposed rulemaking at IDAPA 16.01.01, 16.01.02, 16.01.03, 16.01.05, 16.01.07, and 16.01.12.

1. IDAPA 16.01.01

The proposed rule adds a reference to a new rule, IDAPA 16.01.05, discussed below. Additionally, the proposed rule incorporates certain provisions from another rule, IDAPA 16.02.03, that is being repealed. Negotiated rulemaking was conducted. The Department states that the proposed rule is consistent with the rulemaking authority granted by Section 56-1023, Idaho Code. There is no anticipated fiscal impact to the state general fund.

2. IDAPA 16.01.02

The proposed rule updates an existing rule to reflect recent changes made to statutes and rules relating to emergency medical services (EMS). Specifically, the proposed rule includes several definitions of terms relating to education, evaluation, and paramedicine. Negotiated rulemaking was conducted. The Department states that the proposed rule is consistent with the rulemaking authority granted by Section 56-1023, Idaho Code. There is no anticipated fiscal impact to the state general fund.

3. IDAPA 16.01.03

The proposed rule amends existing EMS agency licensing requirements to be consistent with changes to statutes and rules relating to EMS. Provisions relating to record-keeping by EMS agencies have also been incorporated into the proposed rule. Negotiated rulemaking was conducted for related rules but not specifically for this rule. The Department states that the proposed rule is consistent with the rulemaking authority granted by Sections 56-1011 through 56-1023, Idaho Code. There is no anticipated fiscal impact to the state general fund.

4. IDAPA 16.01.05

The proposed rule provides updated education, instruction, and examination requirements for EMS personnel. The proposed rule replaces the education requirements found in IDAPA 16.02.03, which is being repealed. Negotiated rulemaking was conducted. The Department states that the proposed rule is consistent with the rulemaking authority granted by Section 56-1023, Idaho Code. There is no anticipated fiscal impact to the state general fund.

5. IDAPA 16.01.07

(a) Docket 16-0107-1501 -- This proposed rulemaking is being vacated in favor of the docket in (b) below.

(b) Docket 16-0107-1502 -- The proposed rule amends licensing requirements for EMS personnel to be consistent with the proposed rule at IDAPA 16.01.05, discussed above. The proposed rule also incorporates provisions from a rule, IDAPA 16.02.03, that is being repealed. Negotiated rulemaking was not conducted; however, the Department states that it has met with stakeholders around the state to discuss the rule. The proposed rule is based on concerns voiced during those meetings. According to the Department, the proposed rule is consistent with the rulemaking authority granted by Sections 56-1011 through 56-1023, Idaho Code. There is no anticipated fiscal impact to the state general fund.

6. IDAPA 16.01.12

The proposed rule amends existing language to be consistent with the proposed rule at IDAPA 16.01.05, discussed above. Negotiated rulemaking was not specifically conducted for this rule but was conducted for related rules. The Department states that the changes in this rule are being made for the sake of clarity. According to the Department, the proposed rule is consistent with the rulemaking authority granted by Sections 56-1011 through 56-1023, Idaho Code. There is no anticipated fiscal impact to the state general fund.

cc: Department of Health and Welfare
Tamara Prisock

PUBLIC HEARING
Idaho Department of Health and Welfare

*****Please Sign In*****

CHAPTER: EMS chapters: 16.01.01, 16.01.02, 16.01.03, 16.01.05, 16.01.07, 16.01.12
DOCKET NOs.: 16-0101-1501, 16-0102-1501, 16-0103-1501, 16-0105-1501 , 16-0107-1502, and 16-0112-1501

DATE: Tuesday, August 11, 2015
TIME: 10am MDT
LOCATION: 2224 East Penitentiary Road, Boise, ID 83712 (also available by webinar)
*Please provide a written copy of your comments for the official record on this rulemaking, if possible.

NAME (Please Print)	ADDRESS / E-MAIL	ORGANIZATION REPRESENTED	DO YOU WISH TO TESTIFY?
No attendees			
Mtg started 10:20am			
Closed 10:50am			
No one joined on Webinar			
No statement was read.			
No digital audio			

Legislative Services Office
Idaho State Legislature

Serving Idaho's Citizen Legislature

Eric Milstead
Director

August 27, 2015

Tamara Prisock
Admin. Procedures Section
Department of Health and Welfare
PO Box 83720
Boise, ID 83720-0036

Dear Tamara Prisock:

The Senate and House Subcommittees for review of administrative rules have reviewed the proposed changes to the Department of Health and Welfare rules:

IDAPA 16.01.01 - EMS Services - Advisory Committee - Proposed Rule - Docket No. 16-0101-1501

IDAPA 16.01.02 - Emergency Medical Services (EMS) - Rule Definitions - Proposed Rule - Docket No. 16-0102-1501

IDAPA 16.01.03 - EMS Agency Licensing Requirements - Proposed Rule - Docket No. 16-0103-1501

IDAPA 16.01.05 - EMS Education, Instructor, and Examination Requirements - Proposed Rule - Docket No. 16-0105-1501

IDAPA 16.01.07 - EMS - Personnel Licensing Requirements - Vacation of Proposed Rulemaking - Docket No. 16-0107-1501

IDAPA 16.01.07 - EMS- Personnel Licensing Requirements - Proposed Rule - Docket No. 16-0107-1502

IDAPA 16.01.12 - EMS - Complaints, Investigations, and Disciplinary Actions - Proposed Rule - Docket No. 16-0112-1501

No meeting will be held, and we are pleased to report that no objections will be filed.

Sincerely yours,

Elizabeth Bowen

Mike Nugent, Manager
Research & Legislation

Cathy Holland-Smith, Manager
Budget & Policy Analysis

April Renfro, Manager
Legislative Audits

Glenn Harris, Manager
Information Technology

Statehouse, P.O. Box 83720
Boise, Idaho 83720–0054

Tel: 208–334–2475
www.legislature.idaho.gov

Elizabeth Bowen
Legislative Research Analyst

ELB/jk

cc:

ATTACHMENT 10

IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE

16.01.12 - EMERGENCY MEDICAL SERVICES (EMS) -- COMPLAINTS, INVESTIGATIONS, AND DISCIPLINARY ACTIONS

DOCKET NO. 16-0112-1501

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2016 Idaho State Legislature for final approval. In accordance with Section 67-5224(5)(a) and (b), Idaho Code, as specified here in this notice the pending rule becomes final and effective on July 1, 2016, after review by the legislature, unless the rule is approved or rejected in part by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is affected by concurrent resolution, the concurrent resolution shall specify the date.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section 56-1023, Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change.

These rules are adopted to align with a new chapter of rules that provides the education, instructor, and examination standards an individual must meet to be a licensed EMS provider in Idaho. These rules include additions and references to rules from IDAPA 16.02.03, "Emergency Medical Services," a chapter being repealed, and to the new chapter IDAPA 16.01.05, "Emergency Medical Services (EMS) -- Education, Instructors, and Examination Requirements." Updates have been made to align these rules with the agency and personnel licensing requirements that provide clarity for enforcement actions that can be taken. Language for professional standards has been removed from this chapter and placed in the appropriate licensing chapter.

No changes are being made in the pending rule and these rules are adopted as published in the original proposed rules. The complete text of the proposed rule was published in the August 5, 2015, Idaho Administrative Bulletin, Vol. 15-8, pages 89 through 98.

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars ($10,000) during the fiscal year as a result of this rulemaking:

The Emergency Medical Services (EMS) program is funded through dedicated funds. This rulemaking has no fiscal impact to those funds or to the state general fund. This rulemaking is intended to be cost-neutral.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Bruce Cheeseman at (208) 334-4000.

DATED this _____ day of _____, 2015.

Tamara Prisock
DHW - Administrative Rules Unit
450 W. State Street - 10th Floor
P.O. Box 83720
Boise, ID 83720-0036
(208) 334-5500 phone; (208) 334-6558 fax
E-mail: **dhwrules@dhw.idaho.gov**

THE FOLLOWING IS THE PENDING TEXT FOR DOCKET NO. 16-0112-1501
(Only those Sections being amended are shown.)

001. TITLE AND SCOPE.

01. Title. The title of these rules is IDAPA 16.01.12, "Emergency Medical Services (EMS) -- Complaints, Investigations, and Disciplinary Actions." (3-29-12)

02. Scope. These rules provide for the management of complaints, investigations, enforcement, and disciplinary actions by the EMS Bureau for personnel and agency licensure and certification, and educational programs and instructor approval. ~~(3-29-12)~~(____)

(BREAK IN CONTINUITY OF SECTIONS)

110. REPORTING SUSPECTED VIOLATION.

01. Suspected Violations. Any person may report a suspected violation of any law or rule governing EMS~~, *including:*~~. ~~(7-1-14)~~(____)

~~*a. Sections 56-1011 through 56-1023, Idaho Code;* (7-1-14)~~

~~*b. IDAPA 16.02.02, "Rules of the Idaho Emergency Medical Services (EMS) Physician Commission";* (7-1-14)~~

~~*c. IDAPA 16.01.03, "Emergency Medical Services (EMS) -- Agency Licensing Requirements";* (7-1-14)~~

~~*d. IDAPA 16.01.07, "Emergency Medical Services (EMS) -- Personnel Licensing Requirements"; or* (7-1-14)~~

~~*e. IDAPA 16.02.03, "Emergency Medical Services."* (7-1-14)~~

02. Report Violation. To report a suspected violation, contact the EMS Bureau described in Section 005 of these rules. (7-1-14)

(BREAK IN CONTINUITY OF SECTIONS)

200. EMS BUREAU INITIATES OFFICIAL INVESTIGATION.
An official investigation will be initiated when the any of the following occurs: (3-29-12)

01. Complaint with Allegations. A complaint with an allegation that, if substantiated, would be in violation of any law or rule governing EMS~~, *including:*~~. ~~(7-1-14)~~(____)

~~*a. Sections 56-1011 through 56-1023, Idaho Code;* (7-1-14)~~

~~*b. IDAPA 16.01.03, "Emergency Medical Services (EMS) -- Agency Licensing Requirements";* (7-1-14)~~

~~*c. IDAPA 16.01.07, "Emergency Medical Services (EMS) -- Personnel Licensing Requirements";* (7-1-14)~~

~~*d. IDAPA 16.01.12, "Emergency Medical Services (EMS) -- Complaints, Investigations, and Disciplinary Actions";* (7-1-14)~~

~~*e. IDAPA 16.02.02, "Rules of the Idaho Emergency Medical Services (EMS) Physician Commission";*~~

~~*or*~~ ~~(7-1-14)~~

~~*f.*~~ ~~*IDAPA 16.02.03, "Emergency Medical Services."*~~ ~~(7-1-14)~~

02. Discovery of Potential Violation of Statute or Administrative Rule. EMS Bureau staff or other authorities discover a potential violation of any law or rule governing EMS~~, *including:*~~. ~~(7-1-14)~~(____)

~~*a.*~~ ~~*Sections 56-1011 through 56-1023, Idaho Code;*~~ ~~(7-1-14)~~

~~*b.*~~ ~~*IDAPA 16.01.03, "Emergency Medical Services (EMS) -- Agency Licensing Requirements";*~~ ~~(7-1-14)~~

~~*c.*~~ ~~*IDAPA 16.01.07, "Emergency Medical Services (EMS) -- Personnel Licensing Requirements";*~~ ~~(7-1-14)~~

~~*d.*~~ ~~*IDAPA 16.01.12, "Emergency Medical Services (EMS) -- Complaints, Investigations, and Disciplinary Actions";*~~ ~~(7-1-14)~~

~~*e.*~~ ~~*IDAPA 16.02.02, "Rules of the Idaho Emergency Medical Services (EMS) Physician Commission";*~~ ~~(7-1-14)~~

~~*or*~~

~~*f.*~~ ~~*IDAPA 16.02.03, "Emergency Medical Services."*~~ ~~(7-1-14)~~

201. -- 209. (RESERVED)

210. VIOLATIONS THAT MAY RESULT IN ADMINISTRATIVE ACTIONS.
The EMS Bureau may impose ~~*an*~~ administrative actions, ~~*such as*~~ including denial, revocation, suspension, or retention under conditions ~~*that include, but are not limited to, those*~~ specified in Sections 300 through 399 of these rules. Administrative actions may be imposed on any of the following: the holder of, or an applicant or candidate for, an EMS license, ~~*or*~~ certificate, education program approval, or recognition ~~*or on an applicant or candidate for an EMS license or certificate*~~. Administrative actions may be imposed on any of the previously mentioned for any action, conduct, or failure to act that is inconsistent with the professionalism, standards, or both, established by statute or rule. ~~(3-29-12)~~(____)

~~*01.*~~ ~~*Violation of Statute or Administrative Rules.*~~ ~~(3-29-12)~~

~~*a.*~~ ~~*Sections 56-1011 through 56-1023, Idaho Code;*~~ ~~(3-29-12)~~

~~*b.*~~ ~~*IDAPA 16.01.03, "Emergency Medical Services (EMS) -- Agency Licensing Requirements";*~~ ~~(7-1-14)~~

~~*c.*~~ ~~*IDAPA 16.01.07, "Emergency Medical Services (EMS) -- Personnel Licensing Requirements";*~~ ~~(7-1-14)~~

~~*d.*~~ ~~*IDAPA 16.01.12, "Emergency Medical Services (EMS) -- Complaints, Investigations, and Disciplinary Actions";*~~ ~~(7-1-14)~~

~~*e.*~~ ~~*IDAPA 16.02.02, "Rules of the Idaho Emergency Medical Services (EMS) Physician Commission";*~~ ~~(7-1-14)~~

~~*and*~~

~~*f.*~~ ~~*IDAPA 16.02.03, "Emergency Medical Services."*~~ ~~(7-1-14)~~

~~*02.*~~ ~~*Unprofessional Conduct. Any act that violates professional standards required under IDAPA 16.01.07, "EMS -- Personnel Licensure Requirements."*~~ ~~(3-29-12)~~

~~*03.*~~ ~~*Failure to Maintain Standards of Knowledge, Proficiency, or Both. Failure to maintain standards of knowledge, or proficiency, or both, required under:*~~ ~~(7-1-14)~~

~~*a.* *IDAPA 16.01.07, "Emergency Medical Services (EMS) -- Personnel Licensure Requirements"; and* *(7-1-14)*~~

~~*b.* *IDAPA 16.02.02, "Rules of the Idaho Emergency Medical Services (EMS) Physician Commission."* *(7-1-14)*~~

~~*04.* ***Mental Incompetency.*** *A lawful finding of mental incompetency by a court of competent jurisdiction.* *(3-29-12)*~~

~~*05.* ***Impairment of Function.*** *Performance of duties pursuant to an EMS personnel license while under the influence of alcohol, illegal substance, or legal drug or medication causing impairment of function.* *(3-29-12)*~~

~~*06.* ***Denial of Criminal History Clearance.*** *Any conduct, action, or conviction that does or would result in denial of a criminal history clearance under IDAPA 16.05.06, "Criminal History and Background Checks."* *(3-29-12)*~~

~~*07.* ***Discipline, Restriction, Suspension, or Revocation.*** *Discipline, restriction, suspension, or revocation by any other jurisdiction.* *(3-29-12)*~~

~~*08.* ***Danger or Threat to Persons or Property.*** *Any conduct, condition, or circumstance determined by the EMS Bureau that constitutes a danger or threat to the health, safety, or well-being of persons or property.* *(3-29-12)*~~

~~*09.* ***Performing Medical Procedure or Providing Medication that Exceeds the Scope of Practice of the Level of Licensure.*** *Performing any medical procedure or providing medication that deviates from or exceeds the scope of practice for the corresponding level of licensure established under IDAPA 16.02.02, "Rules of the Idaho Emergency Medical Services (EMS) Physician Commission."* *(3-29-12)*~~

~~*10.* ***Falsification of Applications or Reports.*** *The submission of fraudulent or false information in any report, application, or documentation to the EMS Bureau.* *(3-29-12)*~~

~~*11.* ***Attempting to Obtain a License by Means of Fraud.*** *Misrepresentation in an application, or documentation, for licensure by means of concealment of a material fact.* *(3-29-12)*~~

(BREAK IN CONTINUITY OF SECTIONS)

240. INVESTIGATION CONFIDENTIALITY.

01. Informal Resolution. Informal resolution of complaints or non-compliance by guidance or ~~*warning letter*~~ negotiated resolution is ~~*considered official correspondence and is*~~ not public information. ~~*(3-29-12)*~~(____)

02. Administrative License Action. Preliminary investigations and documents supplied or obtained in connection with them are confidential until a formal notice of administrative license action is issued. (3-29-12)

(BREAK IN CONTINUITY OF SECTIONS)

300. ~~*PERSONNEL*~~ ACTIONS RESULTING FROM INVESTIGATIONS.
The following actions may be imposed upon the subject of an investigation by the EMS Bureau without peer review: ~~*(3-29-12)*~~(____)

01. ~~*Personnel*~~ Letter of Guidance. The EMS Bureau may issue a letter of guidance, directing the subject of the investigation to the standards, rules, educational resources, or local jurisdiction for resolution of minor

non-compliance issues where no injury or threat of harm to the public, profession, or EMS system occurred. The subject of the investigation must show a willingness to become compliant and correct the issue within thirty (30) days of receipt of the personnel guidance letter. ~~(3-29-12)~~(____)

02. ~~*Personnel*~~ **Warning Letter**. The EMS Bureau may issue a warning letter for a first offense where an unlicensed individual is providing patient care in violation of Section 56-1020, Idaho Code~~; or~~. ~~(3-29-12)~~(____)

03. **Negotiated Resolution**~~*for Personnel*~~. The EMS Bureau may negotiate a resolution with the subject of an investigation where allegations of misconduct or medical scope of practice non-compliance, if found to be true, did not cause, or is not likely to cause, injury or harm to the public, profession, or EMS system. The issue must be resolved and corrected within thirty (30) days of the negotiated resolution or settlement agreed to by both the subject of the investigation and the EMS Bureau. ~~(3-29-12)~~(____)

a. Negotiated resolution participants will include the subject of the investigation, EMS Bureau staff and other parties deemed appropriate by the EMS Bureau. (3-29-12)

b. During the negotiated resolution process, the subject of the investigation may be offered specific remediation or disciplinary action by consent, which, if agreed to, will resolve the matter with no further right to appeal unless stipulated and agreed to at the time that the remediation or disciplinary action is agreed upon.(3-29-12)

c. When the remediation or disciplinary action is not agreed to by consent of both the subject of the investigation and the EMS Bureau, the matter may then be referred to a peer review. (3-29-12)

~~*301. -- 309.*~~ ~~*(RESERVED)*~~

~~*310.*~~ ~~*AGENCY ACTIONS RESULTING FROM INVESTIGATIONS.*~~
~~*The following actions may be imposed upon an EMS agency that is the subject of an investigation by the EMS Bureau without peer review:*~~ ~~*(3-29-12)*~~

~~*01.*~~ ~~*Agency Letter of Guidance. The EMS Bureau may issue a letter of guidance, directing the EMS agency to the standards, rules, educational resources, or local jurisdiction for resolution of minor non-compliance issues where no injury or threat of harm to the public or EMS system occurred. The EMS agency must show a willingness to become compliant and correct the issue within thirty (30) days of receipt the agency guidance letter.*~~ ~~*(3-29-12)*~~

~~*02.*~~ ~~*Agency Warning Letter. The EMS Bureau may issue a warning letter for a first offense where an organization is providing unlicensed emergency medical services in violation of Section 56-1021, Idaho Code.*~~ ~~*(3-29-12)*~~

~~*03.*~~ ~~*Negotiated Resolution for an Agency. The EMS Bureau may negotiate a resolution with the subject of an investigation, where the allegations, if found to be true, did not cause, or is not likely to cause, injury or harm to the public or EMS system. The issue must be resolved within thirty (30) days of the negotiated resolution or a settlement agreed to by both the subject of the investigation and the EMS Bureau.*~~ ~~*(3-29-12)*~~

~~*a.*~~ ~~*Negotiated resolution participants will include representatives from the EMS agency or the subject under investigation, EMS Bureau staff, and other parties deemed appropriate by the EMS Bureau.*~~ ~~*(3-29-12)*~~

~~*b.*~~ ~~*During the negotiated resolution process, the subject of the investigation may be offered specific remediation or disciplinary action by consent, which, if agreed to, will resolve the matter with no further right to appeal unless stipulated and agreed to at the time that the remediation or disciplinary action is agreed upon.*~~ ~~*(3-29-12)*~~

~~*c.*~~ ~~*When remediation or disciplinary action is not agreed to by consent of both the subject of the investigation and the EMS Bureau, the matter may then be referred to a peer review.*~~ ~~*(3-29-12)*~~

3~~1~~01. -- 319. **(RESERVED)**

320. PEER REVIEW.
The EMS Bureau may elect to conduct a peer review for ~~an~~ alleged statute or rule violations when it determines that a peer review is an appropriate action, or a negotiated resolution or settlement agreement described in Section~~s~~ 300 ~~and 310~~ of these rules, is not reached. The peer review is conducted as follows: ~~(3-29-12)~~(____)

01. Review of Case by Peer Review Team. The peer review team reviews the case details, subject's background, affiliation, licensure history, associated evidence, and documents, and then considers aggravating and mitigating circumstance as follows: (3-29-12)

a. Aggravating circumstances can include: prior or multiple offenses, vulnerability of victim, obstruction of the investigation, and dishonesty. (3-29-12)

b. Mitigating circumstances can include: absence of prior offenses, absence of dishonest or selfish motive, timely effort to rectify situation, interim successful rehabilitation, misdirection per agency protocol, or medical direction. (3-29-12)

02. Subject Given Opportunity to Respond. The subject of the investigation will be given the opportunity to respond in writing, by teleconference, or at the option of the EMS Bureau, in person to the alleged violation. (3-29-12)

03. Evaluation of Evidence. The peer review team will evaluate the evidence and make a majority decision of the finding for each alleged statute, rule, or standards violation, including any additional detected violations. (3-29-12)

04. Recommend Action. The peer review team will recommend actions to the EMS Bureau. If subject is found to have violated statutes, rules, or standards, the recommendations may include the following: (3-29-12)

a. Administrative license action, time frames, conditions, and fines, if imposed, on an EMS agency~~.~~; ~~(3-29-12)~~(____)

b. Administrative license action, time frames, and conditions, if imposed, on EMS personnel~~.~~; or ~~(3-29-12)~~(____)

c. Administrative action, time frames, conditions, and fines, if imposed, on an EMS approved education program or instructor certificate. (____)

321. -- 329. (RESERVED)

330. ADMINISTRATIVE ACTIONS ~~IMPOSED FOR LICENSURE OR CERTIFICATION~~.
The EMS Bureau may impose the following administrative actions: (3-29-12)

01. Deny ~~or Refuse to Renew EMS Personnel License or Certification~~ Application. The EMS Bureau may deny an application for an EMS personnel license, EMS certificat~~ion~~e of eligibility, EMS personnel limited recognition, EMS agency license, EMS education program approval, or ~~refuse to renew~~ an EMS ~~personnel license or~~ instructor certification: ~~(3-29-12)~~(____)

a. When the application ~~for licensure or certification~~ is not complete or the ~~individual~~ applicant does not meet the eligibility requirements provided in Sections 56-1011 through 56-1023, Idaho Code, IDAPA 16.01.07, "Emergency Medical Services (EMS) -- Personnel Licensing Requirements," IDAPA 16.02.02, "Rules of the Idaho Emergency Medical Services (EMS) Physician Commission," or IDAPA 16.0~~2~~1.0~~3~~5, "Emergency Medical Services (EMS) -- Education, Instructor, and Examination Requirements"; or ~~(3-29-12)~~(____)

~~**b.** Pending final outcome of an EMS investigation or criminal proceeding when criminal charges or allegations indicate an imminent danger or threat to the health, safety, or well being of persons or property.(3-29-12)~~

~~c~~**b.** For any reason that would justify an administrative action according to Section 210 of these rules. (3-29-12)

~~d. Decisions to deny or refuse to renew an EMS license will be reviewed by the Idaho EMS Physicians Commission at the Commission's next available meeting.~~ ~~(3-29-12)~~

02. ~~Deny or~~ Refuse to Renew ~~EMS Agency License~~. The EMS Bureau may ~~deny an EMS agency license or~~ refuse to renew an EMS personnel license, EMS personnel certificate of eligibility, EMS agency license, EMS education program approval, or EMS instructor certification: ~~(3-29-12)~~(____)

a. When the renewal application ~~for licensure~~ is not complete or does not meet the eligibility requirements provided in Sections 56-1011 through 56-1023, Idaho Code, and IDAPA 16.01.03, "Emergency Medical Services (EMS) -- Agency Licensing Requirements," IDAPA 16.01.05, "Emergency Medical Services (EMS) -- Education, Instructor, and Examination Requirements," 16.01.07, "Emergency Medical Services (EMS) -- Personnel Licensing Requirements," or IDAPA 16.02.02, "Rules of the Idaho Emergency Medical Services (EMS) Physician Commission"; or ~~(7-1-14)~~(____)

b. Pending final outcome of an ~~EMS~~ investigation or criminal proceeding when criminal charges or allegations indicate an imminent danger or threat to the health, safety, or well-being of persons or property~~.~~; or ~~(3-29-12)~~(____)

c. For any reason that would justify an administrative action according to Section 210 of these rules. (3-29-12)

03. Retain with Probationary Conditions ~~for Personnel License or Certification~~. The EMS Bureau may allow the holder of an EMS personnel license, ~~or~~ EMS certificate ~~holder~~ of eligibility, EMS personnel limited recognition, EMS agency license, EMS education program approval, or EMS instructor certification to retain a license, approval, or certificate as agreed to in a negotiated resolution, settlement, or with conditions imposed by the EMS Bureau. ~~Decisions to retain an EMS personnel license with probationary conditions will be reviewed by the Idaho EMS Physician Commission at the Commission's next available meeting.~~ ~~(3-29-12)~~(____)

~~**04. Retain with Probationary Conditions for Agency License.** The EMS Bureau may allow an EMS agency to retain a license as agreed to in a negotiated resolution, settlement, or with conditions imposed by the EMS Bureau.~~ ~~(3-29-12)~~

0~~5~~4. Suspend ~~EMS Personnel License or Certificate~~. The EMS Bureau may suspend an EMS personnel license, ~~or~~ EMS certificate of eligibility, EMS personnel limited recognition, EMS agency license, EMS education program approval, or EMS instructor certification for: ~~(3-29-12)~~(____)

a. A period of time up to twelve (12) months, with or without conditions; or (3-29-12)

b. Pending final outcome of an ~~EMS~~ investigation or criminal proceeding when criminal charges or allegations indicate an imminent danger or threat to the health, safety, or well-being of persons or property. ~~(3-29-12)~~(____)

~~c. Decisions to suspend an EMS personnel license will be reviewed by the Idaho EMS Physician Commission at the Commission's next available meeting.~~ ~~(3-29-12)~~

0~~6~~5. Revoke ~~EMS Personnel License or Certificate~~. The EMS Bureau may revoke an EMS personnel license, ~~or~~ EMS certificate of eligibility, EMS personnel limited recognition, EMS agency license, EMS education program approval, or EMS instructor certification when: ~~(3-29-12)~~(____)

a. A peer review team recommends ~~license or certificate~~ revocation; or ~~(3-29-12)~~(____)

b. The license or certificate holder is found to no longer be eligible for criminal history clearance per IDAPA 16.05.06, "Criminal History and Background Checks." ~~(3-29-12)~~(____)

c. ~~Decisions to revoke an EMS personnel license will be reviewed by the Idaho EMS Physician Commission at the Commission's next available meeting.~~ The EMS Bureau will notify the city, fire district, hospital

district, ambulance district, dispatch center, and county in which an EMS agency provides emergency prehospital response upon revocation of an EMS agency license. ~~(3-29-12)~~(____)

~~07. Revoke EMS Agency License. The EMS Bureau may revoke an EMS agency license when: (3-29-12)~~

~~a. A peer review team recommends license revocation; (3-29-12)~~

~~b. The EMS Bureau will notify the city, fire district, hospital district, ambulance district, dispatch center, and county in which the EMS agency provides emergency prehospital response that the EMS Bureau is considering license revocation. (3-29-12)~~

06. **Review of Administrative Actions by the EMS Physician Commission.** The EMS Physician Commission must review, at their next available meeting, administrative actions taken by the Department as described in Subsections 330.01 through 330.05 of this rule. (____)

331. -- 339. (RESERVED)

340. VIOLATIONS THAT MAY RESULT IN FINES BEING IMPOSED ON EMS AGENCY.
In addition to administrative license actions provided in Section 56-1022, Idaho Code, and these rules, a fine may be imposed by the EMS Bureau upon recommendation of a peer review team on a licensed EMS agency as a consequence of agency violations. Fines may be imposed for the following violations: (3-29-12)

01. **Operating An Unlicensed EMS Agency.** Operating without a license required in IDAPA 16.01.03, "Emergency Medical Services (EMS) -- Agency Licensing Requirements," including: (7-1-14)

a. Failure to obtain an initial license; (3-29-12)

b. Failure to obtain a license upon change in ownership; or (3-29-12)

c. Failure to renew a license and continues to operate as an EMS agency. (3-29-12)

02. **Unlicensed Personnel Providing Patient Care.** Allowing an unlicensed individual to provide patient care without first obtaining an EMS personnel license required in IDAPA 16.01.07, "Emergency Medical Services (EMS) -- Personnel Licensing Requirements," at the appropriate level for the EMS agency. (3-29-12)

03. **Failure to Respond.** Failure of the EMS agency to respond to a 911 request for service within the agency primary response area in a typical manner of operations when dispatched to a medical illness or injury, under licensure requirements in IDAPA 16.01.03, "Emergency Medical Services (EMS) -- Agency Licensing Requirements," except when the responder reasonably determines that: (7-1-14)

a. There are disaster conditions; (3-29-12)

b. Scene safety hazards are present or suspected; or (3-29-12)

c. Law enforcement assistance is necessary to assure scene safety, but has not yet allowed entry to the scene. (3-29-12)

04. **Unauthorized Response by EMS Agency.** Responding to a request for service which deviates from or exceeds those authorized by the EMS agency license requirements in IDAPA 16.01.03, "Emergency Medical Services (EMS) -- Agency Licensing Requirements." (7-1-14)

05. **Failure to Allow Inspections.** Failure to allow the EMS Bureau or its representative to inspect the agency facility, equipment, records, and other licensure requirements provided in IDAPA 16.0~~2~~1.03, "Emergency Medical Services (EMS) -- Agency Licensing Requirements." ~~(3-29-12)~~(____)

06. **Failure To Correct Unacceptable Conditions.** Failure of the EMS agency to correct unacceptable

conditions within the time frame provided in a negotiated resolution settlement, or a warning letter issued by the EMS Bureau. Including the following: (3-29-12)

a. Failure to maintain an EMS vehicle in a safe and sanitary condition; (3-29-12)

b. Failure to have available minimum EMS Equipment;(3-29-12)

c. Failure to correct patient or personnel safety hazards; or (3-29-12)

d. Failure to retain an EMS agency medical director: (3-29-12)

07. **Failure to Report Patient Care Data**. Failure to submit patient care data as required in IDAPA 16.01.03, "Emergency Medical Services (EMS) -- Agency Licensing Requirements." (7-1-14)

(BREAK IN CONTINUITY OF SECTIONS)

350. REINSTATEMENT ~~*OF EMS LICENSE*~~ FOLLOWING REVOCATION.
An application of any revoked ~~*EMS agency or personnel*~~ license, certificate, or educational program approval, may be filed with the EMS Bureau no earlier than one (1) year from the date of the ~~*license*~~ revocation. ~~*(3-29-12)*~~(_____)

01. **Peer Review for Reinstatement**. The EMS Bureau will conduct a peer review to consider the reinstatement application. (3-29-12)

02. **Recommendation of Peer Review Team**. The peer review team will make a recommendation to the EMS Bureau to accept or reject the application for reinstatement. (3-29-12)

03. **Reinstatement Determination**. The EMS Bureau will accept or reject the reinstatement application based on the peer review team recommendation and other extenuating circumstances. (3-29-12)

a. Reinstatement of a revoked EMS personnel license is subject to the lapsed license reinstatement requirements in IDAPA 16.01.07, "Emergency Medical Services (EMS) -- Personnel Licensing Requirements." (3-29-12)

b. Reinstatement of a revoked EMS agency license will be subject to an initial agency application requirements in IDAPA 16.01.03, "Emergency Medical Services (EMS) -- Agency Licensing Requirements." (7-1-14)

COMMENTS

IDAHO DEPARTMENT OF
HEALTH & WELFARE

C.L. "BUTCH" OTTER – Governor
RICHARD M. ARMSTRONG – Director

TAMARA PRISOCK – Division Administrator
DIVISION OF LICENSING AND CERTIFICATION
Administrative Rules Unit
450 West State Street, 10th Floor
P.O. Box 83720
Boise, Idaho 83720-0036
PHONE 208-334-5500
FAX 208-334-6558
DHWRules@dhw.idaho.gov

LIST OF EXHIBITS

Proposed Rule

EMERGENCY MEDICAL SERVICES (EMS) – COMPLAINTS, INVESTIGATIONS, AND DISCIPLINARY ACTIONS

Docket Number: 16-0112-1501

Deadline for Comment: August 26, 2015

EXHIBIT NO.	SUBMITTED BY	DESCRIPTION	NO. PAGES
1	Legislative Services Office Elizabeth Bowen, Leg. Research Analyst Statehouse PO Box 83720 Boise, ID 83720-0054	Memorandum	2
2	Public Hearing - Webinar August 11, 2015	Sign-In Sheet	1
3	Legislative Services Office Elizabeth Bowen, Leg. Research Analyst Statehouse PO Box 83720 Boise, ID 83720-0054	Letter	2

Legislative Services Office
Idaho State Legislature

Eric Milstead
Director

Serving Idaho's Citizen Legislature

MEMORANDUM

TO: Rules Review Subcommittee of the Senate Health & Welfare Committee and the House Health & Welfare Committee

FROM: Legislative Research Analyst - Elizabeth Bowen

DATE: August 10, 2015

SUBJECT: Department of Health and Welfare

IDAPA 16.01.01 - EMS Services - Advisory Committee - Proposed Rule (Docket No. 16-0101-1501)

IDAPA 16.01.02 - Emergency Medical Services (EMS) - Rule Definitions - Proposed Rule (Docket No. 16-0102-1501)

IDAPA 16.01.03 - EMS Agency Licensing Requirements - Proposed Rule (Docket No. 16-0103-1501)

IDAPA 16.01.05 - EMS Education, Instructor, and Examination Requirements - Proposed Rule (Docket No. 16-0105-1501)

IDAPA 16.01.07 - EMS - Personnel Licensing Requirements - Vacation of Proposed Rulemaking (Docket No. 16-0107-1501)

IDAPA 16.01.07 - EMS- Personnel Licensing Requirements - Proposed Rule (Docket No. 16-0107-1502)

IDAPA 16.01.12 - EMS - Complaints, Investigations, and Disciplinary Actions - Proposed Rule (Docket No. 16-0112-1501)

The Department of Health and Welfare submits notice of proposed rulemaking at IDAPA 16.01.01, 16.01.02, 16.01.03, 16.01.05, 16.01.07, and 16.01.12.

1. IDAPA 16.01.01

The proposed rule adds a reference to a new rule, IDAPA 16.01.05, discussed below. Additionally, the proposed rule incorporates certain provisions from another rule, IDAPA 16.02.03, that is being repealed. Negotiated rulemaking was conducted. The Department states that the proposed rule is consistent with the rulemaking authority granted by Section 56-1023, Idaho Code. There is no anticipated fiscal impact to the state general fund.

2. IDAPA 16.01.02

The proposed rule updates an existing rule to reflect recent changes made to statutes and rules relating to emergency medical services (EMS). Specifically, the proposed rule includes several definitions of terms relating to education, evaluation, and paramedicine. Negotiated rulemaking was conducted. The Department states that the proposed rule is consistent with the rulemaking authority granted by Section 56-1023, Idaho Code. There is no anticipated fiscal impact to the state general fund.

3. IDAPA 16.01.03

The proposed rule amends existing EMS agency licensing requirements to be consistent with changes to statutes and rules relating to EMS. Provisions relating to record-keeping by EMS agencies have also been incorporated into the proposed rule. Negotiated rulemaking was conducted for related rules but not specifically for this rule. The Department states that the proposed rule is consistent with the rulemaking authority granted by Sections 56-1011 through 56-1023, Idaho Code. There is no anticipated fiscal impact to the state general fund.

4. IDAPA 16.01.05

The proposed rule provides updated education, instruction, and examination requirements for EMS personnel. The proposed rule replaces the education requirements found in IDAPA 16.02.03, which is being repealed. Negotiated rulemaking was conducted. The Department states that the proposed rule is consistent with the rulemaking authority granted by Section 56-1023, Idaho Code. There is no anticipated fiscal impact to the state general fund.

5. IDAPA 16.01.07

(a) Docket 16-0107-1501 -- This proposed rulemaking is being vacated in favor of the docket in (b) below.

(b) Docket 16-0107-1502 -- The proposed rule amends licensing requirements for EMS personnel to be consistent with the proposed rule at IDAPA 16.01.05, discussed above. The proposed rule also incorporates provisions from a rule, IDAPA 16.02.03, that is being repealed. Negotiated rulemaking was not conducted; however, the Department states that it has met with stakeholders around the state to discuss the rule. The proposed rule is based on concerns voiced during those meetings. According to the Department, the proposed rule is consistent with the rulemaking authority granted by Sections 56-1011 through 56-1023, Idaho Code. There is no anticipated fiscal impact to the state general fund.

6. IDAPA 16.01.12

The proposed rule amends existing language to be consistent with the proposed rule at IDAPA 16.01.05, discussed above. Negotiated rulemaking was not specifically conducted for this rule but was conducted for related rules. The Department states that the changes in this rule are being made for the sake of clarity. According to the Department, the proposed rule is consistent with the rulemaking authority granted by Sections 56-1011 through 56-1023, Idaho Code. There is no anticipated fiscal impact to the state general fund.

cc: Department of Health and Welfare
Tamara Prisock

PUBLIC HEARING
Idaho Department of Health and Welfare

*****Please Sign In*****

CHAPTER: EMS chapters: 16.01.01, 16.01.02, 16.01.03, 16.01.05, 16.01.07, 16.01.12
DOCKET NOs.: 16-0101-1501, 16-0102-1501, 16-0103-1501, 16-0105-1501 , 16-0107-1502, and 16-0112-1501

DATE: Tuesday, August 11, 2015
TIME: 10am MDT
LOCATION: 2224 East Penitentiary Road, Boise, ID 83712 (also available by webinar)
*Please provide a written copy of your comments for the official record on this rulemaking, if possible.

NAME (Please Print)	ADDRESS / E-MAIL	ORGANIZATION REPRESENTED	DO YOU WISH TO TESTIFY?

No attendees
Mtg started 10:20am
Closed 10:50am
No one joined on Webinar
No statement was read.
No digital audio

Legislative Services Office
Idaho State Legislature

Serving Idaho's Citizen Legislature

Eric Milstead
Director

August 27, 2015

Tamara Prisock
Admin. Procedures Section
Department of Health and Welfare
PO Box 83720
Boise, ID 83720-0036

Dear Tamara Prisock:

The Senate and House Subcommittees for review of administrative rules have reviewed the proposed changes to the Department of Health and Welfare rules:

IDAPA 16.01.01 - EMS Services - Advisory Committee - Proposed Rule - Docket No. 16-0101-1501

IDAPA 16.01.02 - Emergency Medical Services (EMS) - Rule Definitions - Proposed Rule - Docket No. 16-0102-1501

IDAPA 16.01.03 - EMS Agency Licensing Requirements - Proposed Rule - Docket No. 16-0103-1501

IDAPA 16.01.05 - EMS Education, Instructor, and Examination Requirements - Proposed Rule - Docket No. 16-0105-1501

IDAPA 16.01.07 - EMS - Personnel Licensing Requirements - Vacation of Proposed Rulemaking - Docket No. 16-0107-1501

IDAPA 16.01.07 - EMS- Personnel Licensing Requirements - Proposed Rule - Docket No. 16-0107-1502

IDAPA 16.01.12 - EMS - Complaints, Investigations, and Disciplinary Actions - Proposed Rule - Docket No. 16-0112-1501

No meeting will be held, and we are pleased to report that no objections will be filed.

Sincerely yours,

Elizabeth Brown

Mike Nugent, Manager
Research & Legislation

Cathy Holland-Smith, Manager
Budget & Policy Analysis

April Renfro, Manager
Legislative Audits

Glenn Harris, Manager
Information Technology

Statehouse, P.O. Box 83720
Boise, Idaho 83720–0054

Tel: 208–334–2475
www.legislature.idaho.gov

Elizabeth Bowen
Legislative Research Analyst

ELB/jk

cc:

ATTACHMENT 11

IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE

16.02.03 - EMERGENCY MEDICAL SERVICES

DOCKET NO. 16-0203-1501 (CHAPTER REPEAL)

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2016 Idaho State Legislature for final approval. In accordance with Section 67-5224(5)(a) and (b), Idaho Code, as specified here in this notice the pending rule becomes final and effective on July 1, 2016, after review by the legislature, unless the rule is approved or rejected in part by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is affected by concurrent resolution, the concurrent resolution shall specify the effective date of the rule.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. This action is authorized pursuant to Section 56-1023, Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change.

The Emergency Medical Services (EMS) chapter of rules is being repealed in its entirety. Over the past several years, the Department has been working on rewriting the rules governing EMS in Idaho. As new chapters of rules have been written, the corresponding, obsolete portions of the EMS chapter (IDAPA 16.02.03) were deleted. The few rules remaining in the old chapter are being moved into the new EMS education chapter (proposed as IDAPA 16.01.05). As a result, the chapter can now be repealed.

There are no changes to the pending rule and it is being adopted as originally proposed. The complete text of the proposed rule was published in the August 5, 2015, Idaho Administrative Bulletin, Vol. 15-8, pages 99 and 100.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased: NA

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars ($10,000) during the fiscal year as a result of this rulemaking:

The Emergency Medical Services (EMS) program is funded through dedicated funds. This rulemaking has no fiscal impact to those funds or to the state general fund. This rulemaking is intended to be cost-neutral.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning the pending rule, contact Bruce Cheeseman at (208) 334-4000.

DATED this _____ day of _____, 2015.

Tamara Prisock
DHW - Administrative Rules Unit
450 W. State Street - 10th Floor
P.O. Box 83720
Boise, ID 83720-0036
(208) 334-5500 phone; (208) 334-6558 fax
E-mail: **dhwrules@dhw.idaho.gov**

IDAPA 16.02.03 IS BEING REPEALED IN ITS ENTIRETY

COMMENTS

IDAHO DEPARTMENT OF
HEALTH & WELFARE

C.L. "BUTCH" OTTER – Governor
RICHARD M. ARMSTRONG – Director

TAMARA PRISOCK – Division Administrator
DIVISION OF LICENSING AND CERTIFICATION
Administrative Rules Unit
450 West State Street, 10th Floor
P.O. Box 83720
Boise, Idaho 83720-0036
PHONE 208-334-5500
FAX 208-334-6558
DHWRules@dhw.idaho.gov

LIST OF EXHIBITS

Proposed Rule

EMERGENCY MEDICAL SERVICES (EMS) **Chapter Repeal**

Docket Number: 16-0203-1501

Deadline for Comment: August 26, 2015

EXHIBIT NO.	SUBMITTED BY	DESCRIPTION	NO. PAGES
1	Legislative Services Office Elizabeth Bowen, Legislative Research Analyst Statehouse PO Box 83720 Boise, ID 83720-0054	Memorandum Rec'd 8/10/2015	2
2	Public Hearing - Webinar August 11, 2015	Sign-In Sheet	1
3	Legislative Services Office Elizabeth Bowen, Legislative Research Analyst Statehouse PO Box 83720 Boise, ID 83720-0054	Letter Rec'd 9/11/2015	1

Legislative Services Office
Idaho State Legislature

Eric Milstead
Director

Serving Idaho's Citizen Legislature

MEMORANDUM

TO: Rules Review Subcommittee of the Senate Health & Welfare Committee and the House Health & Welfare Committee

FROM: Legislative Research Analyst - Elizabeth Bowen

DATE: August 24, 2015

SUBJECT: Department of Health and Welfare

IDAPA 16.02.03 - Emergency Medical Services - Chapter Repeal - Proposed Rule (Docket No. 16-0203-1501)

The Department of Health and Welfare submits notice of proposed rulemaking at IDAPA 16.02.03. The proposed rule repeals the current chapter of rules on emergency medical services. According to the Department, these rules are outdated and are intended to be replaced by a new chapter of rules.

Negotiated rulemaking was conducted. The Department states that the proposed rule is consistent with the rulemaking authority granted by Section 56-1023, Idaho Code. There is no impact on the state general fund.

cc: Department of Health and Welfare
Tamara Prisock

Mike Nugent, Manager
Research & Legislation

Cathy Holland-Smith, Manager
Budget & Policy Analysis

April Renfro, Manager
Legislative Audits

Glenn Harris, Manager
Information Technology

Statehouse, P.O. Box 83720
Boise, Idaho 83720–0054

Tel: 208–334–2475
www.legislature.idaho.gov

PUBLIC HEARING
Idaho Department of Health and Welfare

Please Sign In

CHAPTER: EMS chapters: 16.01.01, 16.01.02, 16.01.03, 16.01.05, 16.01.07, 16.01.12
DOCKET NOs.: 16-0101-1501, 16-0102-1501, 16-0103-1501, 16-0105-1501 , 16-0107-1502, and 16-0112-1501

DATE: Tuesday, August 11, 2015
TIME: 10am MDT
LOCATION: 2224 East Penitentiary Road, Boise, ID 83712 (also available by webinar)
*Please provide a written copy of your comments for the official record on this rulemaking, if possible.

NAME (Please Print)	ADDRESS / E-MAIL	ORGANIZATION REPRESENTED	DO YOU WISH TO TESTIFY?

No attendees
Mtg started 10:20am
Closed 10:50am
No one joined on Webinar
No statement was read.
No digital audio

Legislative Services Office
Idaho State Legislature

Eric Milstead
Director

Serving Idaho's Citizen Legislature

September 11, 2015

Tamara Prisock
Admin. Procedures Section
Department of Health and Welfare
PO Box 83720
Boise, ID 83720-0036

Dear Tamara Prisock:

The Senate and House Subcommittees for review of administrative rules have reviewed the proposed changes to the Department of Health and Welfare rules:

IDAPA 16.02.03 - Emergency Medical Services - Chapter Repeal - Proposed Rule - Docket No. 16-0203-1501

No meeting will be held, and we are pleased to report that no objections will be filed.

Sincerely yours,

Elizabeth Bowen
Legislative Research Analyst

ELB/jk

cc:

Mike Nugent, Manager
Research & Legislation

Cathy Holland-Smith, Manager
Budget & Policy Analysis

April Renfro, Manager
Legislative Audits

Glenn Harris, Manager
Information Technology

Statehouse, P.O. Box 83720
Boise, Idaho 83720-0054

Tel: 208-334-2475
www.legislature.idaho.gov

ATTACHMENT 12

IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE

16.05.01 - USE AND DISCLOSURE OF DEPARTMENT RECORDS

DOCKET NO. 16-0501-1501

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2016 Idaho State Legislature for final approval. In accordance with Section 67-5224(5)(a) and (b), Idaho Code, as specified here in this notice the pending rule becomes final and effective on July 1, 2016, after review by the legislature, unless the rule is approved or rejected in part by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is affected by concurrent resolution, the concurrent resolution shall specify the effective date of the rule.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 39-242, 39-5403, 56-221, 56-222, 56-1003, and 56-1004, Idaho Code (Joint rules).

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change.

The 2015 legislature passed S1077 which clarifies that the person with authority to designate disposition of a decedent's remains should be considered a person with a "direct and tangible interest" and thus is entitled to receive an official death certificate. This rule amendment aligns these rules with the amended statute.

Specifically, this rulemaking adds the clarification that any person designated in Section 54-1142(1), Idaho Code, has "a direct and tangible interest" in the death certificate of a decedent in accordance with to Section 39-270(b), Idaho Code.

There are no changes to the pending rule and it is being adopted as originally proposed. The complete text of the proposed rule was published in the August 5, 2015, Idaho Administrative Bulletin, Vol. 15-8, pages 102 through 104.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased: NA

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars ($10,000) during the fiscal year:

This rulemaking has no fiscal impact to the state general fund or any other funds.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning the pending rule, contact James Aydelotte (208) 334-4969.

DATED this _____ day of _____, 2015.

Tamara Prisock
DHW - Administrative Rules Unit
450 W. State Street - 10th Floor
P.O. Box 83720
Boise, ID 83720-0036
(208) 334-5500 phone; (208) 334-6558 fax
E-mail: **dhwrules@dhw.idaho.govl**

THE FOLLOWING IS THE PENDING TEXT OF DOCKET NO. 16-0501-1501
(Only those Sections being amended are shown.)

011. DEFINITIONS FOR VITAL STATISTICS.
The definitions provided in Subsection 011 of these rules apply to Vital Statistics and to the disclosure provisions of Section 39-270, Idaho Code. (3-20-04)

01. Authorized Representative. An attorney, physician, funeral director, a legally designated agent, or an entity whose purpose for obtaining a vital record is to pay direct benefits to a person with a direct and tangible interest defined in Subsection 011.03 of this rule. (3-20-04)

02. Certificate. A certificate of birth, death, stillbirth, marriage, or divorce, filed pursuant to law, excluding information contained in the statistical section of any record. (3-20-04)

03. Individuals with a Direct and Tangible Interest. Individuals who have a direct and tangible interest in a vital record are: (3-20-04)

a. The registrant and that person's spouse, children, parents, grandparents, grandchildren, siblings, or guardian; (3-20-04)

b. A person who is conducting genealogical research on the person's own family; (3-20-04)

c. Any other person who demonstrates that the record is needed for the determination or protection of that person's property right; (3-20-04)

d. An authorized representative of any of these individuals; (3-20-04)

e. The surviving next-of-kin if a deceased registrant has no other surviving family member listed in this subsection; (3-20-04)

f. The Idaho Attorney General, and state and federal prosecuting attorneys, if such attorney submits an affidavit affirming that the record is necessary in the furtherance of the attorney's official law enforcement duties, is not reasonably available from another source, and that reasonable steps will be taken to preserve the confidentiality of the record; ~~and~~ ~~(3-20-04)~~(____)

g. Any person, upon the order of an Idaho court of competent jurisdiction, where the court finds that disclosure of the record is necessary in the interests of justice~~.~~; and ~~(3-20-04)~~(____)

h. Any person with the right to control the disposition of remains of a deceased person or to determine provisions not clearly covered in a prearranged funeral plan as authorized in Subsection (1) of Section 54-1142 Idaho Code, in accordance with Section 39-270(b), Idaho Code. (____)

04. Parent. Does not include a biological parent whose parental rights have been terminated. (3-20-04)

05. Public Health. The science and art of: (3-20-04)

a. Preventing disease, prolonging life, or promoting health and efficiency through organized community effort for the sanitation of the environment; (3-20-04)

b. The control of communicable infections; (3-20-04)

c. The education of the individual in personal hygiene; (3-20-04)

d. The organization of medical and nursing services for the early diagnosis and preventive treatment of disease; and (3-20-04)

e. The development of the social machinery to ensure everyone a standard of living adequate for the maintenance of health, so organizing these benefits as to enable every citizen to realize his birthright of health and longevity. (3-20-04)

06. Putative Father. The biological father of a child as identified by himself, the natural mother, an adoption agency, or a court. (3-20-04)

07. Registrar. The state Registrar as defined in Section 39-241(18), Idaho Code. The mailing and street address for the state Registrar is Bureau of Vital Records and Health Statistics, 450 W. State St., 1st Floor, PO Box 83720, Boise, Idaho 83720-0036. (3-20-04)

08. Research. Organized scientific inquiry or examination of data in order to discover and interpret facts. (3-20-04)

09. Statistical Purposes. The collection, analysis, interpretation and presentation of masses of non-identifying numerical information. (3-20-04)

COMMENTS

IDAHO DEPARTMENT OF
HEALTH & WELFARE

C.L. "BUTCH" OTTER – Governor
RICHARD M. ARMSTRONG – Director

TAMARA PRISOCK – Division Administrator
DIVISION OF LICENSING AND CERTIFICATION
Administrative Rules Unit
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Boise, Idaho 83720-0036
PHONE 208-334-5500
FAX 208-334-6558
DHWRules@dhw.idaho.gov

LIST OF EXHIBITS

Proposed Rule

USE AND DISCLOSURE OF DEPARTMENT RECORDS

Docket Number: 16-0501-1501

Deadline for Comment: August 26, 2015

EXHIBIT NO.	SUBMITTED BY	DESCRIPTION	NO. PAGES
1	Legislative Services Office Elizabeth Bowen, Legislative Research Analyst Statehouse PO Box 83720 Boise, ID 83720-0054	Memorandum Rec'd 8/25/2015	1
2	Legislative Services Office Elizabeth Bowen, Legislative Research Analyst Statehouse PO Box 83720 Boise, ID 83720-0054	Letter Rec'd 9/14/2015	1

Legislative Services Office
Idaho State Legislature

Eric Milstead
Director

Serving Idaho's Citizen Legislature

MEMORANDUM

TO: Rules Review Subcommittee of the Senate Health & Welfare Committee and the House Health & Welfare Committee

FROM: Legislative Research Analyst - Elizabeth Bowen

DATE: August 25, 2015

SUBJECT: Department of Health and Welfare

IDAPA 16.05.01 - Use and Disclosure of Department Records - Proposed Rule (Docket No. 16-0501-1501)

The Department of Health and Welfare submits notice of proposed rulemaking at IDAPA 16.05.01. The proposed rule adds to existing language to clarify which individuals have a direct and tangible interest in a vital record in order to conform to Senate Bill 1077, which was passed by the Legislature in the 2015 regular session.

Negotiated rulemaking was not conducted due to the simple nature of the rule change. There is no anticipated impact on the state general fund. The Department states that the proposed rule is consistent with the rulemaking authority granted by Sections 39-242, 39-5403, 56-221, 56-222, 56-1003, and 56-1004, Idaho Code.

cc: Department of Health and Welfare
Beverly Barr and Frank Powell

Mike Nugent, Manager
Research & Legislation

Cathy Holland-Smith, Manager
Budget & Policy Analysis

April Renfro, Manager
Legislative Audits

Glenn Harris, Manager
Information Technology

Statehouse, P.O. Box 83720
Boise, Idaho 83720–0054

Tel: 208–334–2475
www.legislature.idaho.gov

Legislative Services Office
Idaho State Legislature

Eric Milstead
Director

Serving Idaho's Citizen Legislature

September 14, 2015

Beverly Barr and Frank Powell
Admin. Procedures Section
Department of Health and Welfare
PO Box 83720
Boise, ID 83720-0036

Dear Beverly Barr and Frank Powell:

The Senate and House Subcommittees for review of administrative rules have reviewed the proposed changes to the Department of Health and Welfare rules:

IDAPA 16.05.01 - Use and Disclosure of Department Records - Proposed Rule - Docket No. 16-0501-1501

No meeting will be held, and we are pleased to report that no objections will be filed.

Sincerely yours,

Elizabeth Bowen
Legislative Research Analyst

ELB/jk

cc:

Mike Nugent, Manager
Research & Legislation

Cathy Holland-Smith, Manager
Budget & Policy Analysis

April Renfro, Manager
Legislative Audits

Glenn Harris, Manager
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ATTACHMENT 13

IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE

16.06.01 - CHILD AND FAMILY SERVICES

DOCKET NO. 16-0601-1501

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2016 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved or rejected in part by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved or rejected in part by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 16-1629, 16-2102, 39-1209 through 1211, 39-5603, 39-7501, 56-202(b), 56-204A, 56-803, 56-1003, 56-1004, 56-1004A, and 56-1007, Idaho Code; Public Law 113-183 (the Preventing Sex Trafficking and Strengthening Families Act); 42 U.S.C. 673(a)(1)(B)(ii), and 42 U.S.C. 673(a)(3).

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change.

This rulemaking aligns this chapter of rules with federal requirements for guardianships and adoption assistance programs, as well as relative notification for foster care.

There are no changes to the pending rule and it is being adopted as originally proposed. The complete text of the proposed rule was published in the September 2, 2015, Idaho Administrative Bulletin, Vol. 15-9, pages 140 through 145.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased: NA

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars ($10,000) during the fiscal year as a result of this rulemaking:

This rulemaking has no fiscal impact to the state general fund, or any other funds.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Stephanie Miller at (208) 334-5697.

DATED this _____ day of _____, 2015.

Tamara Prisock
DHW - Administrative Rules Unit
450 W. State Street - 10th Floor
P.O. Box 83720
Boise, ID 83720-0036
(208) 334-5500 phone; (208) 334-6558 fax
E-mail: **dhwrules@dhw.idaho.gov**

THE FOLLOWING IS THE PENDING TEXT OF DOCKET NO. 16-0601-1501
(Only Those Sections With Amendments Are Shown.)

013. DEFINITIONS AND ABBREVIATIONS S THROUGH Z.
For the purposes of these rules, the following terms are used: (5-8-09)

01. SSI (Supplemental Security Income). Income maintenance grants for eligible persons who are aged, blind, or disabled. These grants are provided under Title VI of the Social Security Act and are administered by the Social Security Administration and local Social Security Offices. (3-18-99)

02. Safety Assessment. A process and standardized tool for contact between a family services worker and a family to objectively determine if safety threats, or immediate service needs exist that require further Child and Family Services response. (4-7-11)

03. Safety Plan. Plan developed by the Department and a family which assures the immediate safety of a child who has been determined to be conditionally safe or unsafe. (3-30-01)

04. **Sibling.** One of two (2) or more persons who shares the same biological or adoptive mother or father, or both. Siblings may be full-siblings or half-siblings. Siblings include those children who would be considered a sibling if not for the disruption in parental rights due to termination of parental rights or the death of a parent. ( )

0~~4~~5. State-Funded Guardianship Assistance. Benefits described in Subsection 702.04 and Section 704 of these rules provided to a legal guardian for the support of a child who meets the eligibility criteria. (4-7-11)

0~~5~~6. TAFI. Temporary Assistance to Families in Idaho. (3-18-99)

0~~6~~7. Title IV-E. Title under the Social Security Act which provides funding for foster care maintenance and adoption assistance payments for certain eligible children. (3-20-04)

0~~7~~8. Title IV-E Foster Care. Child care provided in lieu of parental care in a foster home, children's agency, or institution eligible to receive Aid to Dependent Children under Title IV-E of the Social Security Act. (5-8-09)

0~~8~~9. Title XIX (Medicaid). Title under the Social Security Act which provides "Grants to States for Medical Assistance Programs." (3-18-99)

1~~0~~0. Title XXI. (Children's Health Insurance Program). Title under the Social Security Act which provides access to health care for uninsured children under the age of nineteen (19). (3-18-99)

1~~0~~1. Tribal Court. A court with jurisdiction over child custody proceedings and which is either a Court of Indian Offenses, a court established and operated under the code or custom of an Indian tribe, or any other administrative body of a tribe which is vested with authority over child custody proceedings. (3-18-99)

1~~1~~2. Unmarried Parents' Services. Services aimed at achieving or maintaining self-reliance or self-support for unmarried parents. These services include counseling for any unmarried parents who need such service in relation to their plans for their children and arranging for and paying for prenatal and confinement care for the well-being of the parent and infant. Services for unmarried parents are provided in accordance with Section 56-204A, Idaho Code. (5-8-09)

1~~2~~3. Voluntary Services Agreement. A written and executed agreement between the Department and parents or legal guardians regarding the goal, areas of concern, desired results, and task responsibility, including payment. (5-8-09)

(BREAK IN CONTINUITY OF SECTIONS)

702. CONDITIONS FOR GUARDIANSHIP ASSISTANCE.
The following conditions must be met for a child to be eligible for federally-funded or state-funded guardianship assistance. (4-7-11)

01. Assessment of Suitability. The Department or its contractor will determine the suitability of an individual to become a legal guardian for a specific child or sibling group through a guardianship study. (4-7-11)

02. Eligibility for Guardianship Assistance. The Department will determine eligibility for guardianship assistance for each child placed in the legal custody of the Department prior to the finalization of the guardianship. The child will first be considered for eligibility for a federally-funded subsidy. Should the child be found ineligible for a federally-funded subsidy, the child will then be considered for a state-funded subsidy. (4-7-11)

03. Guardianship and Foster Care Licensure. To receive guardianship assistance, a potential legal guardian must apply for and receive a foster care license. (4-7-11)

04. Guardianship Assistance Agreements and Payments. The Department and the prospective legal guardian must enter into a written agreement prior to the finalization of the guardianship. Benefits may include both a monthly cash payment and Medicaid benefits. The cash payment may not exceed the published foster care rate a child would receive if living in family foster care in Idaho. Eligibility for guardianship assistance is based on the child's needs. No means test may be applied to the prospective legal guardian family's income or resources in a determination of eligibility. The Department will provide the prospective legal guardian with a copy of the agreement. All Guardianship Assistance Agreements must contain the following: (4-7-11)

a. The amount and manner in which the guardianship assistance payment will be provided to the prospective legal guardian; (4-7-11)

b. The manner in which the payment may be adjusted periodically in consultation with the legal guardian, based on the circumstances of the legal guardian and the needs of the child; (4-7-11)

c. Any additional services and assistance for which the child and legal guardian will be eligible under the agreement; (4-7-11)

d. The procedure by which the legal guardian may apply for additional services; (4-7-11)

e. A statement that the agreement will remain in effect without regard to the state of residency of the legal guardian; (4-7-11)

f. The procedure by which the Department will make a mandatory annual evaluation of the need for continued assistance and the amount of the assistance; and (4-7-11)

g. Guardianship assistance payments are prospective only. There will be no retroactive benefits or payments. (4-7-11)

h. In Title IV-E Relative Guardianship Assistance Agreements, the prospective relative guardian may identify a successor legal guardian to be appointed guardianship of the child due to the death or incapacitation of the relative legal guardian. (____)

05. Termination of Guardianship Assistance. Federally-funded or state-funded guardianship assistance benefits and cash payments are automatically terminated when: (4-7-11)

a. A court terminates the legal guardianship or removes the legal guardian; (4-7-11)

b. The child no longer resides in the home of the legal guardian, and the legal guardian no longer provides financial support for the child; (4-7-11)

c. The child has reached the age of eighteen (18) years, regardless of the child's educational status or

physical or developmental delays; or (4-7-11)

d. The child marries, dies, or enters the military. (4-7-11)

e. Title IV-E relative guardianship assistance benefits do not end upon the death or incapacitation of the relative legal guardian if the relative legal guardian identified a successor legal guardian in the child's Title IV-E Relative Guardianship Assistance Agreement and the successor legal guardian assumes legal responsibility for the child. ( )

06. Administrative Review for Guardianship Assistance. The prospective legal guardian has twenty-eight (28) days from the date of the Department's notification of the guardianship assistance determination, to request an administrative review. The determination will be reviewed by the FACS Division Administrator, and a decision will be rendered to either affirm, reverse, or modify, the decision. The Department will notify the individual, by mail, of the FACS Division Administrator's decision, of his right to appeal, and procedures for filing an appeal according to requirements in IDAPA 16.05.03, "Rules Governing Contested Case Proceedings and Declaratory Rulings." (4-7-11)

703. FEDERALLY-FUNDED GUARDIANSHIP ASSISTANCE ELIGIBILITY, REQUIREMENTS, AND BENEFITS.
In addition to Section 702 of these rules, the following requirements and benefits are applicable to a federally-funded guardianship assistance for an eligible child and a relative guardian. (4-7-11)

01. Eligibility. A child is eligible for a federally-funded guardianship if the Department determines the child meets the following: (4-7-11)

a. Is fourteen (14) years of age, or older, sometime during the consecutive six- (6) month residence with the prospective relative legal guardian as specified in Subsection 703.01.c. of this rule; (4-7-11)

b. Has been removed from his or her home pursuant to a voluntary placement agreement, or as a result of a judicial determination that continuation in the home would be contrary to the welfare of the child; (4-7-11)

c. Being returned home or adopted are not appropriate permanency options for the child; (4-7-11)

d. Has been eligible for Title IV-E foster care maintenance payments during at least six (6) consecutive months during which the child resided in the home of the prospective relative legal guardian who was licensed or approved as meeting the licensure requirements as a foster family home. While it is not required that Title IV-E foster care maintenance payments have been paid on behalf of the child during the six-month timeframe, it is required the child meet all Title IV-E foster care maintenance payment eligibility criteria in the home of the fully licensed or approved relative foster parent for a consecutive six- (6) month period to be eligible for Title IV-E guardianship assistance payment with that prospective relative legal guardian; (4-7-11)

e. Has been consulted regarding the legal guardianship arrangement; and (4-7-11)

f. Has demonstrated a strong attachment to the prospective relative legal guardian, and the relative legal guardian has a strong commitment to caring permanently for the child. (4-7-11)

g. When a successor legal guardian has been named in the child's most recent Title IV-E Relative Guardianship Assistance Agreement, the child remains eligible for guardianship assistance benefits upon the death or incapacitation of the relative legal guardian with any cash assistance paid to the successor legal guardian. ( )

02. Siblings of an Eligible Child. (4-7-11)

a. The Department may make guardianship assistance payments in accordance with a guardianship assistance agreement on behalf of each sibling of an eligible child, under the age of eighteen (18), who is placed with the same relative under the same legal guardianship arrangement if the Department and the relative legal guardian agree that the placement is appropriate. (4-7-11)

b. Nonrecurring expenses associated with obtaining legal guardianship of the eligible child's siblings are available to the extent the total cost does not exceed two thousand dollars ($2,000). (4-7-11)

c. The agency is not required to place siblings with the relative legal guardian of the child at the same time with the eligible child for the siblings to qualify for a cash payment. (4-7-11)

d. A sibling of the eligible child does not have to meet the eligibility criteria for the relative legal guardian to receive a guardianship assistance payment or for the relative legal guardian to receive nonrecurring expenses. (4-7-11)

03. Medicaid. A child who is eligible for federally-funded relative guardianship assistance is eligible for Title XIX Medicaid in the state where the child resides. (4-7-11)

04. Case Plan Requirements. A child who is eligible for federally-funded relative guardianship assistance must have a case plan that includes: (4-7-11)

a. How the child meets the eligibility requirements; (4-7-11)

b. Steps the agency has taken to determine that return to the home or adoption is not appropriate; (4-7-11)

c. The efforts the agency has made to discuss adoption with the child's relative foster parent and the reason why adoption is not an option; (4-7-11)

d. The efforts the agency has made to discuss the legal guardianship and the guardianship assistance with the child's parent or parents, or the reason the efforts were not made; (4-7-11)

e. The reason why a permanent placement with a prospective relative legal guardian and receipt of a guardianship assistance payment is in the child's best interests; and (4-7-11)

f. If the child is not placed with siblings, a statement as to why the child is separated from his siblings. (4-7-11)

05. Criminal History and Background Checks. To be eligible for a federally-funded guardianship assistance payment, all prospective legal guardians and other adult members of the household must receive a criminal history and background check clearance, according to the provisions in IDAPA 16.05.06, "Criminal History and Background Checks." As a licensed foster parent, if the prospective relative legal guardian has already received a clearance, another check is not necessary. (4-7-11)

06. Nonrecurring Expenses. The Department will reimburse the cost, up to two thousand dollars ($2,000), of nonrecurring expenses associated with obtaining a federally-funded legal guardianship for an eligible child. (4-7-11)

(BREAK IN CONTINUITY OF SECTIONS)

911. ADOPTION ASSISTANCE PROGRAM AGREEMENT.
A written agreement must be negotiated and fully executed between the Department and adopting family prior to the finalization of adoption and implementation of benefits. (5-8-09)

01. Agreement Specifications. The agreement specifies the following: (5-8-09)

a. The type and amount of assistance to be provided; (5-8-09)

b. That there will be an annual review of each agreement by the Department to evaluate the need for continued subsidy and the amount of the subsidy; (5-8-09)

c. That the agreed upon type and amount of assistance may be adjusted only with the concurrence of the adoptive parent(s) based upon changes in the needs of the child or changes in the circumstances of the adoptive family; (5-8-09)

~~d. That assistance is subject to the continuing availability of funds; and (5-8-09)~~

~~e~~d. That the adoptive parent(s) are required to inform the Department of any circumstances which would make them ineligible for adoption assistance payments, or eligible for adoption assistance payments in a different amount. (5-8-09)

02. **Termination of Adoption Assistance.** Adoption assistance will be terminated if the adoptive parent(s) no longer have legal responsibility for the child as a result of termination of parental rights, the child is no longer receiving any financial support from the parents, or the child has reached the age of eighteen (18) years regardless of the child's educational status. (4-11-06)

03. **Adoption Assistance Follows the Child.** If the adoptive parents are located in a state other than Idaho, or move out of Idaho with the child, the adoption assistance payments initiated by Idaho will continue for the child. If the child is IV-E or state-funded adoption assistance eligible, referral for Medicaid or other state medical insurance and social service benefits will be forwarded to the new state of residence through the Interstate Compact on Adoption and Medical Assistance. Non IV-E eligible children receiving a state adoption subsidy, may not be eligible for Medicaid in a state other than Idaho. (5-3-03)

COMMENTS

IDAHO DEPARTMENT OF
HEALTH & WELFARE

C.L. "BUTCH" OTTER – Governor
RICHARD M. ARMSTRONG – Director

TAMARA PRISOCK – Division Administrator
DIVISION OF LICENSING AND CERTIFICATION
Administrative Rules Unit
450 West State Street, 10th Floor
P.O. Box 83720
Boise, Idaho 83720-0036
PHONE 208-334-5500
FAX 208-334-6558
DHWRules@dhw.idaho.gov

LIST OF EXHIBITS

Proposed Rule

CHILD AND FAMILY SERVICES

Docket Number: 16-0601-1501

Deadline for Comment: September 23, 2015

EXHIBIT NO.	SUBMITTED BY	DESCRIPTION	NO. PAGES
1	Legislative Services Office Elizabeth Bowen, Legislative Research Analyst Statehouse PO Box 83720 Boise, ID 83720-0054	Memorandum Rec'd 9/15/2015	2
2	Legislative Services Office Elizabeth Bowen, Legislative Research Analyst Statehouse PO Box 83720 Boise, ID 83720-0054	Letter Rec'd 10/02/2015	1

Legislative Services Office
Idaho State Legislature

Serving Idaho's Citizen Legislature

Eric Milstead
Director

MEMORANDUM

TO: Rules Review Subcommittee of the Senate Health & Welfare Committee and the House Health & Welfare Committee

FROM: Legislative Research Analyst - Elizabeth Bowen

DATE: September 15, 2015

SUBJECT: Department of Health and Welfare

IDAPA 16.06.01 - Child and Family Services - Proposed Rule (Docket No. 16-0601-1501)

IDAPA 16.06.02 - Rules Governing Standards for Child Care Licensing - Proposed Rule (Docket No. 16-0602-1501)

The Department of Health and Welfare submits notice of proposed rulemaking at IDAPA 16.06.01 and 16.06.02.

16.06.01

The purpose of this proposed rule is to align Idaho rules with federal requirements relating to legal guardianship of a child. The rule:

- Defines the term "sibling";
- Provides that a prospective guardian who is a relative of the child may identify a successor guardian to be appointed in the event that the relative guardian dies or is incapacitated; and
- Provides that relative guardianship assistance benefits will not end with the death or incapacitation if a relative guardian identified a successor legal guardian who assumes legal responsibility for the child.

Negotiated rulemaking was not conducted due to the nature of the rule change, which is required to conform to federal law. There is no anticipated fiscal impact on the state general fund. The Department states that this rulemaking is authorized pursuant to Sections 16-1629, 16-2102, 39-1209 through 39-1211, 39-5603, 39-7501, 56-202, 56-204A, 56-803, 56-1003, 56-1004, 56-1004A, and 56-1007, Idaho Code.

16.06.02

The purpose of this proposed rule is to align Idaho rules with federal requirements relating to foster care. The rule:

- Defines the term "reasonable and prudent parent standard," relating to decisions made by a caregiver to maintain the health, safety, and best interests of a child placed in foster care, while also encouraging the emotional and developmental growth of the child; and

- Requires organizations that provide services to children placed by the Child and Family Service Program to designate at least one on-site official who is authorized to apply the reasonable and prudent parent standard.

Negotiated rulemaking was not conducted due to the nature of the rule change, which is required to conform to federal law. There is no anticipated fiscal impact on the state general fund. The Department states that this rulemaking is authorized pursuant to Sections 39-1111, 39-1209, 39-1210, 39-1211, 39-1213, 56-1003, 56-1004A, and 56-1005, Idaho Code.

cc: Department of Health and Welfare
Tamara Prisock

Legislative Services Office
Idaho State Legislature

Eric Milstead
Director

Serving Idaho's Citizen Legislature

October 02, 2015

Tamara Prisock
Admin. Procedures Section
Department of Health and Welfare
PO Box 83720
Boise, ID 83720-0036

Dear Tamara Prisock:

The Senate and House Subcommittees for review of administrative rules have reviewed the proposed changes to the Department of Health and Welfare rules:

IDAPA 16.06.01 - Child and Family Services - Proposed Rule - Docket No. 16-0601-1501

IDAPA 16.06.02 - Rules Governing Standards for Child Care Licensing - Proposed Rule - Docket No. 16-0602-1501

No meeting will be held, and we are pleased to report that no objections will be filed.

Sincerely yours,

Elizabeth Bowen
Legislative Research Analyst

ELB/jk

cc:

Mike Nugent, Manager
Research & Legislation

Cathy Holland-Smith, Manager
Budget & Policy Analysis

April Renfro, Manager
Legislative Audits

Glenn Harris, Manager
Information Technology

Statehouse, P.O. Box 83720
Boise, Idaho 83720–0054

Tel: 208–334–2475
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ATTACHMENT 14

IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE

16.06.02 - RULES GOVERNING STANDARDS FOR CHILD CARE LICENSING

DOCKET NO. 16-0602-1501

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2016 Idaho State Legislature for final approval. In accordance with Section 67-5224(5)(a) and (b), Idaho Code, as specified here in this notice the pending rule becomes final and effective on July 1, 2016, after review by the legislature, unless the rule is approved or rejected in part by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is affected by concurrent resolution, the concurrent resolution shall specify the effective date of the rule.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 39-1111, 39-1209, 39-1210, 39-1211, 39-1213, 56-1003, 56-1004A, and 56-1005(8), Idaho Code, and Public Law 113-183 (the Preventing Sex Trafficking and Strengthening Families Act).

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change.

This rulemaking aligns this chapter of rules with federal requirements regarding foster care and the application of the "reasonable and prudent parent standard." In this rulemaking:

1. The term "reasonable and prudent parent standard" is being defined for the purpose of the Department's child welfare program. The definition is required in accordance with Public Law 113-183 and the proposed definition utilizes wording acceptable to the federal Department of Health and Human Services.

2. Public Law 113-183 requires child care institutions providing foster care to have the presence of at least one on-site official who, with respect to any child placed at the child care institution, is designated to be the caregiver who is authorized to apply the reasonable and prudent parent standard.

There are no changes to the pending rule and it is being adopted as originally proposed. The complete text of the proposed rule was published in the September 2, 2015, Idaho Administrative Bulletin, Vol. 15-9, pages 146 and 147.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased: NA

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars ($10,000) during the fiscal year as a result of this rulemaking:

This rulemaking has no fiscal impact to the state general fund, or any other funds.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Sabrina Brown at (208) 334-5648.

DATED this _____ day of _____, 2015.

Tamara Prisock
DHW - Administrative Rules Unit
450 W. State Street - 10th Floor
P.O. Box 83720
Boise, ID 83720-0036
(208) 334-5500 phone; (208) 334-6558 fax
E-mail: **dhwrules@dhw.idaho.gov**

THE FOLLOWING IS THE PENDING TEXT OF DOCKET NO. 16-0602-1501
(Only Those Sections With Amendments Are Shown.)

457. REASONABLE AND PRUDENT PARENT STANDARD.
A caregiver must follow the reasonable and prudent parent standard. ( )

01. **Reasonable and Prudent Parent Standard Defined**. The reasonable and prudent parent standard means the standard characterized by careful and sensible parental decisions that maintain the health, safety, and best interests of a child while at the same time encouraging the emotional and developmental growth of the child that a caregiver must use when determining whether to allow a child in foster care under the responsibility of the state to participate in extracurricular, enrichment, cultural, or social activities. ( )

a. "Caregiver" means a foster parent with whom a child in foster care has been placed or a designated official for a child care institution in which a child in foster care has been placed. ( )

b. "Age or developmentally appropriate" means: ( )

i. Activities or items that are generally accepted as suitable for children of the same chronological age or level of maturity or that are determined to be developmentally appropriate for a child, based on the development of cognitive, emotional, physical, and behavioral capacities that are typical for an age or age group; and ( )

ii. In the case of specific child, activities or items that are suitable for the child based on the developmental stages attained by the child with respect to the cognitive, emotional, physical, and behavioral capacities of the child. ( )

02. **Training**. Each caregiver will complete training to include knowledge and skills relating to the reasonable and prudent parent standard for the participation of the child in age or developmentally appropriate activities, including knowledge and skills relating to the developmental stages of the cognitive, emotional, physical, and behavioral capacities of a child, and applying the standard to decisions such as whether to allow the child to engage in social, extracurricular, enrichment, cultural, and social activities, including sports, field trips, and overnight activities lasting one (1) or more days, and involving the signing of permission slips and arranging transportation for the child to and from extracurricular enrichment and social activities. ( )

45~~7~~8. -- 469. (RESERVED)

(BREAK IN CONTINUITY OF SECTIONS)

583. REASONABLE AND PRUDENT PARENT STANDARD FOR AN ORGANIZATION PROVIDING SERVICES TO CHILDREN PLACED BY THE DEPARTMENT.
An organization providing services to children placed by the Department's Child and Family Service Program must designate at least one (1) on-site official who is authorized to apply the reasonable and prudent parent standard as described in Section 457 of these rules. ( )

58~~3~~4. -- 599. (RESERVED)

COMMENTS

IDAHO DEPARTMENT OF
HEALTH & WELFARE

C.L. "BUTCH" OTTER – Governor
RICHARD M. ARMSTRONG – Director

TAMARA PRISOCK – Division Administrator
DIVISION OF LICENSING AND CERTIFICATION
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DHWRules@dhw.idaho.gov

LIST OF EXHIBITS

Proposed Rule

RULES GOVERNING STANDARDS FOR CHILD CARE LICENSING

Docket Number: 16-0602-1501

Deadline for Comment: September 23, 2015

EXHIBIT NO.	SUBMITTED BY	DESCRIPTION	NO. PAGES
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Legislative Services Office
Idaho State Legislature

Eric Milstead
Director

Serving Idaho's Citizen Legislature

MEMORANDUM

TO: Rules Review Subcommittee of the Senate Health & Welfare Committee and the House Health & Welfare Committee

FROM: Legislative Research Analyst - Elizabeth Bowen

DATE: September 15, 2015

SUBJECT: Department of Health and Welfare

IDAPA 16.06.01 - Child and Family Services - Proposed Rule (Docket No. 16-0601-1501)

IDAPA 16.06.02 - Rules Governing Standards for Child Care Licensing - Proposed Rule (Docket No. 16-0602-1501)

The Department of Health and Welfare submits notice of proposed rulemaking at IDAPA 16.06.01 and 16.06.02.

16.06.01

The purpose of this proposed rule is to align Idaho rules with federal requirements relating to legal guardianship of a child. The rule:

- Defines the term "sibling";
- Provides that a prospective guardian who is a relative of the child may identify a successor guardian to be appointed in the event that the relative guardian dies or is incapacitated; and
- Provides that relative guardianship assistance benefits will not end with the death or incapacitation if a relative guardian identified a successor legal guardian who assumes legal responsibility for the child.

Negotiated rulemaking was not conducted due to the nature of the rule change, which is required to conform to federal law. There is no anticipated fiscal impact on the state general fund. The Department states that this rulemaking is authorized pursuant to Sections 16-1629, 16-2102, 39-1209 through 39-1211, 39-5603, 39-7501, 56-202, 56-204A, 56-803, 56-1003, 56-1004, 56-1004A, and 56-1007, Idaho Code.

16.06.02

The purpose of this proposed rule is to align Idaho rules with federal requirements relating to foster care. The rule:

- Defines the term "reasonable and prudent parent standard," relating to decisions made by a caregiver to maintain the health, safety, and best interests of a child placed in foster care, while also encouraging the emotional and developmental growth of the child; and

- Requires organizations that provide services to children placed by the Child and Family Service Program to designate at least one on-site official who is authorized to apply the reasonable and prudent parent standard.

Negotiated rulemaking was not conducted due to the nature of the rule change, which is required to conform to federal law. There is no anticipated fiscal impact on the state general fund. The Department states that this rulemaking is authorized pursuant to Sections 39-1111, 39-1209, 39-1210, 39-1211, 39-1213, 56-1003, 56-1004A, and 56-1005, Idaho Code.

cc: Department of Health and Welfare
Tamara Prisock

Legislative Services Office
Idaho State Legislature

Eric Milstead
Director

Serving Idaho's Citizen Legislature

October 02, 2015

Tamara Prisock
Admin. Procedures Section
Department of Health and Welfare
PO Box 83720
Boise, ID 83720-0036

Dear Tamara Prisock:

The Senate and House Subcommittees for review of administrative rules have reviewed the proposed changes to the Department of Health and Welfare rules:

IDAPA 16.06.01 - Child and Family Services - Proposed Rule - Docket No. 16-0601-1501

IDAPA 16.06.02 - Rules Governing Standards for Child Care Licensing - Proposed Rule - Docket No. 16-0602-1501

No meeting will be held, and we are pleased to report that no objections will be filed.

Sincerely yours,

Elizabeth Bowen

Elizabeth Bowen
Legislative Research Analyst

ELB/jk

cc:

Mike Nugent, Manager
Research & Legislation

Cathy Holland-Smith, Manager
Budget & Policy Analysis

April Renfro, Manager
Legislative Audits

Glenn Harris, Manager
Information Technology

Statehouse, P.O. Box 83720
Boise, Idaho 83720-0054

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ATTACHMENT 15

IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE

16.07.01 - BEHAVIORAL HEALTH SLIDING FEE SCHEDULES

DOCKET NO. 16-0701-1501

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2016 Idaho State Legislature for final approval. In accordance with Section 67-5224(5)(a) and (b), Idaho Code, as specified here in this notice the pending rule becomes final and effective on July 1, 2016, after review by the legislature, unless the rule is approved or rejected in part by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is affected by concurrent resolution, the concurrent resolution shall specify the date.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Title 39, Chapter 3, and Sections 56-1003, 56-1004, 56-1004A, 56-1007, and 56-1009, Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change.

There are no changes to the pending rule combining the fee schedules into one table and updating to a behavioral health system of care. These rules are being adopted as originally proposed. The complete text of the proposed rule was published in the September 2, 2015, Idaho Administrative Bulletin, Vol. 15-9, pages 148 through 155.

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars ($10,000) during the fiscal year as a result of this rulemaking:

There is no anticipated fiscal impact to the state general funds or any other funds due to this rulemaking.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Treena Clark at (208) 334-6611.

DATED this _____ day of _____, 2015.

Tamara Prisock
DHW - Administrative Rules Unit
450 W. State Street - 10th Floor
P.O. Box 83720
Boise, ID 83720-0036
(208) 334-5500 phone; (208) 334-6558 fax
E-mail: **dhwrules@dhw.idaho.gov**

THE FOLLOWING IS THE PENDING RULE OF DOCKET NO. 16-0701-1501
(Only Those Sections With Amendments Are Shown.)

000. LEGAL AUTHORITY.
Under Sections 16-2433, 19-2524, ~~20-520(i),~~ 20-511A, and 39-3137, Idaho Code, the Director is authorized to promulgate, adopt, and enforce rules for the charging of fees for services provided by mental health and substance use disorders providers. Under Section 39-309, Idaho Code, the Board of Health and Welfare is authorized to promulgate, adopt, and enforce rules for the charging of fees for services provided by mental health and substance use disorders providers. ~~(4-9-09)~~(____)

(BREAK IN CONTINUITY OF SECTIONS)

005. OFFICE -- OFFICE HOURS -- MAILING ADDRESS -- STREET ADDRESS -- TELEPHONE NUMBER -- INTERNET WEB SITE.

01. Office Hours. Office hours are 8 a.m. to 5 p.m., Mountain Time, Monday through Friday, except holidays designated by the State of Idaho. (4-9-09)

02. Mailing Address. The mailing address for the business office is Idaho Department of Health and Welfare, P.O. Box 83720, Boise, Idaho 83720-0036. (4-9-09)

03. Street Address. The business office of the Idaho Department of Health and Welfare is located at 450 West State Street, Boise, Idaho 83702. (4-9-09)

04. Telephone. The telephone number for the Idaho Department of Health and Welfare is (208) 334-5500. (4-9-09)

05. Internet Web Site. The Department's internet website at http://www.healthandwelfare.idaho.gov. (4-9-09)

06. **Substance Use Disorders Services Website.** The Substance Use Disorders Services internet website at http://www.substanceabuse.idaho.gov. (____)

07. **Mental Health Services Website.** The Mental Health Services internet website at http://www.mentalhealth.idaho.gov. (____)

(BREAK IN CONTINUITY OF SECTIONS)

010. DEFINITIONS.
For the purposes of this chapter, the following definitions apply.(4-9-09)

01. Ability to Pay. The financial capacity that is available to pay for the program services after allowable deductions in relation to gross income and family size exclusive of any liability of third party payor sources. (4-9-09)

02. Adjusted Gross Income. Total family annual income less allowable annual deductions. (4-9-09)

03. Adult. An individual 18 years of age or older. (4-9-09)

04. Adult Mental Health Program. A program administered by the Idaho Department of Health and Welfare to serve seriously mentally ill and severely and persistently mentally ill adults. ~~(4-9-09)~~(____)

05. Allowable Annual Deductions. In determining the family's ability to pay for behavioral health services, the following are allowable annual deductions: (4-9-09)

a. Court-ordered obligations; (4-9-09)

b. Dependent support; (4-9-09)

c. Child care payments necessary for parental employment; (4-9-09)

d. Medical expenses. (4-9-09)

e. Transportation; (4-9-09)

f. Extraordinary rehabilitative expenses; and (4-9-09)

g. State and federal tax payments, including FICA taxes. (4-9-09)

06. **Behavioral Health Services**. Services offered by the Department to improve ~~behavioral~~ mental health ~~issues or alcohol~~ and substance use disorders issues. ~~(4-9-09)~~(____)

07. **Child**. An individual who is under the age of eighteen (18) years. (4-9-09)

08. **Children's Mental Health Program**. A program as defined in IDAPA 16.07.37, "Children's Mental Health Services," administered by the Idaho Department of Health and Welfare. (4-9-09)

~~09. Client. The recipient of services. The term "client" is synonymous with the terms: patient, participant, resident, consumer, or recipient of treatment. (4-9-09)~~

~~10~~09. **Court-Ordered Obligations**. Financial payments which have been ordered by a court of law. (4-9-09)

~~11~~10. **Court-Ordered Recipient**. A person receiving behavioral health services under Sections 19-2524, 20-520(i), and 20-511A, Idaho Code. (4-9-09)

~~12~~11. **Department**. The Idaho Department of Health and Welfare. (4-9-09)

~~13~~12. **Dependent Support**. An individual that is dependent on his family's income for over fifty percent (50%) of his financial support. (4-9-09)

~~14~~13. **Extraordinary Rehabilitative Expenses**. Those payments incurred as a result of the disability needs of the person receiving services. They include annual costs for items including, but not limited to, wheelchairs, adaptive equipment, medication, treatment, or therapy which were not included in the medical payments deduction and the annual estimate of the cost of services received. (4-9-09)

~~15~~14. **Family**. A family is an adult, or married adults, or adult(s) with children, living in a common residence. (4-9-09)

~~16~~15. **Family Household**. Persons in a family related by blood, marriage, or adoption. Adult siblings who are not claimed as dependents and individuals receiving Supplemental Security Income (SSI) or Supplemental Security Disability Income (SSDI) are excluded from consideration as a member of the household for income and counting purposes. Income from minor siblings is excluded from household income. The term "family household" is synonymous with the term "family unit." (3-29-10)

~~17~~16. **Federal Poverty Guidelines**. Guidelines issued annually by the Federal Department of Health and Human Services establishing the poverty income limits. The federal poverty guidelines for the current year may be found online at http://aspe.hhs.gov/poverty. (4-9-09)

~~18~~17. **Management Service Contractor (MSC)**. An independent contractor with whom the Department contracts to manage a statewide network of Department-approved facilities and programs to deliver substance use disorders treatment and recovery support services. (7-1-13)

~~19~~18. **Parent**. The person who, by birth or through adoption, is legally responsible for a child. (4-9-09)

~~20~~19. **Recipient**. The person receiving services. The term "recipient" is synonymous with the terms: "patient," "participant," "resident," "consumer," or "client." (4-9-09)

2~~1~~0. **Sliding Fee Scale.** A scale used to determine an individual's financial obligation for services based on Federal Poverty Guidelines and the number of persons in the family household. (4-9-09)

2~~2~~1. **Substance Use Disorders Program.** A program administered by the Idaho Department of Health and Welfare to serve adolescents and adults with alcohol or substance use disorders. (4-9-09)

2~~3~~2. **Third-Party Pay~~e~~or.** A pay~~e~~or other than a person receiving services or a responsible party who is legally liable for all or part of the person's care. ~~(4-9-09)~~(____)

(BREAK IN CONTINUITY OF SECTIONS)

300. SLIDING FEE SCHEDULE FOR CHILDREN'S MENTAL HEALTH, ~~AND~~ ADULT MENTAL HEALTH, AND SUBSTANCE USE DISORDERS SERVICES.
Following is the sliding fee schedule for children's mental health, ~~and~~ adult mental health, and substance use disorders services:

TABLE 300 - SLIDING FEE SCHEDULE FOR CHILDREN'S MENTAL HEALTH, ~~AND~~ ADULT MENTAL HEALTH, AND SUBSTANCE USE DISORDERS SERVICES.	
Percent Federal of Poverty Guidelines	**Percentage of Cost Sharing Responsibility of a Parent, or Adult ~~Client~~ Services Recipient**
0% - 99%	0%
100%-109%	5%
110%-119%	10%
120%-129%	15%
130%-139%	20%
140%-149%	25%
150%-159%	30%
160%-169%	35%
170%-179%	40%
180%-189%	45%
190%-199%	50%
200% - 209%	55%
210% - 219%	60%
220% - 229%	65%
230% - 239%	70%
240% - 249%	75%
250% - 259%	80%

TABLE 300 - SLIDING FEE SCHEDULE FOR CHILDREN'S MENTAL HEALTH, ~~AND~~ ADULT MENTAL HEALTH, AND SUBSTANCE USE DISORDERS SERVICES.	
Percent Federal of Poverty Guidelines	**Percentage of Cost Sharing Responsibility of a Parent, or Adult ~~Client~~ Services Recipient**
260% - 269%	85%
270% - 279%	90%
280% - 289%	95%
290% - and above	100%

~~(4-9-09)~~(____)

301. -- 399. (RESERVED)

400. CALCULATING INCOME TO APPLY THE SLIDING FEE SCHEDULE FOR CHILDREN'S MENTAL HEALTH AND ADULT MENTAL HEALTH SERVICES.
The fee determination process includes consideration of the following subsections in this rule. (____)

01. Application And Fee Determination Form. Prior to the delivery of behavioral health services, an application for services and a "Fee Determination" form must be completed ~~by~~. (____)

a. ~~a~~A child's parent(s) must complete the application and fee determination form when requesting Children's Mental Health services ~~and by~~. (____)

b. An adult~~s~~ requesting Adult Mental Health services must complete the application and fee determination form. ~~The fee determination process includes the following considerations:~~ ~~(4-9-09)~~(____)

0~~1~~2. Ability to Pay. Financial obligations are based upon the number of persons in the family household and the adjusted gross income of those persons as determined using the following: (4-9-09)

a. An ability to pay determination will be made at the time of the voluntary request for services or as soon as possible, thereafter. (4-9-09)

b. Redetermination of ability to pay will be made at least annually or upon request ~~of the parent(s)~~ or at any time changes occur in family size, income, or allowable deductions. ~~(4-9-09)~~(____)

c. In determining the family's ability to pay for services, the Department will deduct annualized amounts for the following: (4-9-09)

i. Court-ordered obligations; (4-9-09)

ii. Dependent support; (4-9-09)

iii. Child care expenses necessary for parental employment; (4-9-09)

iv. Medical expenses; (4-9-09)

v. Transportation; (4-9-09)

vi. Extraordinary rehabilitative expenses; and (4-9-09)

vii. State and federal tax payments, including FICA taxes. (4-9-09)

0~~2~~3. **Required Information.** Information regarding third-party payors and other resources, including Medicaid or private insurance, must be identified and developed in order to fully determine the child's parent(s) or adult ~~*client's*~~ individual's ability to pay and to maximize reimbursement for the cost of services provided. It is the responsibility of the parents, legal guardian, or adult ~~*client*~~ individual to obtain and provide information not available at the time of the initial financial interview whenever that information becomes available. ~~*(4-9-09)*~~(____)

0~~3~~4. **Time of Payment.** Payment for services will be due upon delivery of services unless other arrangements are made. (4-9-09)

0~~4~~5. **Financial Obligation.** A financial obligation for each service not covered by third party liable resources or payments, including private insurance and Medicaid, will be established in accordance with Section 300 and Subsection 400.01 of these rules but in no case will the amount owed exceed the cost of the service. In no case will the annual financial obligation exceed five percent (5%) of adjusted gross income of the family household. (4-9-09)

0~~5~~6. **Fees Established By the Department.** The maximum hourly fees or flat fees charged for ~~*Children's Mental Health services and Adult Mental*~~ Behavioral Health services are established by the Department of Health and Welfare. ~~*The fees for services based on Medicaid reimbursement rates may vary according to Medicaid inflationary increases. Fees will be reviewed and adjusted as the Medicaid rates change. Current information regarding services and fee charges can be obtained from regional Children's Mental Health and Adult Mental Health offices.*~~ ~~*(4-9-09)*~~(____)

a. The fees for Children's Mental Health Services and Adult Mental Health Services are based on the cost for services set in Department contracts with service providers. Current information regarding services and fee charges can be obtained from regional Children's Mental Health and Adult Mental Health offices specified online as described in Section 005 of these rules. (____)

b. The fees for Substance Use Disorders Services are based on the cost for services set in Department contracts with the Management Services Contractor. Current information regarding services and fee charges can be obtained from the Department office described in Section 005 of these rules. (____)

~~*401. – 499. (RESERVED)*~~

~~*500. SLIDING FEE SCHEDULE FOR ALCOHOL AND SUBSTANCE USE DISORDERS TREATMENT SERVICES.*~~

~~*Adult clients above two hundred percent (200%) of federal poverty guidelines are not eligible for services. Following is the sliding fee schedule for adolescent and adult alcohol and substance use disorders treatment services:*~~

~~*TABLE 500 – SLIDING FEE SCHEDULE FOR ALCOHOL AND SUBSTANCE USE DISORDERS TREATMENT SERVICES*~~	
~~*Percent of Federal Poverty Guidelines*~~	~~*Percentage of Cost Sharing Responsibility of a Parent, Guardian, or Adult Service Recipient*~~
~~*0% – 99% or a Medicaid Client*~~	~~*0%*~~
~~*100% – 109%*~~	~~*5%*~~
~~*110% – 119%*~~	~~*10%*~~
~~*120% – 129%*~~	~~*15%*~~
~~*130% – 139%*~~	~~*20%*~~
~~*140% – 149%*~~	~~*25%*~~
~~*150% – 159%*~~	~~*30%*~~

~~TABLE 500 - SLIDING FEE SCHEDULE FOR ALCOHOL AND SUBSTANCE USE DISORDERS TREATMENT SERVICES~~	
~~Percent of Federal Poverty Guidelines~~	~~Percentage of Cost Sharing Responsibility of a Parent, Guardian, or Adult Service Recipient~~
~~160% - 169%~~	~~35%~~
~~170% - 179%~~	~~40%~~
~~180% - 189%~~	~~45%~~
~~190% - 199%~~	~~50%~~
~~200%~~	~~55%~~

~~(4-9-09)~~

~~501. - 599. (RESERVED)~~

~~600. CALCULATING INCOME TO APPLY THE SLIDING FEE SCHEDULE FOR ALCOHOL AND SUBSTANCE DISORDERS SERVICES.~~

~~01. Ability to Pay. Charges are based upon the number of dependents and family income.~~ ~~(4-9-09)~~

~~a. An ability to pay determination will be made at the time of the voluntary request for services or as soon as possible.~~ ~~(4-9-09)~~

~~b. Redetermination of ability to pay will be made at least annually or upon request demonstrating that a substantial material change of circumstances has occurred in family size, income, or allowable deductions.~~ ~~(4-9-09)~~

~~c. In determining an individual's ability to pay for services, the Department will deduct annualized amounts for:~~ ~~(4-9-09)~~

~~i. Court-ordered obligations;~~ ~~(4-9-09)~~

~~ii. Dependent support;~~ ~~(4-9-09)~~

~~iii. Child care payments necessary for employment;~~ ~~(4-9-09)~~

~~iv. Medical expenses;~~ ~~(4-9-09)~~

~~v. Transportation;~~ ~~(4-9-09)~~

~~vi. Extraordinary rehabilitative expenses; and~~ ~~(4-9-09)~~

~~vii. State and federal tax payments, including FICA.~~ ~~(4-9-09)~~

~~d. Information regarding third-party payors and other resources including Medicaid, or private insurance must be identified and developed in order to fully determine the individual's ability to pay and to maximize reimbursement for the cost of services provided.~~ ~~(4-9-09)~~

~~e. It is the responsibility of the individual requesting alcohol or substance use disorder services to obtain and provide information not available at the time of the initial financial interview whenever that information becomes available.~~ ~~(4-9-09)~~

~~*02.* ***Time of Payment****. Payment for services is due thirty (30) days from the date of the billing, unless other arrangements are made.* *(4-9-09)*~~

~~*03.* ***Charges****. Using the sliding fee scale in Section 500 of this rule, an amount will be charged based on family size, resources, income, assets, and allowable deductions, exclusive of third-party liable sources. In no case will the amount charged exceed the costs of the services.* *(4-9-09)*~~

~~*04.* ***Established Fee****. The maximum hourly fees or flat fees charged for alcohol or substance use disorder services are established by the Department of Health and Welfare. The fees for services are based on the cost for services as set forth in the Department contract with the Management Services Contractor. Current information regarding services and fee charges can be obtained from the Department office as specified in Section 005 of these rules.* *(7-1-13)*~~

~~6~~4~~01. -- 999.~~ (RESERVED)

COMMENTS

IDAHO DEPARTMENT OF
HEALTH & WELFARE

C.L. "BUTCH" OTTER – Governor
RICHARD M. ARMSTRONG – Director

TAMARA PRISOCK – Division Administrator
DIVISION OF LICENSING AND CERTIFICATION
Administrative Rules Unit
450 West State Street, 10th Floor
P.O. Box 83720
Boise, Idaho 83720-0036
PHONE 208-334-5500
FAX 208-334-6558
DHWRules@dhw.idaho.gov

LIST OF EXHIBITS

Proposed Rule

BEHAVIORAL HEALTH SLIDING FEE SCHEDULES

Docket Number: 16-0701-1501

Deadline for Comment: September 23, 2015

EXHIBIT NO.	SUBMITTED BY	DESCRIPTION	NO. PAGES
1	Legislative Services Office Elizabeth Bowen, Leg. Research Analyst Statehouse PO Box 83720 Boise, ID 83720-0054	Memorandum	2
2	Legislative Services Office Elizabeth Bowen, Leg. Research Analyst Statehouse PO Box 83720 Boise, ID 83720-0054	Letter	1

Legislative Services Office
Idaho State Legislature

Eric Milstead
Director

Serving Idaho's Citizen Legislature

MEMORANDUM

TO: Rules Review Subcommittee of the Senate Health & Welfare Committee and the House Health & Welfare Committee

FROM: Legislative Research Analyst - Elizabeth Bowen

DATE: September 15, 2015

SUBJECT: Department of Health and Welfare

IDAPA 16.07.01 - Behavioral Health Sliding Fee Schedules - Proposed Rule (Docket No. 16-0701-1501)

IDAPA 16.07.10 - Behavioral Health Development Grants (Chapter Repeal) - Proposed Rule (Docket No. 16-0710-1501)

IDAPA 16.07.15 - Behavioral Health Programs (New Chapter-Fee Rule) - Proposed Rule (Docket No. 16-0715-1501)

The Department of Health and Welfare submits notice of proposed rulemaking at IDAPA 16.07.01, 16.07.10, and 16.07.15.

16.07.01

This proposed rule combines the fee schedule for children's mental health, adult mental health, and substance use disorder services. It also updates references and removes obsolete language and tables. Negotiated rulemaking was not conducted due to the nature of the rule change, which is to align this chapter with other rules. There is no anticipated fiscal impact on the state general fund. The Department states that this rulemaking is authorized pursuant to Chapter 3, Title 39, Idaho Code, and Sections 56-1003, 56-1004, 56-1004A, 56-1007, and 56-1009, Idaho Code.

16.07.10

The proposed rule repeals this chapter of rules in its entirety. The current rules relate to behavioral health development grants. Since legislation has been passed to create regional behavioral health boards and community crisis centers, the Department is developing a system of behavioral health care, and the behavioral health development grants are no longer necessary. Also, no additional funds have been appropriated for the grants.

Negotiated rulemaking was not conducted due to the nature of the rule change, which addresses changes made to the law and to the state's behavioral health care system. There is no anticipated fiscal impact on the state general fund. The Department states that this rulemaking is authorized pursuant to Chapter 3, Title 39, Idaho Code.

16.07.15

This proposed rule creates a new chapter of rules relating to the development of a behavioral health care system. The rule:

- Describes the Department's legal authority to develop the behavioral health system;
- Provides for administrative appeals;
- Provides for confidentiality of certain records;
- Sets forth requirements for criminal history and background checks of direct care or service providers;
- Defines terms;
- Provides requirements for certificates of approval for behavioral health programs;
- Establishes an application process for certificates of approval;
- Provides administration requirements for behavioral health programs; and
- Imposes an approval fee for each program location. This fee replaces fees currently charged under IDAPA 16.07.20, which is being repealed.

Negotiated rulemaking was conducted, and there is no anticipated impact on the state general fund. The Department states that this rulemaking is authorized pursuant to Chapter 3, Title 39, Idaho Code.

cc: Department of Health and Welfare
Tamara Prisock

Legislative Services Office
Idaho State Legislature

Eric Milstead
Director

Serving Idaho's Citizen Legislature

October 02, 2015

Tamara Prisock
Admin. Procedures Section
Department of Health and Welfare
PO Box 83720
Boise, ID 83720-0036

Dear Tamara Prisock:

The Senate and House Subcommittees for review of administrative rules have reviewed the proposed changes to the Department of Health and Welfare rules:

IDAPA 16.07.01 - Behavioral Health Sliding Fee Schedules - Proposed Rule - Docket No. 16-0701-1501

IDAPA 16.07.10 - Behavioral Health Development Grants (Chapter Repeal) - Proposed Rule - Docket No. 16-0710-1501

IDAPA 16.07.15 - Behavioral Health Programs (New Chapter-Fee Rule) - Proposed Rule - Docket No. 16-0715-1501

No meeting will be held, and we are pleased to report that no objections will be filed.

Sincerely yours,

Elizabeth Bowen
Legislative Research Analyst

ELB/jk

cc:

Mike Nugent, Manager
Research & Legislation

Cathy Holland-Smith, Manager
Budget & Policy Analysis

April Renfro, Manager
Legislative Audits

Glenn Harris, Manager
Information Technology

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ATTACHMENT 16

IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE

16.07.15 - BEHAVIORAL HEALTH PROGRAMS

DOCKET NO. 16-0715-1501 (NEW CHAPTER - FEE RULE)

NOTICE OF RULEMAKING - ADOPTION OF PENDING FEE RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2016 Idaho State Legislature for final approval. Pursuant to Section 67-5224(5)(c), Idaho Code, this pending rule will not be final and effective until it has been approved by concurrent resolution of the legislature because of the fee being imposed or increased through this rulemaking. Pursuant to Section 67-5224(5)(b), Idaho Code, as provided herein the pending fee rule becomes final and effective on effective on July 1, 2016.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. This action is authorized pursuant to Title 39, Chapter 3, and Chapter 31, and Sections 56-1003, 56-1004, 56-1004A, 56-1007, and 56-1009, Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change.

This new chapter of rule is to meet the needs of developing and implementing a behavioral health system of care. The text of the pending rule has been amended in accordance with Section 67-5227, Idaho Code. Only those sections that have changes that differ from the proposed text are printed in this bulletin. The changes were based on comments received for clarification and grammar. The original text of the proposed rule was published in the September 2, 2015, Idaho Administrative Bulletin, Vol. 15-9, pages 157 through 177.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased:

These rules have a flat fee structure of $100 per each behavioral health program location. This fee replaces fees that are currently being charged under IDAPA 16.07.20, "Alcohol and Substance Use Disorders Treatment and Recovery Support Services Facilities and Programs," which is being repealed in this same Bulletin under Docket 16-0720-1501.

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars ($10,000) during the fiscal year as a result of this rulemaking:

The fiscal impact for this rule change is anticipated to be cost-neutral for state general funds and all other funds. Currently, the Department collects a fee from alcohol and substance use disorders treatment and recovery support facilities that is $100 per facility for treatment and $50 per facility for recovery support services. The new fee structure will be a flat fee of $100 for each behavioral health program location.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning the pending rule, contact Treena Clark at (208) 334-6611.

DATED this _____ day of _____, 2015.

Tamara Prisock
DHW - Administrative Rules Unit
450 W. State Street - 10th Floor
P.O. Box 83720
Boise, ID 83720-0036
(208) 334-5500 phone; (208) 334-6558 fax
E-mail: **dhwrules@dhw.idaho.gov**

THE FOLLOWING IS THE AMENDED TEXT OF THE PENDING FEE RULE OF DOCKET NO. 16-0715-1501

IDAPA 16
TITLE 07
CHAPTER 15

16.07.15 - BEHAVIORAL HEALTH PROGRAMS

000. LEGAL AUTHORITY.
The Idaho Legislature has delegated to the Department of Health and Welfare, as the State Behavioral Health Authority, the oversight of the state of Idaho's behavioral health services. Under Title 39, Chapter 31, Idaho Code, the Department is authorized to promulgate and enforce rules to carry out the purposes and intent of the Regional Behavioral Health Services Act. Under Sections 56-1003, 56-1004, 56-1004A, 56-1007, and 56-1009 Idaho Code, the Director of the Department is authorized to adopt and enforce rules to supervise and administer a mental health program and services dealing with the problems of alcoholism including the care and rehabilitation of persons suffering from alcoholism. Under Title 39, Chapter 3, Idaho Code, the Board of Health and Welfare is authorized to adopt and enforce rules that set standards for the approval of substance use disorders agencies in the state of Idaho. ( )

001. TITLE, SCOPE, AND PURPOSE.

01. Title. The title of these rules is IDAPA 16.07.15, "Behavioral Health Programs." ( )

02. Scope. These rules set minimum standards for approved behavioral health programs in Idaho. ( )

03. Purpose. The purpose of these rules is to: ( )

a. Establish requirements for the approval, denial, suspension, or revocation of certificates of approval for approved behavioral health programs in Idaho; ( )

b. Set fees for the Department's approval process of applications and on-site reviews for behavioral health programs in Idaho; and ( )

c. Establish requirements for the health, safety, and environment of care for behavioral health programs in Idaho. ( )

002. WRITTEN INTERPRETATIONS.
In accordance with Section 67-5201(19)(b)(iv), Idaho Code, this agency may have written statements that pertain to the interpretations of these rules, or to the documentation of compliance with these rules. These documents are available for public inspection as described in Sections 005 and 006 of these rules. ( )

003. ADMINISTRATIVE APPEALS.
Administrative appeals are governed by provisions of IDAPA 16.05.03, "Rules Governing Contested Case Proceedings and Declaratory Rulings." ( )

004. INCORPORATION BY REFERENCE.
No documents are incorporated by reference as provided by Section 67-5229(a), Idaho Code. ( )

005. OFFICE -- OFFICE HOURS -- MAILING ADDRESS -- STREET ADDRESS -- TELEPHONE -- INTERNET WEBSITE.

01. Office Hours. Office hours are 8 a.m. to 5 p.m., Mountain Time, Monday through Friday, except holidays designated by the state of Idaho. ( )

02. Mailing Address. The mailing address for the business office is Idaho Department of Health and Welfare, P.O. Box 83720, Boise, Idaho 83720-0036. ( )

03. Street Address. The business office of the Idaho Department of Health and Welfare is located at 450 West State St., Boise, Idaho 83702. ( )

04. Telephone. The telephone number for the Idaho Department of Health and Welfare is (208) 334-5500. ( )

05. Internet Website. The Department's internet website is http://www.healthandwelfare.idaho.gov. ( )

06. Substance Use Disorders Services Website. The Substance Use Disorders Services internet website is http://www.substanceabuse.idaho.gov. ( )

07. Mental Health Services Website. The Mental Health Services internet website is http://www.mentalhealth.idaho.gov. ( )

006. CONFIDENTIALITY OF RECORDS AND PUBLIC RECORDS REQUEST.

01. Public Records. The use or disclosure of Department records must comply with IDAPA 16.05.01, "Use and Disclosure of Department Records." Unless otherwise exempted by state or federal law, all public records in the custody of the Department are subject to disclosure. ( )

02. Public Availability of Licensure or Deficiencies. In compliance with Section 74-106(9), Idaho Code, and IDAPA 16.05.01.100.02, "Use and Disclosure of Department Records," records relating to behavioral health programs will be released to the public upon written request if they are part of an inquiry into an individual's or organization's fitness to be granted or retain a license, certificate, permit, privilege, commission, or position. These records will otherwise be provided in redacted form as required by law or rule. ( )

007. -- 008. (RESERVED)

009. CRIMINAL HISTORY AND BACKGROUND CHECK REQUIREMENTS.

01. Criminal History and Background Check. All owners, operators, employees, transfers, reinstated former employees, student interns, contractors, and volunteers who provide direct care or services, or whose position requires regular contact with participants, must comply with the provisions of IDAPA 16.05.06, "Criminal History and Background Checks." ( )

02. Availability to Work. An individual, listed in Subsection 009.01 of this rule, is available to work on a provisional basis at the discretion of the employer or agency once the individual has submitted his criminal history and background check application, it has been signed and notarized, reviewed by the employer or agency, and no disqualifying crimes or relevant records are disclosed on the application. An individual must be fingerprinted within twenty-one (21) days of submitting his criminal history and background check application. ( )

a. An individual is allowed to work or have access to participants only under supervision until the criminal history and background check is completed. ( )

b. An individual, who does not receive a criminal history and background check clearance or a waiver granted under the provisions in these rules, may not provide direct care or services, or serve in a position that requires regular contact with participants. ( )

03. **Waiver of Criminal History and Background Check Denial.** An individual who receives an unconditional denial or a denial after an exemption review by the Department's Criminal History Unit, may apply for a waiver to provide direct care or services, or serve in a position that requires regular contact with participants. A waiver may be granted on a case-by-case basis upon administrative review by the Department of any underlying facts and circumstances in each individual case. A waiver will not be granted for crimes listed in Subsection 009.04 of this rule. ( )

04. **No Waiver for Certain Designated Crimes.** No waiver will be granted by the Department for any of the following designated crimes or substantially conforming foreign criminal violations: ( )

a. Forcible sexual penetration by use of a foreign object, as defined in Section 18-6608, Idaho Code; ( )

b. Incest, as defined in Section 18-6602, Idaho Code; ( )

c. Lewd conduct with a minor, as defined in Section 18-1508, Idaho Code; ( )

d. Murder in any degree or assault with intent to commit murder, as defined in Sections 18-4001, 18-4003, and 18-4015, Idaho Code; ( )

e. Possession of sexually exploitative material, as defined in Section 18-1507A, Idaho Code; ( )

f. Rape, as defined in Section 18-6101, Idaho Code; ( )

g. Sale or barter of a child, as defined in Section 18-1511, Idaho Code; ( )

h. Sexual abuse or exploitation of a child, as defined in Sections 18-1506 and 18-1507, Idaho Code; ( )

i. Enticing of children, as defined in Sections 18-1509 and 18-1509A, Idaho Code; ( )

j. Inducing individuals under eighteen (18) years of age into prostitution or patronizing a prostitute, as defined in Sections 18-5609 and 18-5611, Idaho Code; ( )

k. Any felony punishable by death or life imprisonment; or ( )

l. Attempt, conspiracy, accessory after the fact, or aiding and abetting, as defined in Sections 18-205, 18-306, 18-1701, and 19-1430, Idaho Code, to commit any of the disqualifying designated crimes. ( )

05. **Administrative Review.** An administrative review for a waiver may consist of a review of documents and supplemental information provided by the individual, a telephone interview, an in-person interview, or any other review deemed necessary by the Department. The Department may appoint a subcommittee to conduct administrative reviews for waivers of CHC denials described in Subsections 009.03 and 009.04 of this rule. ( )

06. **Written Request for Administrative Review and Waiver.** A written request for a waiver must be sent to the Administrative Procedures Section, 450 W. State Street, P.O. Box 83720, Boise, Idaho 83720-0026 within thirty (30) calendar days from the date of the issuance of a denial from the Department's Criminal History Unit. The thirty (30) day period for submitting a request for a waiver may be extended by the Department for good cause. ( )

07. **Scheduling of Administrative Review.** Upon receipt of a written request for a waiver, the Department will determine the type of administrative review to be held, and conduct the review within thirty (30) business days from the date of receipt. When an in-person review is appropriate, the Department will provide the individual at least seven (7) days notice of the review date. ( )

08. **Factors Considered During Administrative Review.** During the administrative review, the

following factors may be considered: ( )

a. The severity or nature of the crimes or other findings; ( )

b. The period of time since the incidents occurred; ( )

c. The number and pattern of incidents being reviewed; ( )

d. Circumstances surrounding the incidents that would help determine the risk of repetition; ( )

e. The relationship between the incidents and the position sought; ( )

f. Activities since the incidents, such as continuous employment, education, participation in treatment, completion of a problem-solving court or other formal offender rehabilitation, payment of restitution, or any other factors that may be evidence of rehabilitation. ( )

g. A pardon that was granted by the Governor or the President; ( )

h. The falsification or omission of information on the self-declaration form and other supplemental forms submitted; and ( )

i. Any other factor deemed relevant to the review. ( )

09. **Administrative Review Decision.** A notice of decision will be issued by the Department within fifteen (15) business days of completion of the administrative review. ( )

10. **Decision to Grant Waiver.** The Department's decision to grant a waiver does not set a precedent for subsequent requests by an individual for a waiver. A waiver granted under these rules is not a criminal history and background check clearance. A waiver is only applicable to the specified individual on the waiver and for behavioral health services and programs governed under these rules. The waiver does not apply to other Department programs that require a clearance for a Department criminal history and background check. ( )

11. **Revocation of Waiver.** At any time, the Department may revoke a waiver at its discretion for circumstances that it identifies as a risk to participants' health and safety. ( )

12. **Waiver Decisions Are Not Subject to Review or Appeal.** The decision or actions of the Department concerning a waiver are not subject to review or appeal, administratively, or otherwise. ( )

13. **Employer Responsibilities.** A waiver granted by the Department is not a determination of suitability for employment. The employer is responsible for reviewing the results of a criminal history and background check even when a clearance is issued or a waiver is granted. Making a determination as to the ability or risk of the individual to provide direct care services or to serve in a position that requires regular contact with children and vulnerable adults is the responsibility of the employer. ( )

010. DEFINITIONS.
For the purposes of these rules, the following terms are used. ( )

01. **Behavioral Health Program.** A behavioral health program refers to an organization offering mental health or substance use disorders treatment services which includes the organization's facilities, management, staffing patterns, treatment, and related activities. ( )

02. **Certificate of Approval.** A certificate issued by the Department to a behavioral health program which the Department deems to be in compliance with these rules. ( )

03. **Critical Incident.** An event that caused, or could have caused physical or emotional distress to staff, visitors, or the participants of the program. ( )

04. **Department**. The Idaho Department of Health and Welfare, or its designee. ( )

05. **Director**. The Director of the Department of Health and Welfare, or designee. ( )

06. **Good Cause**. A valid and sufficient reason for not complying with the time frame set for submitting a written request for a waiver by an individual who does not receive a criminal history and background check clearance. ( )

07. **Participant**. An individual seeking or receiving behavioral health program treatment services. The term "participant" is synonymous with the terms "patient," "resident," "consumer," "client," or "recipient of treatment." ( )

08. **Variance**. The means of complying with the intent and purpose of a behavioral health program rule in a manner acceptable to the Department other than that specifically prescribed in the rule. ( )

09. **Waiver**. The means to allow an individual who is unable to pass a Department criminal history background check to provide services in an approved behavioral health program. Waivers are only for a specified individual for the sole purpose of providing behavioral health services. ( )

011. -- 049. (RESERVED)

050. VARIANCE FOR BEHAVIORAL HEALTH PROGRAM.
The Department may grant a variance from compliance with a specific behavioral health program requirement when the variance will not violate an existing state or federal law or jeopardize health, safety, or welfare of individuals. ( )

01. **Written Request**. A behavioral health program must submit a written request to the Department for a variance. The request must include the following: ( )

a. Reference the section of the rules for which the variance is requested; and ( )

b. Good cause for such a variance and how the health, welfare, or safety of participants will not be jeopardized if a variance is granted. ( )

02. **Decision to Grant a Variance**. The decision by the Department to grant a variance does not set a precedent for subsequent behavioral health program requests nor will it be given any effect in any other proceeding. ( )

03. **Revocation of Variance**. The Department may revoke a variance at any time when circumstances identify a risk to participants' health or safety. ( )

051. -- 074. (RESERVED)

075. SUBSTANCE USE DISORDERS SERVICES.
An approved behavioral health program providing substance use disorder services must comply with all requirements in IDAPA 16.07.17, "Substance Use Disorders Services," and the requirements and minimum standards required in these rules. ( )

076. -- 099. (RESERVED)

100. CERTIFICATE OF APPROVAL.
Under the standards and requirements in these rules, the Department may approve behavioral health programs that provide outpatient mental health services or programs that provide substance use disorders services, or both. Each approved behavioral health program must meet the standards and requirements of these rules in order to obtain and maintain a Department certificate of approval. ( )

01. **List of Approved Behavioral Health Programs**. The Department will maintain a list of approved

behavioral health programs. The issuance of a certificate of approval from the Department does not guarantee adequacy of individual care, treatment, personal safety, fire safety, or the well-being of any participant, employee, contractor, volunteer, or occupant of the program. The provider of a behavioral health program with a certificate of approval is responsible to ensure the adequacy and quality of care being provided to its participants. ( )

02. **Approved Behavioral Health Programs with Multiple Locations.** A behavioral health program may have more than one (1) location in which it provides services. ( )

a. Each location of the behavioral health program must comply with the requirements and minimum standards in these rules in order to operate, manage, conduct, or maintain, directly or indirectly, an approved behavioral health program. ( )

b. When a behavioral health program applies for certificates of approval for multiple locations, denial of a certificate of approval at a specific location will not affect the other behavioral health program's location applications that have not been denied. ( )

101. -- 109. (RESERVED)

110. INITIAL APPLICATION FOR CERTIFICATE OF APPROVAL.
Each behavioral health program must apply to the Department for a certificate of approval. ( )

01. **Obtain and Complete Application.** Initial application forms for a behavioral health program may be obtained upon written request or online at the Department of Health and Welfare as identified in Section 005 of these rules. The applicant must provide a completed application to the Department prior to receiving a certificate of approval for a behavioral health program. ( )

02. **Signed Application.** Each applicant must sign and provide a completed application and site form for each location. ( )

03. **Application Fee.** A non-refundable application fee of one hundred dollars ($100) for each behavioral health program location must be included with the application. ( )

04. **Certificate of Assumed Business Name.** A copy of the "Certificate of Assumed Business Name" obtained from the Idaho Secretary of State must be included with the behavioral health program's application. ( )

05. **Certificates or Permits.** A copy of each current and valid certificate or permit must be included as appropriate: ( )

a. Certificate of Occupancy from the local building authority for each location; ( )

b. Certificate of fire inspection conducted by the State fire marshal or local authority for each location; and ( )

06. **Proof of Insurance.** Each behavioral health program must maintain minimum insurance policy to cover both professional liability and commercial general liability. Behavioral Health Programs are responsible for maintaining additional insurance coverage as appropriate for the various services, funding sources, interventions, and populations served. ( )

07. **Agreement for Site Inspection.** A signed agreement for each behavioral health program site inspection location as determined by the Department. ( )

08. **Other Information Requested.** Other information that may be requested by the Department for the proper administration and enforcement of these rules. ( )

111. -- 119. (RESERVED)

120. RENEWAL OF CERTIFICATE OF APPROVAL.

Each approved behavioral health program must apply for renewal of the program to the Department at least ninety (90) calendar days prior to the expiration date on the current certificate of approval. ( )

01. Obtain and Complete Renewal Application Form. A completed and signed renewal application form must be submitted to the Department. Application for renewal forms are available upon written request or online at the Department of Health and Welfare as identified in Section 005 of these rules. ( )

02. Renewal Application Fee. A non-refundable renewal application fee of one hundred dollars ($100) for each behavioral health program location being renewed must be included with each renewal application. ( )

03. Proof of Insurance. Each behavioral health program must maintain minimum insurance policy to cover both professional liability and commercial general liability. Behavioral Health Programs are responsible for maintaining additional insurance coverage as appropriate for the various services, funding sources, interventions, and populations served. ( )

04. Changes to Behavioral Health Programs. The behavioral health program must disclose any changes to the program that have occurred during the current certification period. ( )

05. Other Information Requested. Other information that may be requested by the Department for the proper administration and enforcement of these rules. ( )

121. -- 129. (RESERVED)

130. FAILURE TO COMPLETE APPLICATION PROCESS.
Failure of the applicant to cooperate with the Department or complete the application process within six (6) months of the original date of application will result in a denial of the application. If the application is denied, the applicant is barred from submitting, seeking, or obtaining another application for a certificate of approval for a period of one (1) year from the date of the original application. ( )

131. -- 139. (RESERVED)

140. BEHAVIORAL HEALTH PROGRAM -- DEEMING.

01. National Accreditation. The Department will deem a nationally accredited behavioral health program to be in compliance with the minimum standards and rule requirements in these rules. ( )

02. Tribal Programs. The Department will deem Indian Health Services programs and may deem other tribal facilities that provide behavioral health services as a state approved behavioral health program. ( )

03. Proof of Accreditation. The applicant must submit a copy of accreditation results and reports regarding accreditation from the accrediting agency with their application. ( )

04. Additional and Supplemental Information. To address requirements for a state-approved behavioral health program, the Department may require an applicant to provide additional or supplemental information not covered under the national accreditation or certification requirements. Additional documents may include: ( )

a. An organizational chart with verification that staff meet minimum certification standards; ( )

b. Satisfactory evidence that a criminal history and background check clearance, or waiver, has been issued by the Department for each individual required in Section 009 of these rules to have a criminal history check or whose position requires regular contact with participants. ( )

141. -- 149. (RESERVED)

150. DEPARTMENT REVIEW OF APPLICATION FOR APPROVAL OR RENEWAL.

A behavioral health program must submit a completed application and supporting documentation as required by the Department in Sections 110 and 120 of these rules. Upon receipt of the completed application for approval or renewal of a behavioral health program, the Department will review the application to determine if the program meets the minimum standards and requirements of these rules to be an approved behavioral health program. ( )

151. TYPE OF APPROVALS ISSUED.
Each behavioral health program and location application will be reviewed by the Department and notification of the results will be provided to the applicant in writing, sixty (60) business days after the Department's receipt of a completed application. Results of application reviews are provided in Subsection 151.01 through 151.03 of this rule. ( )

01. Approved Program. When the Department determines that the program meets the requirements of these rules, the behavioral health program is issued a certificate of approval. ( )

02. Provisionally Approved Program. When the Department determines that the program may meet the requirements of these rules, the program may be given: ( )

a. A provisional approval for a certain period of time to correct any issue; or ( )

b. An on-site review may be scheduled for final determination. The Department will make reasonable efforts to schedule an on-site inspection within thirty (30) business days of its initial determination. ( )

03. Denial of Program. When the Department determines that the program does not meet the requirements of these rules, the applicant will be notified of the denial, and the application returned with written recommendations for correction and completion of the recommendations. ( )

152. ON-SITE REVIEW.
Each behavioral health program must be in compliance with these rules and is subject to on-site review by the Department to obtain and maintain an approved behavioral health program. ( )

01. Department Inspection. The applicant or behavioral health program must allow the Department to inspect the program or locations at: ( )

a. Any reasonable time necessary to determine compliance with these rules; and ( )

b. Prior notice to the applicant or behavioral health program is not required, when the Department receives or has concerns regarding complaints, non-compliance, or health and safety issues. ( )

02. Compliance with Confidentiality Requirements. The applicant or behavioral health program must be in compliance with federal and state confidentiality requirements, and provide for review of the following: ( )

a. Program policies and procedures; ( )

b. Personnel records; ( )

c. Clinical records; ( )

d. Facility accessibility; ( )

e. The program's internal quality assurance plan and process that demonstrates how the program evaluates program effectiveness and individual participant satisfaction; and ( )

f. Any other documents required by the Department in order to make an appropriate determination, including any information that may have changed since the time the application or renewal was submitted. ( )

153. CERTIFICATE OF APPROVAL DURATION.

A behavioral health program certificate of approval is effective for three (3) years from the date the Department issues the Certificate of Approval. The behavioral health program and each of its locations' Certificate of Approval are subject to the program maintaining compliance with these rules. ( )

154. CHANGE IN LOCATION.
A behavioral health program must notify the Department in writing a minimum of thirty (30) calendar days prior to any change in location and must submit required documentation for approval of the new location. The new location is subject to an on-site review as determined by the Department. ( )

155. CHANGE OF PROGRAM NAME.
A behavioral health program must notify the Department in writing a minimum of thirty (30) calendar days prior to a change in name of program or business. A copy of the "Certificate of Assumed Business Name," must be included. ( )

156. -- 199. (RESERVED)

200. DENIAL OF CERTIFICATE OF APPROVAL OR RENEWAL.
The Department may deny a Certificate of Approval or Renewal application when the Department determines that a behavioral health program is out of compliance with these rules for any of the following reasons. ( )

01. Reasons for Denial. The owner, applicant, or administrator; ( )

a. Has violated any conditions of a certificate of approval; ( )

b. Has been found guilty of fraud, deceit, misrepresentation, or dishonesty associated with the operation of a program, regardless of the population the program serves or the services the agency provides; ( )

c. Has willfully misrepresented or omitted material information on the application or other documents pertaining to obtaining or renewing any certificate of approval. ( )

02. Act or Omission Adversely Affecting the Welfare of Any Participant, Employee, Contractor, or Volunteer. Any act or omission adversely affecting the welfare of any participant, employee, contractor, or volunteer that is being permitted, aided, performed, or abetted by the facility, applicant, owner, administrator. Such acts or omissions may include: neglect, physical abuse, mental abuse, emotional abuse, violation of civil rights, or exploitation of children or vulnerable adults. ( )

201. REVOCATION OR SUSPENSION OF CERTIFICATE OF APPROVAL.

01. Immediate Suspension or Revocation. The Department may, without prior notice, suspend or revoke a certificate of approval when the Department determines conditions exist that endanger the health or safety of any participant, employee, contractor, or volunteer. ( )

02. Suspension or Revocation With Notice. The Department may suspend or revoke a certificate of approval by giving written notice fifteen (15) business days prior to the effective date when the Department determines: ( )

a. The program is not in compliance with these rules and minimum standards; ( )

b. The owner, applicant, or administrator: ( )

i. Without good cause, fails to furnish any data, statistics, records, or information requested by the Department, or files fraudulent returns thereof; ( )

ii. Has been found guilty of fraud, deceit, misrepresentation, or dishonesty associated with the operation of a program, regardless of the population the program serves or the services the agency provides; ( )

iii. Has willfully misrepresented or omitted information on the application or other documents

pertinent to obtaining a program approval; or ( )

c. Any act adversely affecting the welfare of participants is being permitted, aided, performed, or abetted such as: neglect, physical abuse, mental abuse, emotional abuse, violation of civil rights, criminal activity, or exploitation. ( )

202. WRITTEN NOTICE OF DENIAL, SUSPENSION, OR REVOCATION.

01. **Written Notice of Denial, Suspension, or Revocation.** With the exception of endangerment to an individual's health or safety under Section 201, the Department will, within fifteen (15) business days of making its decision, notify the applicant or the owner's designated representative, in writing, by certified mail, return receipt requested, of its determination, in the event an application or certificate of approval is denied, suspended, or revoked, The written notice must include the following: ( )

a. The applicant's or owner's name and identifying information; ( )

b. A statement of the decision; ( )

c. A concise statement of the reasons for the decision; and ( )

d. The process for pursuing an administrative appeal. ( )

02. **Effect of Previous Denial or Revocation.** ( )

a. The Department will not accept or consider an application for a certificate of approval from any applicant, owner, administrator, related person, or entity who has had a certificate of approval denied until after two (2) years have elapsed from the date of the denial. ( )

b. The Department will not accept or consider an application for a certificate of approval from any applicant, owner, administrator, related person, or entity who has had a certificate of approval revoked until after five (5) years have elapsed from the date of the revocation. ( )

203. CUMULATIVE ENFORCEMENT POWERS.
When the Department determines that a behavioral health program does not meet these rules and minimum standards, it may take any of the enforcement actions described in these rules or impose any remedy, independently or in conjunction, with any others authorized by law or these rules. ( )

204. -- 299. (RESERVED)

300. PROGRAM ADMINISTRATION REQUIREMENTS.

01. **Ownership.** Each behavioral health program must maintain documentation of the program's governing body, including a description of membership and authorities, and documentation of the programs: ( )

a. Articles, certificate of incorporation, and bylaws, when the owner is a corporation; ( )

b. Partnership agreement when the owner is a partnership; or ( )

c. Sole proprietorship if one (1) person is the owner. ( )

02. **Organizational Chart.** Each behavioral health program must maintain a current organizational chart that clearly delineates staff positions, lines of authority, and supervision. ( )

03. **Administrator.** Each behavioral health program must have provisions for an administrator who is responsible for the day-to-day operation of the program. ( )

04. **Authority and Responsibilities of the Administrator.** Each behavioral health program's

administrative policies must state the administrator's responsibilities in assisting with the overall operation of the program. Responsibilities of the administrator include the following: ( )

a. Ensure administrative, personnel, and clinical policies and procedures are adhered to and kept current to be in compliance with these rules; ( )

b. Ensure all persons providing clinical services are licensed, credentialed, or certified for their scope of practice; ( )

c. Overall direction and responsibility for the individuals, program, facility, and fiscal management; ( )

d. Overall direction and responsibility for supervision of staff; ( )

e. The selection and training of a capable staff member who can assume responsibility for management of the program in the administrator's absence; and ( )

f. Comply with or maintain a management information system that allows for the efficient retrieval of data needed to measure the program's performance. ( )

05. Notification of Change in Ownership. A certificate of approval is not automatically transferable when ownership or control is changed. The administrator must inform the Department in writing within ten (10) business days of any such change. The Department may continue the certificate of approval provisionally until it can determine the status of the program under the new ownership or control. ( )

06. Notification of Program Closure. ( )

a. A program must notify the Department in writing within thirty (30) business days prior to an anticipated closure of any of its program locations. ( )

b. The notification of closure must include: ( )

i. Location of closure; ( )

ii. Location(s) of where participants records will be maintained; ( )

iii. Explanation of the closure; and ( )

iv. Procedures for participant transition and continuation of care. ( )

301. -- 309. (RESERVED)

310. DESCRIPTION OF SERVICES.
Each behavioral health program must prepare a written description of services that meets the requirements of this rule. ( )

01. Content of Description of Services. The written description must contain: ( )

a. Description of services provided; ( )

b. Participant population served; ( )

c. Hours and days of operation; and ( )

d. Summary of assessment, intake, and admission process. ( )

02. Distribution of Descriptions of Services. The written description of services must be made known

and available to all program staff and to the administrator. ( )

311. -- 319. (RESERVED)

320. ADMISSION POLICIES AND PROCEDURES.
Each behavioral health program must have written policies and procedures governing the program's admission process. These polices must be available to participants, their families, and to the general public. ( )

01. Participant Admission. Each program's admissions policies must: ( )

a. Align with the program's scope of care and make reasonable accommodations to provide participants with appropriate access. ( )

b. At the time of initial contact with a participant, pre-screening for admissions must be completed. This includes identification of potential barriers to entrance of care and removal of those barriers when possible. ( )

c. Notify and inform participants of the reasons for ineligibility, provide referrals or other information necessary to help link participants to a program that can meet the needs identified in the participant's pre-screening. ( )

d. Provide the appeal process available and documented to address situations in which a participant does not agree with the admission determination made by the program. The process may include internal or external reviews, and involve a neutral party. ( )

02. Entrance to Care. Each program must have documented protocols for entrance to care that include: ( )

a. Protocols for the screening process that: ( )

i. Ensure that each participant is engaged in care as soon as possible following initial contact and screening; ( )

ii. Ensure the screening instrument is designed to identify emergent needs, crisis situations, and dangerous substance abuse with protocols in place for staff members to respond according to each situation revealed during a screening; ( )

iii. Ensure screening documentation protocol includes basic demographic information about the prospective participant, participant's strengths, needs, preferences, goals, eligibility decision, and basis for the decision and include referrals, if provided; and ( )

iv. Ensure policies are in place that require staff members administering the screening instrument to be appropriately trained. ( )

b. Protocols for the implementation of a waiting list that: ( )

i. Ensure prospective participants are screened and evaluated for appropriateness to services offered prior to placement on a waiting list; and ( )

ii. Offer a referral process for an individual pre-screened and ineligible, and facilitate referrals when needed. ( )

03. Orientation. Each program must have procedures that: ( )

a. Provide orientation to each participant as soon as possible upon beginning care, considering the participant's presenting state and what services are being accessed. ( )

b. Document attendance of each participant to orientation. ( )

c. Educate each participant on: participants' rights and responsibilities, grievance and appeal procedures, how participant may provide feedback, confidentiality, consent to treatment, expectations of participants, discharge criteria, handling of potential risk to participant, after-hours services accessibility, follow-up procedures, financial obligations and funding sources available, health and safety policies, facility layout, assessment, process of treatment, and names of staff members. ( )

d. Ensure that both written and verbal information provided during orientation is delivered in such a way that is understandable by each participant. ( )

321. -- 329. (RESERVED)

330. QUALITY ASSURANCE.
Each behavioral health program must have an internal quality assurance plan and written process to evaluate and improve administrative practices and clinical services. ( )

01. Quality Assurance Plan. Each program must have a quality assurance plan that: ( )

a. Addresses clinical supervision and training of staff. ( )

b. Monitors compliance with these rules. ( )

c. Establishes a process for reviewing and updating written policies and procedures. ( )

d. Continuously improves the quality of care in the following: ( )

i. Cultural Competency; ( )

ii. Use of evidence-based and promising practices; and ( )

iii. Response to critical incident, complaints, and grievances. ( )

02. Method of Evaluation. Each program's written process must describe how administrative practices and clinical services will be evaluated. ( )

03. Review Schedule. Each program's written process must include the frequency that administrative practices and clinical services will be evaluated. ( )

04. Procedure to Address Deficiencies. Each program's written process must describe how deficiencies in administrative practices or clinical services, identified during an evaluation process, will be improved to meet the program's standards of quality. ( )

331. -- 339. (RESERVED)

340. ASSESSMENT.
Each behavioral health program must have a written procedure for an assessment process that determines the individual participant needs. ( )

01. Assessment Required. A qualified behavioral health professional must develop a written assessment for each participant. ( )

02. Content of Assessment. The assessment must evaluate the participant's current and past behavioral, social, medical, and treatment needs as well as the participant's strengths, needs, abilities, preferences, and goals. ( )

341. INDIVIDUALIZED SERVICE PLANS.

01. Individualized Service Plan Required. Each participant must have an individualized service plan. The development of the service plan must be a collaborative process involving the participant and other support and service systems. ( )

02. Service Plan Based on Assessment. The service plan must be based on the findings of the participant's assessment. ( )

03. Development and Implementation of the Service Plan. The responsibility for the development and implementation of the service plan will be assigned to a qualified behavioral health professional. ( )

04. Content of the Service Plan. Each participant's individualized service plan must include the following: ( )

a. Services deemed clinically necessary to meet the participant's behavioral health needs; ( )

b. Referrals for needed services not provided by the program; ( )

c. Goals that are based on the participant's unique strengths, abilities, preferences, and needs; ( )

d. Specific objectives that relate to the goals written in simple, measurable, attainable, realistic terms with expected achievement dates; ( )

e. Identified level of care or interventions that describe the kinds of services and service frequency; ( )

f. Criteria to be met for discharge from service; ( )

g. A plan for services to be provided after discharge; and ( )

h. Documentation of who participated in the development of the individualized service plan. ( )

342. -- 349. (RESERVED)

350. CRISIS INTERVENTION AND RESPONSE.

01. Requirement for Written Procedures. Each behavioral health program must have written procedures that address interventions and responses to behavioral health crisis situations. ( )

02. Content of Written Procedures. The written procedures must include: ( )

a. Guidance for staff members on how to effectively intervene and respond to a wide range of crisis situations; ( )

b. Program definition of "crisis" as it applies to the services provided and population served; ( )

c. Program scope as it relates to the ability to intervene or respond to crises; ( )

d. Actions to be taken if the program is not prepared or qualified to handle certain crisis situations; and ( )

e. Protocol for managing crises during and outside of business hours. ( )

351. -- 359. (RESERVED)

360. PARTICIPANT RECORDS.

01. Participant Record Required. Each behavioral health program must maintain a participant record on each participant. All entries into the participant's record must be signed and dated. ( )

02. Content of Participant Record. The participant record must describe the participant's situation at the time of admission and include the services provided, all progress notes, and the participant's status at the time of discharge. At a minimum the record must contain: ( )

a. The participant's name, address, contact information, date of birth, gender, marital status, race or ethnic origin, next of kin or person to contact, educational level, type and place of employment, date of initial contact or admission to the program, source of any referral, legal status including relevant legal documents, name of personal physician, record of any known drug reactions or allergies, and other identifying data as indicated; ( )

b. Any staffing notes pertaining to the participant; ( )

c. Any medical records obtained regarding the participant; ( )

d. Any assessments; and ( )

e. The initial and updated service plans. ( )

03. Maintenance of Participant Records. Each program must develop written policies and procedures governing the maintenance, compilation, storage, dissemination, and accessibility of participant records. ( )

04. Retention and Destruction of Participant Records. Each program must develop written policies and procedures governing the retention and destruction of participant records. ( )

361. -- 369. (RESERVED)

370. PARTICIPANT RIGHTS.
Each behavioral health program must have a written ~~a~~ statement of individual participant rights. The program must ensure and protect the fundamental human, civil, constitutional, and statutory rights of each participant. ~~( )~~

01. Content of Participant's Rights. The written participant rights statement must, at a minimum, address the following rights: ( )

a. The right to impartial access to treatment and services, regardless of race, creed, color, religion, gender, national origin, age, or disability. ( )

b. The right to a humane treatment environment that ensures protection from harm, and provides privacy to as great a degree as possible with regard to personal needs, and promotes respect and dignity for each individual. ( )

c. The right to communication in a language and format understandable to the participant. ( )

d. The right to be free from mental, physical, sexual and verbal abuse, neglect, and exploitation. ( )

e. The right to receive services within the least restrictive environment possible. ( )

f. The right to an individualized service plan, based on assessment of current needs. ( )

g. The right to actively participate in planning for treatment and recovery support services. ( )

h. The right to have access to information contained in one's record, unless access to particular identified items of information is specifically restricted for that individual participant for clear treatment reasons in the participant's treatment plan. ( )

i. The right to confidentiality of records and the right to be informed of the conditions under which information can be disclosed without the individual's consent. ( )

j. The right to refuse to take medication unless a court of law has determined the participant lacks capacity to make decisions about medications and is an imminent danger to self or others. ( )

k. The right to be free from restraint or seclusion unless there is imminent risk of physical harm to self or others. ( )

l. The right to refuse to participate in any research project without compromising access to program services. ( )

m. The right to exercise rights without reprisal in any form, including the ability to continue services with uncompromised access. ( )

n. The right to have the opportunity to consult with independent specialists or legal counsel, at one's own expense. ( )

o. The right to be informed in advance of the reason for discontinuance of service provision, and to be involved in planning for the consequences of that event. ( )

p. The right to receive an explanation of the reasons for denial of service. ( )

02. Participant Understands Rights and Expectations. Each program's policies must ensure that: ( )

a. Materials describing a participant's rights and expectations are presented to each participant in a manner that he can understand; ( )

b. Information is provided in a manner that is understandable to each participant who has challenges with vision, speech, hearing, or cognition. ( )

c. There is a protocol for facilitating situations when a participant is not able to give informed consent for treatment services. Facilitation may include assisting the participant to access family members, attorneys, or other supports. ( )

03. Participant Grievances and Complaints. Each program's grievance and complaint policies must: ( )

a. Establish practices to respond to a participant grievances, complaints, or appeals. Practices must include an established response process, levels of review, and expectations for written notification of actions to address the concerns; ( )

b. Ensure a participant who registers a grievance, complaint, or appeal is not subjected to retaliation; ( )

c. Respond to participant grievances, complaints, or appeal in a timely manner, and ensure the participant is informed as to the process time frames and expected date for decisions; ( )

d. Provide each participant with information as to the grievance process and with access to any grievance or complaint forms. The program is responsible for ensuring that each participant understands the forms and procedures for registering a grievance, complaint, or appeal; and ( )

e. Retain documentation on formal grievances, complaints, or appeals. Information from these procedures is used to inform practice and improve services. ( )

371. -- 379. (RESERVED)

380. ADMINISTRATION OF MEDICATIONS.

01. Behavioral Health Program That Administers Medications. Each behavioral health program that administers medications must have policies and procedures that include the following: ( )

a. Receiving of medications; ( )

b. Storage of medications; and ( )

c. Medications administration system to be used. ( )

02. Registration With the Idaho Board of Pharmacy. Each program that dispenses medication must have appropriate registration with the Idaho Board of Pharmacy in accordance with IDAPA 27.01.01, "Rules of the Idaho State Board of Pharmacy," and maintain current documentation of such registration. ( )

381. -- 389. (RESERVED)

390. PERSONNEL POLICIES AND PROCEDURES.
Each behavioral health program must have and adhere to personnel policies and procedures that meet the minimum requirements in this rule. ( )

01. Required Personnel Policies and Procedures. Personnel policies and procedures must be developed, implemented, and maintained to promote the objectives of the program and provide for a sufficient number of qualified clinical and support staff to render the services of the program and provide quality care during all hours of operation. ( )

a. The personnel policies and procedures must establish the requirement for CPR training and basic first aid training. A minimum of one (1) CPR and First Aid trained staff must be on-site during business hours.( )

b. The personnel policies must include procedures for orientation to the program and training on all program policies and procedures for staff, trainees, student interns, volunteers, and contractors, if applicable. ( )

02. Hiring Practices. Hiring practices must be specified in the written policies and procedures and must be consistent with the needs of the program and its services. ( )

03. Equal Employment Opportunity. No behavioral health program approved under these rules will discriminate on the basis of race, creed, color, religion, age, gender, national origin, veteran status, or disability, except in those instances where bona fide occupational qualifications exist. ( )

04. Content of Personnel Record for Each Staff Member. A personnel record must be kept on each staff member and must contain the following items: ( )

a. Application for employment including a record of the employee's education or training and work experience. This may be supplemented by a resume; ( )

b. ~~*Primary source documentation*~~ *Verification* of qualifications; ( )

c. Performance appraisals or contract compliance evaluation; ( )

d. Disciplinary actions; and ( )

e. Verification of a Department criminal history and background check clearance, or a waiver issued by the Department as described in Section 009 of these rules. ( )

05. Volunteers. In programs where volunteers are utilized the objectives, scope, training, and

orientation of the volunteer services must be clearly stated in writing. ( )

06. Trainees and Student Interns. In programs where trainees or student interns, or both, are utilized the supervision, scope, training, and orientation of trainees and student interns must be clearly stated in writing. ( )

391. STAFFING AND SUPERVISION.

01. Ensuring Adequate Staff. Each behavioral health program must ensure that there are an adequate number of staff to: ( )

a. Meet service needs of program participants; ( )

b. Meet professional staff-to-participant ratios at a level that meets best practice standards for each service being provided; ( )

c. Address the safety needs of program staff and participants; and ( )

d. Meet organizational performance expectations and needs. ( )

02. Staff Supervision. Each program must ensure that: ( )

a. Staff have access to regularly scheduled supervision with program supervisors~~.~~*; and* ( )

b. S~~*upervision process for s*~~taff members practice only within the scope of their credentials. ( )

03. Clinical Supervision. Each program must provide for regular and ongoing supervision of clinical activities. The program must establish a written supervisory protocol that addresses: ( )

a. Management and oversight of the provision of professional services offered by the program; and ( )

b. Supervision centered on the evaluation and improvement of clinician skills, knowledge, and attitudes. ( )

392. -- 394. (RESERVED)

395. INFECTION CONTROL.
Each behavioral health program must have infection control policies and procedures consistent with recognized standards that control and prevent infections for both staff and participants. ( )

01. Written Policies and Procedures for Infection Control. Each program must have written policies and procedures pertaining to the operation of an infection control program. ( )

a. Effective measures must be developed to prevent, identify, and control infections. ( )

b. A process for implementing procedures to control the spread or eliminate the cause(s) of the infection must be described in the policies and procedures. ( )

c. All new employees must be instructed in the importance of infection control and personal hygiene and in their responsibility in the infection control program. ( )

d. There must be documentation that on-going in-service education in infection prevention and control is provided to all employees. ( )

e. There must be documentation that the policies and procedures are reviewed at least annually and revised as necessary. ( )

02. Universal Precautions. Universal precautions must be used in the care of participants to prevent transmission of infectious disease according to the "Centers for Disease Control and Prevention (CDC) guidelines." ( )

396. -- 399. (RESERVED)

400. ENVIRONMENT REQUIREMENTS.
Each behavioral health program location must have appropriate space, equipment, and fixtures to meet the needs of participants and ensure a safe environment for staff, participants, and visitors. ( )

01. Fixtures and Equipment. Fixtures and equipment designated for each service must be constructed or modified in a manner that provides pleasant and functional areas that are accessible to all participants regardless of their disabilities. ( )

02. Office Space. Private space must be provided for personal consultation and counseling as well as family and group counseling sessions. ( )

03. Safety, Fire, Health, and Sanitation Requirements. Space, equipment, and facilities utilized by the program must meet federal, state, and local requirements for safety, fire prevention, health, and sanitation. ( )

04. Procedure for Accessibility for Persons with Mobility and Sensory Impairments. The program must have a written policy and procedure for compliance with ADA requirements for participants with mobility or sensory impairments. ( )

05. Smoking. Because smoking has been acknowledged to be a potential fire hazard, continuous efforts must be made to reduce such hazards in the facility. Written regulations governing the use of smoking materials must be adopted, conspicuously posted, and made known to all program participants, staff members, and the public. Nothing in this section requires that smoking be permitted by programs whose admission policies prohibit smoking. ( )

a. Designated areas must be assigned for participant, staff, and public smoking, when smoking is allowed. ( )

b. Tobacco products must not be used by children, adolescents, staff, volunteers, or visitors in any building used to house children or adolescents, or in the presence of children or adolescents, or in vehicles used to transport children or adolescents. ( )

401. -- 409. (RESERVED)

410. EMERGENCY PREPAREDNESS.
Each behavioral health program must establish and maintain an Emergency Preparedness plan designed to manage the consequence of natural disasters or other emergencies. ( )

01. Emergency Preparedness Plan. Program staff must be provided with training on the emergency preparedness plan including; ( )

a. Where and how participants are to be evacuated; and ( )

b. Notification of emergency agencies. ( )

02. Evacuation Drills. The program conducts evacuation drills on a regular basis. A record of drills must be maintained which includes the date and time of the drill, response of the personnel and participants, problems encountered, and recommendations for improvements. ( )

411. MEDICAL EMERGENCY SERVICES.

01. Medical Emergency Services Plan. Each behavioral health program must have a written plan describing the manner in which medical emergency services will be accessed. ( )

02. Safety Devices and Practices. ( )

a. Locations that do not have emergency medical resources must have first aid kits. ( )

b. All staff must be familiar with the locations, contents, and use of the first aid kits. ( )

412. CRITICAL INCIDENT PREPAREDNESS.
Each behavioral health program must develop and implement policies and procedures that discuss prevention, reporting, documentation, and managing critical incidents. ( )

413. -- 419. (RESERVED)

420. FACILITY REQUIREMENTS.
Each behavioral health program must ensure that each location is structurally sound, maintained, and equipped to ensure the safety of staff, participants, and visitors. ( )

01. Buildings. Buildings on the premises of each behavioral health program location in which services are delivered must be in compliance with the requirements of the local, state, and federal codes concerning access, construction, and fire and life safety that are applicable. ( )

02. Grounds. Each behavioral health program's grounds must be maintained in a manner that is designed to provide a safe environment for staff, participants, and visitors. ( )

421. -- 999. (RESERVED)

COMMENTS

IDAHO DEPARTMENT OF
HEALTH & WELFARE

C.L. "BUTCH" OTTER – Governor
RICHARD M. ARMSTRONG – Director

TAMARA PRISOCK – Division Administrator
DIVISION OF LICENSING AND CERTIFICATION
Administrative Rules Unit
450 West State Street, 10th Floor
P.O. Box 83720
Boise, Idaho 83720-0036
PHONE 208-334-5500
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DHWRules@dhw.idaho.gov

LIST OF EXHIBITS

Proposed Fee Rule

BEHAVIORAL HEALTH PROGRAMS

Docket Number: 16-0715-1501

Deadline for Comment: September 23, 2015

EXHIBIT NO.	SUBMITTED BY	DESCRIPTION	NO. PAGES
1	Legislative Services Office Elizabeth Bowen, Leg. Research Analyst Statehouse PO Box 83720 Boise, ID 83720-0054	Memorandum	2
2	Legislative Services Office Elizabeth Bowen, Leg. Research Analyst Statehouse PO Box 83720 Boise, ID 83720-0054	Letter	1
3	Public Hearings Intro/Closing Statement, Sign-in Sheets & Written Testimony 9/17/15 - Originating - Live Hearing 10: a.m. (MDT) / 9:00 a.m. (PDT) 2:00 p.m. (MDT / 1:00 p.m. (PDT) Video Conferencing Locations: Coeur d'Alene, Lewiston, Caldwell, Boise, Twin Falls, Pocatello, Idaho Falls, SHS Blackfoot, and SHN Orfino, ID	Documents	24

Legislative Services Office
Idaho State Legislature

Eric Milstead
Director

Serving Idaho's Citizen Legislature

MEMORANDUM

TO: Rules Review Subcommittee of the Senate Health & Welfare Committee and the House Health & Welfare Committee

FROM: Legislative Research Analyst - Elizabeth Bowen

DATE: September 15, 2015

SUBJECT: Department of Health and Welfare

IDAPA 16.07.01 - Behavioral Health Sliding Fee Schedules - Proposed Rule (Docket No. 16-0701-1501)

IDAPA 16.07.10 - Behavioral Health Development Grants (Chapter Repeal) - Proposed Rule (Docket No. 16-0710-1501)

IDAPA 16.07.15 - Behavioral Health Programs (New Chapter-Fee Rule) - Proposed Rule (Docket No. 16-0715-1501)

The Department of Health and Welfare submits notice of proposed rulemaking at IDAPA 16.07.01, 16.07.10, and 16.07.15.

16.07.01

This proposed rule combines the fee schedule for children's mental health, adult mental health, and substance use disorder services. It also updates references and removes obsolete language and tables. Negotiated rulemaking was not conducted due to the nature of the rule change, which is to align this chapter with other rules. There is no anticipated fiscal impact on the state general fund. The Department states that this rulemaking is authorized pursuant to Chapter 3, Title 39, Idaho Code, and Sections 56-1003, 56-1004, 56-1004A, 56-1007, and 56-1009, Idaho Code.

16.07.10

The proposed rule repeals this chapter of rules in its entirety. The current rules relate to behavioral health development grants. Since legislation has been passed to create regional behavioral health boards and community crisis centers, the Department is developing a system of behavioral health care, and the behavioral health development grants are no longer necessary. Also, no additional funds have been appropriated for the grants.

Negotiated rulemaking was not conducted due to the nature of the rule change, which addresses changes made to the law and to the state's behavioral health care system. There is no anticipated fiscal impact on the state general fund. The Department states that this rulemaking is authorized pursuant to Chapter 3, Title 39, Idaho Code.

16.07.15

This proposed rule creates a new chapter of rules relating to the development of a behavioral health care system. The rule:

- Describes the Department's legal authority to develop the behavioral health system;
- Provides for administrative appeals;
- Provides for confidentiality of certain records;
- Sets forth requirements for criminal history and background checks of direct care or service providers;
- Defines terms;
- Provides requirements for certificates of approval for behavioral health programs;
- Establishes an application process for certificates of approval;
- Provides administration requirements for behavioral health programs; and
- Imposes an approval fee for each program location. This fee replaces fees currently charged under IDAPA 16.07.20, which is being repealed.

Negotiated rulemaking was conducted, and there is no anticipated impact on the state general fund. The Department states that this rulemaking is authorized pursuant to Chapter 3, Title 39, Idaho Code.

cc: Department of Health and Welfare
Tamara Prisock

Legislative Services Office
Idaho State Legislature

Eric Milstead
Director

Serving Idaho's Citizen Legislature

October 02, 2015

Tamara Prisock
Admin. Procedures Section
Department of Health and Welfare
PO Box 83720
Boise, ID 83720-0036

Dear Tamara Prisock:

The Senate and House Subcommittees for review of administrative rules have reviewed the proposed changes to the Department of Health and Welfare rules:

IDAPA 16.07.01 - Behavioral Health Sliding Fee Schedules - Proposed Rule - Docket No. 16-0701-1501

IDAPA 16.07.10 - Behavioral Health Development Grants (Chapter Repeal) - Proposed Rule - Docket No. 16-0710-1501

IDAPA 16.07.15 - Behavioral Health Programs (New Chapter-Fee Rule) - Proposed Rule - Docket No. 16-0715-1501

No meeting will be held, and we are pleased to report that no objections will be filed.

Sincerely yours,

Elizabeth Bowen

Elizabeth Bowen
Legislative Research Analyst

ELB/jk

cc:

Mike Nugent, Manager
Research & Legislation

Cathy Holland-Smith, Manager
Budget & Policy Analysis

April Renfro, Manager
Legislative Audits

Glenn Harris, Manager
Information Technology

Statehouse, P.O. Box 83720
Boise, Idaho 83720-0054

Tel: 208-334-2475
www.legislature.idaho.gov

INTRODUCTORY and CLOSING STATEMENTS FOR PUBLIC HEARINGS

Rule Chapter: 16.07.15 "Behavioral Health Programs".

16.07.17 "Alcohol and Substance Use Disorder Services"

Docket Number: 16-0715-1501 and 16-0717-1501

Hearing Date and Time: September 17, 2015 9:00am PST/10:00am MST

Hearing Location: Video Conferencing

Let the record show that I am Treena Clark, designated as the Facilitator for this public hearing by the Administrator for the Division of Behavioral Health in the Department of Health and Welfare. It is 10:05 am Mountain Standard Time on September 17, 2015. This public hearing is being conducted statewide via video conferencing at the locations published in the dockets. The originating site is the Pete Cenursa Building, Conference Room 3A Boise Idaho and this is the time and place set to receive oral and written comments, as provided for in Section 67-5222, Idaho Code, for the proposed rulemaking under

IDAPA 16.07.15 "Behavioral Health Programs" found in Docket No. 16-0715-1501

IDAPA 16.07.17 "Alcohol and Substance Use Disorders" found in Docket No. 16-0717-1501

The purpose of this proceeding is to gather facts, views, and arguments from all interested persons relative to the proposed rules so that they may receive consideration by the Department of Health and Welfare. I will accept written statements or documents today if relevant and signed by the persons presenting them. The materials will be included as exhibits in the record for this hearing, which I will submit to the Administrative Procedures Section following the close of this hearing.

Let the record show that the notice of this hearing was published in the Idaho Administrative Bulletin on Wednesday, September 2, 2015, as required by Section 67-5221, Idaho Code. This publication was timely made and other necessary notice requirements have been met.

This public hearing is an informal proceeding. There is no right to cross-examine a person offering comments, nor is there a right to counsel or subpoena. No objections or procedures of a technically legal nature will be accepted. As the Facilitator, I am the sole regulator of the course of the presentations, including, but not limited to, a determination that the comments are outside the scope of the rule or that comments are unduly repetitious. I am not here to answer questions or to explain any part of the proposed rules. If you have questions or concerns regarding this rulemaking, please contact Tamara Prisock 208-334-5564.

All those interested persons attending this proceeding are asked to sign in on the roster by the entrance, indicating a desire, if any, to make an oral presentation. After a brief statement made by the Department of Health and Welfare summarizing the information upon which the proposed action is based, each person will be given an opportunity to speak at least once prior to any person being heard a second time.

At this time, the Department of Health and Welfare's statement will be read into the record, followed by the opportunity for oral comments.

Through Idaho Behavioral Health Transformation, the Department of Health and Welfare is moving towards an integrated Behavioral Health system of care that includes mental health and substance use disorder services and programs. Recognizing the benefit and necessity of integrated monitoring and credentialing of community mental health and substance use disorder providers, the Department is proposing to establish a behavioral health certification that allows community mental health and substance use disorder treatment agencies to obtain state approval while maintaining core requirements for substance use disorders services and programs. The Department of Health and Welfare has worked with providers, consumers, partners, stakeholders and other interested parties to review current IDAPA rules related to substance use disorders and draft proposed rules. The Department is proposing a new chapter of rule that allows community mental health and substance use disorder agencies to obtain state approval and is proposing revisions to an existing chapter of rule that maintains Substance Use Disorder specific requirements.

This concludes the Department's statement. Next, I will call upon those persons who indicated on the sign-in roster a wish to comment. Since these proceedings are being recorded, I ask that those who wish to speak, speak clearly, and provide your name, spelling your surname, prior to beginning your comments.

CLOSING STATEMENT

This public hearing started at 10:05 a.m, Mountain Standard Time and is now closed. The time is 10:47 a.m. The record of this hearing, together with submitted written comments, will be transmitted to the Department's Administrative Procedures Section. Anyone may submit further written comments to the Administrative Procedures Section, at the Department of Health and Welfare, P.O. Box 83720, Boise, Idaho 83720-0036. All written comments must be received by September 26, 2015.

PUBLIC HEARING
Idaho Department of Health and Welfare
Division of Behavioral Health

*****Please Sign In*****

CHAPTER: IDAPA 16.07.15, "Behavioral Health Programs" (New Chapter); and

IDAPA 16.07.17, "Alcohol and Substance Use Disorders" (Revision to participant eligibility and addition of substance use disorder specific requirements)

DOCKET NO.: 16-0715-1501 and 16-0717-1501 **DATE:** September 17, 2014 **TIME:** 9:00 a.m. (PDT)/10:00 a.m. (MDT)

LOCATION: IDHW Central Office, Conference Room 3A (3rd Floor)

*Please provide a written copy of your comments for the official record on this rulemaking, if possible.

NAME (Please Print)	E-MAIL ADDRESS	ORGANIZATION REPRESENTED	DO YOU WISH TO TESTIFY?
Ryan Phillips	phillipr@dhw.idaho.gov	DHW	No
Sara Barties	sara.barties@bpahealth.com	BPA	NO
GREG Dickerson	gregmsw@gmail.com	IACP	~~Yes~~ NO

PUBLIC HEARING
Idaho Department of Health and Welfare
Division of Behavioral Health

*****Please Sign In*****

CHAPTER: IDAPA 16.07.15, "Behavioral Health Programs" (New Chapter); and

IDAPA 16.07.17, "Alcohol and Substance Use Disorders" (Revision to participant eligibility and addition of substance use disorder specific requirements)

DOCKET NO.: 16-0715-1501 and 16-0717-1501 **DATE:** September 17, 2014 **TIME:** 9:00 a.m. (PDT)/10:00 a.m. (MDT)

LOCATION: Region 1 Office, Main Conference Room

*Please provide a written copy of your comments for the official record on this rulemaking, if possible.

NAME (Please Print)	E-MAIL ADDRESS	ORGANIZATION REPRESENTED	DO YOU WISH TO TESTIFY?

NO Participants

PUBLIC HEARING
Idaho Department of Health and Welfare
Division of Behavioral Health

*****Please Sign In*****

CHAPTER: IDAPA 16.07.15, "Behavioral Health Programs" (New Chapter); and

IDAPA 16.07.17, "Alcohol and Substance Use Disorders" (Revision to participant eligibility and addition of substance use disorder specific requirements)

DOCKET NO.: 16-0715-1501 and 16-0717-1501 **DATE:** September 17, 2014 **TIME:** 9:00 a.m. (PDT)/10:00 a.m. (MDT)

LOCATION: Region 2 Office, 1st Floor Conference Room

*Please provide a written copy of your comments for the official record on this rulemaking, if possible.

NAME (Please Print)	E-MAIL ADDRESS	ORGANIZATION REPRESENTED	DO YOU WISH TO TESTIFY?

NO Participants

PUBLIC HEARING
Idaho Department of Health and Welfare
Division of Behavioral Health

Please Sign In * No participants *

CHAPTER: IDAPA 16.07.15, "Behavioral Health Programs" (New Chapter); and

IDAPA 16.07.17, "Alcohol and Substance Use Disorders" (Revision to participant eligibility and addition of substance use disorder specific requirements)

DOCKET NO.: 16-0715-1501 and 16-0717-1501 **DATE:** September 17, 2014 **TIME:** 9:00 a.m. (PDT)/10:00 a.m. (MDT)

LOCATION: Region 3 Office, Owyhee Conference Room 226

*Please provide a written copy of your comments for the official record on this rulemaking, if possible.

NAME (Please Print)	E-MAIL ADDRESS	ORGANIZATION REPRESENTED	DO YOU WISH TO TESTIFY?

No Participants

PUBLIC HEARING
Idaho Department of Health and Welfare
Division of Behavioral Health

*****Please Sign In*****

CHAPTER: IDAPA 16.07.15, "Behavioral Health Programs" (New Chapter); and

IDAPA 16.07.17, "Alcohol and Substance Use Disorders" (Revision to participant eligibility and addition of substance use disorder specific requirements)

DOCKET NO.: 16-0715-1501 and 16-0717-1501 **DATE:** September 17, 2014 **TIME:** 9:00 a.m. (PDT)/10:00 a.m. (MDT)

LOCATION: Region 4 Office, Conference Room 131

*Please provide a written copy of your comments for the official record on this rulemaking, if possible.

NAME (Please Print)	E-MAIL ADDRESS	ORGANIZATION REPRESENTED	DO YOU WISH TO TESTIFY?

No Participants

PUBLIC HEARING
Idaho Department of Health and Welfare
Division of Behavioral Health

*****Please Sign In*****

CHAPTER: IDAPA 16.07.15, "Behavioral Health Programs" (New Chapter); and

IDAPA 16.07.17, "Alcohol and Substance Use Disorders" (Revision to participant eligibility and addition of substance use disorder specific requirements)

DOCKET NO.: 16-0715-1501 and 16-0717-1501 **DATE:** September 17, 2014 **TIME:** 9:00 a.m. (PDT)/10:00 a.m. (MDT)

LOCATION: Region 5 Office, Conference Room 116

*Please provide a written copy of your comments for the official record on this rulemaking, if possible.

NAME (Please Print)	E-MAIL ADDRESS	ORGANIZATION REPRESENTED	DO YOU WISH TO TESTIFY?
Gerlyn "Sam" Walker	grumpygal@cableone.net	Lifestyle changes Counseling	NO
Kathy McNill	Kathy@crosspointeuh.com	crosspointe	NO

PUBLIC HEARING
Idaho Department of Health and Welfare
Division of Behavioral Health

*****Please Sign In*****

CHAPTER: IDAPA 16.07.15, "Behavioral Health Programs" (New Chapter); and

IDAPA 16.07.17, "Alcohol and Substance Use Disorders" (Revision to participant eligibility and addition of substance use disorder specific requirements)

DOCKET NO.: 16-0715-1501 and 16-0717-1501 **DATE:** September 17, 2014 **TIME:** 9:00 a.m. (PDT)/10:00 a.m. (MDT)

LOCATION: Region 6 Office, Conference Room 225

*Please provide a written copy of your comments for the official record on this rulemaking, if possible.

NAME (Please Print)	E-MAIL ADDRESS	ORGANIZATION REPRESENTED	DO YOU WISH TO TESTIFY?

No Participants

PUBLIC HEARING
Idaho Department of Health and Welfare
Division of Behavioral Health

Please Sign In

CHAPTER: IDAPA 16.07.15, "Behavioral Health Programs" (New Chapter); and

IDAPA 16.07.17, "Alcohol and Substance Use Disorders" (Revision to participant eligibility and addition of substance use disorder specific requirements)

DOCKET NO.: 16-0715-1501 and 16-0717-1501 **DATE:** September 17, 2014 **TIME:** 9:00 a.m. (PDT)/10:00 a.m. (MDT)

LOCATION: Region 7 Office, Conference Room 240

*Please provide a written copy of your comments for the official record on this rulemaking, if possible.

NAME (Please Print)	E-MAIL ADDRESS	ORGANIZATION REPRESENTED	DO YOU WISH TO TESTIFY?
Kelly Keele	skil4life@aol.com	Children's Supportive Serv	YES
David Klepich	dklepich@clubinc.org	CLUB, Inc.	No
Michelle Tueller	michelle@tuellercounseling.org	Tueller Counseling	No
Brandi Warnke	bwarnke@co.bonneville.id.us	DT Treatment	No

PUBLIC HEARING
Idaho Department of Health and Welfare
Division of Behavioral Health

*****Please Sign In*****

CHAPTER: IDAPA 16.07.15, "Behavioral Health Programs" (New Chapter); and

IDAPA 16.07.17, "Alcohol and Substance Use Disorders" (Revision to participant eligibility and addition of substance use disorder specific requirements)

DOCKET NO.: 16-0715-1501 and 16-0717-1501 **DATE:** September 17, 2014 **TIME:** 9:00 a.m. (PDT)/10:00 a.m. (MDT)

LOCATION: State Hospital North, Administration Conference Room 234

*Please provide a written copy of your comments for the official record on this rulemaking, if possible.

NAME (Please Print)	E-MAIL ADDRESS	ORGANIZATION REPRESENTED	DO YOU WISH TO TESTIFY?

no Participants

PUBLIC HEARING
Idaho Department of Health and Welfare
Division of Behavioral Health

*****Please Sign In*****

CHAPTER: IDAPA 16.07.15, "Behavioral Health Programs" (New Chapter); and

IDAPA 16.07.17, "Alcohol and Substance Use Disorders" (Revision to participant eligibility and addition of substance use disorder specific requirements)

DOCKET NO.: 16-0715-1501 and 16-0717-1501 **DATE:** September 17, 2014 **TIME:** 9:00 a.m. (PDT)/10:00 a.m. (MDT)

LOCATION: State Hospital South, Admin Building, Classroom A09

*Please provide a written copy of your comments for the official record on this rulemaking, if possible.

NAME (Please Print)	E-MAIL ADDRESS	ORGANIZATION REPRESENTED	DO YOU WISH TO TESTIFY?

No Participants

INTRODUCTORY and CLOSING STATEMENTS FOR PUBLIC HEARINGS

Rule Chapter: 16.07.15 "Behavioral Health Programs".

16.07.17 "Alcohol and Substance Use Disorder Services"

Docket Number: 16-0715-1501 and 16-0717-1501

Hearing Date and Time: September 17, 2015 1:00pm PST/2:00pm MST

Hearing Location: Video Conferencing

Let the record show that I am Treena Clark, designated as the Facilitator for this public hearing by the Administrator for the Division of Behavioral Health in the Department of Health and Welfare. It is 2:06 pm Mountain Standard Time on September 17, 2015. This public hearing is being conducted statewide via video conferencing at the locations published in the dockets. The originating site is the Pete Cenursa Building, Conference Room 3A Boise Idaho and this is the time and place set to receive oral and written comments, as provided for in Section 67-5222, Idaho Code, for the proposed rulemaking under

IDAPA 16.07.15 "Behavioral Health Programs" found in Docket No. 16-0715-1501

IDAPA 16.07.17 "Alcohol and Substance Use Disorders" found in Docket No. 16-0717-1501

The purpose of this proceeding is to gather facts, views, and arguments from all interested persons relative to the proposed rules so that they may receive consideration by the Department of Health and Welfare. I will accept written statements or documents today if relevant and signed by the persons presenting them. The materials will be included as exhibits in the record for this hearing, which I will submit to the Administrative Procedures Section following the close of this hearing.

Let the record show that the notice of this hearing was published in the Idaho Administrative Bulletin on Wednesday, September 2, 2015, as required by Section 67-5221, Idaho Code. This publication was timely made and other necessary notice requirements have been met.

This public hearing is an informal proceeding. There is no right to cross-examine a person offering comments, nor is there a right to counsel or subpoena. No objections or procedures of a technically legal nature will be accepted. As the Facilitator, I am the sole regulator of the course of the presentations, including, but not limited to, a determination that the comments are outside the scope of the rule or that comments are unduly repetitious. I am not here to answer questions or to explain any part of the proposed rules. If you have questions or concerns regarding this rulemaking, please contact Tamara Prisock 208-334-5564.

All those interested persons attending this proceeding are asked to sign in on the roster by the entrance, indicating a desire, if any, to make an oral presentation. After a brief statement made by the Department of Health and Welfare summarizing the information upon which the proposed action is based, each person will be given an opportunity to speak at least once prior to any person being heard a second time.

At this time, the Department of Health and Welfare's statement will be read into the record, followed by the opportunity for oral comments.

Through Idaho Behavioral Health Transformation, the Department of Health and Welfare is moving towards an integrated Behavioral Health system of care that includes mental health and substance use disorder services and programs. Recognizing the benefit and necessity of integrated monitoring and credentialing of community mental health and substance use disorder providers, the Department is proposing to establish a behavioral health certification that allows community mental health and substance use disorder treatment agencies to obtain state approval while maintaining core requirements for substance use disorders services and programs. The Department of Health and Welfare has worked with providers, consumers, partners, stakeholders and other interested parties to review current IDAPA rules related to substance use disorders and draft proposed rules. The Department is proposing a new chapter of rule that allows community mental health and substance use disorder agencies to obtain state approval and is proposing revisions to an existing chapter of rule that maintains Substance Use Disorder specific requirements.

This concludes the Department's statement. Next, I will call upon those persons who indicated on the sign-in roster a wish to comment. Since these proceedings are being recorded, I ask that those who wish to speak, speak clearly, and provide your name, spelling your surname, prior to beginning your comments.

CLOSING STATEMENT

This public hearing started at 2:06 p.m, Mountain Standard Time and is now closed. The time is 2:46 p.m. The record of this hearing, together with submitted written comments, will be transmitted to the Department's Administrative Procedures Section. Anyone may submit further written comments to the Administrative Procedures Section, at the Department of Health and Welfare, P.O. Box 83720, Boise, Idaho 83720-0036. All written comments must be received by September 26, 2015.

PUBLIC HEARING
Idaho Department of Health and Welfare
Division of Behavioral Health

*****Please Sign In*****

CHAPTER: IDAPA 16.07.15, "Behavioral Health Programs" (New Chapter); and

IDAPA 16.07.17, "Alcohol and Substance Use Disorders" (Revision to participant eligibility and addition of substance use disorder specific requirements)

DOCKET NO.: 16-0715-1501 and 16-0717-1501 **DATE:** September 17, 2014 **TIME:** 1:00 p.m. (PDT)/2:00 p.m. (MDT)

LOCATION: IDHW Central Office, Conference Room 3A (3rd Floor)

*Please provide a written copy of your comments for the official record on this rulemaking, if possible.

NAME (Please Print)	E-MAIL ADDRESS	ORGANIZATION REPRESENTED	DO YOU WISH TO TESTIFY?
GREG DRIVERSON	gregmsw@gmail.com	IACP	YES
Sara Barties	sara.barties@bpahealth.com	BPA	no.

PUBLIC HEARING
Idaho Department of Health and Welfare
Division of Behavioral Health

Please Sign In

CHAPTER: IDAPA 16.07.15, "Behavioral Health Programs" (New Chapter); and

IDAPA 16.07.17, "Alcohol and Substance Use Disorders" (Revision to participant eligibility and addition of substance use disorder specific requirements)

DOCKET NO.: 16-0715-1501 and 16-0717-1501 **DATE:** September 17, 2014 **TIME:** 1:00 p.m. (PDT)/2:00 p.m. (MDT)

LOCATION: Region 1 Office, Main Conference Room

*Please provide a written copy of your comments for the official record on this rulemaking, if possible.

NAME (Please Print)	E-MAIL ADDRESS	ORGANIZATION REPRESENTED	DO YOU WISH TO TESTIFY?

No Participants

PUBLIC HEARING
Idaho Department of Health and Welfare
Division of Behavioral Health

*****Please Sign In*****

CHAPTER: IDAPA 16.07.15, "Behavioral Health Programs" (New Chapter); and

IDAPA 16.07.17, "Alcohol and Substance Use Disorders" (Revision to participant eligibility and addition of substance use disorder specific requirements)

DOCKET NO.: 16-0715-1501 and 16-0717-1501 **DATE:** September 17, 2014 **TIME:** 1:00 p.m. (PDT)/2:00 p.m. (MDT)

LOCATION: Region 2 Office, 1st Floor Conference Room

*Please provide a written copy of your comments for the official record on this rulemaking, if possible.

NAME (Please Print)	E-MAIL ADDRESS	ORGANIZATION REPRESENTED	DO YOU WISH TO TESTIFY?

no Participants

PUBLIC HEARING
Idaho Department of Health and Welfare
Division of Behavioral Health

*****Please Sign In*****

CHAPTER: IDAPA 16.07.15, "Behavioral Health Programs" (New Chapter); and

IDAPA 16.07.17, "Alcohol and Substance Use Disorders" (Revision to participant eligibility and addition of substance use disorder specific requirements)

DOCKET NO.: 16-0715-1501 and 16-0717-1501 **DATE:** September 17, 2014 **TIME:** 1:00 p.m. (PDT)/2:00 p.m. (MDT)

LOCATION: Region 3 Office, Owyhee Conference Room 226

*Please provide a written copy of your comments for the official record on this rulemaking, if possible.

NAME (Please Print)	E-MAIL ADDRESS	ORGANIZATION REPRESENTED	DO YOU WISH TO TESTIFY?
Dennis Baughman	dbaughman@lifeways.org	Lifeways	No
Pam Lambert	plambert@lifeways.org	Lifeways	No

PUBLIC HEARING
Idaho Department of Health and Welfare
Division of Behavioral Health

*****Please Sign In*****

CHAPTER: IDAPA 16.07.15, "Behavioral Health Programs" (New Chapter); and

IDAPA 16.07.17, "Alcohol and Substance Use Disorders" (Revision to participant eligibility and addition of substance use disorder specific requirements)

DOCKET NO.: 16-0715-1501 and 16-0717-1501 **DATE:** September 17, 2014 **TIME:** 1:00 p.m. (PDT)/2:00 p.m. (MDT)

LOCATION: Region 4 Office, Conference Room 131

*Please provide a written copy of your comments for the official record on this rulemaking, if possible.

NAME (Please Print)	E-MAIL ADDRESS	ORGANIZATION REPRESENTED	DO YOU WISH TO TESTIFY?

no Participants

PUBLIC HEARING
Idaho Department of Health and Welfare
Division of Behavioral Health

*****Please Sign In*****

CHAPTER: IDAPA 16.07.15, "Behavioral Health Programs" (New Chapter); and

IDAPA 16.07.17, "Alcohol and Substance Use Disorders" (Revision to participant eligibility and addition of substance use disorder specific requirements)

DOCKET NO.: 16-0715-1501 and 16-0717-1501 **DATE:** September 17, 2014 **TIME:** 1:00 p.m. (PDT)/2:00 p.m. (MDT)

LOCATION: Region 5 Office, Conference Room 116

*Please provide a written copy of your comments for the official record on this rulemaking, if possible.

NAME (Please Print)	E-MAIL ADDRESS	ORGANIZATION REPRESENTED	DO YOU WISH TO TESTIFY?
LaDessa Foster	LaDessa.Foster@bpahealth.com	BPA	no

PUBLIC HEARING
Idaho Department of Health and Welfare
Division of Behavioral Health

*****Please Sign In*****

CHAPTER: IDAPA 16.07.15, "Behavioral Health Programs" (New Chapter); and

IDAPA 16.07.17, "Alcohol and Substance Use Disorders" (Revision to participant eligibility and addition of substance use disorder specific requirements)

DOCKET NO.: 16-0715-1501 and 16-0717-1501 **DATE:** September 17, 2014 **TIME:** 1:00 p.m. (PDT)/2:00 p.m. (MDT)

LOCATION: Region 6 Office, Conference Room 225

*Please provide a written copy of your comments for the official record on this rulemaking, if possible.

NAME (Please Print)	E-MAIL ADDRESS	ORGANIZATION REPRESENTED	DO YOU WISH TO TESTIFY?

No Participants

PUBLIC HEARING
Idaho Department of Health and Welfare
Division of Behavioral Health

Please Sign In

CHAPTER: IDAPA 16.07.15, "Behavioral Health Programs" (New Chapter); and

IDAPA 16.07.17, "Alcohol and Substance Use Disorders" (Revision to participant eligibility and addition of substance use disorder specific requirements)

DOCKET NO.: 16-0715-1501 and 16-0717-1501 **DATE:** September 17, 2014 **TIME:** 1:00 p.m. (PDT)/2:00 p.m. (MDT)

LOCATION: Region 7 Office, Conference Room 240

*Please provide a written copy of your comments for the official record on this rulemaking, if possible.

NAME (Please Print)	E-MAIL ADDRESS	ORGANIZATION REPRESENTED	DO YOU WISH TO TESTIFY?
Kelly Keele	skil4life@aol.com	Childrens Supportive Services	No

PUBLIC HEARING
Idaho Department of Health and Welfare
Division of Behavioral Health

*****Please Sign In*****

CHAPTER: IDAPA 16.07.15, "Behavioral Health Programs" (New Chapter); and

IDAPA 16.07.17, "Alcohol and Substance Use Disorders" (Revision to participant eligibility and addition of substance use disorder specific requirements)

DOCKET NO.: 16-0715-1501 and 16-0717-1501 **DATE:** September 17, 2014 **TIME:** 1:00 p.m. (PDT)/2:00 p.m. (MDT)

LOCATION: State Hospital South, Admin Building, Classroom A09

*Please provide a written copy of your comments for the official record on this rulemaking, if possible.

NAME (Please Print)	E-MAIL ADDRESS	ORGANIZATION REPRESENTED	DO YOU WISH TO TESTIFY?

No Participants

PUBLIC HEARING
Idaho Department of Health and Welfare
Division of Behavioral Health

*****Please Sign In*****

CHAPTER: IDAPA 16.07.15, "Behavioral Health Programs" (New Chapter); and

IDAPA 16.07.17, "Alcohol and Substance Use Disorders" (Revision to participant eligibility and addition of substance use disorder specific requirements)

DOCKET NO.: 16-0715-1501 and 16-0717-1501 **DATE:** September 17, 2014 **TIME:** 1:00 p.m. (PDT)/2:00 p.m. (MDT)

LOCATION: State Hospital North, Administration Conference Room 234

*Please provide a written copy of your comments for the official record on this rulemaking, if possible.

NAME (Please Print)	E-MAIL ADDRESS	ORGANIZATION REPRESENTED	DO YOU WISH TO TESTIFY?

No Participants

IDAHO ASSOCIATION OF COMMUNITY PROVIDERS, INC.
MENTAL HEALTH PROVIDER TYPE
4477 W. EMERALD, STE. C100
BOISE, ID 83706

Department of Health & Welfare
Division of Behavioral Health

RE: Negotiated Rule Hearing: New IDAPA Rule Chapter 16-0715-1501

To whom it may concern,

My name is Gregory Dickerson, and I am one of two Mental Health Provider type directors for the Idaho Association of Community Providers. The following testimony is in response to the proposed New Chapter.

The following comments on the proposed new chapter of rules for "State Approved Behavioral Health Programs" are solely those of the Idaho Association of Community Providers, Mental Health provider type. They may not represent the views of the other provider type specialties of the IACP.

First, the Fiscal Impact Statement indicates: "The fiscal impact for this rule change is anticipated to be cost neutral for state general funds and all other funds". The section goes on to describe the $100 fee per treatment facility and $50 fee for recovery support services. We feel that this is an inaccurate assessment of the costs of this credentialing effort. Since most of the standards described in these rules are based on national accreditation guidelines, a reasonable comparison of the ultimate costs of this program may be drawn from the actual costs of national accreditation processes.

My agency, Human Supports of Idaho, underwent our 4th CARF accreditation review earlier this year. CARF surveys are for the purposes of verifying conformance with the standards and are provided at rate that allows CARF to break even in offsetting its costs. Each survey team is assigned based on the size of the agency, the number of locations surveyed, and the number of programs that are surveyed. From this formula, CARF charges are based on the number of surveyor days. For our small agency with 2 locations and 3 program areas surveyed, we required 2 surveyors for 3 days each. At the rate charged of $1,550.00 per surveyor day, our accreditation review alone cost $9300.00. Additionally, we paid a $900.00 application fee. To make this a fair comparison, a part of these fees are used to compensate the travel expenses of the surveyors. However, the surveyors are not compensated as employees as the Department or it's potential contractor will be for performing these same functions. The point is that the fees described in this documents will most certainly be insufficient to meet these costs. It may very well be that the Department or it's contractor may be staffed under current funding levels to perform these site visits for its current SUDS providers, but it will certainly take more FTE's to address the needs of this expansion to all behavioral health providers.

Section 006. "Confidentiality of Records and Public Records Request" section .02 describes how the public may gain access to an organizations' records which outline "fitness to be granted or retain a license, certificate, permit, privilege, commission, or position." The purpose of this section is unclear because one would infer that if the organization has a certificate of such, and the Department maintains a primary source verification of a "List of Approved Programs" as described in section .01 of the

Certificate of Approval section, that those sources would be sufficient to meet the public need. If there is an additional public need for the Department to release more specific information in a Public record request it would seem appropriate that this section be expanded to include definitions on permissible disclosures (such as proprietary information that is gathered during a site visit), and notification to the provider as to the specific request under consideration.

Section 009. Criminal History and Background Check Requirements beyond section .01 which points to the current promulgated chapter on Department Background Checks in IDAPA 16.05.06 is un-necessary and ill-advised. The following examples illustrate this assertion: First, Section .02 "Availability to Work" is a duplication of IDAPA 16.0506.170; Second, Section .03 "Waiver of Criminal History and Background Check Denial", conflicts with 16.05.06.250 Exemption Reviews; Third, section .04 No Waiver for Certain Designated Crimes" conflicts with 16.05.06.210 "Unconditional Denial Disqualifying Crimes" (example: section .04 does not list Abuse, neglect, or exploitation of a vulnerable adult, which is a disqualifying crime under the current law); Fourth, sections .05 through .08 conflict with rules at 16.05.06.250. Not only do these sections contradict the current rules, but they also introduce alternative language which is confusing and inexact language (ie. "No Waiver" versus "Unconditional Denial"; "designated crimes" versus "disqualifying crimes"; "Administrative Review" versus "Exemption Review"). A reference to the current Criminal History rules as in section .01 is sufficient here. It seems that a more appropriate and congruent strategy for expanding the Department's ability to grant an exemption for Abuse, Neglect, or exploitation of a vulnerable adult, or perhaps allow exemption for any of the 5 year crimes within a shorter period as examples, would be to amend the appropriate sections of IDAPA 16.0506.

Section 050. Variances is ill advised. Variances in compliance with the regulations that is allowed for one provider and is not applied to other providers creates an un-even playing field, and introduces the risk of arbitrary treatment of providers. The regulations need to be drafted in such a way that do not introduce regulatory barriers that may require such a variance. In short, regulations need to be limited to those requirements minimally necessary to ensure the public safety as well as the highest quality of services to persons served within the constraints of funding provided. Under this criteria, there would be no reasonable allowance for a variance necessary. None of the national accreditation bodies provide allowances for the adopted standards.

We support section 140 describing deeming of provider programs that are nationally accredited and that recognition is appreciated.

Section 390 Personnel Policies and Procedures, sub-section .04.e the term "waiver" should be replaced with the term "Exemption Review Determination".

These comments conclude my prepared testimony on the proposed New Rule Chapter. The Idaho Association of Community Providers is committed to supporting policies that create the highest quality services for persons served within the resources provided by the Idaho Behavioral Health Plan, and will continue to provide comment throughout this promulgation process to that end. I appreciate your attention to these comments.

Gregory Dickerson, MSW, MBA
Mental Health Director/Treasurer
Idaho Association of Community Providers

ATTACHMENT 17

IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE

16.07.17 - ALCOHOL AND SUBSTANCE USE DISORDERS SERVICES

DOCKET NO. 16-0717-1501

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2016 Idaho State Legislature for final approval. In accordance with Section 67-5224(5)(a) and (b), Idaho Code, as specified here in this notice the pending rule becomes final and effective on July 1, 2016, after review by the legislature, unless the rule is approved or rejected in part by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is affected by concurrent resolution, the concurrent resolution shall specify the date.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Title 39, Chapter 3, Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change.

Alcohol and substance use disorders treatment and recovery support services and program requirements from a chapter repeal have been added to this chapter of rules. Changes have been made to the proposed rules to clarify definitions, terminology, and references. The complete text of the proposed rule was published in the September 2, 2015, Idaho Administrative Bulletin, Vol. 15-9, pages 178 through 200.

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars ($10,000) during the fiscal year as a result of this rulemaking:

There is no anticipated fiscal impact to the state general funds or any other funds due to this rulemaking.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Treena Clark at (208) 334-6611.

DATED this _____ day of _____, 2015.

Tamara Prisock
DHW - Administrative Rules Unit
450 W. State Street - 10th Floor
P.O. Box 83720
Boise, ID 83720-0036
(208) 334-5500 phone; (208) 334-6558 fax
E-mail: **dhwrules@dhw.idaho.gov**

THE FOLLOWING IS THE PENDING TEXT OF DOCKET NO. 16-0717-1501
(Only Those Sections With Amendments Are Shown.)

000. LEGAL AUTHORITY.
The Idaho Legislature has delegated to the Department and the Board of Health and Welfare, the responsibility ~~*to ensure that clinically necessary alcohol and*~~ to establish and enforce rules for a comprehensive and coordinated program for the treatment of substance use disorders. ~~*services are available throughout the state of Idaho to individuals who meet certain eligibility criteria under the Alcoholism and Intoxication Treatment Act,*~~ This authority is found in the Alcoholism and Intoxication Treatment Act, Title 39, Chapter 3, and Section 56-1003, Idaho Code. ~~*Under Section 39-311, Idaho Code, the Board of Health and Welfare is authorized to promulgate rules to carry out the purpose and intent of the Alcoholism and Intoxication Treatment Act. Under Section 39-304, Idaho Code, the Department is authorized to establish a comprehensive and coordinated program for the treatment of alcoholics, intoxicated persons, and drug addicts to carry out the purposes and intent of the Alcoholism and Intoxication Treatment Act. Section 56-1003, Idaho Code authorizes the Director of the Department to administer services dealing with the problem of alcoholism and the rehabilitation of persons suffering from alcoholism.*~~ ~~*(5-8-09)*~~(____)

001. TITLE, ~~*AND*~~ SCOPE, AND PURPOSE.

01. Title. The title of these rules is, IDAPA 16.07.17, "~~*Alcohol and*~~ Substance Use Disorders Services." ~~*(5-8-09)*~~(____)

02. Scope. This chapter ~~*defines the scope of voluntary*~~ sets the standards for providing substance use disorders services administered under the Department's Division of Behavioral Health~~*, and describes the eligibility criteria, application requirements, individualized service plan requirements, selection of providers, and appeal process under these rules. This chapter is not intended to and does not establish an entitlement for or to receive adult or adolescent alcohol or substance use disorder services, nor is it intended to be applicable to individuals ordered by the court to receive alcohol or substance use disorder services*~~. ~~*(7-1-13)*~~(____)

03. Purpose. The purpose of these rules is to: (____)

a. Provide participant eligibility criteria, application requirements, and appeals process for services administered under the Department's Division of Behavioral Health; and (____)

b. Establish requirements for quality of substance use disorders treatment, care, and services provided by behavioral health and recovery support services programs. (____)

002. WRITTEN INTERPRETATIONS.
~~*There are no written interpretations for these rules.*~~ In accordance with Section 67-5201(19)(b)(iv), Idaho Code, this agency may have written statements that pertain to the interpretations of the rules of this chapter or to the documentation of compliance with the rules of this chapter. These documents are available for public inspection as described in Sections 005 and 006 of these rules. ~~*(5-8-09)*~~(____)

003. ADMINISTRATIVE APPEALS.

01. Appeal of Denial Based on Eligibility ~~*Criteria*~~ Requirements. Administrative appeals from a denial of ~~*alcohol and*~~ substance use disorder services based on eligibility ~~*criteria and priority population*~~ requirements are governed by the provisions of IDAPA 16.05.03, "Rules Governing Contested Case Proceedings and Declaratory Rulings." ~~*(5-8-09)*~~(____)

02. Appeal of Decision Based on Clinical Judgement. ~~*All d*~~Decisions involving clinical judgment, including the category of services, the particular provider of services, or the duration of services, are reserved to the Department, and are not subject to appeal, administratively or otherwise, in accordance with *Maresh v. State,* 132 Idaho 221, 970 P.2d 14 (Idaho 1999). ~~*(5-8-09)*~~(____)

004. INCORPORATION BY REFERENCE.
The following are incorporated by reference in this chapter of rules: (5-8-09)

01. ASAM ~~*PPC-2R*~~. American Society of Addiction Medicine (ASAM) ~~*Patient Placement Criteria for the Treatment of Substance-Related Disorders, Second Edition - Revised (ASAM PPC-2R)*~~Treatment Criteria for

Addictive, Substance-Related, and Co-Occurring Conditions, Third Edition, 2013. A copy of this manual is available by mail at the American Society of Addiction Medicine, 4601 North Park Ave., Suite 101, Chevy Chase, MD 20815; by telephone and fax, (301) 656-3920 and (301) 656-3815 (fax); or on the internet at http://www.asam.org. ~~(5-8-09)~~(____)

02. **DSM-~~IV-TR~~5**. American Psychiatric Association: Diagnostic and Statistical Manual of Mental Disorders, ~~Fourth~~ Fifth Edition, ~~Text Revision~~ (DSM-~~IV-TR~~5) Washington, DC, American Psychiatric Association, 2000. Copies of the manual are available from the American Psychiatric Association, ~~1400 K Street, N.W., Washington, DC, 20005. A copy of the manual is also available for public review at the Department of Health and Welfare, 450 West State Street, Boise, Idaho, 83702~~ 1000 Wilson Boulevard, Suite 1825, Arlington VA 22209-3901. ~~(5-8-09)~~(____)

03. **Guidelines for the Accreditation of Opioid Treatment Programs (OTP)**. Substance Abuse and Mental Health Services Administration, Office of Pharmacological and Alternative Therapies, Attention: OTP Certification Program, Room 2-1086, 1 Choke Cherry Road, Rockville, MD 20857; or on the internet at http://www.dpt.samhsa.gov/regulations/certification.aspx for an overview of certification regulations, and http://www.dpt.samhas.go/pdfOTPAccredGuidelines-2007.pdf for specific guidelines dated July 20, 2007. (____)

005. OFFICE -- OFFICE HOURS -- MAILING ADDRESS -- STREET ADDRESS -- TELEPHONE NUMBER -- INTERNET WEB SITE.

01. **Office Hours**. Office hours are 8 a.m. to 5 p.m., Mountain Time, Monday through Friday, except holidays designated by the State of Idaho. (5-8-09)

02. **Mailing Address**. The mailing address for the business office is Idaho Department of Health and Welfare, P.O. Box 83720, Boise, Idaho 83720-0036. (5-8-09)

03. **Street Address**. The business office of the Idaho Department of Health and Welfare is located at 450 West State Street, Boise, Idaho 83702. (5-8-09)

04. **Telephone**. The telephone number for the Idaho Department of Health and Welfare is (208) 334-5500. (5-8-09)

05. **Internet Web Site**. The Department's internet website at http://www.healthandwelfare.idaho.gov. (5-8-09)

06. **Substance Use Disorders Services Website**. The Substance Use Disorders Services Internet website at http://www.substanceabuse.idaho.gov. (____)

(BREAK IN CONTINUITY OF SECTIONS)

007. -- 00~~8~~9. (RESERVED)

~~**009. CRIMINAL HISTORY AND BACKGROUND CHECK REQUIREMENTS.**~~

~~**01. Compliance With Department Criminal History and Background Check.** All owners, operators, employees, transfers, reinstated former employees, student interns, contractors, and volunteers who provide direct care or services, or whose position requires regular contact with clients, must comply with the provisions in IDAPA 16.05.06, "Criminal History and Background Checks."~~ ~~(7-1-14)~~

~~**02. Availability to Work or Provide Service.** An individual listed in Subsection 009.01 of these rules is available to work on a provisional basis at the discretion of the employer or agency once the individual has submitted his criminal history and background check application, it has been signed and notarized, reviewed by the employer or agency, and no disqualifying crimes or relevant records are disclosed on the application. An individual must be fingerprinted within twenty-one (21) days of submitting his criminal history and background check application.~~

~~(7-1-14)~~

~~a. An individual is allowed to work or have access to clients only under supervision until the criminal history and background check is completed.~~ ~~(7-1-14)~~

~~b. An individual, who does not receive a criminal history and background check clearance or a waiver granted under the provisions in this chapter, may not provide direct care or services, or serve in a position that requires regular contact with clients in an alcohol and substance use disorders treatment and recovery support services program.~~ ~~(7-1-14)~~

~~03. **Waiver of Criminal History and Background Check Denial.** An individual who receives a conditional or unconditional denial for a criminal history and background check, may apply for a waiver to provide direct care or services, or serve in a position that requires regular contact with clients in an alcohol and substance use disorders treatment and recovery support services program. A waiver may be granted on a case-by-case basis upon administrative review by the Department of any underlying facts and circumstances in each individual case. A waiver will not be granted for crimes listed in Subsection 009.04 of this rule.~~ ~~(7-1-14)~~

~~04. **No Waiver for Certain Designated Crimes.** No waiver will be granted by the Department for any of the following designated crimes or substantially conforming foreign criminal violations:~~ ~~(7-1-14)~~

~~a. Forcible sexual penetration by use of a foreign object, as defined in Section 18-6608, Idaho Code;~~ ~~(7-1-14)~~

~~b. Incest, as defined in Section 18-6602, Idaho Code;~~ ~~(7-1-14)~~

~~c. Lewd conduct with a minor, as defined in Section 18-1508, Idaho Code;~~ ~~(7-1-14)~~

~~d. Murder in any degree or assault with intent to commit murder, as defined in Sections 18-4001, 18-4003, and 18-4015, Idaho Code;~~ ~~(7-1-14)~~

~~e. Possession of sexually exploitative material, as defined in Section 18-1507A, Idaho Code;~~ ~~(7-1-14)~~

~~f. Rape, as defined in Section 18-6101, Idaho Code;~~ ~~(7-1-14)~~

~~g. Sale or barter of a child, as defined in Section 18-1511, Idaho Code;~~ ~~(7-1-14)~~

~~h. Sexual abuse or exploitation of a child, as defined in Sections 18-1506 and 18-1507, Idaho Code;~~ ~~(7-1-14)~~

~~i. Enticing of children, as defined in Sections 18-1509 and 18-1509A, Idaho Code;~~ ~~(7-1-14)~~

~~j. Inducing individuals under eighteen (18) years of age into prostitution or patronizing a prostitute, as defined in Sections 18-5609 and 18-5611, Idaho Code;~~ ~~(7-1-14)~~

~~k. Any felony punishable by death or life imprisonment; or~~ ~~(7-1-14)~~

~~l. Attempt, conspiracy, accessory after the fact, or aiding and abetting, as defined in Sections 18-205, 18-306, 18-1701, and 19-1430, Idaho Code, to commit any of the disqualifying designated crimes.~~ ~~(7-1-14)~~

~~05. **Administrative Review.** An administrative review for a waiver may consist of a review of documents and supplemental information provided by the individual, a telephone interview, an in-person interview, or any other review deemed necessary by the Department. The Department may appoint a subcommittee to conduct administrative reviews provided for under Subsections 009.03 through 009.12 of this rule.~~ ~~(7-1-14)~~

~~06. **Written Request for Administrative Review and Waiver.** A written request for a waiver must be sent to the Administrative Procedures Section, 450 W. State Street, P.O. Box 83720, Boise, Idaho 83720-0026 within fourteen (14) calendar days from the date of the issuance of a denial from the Department's Criminal History Unit.~~

~~The fourteen (14) day period for submitting a request for a waiver may be extended by the Department for good cause.~~ ~~(7-1-14)~~

~~07. **Scheduling of Administrative Review.** Upon receipt of a written request for a waiver, the Department will determine the type of administrative review to be held, and conduct the review within thirty (30) business days from the date of receipt. When an in-person review is appropriate, the Department will provide the individual at least seven (7) days notice of the review date.~~ ~~(7-1-14)~~

~~08. **Factors Considered During Administrative Review.** During the administrative review, the following factors may be considered:~~ ~~(7-1-14)~~

~~a. The severity or nature of the crimes or other findings;~~ ~~(7-1-14)~~

~~b. The period of time since the incidents occurred;~~ ~~(7-1-14)~~

~~c. The number and pattern of incidents being reviewed;~~ ~~(7-1-14)~~

~~d. Circumstances surrounding the incidents that would help determine the risk of repetition;~~ ~~(7-1-14)~~

~~e. The relationship between the incidents and the position sought;~~ ~~(7-1-14)~~

~~f. Activities since the incidents, such as continuous employment, education, participation in treatment, completion of a problem-solving court or other formal offender rehabilitation, payment of restitution, or any other factors that may be evidence of rehabilitation.~~ ~~(7-1-14)~~

~~g. A pardon that was granted by the Governor or the President;~~ ~~(7-1-14)~~

~~h. The falsification or omission of information on the self-declaration form and other supplemental forms submitted; and~~ ~~(7-1-14)~~

~~i. Any other factor deemed relevant to the review.~~ ~~(7-1-14)~~

~~09. **Administrative Review Decision.** A notice of decision will be issued by the Department within fifteen (15) business days of completion of the administrative review.~~ ~~(7-1-14)~~

~~10. **Decision to Grant Waiver.** The Department's decision to grant a waiver does not set a precedent for subsequent requests by an individual for a waiver. A waiver granted under this chapter is not a criminal history and background check clearance, and is only applicable to services and programs governed under this chapter. It does not apply to other Department programs requiring clearance of a criminal history and background check.~~ ~~(7-1-14)~~

~~11. **Revocation of Waiver.** The Department may chose to revoke a waiver at its discretion for circumstances that it identifies as a risk to client health and safety, at any time.~~ ~~(7-1-14)~~

~~12. **Waiver Decisions Are Not Subject to Review or Appeal.** The decision or actions of the Department concerning a waiver is not subject to review or appeal, administratively or otherwise.~~ ~~(7-1-14)~~

~~13. **Employer Responsibilities.** A waiver granted by the Department is not a determination of suitability for employment. The employer is responsible for reviewing the results of a criminal history and background check even when a clearance is issued or a waiver is granted. Making a determination as to the ability or risk of the individual to provide direct care services or to serve in a position that requires regular contact with children and vulnerable adults is the responsibility of the employer.~~ ~~(7-1-14)~~

010. DEFINITIONS - A THROUGH F.
For the purposes of these rules, the following terms are used as defined below: (5-8-09)

01. Adolescent. An individual ~~between the ages of fourteen (14) and~~ under the age of eighteen (18) years. ~~(5-8-09)~~(____)

02. **Adult**. An individual eighteen (18) years or older. (5-8-09)

03. **Applicant**. An adult or adolescent individual who is seeking alcohol or substance use disorders services through the Department who has completed or had completed on his behalf an application for alcohol or substance use disorder services. (5-8-09)

04. **ASAM** ~~***PPC-2R***~~. Refers to the ~~*second*~~ third edition ~~*revised,*~~ manual of the patient placement criteria for the treatment of substance-related disorders, published by the American Society of Addiction Medicine, *incorporated by reference in Section 004 of these rules.* ~~(5-8-09)~~( )

~~***05.***~~ ~~***Assessment and Referral Services***~~. ~~*A substance use disorders program provides these services in order to treat, provide services, or refer individuals. An assessment is designed to gather and analyze information regarding a client's current substance use disorder behavioral, social, medical, and treatment history. The purpose of the assessment is to provide sufficient information for problem identification and, if appropriate, substance use disorder related treatment or referral.*~~ ~~(7-1-13)~~

~~***06.***~~ ~~***Child***~~. ~~*An individual under the age of fourteen (14) years.*~~ ~~(7-1-13)~~

~~***07.***~~ ~~***Client***~~. ~~*A person receiving treatment for an alcohol or substance use disorder. The term "client" is synonymous with the terms: patient, resident, consumer, or recipient of treatment.*~~ ~~(5-8-09)~~

05. **Clinical Assessment**. The gathering of historical and current clinical information through a clinical interview and from other available resources to identify an individual's strengths, weaknesses, problems, needs, and determine priorities so that a service plan can be developed. ( )

0~~8~~6. **Clinical Judgment**. Refers to observations and perceptions based upon education, experience, and clinical assessment. This may include psychometric, behavioral, and clinical interview assessments that are structured, integrated, and then used to reach decisions, individually or collectively, about an individual's functional, mental, and behavioral attributes ~~*and alcohol*~~ and substance use disorders service needs. ~~(5-8-09)~~( )

0~~9~~7. **Clinical Necessity**. ~~*Alcohol or s*~~Substance use disorder services are deemed clinically necessary when the Department, in the exercise of clinical judgment, would recommend services to an applicant for the purpose of evaluating, diagnosing, or treating ~~*alcohol or*~~ substance use disorders that are: ~~(5-8-09)~~( )

a. Clinically appropriate, in terms of type, frequency, extent, site and duration, and considered effective for treating the applicant's ~~*alcohol or*~~ substance use disorder; and ~~(5-8-09)~~( )

b. Not primarily for the convenience of the applicant or service provider and not more costly than an alternative service or sequence of services and at least as likely to produce equivalent therapeutic or diagnostic results as to the diagnosis or treatment of the applicant's ~~*alcohol or*~~ substance use disorder. ~~(5-8-09)~~( )

~~***10.***~~ ~~***Clinical Team***~~. ~~*A proposed client's clinical team may include: qualified clinicians, behavioral health professionals, professionals other than behavioral health professionals, behavioral health technicians and any other individual deemed appropriate and necessary to ensure that the assessment and subsequent treatment is comprehensive and meets the needs of the proposed client.*~~ ~~(5-8-09)~~

~~***11.***~~ ~~***Clinically Managed Low-Intensity Residential Treatment***~~. ~~*Is a program that offers at least five (5) hours per week of outpatient or intensive outpatient treatment services along with a structured recovery environment, staffed twenty-four (24) hours per day, which provides sufficient stability to prevent or minimize relapse or continued use. This level of care is also known as a Halfway House.*~~ ~~(5-8-09)~~

~~***12.***~~ ~~***Clinically Managed Medium-Intensity Residential Treatment***~~. ~~*Frequently referred to as residential care, programs provide a structured, twenty-four (24) hour intensive residential program for clients who require treatment services in a highly structured setting. This type of program is appropriate for clients who need concentrated, therapeutic services prior to community residence. Community reintegration of residents in this level of care requires case management activities directed toward networking clients into community-based recovery support*~~

~~*services such as housing, vocational services or transportation assistance so that the client is able to attend mutual/ self-help meetings or vocational activities after discharge.*~~ ~~(5-8-09)~~

~~**13.** **Comprehensive Assessment**. *Those procedures by which a substance use disorder clinician evaluates an individual's strengths, weaknesses, problems, needs, and determines priorities so that a service plan can be developed.*~~ ~~(7-1-13)~~

~~**14.** **Contracted Intermediary**. *A third party contractor of the Department who handles direct contracting with network providers for treatment services to include network management, claims payment, data gathering per Federal and State requirements and census management.*~~ ~~(5-8-09)~~

~~**15**~~**08.** **Department**. The Idaho Department of Health and Welfare or ~~*a person authorized to act on behalf of the Department*~~ ~~(5-8-09)~~(____) its designee.

~~**16.** **Early Intervention Services**. *Services that are designed to explore and address problems or risk factors that appear to be related to substance use.*~~ ~~(7-1-13)~~

~~**17.** **Emergency**. *An emergency exists if an adult or adolescent individual is gravely disabled due to mental illness or substance abuse or dependence or there is a substantial risk that physical harm will be inflicted by the proposed client:*~~ ~~(5-8-09)~~

~~**a.** *Upon his own person, as evidenced by threats or attempts to commit suicide or inflict physical harm on himself; or*~~ ~~(5-8-09)~~

~~**b.** *Upon another person as evidenced by behavior which has caused such harm or which places another person or persons in reasonable fear of sustaining such harm.*~~ ~~(5-8-09)~~

09. **Eligibility Screening**. The collection of data, analysis, and review, which the Department uses to screen and determine whether an applicant is eligible for adult or adolescent substance use disorder services available through the Department. (____)

1~~8~~0. **Federal Poverty Guidelines**. Guidelines issued annually by the Federal Department of Health and Human Services establishing the poverty income limits. The federal poverty guidelines for the current year may be found at: http://aspe.hhs.gov/poverty/. (5-8-09)

011. DEFINITIONS - G THROUGH Z.
For the purposes of these rules, the following terms are used as defined below: (7-1-14)

~~**01.** **Good Cause**. *A valid and sufficient reason for not complying with the time frame set for submitting a written request for a waiver by an individual who does not receive a criminal history and background check clearance.*~~ ~~(7-1-14)~~

~~**02.** **Gravely Disabled**. *An adult or adolescent who, as a result of mental illness or substance abuse or dependence, is in danger of serious physical harm due to the person's inability to provide for any of his basic needs for nourishment, or essential medical care, or shelter or safety.*~~ ~~(5-8-09)~~

01. **Idaho Board of Alcohol/Drug Counselor Certification, Inc. (IBADCC)**. A board affiliated with the International Certification Reciprocity Consortium/Alcohol and Other Drug Abuse (ICRC). The IBADCC is the certifying entity that oversees credentialing of Idaho Student of Addiction Studies (ISAS), *and* Certified Alcohol/ Drug Counselors (CADC)~~, *Advanced Certified Alcohol/Drug Counselors (ACADC), Certified Clinical Supervisors (CCS), and Certified Prevention Specialists (CPS)*~~ in the state of Idaho. The IBADCC may be contacted at: PO Box 1548, Meridian, ID 83680; phone (208) 468-8802; Fax: (208) 466-7693; e-mail: IBADCC@ibadcc.org; http://ibadcc.org/. (____)

02. **Idaho Student of Addiction Studies (ISAS)**. An entry-level certification for substance use disorder treatment granted by the Idaho Board of Alcohol/Drug Counselor Certification. (____)

03. **Individualized Service Plan.** A written action plan based on an ~~*intake*~~ eligibility screening and ~~*full*~~ clinical assessment, that identifies the applicant's clinical needs, the strategy for providing services to meet those needs, treatment goals and objectives and the criteria for terminating the specified interventions. ~~*(7-1-13)*~~(____)

~~*04.* ***Intake Eligibility Screening.*** *The collection of data, analysis, and review, which the Department, or its designee, uses to screen and determine whether an applicant is eligible for adult or adolescent alcohol or substance use disorder services available through the Department.* *(5-8-09)*~~

0~~5~~4. **Intensive Outpatient Services.** ~~*An organized service delivered by addiction professionals or addiction-credentialed clinicians, which provides a planned regimen of treatment*~~ Educational classes and individual or group counseling consisting of regularly scheduled sessions within a structured program, for a minimum of nine (9) hours of treatment per week for adults and six (6) hours of treatment per week for adolescents. ~~*(5-8-09)*~~(____)

~~*06.* ***Medically Monitored Detoxification.*** *Means medically supervised twenty-four (24) hour care for patients who require hospitalization for treatment of acute alcohol intoxication or withdrawal, from one (1) or more other substances of abuse, and other medical conditions which together warrant treatment in this type of setting. Length of stay varies depending on the severity of the disease and withdrawal symptoms.* *(7-1-13)*~~

~~*07.* ***Medically Monitored Inpatient Treatment.*** *Medically supervised twenty-four (24) hour care for patients requiring hospitalization and treatment services. Medically monitored inpatient treatment provides treatment services and access to full range of services offered by the hospital.* *(7-1-13)*~~

05. **Medication Assisted Treatment (MAT).** MAT is the use of medications, in combination with counseling and behavioral therapies, to provide a whole-patient approach to the treatment of substance use disorders. (____)

0~~8~~6. **Network Treatment Provider.** A treatment provider who has ~~*facility*~~ approval through the Department and is contracted with the Department's Management Service Contractor. A list of network providers can be found at the Department's website given in Section 005 of these rules. The list is also available by calling these telephone numbers: 1 (800) 922-3406; or dialing 211. ~~*(5-8-09)*~~(____)

07. **Northwest Indian Alcohol/Drug Specialist Certification Board.** A board that represents the Native American Chemical Dependency programs in the state of Washington, Oregon, and Idaho and offers certification for chemical dependency counselors. Information regarding certification standards may be obtained at the website at http://www.nwiadcb.com/NWIADCB/index.html. (____)

0~~9~~8. **Opioid** ~~***Replacement Outpatient Services***~~ **Treatment Program.** This ~~*service*~~ program is specifically offered to a ~~*client*~~ participant who has opioids as his substance use disorder. Services are offered under the guidelines of a federally accredited program. ~~*(7-1-13)*~~(____)

~~*1*~~09. **Outpatient Services.** ~~*An organized non-residential service, delivered in a variety of settings, in which addiction treatment personnel provide professionally directed evaluation and treatment for alcohol and substance use disorders.*~~ Educational classes and individual or group counseling consisting of regularly scheduled sessions within a structured program for up to eight (8) hours of treatment per week for adults and five (5) hours of treatment per week for adolescents. ~~*(5-8-09)*~~(____)

~~*11*~~10. **Priority Population.** Priority populations are populations who receive services ahead of other persons and are determined yearly by the Department ~~*based on federal regulations*~~. A current list of the priority population is available from the Department. ~~*(7-1-13)*~~(____)

~~*12*~~11. **Recovery Support Services.** Non clinical services designed to initiate, support, and enhance recovery. These services may include: safe and sober housing that is staffed; transportation; child care; ~~*family education;*~~ life skills education; ~~*marriage education;*~~ drug testing; peer to peer mentoring; and case management. ~~*(5-8-09)*~~(____)

~~*13.* ***Residential Social Detoxification.*** *Means a medically supported twenty-four (24) hour, social rehabilitation residential program which provides physical care, education, and counseling as appropriate for the*~~

~~client's health and safety during his process of physical withdrawal from acute alcohol intoxication or withdrawal, or from one or more other substances of abuse. Social detoxification provides access into care and treatment of alcohol or substance use disorders through monitored withdrawal, evaluation of present or potential alcohol or substance dependency and other physical ailments, and intervention into the progression of the disease through timely utilization or resources. Length of stay in a social detoxification program varies from three (3) to seven (7) days depending on the severity of the disease and withdrawal symptoms.~~ ~~(5-8-09)~~

~~14. Sliding Fee Scale. A scale used to determine an individual's cost for services based on Federal Poverty Guidelines and found in IDAPA 16.07.01, "Behavioral Health Sliding Fee Schedules."~~ ~~(5-8-09)~~

~~15. Substance Dependence. Substance dependence is marked by a cluster of cognitive, behavioral, and physiological symptoms indicating that the individual continues to use alcohol or other drugs despite significant related problems. The cluster of symptoms can include: tolerance; withdrawal or use of a substance in larger amounts or over a longer period of time than intended; persistent desire or unsuccessful efforts to cut down or control substance use; a great deal of time spent in activities related to obtaining or using substances or to recover from their effects; relinquishing important social, occupational or recreational activities because of substance use; and continuing alcohol or drug use despite knowledge of having a persistent or recurrent physical or psychological problem that is likely to have been cause or exacerbated by such use as defined in the DSM-IV-TR.~~ ~~(5-8-09)~~

12. **Residential Treatment Services**. A planned and structured regimen of treatment provided in a 24-hour residential setting. Residential programs serve individuals who, because of function limitations need safe and stable living environments and 24-hour care. (____)

1~~6~~3. **Substance-Related Disorders**. Substance-related disorders include disorders related to the taking of alcohol or another addictive drug ~~of abuse~~, to the side effects of a medication, and to toxin exposures. They ~~are divided into two (2) groups: the~~ include ~~S~~substance ~~U~~use ~~D~~disorders, and ~~the S~~substance-~~Induced~~ intoxication, substance withdrawal, and substance-induced ~~D~~disorders as defined in the DSM-~~IV-TR~~5. ~~(5-8-09)~~(____)

1~~7~~4. **Substance Use Disorder**. ~~Includes Substance Dependence and Substance Abuse, according to the DSM-IV-TR. Substance Use Disorders are one (1) of two (2) subgroups of the broader diagnostic category of Substance-Related Disorders~~. A substance use disorder is evidenced by a cluster of cognitive, behavioral, and physiological symptoms indicating that the individual continues using a substance despite significant substance-related problems. According to the DSM-5, diagnosis of a substance use disorder is based on a pathological pattern of behaviors related to use of the substance. ~~(5-8-09)~~(____)

~~18. Substantial Material Change in Circumstances. A substantial and material change in circumstances which renders the Department's decision denying alcohol and substance use disorders services arbitrary and capricious.~~ ~~(5-8-09)~~

15. **Withdrawal Management**. Services necessary to monitor and manage the process of withdrawing a person from a specific psychoactive substance in a safe and effective manner. (____)

012. -- 099. (RESERVED)

PARTICIPANT ELIGIBILITY
(Sections 100 - 199)

100. ACCESSING ~~ALCOHOL AND~~ SUBSTANCE USE DISORDERS SERVICES.
The Department's ~~A~~adult and adolescent ~~alcohol and~~ substance use disorders services may be accessed by eligible applicants ~~through~~ completing an application for services and ~~request for an intake~~ eligibility screening. ~~(5-8-09)~~(____)

101. ~~INTAKE~~ ELIGIBILITY SCREENING AND ~~FULL~~ CLINICAL ASSESSMENT.

01. ~~Intake~~ Eligibility Screening. A screening for eligibility ~~for alcohol and~~ substance use disorders services through the Department is based on ~~meeting priority population and ASAM PPC-2R criteria as incorporated~~

~~*by reference in Section 004*~~ the eligibility requirements under Section 102 of these rules. ~~*If*~~ When an applicant meets ~~*this*~~ eligibility screening criteria he may be eligible for ~~*alcohol and*~~ substance use disorders services through the Department. An applicant~~s~~ not meeting ~~*this*~~ eligibility screening criteria will be referred to other appropriate community services. ~~*All*~~ Each applicant~~s are~~ is required to complete an ~~*A*~~application for ~~*Alcohol and*~~ Substance Use Disorders Services ~~*either over the telephone or in person at a network treatment provider site*~~. ~~*If*~~ When an applicant refuses to complete the application, the Department reserves the right to discontinue the screening process for eligibility. The ~~*intake*~~ eligibility screening must be directly related to the applicant's ~~*substance dependence or*~~ substance~~-related~~ use disorder and level of functioning, and will include: ~~(5-8-09)~~(____)

a. Application for ~~*Alcohol or*~~ Substance Use Disorders Services~~, *pending document approval*~~; ~~(5-8-09)~~(____)

b. Notice of Privacy Practice; and ~~(5-8-09)~~(____)

~~**c.** *Fee Determination; and* (5-8-09)~~

~~**d**~~**c.** Authorization for Disclosure. (5-8-09)

02. ~~***Full***~~ **Clinical Assessment.** ~~*If*~~ When the applicant is found eligible for ~~*alcohol and*~~ a substance use disorders services assessment after completion of the ~~*intake*~~ eligibility screening, the applicant will ~~*either be placed on a waiting list to receive a full clinical assessment or will have an appointment made*~~ be authorized to receive a ~~*full*~~ clinical assessment with a Department's network treatment provider. ~~(5-8-09)~~(____)

102. ELIGIBILITY DETERMINATION.

01. Determination of Eligibility for ~~*Alcohol and*~~ Substance Use Disorders Services. ~~*The total number of adults and adolescents who are eligible for alcohol or substance use disorders services through the Department will be established by the Department.*~~ The Department may limit or prioritize adult and adolescent ~~*alcohol or*~~ substance use disorder services, impose income limits, define eligibility criteria, and establish the number of persons eligible based upon such factors as court-ordered services, availability of funding, the degree of financial need, the degree of clinical need, or other factors. ~~(7-1-13)~~(____)

02. Eligibility Requirements. To be eligible for ~~*alcohol and*~~ substance use disorders services through a voluntary application to the Department, the applicant must: ~~(5-8-09)~~(____)

a. Be an adult or adolescent with family income at or below two hundred percent (200%) of federal poverty guidelines; (5-8-09)

b. Be a resident of the state of Idaho; (5-8-09)

c. Be a member of ~~*the*~~ a priority population; ~~(5-8-09)~~(____)

d. Meet diagnostic criteria for ~~*substance dependence, or*~~ a substance-related disorder as described in the DSM-~~*IV-TR*~~5; and ~~(5-8-09)~~(____)

e. Meet specifications in each of the ASAM ~~*PPC-2R*~~ dimensions required for the recommended level of care. ~~(5-8-09)~~(____)

~~***03. Admission to Treatment Program Requirements.*** *In order to be admitted into an adult or adolescent alcohol or substance use disorders treatment program, there must be clinical evidence that provides a reasonable expectation that the applicant will benefit from the alcohol or substance use disorder services.* (5-8-09)~~

~~***04. Ineligible Conditions.*** *An applicant who has epilepsy, an intellectual disability, dementia, a developmental disability, physical disability, mental illness, or who is aged, is not eligible for alcohol and substance use disorders services, unless, in addition to such condition, they meet primary diagnostic criteria for substance abuse, substance dependence, or a substance related disorder as described in the DSM-IV-TR and the specification in each of the ASAM PPC-2R dimensions required for the recommended level of care.* (5-8-09)~~

103. NOTICE OF CHANGES IN ELIGIBILITY FOR ~~ALCOHOL AND~~ SUBSTANCE USE DISORDERS SERVICES.
The Department may, upon ten (10) days' written notice, reduce, limit, suspend, or terminate eligibility for ~~alcohol or~~ substance use disorders services. ~~(5-8-09)~~(____)

104. NOTICE OF DECISION ON ELIGIBILITY.

01. Notification of Eligibility Determination. Within two (2) business days of ~~a~~ receiving a completed ~~intake~~ eligibility screening ~~and risk~~ or assessment ~~for outpatient services, and one (1) business day for social detoxification and residential treatment services;~~, or both, the Department~~, or its contracted intermediary,~~ will notify the applicant or the applicant's designated representative ~~in writing~~ of its eligibility determination. When the applicant is not eligible for services through the Department, the applicant or the applicant's designated representative will be notified in writing. The written notice will include: ~~(5-8-09)~~(____)

a. The applicant's name and identifying information; (5-8-09)

b. A statement of the decision; (5-8-09)

c. A concise statement of the reasons for the decision; and (5-8-09)

d. The process for pursuing an administrative appeal regarding eligibility determinations. (5-8-09)

02. Right to Accept or Reject ~~Alcohol and~~ Substance Use Disorders Services. ~~If~~ When the Department~~, or its contracted intermediary,~~ determines that an applicant is eligible for ~~alcohol and~~ substance use disorders services through the Department, an individual has the right to accept or reject ~~alcohol and~~ substance use disorders services offered by the Department, unless imposed by law or court order. ~~(5-8-09)~~(____)

03. Reapplication for ~~Alcohol and~~ Substance Use Disorders Services. If the Department determines that an applicant is not eligible for ~~alcohol and~~ substance use disorders services through the Department, the applicant may reapply ~~after six (6) months or~~ at any time upon a showing of a ~~substantial material~~ change in circumstances. ~~Also, if the individual screened is found not to meet admission criteria, but is in need of other types of services, the Department, or its contracted intermediary, will refer the individual to an agency or department which provides the appropriate services needed.~~ ~~(5-8-09)~~(____)

106~~5~~. -- 19~~1~~9. (RESERVED)

120. FINANCIAL RESPONSIBILITY FOR SUBSTANCE USE DISORDERS SERVICES.
An individual receiving substance use disorders services through the Department is responsible for paying for the services received. The financial responsibility for each service is based on the individual's ability to pay as determined in IDAPA 16.07.01, "Behavioral Health Sliding Fee Schedules." (____)

121. -- 149. (RESERVED)

150. SELECTION OF SERVICE PROVIDERS.
A participant who is eligible for substance use disorders services administered by the Department can choose a substance use disorders service provider from the approved list of Network Treatment Providers for services needed. Treatment services must be within the recommended level of care according to ASAM based on the individual's needs identified in the assessment and resulting individualized service plan. A participant within the criminal justice system may have a limited number of providers from which to choose. (____)

151. -- 199. (RESERVED)

~~**200. INDIVIDUALIZED SERVICE PLAN, SELECTION OF SERVICE PROVIDERS AND AVAILABLE TREATMENT SERVICES.**~~
~~*The Department's contracted provider will prepare for every client an individualized service plan that addresses the alcohol or substance disorders health affects on the client's major life areas. The service plan will be based on a*~~

~~comprehensive assessment.~~ ~~(7-1-13)~~

~~01. **Individualized Service Plan**. The responsibility for development and implementation of the plan will be assigned to a qualified staff member. A service plan will be developed within seventy-two (72) hours following admission to an inpatient or residential facility and within thirty (30) days of the completion or receipt of a state-approved assessment in an outpatient setting. The individualized service plan will include the following:~~ ~~(7-1-13)~~

~~a. The services deemed clinically necessary to facilitate the client's alcohol and substance use disorders recovery;~~ ~~(7-1-13)~~

~~b. Referrals for needed services not provided by the program, including referrals for recovery support services;~~ ~~(7-1-13)~~

~~c. Goals to achieve a recovery-oriented lifestyle;~~ ~~(7-1-13)~~

~~d. Objectives that relate to the goals, written in measurable terms, with targeted expected achievement dates;~~ ~~(7-1-13)~~

~~e. Service Frequency;~~ ~~(7-1-13)~~

~~f. Criteria to be met for discharge from services;~~ ~~(7-1-13)~~

~~g. A plan for services to be provided after discharge;~~ ~~(7-1-13)~~

~~h. A plan for including the family or other social supports; and~~ ~~(7-1-13)~~

~~i. Service plan goals and objectives that reflect the service needs identified on the assessment.~~ ~~(7-1-13)~~

~~02. **Selection of Providers**. The client can choose from among the array of substance use disorders treatment providers approved to provide services. The services must be within the recommended level of care according to ASAM PPC-2R and based on needs identified in the comprehensive assessment and resultant individualized service plan. The client does not have the option of choosing his treatment provider if he is within the criminal justice system and specific providers have been identified for the client.~~ ~~(7-1-13)~~

~~03. **Treatment Services Available**. Available alcohol or substance use disorders treatment services, as defined in Section 010 of these rules, include:~~ ~~(5-8-09)~~

~~a. Assessment and Referral services;~~ ~~(7-1-13)~~

~~b. Residential social detoxification;~~ ~~(7-1-13)~~

~~c. Medically monitored inpatient treatment;~~ ~~(7-1-13)~~

~~d. Medically monitored detoxification;~~ ~~(7-1-13)~~

~~e. Clinically managed medium-intensity residential treatment;~~ ~~(7-1-13)~~

~~f. Clinically managed low-intensity residential treatment;~~ ~~(5-8-09)~~

~~g. Level I—Outpatient, and Level II.1 Intensive Outpatient;~~ ~~(7-1-13)~~

~~h. Opioid treatment program;~~ ~~(7-1-13)~~

~~i. Recovery support services; and~~ ~~(7-1-13)~~

~~j. Early intervention services.~~ ~~(7-1-13)~~

~~04. Treatment Services Not Available. Alcohol or substance use disorder treatment services, do not include:~~ ~~(5-8-09)~~

~~a. Experimental or investigational procedures;~~ ~~(5-8-09)~~

~~b. Technologies and related services;~~ ~~(5-8-09)~~

~~c. Electroconvulsive therapy;~~ ~~(5-8-09)~~

~~d. Treatment or services for epilepsy, an intellectual disability, dementia, a developmental disability, physical disability, aged or the infirm; or~~ ~~(5-8-09)~~

~~e. Any other services which are primarily recreational or diversional in nature.~~ ~~(5-8-09)~~

~~201. – 299. (RESERVED)~~

~~300. CHARGES FOR ALCOHOL AND SUBSTANCE USE DISORDERS SERVICES. Individuals receiving alcohol and substance use disorders services through the Department are responsible for paying for the services provided. Individuals must complete a "Fee Determination Form," in writing or by telephone, prior to the delivery of alcohol and substance use disorders services. The amount charged for each service will be in accordance with the individual's ability to pay as determined in: IDAPA 16.07.01, "Behavioral Health Sliding Fee Schedules," Section 500.~~ ~~(5-8-09)~~

SUBSTANCE USE DISORDERS SERVICES
(Sections 200 - 600)

200. QUALIFIED SUBSTANCE USE DISORDERS PROFESSIONAL PERSONNEL REQUIRED. Each behavioral health program providing substance use disorders services must employ the number and variety of staff needed to provide the services and treatments offered by the program as a multidisciplinary team. The program must employ at least one (1) qualified substance use disorders professional for each behavioral health program location. ( )

01. Qualified Substance Use Disorders Professional. A qualified substance use disorders professional includes individuals with the following qualifications: ( )

a. Idaho Board of Alcohol/Drug Counselor Certification - Certified Alcohol/Drug Counselor; ( )

b. Idaho Board of Alcohol/Drug Counselor Certification - Advanced Certified Alcohol/Drug Counselor; ( )

c. Northwest Indian Alcohol/Drug Specialist Certification - Counselor II or Counselor III; ( )

d. National Board for Certified Counselors (NBCC) - Master Addictions Counselor (MAC); ( )

e. "Licensed Clinical Social Worker" (LCSW) or a "Licensed Masters Social Worker" (LMSW) licensed under Title 54, Chapter 32, Idaho Code, *and IDAPA 23.01.01, "Rules of the State Board of Social Work Esaminers*; ( )

f. "Marriage and Family Therapist" or "Associate Marriage and Family Therapist," licensed under Title 54, Chapter 34, Idaho Code, *and IDAPA 24.15.01, "Rules of the Idaho Licensing Board of Professional Counselors and Marriage and Family Therapists"*; ( )

g. "Nurse Practitioner" licensed under Title 54, Chapter 14, Idaho Code, *and IDAPA 23.01.01, "Rules of the Idaho Board of Nursing*; ( )

h. "Clinical Nurse Specialist" licensed under Title 54, Chapter 14, Idaho Code, *and IDAPA 23.01.01, "Rules of the Idaho Board of Nursing*; ( )

i. "Physician Assistant" licensed under Title 54, Chapter 18, Idaho Code, and IDAPA 22.01.03, "Rules for the Licensure of Physician Assistants"; ( )

j. "Licensed Professional Counselor" (LPC) or a "Licensed Clinical Professional Counselor" (LCPC) licensed under Title 54, Chapter 34, Idaho Code; ( )

k. "Psychologist~~,~~" or ~~a~~ "Psychologist Extender" licensed under Title 54, Chapter 23, Idaho Code, *and IDAPA 24.12.01, "Rules of the Idaho State Board of Psychologist Examiners"*; ( )

l. "Physician" licensed under Title 54, Chapter 18, Idaho Code; and ( )

m. "~~*Professional*~~ *Registered* Nurse~~"~~ *(*RN*)"* licensed under Title 54, Chapter 14, Idaho Code, *and IDAPA 23.01.01, "Rules of the Idaho Board of Nursing.* ( )

02. **Qualified Substance Use Disorders Professional Prior to May 1, 2010**. When an individual was recognized by the Department as a qualified professional in a substance use disorders services program prior to May 1, 2010, and met the requirements at that time, he will continue to be recognized by the Department as a qualified substance use disorders professional. ( )

201. -- 209. (RESERVED)

210. QUALIFIED SUBSTANCE USE DISORDERS PROFESSIONAL TRAINEE.
Each qualified substance use disorders professional trainee practicing in the provision of substance use disorders services must meet the requirements in these rules. ( )

01. **Informed of Qualified Substance Use Disorders Professional Trainee Providing Treatment.** All behavioral health program staff, participants, their families, or guardians must be informed when a qualified substance use disorders professional trainee is providing treatment services to participants. ( )

02. **Work Qualifications for Qualified Substance Use Disorders Professional Trainee**. A qualified substance use disorders professional trainee must meet one (1) of the following qualification to begin work: ( )

a. Idaho Student in Addiction Studies (ISAS) certification; ( )

b. Formal documentation as a Northwest Indian Alcohol/Drug Specialist Counselor I; or ( )

c. Formal documentation of current enrollment in a program for qualifications in Section 200 of these rules. ( )

03 **Continue as Qualified Substance Use Disorders Professional Trainee**. An individual who has completed a program listed in Section 200 of these rules and is awaiting licensure can continue as a qualified substance use disorders professional trainee at the same agency for a period of six (6) months from the date of program completion. ( )

211. -- 299. (RESERVED)

300. SERVICES FOR ADOLESCENTS.
Behavioral health programs providing substance use disorders treatment to adolescents must comply with the following requirements: ( )

01. **Separate Services From Adults**. Each program providing adolescent program services must provide the services separate from adult program services. The program must ensure the separation of adolescent participants from adult participants except as required in Subsections 300.03 and 300.04 of this rule. ( )

02. **Residential Care as an Alternative to Parental Care**. Any program that provides care, control, supervision, or maintenance of adolescents for twenty-four (24) hours per day as an alternative to parental care must meet the following criteria: ( )

a. Be licensed under the "Child Care Licensing Act," Title 39, Chapter 12, Idaho Code, according to IDAPA 16.06.02, "Rules Governing Standards for Child Care Licensing"; or ( )

b. Be certified by the Department of Juvenile Corrections according to IDAPA 05.01.02, "Rules and Standards for Secure Juvenile Detention Centers." ( )

03. **Continued Care of an Eighteen-Year-Old**. An adolescent who turns the age of eighteen (18), and is receiving outpatient or intensive outpatient treatment in a state-approved behavioral health program, may remain in the program under continued care described in Subsection 300.03 of this rule. The individual may remain in the program for: ( )

a. Up to ninety (90) days after his eighteenth birthday; or ( )

b. Until the close of the current school year for an individual attending school. ( )

04. **Documentation Requirements for Continued Care**. Prior to accepting an individual into continued care, the program must assure and document the following: ( )

a. A signed voluntary agreement to remain in the program or a copy of a court order authorizing continued placement after the individual's eighteenth birthday. ( )

b. Clinical staffing for appropriateness of continued care with clinical documentation; ( )

c. Verification the individual in continued care was in the care of the program prior to his eighteenth birthday. ( )

d. Verification that the individual needs to remain in continued care in order to complete treatment, education, or other similar needs. ( )

05. **Licensed Hospital Facilities**. Facilities licensed as hospitals under Title 39, Chapter 13, Idaho Code, are exempt from the requirements in Subsections 300.01 through 300.04 of this rule. ( )

301. -- 349. (RESERVED)

350. RECOVERY SUPPORT SERVICES.
Each program must meet the minimum requirements in these rules to provide recovery support services for the following services. ( )

01. **Case Management**. ( )

02. **Alcohol and Drug Screening**. ( )

03. **Child Care**. ( )

04. **Transportation**. ( )

05. **Life Skills**. ( )

06. **Staffed Safe and Sober Housing for Adolescents**. ( )

07. **Staffed Safe and Sober Housing for Adults**. ( )

351. -- 354. (RESERVED)

355. CASE MANAGEMENT SERVICES.
Each program providing case management services must comply with the requirements in this rule. ( )

01. No Duplication of Services. Case management services must not duplicate services currently provided under another program. ( )

02. Based on Assessment. Case management services must be based on an assessment of participant's needs. ( )

03. Required Service Plan. Case management services must be included on the participant's service plan. ( )

356. -- 359. (RESERVED)

360. ALCOHOL AND DRUG SCREENING.
Each program providing alcohol and drug screenings must comply with the requirements in this rule. ( )

01. Drug Testing Policies and Procedures. The program must have policies and procedures regarding the collection, handling, testing, and reporting of drug-testing specimens. Policies and procedures must include elements contributing to the reliability and validity of the screening and testing process. ( )

a. Direct observation of specimen collection; ( )

b. Verification temperature and measurement of creatinine levels in urine samples to determine the extent of water loading; ( )

c. Specific, detailed, written procedures regarding all aspects of specimen collection, specimen evaluation, and result reporting; ( )

d. A documented chain of custody for each specimen collected; ( )

e. Quality control and quality assurance procedures for ensuring the integrity of the process; and ( )

f. Procedures for verifying accuracy when drug test results are contested. ( )

02. Release of Results. The program must have a policy and procedures for releasing the results of an alcohol and drug screening. ( )

03. On-site Testing. A program performing on-site testing must use alcohol and drug screening tests approved by the U.S. Food and Drug Administration. ( )

04. Laboratory Used for Testing. Each laboratory used for lab-based confirmation or lab-based testing must meet the requirements in and be approved under IDAPA 16.02.06, "Rules Governing Quality Assurance for Idaho Clinical Laboratories." ( )

361. -- 364. (RESERVED)

365. CHILD CARE SERVICES.
Each program providing child care services must comply with the requirements in this rule. ( )

01. Documentation of Child Care. A program must maintain documentation of current daycare license or written documentation that child care is provided while parent is on-site. ( )

02. Policies and Procedures for Child Care Services. The program must have policies and

procedures that ensure the well-being and safety of children receiving child care services. ( )

366. -- 369. (RESERVED)

370. TRANSPORTATION SERVICES.
Each program providing transportation services must comply with the requirements in this rule. ( )

01. Documentation of Driver's License. A program that provides transportation to participants must maintain documentation of a valid driver's license for each individual who provides the service. ( )

02. Transportation Vehicles and Drivers. A program must adhere to all state and federal laws, rules, and regulations applicable to drivers and types of vehicles used. ( )

03. Insurance Liability Coverage. A behavioral health provider must carry at least the minimum insurance coverage required by Idaho law for each vehicle used. When the program permits an employee to transport participants in an employee's personal vehicle, the program must ensure that insurance coverage is carried to cover those services. ( )

04. Direct Routes. A program must provide transportation by the most direct route practical. ( )

05. Safety of Participants. A program must ensure the safety and well-being of all participants transported. This includes maintaining and operating vehicles in a manner that ensures protection of the health and safety of each participant transported. The program must meet the following requirements: ( )

a. Prohibit the driver from using a cell phone while transporting a participant; ( )

b. Prohibit smoking in the vehicle; ( )

c. All vehicles must be equipped with a first aid kit and fire extinguisher; ( )

d. All vehicles must be equipped with appropriate safety restraints; and ( )

e. All vehicles must be in good working order. ( )

06. Driver Must be Eighteen. The driver of a motor vehicle who transports program participants must be at least eighteen (18) years of age. ( )

371. -- 374. (RESERVED)

375. LIFE SKILLS SERVICES.
Each program that provides life skills services must comply with the requirements in this rule. ( )

01. Personal and Family Life Skills. A program for life skills services must be non-clinical and designed to enhance personal and family skills for each participant's needs. Life skills services for work and home, reduce marriage and family conflict, and develop attitudes and capabilities that support the adoption of healthy, recovery-oriented behaviors and healthy re-engagement with the community for the participant. ( )

02. Individual and Group Activities. A program providing life skills services may be provided on an individual basis or in a group setting and can include activities that are culturally, spiritually, or gender-specific. ( )

03. No Duplication of Services. Life skills services provided by a program must not duplicate services currently provided under another program. ( )

376. -- 379. (RESERVED)

380. STAFFED SAFE AND SOBER HOUSING FOR ADOLESCENTS.

Each program that provides staffed safe and sober housing for adolescents must comply with the requirements in this rule. ( )

01. **Licensed**. A program providing staffed safe and sober housing services for adolescents must be licensed as a Children's Residential Care Facility under IDAPA 16.06.02, "Rules Governing Standards for Child Care Licensing." ( )

02. **Policies and Procedures**. A program providing safe and sober housing for adolescents must have written policies and procedures that establish house rules and requirements and include procedures for monitoring participant compliance and consequences for violating house rules and requirements. ( )

03. **Safe and Sober Recovery Skills**. Safe and sober housing services are directed toward applying recovery skills, preventing relapse, improving social functioning and ability for self-care, promoting personal responsibility, developing a social network supportive of recovery, and reintegrating the each adolescent into the worlds of school, work, family life, and preparing for independent living. ( )

381. -- 384. (RESERVED)

385. STAFFED SAFE AND SOBER HOUSING SERVICES FOR ADULTS.
Each program that provides staffed safe and sober housing for adults must comply with the requirements in this rule. ( )

01. **Policies and Procedures**. A program providing safe and sober housing must have written policies and procedures that establish house rules and requirements and include procedures for monitoring participant compliance and consequences for violating house rules and requirements. ( )

02. **Staff Required**. A staff person must be available to residents twenty-four (24) hours per day, seven (7) days a week, and conduct daily site visits: At a minimum, staff must include: ( )

a. A house manager who is on-site at a minimum of twenty (20) hours a week; or ( )

b. A housing coordinator who is off-site, but monitors house activities on a daily basis. ( )

03. **Certified Home Inspection**. Each staffed safe and sober housing for adults program must have a certified home inspection for each location. There must be documentation that any major health and safety issues identified in the certified home inspection are corrected. ( )

04. **Safety Inspection**. Each staffed safe and sober housing location must be inspected weekly by staff to determine if hazards or potential safety issues exist. A record of the inspection must be maintained that includes the date and time of the inspection, problems encountered, and recommendation for improvement. ( )

386. -- 389. (RESERVED)

390. THERAPEUTIC ENVIRONMENT OF RESIDENTIAL TREATMENT.
Each program providing twenty-four (24) hours per day residential treatment must provide a therapeutic environment that enhances the participants positive self-image, preserves their human dignity, and meets the minimum standards in these rules. ( )

01. **Living Conditions**. A residential treatment program must meet the following requirements regarding each participant's therapeutic environment: ( )

a. Each participant must be allowed to wear his own clothing. If clothing is provided by the program, it must be appropriate and not demeaning. ( )

b. Each participant must be allowed to keep and display personal belongings, and to add personal touches to the decoration of own room. ( )

c. A residential treatment program must have policies and procedures for storage, availability, and use of personal possessions, personal hygiene items, and other belongings. ( )

d. The residential treatment program must have ample closet and drawer space for the storage of personal property and property provided for each participant's use. ( )

02. **Resident Sleeping Rooms**. A residential treatment program must assure that: ( )

a. Resident sleeping rooms are not in attics, stairs, halls, or any other room commonly used for other than bedroom purposes; ( )

b. Sufficient window space must be provided for natural light and ventilation. Emergency egress or rescue windows must comply with the state-adopted Uniform Building Code. This code is available from the International Code Council, 4051 West Fossmoor Rd. Country Club Hills, IL 60478-5795, phone:1-888-422-7233 and online at http://www.iccsafe.org; ( )

c. Square footage requirements for resident sleeping rooms must provide at least seventy (70) square feet, exclusive of closet space, in a single occupancy room. In a multiple occupancy room, there must be at least forty-five (45) square feet per occupant, exclusive of closet space. Existing multiple occupancy sleeping rooms may be approved relative to square feet per occupant until the room is remodeled or the building is extensively remodeled. ( )

d. Window screens must be provided on operable windows; ( )

e. Doorways to sleeping areas must be provided with doors in order to provide privacy; and ( )

f. Separate bedrooms and bathrooms must be provided for men and women. ( )

03. **Contributions of Therapeutic Environment**. The environment of the residential treatment program must contribute to the development of therapeutic relationships in the following ways: ( )

a. Areas must be available for a full range of social activities for all participants, from two (2) person conversations to group activities; ( )

b. Furniture and furnishings must be comfortable and maintained in clean condition and good repair; and ( )

c. All equipment and appliances must be maintained in good operating order. ( )

391. -- 394. (RESERVED)

395. RESIDENTIAL WITHDRAWAL MANAGEMENT SERVICES.
Each program providing substance use disorders residential withdrawal management services must comply with the requirements in this rule. ( )

01. **Residential Withdrawal Management Services**. ( )

a. Residential withdrawal management programs must provide living accommodations in a structured environment for individuals who require twenty-four (24) hour per day, seven (7) days a week, supervised withdrawal management services. ( )

b. Withdrawal management services must be available continuously twenty-four (24) hours per day, seven (7) days per week. ( )

c. Each withdrawal management program must have clear written policies and procedures for the withdrawal management of participants. The policies and procedures must be reviewed and approved by a medical consultant with specific knowledge of best practices for withdrawal management. ( )

d. The level of monitoring of each participant or the physical restrictions of the environment must be adequate to prevent a participant from causing serious harm to self or others. ( )

e. Each withdrawal management program must have provisions for any emergency care required. ( )

f. Each withdrawal management program must have written policies and procedures for the transfer of participants from one (1) withdrawal management program to another, when necessary. ( )

g. Each withdrawal management program must have written policies and procedures for dealing with a participant who leaves against professional advice. ( )

02. **Residential Withdrawal Management Staffing**. Each withdrawal management program must have twenty-four (24) hour per day, seven (7) days a week, trained personnel staff coverage. ( )

a. A minimum staff to participant ratio of one (1) trained staff to six (6) participants must be maintained twenty-four (24) hours per day, seven (7) days a week. ( )

b. Each staff member responsible for direct care during withdrawal management must have completed CPR training, a basic first-aid training course, and additional training specific to withdrawal management prior to being charged with the responsibility of supervising participants. ( )

03. **Transfer to an Outside Program From Residential Withdrawal Management**. The residential treatment program must have policies and procedures established for transferring a participant to another program. ( )

396. -- 399. **(RESERVED)**

400. **RESIDENTIAL TREATMENT SERVICES FOR ADOLESCENTS.**
A behavioral health program providing adolescent residential treatment for substance use disorders must comply with the requirements in this rule. ( )

01. **Licensed for Adolescent Residential Treatment**. Each residential treatment program must be licensed as a Children's Residential Care Facility under IDAPA 16.06.02, "Rules Governing Standards for Child Care Licensing." ( )

02. **Admission Criteria for Adolescent Residential Treatment**. A behavioral health program providing adolescent residential treatment for substance use disorders must only admit adolescents with a primary substance use disorder diagnosis. ( )

03. **Focus of Adolescent Residential Treatment Services**. Adolescent residential treatment services for substance use disorders must focus primarily on substance use disorders diagnosed problems. Care must include hours specific to substance use disorders treatment provided by clinical staff, including planned and structured education, individual and group counseling, family counseling, and motivational counseling. An adolescent residential treatment program must provide: ( )

a. Individual and group counseling sessions; ( )

b. Family treatment services; and ( )

c. Substance use disorders education sessions; ( )

04. **Staff Training in Adolescent Residential**. Annual staff training must include: ( )

a. Cultural sensitivity and diversity; ( )

b. Behavior management; and ( )

c. Adolescent development issues appropriate to the population served. ( )

05. Residential Care Provided to Adolescents and Adults. A behavioral health program providing residential treatment services to adolescents and adults must ensure the separation of adolescent participants from adult participants. This includes not sharing the same wing, or the same floor for recreation, living, sleeping, and restroom facilities. Adolescents must not dine with adult residents. Adolescents must not share treatment groups, recreation, counseling sessions, educational programs, or treatment programs with adults except under continued care in compliance with IDAPA 16.06.02, "Rules Governing Standards for Child Care Licensing," and Subsections 300.03 and 300.04 of these rules. ( )

06. After Care Plan for Adolescent in Residential. An adolescent's residential care facility that provides substance use disorders treatment must develop a written plan of after care services for each adolescent that includes procedures for reintegrating the adolescent into the family and community as appropriate, and outpatient and other continued care services recommended. ( )

401. -- 404. (RESERVED)

405. RESIDENTIAL TREATMENT SERVICES FOR ADULTS.
A behavioral health program providing adult residential treatment for substance use disorders must comply with the requirements in this section. ( )

01. Residential Treatment Services for Adults. ( )

a. A residential treatment program provides living accommodations in a structured environment for adults who require twenty-four (24) hour per day, seven (7) days a week, supervision. ( )

b. Services must include assessment, treatment, and referral components. ( )

c. The residential treatment program must have policies and procedures for medical screening, care of participants requiring minor treatment or first aid, and handling of medical emergencies. These provisions must be approved by the staff and consulting physician. ( )

d. The residential treatment program must have written provisions for referral or transfer to a medical facility for any person who requires nursing or medical care. ( )

e. Recreational activities must be provided for the participants. ( )

02. Staffing Adult Residential. The residential treatment program must have ~~*must have*~~ qualified staff to maintain appropriate staff to participant ratios. ( )

a. The program must have one (1) qualified substance use disorders professional staff member for every ten (10) participants. ( )

b. The program must have other staff sufficient to meet the ratio of one (1) staff person to twelve (12) participants continuously, twenty-four (24) hours per day. ( )

03. Residential Care Provided to Adolescents and Adults. A behavioral health program providing residential care to adolescents and adults must ensure the separation of adolescent participants from adult participants. Adults and adolescents can not share the same wing, or the same floor for recreation, living, sleeping, and restroom facilities. Adolescents must not dine with adult residents. Adolescents must not share treatment groups, recreation, counseling sessions, educational programs, or treatment programs with adults unless there is a documented therapeutic reason. ( )

406. -- 409. (RESERVED)

410. OUTPATIENT TREATMENT SERVICES FOR ADOLESCENTS AND ADULTS. A behavioral health program providing outpatient or intensive outpatient substance use disorder services must comply with the requirements in this section. ( )

01. Treatment Services. ( )

a. Counseling services must be provided through the outpatient program on an individual, family, or group basis; ( )

b. Services must include educational instruction and written materials on the nature and effects of alcohol and substance use disorders and the recovery process. ( )

c. The behavioral health program must provide adjunct services or refer the participant to adjunct services as indicated by participant need. ( )

02. Staffing Ratios. The behavioral health program must have qualified staff to maintain appropriate staff to participant ratios as required in Subsections 410.02.a. through 410.02.c. of this rule. ( )

a. An outpatient program must employ at a minimum one (1) qualified substance use disorders professional staff person for every fifty (50) participants. ( )

b. An intensive outpatient program must employ at a minimum one (1) qualified substance use disorders professional staff person for every thirty (30) participants. ( )

c. The maximum caseload for one (1) qualified substance use disorders professional in any outpatient or intensive outpatient program is fifty (50) participants. ( )

03. Off-site Treatment Service Delivery Settings. Provision of outpatient or intensive outpatient treatment services outside of an approved behavioral health program location: ( )

a. Services must be provided by qualified substance use disorders professional. ( )

b. Services must be provided in a setting that is safe and appropriate to the participant and participant's needs. ( )

c. Confidentiality according to 42 CFR and HIPAA regulations must be adhered to. ( )

d. The need and appropriateness of providing off-site treatment is documented. ( )

411. -- 414. (RESERVED)

415. MEDICATION ASSISTED TREATMENT.

01. Medication Assisted Treatment Services. A behavioral health program providing medication assisted treatment for substance use disorders must make counseling and behavioral therapies available in combination with medication assisted treatment services. ( )

02. Opioid Treatment Program. An Opioid Treatment Program (OTP) must meet all requirements established under 42 CFR, Section 8.12, Federal Opioid Treatment Standards. These standards are incorporated by reference under Section 004 of these rules including how access the standards. ( )

~~30~~416. -- 999. (RESERVED)

COMMENTS

IDAHO DEPARTMENT OF
HEALTH & WELFARE

C.L. "BUTCH" OTTER – Governor
RICHARD M. ARMSTRONG – Director

TAMARA PRISOCK – Division Administrator
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LIST OF EXHIBITS

Proposed Fee Rule

ALCOHOL AND SUBSTANCE USE DISORDERS SERVICES

Docket Number: 16-0717-1501

Deadline for Comment: September 23, 2015

EXHIBIT NO.	SUBMITTED BY	DESCRIPTION	NO. PAGES
1	Legislative Services Office Elizabeth Bowen, Leg. Research Analyst Statehouse PO Box 83720 Boise, ID 83720-0054	Memorandum	1
2	Legislative Services Office Elizabeth Bowen, Leg. Research Analyst Statehouse PO Box 83720 Boise, ID 83720-0054	Letter	1
3	Public Hearings Intro/Closing Statement, Sign-in Sheets & Written Testimony 9/17/15 - Originating - Live Hearing 10: a.m. (MDT) / 9:00 a.m. (PDT) 2:00 p.m. (MDT / 1:00 p.m. (PDT) Video Conferencing Locations: Coeur d'Alene, Lewiston, Caldwell, Boise, Twin Falls, Pocatello, Idaho Falls, SHS Blackfoot, and SHN Orfino, ID	Documents	24

Legislative Services Office
Idaho State Legislature

Eric Milstead
Director

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MEMORANDUM

TO: Rules Review Subcommittee of the Senate Health & Welfare Committee and the House Health & Welfare Committee

FROM: Legislative Research Analyst - Elizabeth Bowen

DATE: September 15, 2015

SUBJECT: Department of Health and Welfare

IDAPA 16.07.17 - Alcohol and Substance Use Disorders Services - Proposed Rule (Docket No. 16-0717-1501)

IDAPA 16.07.20 - Alcohol and Substance Use Disorders Treatment and Recovery Support Services Facilities and Programs - Proposed Rule (Docket No. 16-0720-1501)

The Department of Health and Welfare submits notice of proposed rulemaking at IDAPA 16.07.17 and 16.07.20.

16.07.17

This rule incorporates treatment and recovery programs from IDAPA 16.07.20, which is being repealed. The services and programs being incorporated include case management, alcohol and drug screening, child care, transportation, life skills, staffed safe and sober housing for adolescents, and staffed safe and sober housing for adults. Negotiated rulemaking was conducted, and there is no anticipated fiscal impact on the state general fund. The Department states that this rulemaking is authorized pursuant to Chapter 3, Title 39, Idaho Code.

16.07.20

The proposed rule repeals this chapter of rules, relating to substance use disorders treatment and recovery services, in its entirety. The repealed chapter is being replaced with a new chapter in IDAPA 16.07.15. Negotiated rulemaking was conducted, and there is no anticipated fiscal impact on the state general fund. The Department states that this rulemaking is authorized pursuant to Chapter 3, Title 39, Idaho Code, and Sections 56-1003, 56-1004, 56-1004A, 56-1007, and 56-1009, Idaho Code.

cc: Department of Health and Welfare
Tamara Prisock

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Research & Legislation

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Eric Milstead
Director

October 02, 2015

Tamara Prisock
Admin. Procedures Section
Department of Health and Welfare
PO Box 83720
Boise, ID 83720-0036

Dear Tamara Prisock:

The Senate and House Subcommittees for review of administrative rules have reviewed the proposed changes to the Department of Health and Welfare rules:

IDAPA 16.07.17 - Alcohol and Substance Use Disorders Services - Proposed Rule - Docket No. 16-0717-1501

IDAPA 16.07.20 - Alcohol and Substance Use Disorders Treatment and Recovery Support Services Facilities and Programs - Proposed Rule - Docket No. 16-0720-1501

No meeting will be held, and we are pleased to report that no objections will be filed.

Sincerely yours,

Elizabeth Bowen

Elizabeth Bowen
Legislative Research Analyst

ELB/jk

cc:

Mike Nugent, Manager
Research & Legislation

Cathy Holland-Smith, Manager
Budget & Policy Analysis

April Renfro, Manager
Legislative Audits

Glenn Harris, Manager
Information Technology

Statehouse, P.O. Box 83720
Boise, Idaho 83720–0054

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www.legislature.idaho.gov

INTRODUCTORY and CLOSING STATEMENTS FOR PUBLIC HEARINGS

Rule Chapter: 16.07.15 "Behavioral Health Programs".

16.07.17 "Alcohol and Substance Use Disorder Services"

Docket Number: 16-0715-1501 and 16-0717-1501

Hearing Date and Time: September 17, 2015 9:00am PST/10:00am MST

Hearing Location: Video Conferencing

Let the record show that I am Treena Clark, designated as the Facilitator for this public hearing by the Administrator for the Division of Behavioral Health in the Department of Health and Welfare. It is 10:05 am Mountain Standard Time on September 17, 2015. This public hearing is being conducted statewide via video conferencing at the locations published in the dockets. The originating site is the Pete Cenursa Building, Conference Room 3A Boise Idaho and this is the time and place set to receive oral and written comments, as provided for in Section 67-5222, Idaho Code, for the proposed rulemaking under

IDAPA 16.07.15 "Behavioral Health Programs" found in Docket No. 16-0715-1501

IDAPA 16.07.17 "Alcohol and Substance Use Disorders" found in Docket No. 16-0717-1501

The purpose of this proceeding is to gather facts, views, and arguments from all interested persons relative to the proposed rules so that they may receive consideration by the Department of Health and Welfare. I will accept written statements or documents today if relevant and signed by the persons presenting them. The materials will be included as exhibits in the record for this hearing, which I will submit to the Administrative Procedures Section following the close of this hearing.

Let the record show that the notice of this hearing was published in the Idaho Administrative Bulletin on Wednesday, September 2, 2015, as required by Section 67-5221, Idaho Code. This publication was timely made and other necessary notice requirements have been met.

This public hearing is an informal proceeding. There is no right to cross-examine a person offering comments, nor is there a right to counsel or subpoena. No objections or procedures of a technically legal nature will be accepted. As the Facilitator, I am the sole regulator of the course of the presentations, including, but not limited to, a determination that the comments are outside the scope of the rule or that comments are unduly repetitious. I am not here to answer questions or to explain any part of the proposed rules. If you have questions or concerns regarding this rulemaking, please contact Tamara Prisock 208-334-5564.

All those interested persons attending this proceeding are asked to sign in on the roster by the entrance, indicating a desire, if any, to make an oral presentation. After a brief statement made by the Department of Health and Welfare summarizing the information upon which the proposed action is based, each person will be given an opportunity to speak at least once prior to any person being heard a second time.

At this time, the Department of Health and Welfare's statement will be read into the record, followed by the opportunity for oral comments.

Through Idaho Behavioral Health Transformation, the Department of Health and Welfare is moving towards an integrated Behavioral Health system of care that includes mental health and substance use disorder services and programs. Recognizing the benefit and necessity of integrated monitoring and credentialing of community mental health and substance use disorder providers, the Department is proposing to establish a behavioral health certification that allows community mental health and substance use disorder treatment agencies to obtain state approval while maintaining core requirements for substance use disorders services and programs. The Department of Health and Welfare has worked with providers, consumers, partners, stakeholders and other interested parties to review current IDAPA rules related to substance use disorders and draft proposed rules. The Department is proposing a new chapter of rule that allows community mental health and substance use disorder agencies to obtain state approval and is proposing revisions to an existing chapter of rule that maintains Substance Use Disorder specific requirements.

This concludes the Department's statement. Next, I will call upon those persons who indicated on the sign-in roster a wish to comment. Since these proceedings are being recorded, I ask that those who wish to speak, speak clearly, and provide your name, spelling your surname, prior to beginning your comments.

CLOSING STATEMENT

This public hearing started at 10:05 a.m, Mountain Standard Time and is now closed. The time is 10:47 a.m. The record of this hearing, together with submitted written comments, will be transmitted to the Department's Administrative Procedures Section. Anyone may submit further written comments to the Administrative Procedures Section, at the Department of Health and Welfare, P.O. Box 83720, Boise, Idaho 83720-0036. All written comments must be received by September 26, 2015.

PUBLIC HEARING
Idaho Department of Health and Welfare
Division of Behavioral Health

*****Please Sign In*****

CHAPTER: IDAPA 16.07.15, "Behavioral Health Programs" (New Chapter); and

IDAPA 16.07.17, "Alcohol and Substance Use Disorders" (Revision to participant eligibility and addition of substance use disorder specific requirements)

DOCKET NO.: 16-0715-1501 and 16-0717-1501 **DATE:** September 17, 2014 **TIME:** 9:00 a.m. (PDT)/10:00 a.m. (MDT)

LOCATION: IDHW Central Office, Conference Room 3A (3rd Floor)

*Please provide a written copy of your comments for the official record on this rulemaking, if possible.

NAME (Please Print)	E-MAIL ADDRESS	ORGANIZATION REPRESENTED	DO YOU WISH TO TESTIFY?
Ryan Phillips	phillipr@dhw.idaho.gov	DHW	No
Sara Bartles	sara.bartles@bpahealth.com	BPA	NO
GREG Dickerson	gregmsw@gmail.com	IACP	~~Yes~~ NO

PUBLIC HEARING
Idaho Department of Health and Welfare
Division of Behavioral Health

*****Please Sign In*****

CHAPTER: IDAPA 16.07.15, "Behavioral Health Programs" (New Chapter); and

IDAPA 16.07.17, "Alcohol and Substance Use Disorders" (Revision to participant eligibility and addition of substance use disorder specific requirements)

DOCKET NO.: 16-0715-1501 and 16-0717-1501 **DATE:** September 17, 2014 **TIME:** 9:00 a.m. (PDT)/10:00 a.m. (MDT)

LOCATION: Region 1 Office, Main Conference Room

*Please provide a written copy of your comments for the official record on this rulemaking, if possible.

NAME (Please Print)	E-MAIL ADDRESS	ORGANIZATION REPRESENTED	DO YOU WISH TO TESTIFY?

no Participants

PUBLIC HEARING
Idaho Department of Health and Welfare
Division of Behavioral Health

*****Please Sign In*****

CHAPTER: IDAPA 16.07.15, "Behavioral Health Programs" (New Chapter); and

IDAPA 16.07.17, "Alcohol and Substance Use Disorders" (Revision to participant eligibility and addition of substance use disorder specific requirements)

DOCKET NO.: 16-0715-1501 and 16-0717-1501 **DATE:** September 17, 2014 **TIME:** 9:00 a.m. (PDT)/10:00 a.m. (MDT)

LOCATION: Region 2 Office, 1st Floor Conference Room

*Please provide a written copy of your comments for the official record on this rulemaking, if possible.

NAME (Please Print)	E-MAIL ADDRESS	ORGANIZATION REPRESENTED	DO YOU WISH TO TESTIFY?

No Participants

PUBLIC HEARING
Idaho Department of Health and Welfare
Division of Behavioral Health

*****Please Sign In***** * No participants *

CHAPTER: IDAPA 16.07.15, "Behavioral Health Programs" (New Chapter); and

IDAPA 16.07.17, "Alcohol and Substance Use Disorders" (Revision to participant eligibility and addition of substance use disorder specific requirements)

DOCKET NO.: 16-0715-1501 and 16-0717-1501 **DATE:** September 17, 2014 **TIME:** 9:00 a.m. (PDT)/10:00 a.m. (MDT)

LOCATION: Region 3 Office, Owyhee Conference Room 226

*Please provide a written copy of your comments for the official record on this rulemaking, if possible.

NAME (Please Print)	E-MAIL ADDRESS	ORGANIZATION REPRESENTED	DO YOU WISH TO TESTIFY?
	No Participants		

PUBLIC HEARING
Idaho Department of Health and Welfare
Division of Behavioral Health

*****Please Sign In*****

CHAPTER: IDAPA 16.07.15, "Behavioral Health Programs" (New Chapter); and

IDAPA 16.07.17, "Alcohol and Substance Use Disorders" (Revision to participant eligibility and addition of substance use disorder specific requirements)

DOCKET NO.: 16-0715-1501 and 16-0717-1501 **DATE:** September 17, 2014 **TIME:** 9:00 a.m. (PDT)/10:00 a.m. (MDT)

LOCATION: Region 4 Office, Conference Room 131

*Please provide a written copy of your comments for the official record on this rulemaking, if possible.

NAME (Please Print)	E-MAIL ADDRESS	ORGANIZATION REPRESENTED	DO YOU WISH TO TESTIFY?

no Participants

PUBLIC HEARING
Idaho Department of Health and Welfare
Division of Behavioral Health

*****Please Sign In*****

CHAPTER: IDAPA 16.07.15, "Behavioral Health Programs" (New Chapter); and

IDAPA 16.07.17, "Alcohol and Substance Use Disorders" (Revision to participant eligibility and addition of substance use disorder specific requirements)

DOCKET NO.: 16-0715-1501 and 16-0717-1501 **DATE:** September 17, 2014 **TIME:** 9:00 a.m. (PDT)/10:00 a.m. (MDT)

LOCATION: Region 5 Office, Conference Room 116

*Please provide a written copy of your comments for the official record on this rulemaking, if possible.

NAME (Please Print)	E-MAIL ADDRESS	ORGANIZATION REPRESENTED	DO YOU WISH TO TESTIFY?
Gerlyn "Sam" Walker	grumpygal@cablerone.net	Lifestyle Changes Counseling	NO
Kathy McNeill	Kathy@crosspointeuh.com	Crosspointe	NO

PUBLIC HEARING
Idaho Department of Health and Welfare
Division of Behavioral Health

*****Please Sign In*****

CHAPTER: IDAPA 16.07.15, "Behavioral Health Programs" (New Chapter); and

IDAPA 16.07.17, "Alcohol and Substance Use Disorders" (Revision to participant eligibility and addition of substance use disorder specific requirements)

DOCKET NO.: 16-0715-1501 and 16-0717-1501 **DATE:** September 17, 2014 **TIME:** 9:00 a.m. (PDT)/10:00 a.m. (MDT)

LOCATION: Region 6 Office, Conference Room 225

*Please provide a written copy of your comments for the official record on this rulemaking, if possible.

NAME (Please Print)	E-MAIL ADDRESS	ORGANIZATION REPRESENTED	DO YOU WISH TO TESTIFY?

No Participants

PUBLIC HEARING
Idaho Department of Health and Welfare
Division of Behavioral Health

Please Sign In

CHAPTER: IDAPA 16.07.15, "Behavioral Health Programs" (New Chapter); and

IDAPA 16.07.17, "Alcohol and Substance Use Disorders" (Revision to participant eligibility and addition of substance use disorder specific requirements)

DOCKET NO.: 16-0715-1501 and 16-0717-1501 **DATE:** September 17, 2014 **TIME:** 9:00 a.m. (PDT)/10:00 a.m. (MDT)

LOCATION: Region 7 Office, Conference Room 240

*Please provide a written copy of your comments for the official record on this rulemaking, if possible.

NAME (Please Print)	E-MAIL ADDRESS	ORGANIZATION REPRESENTED	DO YOU WISH TO TESTIFY?
Kelly Keele	skil4life@aol.com	Children's Supportive Serv	YES
David Klejich	dklejich@clubinc.org	CLUB, Inc.	No
Michelle Tueller	michelle@tuellercounseling.org	Tueller Counseling	No
Brandi Warnke	bwarnke@co.bonneville.id.us	DT Treatment C	No

PUBLIC HEARING
Idaho Department of Health and Welfare
Division of Behavioral Health

*****Please Sign In*****

CHAPTER: IDAPA 16.07.15, "Behavioral Health Programs" (New Chapter); and

IDAPA 16.07.17, "Alcohol and Substance Use Disorders" (Revision to participant eligibility and addition of substance use disorder specific requirements)

DOCKET NO.: 16-0715-1501 and 16-0717-1501 **DATE:** September 17, 2014 **TIME:** 9:00 a.m. (PDT)/10:00 a.m. (MDT)

LOCATION: State Hospital North, Administration Conference Room 234

*Please provide a written copy of your comments for the official record on this rulemaking, if possible.

NAME (Please Print)	E-MAIL ADDRESS	ORGANIZATION REPRESENTED	DO YOU WISH TO TESTIFY?

no Participants

PUBLIC HEARING
Idaho Department of Health and Welfare
Division of Behavioral Health

*****Please Sign In*****

CHAPTER: IDAPA 16.07.15, "Behavioral Health Programs" (New Chapter); and

IDAPA 16.07.17, "Alcohol and Substance Use Disorders" (Revision to participant eligibility and addition of substance use disorder specific requirements)

DOCKET NO.: 16-0715-1501 and 16-0717-1501 **DATE:** September 17, 2014 **TIME:** 9:00 a.m. (PDT)/10:00 a.m. (MDT)

LOCATION: State Hospital South, Admin Building, Classroom A09

*Please provide a written copy of your comments for the official record on this rulemaking, if possible.

NAME (Please Print)	E-MAIL ADDRESS	ORGANIZATION REPRESENTED	DO YOU WISH TO TESTIFY?

No Participants

INTRODUCTORY and CLOSING STATEMENTS FOR PUBLIC HEARINGS

Rule Chapter: 16.07.15 "Behavioral Health Programs".

16.07.17 "Alcohol and Substance Use Disorder Services"

Docket Number: 16-0715-1501 and 16-0717-1501

Hearing Date and Time: September 17, 2015 1:00pm PST/2:00pm MST

Hearing Location: Video Conferencing

Let the record show that I am Treena Clark, designated as the Facilitator for this public hearing by the Administrator for the Division of Behavioral Health in the Department of Health and Welfare. It is 2:06 pm Mountain Standard Time on September 17, 2015. This public hearing is being conducted statewide via video conferencing at the locations published in the dockets. The originating site is the Pete Cenursa Building, Conference Room 3A Boise Idaho and this is the time and place set to receive oral and written comments, as provided for in Section 67-5222, Idaho Code, for the proposed rulemaking under

IDAPA 16.07.15 "Behavioral Health Programs" found in Docket No. 16-0715-1501

IDAPA 16.07.17 "Alcohol and Substance Use Disorders" found in Docket No. 16-0717-1501

The purpose of this proceeding is to gather facts, views, and arguments from all interested persons relative to the proposed rules so that they may receive consideration by the Department of Health and Welfare. I will accept written statements or documents today if relevant and signed by the persons presenting them. The materials will be included as exhibits in the record for this hearing, which I will submit to the Administrative Procedures Section following the close of this hearing.

Let the record show that the notice of this hearing was published in the Idaho Administrative Bulletin on Wednesday, September 2, 2015, as required by Section 67-5221, Idaho Code. This publication was timely made and other necessary notice requirements have been met.

This public hearing is an informal proceeding. There is no right to cross-examine a person offering comments, nor is there a right to counsel or subpoena. No objections or procedures of a technically legal nature will be accepted. As the Facilitator, I am the sole regulator of the course of the presentations, including, but not limited to, a determination that the comments are outside the scope of the rule or that comments are unduly repetitious. I am not here to answer questions or to explain any part of the proposed rules. If you have questions or concerns regarding this rulemaking, please contact Tamara Prisock 208-334-5564.

All those interested persons attending this proceeding are asked to sign in on the roster by the entrance, indicating a desire, if any, to make an oral presentation. After a brief statement made by the Department of Health and Welfare summarizing the information upon which the proposed action is based, each person will be given an opportunity to speak at least once prior to any person being heard a second time.

At this time, the Department of Health and Welfare's statement will be read into the record, followed by the opportunity for oral comments.

Through Idaho Behavioral Health Transformation, the Department of Health and Welfare is moving towards an integrated Behavioral Health system of care that includes mental health and substance use disorder services and programs. Recognizing the benefit and necessity of integrated monitoring and credentialing of community mental health and substance use disorder providers, the Department is proposing to establish a behavioral health certification that allows community mental health and substance use disorder treatment agencies to obtain state approval while maintaining core requirements for substance use disorders services and programs. The Department of Health and Welfare has worked with providers, consumers, partners, stakeholders and other interested parties to review current IDAPA rules related to substance use disorders and draft proposed rules. The Department is proposing a new chapter of rule that allows community mental health and substance use disorder agencies to obtain state approval and is proposing revisions to an existing chapter of rule that maintains Substance Use Disorder specific requirements.

This concludes the Department's statement. Next, I will call upon those persons who indicated on the sign-in roster a wish to comment. Since these proceedings are being recorded, I ask that those who wish to speak, speak clearly, and provide your name, spelling your surname, prior to beginning your comments.

CLOSING STATEMENT

This public hearing started at 2:06 p.m, Mountain Standard Time and is now closed. The time is 2:46 p.m. The record of this hearing, together with submitted written comments, will be transmitted to the Department's Administrative Procedures Section. Anyone may submit further written comments to the Administrative Procedures Section, at the Department of Health and Welfare, P.O. Box 83720, Boise, Idaho 83720-0036. All written comments must be received by September 26, 2015.

PUBLIC HEARING
Idaho Department of Health and Welfare
Division of Behavioral Health

*****Please Sign In*****

CHAPTER: IDAPA 16.07.15, "Behavioral Health Programs" (New Chapter); and

IDAPA 16.07.17, "Alcohol and Substance Use Disorders" (Revision to participant eligibility and addition of substance use disorder specific requirements)

DOCKET NO.: 16-0715-1501 and 16-0717-1501 **DATE:** September 17, 2014 **TIME:** 1:00 p.m. (PDT)/2:00 p.m. (MDT)

LOCATION: IDHW Central Office, Conference Room 3A (3rd Floor)

*Please provide a written copy of your comments for the official record on this rulemaking, if possible.

NAME (Please Print)	E-MAIL ADDRESS	ORGANIZATION REPRESENTED	DO YOU WISH TO TESTIFY?
GREG DIKERSON	gregmsw@gmail.com	IACP	YES
Sara Barties	sara.barties@bpahealth.com	BPA	no.

PUBLIC HEARING
Idaho Department of Health and Welfare
Division of Behavioral Health

*****Please Sign In*****

CHAPTER: IDAPA 16.07.15, "Behavioral Health Programs" (New Chapter); and

IDAPA 16.07.17, "Alcohol and Substance Use Disorders" (Revision to participant eligibility and addition of substance use disorder specific requirements)

DOCKET NO.: 16-0715-1501 and 16-0717-1501 **DATE:** September 17, 2014 **TIME:** 1:00 p.m. (PDT)/2:00 p.m. (MDT)

LOCATION: Region 1 Office, Main Conference Room

*Please provide a written copy of your comments for the official record on this rulemaking, if possible.

NAME (Please Print)	E-MAIL ADDRESS	ORGANIZATION REPRESENTED	DO YOU WISH TO TESTIFY?

No Participants

PUBLIC HEARING
Idaho Department of Health and Welfare
Division of Behavioral Health

*****Please Sign In*****

CHAPTER: IDAPA 16.07.15, "Behavioral Health Programs" (New Chapter); and

IDAPA 16.07.17, "Alcohol and Substance Use Disorders" (Revision to participant eligibility and addition of substance use disorder specific requirements)

DOCKET NO.: 16-0715-1501 and 16-0717-1501 **DATE:** September 17, 2014 **TIME:** 1:00 p.m. (PDT)/2:00 p.m. (MDT)

LOCATION: Region 2 Office, 1st Floor Conference Room

*Please provide a written copy of your comments for the official record on this rulemaking, if possible.

NAME (Please Print)	E-MAIL ADDRESS	ORGANIZATION REPRESENTED	DO YOU WISH TO TESTIFY?

no Participants

PUBLIC HEARING
Idaho Department of Health and Welfare
Division of Behavioral Health

*****Please Sign In*****

CHAPTER: IDAPA 16.07.15, "Behavioral Health Programs" (New Chapter); and

IDAPA 16.07.17, "Alcohol and Substance Use Disorders" (Revision to participant eligibility and addition of substance use disorder specific requirements)

DOCKET NO.: 16-0715-1501 and 16-0717-1501 **DATE:** September 17, 2014 **TIME:** 1:00 p.m. (PDT)/2:00 p.m. (MDT)

LOCATION: Region 3 Office, Owyhee Conference Room 226

*Please provide a written copy of your comments for the official record on this rulemaking, if possible.

NAME (Please Print)	E-MAIL ADDRESS	ORGANIZATION REPRESENTED	DO YOU WISH TO TESTIFY?
Dennis Baughman	dbaughman@lifeways.org	Lifeways	No
Pam Lambert	plambert@lifeways.org	Lifeways	No

PUBLIC HEARING
Idaho Department of Health and Welfare
Division of Behavioral Health

*****Please Sign In*****

CHAPTER: IDAPA 16.07.15, "Behavioral Health Programs" (New Chapter); and

IDAPA 16.07.17, "Alcohol and Substance Use Disorders" (Revision to participant eligibility and addition of substance use disorder specific requirements)

DOCKET NO.: 16-0715-1501 and 16-0717-1501 **DATE:** September 17, 2014 **TIME:** 1:00 p.m. (PDT)/2:00 p.m. (MDT)

LOCATION: Region 4 Office, Conference Room 131

*Please provide a written copy of your comments for the official record on this rulemaking, if possible.

NAME (Please Print)	E-MAIL ADDRESS	ORGANIZATION REPRESENTED	DO YOU WISH TO TESTIFY?

no Participants

PUBLIC HEARING
Idaho Department of Health and Welfare
Division of Behavioral Health

Please Sign In

CHAPTER: IDAPA 16.07.15, "Behavioral Health Programs" (New Chapter); and

IDAPA 16.07.17, "Alcohol and Substance Use Disorders" (Revision to participant eligibility and addition of substance use disorder specific requirements)

DOCKET NO.: 16-0715-1501 and 16-0717-1501 **DATE:** September 17, 2014 **TIME:** 1:00 p.m. (PDT)/2:00 p.m. (MDT)

LOCATION: Region 5 Office, Conference Room 116

*Please provide a written copy of your comments for the official record on this rulemaking, if possible.

NAME (Please Print)	E-MAIL ADDRESS	ORGANIZATION REPRESENTED	DO YOU WISH TO TESTIFY?
LaDessa Foster	LaDessa.Foster@bpahealth.com	BPA	no

PUBLIC HEARING
Idaho Department of Health and Welfare
Division of Behavioral Health

*****Please Sign In*****

CHAPTER: IDAPA 16.07.15, "Behavioral Health Programs" (New Chapter); and

IDAPA 16.07.17, "Alcohol and Substance Use Disorders" (Revision to participant eligibility and addition of substance use disorder specific requirements)

DOCKET NO.: 16-0715-1501 and 16-0717-1501 **DATE:** September 17, 2014 **TIME:** 1:00 p.m. (PDT)/2:00 p.m. (MDT)

LOCATION: Region 6 Office, Conference Room 225

*Please provide a written copy of your comments for the official record on this rulemaking, if possible.

NAME (Please Print)	E-MAIL ADDRESS	ORGANIZATION REPRESENTED	DO YOU WISH TO TESTIFY?

No Participants

PUBLIC HEARING
Idaho Department of Health and Welfare
Division of Behavioral Health

Please Sign In

CHAPTER: IDAPA 16.07.15, "Behavioral Health Programs" (New Chapter); and

IDAPA 16.07.17, "Alcohol and Substance Use Disorders" (Revision to participant eligibility and addition of substance use disorder specific requirements)

DOCKET NO.: 16-0715-1501 and 16-0717-1501 **DATE:** September 17, 2014 **TIME:** 1:00 p.m. (PDT)/2:00 p.m. (MDT)

LOCATION: Region 7 Office, Conference Room 240

*Please provide a written copy of your comments for the official record on this rulemaking, if possible.

NAME (Please Print)	E-MAIL ADDRESS	ORGANIZATION REPRESENTED	DO YOU WISH TO TESTIFY?
Kelly Keele	skil4life@aol.com	Childrens Supportive Services	No

PUBLIC HEARING
Idaho Department of Health and Welfare
Division of Behavioral Health

*****Please Sign In*****

CHAPTER: IDAPA 16.07.15, "Behavioral Health Programs" (New Chapter); and

IDAPA 16.07.17, "Alcohol and Substance Use Disorders" (Revision to participant eligibility and addition of substance use disorder specific requirements)

DOCKET NO.: 16-0715-1501 and 16-0717-1501 **DATE:** September 17, 2014 **TIME:** 1:00 p.m. (PDT)/2:00 p.m. (MDT)

LOCATION: State Hospital South, Admin Building, Classroom A09

*Please provide a written copy of your comments for the official record on this rulemaking, if possible.

NAME (Please Print)	E-MAIL ADDRESS	ORGANIZATION REPRESENTED	DO YOU WISH TO TESTIFY?

No Participants

PUBLIC HEARING
Idaho Department of Health and Welfare
Division of Behavioral Health

*****Please Sign In*****

CHAPTER: IDAPA 16.07.15, "Behavioral Health Programs" (New Chapter); and

IDAPA 16.07.17, "Alcohol and Substance Use Disorders" (Revision to participant eligibility and addition of substance use disorder specific requirements)

DOCKET NO.: 16-0715-1501 and 16-0717-1501 **DATE:** September 17, 2014 **TIME:** 1:00 p.m. (PDT)/2:00 p.m. (MDT)

LOCATION: State Hospital North, Administration Conference Room 234

*Please provide a written copy of your comments for the official record on this rulemaking, if possible.

NAME (Please Print)	E-MAIL ADDRESS	ORGANIZATION REPRESENTED	DO YOU WISH TO TESTIFY?

No Participants

IDAHO ASSOCIATION OF COMMUNITY PROVIDERS, INC.
MENTAL HEALTH PROVIDER TYPE
4477 W. EMERALD, STE. C100
BOISE, ID 83706

Department of Health & Welfare
Division of Behavioral Health

RE: Negotiated Rule Hearing: New IDAPA Rule Chapter 16-0715-1501

To whom it may concern,

My name is Gregory Dickerson, and I am one of two Mental Health Provider type directors for the Idaho Association of Community Providers. The following testimony is in response to the proposed New Chapter.

The following comments on the proposed new chapter of rules for "State Approved Behavioral Health Programs" are solely those of the Idaho Association of Community Providers, Mental Health provider type. They may not represent the views of the other provider type specialties of the IACP.

First, the Fiscal Impact Statement indicates: "The fiscal impact for this rule change is anticipated to be cost neutral for state general funds and all other funds". The section goes on to describe the $100 fee per treatment facility and $50 fee for recovery support services. We feel that this is an inaccurate assessment of the costs of this credentialing effort. Since most of the standards described in these rules are based on national accreditation guidelines, a reasonable comparison of the ultimate costs of this program may be drawn from the actual costs of national accreditation processes.

My agency, Human Supports of Idaho, underwent our 4th CARF accreditation review earlier this year. CARF surveys are for the purposes of verifying conformance with the standards and are provided at rate that allows CARF to break even in offsetting its costs. Each survey team is assigned based on the size of the agency, the number of locations surveyed, and the number of programs that are surveyed. From this formula, CARF charges are based on the number of surveyor days. For our small agency with 2 locations and 3 program areas surveyed, we required 2 surveyors for 3 days each. At the rate charged of $1,550.00 per surveyor day, our accreditation review alone cost $9300.00. Additionally, we paid a $900.00 application fee. To make this a fair comparison, a part of these fees are used to compensate the travel expenses of the surveyors. However, the surveyors are not compensated as employees as the Department or it's potential contractor will be for performing these same functions. The point is that the fees described in this documents will most certainly be insufficient to meet these costs. It may very well be that the Department or it's contractor may be staffed under current funding levels to perform these site visits for its current SUDS providers, but it will certainly take more FTE's to address the needs of this expansion to all behavioral health providers.

Section 006. "Confidentiality of Records and Public Records Request" section .02 describes how the public may gain access to an organizations' records which outline "fitness to be granted or retain a license, certificate, permit, privilege, commission, or position." The purpose of this section is unclear because one would infer that if the organization has a certificate of such, and the Department maintains a primary source verification of a "List of Approved Programs" as described in section .01 of the

Certificate of Approval section, that those sources would be sufficient to meet the public need. If there is an additional public need for the Department to release more specific information in a Public record request it would seem appropriate that this section be expanded to include definitions on permissible disclosures (such as proprietary information that is gathered during a site visit), and notification to the provider as to the specific request under consideration.

Section 009. Criminal History and Background Check Requirements beyond section .01 which points to the current promulgated chapter on Department Background Checks in IDAPA 16.05.06 is un-necessary and ill-advised. The following examples illustrate this assertion: First, Section .02 "Availability to Work" is a duplication of IDAPA 16.0506.170; Second, Section .03 "Waiver of Criminal History and Background Check Denial", conflicts with 16.05.06.250 Exemption Reviews; Third, section .04 No Waiver for Certain Designated Crimes" conflicts with 16.05.06.210 "Unconditional Denial Disqualifying Crimes" (example: section .04 does not list Abuse, neglect, or exploitation of a vulnerable adult, which is a disqualifying crime under the current law); Fourth, sections .05 through .08 conflict with rules at 16.05.06.250. Not only do these sections contradict the current rules, but they also introduce alternative language which is confusing and inexact language (ie. "No Waiver" versus "Unconditional Denial"; "designated crimes" versus "disqualifying crimes"; "Administrative Review" versus "Exemption Review"). A reference to the current Criminal History rules as in section .01 is sufficient here. It seems that a more appropriate and congruent strategy for expanding the Department's ability to grant an exemption for Abuse, Neglect, or exploitation of a vulnerable adult, or perhaps allow exemption for any of the 5 year crimes within a shorter period as examples, would be to amend the appropriate sections of IDAPA 16.0506.

Section 050. Variances is ill advised. Variances in compliance with the regulations that is allowed for one provider and is not applied to other providers creates an un-even playing field, and introduces the risk of arbitrary treatment of providers. The regulations need to be drafted in such a way that do not introduce regulatory barriers that may require such a variance. In short, regulations need to be limited to those requirements minimally necessary to ensure the public safety as well as the highest quality of services to persons served within the constraints of funding provided. Under this criteria, there would be no reasonable allowance for a variance necessary. None of the national accreditation bodies provide allowances for the adopted standards.

We support section 140 describing deeming of provider programs that are nationally accredited and that recognition is appreciated.

Section 390 Personnel Policies and Procedures, sub-section .04.e the term "waiver" should be replaced with the term "Exemption Review Determination".

These comments conclude my prepared testimony on the proposed New Rule Chapter. The Idaho Association of Community Providers is committed to supporting policies that create the highest quality services for persons served within the resources provided by the Idaho Behavioral Health Plan, and will continue to provide comment throughout this promulgation process to that end. I appreciate your attention to these comments.

Gregory Dickerson, MSW, MBA
Mental Health Director/Treasurer
Idaho Association of Community Providers

ATTACHMENT 18

IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE

16.07.20 - ALCOHOL AND SUBSTANCE USE DISORDERS TREATMENT AND RECOVERY SUPPORT SERVICES FACILITIES AND PROGRAMS

DOCKET NO. 16-0720-1501 (CHAPTER REPEAL)

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2016 Idaho State Legislature for final approval. In accordance with Section 67-5224(5)(a) and (b), Idaho Code, as specified here in this notice the pending rule becomes final and effective on July 1, 2016, after review by the legislature, unless the rule is approved or rejected in part by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is affected by concurrent resolution, the concurrent resolution shall specify the date.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. This action is authorized pursuant to Title 39, Chapter 3, and Sections 56-1003, 56-1004, 56-1004A, 56-1007, and 56-1009, Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change.

The Department is integrating services to better match current practices for behavioral health and mental health services. There are no changes to the pending rule and it is being adopted as originally proposed to repeal the entire chapter. The Notice of Repeal of the entire chapter published in the September 2, 2015, Idaho Administrative Bulletin, Vol. 15-9, page 201.

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars ($10,000) during the fiscal year as a result of this rulemaking:

This rulemaking has no fiscal impact to the state general fund, or any other funds.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning the pending rule, contact Treena Clark at (208) 334-6611.

DATED this _____ day of _____, 2015.

Tamara Prisock
DHW - Administrative Rules Unit
450 W. State Street - 10th Floor
P.O. Box 83720
Boise, ID 83720-0036
(208) 334-5500 phone; (208) 334-6558 fax
E-mail: **dhwrules@dhw.idaho.gov**

THE FOLLOWING IS THE PENDING TEXT FOR DOCKET NO. 16-0720-1501

IDAPA 16.07.20 IS BEING REPEALED IN ITS ENTIRETY

COMMENTS

IDAHO DEPARTMENT OF
HEALTH & WELFARE

C.L. "BUTCH" OTTER – Governor
RICHARD M. ARMSTRONG – Director

TAMARA PRISOCK – Division Administrator
DIVISION OF LICENSING AND CERTIFICATION
Administrative Rules Unit
450 West State Street, 10th Floor
P.O. Box 83720
Boise, Idaho 83720-0036
PHONE 208-334-5500
FAX 208-334-6558
DHWRules@dhw.idaho.gov

LIST OF EXHIBITS

Proposed Rule

ALCOHOL AND SUBSTANCE USE DISORDERS TREATMENT AND RECOVERY SUPPORT SERVICES FACILITIES AND PROGRAMS
(Chapter Repeal)

Docket Number: 16-0720-1501

Deadline for Comment: September 23, 2015

EXHIBIT NO.	SUBMITTED BY	DESCRIPTION	NO. PAGES
1	Legislative Services Office Elizabeth Bowen, Leg. Research Analyst Statehouse PO Box 83720 Boise, ID 83720-0054	Memorandum	1
2	Legislative Services Office Elizabeth Bowen, Leg. Research Analyst Statehouse PO Box 83720 Boise, ID 83720-0054	Letter	1

Legislative Services Office
Idaho State Legislature

Eric Milstead
Director

Serving Idaho's Citizen Legislature

MEMORANDUM

TO: Rules Review Subcommittee of the Senate Health & Welfare Committee and the House Health & Welfare Committee

FROM: Legislative Research Analyst - Elizabeth Bowen

DATE: September 15, 2015

SUBJECT: Department of Health and Welfare

IDAPA 16.07.17 - Alcohol and Substance Use Disorders Services - Proposed Rule (Docket No. 16-0717-1501)

IDAPA 16.07.20 - Alcohol and Substance Use Disorders Treatment and Recovery Support Services Facilities and Programs - Proposed Rule (Docket No. 16-0720-1501)

The Department of Health and Welfare submits notice of proposed rulemaking at IDAPA 16.07.17 and 16.07.20.

16.07.17

This rule incorporates treatment and recovery programs from IDAPA 16.07.20, which is being repealed. The services and programs being incorporated include case management, alcohol and drug screening, child care, transportation, life skills, staffed safe and sober housing for adolescents, and staffed safe and sober housing for adults. Negotiated rulemaking was conducted, and there is no anticipated fiscal impact on the state general fund. The Department states that this rulemaking is authorized pursuant to Chapter 3, Title 39, Idaho Code.

16.07.20

The proposed rule repeals this chapter of rules, relating to substance use disorders treatment and recovery services, in its entirety. The repealed chapter is being replaced with a new chapter in IDAPA 16.07.15. Negotiated rulemaking was conducted, and there is no anticipated fiscal impact on the state general fund. The Department states that this rulemaking is authorized pursuant to Chapter 3, Title 39, Idaho Code, and Sections 56-1003, 56-1004, 56-1004A, 56-1007, and 56-1009, Idaho Code.

cc: Department of Health and Welfare
Tamara Prisock

Mike Nugent, Manager
Research & Legislation

Cathy Holland-Smith, Manager
Budget & Policy Analysis

April Renfro, Manager
Legislative Audits

Glenn Harris, Manager
Information Technology

Statehouse, P.O. Box 83720
Boise, Idaho 83720-0054

Tel: 208-334-2475
www.legislature.idaho.gov

Legislative Services Office
Idaho State Legislature

Serving Idaho's Citizen Legislature

Eric Milstead
Director

October 02, 2015

Tamara Prisock
Admin. Procedures Section
Department of Health and Welfare
PO Box 83720
Boise, ID 83720-0036

Dear Tamara Prisock:

The Senate and House Subcommittees for review of administrative rules have reviewed the proposed changes to the Department of Health and Welfare rules:

IDAPA 16.07.17 - Alcohol and Substance Use Disorders Services - Proposed Rule - Docket No. 16-0717-1501

IDAPA 16.07.20 - Alcohol and Substance Use Disorders Treatment and Recovery Support Services Facilities and Programs - Proposed Rule - Docket No. 16-0720-1501

No meeting will be held, and we are pleased to report that no objections will be filed.

Sincerely yours,

Elizabeth Bowen
Legislative Research Analyst

ELB/jk

cc:

Mike Nugent, Manager
Research & Legislation

Cathy Holland-Smith, Manager
Budget & Policy Analysis

April Renfro, Manager
Legislative Audits

Glenn Harris, Manager
Information Technology

Statehouse, P.O. Box 83720
Boise, Idaho 83720-0054

Tel: 208-334-2475
www.legislature.idaho.gov

ATTACHMENT 19

DHW/BOARD RULEMAKING PROCESS AND RESPONSIBILITIES

Last Updated: October 2015

Step 1:

DHW determines a rulemaking is needed.

Step 2:

DHW prepares a PARF for approval by DFM/Governor's Office prior to a rulemaking being published.

Step 3:

DHW prepares proposed rulemaking docket for publication. **A temporary rule published in conjunction with a proposed rule, or on its own, must be adopted by the Director and/or Board of Health and Welfare**

Step 4:

DHW submits approved rulemaking to the OAR who reviews it and then provides LSO a copy of the rulemaking.

Step 5:

DHW rulemaking publishes in the *Idaho Administrative Bulletin.* Public comment period is open for 21 days, public hearings scheduled at time of publication or when requested.

Step 6:

DHW reviews all written and oral comments received and prepares the Pending Rule. A pending rule is adopted by the Director and/or Board.

Step 7:

DHW submits pending rule to OAR for publication in the Idaho Administrative Bulletin. OAR publishes the pending rule and prepares a rules book for review during the next legislative session.

Step 8:

During the legislative session, DHW staff testify before the germane committees. The Legislature approves or rejects all or part of the rules. At the end of the legislative session (Sine Die), pending rules become final unless they were rejected.

Legend:

DHW – Dept. of Health and Welfare
DFM – Division of Financial Management
OAR – Office of Administrative Rules
LSO – Legislative Services Office
Board – Board of Health and Welfare
PARF – Proposed Administrative Rules Form
Board Responsibilities in Blue

BOARD OF HEALTH AND WELFARE
AUTHORITY AND RESPONSIBILITIES FOR RULES

Under Section 56-1005, Idaho Code, the **Board of Health and Welfare**, by an affirmative vote of four of its voting members, may adopt, amend, or repeal rules, codes, and standards of **DHW** that are necessary and feasible to carry out and enforce the laws of this state. Rules and orders adopted by the **Board** have the force and effect of law and may deal with matters deemed necessary to protect the health of the state. Rulemaking proceedings and hearings of the **Board** are governed by the Idaho Administrative Procedure Act (APA), Title 67, Chapter 52, Idaho Code.

A **proposed rule** is one that is prepared in legislative format and has been published in the *Idaho Administrative Bulletin.* The rulemaking must include the specific statutory authority for the rule (Board/Director/Joint), and any federal statute or regulation that the rulemaking amendments are based on. **DHW** must provide a statement in plain language of the substance of the proposed rule including any fee or charge imposed or increased, any negative fiscal impact to the state general fund greater than $10,000, the text of the proposed rule in legislative format, the location, date, and time of any public hearing on the proposed rule, the deadline for public comments, the manner in which written comments may be sent and to whom, and the contact person for answering technical questions. Prior to the adoption, amendment, or repeal of the proposed rule as a pending rule, **DHW/Board** must consider fully all written and oral comments received with regard to the proposed rule.

The APA requires only ***temporary rules*** and ***pending rules*** be adopted by the **Director** or **Board** prior to publication in the *Idaho Administrative Bulletin.*

A ***temporary rule*** must meet one of the following criteria under Section 67-5226, Idaho Code,

"(1) If the governor finds that:
(a) Protection of the public health, safety, or welfare; or
(b) Compliance with deadlines in amendments to governing law or federal programs; or
(c) Conferring a benefit;
requires a rule to become effective before it has been submitted to the legislature for review the agency may proceed with such notice as is practicable and adopt a temporary rule..."

Prior to adopting a ***pending rule*** under Section 67-5224, Idaho Code, **DHW/Board** must have published the proposed rule in the *Idaho Administrative Bulletin,* and have provided for public comment for a minimum of 21 days, and must have considered the written and oral comments received on the proposed rule.

"(2) Subject to the provisions of subsection (3) of this section, the agency shall publish the text of a pending rule and a notice of adoption of the pending rule in the bulletin. The notice of adoption of the pending rule shall consist of a concise explanatory statement...
(b) A statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for any changes;...."

OAR allows **DHW** not to publish the full text of a pending rule if no significant changes have been made from the text of the proposed rule as published in the *Bulletin.* Notice of adoption of the pending rule must cite the volume and page numbers of the bulletin publication in which the proposed rule was published, and provide any changes to text in legislative format.

Legend:
DHW - Department of Health and Welfare
Board - Board of Health and Welfare
OAR - Office of the Administrative Rules Coordinator

ATTACHMENT 20

Idaho Department of Health and Welfare Board Meeting
November 19, 2015

Janet - Tom.

Proposed Motions

Food Safety and Sanitation Standards for Food Establishments (The Idaho Food Code), Docket No. 16-0219-1501 (Tab #3)

I, _____, move that the Idaho Board of Health and Welfare adopt the "Pending" rules for the "Food Safety and Sanitation Standards for Food Establishments (The Idaho Food Code), " presented under Docket No. 16-0219-1501, with an effective date of July 1, 2016.

Rules Governing Certified Family Homes Docket No. 16-0319-1502 (Tab #4)

Janet

I, James _____, move that the Idaho Board of Health and Welfare adopt the "Pending Fee" rules for the "Rules Governing Certified Family Homes, " presented under Docket No. 16-0319-1502, with an effective date of July 1, 2016.

Emergency Medical Services (EMS) - Advisory Committee (EMSAC) Docket No. 16-0101-1501 (Tab #5)

I, _____, move that the Idaho Board of Health and Welfare adopt the "Pending" rules for the "Emergency Medical Services (EMS) - Advisory Committee (EMSAC)," presented under Docket No. 16-0101-1501, with an effective date of July 1, 2016.

Emergency Medical Services (EMS) - Rule Definitions Docket No. 16-0102-1501 (Tab #6)

I, _____, move that the Idaho Board of Health and Welfare adopt the "Pending" rules for the "Emergency Medical Services (EMS) - Rule Definitions," presented under Docket No. 16-0102-1501, with an effective date of July 1, 2016.

Emergency Medical Services (EMS) - Agency Licensing Requirements Docket No. 16-0103-1501 (Tab #7)

I, _____, move that the Idaho Board of Health and Welfare adopt the "Pending" rules for the "Emergency Medical Services (EMS) - Agency Licensing Requirements," presented under Docket No. 16-0103-1501, with an effective date of July 1, 2016.

Emergency Medical Services (EMS) - Education, Instructor, and Examination Requirements
Docket No. 16-0105-1501 (Tab #8)

I, _____, move that the Idaho Board of Health and Welfare adopt the "Pending" rules for the new chapter "Emergency Medical Services (EMS) - Education, Instructor, and Examination Requirements," presented under Docket No. 16-0105-1501, with an effective date of July 1, 2016.

Emergency Medical Services (EMS) - Personnel Licensing Requirements
Docket No. 16-0107-1502 (Tab #9)

I, _____, move that the Idaho Board of Health and Welfare adopt the "Pending" rules for the "Emergency Medical Services (EMS) - Personnel Licensing Requirements," presented under Docket No. 16-0107-1502, with an effective date of July 1, 2016.

Emergency Medical Services (EMS) - Complaints, Investigations, and Disciplinary Actions
Docket No. 16-0112-1501 (Tab #10)

I, _____, move that the Idaho Board of Health and Welfare adopt the "Pending" rules for the "Emergency Medical Services (EMS) - Complaints, Investigations, and Disciplinary Actions," presented under Docket No. 16-0112-1501, with an effective date of July 1, 2016.

Emergency Medical Services
Docket No. 16-0203-1501 (Tab #11)

I, _____, move that the Idaho Board of Health and Welfare adopt the "Pending" rules for the chapter repeal of the "Emergency Medical Services," presented under Docket No. 16-0203-1501, with an effective date of July 1, 2016.

Use and Disclosure of Department Records
Docket No. 16-0501-1501 (Tab #12):

I, _____, move that the Idaho Board of Health and Welfare adopt the "Pending" rules for the "Use and Disclosure of Department Records," presented under Docket No. 16-0501-1501, with an effective date of July 1, 2016.

Child and Family Services
Docket No. 16-0601-1501 (Tab #13):

I, _____, move that the Idaho Board of Health and Welfare adopt the "Pending" rules for the "Child and Family Services," presented under Docket No. 16-0601-1501, effective Sine Die 2016.

Rules Governing Standards for Child Care Licensing
Docket No. 16-0602-1501 (Tab #14):

I, _____, move that the Idaho Board of Health and Welfare adopt the "Pending" rules for the "Rules Governing Child Care Licensing," presented under Docket No. 16-0602-1501, with an effective date of July 1, 2016.

Behavioral Health Sliding Fee Schedules
Docket No. 16-0701-1501 (Tab 15):

I, _____, move that the Idaho Board of Health and Welfare adopt the "Pending" rules for the "Behavioral Health Sliding Fee Schedules," presented under Docket No. 16-0701-1501, with an effective date of July 1, 2016.

Behavioral Health Programs
Docket No. 16-0715-1501 (Tab 16):

I, _____, move that the Idaho Board of Health and Welfare adopt the "Pending Fee" rules for the new chapter "Behavioral Health Programs," presented under Docket No. 16-0715-1501, with an effective date of July 1, 2016.

Alcohol and Substance Use Disorders Services
Docket No. 16-0717-1501 (Tab #17):

I, _____, move that the Idaho Board of Health and Welfare adopt the "Pending" rules for the "Alcohol and Substance Use Disorders Services," presented under Docket No. 16-0717-1501, with an effective date of July 1, 2016.

Alcohol and Substance Use Disorders Treatment and Recovery Support Services Facilities and Programs
Docket No. 16-0720-1501 (Tab #18):

I, _____, move that the Idaho Board of Health and Welfare adopt the "Pending" rules for the chapter repeal of the "Alcohol and Substance Use Disorders Treatment and Recovery Support Services Facilities and Programs" presented under Docket No. 16-0720-1501, with an effective date of July 1, 2016.

OFFICER ELECTIONS MOTION – CHAIR

I, _____, move that the Idaho Board of Health and Welfare elect

_____ to be the Board of Health and Welfare Chair.

OFFICER ELECTIONS MOTION – VICE-CHAIR

I, _____, move that the Idaho Board of Health and Welfare elect

_____ to be the Board of Health and Welfare Vice-Chair

	B	E	I	J	K	L	P
1							
2		DEPARTMENT OF HEALTH & WELFARE					
3		FY17 Proposed Decision Units					
4		Revision #2 - November 2, 2015					
5							
6	Dept.			One		Funding	
7	Priority/DU #	Division	Description	Time	FTE	General	Total
8	4.31	Medicaid	KW Lawsuit	N	-	$ 5,104,000	$ 17,600,000
9	4.32	Healthcare Policy Initiatives	FF Authority Increase	Y	-		$ 1,263,800
10	4.32	Councils	FF Authority Increase	N	1.00		$ 14,900
11	4.32	Support Services	FF Authority Increase	Y	-	$ -	$ 1,349,800
12	4.33	Licensing & Certification	Certified Family Home Personnel and operating costs not covered by revenue (CFH fees) - There is a proposed fee increase - Application fee increase from $125 to $150 / Monthly fee increase from $25/mo to $30/mo.	Y	-	$ 43,600	$ 87,000
13	4.34	Medicaid	CHIP funded at 100% FFP	N	-	$ (7,275,000)	$ -
14	4.35	Behavioral Health	Net zero transfer to move receipt authority from operating to personnel - Changed to FF and Rec Authority Request w/R1	N	-	$ -	$ 511,600
15	~~4.36~~	~~Support Services~~	~~Based upon 8% growth and growing backlog, CHU needs to anticipate authority to hire one full time person to absorb increased background checks.~~	~~B~~			~~$ -~~
16	4.37	Medicaid	MMIS Contract Operations: For the five year of the initial contract term, the Department's Pharmacy Benefits Management (PBM) contractor did not receive any annual increase to their contract rates. The requested increase was negotiated during the amendments to extend the PBM contract after the initial period expired.	N	-	$ 45,100	$ 180,600
17	4.37	Medicaid	MMIS Contract Operations: This supplemental request covers the cost to implement new federally required financial reporting called the Transformed Medicaid Statistical Information System (TMSIS).	Y	-	$ 110,100	$ 1,101,000
18	4.37	Medicaid	Medicare Part B Increase	N	-	$ 1,415,500	$ 4,067,300
19	4.38	Medicaid	Decrease to Residential Habilitation Rates	N	-	$ (3,383,300)	$ (11,666,700)

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2		DEPARTMENT OF HEALTH & WELFARE					
3		FY17 Proposed Decision Units					
4		Revision #2 - November 2, 2015					
5							
6	Dept.			One		Funding	
7	Priority/DU #	Division	Description	Time	FTE	General	Total
20	4.39	Medicaid	Dedicated Insurance Fund increase	Y	-	$ (330,000)	$ -
22							
23							
24							
25		TOTAL			1.00	$ (4,270,000)	$ 14,509,300
26							
30			DIVISION SUB-TOTALS:				
31			Behavioral Health			$ -	$ 511,600
32			Councils			$ -	$ 14,900
33			FACS			$ -	$ -
34			Public Health			$ -	$ -
35			Support Services			$ -	$ 1,349,800
36			Licensing & Certification			$ 43,600	$ 87,000
37			Healthcare Policy Initiatives			$ -	$ 1,263,800
38			Medicaid			$ (4,313,600)	$ 11,282,200
39			Welfare			$ -	$ -
40			Welfare/Medicaid/ITSD			$ -	$ -
41			TOTAL			$ (4,270,000)	$ 14,509,300
42			CHECK FIGURE			$ (4,270,000)	$ 14,509,300
43			VARIANCE			$ -	$ -
44							$ -

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1							
2		DEPARTMENT OF HEALTH & WELFARE					
3		FY17 Proposed Decision Units					
4		Revision #2 - November 2, 2015					
5							
6	Dept.			One		Funding	
7	Priority/DU #	Division	Description	Time	FTE	General	Total
8	10.51	Medicaid	CHIP funded at 100% FFP	N	-	$ (2,425,000)	$ -
9	10.52	Medicaid	Annualization-Decrease to Residential Habilitation Rates	N	-	$ (2,416,700)	$ (8,333,300)
10	~~10.53~~	~~Support Services~~	~~Based upon 9% growth and growing backlog, CHU needs to anticipate authority to hire one full time person to absorb increased background checks.~~	~~N~~			~~$~~
11	10.54	Councils	FF Authority Increase - Annualization for 9 months	N	-		$ 42,200
12	10.55	Welfare	Annualization of Multi-Day Food Stamps funding (FY16 LBB 2-87)	N	-	$ 46,000	$ 133,400
13	10.71 thru 10.74	Medicaid	Medicaid cost based pricing, mandatory pricing, caseload, and utilization	N	-	$ 28,185,400	$ 92,484,100
14	10.75	Medicaid	FMAP rate change	N	-	$ (1,603,300)	$ -
15	10.75	FACS	FMAP rate change	N	-	$ (9,500)	$ -
16	10.75	FACS	FMAP rate change	N	-	$ (6,000)	$ -
17	10.75	Behavioral Health	FMAP rate change	N	-	$ (6,000)	$ -
18	10.76	Medicaid	Receipt authority for general receipts growth	N	-	$ (10,063,000)	$ -
19	10.91	Behavioral Health	Endowment Fund Shift	N	-	$ (296,700)	$ -
20		TOTAL			-	$ 11,405,200	$ 84,326,400
21							
24							
25			DIVISION SUB-TOTALS:				
26			Behavioral Health			$ (302,700)	$ 133,400
27			Councils			$ -	$ -
28			FACS			$ (15,500)	$ 42,200
29			Public Health			$ -	$ -
30			Support Services			$ -	$ -
31			Licensing & Certification			$ -	$ -
32			Healthcare Policy Initiatives			$ -	$ -
33			Medicaid			$ 11,677,400	$ 84,150,800
34			Welfare			$ 46,000	$ -
35			Welfare/Medicaid/ITSD			$ -	$ -
36			TOTAL			$ 11,405,200	$ 84,326,400
37			CHECK FIGURE			$ 11,405,200	$ 84,326,400
38			VARIANCE			$ -	$ -
39							$ -

	B	E	I	J	K	L	P
1							
2		DEPARTMENT OF HEALTH & WELFARE					
3		FY17 Proposed Decision Units					
4		Revision #2 - November 2, 2015					
5							
6	Dept.			One		Funding	
7	Priority/DU #	Division	Description	Time	FTE	General	Total
8	12.01	Behavioral Health	3rd BH Crisis Center	B	-	$ 1,720,000	$ 1,720,000
9	12.02	Welfare	Operating Budget Year one: Replacement of Idaho Child Support Enforcement System (CSES)	Y		$ 2,720,000	$ 8,000,000
10	12.03	Medicaid	The Transitional Medicaid program is designed to promote individuals finding work without the immediate loss of their health coverage assistance. Parents and caretakers of children who are Medicaid eligible but who have been determined ineligible to continue to receive Medicaid services due to an increase in earnings will benefit from this program. This request for increased funding will provide transitional coverage for participants for up to one year. There is no funding available for these payments in the base and this request only represents a partial uptake population. We will not hit full utilization of this benefit until sometime in SFY18.	N	-	$ 2,833,500	$ 9,771,000
11	12.04	Licensing & Certification	Certified Family Home Personnel and operating costs not covered by revenue (CFH fees)	N	-	$ 43,600	$ 87,200
12	12.05	Behavioral Health	Increased staffing at SHN for Life Safety Issues SHN PERT (Emergency Response Team). This would consist of six employees, classifications and status to be determined. These positions will be used to support the hospital life safety initiative.	N	6.0	$ 295,800	$ 295,800
13	12.06	Behavioral Health	Developing and Implementing the Child and Adolescent Needs and Strengths (CANS) assessment in for the Idaho CMH system of care.	B	-	$ 1,300,000	$ 1,300,000
14	12.07	Public Health	Federal, Receipts, Dedicated Funds Spending Authority for StateComm Equipment Replacement: StateComm is currently using communication equipment that is at the end of life and needs replacement - radio consoles, phones, and audio recording. All systems are shared with the Idaho State Police dispatch so they need to be purchased and implemented simultaneously. ISP is creating a decision unit for their portion of the replacement.	N		$ 170,000	$ 170,000
15	12.08	Behavioral Health	Increased staffing at SHS for Life Safety Issues	N	6.0	$ 70,700	$ 317,700

	B	E	I	J	K	L	P
1							
2		DEPARTMENT OF HEALTH & WELFARE					
3		FY17 Proposed Decision Units					
		Revision #2 - November 2, 2015					
6	Dept.			One		Funding	
7	Priority/DU #	Division	Description	Time	FTE	General	Total
16	12.09	Welfare	Operating Federal Spending Authority to access ongoing enhanced 90/10 funding for Medicaid System Maintenance and Modernization Efforts	N			$ 3,571,600
17	12.10	FACS	Reclassification of ITP positions to Occupational Therapists, Speech Therapists and Physical Therapists in each region. Request is for authority to transfer funds from T&B to Personnel in order to assure positions in each region. G/F - $118,400 | F/F - $50,700 | T/F - $169,100	N		$ -	$ -
18	12.11	Behavioral Health	Respite Care Program	N	-	$ 847,000	$ 847,000
19	12.12	Support Services	Financial impact of changing the minimum CMP from 25% to 10% - the $ amounts reflects if every CMP is now at 10%.	N		$ 346,200	$ -
20	12.13	Healthcare Policy Initiatives	FF Authority Increase	Y	-		$ 1,421,700
2	12.14	Support Services	Based upon 8% growth and growing backlog, CHU needs to anticipate authority to hire one full time person to absorb increased background checks.	N	2.0	$ -	$ 260,000
22	12.15	Behavioral Health	Increased Pay for Psychologist	N	-	$ 26,500	$ 26,500
23	12.16	Behavioral Health	Increased Pay for Psychologist	N		$ 18,800	$ 37,600
24	12.17	Welfare	T&B: Federal Spending Authority - Market Rate	N			$ 3,645,000
25	12.17	Welfare	T&B: Federal Spending Authority - Automation Migration	Y			$ 2,400,000
26	12.18	FACS	Statewide Automated Child Welfare Information System (SACWIS) Modernization Project-Project Manager	Y		$ 130,000	$ 260,000
27	12.19	Medicaid	Personal Needs Allowance Increase for Participants	N	-	$ 442,000	$ 1,524,100
2	12.20	Welfare	AABD Caseload Growth			$ 300,000	$ 300,000
29	12.21	Medicaid	Money follows the person grant	N	-	$ 62,200	$ 726,700

	B	E	I	J	K	L	P
1							
2		DEPARTMENT OF HEALTH & WELFARE					
3		FY17 Proposed Decision Units					
4		Revision #2 - November 2, 2015					
5							
6	Dept.			One		Funding	
7	Priority/DU #	Division	Description	Time	FTE	General	Total
30	12.22	Medicaid	Electronic Health Records Incentive Program	N	-	$ 69,600	$ 17,102,100
31	12.23	Support Services	The Department of Health and Welfare (DHW) is requesting funding of $53,400 ($26,500 general funds and $26,900 federal funds) be transferred to the Office of the Attorney General (AG) to support an Administrative Assistant position. During the 2015 legislative session, DHW received approval to transfer the funding and authority of two administrative legal support positions to the AG in SFY 2016. In preparing for this transfer it came to our attention DHW had overlooked a third Administrative Assistant position that supports the Region 3 Deputy Attorney General. This third position is not a DHW employee, but is staffed by a temporary agency	N		$ (26,500)	$ (53,400)
32	12.24	Public Health	Administration requests additional general fund to cover a portion of the Business Analyst salary and to provide for limited operating budget for the Division's business operations bureau. The business analyst position was formerly funded by federal grants and the division would like to move this position onto the allocating grant. Operational funds are being requested to support training and consultative efforts around public health accreditation, quality improvement, strategic planning, SharePoint development, and data analytics.	N		$ 49,600	$ 92,600
33	12.25	Behavioral Health	Clinical Application Specialist	N	1.0	$ 62,600	$ 62,600
34	12.26	Medicaid	Improved integrity of provider enrollment	Y	-	$ 100,600	$ 1,005,600
36	12.28	Public Health	TRICARE vaccines: This is a one-time request of General Funds in the amount of $596,000 for the Idaho Immunization Program (IIP) for SFY 2017. These funds will be used to cover the potential gap in vaccine funding as a result of TRICARE not participating in the Idaho Vaccine Assessment Fund. TRICARE is the health care program for the armed services. Their failure to participate in the vaccine assessment places the children of military families serving our country at risk for not receiving their childhood vaccines.	Y		$ 596,000	$ 596,000
37	12.29	Public Health	Tobacco Prevention: One-time Millennium Fund request to provide free combination NRT and to account for a likely increase in volume; provide online cessation services and telephonic cessation counseling services; to conduct a comprehensive counter marketing program; conduct evaluation.	Y			$ 2,706,700
38	12.30	Public Health	Expanded Access: Directed by the Governor's Executive Order 2015-03, the division requests funding to continue the expanded access program for the investigational drug Epidiolex™ for the second year for children with severe epilepsy.	N		$ 128,000	$ 12[illegible]

	B	E	I	J	K	L	P
1							
2		DEPARTMENT OF HEALTH & WELFARE					
3		FY17 Proposed Decision Units					
4		Revision #2 - November 2, 2015					
5							
6	Dept.			One		Funding	
7	Priority/DU #	Division	Description	Time	FTE	General	Total
40	12.32	Public Health	WIC: One FTE to support the program as they transition, implement and evaluate eWIC which is the move from paper benefits to electronic benefits. A contractor is being hired to conduct the planning phase, but an FTE will be able to take the planning input and implement the new system. Funding for this position is 100% federal WIC NSA grant funds.	N	1.0		$ 82,600
41	12.33	Behavioral Health	SHS Temp Employees to Classified	N	8.65	$ -	$ -
42							
43		TOTAL			25.65	$ 12,306,200	$ 58,404,500
44							
45							
46							
47							
48			DIVISION SUB-TOTALS:				
49			Behavioral Health			$ 4,341,400	$ 4,607,200
50			Councils			$ -	$ -
51			FACS			$ 130,000	$ 260,000
52			Public Health			$ 943,600	$ 3,775,900
53			Support Services			$ 319,700	$ 206,600
54			Licensing & Certification			$ 43,600	$ 87,000
55			Healthcare Policy Initiatives			$ -	$ 1,421,700
56			Medicaid			$ 3,507,900	$ 30,129,500
57			Welfare			$ 3,020,000	$ 17,916,600
58			Welfare/Medicaid/ITSD			$ -	$ -
59			TOTAL			$ 12,306,200	$ 58,404,500
60			CHECK FIGURE			$ 12,306,200	$ 58,404,500
61			VARIANCE			$ -	$ -
62							$ -

	A	B	C	D	E	F
1	DEPARTMENT SUMMARY AND CERTIFICATION					
2	AGENCY: Department of Health & Welfare		Agency No.: 270		FY 2017 Request	
3	FUNCTION:		Function No.:		Page 1 of 1 Pages	
4	ACTIVITY:		Activity No.:	VARIANCE - REVISION #2 TO ORIGINAL SUBMISSION		
5						
6	In accordance with 67-3503, Idaho Code, I certify the attached forms properly state the receipts and expenditures of the department					
7	(agency, office, or institution) for the fiscal years indicated. The summary of expenditures by major program, fund source, and					
8	standard class is indicated below.					
9				Signature of Department Director		Date
10						
11						September 1, 2015
12		FY 2015	FY 2015	FY 2016	FY 2016	FY 2017
13		Total	Actual	Original	Estimated	Total
14	By Major Function/Activity	Appropriation	Expenditures	Appropriation	Expenditures	Request
15	Indirect Support Services	-	-	-	1,301,800	31,600
16	Public Health Services	-	-	-	2,706,700	(127,000)
17	Self-Reliance	-	-	-	-	24,300
18	Medical Assistance	-	-	-	7,400,600	30,773,300
19	Child Welfare	-	-	-	-	21,100
20	Mental Health Services	-	-	-	-	16,600
21	Psychiatric Hospitalization	-	-	-	511,600	565,900
22	Substance Abuse	-	-	-	-	-
23	Developmental Disabilities Services	-	-	-	-	38,300
24	Service Integration	-	-	-	-	1,300
25	Medically Indigent Administration	-	-	-	-	-
26	Healthcare Policy Initiatives	-	-	-	-	-
27	Licensing & Certification	-	-	-	-	800
28	Independent Councils and Commissions	-	-	-	-	(100,000)
29						
30	TOTAL	-	-	-	11,920,700	31,246,200
31		Total	Actual	Original	Estimated	Total
32	By Fund Source	Appropriation	Expenditures	Appropriation	Expenditures	Request
33	General	-	-	-	2,945,700	4,670,400
34	Dedicated	-	-	-	2,375,400	14,848,500
35	Federal	-	-	-	6,599,600	11,727,300
36						
37	TOTAL	-	-	-	11,920,700	31,246,200
38		Total	Actual	Original	Estimated	Total
39	By Object	Appropriation	Expenditures	Appropriation	Expenditures	Request
40	Personnel Costs	-	-	-	(1,000)	(91,400)
41	Operating Expenditures	-	-	-	4,521,100	753,900
42	Capital Outlay	-	-	-	-	(184,800)
43	Trustee and Benefit Payments	-	-	-	7,400,600	30,768,500
44	Lump Sum	-	-	-	-	-
45	TOTAL	-	-	-	11,920,700	31,246,200
46						
47	TOTAL FTP	-	-	-	-	8.65
48						

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	A	B	C	D	E	F
1	DEPARTMENT SUMMARY AND CERTIFICATION					
2	AGENCY: Department of Health & Welfare		Agency No.: 270		FY 2017 Request	
3	FUNCTION:		Function No.:		Page 1 of 1 Pages	
4	ACTIVITY:		Activity No.:		Original Submission ___	or Revision No. 2
5						
6	In accordance with 67-3503, Idaho Code, I certify the attached forms properly state the receipts and expenditures of the department					
7	(agency, office, or institution) for the fiscal years indicated. The summary of expenditures by major program, fund source, and					
8	standard class is indicated below.					
9				Signature of Department Director		Date
10						
11						November 2, 2015
12		FY 2015	FY 2015	FY 2016	FY 2016	FY 2017
13		Total	Actual	Original	Estimated	Total
14	By Major Function/Activity	Appropriation	Expenditures	Appropriation	Expenditures	Request
15	Indirect Support Services	43,289,400	43,870,700	38,057,900	39,205,700	44,505,200
16	Public Health Services	110,593,500	100,200,400	110,359,900	113,091,600	114,359,500
17	Self-Reliance	162,489,800	156,372,000	149,545,500	149,545,500	165,541,900
18	Medical Assistance	2,037,051,000	1,997,242,800	2,103,501,600	2,114,820,800	2,214,626,300
19	Child Welfare	60,057,100	56,991,600	63,531,700	63,394,700	64,867,600
20	Mental Health Services	35,243,800	31,536,500	36,713,000	36,753,000	41,344,900
21	Psychiatric Hospitalization	32,520,200	34,039,700	34,618,200	35,391,800	37,578,000
22	Substance Abuse	16,983,000	13,948,300	16,675,900	16,826,300	16,882,900
23	Developmental Disabilities Services	32,041,200	25,255,900	30,316,400	29,904,000	30,761,200
24	Service Integration	5,832,400	5,208,000	5,886,400	5,886,400	5,983,300
25	Medically Indigent Administration	82,000	80,900	-	-	-
26	Healthcare Policy Initiatives	3,479,800	129,900	8,772,100	10,035,900	10,220,400
27	Licensing & Certification	5,833,400	5,900,600	6,306,200	6,630,200	6,808,900
28	Independent Councils and Commissions	4,794,700	4,202,400	8,998,400	9,013,300	8,982,900
29						
30	TOTAL	2,550,291,300	2,474,979,700	2,613,283,200	2,630,499,200	2,762,463,000
31		Total	Actual	Original	Estimated	Total
32	By Fund Source	Appropriation	Expenditures	Appropriation	Expenditures	Request
33	General	620,120,600	611,773,100	649,480,500	645,210,500	675,690,000
34	Dedicated	328,124,100	317,977,400	340,366,000	343,561,800	372,847,500
35	Federal	1,602,046,600	1,545,229,200	1,623,436,700	1,641,726,900	1,713,925,500
36						
37	TOTAL	2,550,291,300	2,474,979,700	2,613,283,200	2,630,499,200	2,762,463,000
38		Total	Actual	Original	Estimated	Total
39	By Object	Appropriation	Expenditures	Appropriation	Expenditures	Request
40	Personnel Costs	192,842,500	180,658,200	198,265,600	196,400,500	208,183,700
41	Operating Expenditures	171,158,000	155,557,800	169,908,900	178,028,700	188,231,100
42	Capital Outlay	4,826,600	7,305,000	367,800	367,800	3,015,400
43	Trustee and Benefit Payments	2,178,639,200	2,131,458,700	2,244,740,900	2,255,702,200	2,360,326,100
44	Lump Sum	2,825,000	-	-	-	2,706,700
45	TOTAL	2,550,291,300	2,474,979,700	2,613,283,200	2,630,499,200	2,762,463,000
46						
47	TOTAL FTP	2,846.16	2,846.16	2,844.76	2,853.02	2,877.43
48						

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	A	B	C	D	E	F
1	DEPARTMENT SUMMARY AND CERTIFICATION					
2	AGENCY: Department of Health & Welfare		Agency No.: 270		FY 2017 Request	
3	FUNCTION:		Function No.:		Page 1 of 1 Pages	
4	ACTIVITY:		Activity No.:		**Original Submission** X or Revision No. ___	
5						
6	In accordance with 67-3503, Idaho Code, I certify the attached forms properly state the receipts and expenditures of the department					
7	(agency, office, or institution) for the fiscal years indicated. The summary of expenditures by major program, fund source, and					
8	standard class is indicated below.					
9				Signature of Department Director		Date
10						
11						September 1, 2015
12		FY 2015	FY 2015	FY 2016	FY 2016	FY 2017
13		Total	Actual	Original	Estimated	Total
14	By Major Function/Activity	Appropriation	Expenditures	Appropriation	Expenditures	Request
15	Indirect Support Services	43,289,400	43,870,700	38,057,900	37,903,900	44,473,600
16	Public Health Services	110,593,500	100,200,400	110,359,900	110,384,900	114,486,500
17	Self-Reliance	162,489,800	156,372,000	149,545,500	149,545,500	165,517,600
18	Medical Assistance	2,037,051,000	1,997,242,800	2,103,501,600	2,107,420,200	2,183,853,000
19	Child Welfare	60,057,100	56,991,600	63,531,700	63,394,700	64,846,500
20	Mental Health Services	35,243,800	31,536,500	36,713,000	36,753,000	41,328,300
21	Psychiatric Hospitalization	32,520,200	34,039,700	34,618,200	34,880,200	37,012,100
22	Substance Abuse	16,983,000	13,948,300	16,675,900	16,826,300	16,882,900
23	Developmental Disabilities Services	32,041,200	25,255,900	30,316,400	29,904,000	30,722,900
24	Service Integration	5,832,400	5,208,000	5,886,400	5,886,400	5,982,000
25	Medically Indigent Administration	82,000	80,900	-	-	-
26	Healthcare Policy Initiatives	3,479,800	129,900	8,772,100	10,035,900	10,220,400
27	Licensing & Certification	5,833,400	5,900,600	6,306,200	6,630,200	6,808,100
28	Independent Councils and Commissions	4,794,700	4,202,400	8,998,400	9,013,300	9,082,900
29						
30	TOTAL	2,550,291,300	2,474,979,700	2,613,283,200	2,618,578,500	2,731,216,800
31		Total	Actual	Original	Estimated	Total
32	By Fund Source	Appropriation	Expenditures	Appropriation	Expenditures	Request
33	General	620,120,600	611,773,100	649,480,500	642,264,800	671,019,600
34	Dedicated	328,124,100	317,977,400	340,366,000	341,186,400	357,999,000
35	Federal	1,602,046,600	1,545,229,200	1,623,436,700	1,635,127,300	1,702,198,200
36						
37	TOTAL	2,550,291,300	2,474,979,700	2,613,283,200	2,618,578,500	2,731,216,800
38		Total	Actual	Original	Estimated	Total
39	By Object	Appropriation	Expenditures	Appropriation	Expenditures	Request
40	Personnel Costs	192,842,500	180,658,200	198,265,600	196,401,500	208,275,100
41	Operating Expenditures	171,158,000	155,557,800	169,908,900	173,507,600	187,477,200
42	Capital Outlay	4,826,600	7,305,000	367,800	367,800	3,200,200
43	Trustee and Benefit Payments	2,178,639,200	2,131,458,700	2,244,740,900	2,248,301,600	2,329,557,600
44	Lump Sum	2,825,000	-	-	-	2,706,700
45	TOTAL	2,550,291,300	2,474,979,700	2,613,283,200	2,618,578,500	2,731,216,800
46						
47	TOTAL FTP	2,846.16	2,846.16	2,844.76	2,846.76	2,864.76
48						

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