

**IDAHO BOARD OF HEALTH AND WELFARE
MINUTES
August 23, 2018**

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
Russ Barron, Secretary
Dr. Richard Roberge
James Giuffré
Linda Hatzenbuehler
Timothy Rarick
Tammy Perkins
Senator Lee Heider
Participating via phone: Tom Stroschein & Wendy Jaquet

STAFF PRESENT

Lisa Hettinger, Deputy Director, Behavioral Health, Medicaid, and Public Health, OHPI
David N. Taylor, Deputy Director, Support Services
Tamara Prisock, Division Administrator, Licensing and Certification
Kathie Brack, Special Assistant to the Director
Fernando Castro, Program Supervisor, Criminal History Unit
Niki Forbing-Orr, Public Information Manager
Chris Smith, Public Information Officer
Dieuwke Spencer, Deputy Division Administrator, Public Health
Chris Freeburne, Eastern Hub Regional Director
Elke Shaw-Tulloch, Division Administrator, Public Health
Steve Bellomy, Bureau Chief, Audits and Investigations
Miren Unsworth, Division Administrator, Family and Community Services
Robin Butrick, Administrative Assistant 2, Medicaid
James Aydelotte, Bureau Chief, Vital Statistics
Lynn Overman, Liaison to the Board

OTHERS PRESENT

Brian Kane, Assistant Chief Deputy Attorney General
Nicole McKay, Lead Deputy Attorney General
Alana Minton, Deputy Attorney General
Mark Withers, Deputy Attorney General
Teri Whilden, Attorney
Denise Rosen, Deputy Attorney General

Melissa Davlin, Idaho Public TV

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, August 23, 2018 at the Pete T. Cenarrusa Bldg., 450 W. State Street, Boise, Idaho.

ROLL CALL

Director Barron, Secretary, called the roll. Roll call showed eight (8) members present. With seven (7) voting members present, Chairman Kerby declared a quorum. Absent and excused was Representative Fred Wood. Board members Wendy Jaquet and Senator Lee Heider arrived after the roll call, bringing the number of members present to 10.

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 17, 2018

Motion: James Giuffré moved that the minutes of the May 17, 2018 Board meeting be adopted as prepared.

Second: Linda Hatzenbuehler

Roll Call Vote:

Ayes: **Giuffré, Kerby, Hatzenbuehler, Roberge, Rarick, Stroschein**

Nays: **None**

Absent: Wendy Jaquet

Motion Carried

COMMENTS FROM BOARD MEMBERS

Updated Organization charts and Open Meeting Law manuals were handed out. **(See Attachments 1 & 2)**

Mr. Kerby reminded members that Board elections will take place in November. Upon inquiry, Darrell Kerby and Tom Stroschein stated they are willing to continue serving as Chairman and Vice Chairman if the Board so elects.

Wendy Jaquet joined the meeting via phone at 8:15 a.m. and Senator Heider arrived at 8:25 a.m. Richard Roberge announced he is resigning from the Board. Board members thanked him for his service since January of 1999.

APPROVAL OF TEMPORARY AND PENDING RULES:

CHU DOCKET NO. 16-0506-1801 CRIMINAL HISTORY AND BACKGROUND CHECKS – UPDATES TO TEMPORARY RULE

Presenter: Fernando Castro

Fernando Castro, Program Supervisor of the Criminal History Unit, presented the Criminal History Unit temporary rule docket update for the Board's approval.

Motion: James Giuffré moved that the Idaho Board of Health and Welfare adopt the "Temporary" rules for the "Criminal History and Background Checks - Updates", presented under Docket No. 16-0506-1801, effective August 23, 2018.

Second: Richard Roberge

Vote: Ayes: **Giuffré, Kerby, Hatzenbuehler, Roberge, Rarick, Stroschein, Jaquet**

Nays: **None**

Motion Carried

(See Attachment 3)

CHU DOCKET NO. 16-0506-1801 CRIMINAL HISTORY AND BACKGROUND CHECKS – PENDING RULE

Presenter: Fernando Castro

Fernando Castro, Program Supervisor of the Criminal History Unit, presented the Criminal History Unit pending rule docket for the Board's approval.

Motion: Timothy Rarick moved that the Idaho Board of Health and Welfare adopt the "Pending" rules for the "Criminal History and Background Checks", presented under Docket No. 16-0506-1801, effective Sine Die, 2019.

Second: Linda Hatzenbuehler

Vote: Ayes: **Giuffré, Kerby, Hatzenbuehler, Roberge, Rarick, Stroschein, Jaquet**

Nays: **None**

Motion Carried

(See Attachment 3)

IDAHO OPEN MEETING LAW PRESENTATION

Brian Kane, Assistant Chief Deputy Attorney General, presented updates to the Idaho Open Meeting Law manual and gave a PowerPoint presentation. **(See Attachment 4)**

The purpose of the Open Meeting Law is to instill public confidence in government by making meetings accessible to the public. He explained that it does not guarantee members of the public the right to speak during the meeting, although a meeting Chairman may allow time for public comment. Once a meeting has started and the doors have been closed, it is appropriate to have a sign posted outside the room to indicate the meeting is open to the public and they are free to enter.

Any subject that will require a vote during the meeting must be listed as an *Action Item* on the agenda and must be included in the minutes. Guidance for this and posting of the agenda and meeting announcement are outlined in the Open Meeting Law manual. Digital copies of the manual are available on the Attorney General's website:

<https://www.ag.idaho.gov/content/uploads/2018/04/OpenMeeting.pdf>

Matters closed to the public may be discussed during an Executive Session. These matters are listed in Idaho Code § 74-206 and must be identified specifically on the agenda and in the minutes. A motion to enter an Executive Session must be made and voted on by roll call. Minutes must list each topic as well as the start and end time for each topic discussion. A sample template of this motion and check lists to assist with Open Meeting law compliance are found at the back of the manual.

Violations of the Open Meeting Law are subject to fine. These fines are paid by individual members and not the governing body. A violation is cured by repealing any action taken, or disregarding deliberations that occurred in the non-compliant meeting. The governing body may repeat the action or deliberation in a properly noticed new meeting.

EXECUTIVE SESSION

Motion: Linda Hatzenbuehler moved that the Board, Pursuant to Idaho Code § 74-206, convene in Executive Session to communicate with legal counsel regarding pending/imminently-likely litigation [Idaho Code § 74-206(1)(f)] regarding birth certificates AND THE VOTE TO DO SO BY ROLL CALL.

Second: Jim Giuffré

Roll Call Vote:

Ayes: **Kerby, Giuffré, Hatzenbuehler, Roberge, Stroschein, Jaquet, Rarick**
Nays: **None**

Motion Carried

Nicole McKay, Division Chief Deputy Attorney General, reported to the Board on 2 cases of pending litigation and 2 cases of imminently-likely litigation.

No final action was taken and no final decision was made by the Board.

Motion: Linda Hatzenbuehler moved that the Board end the Executive Session.

Second: Jim Giuffré

Roll Call Vote:

Ayes: **Kerby, Giuffré, Hatzenbuehler, Roberge, Stroschein, Jaquet, Rarick**

Nays: **None**

Motion Carried

Convene at 10:35 a.m.

Adjourn at 11:35 a. m.

MEDICAID/ BEHAVIORAL HEALTH/ SHIP/PUBLIC HEALTH UPDATE

Lisa Hettinger, Deputy Director of Medicaid, Behavioral Health, OHPI and Public Health, reported that the Office of Healthcare Policy Initiatives (OHPI) is in the last year of a federal SIM grant. A financial analysis for award year 3 was provided. **(See Attachment 5)**

There has been much success with payers, providers and hospitals working together to create a strong foundation for payment reform from a fee-for-service model to a value-based model. The Idaho Healthcare Coalition (IHC), using the State Health Innovation Plan (SHIP) will continue work to keep that foundation from eroding. Funding to continue this work will be requested from the Legislature. Authority to receive public and/or private grants will also be requested.

The non-emergency medical transportation (NEMT) provider Veyo was replaced by Medical Transportation Management (MTM). The implementation phase went well, but MTM has deficiencies with technology, which are causing service issues for participants, providers and drivers. The Department of Health and Welfare (DHW) has requested performance improvement plans and updates regarding solutions from MTM.

Individuals who are eligible for both Medicare and Medicaid will now be able to choose from two managed care companies rather than one. This new offering is being launched in Twin Falls before moving statewide.

An initiative has qualified for the 2018 election ballot that seeks to expand Medicaid to individuals from 0% to 138% of the federal poverty level. The actuarial firm Milliman Inc. has provided a report regarding the financial impacts this ballot initiative will have on the state of Idaho. This report is available on the DHW website and includes a FAQ section. A handout was provided to the Board with highlights from the Milliman report. **(See Attachment 6)**

Elke Shaw-Tulloch, Division Administrator for Public Health reported on strategic plans for the Suicide Prevention Plan (SPP) and a registry for Advanced Care Planning (ACP).

The SPP has adopted 12 of 13 goals from the National Strategic Plan. This includes involving healthcare providers as screeners for possible suicide risks, as well as focusing education, communication and outreach in local communities. The state has also adopted Tier 1 priorities to determine funding requests.

Currently, the state-wide Advanced Care Planning registry is housed at the Secretary of State's office. The Health Quality Planning Commission (HQPC) and Honoring Choices Idaho are working to bring the registry under the DHW. This will need to be discussed with legislators and will be presented after the cabinet change in January.

WELFARE/ FAMILY AND COMMUNITY SERVICES UPDATE

Miren Unsworth, Division Administrator of Family and Community Services (FACS), reviewed the Biannual Report of staff workload and caseload. **(See Attachment 7)** This report is required by the Legislature. A new computer system is being designed to assist child welfare staff with daily workloads and will be 50% federally funded. The new Bureau of Operational Design will design the system with the end-user in mind. The Microsoft platform will use functioning models from other states and will be built in modules, so adjustments can be made to accommodate the specific needs of the program.

Dave Taylor, Deputy Director of Support Services reported for Deputy Director Lori Wolff (absent) that Child Support Services currently provided in Region 1 will be consolidated and handled in the Boise office. This is expected to occur in November or December of this year. Employees affected by this change have been offered the opportunity to transfer to vacant positions in Boise. These changes are due to efficiencies and a reduced need for staff.

SUPPORT SERVICES/LICENSING AND CERTIFICATION UPDATE

Dave Taylor, Deputy Director of Support Services, reviewed FY 2018 appropriations and expenditures. **(See Attachment 8)** "Non-Cog" funds refer to authorized spending for the opioid crisis.

\$6 million will be reverted to the State Treasury.

Dave also reported for the Division of Licensing and Certification (L&C). The Idaho Health Care Association (IHCA) approached the L&C Division for help with concerns outlined in the Office of Performance Evaluations (OPE) report released January 2018. Several work groups were created in response. A summary of progress for each group was provided. **(See Attachment 9)**

Reports on facility surveys due/overdue and staffing levels were provided and reviewed. **(See Attachments 10 & 11)**

SFY 2020 DIVISION BUDGETS

Budget submissions are due to the Governor's office and the Legislative Services Office (LSO) by September 4. A draft overview of budget requests was provided and discussed, **(See Attachment 12)** as well as a draft breakdown of requests by Division. **(See Attachment 13)**

Per Lisa Hettinger, Medicaid's supplemental requests are based upon new information gathered throughout the year. For instance, Idaho State University (ISU) was unable to use Medicaid as a

funding source for its Graduate Medical Education (GME) program, so funds initially appropriated to them are being reverted. In addition, contracts open for rebid result in changes to funding requests.

Behavioral Health received a large federal grant for the opioid crisis; DHW will request separate funding for Substance Use Disorder (SUD) treatment.

Revisions to the budget may be submitted to the Governor's office and LSO until October 31.

DEPARTMENT UPDATE AND 2019-2023 STRATEGIC PLAN

Director Russ Barron reviewed focus areas of the current Strategic Plan. Board members received a one-page overview of the Strategic Plan with links to access the complete Plan. (See **Attachment 14**)

Objective 1: Previously, healthcare access for Idahoans who fell in the insurance gap between Medicaid qualification and subsidized coverage was a significant area of focus. After several attempts to present bills that all failed before the Legislature, the DHW will now concentrate on healthcare services and cost reductions.

Objective 2: Construction of a new skilled nursing facility at State Hospital South has begun. The anticipated opening is summer 2020. This will replace the 80-year-old Syringa Chalet.

Objective 3: The Department continues to develop programs to mitigate the growing national problems of suicide, opioid use, Alzheimer's disease and dementia. While the concerns and associated programs are not new, they are now specifically identified in the Strategic Plan. Budget requests have been made to match funding with universities to train and educate low-income adults who receive state assistance. The Live Better Idaho website continues to connect Idahoans to local services.

The Department is sensitive to employee safety concerns while providing customer service to a population dealing with the stress and anxiety of financial difficulties. This area of concern is now included in the Strategic Plan.

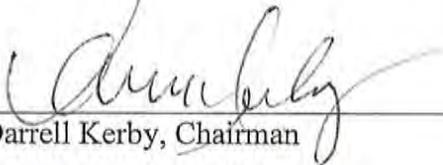
The secure treatment facility at Southwest Idaho Treatment Center (SWITC) should be operational in November. Members of a stakeholder advisory group are being recruited; they will make recommendations directly to Director Barron.

With the initiative to expand Medicaid on the November ballot, the DHW is providing information to legislators and the public regarding the likely financial impacts to the state. The DHW is not taking a position for or against the ballot measure. If the initiative passes and is not repealed by the Legislature, Medicaid coverage for the GAP population will occur starting in January of 2020.

ADJOURNMENT

The next meeting of the Idaho Board of Health and Welfare is scheduled to be held November 15, 2018. There being no further business to come before the Board, Chairman Kerby adjourned the meeting at 1:35 p.m.

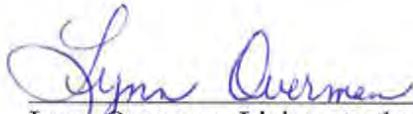
Respectfully signed and submitted by:



Darrell Kerby, Chairman



Russell S. Barron, Secretary



Lynn Overman, Liaison to the Board

DEPARTMENT OF HEALTH AND WELFARE

GOVERNOR C.L. "BUTCH" OTTER

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Service Integration
Navigation Services
Idaho 211 CareLine

Child and Family Services
Child Protection
Foster Care
Adoption
Independent Living for Older Youth
Residential Care Licensing

Community Developmental Disabilities Services
Children's Developmental Disabilities
Crisis Prevention & Court Services
Infant Toddler Program
Southwest Idaho
Treatment Center (SWITC)
Head Start Collaboration

Benefits Program
Food Stamps (SNAP)
Idaho Child Care Assistance
Medicaid Eligibility
Temporary Assistance for Families in Idaho (TAFI)
Aid to the Aged, Blind and Disabled (AABD)
Tax Credit Subsidies for Health Insurance

Child Support Services
Services Coordination
Nutrition-related Services and Food Commodities
Low-Income Home Energy Assistance
Telephone Assistance
Child Care Provider Education/Licensing
Weatherization
Community Services Block Grant (CSBG)

Adult Mental Health Services
Children's Mental Health Services
Substance Use Disorders Services
State Hospital North
State Hospital South

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Mental Health
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Long Term Care
Systems and Project Management
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Clinical and Preventive Services
Maternal and Child Health
Family Planning
HIV, STD, and Hepatitis Prevention and Care
Women, Infants, and Children
Supplemental Nutrition (WIC)

Community and Environmental Health
Oral Health
Chronic Disease
Cancer
Diabetes
Heart Disease
Risk Reduction and Prevention
Tobacco Prevention
Physical Activity and Nutrition
Environmental Health

Vital Records and Health Statistics
Health Statistics and Data Analysis
Vital Records Management and Services

Rural Health and Primary Care
Rural Health Care Access
Hospital Improvement
Shortage Designations

Communicable Disease Prevention
Epidemiology
Food Protection
Immunization
Refugee Health Screening
Healthcare Associated Infections
Emergency Medical Services and Preparedness
EMS Communications Center
EMS Standards and Compliance
Public Health Preparedness
Time Sensitive Emergencies

Laboratories
Environmental
Clinical
Laboratory Improvement
Emergency Preparedness

Suicide Prevention
Youth Services
Hotline Services
Public Awareness

Business Operations
Public Health Accreditation
Quality Improvement
Federal Compliance
Data Analytics

Facility Standards
Certified Family Homes
Developmental Disability Agencies
Residential and Assisted Living
Rules Unit

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**Office of the
Attorney General**

**Idaho
Open Meeting Law
Manual**

Idaho Code §§ 74-201 through 74-208



JULY 2018

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**State of Idaho
Office of Attorney General
Lawrence Wasden**

INTRODUCTION

Open and honest government is fundamental to a free society. The Idaho Legislature formalized our state's commitment to open government by enacting the Idaho Open Meeting Law in 1974. The Open Meeting Law codifies a simple, but fundamental, Idaho value: The public's business ought to be done in public.

One of my duties as Attorney General is to ensure that state agencies and officials comply with the Idaho Open Meeting Law. The 44 elected county prosecuting attorneys have the same duty with regard to agencies and officials of local government.

My office is committed to assisting Idaho's state and local officials in complying with their obligation under this law. Toward that end, my office regularly conducts training sessions for state and local officials throughout Idaho.

My office has prepared this updated manual for your use and reference. This manual's purpose is to inform government agencies of their obligations, and citizens of their rights, under Idaho's Open Meeting Law.

Sincerely,

LAWRENCE G. WASDEN
Attorney General

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**POLICY CONSIDERATIONS UNDERLYING THE OPEN
MEETING LAW**

The Idaho Open Meeting Law¹ was designed to ensure transparency of the legislative and administrative processes within state and local governments. The Legislature articulated this policy in the Act's first section:

The people of the state of Idaho in creating the instruments of government that serve them, do not yield their sovereignty to the agencies so created. Therefore, the legislature finds and declares that it is the policy of this state that the formation of public policy is public business and shall not be conducted in secret.²

Open meetings offer the public a chance to observe the way their government operates and to influence their government in positive and important ways. Closed meetings often can lead to distrust of governmental decisions and acts.

Those who conduct meetings must remember this policy above all when deciding whether a meeting should be open. If a meeting is closed, there must be a compelling reason, supported by the statute itself, or by subsequent court rulings.

Remember, when in doubt, open the meeting.

¹ Idaho Code §§ 74-201 to 74-208 (2015).

² *Id.* at § 74-201.

QUESTIONS AND ANSWERS

PUBLIC BODIES OR AGENCIES COVERED BY THE OPEN MEETING LAW

Question No. 1: What public bodies or agencies are subject to the Open Meeting Law?

Answer: The Open Meeting Law provides: "All meetings of a *governing body* of a *public agency* shall be open to the public and all persons shall be permitted to attend any meeting except as otherwise provided by this act. . . ."³ "Governing body" is defined to mean the members of any public agency "with the authority to make decisions for or recommendations to a public agency regarding any matter."⁴ "Public agency" is defined to encompass various categories of governmental entities and subdivisions at all levels of government.⁵ The governing bodies of public agencies that are created by or pursuant to statute, as well as public agencies that are created by the Idaho Constitution, are subject to the Open Meeting Law.⁶ The only public agencies that are statutorily exempt from the Open Meeting Law are the courts and their agencies and divisions, the judicial council and the district magistrates commission.⁷ Deliberations of the Board of Tax Appeals, the Public Utilities Commission and the Industrial Commission, in a fully submitted contested case proceeding, are also exempted from the requirement that they take place in open public meeting.⁸

Question No. 2: Does the Open Meeting Law apply to a public agency headed by a single individual as contrasted with a multi-member body?

Answer: No. Section 74-202(5) defines a governing body to mean "the members of any public agency *that consists of two (2) or more members*, with the authority to make decisions for or recommendations to a public agency regarding any matter." (Emphasis added.) By definition, the Open Meeting Law applies only to a governing body which consists of two or more members

³ Idaho Code § 74-203(1) (emphasis added).

⁴ Idaho Code § 74-202(5).

⁵ Idaho Code § 74-202(4).

⁶ Attorney General Opinion No. 77-30

⁷ Idaho Code § 74-202(4)(a).

⁸ Idaho Code § 74-203.

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and thus does not apply to a public agency headed by a single individual.

This also extends to *employees* of a public agency headed by a single individual; meetings held by employees of a department headed by a single individual (or multiple parties, for that matter) do not have to be open to the public. An illustrative example of this principle arose in the 2008 case of *Safe Air For Everyone v. Idaho State Dep't of Agriculture*.⁹ There, the Idaho State Department of Agriculture (ISDA) invited representatives from federal, state, and tribal agencies to a meeting to discuss issues surrounding crop residue burning. The meeting was closed to the public. Several employees of the ISDA attended the meeting, but the director did not.

An environmental group sued the ISDA, arguing that the employees' participation in the meeting constituted a violation of the Open Meeting Law because the director had delegated decision-making authority to the employees, thus making the employees a "governing body." The Supreme Court disagreed, stating that

[b]y definition, a 'governing body' [under the Act] must have 'the authority to make decisions for or recommendations to a public agency regarding any matter.' The employees do not have 'the authority' to make decisions for or recommendations to the ISDA. Any decision they make can be countermanded by a supervisor, and their supervisor can likewise deny them permission to make recommendations. . . . [T]he authority to make decisions for the agency or recommendations to the agency must be statutorily based.¹⁰

Of course, it should be noted that under the Idaho Administrative Procedure Act (A.P.A.) various state agencies must hold open public meetings when they adopt rules or when they determine certain contested cases.¹¹ The open public meeting requirements of the A.P.A. apply regardless of whether the public agency is headed by a single individual or by a multi-member body.

⁹ 145 Idaho 164, 177 P.3d 378 (2008).

¹⁰ *Id.* at 168, 177 P.3d at 382.

¹¹ Idaho Code § 67-5201 to 67-5292.

Question No. 3: When is a subagency of a public agency subject to the Open Meeting Law?

Answer: A subagency of a public agency is subject to the Open Meeting Law if the subagency itself “is created by or pursuant to statute or executive order of the governor, ordinance or other legislative act.”¹² In *Cathcart v. Anderson*, the Washington Supreme Court interpreted a Washington statute similar to section 74-202(4)(d). The court held that, under the language “created by or pursuant to,” it is not necessary that a statute, ordinance or other legislative act expressly create a subagency so long as there is an enabling provision which allows that subagency to come into existence at some future time.

Question No. 4: Are advisory committees, boards and commissions subject to the Open Meeting Law?

Answer: The Open Meeting Law defines “public agency” to include “any subagency of a public agency which is created by or pursuant to statute or executive order of the governor, ordinance, or other legislative act,”¹³ and “governing body” to include any body “with the authority to make decisions for or *recommendations* to a public agency regarding any matter.”¹⁴ Thus, advisory committees, boards and commissions are subject to the Open Meeting Law if the body is created by or pursuant to statute, ordinance, or other legislative act and if the body has authority to make recommendations to a public agency.

In contrast, an administrative committee, board or commission is not subject to the Open Meeting Law if it is not entrusted with the formation of public policy, but merely carries out the public policy established by a governing body, and if its activities do not constitute the making of “decisions for or recommendations to” a public agency.¹⁵ Likewise, the Open Meeting Law does not apply to voluntary, internal staff meetings if the group is not created by or pursuant to statute, ordinance or other legislative act, even though the discussions may lead to recommendations to the governing

¹² Idaho Code § 74-202(4)(d); *Cathcart v. Anderson*, 85 Wash. 2d 102, 530 P.2d 313 (1975); Attorney General Opinion No. 7-75.

¹³ Idaho Code § 74-202(4)(d).

¹⁴ Idaho Code § 74-202(5) (emphasis added).

¹⁵ *Idaho Water Resources Board v. Kramer*, 97 Idaho 535, 572, 548 P.2d 45, 72 (1976).

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body.¹⁶ Generally, however, if you are ever unsure of whether a meeting should be open, it is this Office's recommendation to err on the side of opening the meeting.

Question No. 5: Does the Open Meeting Law apply to the governor?

Answer: The Open Meeting Law has no application to the governor when he is acting in his official executive capacity, since the Open Meeting Law does not apply to a public agency headed by a single individual.

**CHARITABLE ORGANIZATIONS (501C(3)) AND
HOMEOWNER'S ASSOCIATIONS**

Question No. 6: Do charitable organizations have to comply with the Idaho Open Meeting Law?

Answer: The Open Meeting Law applies only to governmental entities. Typically, charitable organizations are private. Generally, nonprofit organizations are governed by their chartering documents and bylaws. Additionally, Title 30, Chapter 3 of the Idaho Code, provides the legal foundation for Idaho nonprofits. Consult the chartering documents, bylaws and Idaho Code, Title 30, Chapter 3, to determine the requirements of corporate records and meetings.

Question No. 7: Do homeowners associations have to comply with the Idaho Open Meeting Law?

Answer: No. The Open Meeting Law applies only to governmental entities. Homeowners associations are private entities. Homeowners associations are generally governed by agreements between the members and the association and their bylaws. Members should consult their association documents and bylaws to determine the association rules for meetings.

¹⁶ See *Safe Air For Everyone v. Idaho State Dep't of Agriculture*, 145 Idaho 164, 177 P.3d 378 (2008); *People v. Carlson*, 328 N.E.2d 675 (Ill. App. Ct. 1975); *Bennett v. Warden*, 333 So.2d 97 (Fla. 1976).

PUBLIC ACTIONS OR ACTIVITIES COVERED BY THE OPEN MEETING LAW

Question No. 8: What constitutes a meeting under the Open Meeting Law?

Answer: The Open Meeting Law defines “meeting” to mean “the convening of a governing body of a public agency *to make a decision or to deliberate toward a decision* on any matter.”¹⁷ “Decision” is then defined to include “any determination, action, vote or final disposition upon a motion, proposal, resolution, order, ordinance or measure on which a vote of a governing body is required, *at any meeting at which a quorum is present.*”¹⁸

The term “deliberation” is also a defined term and means “the receipt or exchange of information or opinion relating to a decision, but shall not include informal or impromptu discussions of a general nature which do not specifically relate to a matter then pending before the public agency for decision.”¹⁹ Note that this does not require any discussion or preliminary decision making. Even the receipt of information relating to a “decision”—i.e., a measure on which the governing body will have to vote—amounts to deliberation, and therefore triggers the definition and requirements of a “meeting” under the Open Meeting Law.

Question No. 9: Does the term “meeting” include such things as informal gatherings, briefing sessions, informal discussions, attendance at social functions, etc.?

Answer: As noted above, a “meeting” is the convening of a governing body to make a decision or deliberate toward a decision. Additionally, a quorum must be present.²⁰

The California Court of Appeals discussed the dual facets of deliberation and action in *Sacramento Newspaper Guild v. Sacramento County Board of Supervisors*:

¹⁷ Idaho Code § 74-202(6) (emphasis added).

¹⁸ Idaho Code § 74-202(1) (emphasis added).

¹⁹ Idaho Code § 74-202(2).

²⁰ *Idaho Water Resources Board v. Kramer*, 97 Idaho 535, 571, 548 P.2d 45, 71 (1976).

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It [California's open meeting law] declares the law's intent that deliberation as well as action occur openly and publicly. Recognition of deliberation and action as dual components of the collective decision-making process brings awareness that the meeting concept cannot be split off and confined to one component only, but rather comprehends both and either. To "deliberate" is to examine, weigh and reflect upon the reasons for or against the choice Deliberation thus connotes not only collective discussion, but the collective acquisition and exchange of facts preliminary to the ultimate decision.²¹

The California court then reasoned and ruled:

An informal conference or caucus permits crystallization of secret decisions to a point just short of ceremonial acceptance. There is rarely any purpose to a non-public, pre-meeting conference except to conduct some part of the decisional process behind closed doors. Only by embracing the collective inquiry in discussion stages, as well as the ultimate step of official action, can an open meeting regulation frustrate these evasive devices. As operative criteria, formality and informality are alien to the law's design, exposing it to the very evasions it was designed to prevent. Construed in light of the Brown Act's objectives, the term "meeting" extends to informal sessions or conferences of board members designed for the discussion of public business.²²

A similar result was reached by the Florida Supreme Court in the case of *City of Miami v. Berns* wherein the Florida court ruled that public officials violate Florida's open meeting law when they meet privately or secretly and transact or agree to transact public business at a future time in a certain manner.²³ The Florida court went on to state that, regardless of whether a meeting or gathering is formal or informal, "[i]t is the law's intent that any meetings,

²¹ *Sacramento Newspaper Guild v. Sacramento County Bd. of Supervisors*, 69 Cal. Rptr. 480, 485 (Cal. Ct. App. 1968).

²² *Id.* at 487.

²³ *City of Miami v. Berns*, 245 So.2d 38 (Fla. 1971).

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relating to any matter on which foreseeable action will be taken, occur openly and publicly.”²⁴

The same considerations must be applied with respect to the Idaho Open Meeting Law. Therefore, it is the opinion of the Attorney General that the provisions of the Open Meeting Law must be complied with whenever a quorum of the members of the governing body of a public agency meets to decide or deliberate on matters which are within the ambit of official business. Those meetings can be formal, informal, or social. So long as a quorum is present and the intent is to deliberate or make a decision, then the meeting must be open.

The requirement that the Open Meeting Law be complied with whenever a quorum of a governing body meets to deliberate or to make a decision should not be evaded by holding smaller meetings with less than a quorum present or by having a go-between contact each of the governing body members to ascertain his/her sentiment.

Question No. 10: Since any meeting of two county commissioners constitutes a quorum under Idaho law, are county commissioners prohibited from having any contact with each other outside of a duly organized open meeting?

Answer: While it is the opinion of the Attorney General that the Open Meeting Law must be complied with whenever a quorum of the members of a governing body of a public agency meet to decide or deliberate on matters which are within the ambit of official business, this Office does not believe that the Legislature intended for the Open Meeting Law to act as a bar to all communications between individual county commissioners outside of open meetings.

Question No. 11: Are adjudicatory deliberations exempt from the Open Meeting Law?

Answer: Only for those agencies expressly exempted. The Open Meeting Law excludes the deliberations of certain agencies (the Board of Tax Appeals, the Public Utilities Commission and the Industrial Commission), in fully submitted adjudicatory proceedings,

²⁴ *Id.* at 41; see also *Canney v. Bd. of Pub. Instruction of Alachua Cnty*, 278 So.2d 260 (Fla. 1973); *Bd. of Pub. Instruction of Broward Cnty v. Doran*, 224 So.2d 693 (Fla. 1969).

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from the requirement of open public meeting.²⁵ In creating this exemption for adjudicatory deliberations by only these three agencies, it appears the Legislature intended that non-adjudicatory deliberations at these agencies, and all deliberations at all other agencies—i.e., except for the above-described informal or impromptu discussions of a general nature—must be conducted in a public meeting. Of course, the subject matter under adjudication may be separately identified under the Open Meeting Law as justifying a closed executive session.

Question No. 12: Can I still address questions and comments to a commissioner or board member individually related to a pending matter?

Answer: In other words, as representatives, can I still contact members of a governing body with unsolicited “information or opinion relating to a decision” that is pending before the public agency?²⁶ The Idaho Supreme Court has addressed this specific question.

In *Idaho Historic Preservation Council v. City Council of Boise*, a divided Court overturned a Boise City Council decision that allowed a corporation to demolish a building in Boise.²⁷ In reviewing an appeal from the City’s Preservation Commission, members of the City Council stated at the public [open] meeting that they had received numerous telephone calls concerning the issue. Although the Court framed the issue in terms of due process, it may also raise open meeting questions.

In overturning the City’s decision, the Court stated:

[W]hen a governing body sits in a quasi-judicial capacity, it must confine its decision to the record produced at the public hearing, and that failing to do so violates procedural due process of law. This Court has also observed that when a governing body deviates from the public record, it essentially conducts a second fact-gathering session without proper notice, a clear violation of due process. Since the substance of the telephone calls received by the members of the City Council was not

²⁵ Idaho Code § 74-203(2).

²⁶ Idaho Code § 74-202(2).

²⁷ *Idaho Historic Pres. Council v. City Council of Boise*, 134 Idaho 651, 8 P.3d 646 (2000).

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recorded or disclosed at the public hearing, the Commission had no opportunity to rebut any evidence or arguments the City Council may have received from the callers.

Id. at 654, 8 P.3d at 649 (internal citations omitted).

The Court concluded:

This decision does not hold the City Council to a standard of judicial disinterestedness. As explained above, members of the City Council are free to take phone calls from concerned citizens and listen to their opinions and arguments prior to a quasi-judicial proceeding. In order to satisfy due process, however, the identity of the callers must be disclosed, as well as a general description of what each caller said.²⁸

Therefore, in the event that unsolicited information is received and considered by a governing board member, the appropriate action is to disclose the source of the information and the substance of the information so that it may be included within the public record. In sum, any information that you wish to use to form the basis of your decision must be made a part of the public record.

PROCEDURAL REQUIREMENTS OF THE OPEN MEETING LAW

Question No. 13: What are the notice requirements of the Open Meeting Law?

Answer: The Open Meeting Law requires two types of notice: (1) meeting notice and (2) agenda notice. The notice requirements are satisfied by posting meeting notices and agendas in a prominent place at the principal office of the public agency, or, if no such office exists, at the building where the meeting is to be held. The notice for meetings and agendas shall also be posted electronically if the entity maintains an online presence through a website or a social media platform. The Open Meeting Law does not require publication of the notice in a newspaper or advertisement. However, other statutes governing particular entities may require publication of notice.

²⁸ *Id.* at 656, 8 P.3d at 651.

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The Open Meeting Law also requires that notice be posted at specific minimum times prior to the meeting. These times vary, depending on the type of meeting being held. The notice of an executive session must state the authorizing provision of law.

Question No. 14: What are the notice and agenda requirements for a regular meeting?

Answer: For “regular meetings,” the Open Meeting Law requires no less than a five (5) calendar day meeting notice and a forty-eight (48) hour agenda notice, unless otherwise provided by statute.²⁹ Any public agency that holds meetings at regular intervals at least once per calendar month, which are scheduled in advance over the course of the year, may satisfy this notice requirement by posting meeting notices at least once each year of its regular meeting schedule. Agenda notice must still be posted at least 48 hours before the meeting.

Question No. 15: What are the notice and agenda requirements for a special meeting or executive session only meeting?

Answer: For “special meetings,” or when only an “executive session” will be held, meeting and agenda notice must be posted at least twenty-four (24) hours before the meeting, unless an emergency exists. An emergency is a situation which involves injury or damage to persons or property, or immediate financial loss, or the likelihood of such injury, damage or loss, when the notice requirements of the section would make such notice impractical, or increase the likelihood or severity of such injury, damage or loss, and the reason for the emergency is stated at the outset of the meeting. This notice and an accompanying agenda must be given by the secretary or other designee of each public agency to any representative of the news media who has requested notification of such meetings and the secretary must make a good faith effort to provide such advance notification to them of the time and place of each meeting.³⁰

Question No. 16: What must an agenda contain?

²⁹ Idaho Code § 74-204.

³⁰ Idaho Code § 74-204(2) and (3).

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Answer: What constitutes an “agenda” to satisfy the posting requirement is not set forth in the Open Meeting Law. However, an “agenda” is defined in *Black's Law Dictionary* (9th ed.) as a “list of things to be done, as items to be considered at a meeting, [usually] arranged in order of consideration.” The agenda notice requirement is not satisfied by merely posting a weekly schedule of the governing board which sets forth the time, place of the meetings, and who is participating. Rather, the notice must specifically set forth the purpose of the meeting and “items of business.” Agenda items should be listed with specificity and not buried in catchall categories such as “director’s report.” An agenda item that requires a vote shall be identified on the agenda as an “action item” to provide notice that action may be taken on that item. Identifying an item as an action item on the agenda does not require a vote to be taken on that item.

Question No. 17: May an agenda be amended after posting?

Answer: Yes. The procedure depends on when the agenda is amended.

More than 48 hours before the start of a meeting (or more than 24 hours before a special meeting), the agenda may be amended simply by posting a new agenda.

Less than 48 hours before the meeting (or less than 24 hours before a special meeting), but before the meeting has started, the agenda may be amended by: (1) posting the new agenda, and (2) making and passing a motion at the meeting to amend the original agenda and stating the good faith reason the new items were not included in the original agenda notice.

After commencement of the meeting, the agenda may be amended to accommodate unforeseen issues, provided that: (1) there is a motion made that states the good faith reason the new item was not on the original agenda, and (2) the motion to amend is adopted by the governing body. Final action may not be taken on an agenda item added after the start of the meeting unless an emergency is declared necessitating action at that meeting. The declaration and justification shall be reflected in the minutes.

To sum up, amending an agenda during a meeting or less than 48 hours before the start of a meeting (24 hours for a special meeting) requires: (1) a motion, (2) a good faith reason why the item was not included in the original agenda, (3) a vote adopting the

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amended agenda, and (4) a record of the motion and vote in the minutes of the meeting.

Question No. 18: May qualifications or restrictions be placed on the public's attendance at an open meeting?

Answer: A public agency may adopt reasonable rules and regulations to ensure the orderly conduct of a public meeting and to ensure orderly behavior on the part of those persons attending the meeting. In *Nevens v. City of Chino*, a California appellate court nullified a city council measure, which prohibited the use of any tape recorders at city council proceedings.³¹ While acknowledging that the city council had an absolute right to adopt and enforce rules and regulations necessary to protect its public meetings, the court held that the rule prohibiting tape recorders was too arbitrary, capricious, restrictive and unreasonable. A similar holding might be reached if a governing body prohibits the use of cameras if their presence is not in fact disruptive of the conduct of the meeting.

Another limitation is that the body cannot make it practically impossible for the public to be present at a meeting. For example, in *Noble v. Kootenai County*, a board of commissioners conducted a site visit to a proposed subdivision. When arriving at the site, the board intentionally avoided a group that was gathered near the entrance to the site location and conducted its site visit outside the group's hearing. The court held that this was a violation, stating that "Idaho's open meeting laws . . . are designed to allow the public to be present during agency hearings. At the very least this means that the public must be permitted to get close enough to the hearing body to hear what is being said."³²

In any event, the governing standard is the reasonableness of the rules and regulations. Use of a timed agenda, "heavy gavel" and/or compliance with Robert's Rules of Order or some other procedural guideline may serve to facilitate the orderly conduct of a public meeting.

Question No. 19: Does the Open Meeting Law require the governing body of a public agency to accept public comments and testimony during meetings?

³¹ *Nevens v. City of Chino*, 44 Cal. Rptr. 50 (Cal. Ct. App. 1965).

³² *Noble v. Kootenai County*, 148 Idaho 937, 943, 231 P.3d 1034, 1040 (2010).

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Answer: No. While other statutes, such as the Local Planning Act, may require the solicitation of public comments, the Open Meeting Law does not expressly require the opportunity for public comment.³³

Question No. 20: May the members of a governing body vote by secret ballot at an open meeting?

Answer: No decision at any meeting of a governing body of a public agency may be made by secret ballot.³⁴

Question No. 21: If a voice vote is used, must the minutes of the meeting reflect the vote of each member of a governing body by name?

Answer: If a voice vote is taken, the minutes of the meeting must reflect the results of all votes, but the minutes need not indicate how each member voted, unless a member of the governing body requests such an indication.³⁵

Question No. 22: May a vote be conducted by written ballots?

Answer: A vote may be conducted by written ballot, but written ballots would not comply with the Open Meeting Law unless the ballots are made available to the public on request and unless the members casting the ballots are identifiable by signature or other discernible means.³⁶ The reason identification of the vote of individual members is treated differently between voice votes and votes by written ballot is that, with respect to voice votes, members of the public in attendance can readily ascertain the vote of individual members of the governing body. In contrast, a vote by written ballot is tantamount to a secret vote, unless such ballot is signed or identifies the name of the voting member.

Question No. 23: What types of records must be maintained under the Open Meeting Law?

³³ See *Coalition for Responsible Government v. Bonner County*, First Judicial District, Bonner County Case No. CV-97-00107 (May 15, 1997) (on file with the Office of the Attorney General).

³⁴ Idaho Code § 74-203(1).

³⁵ Idaho Code § 74-205(1)(c).

³⁶ Attorney General Opinion No. 77-13.

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Answer: The Open Meeting Law requires that the governing body of a public agency must provide for the taking of written minutes of all of its meetings, but it is not necessary to make a full transcript or recording of the meeting, except as otherwise provided by law.³⁷ These minutes are public records and must be made available to the general public within a reasonable time after the meeting. The minutes must include, at a minimum, the following information:

- (a) All members of the governing body present;
- (b) All motions, resolutions, orders, or ordinances proposed and their disposition;
- (c) The results of all votes and, upon the request of a member of the governing body, the vote of each member by name.

Other statutes may provide more specific requirements for particular entities.

In addition, section 74-205(2) provides that minutes of executive sessions must be kept, but they need contain only sufficient detail to identify the purpose and topic of the executive session and do not need to include the disclosure of material or matters that compromise the purpose of the executive session. The minutes pertaining to the executive session, however, must include a reference to the specific statutory subsection authorizing the session.

Question No. 24: Are there any prohibitions on where a public meeting may be held?

Answer: Yes. Section 74-203(3) specifically provides: "A governing body shall not hold a meeting at any place where discrimination on the basis of race, creed, color, sex, age or national origin is practiced." Thus, for example, a public meeting may not be held at a private club if the private club excludes women from membership, even if women are allowed entrance for the purpose of attending the meeting.

Question No. 25: Does the Open Meeting Law permit holding a meeting by telephone conference call?

³⁷ Idaho Code § 74-205(1).

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Answer: Yes. The Open Meeting Law specifically authorizes the holding of a meeting by telephone conference call. However, at least one member of the governing body or the director or chief administrative officer must be physically present at the meeting location designated in the meeting notice.³⁸ Additionally, the communications among the members of the governing body must be audible to all persons attending the meeting. Care should also be taken to ensure that votes are not made in such a way to permit an illegal secret ballot or vote.

Question No. 26: Are discussions conducted via telephones, computers, cell phones (including texting) or other electronic means exempted from the Open Meeting Law?

Answer: As discussed in this manual, the Open Meeting Law applies to the deliberations and discussions between two or more members of a board or commission on some matter which foreseeably will come before that board or commission for action. The use of a telephone to conduct such discussions does not remove the conversation from the requirements of the Open Meeting Law.

Similarly, members of a public board may not use computers or texting to conduct private conversations among themselves about board business. A one-way e-mail or text communication from one city council member to another, when it does not result in the exchange of council members' comments or responses on subjects requiring council action, does not constitute a meeting subject to the Open Meeting Law; however, such e-mail or text communications are public records and must be maintained by the records custodian for public inspection and copying.

SPECIFIC STATUTORY EXEMPTIONS: EXECUTIVE SESSIONS

Question No. 27: What types of meetings may be closed under the Open Meeting Law?

Answer: A closed meeting—that is, an “executive session”—may be held for the reasons listed in § 74-206(1):

³⁸ Idaho Code § 74-203(5).

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(a) To consider hiring a public officer, employee, staff member or individual agent, wherein the respective qualities of individuals are to be evaluated to fill a particular vacancy or need, unless a vacancy in an elective office is being filled;

(b) To consider the evaluation, dismissal or disciplining of, or to hear complaints or charges brought against, a public officer, employee, staff member, individual agent or public school student;

(c) To acquire an interest in real property which is not owned by a public agency;

(d) To consider records that are exempt from disclosure as provided by law;

(e) To consider preliminary negotiations involving matters of trade or commerce in which the governing body is in competition with governing bodies in other states or nations;

(f) To communicate with legal counsel for the public agency to discuss the legal ramifications of and legal options for pending litigation, or controversies not yet being litigated but imminently likely to be litigated. The mere presence of legal counsel at an executive session does not satisfy this requirement;

(g) By the commission of pardons and parole, as provided by law;

(h) By the custody review board of the Idaho department of juvenile corrections, as provided by law; or

(i) To engage in communications with a representative of the public agency's risk manager or insurance provider to discuss the adjustment of a pending claim or prevention of a claim imminently likely to be filed. The mere presence of a representative of the public agency's risk manager or insurance provider at an executive session does not satisfy this requirement.

(j) To consider labor contract matters authorized under section 67-2345A [74-206A](1)(a) and (b), Idaho Code.

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This provision enumerates specific and not general statutory exemptions to the requirement of conducting an open meeting. It is the Attorney General's opinion that a public agency cannot conduct an executive session to consider general personnel matters, but can only meet in executive session to consider those specifically enumerated personnel matters found at section 74-206(1)(a) and (b); that is, "to consider hiring a public officer, employee, staff member or individual agent" or "to consider the evaluation, dismissal or disciplining of, or to hear complaints or charges brought against, a public officer, employee, staff member, individual agent or public school student." Additionally, Idaho Code section 74-206(3) specifically directs that the exceptions be construed narrowly. No entity should try to "shoehorn" an issue into an executive session exception.

An executive session may be held to consider acquiring an interest in real property that is not owned by a public agency. However, an executive session cannot be held for the purpose of acquiring an interest in real property owned by a public agency.³⁹

It should be noted that the Open Meeting Law establishes circumstances where executive sessions are permissible. In other words, the act authorizes, but does not require, closed meetings. In addition, even though certain enumerated matters may be "considered" in an executive session, it must be emphasized that: "[N]o executive session may be held for the purpose of taking any final action or making any final decision."⁴⁰

It is important to remember that section 74-206(1) sets forth specific procedural steps to be followed to have a valid executive session. *Failure to do so will invalidate any action taken as a result of the executive session. Additionally, it may subject the board members to liability for those actions.* Procedurally, the presiding officer must identify the specific authorization under the Open Meeting Law for the holding of an executive session and at least a two-thirds ($\frac{2}{3}$) vote in favor of the executive session must be recorded in the minutes of the meeting by individual vote.

³⁹ Attorney General Opinion No. 81-15.

⁴⁰ Idaho Code § 67-2345(4); Attorney General Opinion No. 77-44; Attorney General Opinion No. 81-15.

Question No. 28: What procedure must be followed before an executive session, closed to the public, may be held?

Answer: It must be noted that executive sessions take place only at meetings. Before any executive session may be held, there must be a valid open meeting and a vote to hold an executive session. Every such "meeting" must satisfy the Open Meeting Law's notice and agenda requirements.⁴¹ If the governing body of a public agency then wishes to consider matters which may legally be considered in a closed meeting, an executive session may be held if two-thirds (2/3) of the members vote to hold an executive session. Prior to such vote, the presiding officer must identify the authorization under the Open Meeting Law for the holding of an executive session. Then, when the vote is taken, the individual vote of each member of the governing body must be recorded in the minutes.⁴²

Question No. 29: May legal counsel meet privately with the governing body of a public agency to discuss threatened or pending litigation?

Answer: Yes. Section 74-206(f) expressly provides that an executive session may be held "[t]o communicate with legal counsel for the public agency to discuss the legal ramifications of and legal options for pending litigation, or controversies not yet being litigated but imminently likely to be litigated."

Question No. 30: Must the governing body's attorney be present during an executive session?

Answer: Generally, the governing body's attorney need not be present when the governing body meets in executive session. An exception is an executive session authorized under Idaho Code section 74-206(1)(f): "To communicate with legal counsel for the public agency to discuss the legal ramifications of and legal options for pending litigation, or controversies not yet being litigated but imminently likely to be litigated. The mere presence of legal counsel at an executive session does not satisfy this requirement." (Of course, the attorney's "presence" may be facilitated via a telecommunications device.) An executive session under this subsection is solely for the purpose of communicating with legal counsel on pending or probable litigation.

⁴¹ Idaho Code § 74-204.

⁴² Idaho Code § 74-206(1).

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Question No. 31: If a more specific statute requires open meetings and has no provision for executive sessions, is the executive session provision of the Open Meeting Law still applicable?

Answer: Yes. The executive session provision takes precedence over other statutes that may apply to a particular entity. Thus, even if a statute requires all meetings of a governing body to be open, executive sessions may still be held.⁴³

PENALTIES FOR NONCOMPLIANCE

Question No. 32: What is the validity of action taken in violation of the Open Meeting Law?

Answer: If an action, or any deliberation or decision making that leads to an action, occurs at any meeting that fails to comply with the provisions of the Open Meeting Law, such an action may be declared null and void by a court.⁴⁴

Any member of the governing body taking such an action, who participates in any such deliberation, decision making, or meeting, is subject to a civil penalty not to exceed two hundred fifty dollars (\$250).⁴⁵ The maximum civil penalty for a subsequent violation is two thousand five hundred dollars (\$2,500).⁴⁶

Any governing body member who knowingly violates a provision of the Open Meeting Law is subject to a civil penalty of not more than one thousand five hundred dollars (\$1,500).⁴⁷

It is the opinion of the Attorney General that the Idaho Legislature intended that such fines be paid by the individual member of the governing body, not the governing body itself.

Question No. 33: Who enforces the Open Meeting Law?

Answer: The Attorney General enforces the Open Meeting Law in

⁴³ *Nelson v. Boundary County*, 109 Idaho 205, 706 P.2d 94 (Ct. App. 1985).

⁴⁴ Idaho Code § 74-208(1).

⁴⁵ Idaho Code § 74-208(2).

⁴⁶ Idaho Code § 74-208(4).

⁴⁷ Idaho Code § 74-208(3).

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relation to the public agencies of state government. County prosecuting attorneys enforce the Open Meeting Law in relation to the local public agencies within their respective jurisdictions.⁴⁸

Any person affected by a violation of the Open Meeting Law is entitled to bring a lawsuit in the magistrates' division of the county in which the public agency normally meets for the purpose of requiring compliance with the provisions of the Open Meeting Law. The lawsuit would ask the court to declare any improper actions void and to enjoin the governing body from violating the Open Meeting Law in the future. Such a lawsuit must be commenced within thirty (30) days of the time of the decision or action that results, in whole or in part, from a meeting that failed to comply with the provisions of the Open Meeting Law. Any other lawsuit must be commenced within one hundred eighty (180) days of the time of the violation.⁴⁹

Question No. 34: If there is a violation of the Open Meeting Law at an early stage in the process, will all subsequent actions be null and void?

Answer: Yes. Section 74-208(1) clearly indicates that an action or any deliberation or decision making that leads to an action, which occurs at any meeting not in compliance with the provisions of the Open Meeting Law, will be null and void. The 1992 Legislature added the "deliberation or decision making that leads to an action" language to the provisions of section 74-208(1). This language clarifies the consequences of a violation under the previous requirement.

The Idaho Supreme Court has held that the procedure for voiding actions taken in violation of the Open Meeting Law must be read literally. Thus, any action may not be declared void if it is not challenged within the thirty-day time limit established by section 74-208(6).⁵⁰

Question No. 35: If a violation of the Open Meeting Law occurs, what can a governing body do to correct the error?

Answer: The governing body should follow the steps outlined in

⁴⁸ Idaho Code § 74-208(5).

⁴⁹ Idaho Code § 74-208(6).

⁵⁰ *Petersen v. Franklin County*, 130 Idaho 176, 938 P.2d 1214 (1997).

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Idaho Code § 74-208(7) to “cure” the violation. A violation is cured by repealing any action taken at an illegal meeting or disregarding deliberations made in violation of the Open Meeting Law. Should it choose to, a governing body may, in a properly noticed meeting, repeat the deliberation or decision that occurred at the illegal meeting.

Question No. 36: Are members of the governing body of a public agency criminally liable for violations of the Open Meeting Law in which they knowingly participate?

Answer: The Open Meeting Law specifically provides civil monetary penalties for violations. The Open Meeting Law does not expressly provide for criminal liability for knowing violations. Nonetheless, it is possible that a member of a governing body may be guilty of a misdemeanor for violations of the Open Meeting Law in which he or she knowingly participates.

Idaho Code Section 18-315 provides:

Every willful omission to perform any duty enjoined by law upon any public officer, or person holding any public trust or employment, where no special provision shall have been made for the punishment of such delinquency, is punishable as a misdemeanor.

Idaho Code Section 18-317 states:

When an act or omission is declared by a statute to be a public offense and no penalty for the offense is prescribed in any statute, the act or omission is punishable as a misdemeanor.

In *Alder v. City Council of City of Culver City*, the court considered the California Open Meeting Law (the Brown Act), which included no penalty provisions or provisions for enforcement when violations occur.⁵¹ Relying on two California statutes identical to Idaho Code sections 18-315 and 18-317, the California court ruled that violations of the Open Meeting Law were punishable as misdemeanors even though the Open Meeting Law did not expressly make violations punishable as misdemeanors.

⁵¹ *Alder v. City Council of City of Culver City*, 7 Cal. Rptr. 805 (Cal. Ct. App. 1960).

THE STATUTE

(Idaho Code §§ 74-201 to 74-208)

74-201. Formation of public policy at open meetings. The people of the state of Idaho in creating the instruments of government that serve them, do not yield their sovereignty to the agencies so created. Therefore, the legislature finds and declares that it is the policy of this state that the formation of public policy is public business and shall not be conducted in secret.

74-202. Open Public Meetings—Definitions. As used in this chapter:

(1) “Decision” means any determination, action, vote or final disposition upon a motion, proposal, resolution, order, ordinance or measure on which a vote of a governing body is required, at any meeting at which a quorum is present, but shall not include those ministerial or administrative actions necessary to carry out a decision previously adopted in a meeting held in compliance with this chapter.

(2) “Deliberation” means the receipt or exchange of information or opinion relating to a decision, but shall not include informal or impromptu discussions of a general nature that do not specifically relate to a matter then pending before the public agency for decision.

(3) “Executive session” means any meeting or part of a meeting of a governing body that is closed to any persons for deliberation on certain matters.

(4) “Public agency” means:

(a) Any state board, committee, council, commission, department, authority, educational institution or other state agency created by or pursuant to statute or executive order of the governor, other than courts and their agencies and divisions, and the judicial council, and the district magistrates commission;

(b) Any regional board, commission, department or authority created by or pursuant to statute;

(c) Any county, city, school district, special district, or other municipal corporation or political subdivision of the state of Idaho;

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(d) Any subagency of a public agency created by or pursuant to statute or executive order of the governor, ordinance, or other legislative act; and

(e) Notwithstanding the language of this subsection, the cybersecurity task force or a committee awarding the Idaho medal of achievement shall not constitute a public agency.

(5) "Governing body" means the members of any public agency that consists of two (2) or more members, with the authority to make decisions for or recommendations to a public agency regarding any matter.

(6) "Meeting" means the convening of a governing body of a public agency to make a decision or to deliberate toward a decision on any matter.

(a) "Regular meeting" means the convening of a governing body of a public agency on the date fixed by law or rule, to conduct the business of the agency.

(b) "Special meeting" is a convening of the governing body of a public agency pursuant to a special call for the conduct of business as specified in the call.

74-203. Governing bodies—Requirement for open public meetings.

(1) Except as provided below, all meetings of a governing body of a public agency shall be open to the public and all persons shall be permitted to attend any meeting except as otherwise provided by this act. No decision at a meeting of a governing body of a public agency shall be made by secret ballot.

(2) Deliberations of the board of tax appeals created in chapter 38, title 63, Idaho Code, the public utilities commission and the industrial commission in a fully submitted adjudicatory proceeding in which hearings, if any are required, have been completed, and in which the legal rights, duties or privileges of a party are to be determined are not required by this act to take place in a meeting open to the public. Such deliberations may, however, be made and/or conducted in a public meeting at the discretion of the agency.

(3) Meetings of the Idaho life and health insurance guaranty association established under chapter 43, title 41, Idaho Code, the Idaho

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insurance guaranty association established under chapter 36, title 41, Idaho Code, and the surplus line association approved by the director of the Idaho department of insurance as authorized under chapter 12, title 41, Idaho Code, are not required by this act to take place in a meeting open to the public.

(4) A governing body shall not hold a meeting at any place where discrimination on the basis of race, creed, color, sex, age or national origin is practiced.

(5) All meetings may be conducted using telecommunications devices which enable all members of a governing body participating in the meeting to communicate with each other. Such devices may include, but are not limited to, telephone or video conferencing devices and similar communications equipment. Participation by a member of the governing body through telecommunications devices shall constitute presence in person by such member at the meeting; provided however, that at least one (1) member of the governing body, or the director of the public agency, or the chief administrative officer of the public agency shall be physically present at the location designated in the meeting notice, as required under section 74-204, Idaho Code, to ensure that the public may attend such meeting in person. The communications among members of a governing body must be audible to the public attending the meeting in person and the members of the governing body.

74-204. Notice of meetings—Agendas.

(1) Regular meetings. No less than a five (5) calendar day meeting notice and a forty-eight (48) hour agenda notice shall be given unless otherwise provided by statute. Provided however, that any public agency that holds meetings at regular intervals of at least once per calendar month scheduled in advance over the course of the year may satisfy this meeting notice by giving meeting notices at least once each year of its regular meeting schedule. The notice requirement for meetings and agendas shall be satisfied by posting such notices and agendas in a prominent place at the principal office of the public agency or, if no such office exists, at the building where the meeting is to be held. The notice for meetings and agendas shall also be posted electronically if the entity maintains an online presence through a website or a social media platform.

(2) Special meetings. No special meeting shall be held without at least a twenty-four (24) hour meeting and agenda notice, unless an emergency exists. An emergency is a situation involving injury or

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damage to persons or property, or immediate financial loss, or the likelihood of such injury, damage or loss, when the notice requirements of this section would make such notice impracticable, or increase the likelihood or severity of such injury, damage or loss, and the reason for the emergency is stated at the outset of the meeting. The notice required under this section shall include at a minimum the meeting date, time, place and name of the public agency calling for the meeting. The secretary or other designee of each public agency shall maintain a list of the news media requesting notification of meetings and shall make a good faith effort to provide advance notification to them of the time and place of each meeting.

(3) Executive sessions. If only an executive session will be held, a twenty-four (24) hour meeting and agenda notice shall be given according to the notice provisions stated in subsection (2) of this section and shall state the reason and the specific provision of law authorizing the executive session.

(4) An agenda shall be required for each meeting. The agenda shall be posted in the same manner as the notice of the meeting. An agenda may be amended, provided that a good faith effort is made to include, in the original agenda notice, all items known to be probable items of discussion. An agenda item that requires a vote shall be identified on the agenda as an "action item" to provide notice that action may be taken on that item. Identifying an item as an action item on the agenda does not require a vote to be taken on that item.

(a) If an amendment to an agenda is made after an agenda has been posted but forty-eight (48) hours or more prior to the start of a regular meeting, or twenty-four (24) hours or more prior to the start of a special meeting, then the agenda is amended upon the posting of the amended agenda.

(b) If an amendment to an agenda is proposed after an agenda has been posted and less than forty-eight (48) hours prior to a regular meeting or less than twenty-four (24) hours prior to a special meeting but prior to the start of the meeting, the proposed amended agenda shall be posted but shall not become effective until a motion is made at the meeting and the governing body votes to amend the agenda.

(c) An agenda may be amended after the start of a meeting upon a motion that states the reason for the amendment and states the good faith reason the agenda item was not included in

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the original agenda posting. Final action may not be taken on an agenda item added after the start of a meeting unless an emergency is declared necessitating action at that meeting. The declaration and justification shall be reflected in the minutes.

74-205. Written minutes of meetings.

(1) The governing body of a public agency shall provide for the taking of written minutes of all its meetings. Neither a full transcript nor a recording of the meeting is required, except as otherwise provided by law. All minutes shall be available to the public within a reasonable time after the meeting, and shall include at least the following information:

- (a) All members of the governing body present;
- (b) All motions, resolutions, orders, or ordinances proposed and their disposition;
- (c) The results of all votes, and upon the request of a member, the vote of each member, by name.

(2) Minutes pertaining to executive sessions. Minutes pertaining to an executive session shall include a reference to the specific statutory subsection authorizing the executive session and shall also provide sufficient detail to identify the purpose and topic of the executive session but shall not contain information sufficient to compromise the purpose of going into executive session.

74-206. Executive sessions—When authorized.

(1) An executive session at which members of the public are excluded may be held, but only for the purposes and only in the manner set forth in this section. The motion to go into executive session shall identify the specific subsections of this section that authorize the executive session. There shall be a roll call vote on the motion and the vote shall be recorded in the minutes. An executive session shall be authorized by a two-thirds ($\frac{2}{3}$) vote of the governing body. An executive session may be held:

- (a) To consider hiring a public officer, employee, staff member or individual agent, wherein the respective qualities of individuals are to be evaluated in order to fill a particular vacancy or need. This paragraph does not apply to filling a

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vacancy in an elective office or deliberations about staffing needs in general;

(b) To consider the evaluation, dismissal or disciplining of, or to hear complaints or charges brought against, a public officer, employee, staff member or individual agent, or public school student;

(c) To acquire an interest in real property which is not owned by a public agency;

(d) To consider records that are exempt from disclosure as provided in chapter 1, title 74, Idaho Code;

(e) To consider preliminary negotiations involving matters of trade or commerce in which the governing body is in competition with governing bodies in other states or nations;

(f) To communicate with legal counsel for the public agency to discuss the legal ramifications of and legal options for pending litigation, or controversies not yet being litigated but imminently likely to be litigated. The mere presence of legal counsel at an executive session does not satisfy this requirement;

(g) By the commission of pardons and parole, as provided by law;

(h) By the custody review board of the Idaho department of juvenile corrections, as provided by law; or

(i) To engage in communications with a representative of the public agency's risk manager or insurance provider to discuss the adjustment of a pending claim or prevention of a claim imminently likely to be filed. The mere presence of a representative of the public agency's risk manager or insurance provider at an executive session does not satisfy this requirement.

(j) To consider labor contract matters authorized under section 74-206 (1)(a) and (b), Idaho Code.

(2) The exceptions to the general policy in favor of open meetings stated in this section shall be narrowly construed. It shall be a violation

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of this act to change the subject within the executive session to one not identified within the motion to enter the executive session or to any topic for which an executive session is not provided.

(3) No executive session may be held for the purpose of taking any final action or making any final decision.

74-206A. Negotiations in Open Session.

(1) All negotiations between a governing board and a labor organization shall be in open session and shall be available for the public to attend. This requirement also applies to negotiations between the governing board's designated representatives and representatives of the labor organization. This requirement shall also apply to meetings with any labor negotiation arbitrators, mediators or similar labor dispute meeting facilitators. Provided, however, a governing board or its designated representatives may hold an executive session for the specific purpose of:

(a) Considering a labor contract offer or to formulate a counteroffer; or

(b) Receiving information about a specific employee, when the information has a direct bearing on the issues being negotiated and a reasonable person would conclude that the release of that information would violate that employee's right to privacy.

(2) All documentation exchanged between the parties during negotiations, including all offers, counteroffers and meeting minutes shall be subject to public writings disclosure laws.

(3) Any other provision notwithstanding, including any other provisions to the contrary in sections 33-402 and 74-204, Idaho Code, the governing body shall post notice of all negotiation sessions at the earliest possible time practicable. This shall be done by the governing body by immediately posting notice of the negotiation session on the front page of its official website. If time permits, the governing body shall also post notice within twenty-four (24) hours at its regular meeting physical posting location.

(4) Public testimony, if any, shall be posted as an agenda item.

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74-207. Open legislative meetings required. All meetings of any standing, special or select committee of either house of the legislature of the state of Idaho shall be open to the public at all times, except in extraordinary circumstances as provided specifically in the rules of procedure in either house, and any person may attend any meeting of a standing, special or select committee, but may participate in the committee only with the approval of the committee itself.

74-208. Violations.

(1) If an action, or any deliberation or decision making that leads to an action, occurs at any meeting which fails to comply with the provisions of this chapter, such action shall be null and void.

(2) Any member of the governing body governed by the provisions of this chapter, who conducts or participates in a meeting which violates the provisions of this act shall be subject to a civil penalty not to exceed two hundred fifty dollars (\$250).

(3) Any member of a governing body who knowingly violates the provisions of this chapter shall be subject to a civil penalty not to exceed one thousand five hundred dollars (\$1,500).

(4) Any member of a governing body who knowingly violates any provision of this chapter and who has previously admitted to committing or has been previously determined to have committed a violation pursuant to subsection 3 of this section within the twelve (12) months preceding this subsequent violation shall be subject to a civil penalty not to exceed two thousand five hundred dollars (\$2,500).

(5) The attorney general shall have the duty to enforce this chapter in relation to public agencies of state government, and the prosecuting attorneys of the various counties shall have the duty to enforce this act in relation to local public agencies within their respective jurisdictions. In the event that there is reason to believe that a violation of the provisions of this act has been committed by members of a board of county commissioners or, for any other reason a county prosecuting attorney is deemed disqualified from proceeding to enforce this act, the prosecuting attorney or board of county commissioners shall seek to have a special prosecutor appointed for that purpose as provided in section 31-2603, Idaho Code.

(6) Any person affected by a violation of the provisions of this chapter may commence a civil action in the magistrate division of the

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district court of the county in which the public agency ordinarily meets, for the purpose of requiring compliance with provisions of this act. No private action brought pursuant to this subsection shall result in the assessment of a civil penalty against any member of a public agency and there shall be no private right of action for damages arising out of any violation of the provisions of this chapter. Any suit brought for the purpose of having an action declared or determined to be null and void pursuant to subsection (1) of this section shall be commenced within thirty (30) days of the time of the decision or action that results, in whole or in part, from a meeting that failed to comply with the provisions of this act. Any other suit brought under the provisions of this section shall be commenced within one hundred eighty (180) days of the time of the violation or alleged violation of the provisions of this act.

(7) [Curing a violation.]

(a) A violation may be cured by a public agency upon:

(i) The agency's self-recognition of a violation; or

(ii) Receipt by the secretary or clerk of the public agency of written notice of an alleged violation. A complaint filed and served upon the public agency may be substituted for other forms of written notice. Upon notice of an alleged open meeting violation, the governing body shall have fourteen (14) days to respond publicly and either acknowledge the open meeting violation and state an intent to cure the violation or state that the public agency has determined that no violation has occurred and that no cure is necessary. Failure to respond shall be treated as a denial of any violation for purposes of proceeding with any enforcement action.

(b) Following the public agency's acknowledgment of a violation pursuant to paragraph (a)(i) or (a)(ii) of this subsection, the public agency shall have fourteen (14) days to cure the violation by declaring that all actions taken at or resulting from the meeting in violation of this act void.

(c) All enforcement actions shall be stayed during the response and cure period but may recommence at the discretion of the complainant after the cure period has expired.

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(d) A cure as provided in this section shall act as a bar to the imposition of the civil penalty provided in subsection (2) of this section. A cure of a violation as provided in subsection (7)(a)(i) of this section shall act as a bar to the imposition of any civil penalty provided in subsection (4) of this section.

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**SUMMARY OF DECISIONS INTERPRETING THE IDAHO
OPEN MEETING STATUTE**

IDAHO ATTORNEY GENERAL'S OFFICE

REPORTED DECISIONS

1. *Petersen v. Franklin County*, 130 Idaho 176, 938 P.2d 1214 (1997) (actions that violate Open Meeting Law that are not challenged within the time limit established by Idaho Code § 67-2347(4) are not void).
2. *Student Loan Fund of Idaho, Inc. v. Payette County*, 125 Idaho 824, 875 P.2d 236 (Ct. App. 1994) (merely alleging violation of Open Meeting Law, without additionally alleging a specific "palpable injury," is insufficient to confer standing).
3. *Gardner v. Evans*, 110 Idaho 925, 719 P.2d 1185 (1986) (an aggrieved party will not prevail in a claim for improper notice under the Open Meeting Law when they cannot demonstrate any disadvantage stemming from the deficient notice).
4. *Nelson v. Boundary County*, 109 Idaho 205, 706 P.2d 94 (Ct. App. 1985) (Open Meeting Law's provisions authorizing executive sessions preempt Idaho Code § 31-713's requirement that all meetings of county commissioners must be public).
5. *Gardner v. School Dist. No. 55*, 108 Idaho 434, 700 P.2d 56 (1985).
6. *Baker v. Ind. School Dist. of Emmett*, 107 Idaho 608, 691 P.2d 1223 (1984).
7. *State v. City of Hailey*, 102 Idaho 511, 633 P.2d 576 (1981).
8. *Idaho Water Resources Board v. Kramer*, 97 Idaho 535, 548 P.2d 35 (1976).
9. *Nelson v. Boundary County*, 109 Idaho 205, 706 P.2d 94 (Ct. App. 1985).
10. *Idaho Historic Preservation Council v. City Council of Boise*, 134 Idaho 651, 8 P.3d 646 (2000).

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11. *Farrell v. Lemhi County Board of Commissioners*, 138 Idaho 378; 64 P.3d 304 (2002).
12. *State v. Yzaguirre*, 144 Idaho 471, 163 P.3d 1183 (2007).
13. *Safe Air For Everyone v. Idaho State Dep't. of Agri.*, 145 Idaho 164, 177 P.3d 378 (2008).
14. *City of McCall v. Buxton*, 146 Idaho 656, 201 P.3d 629 (2009).
15. *Idaho Press Club, Inc. v. State Legislature of the State*, 142 Idaho 640, 132 P.3d 397 (2006).
16. *Fox v. Estep*, 118 Idaho 454, 797 P.2d 854 (1990).
17. *Acheson v. Klausner*, 139 Idaho 156, 75 P.3d 210 (Idaho Ct. App. 2003).
18. *Noble v. Kootenai County ex rel. Kootenai County Bd. of Comm'rs*, 148 Idaho 937, 231 P.3d 1034 (2010), reh'g denied (May 19, 2010).

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UNREPORTED DECISIONS

(On File with the Office of Attorney General)

1. *Coalition for Responsible Government v. Bonner County*, First Judicial District, No. CV-97-00107 (1997)
2. *State v. Thorne, et al.*; Idaho Fourth Judicial District No. 3L-97763 (1994).
3. *Playfair v. S. Lemhi Sch. Dist. 292 Bd. of Trustees*, CIV. 09-375, 2009 WL 2474205 (D. Idaho Aug. 12, 2009).
4. *Kline v. Power County Board of Commissioners*, Idaho Sixth Judicial District No. CV-2011-0248 & CV-2011-0279 (2012).

ATTORNEY GENERAL'S OFFICE ANALYSES

1. Attorney General Opinion No. 08-3, 2008 WL 4360202.
2. Attorney General Opinion 85-9, (December 31, 1985) 1985 WL 167852.
3. Attorney General Opinion 89-7, (July 19, 1989) 1989 WL 4084.

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**State of Idaho
Office of the Attorney General
OPEN MEETING LAW CHECKLIST
*Regular Meetings***

Meeting Date and Time: _____
Meeting Location: _____

[Idaho Code § 74-203(4) and (5)]

Before Meeting

- Meeting Notice posted 5 or more calendar days prior to the meeting date. [Idaho Code § 74-204(1)]
- Agenda Notice posted at least 48 hours prior to the meeting. [Idaho Code § 74-204(1)]
- Posting of Amended Agenda [Idaho Code § 74-204(4)]

During Meeting

- First: Any agenda amendments? [Idaho Code § 74-204(4)(b) and (c)]
- Secretary or other person appointed to take minutes. [Idaho Code § 74-205(1)]

After Meeting

- Minutes available to the public within a reasonable time after the meeting. [Idaho Code § 74-205(1)]

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State of Idaho
Office of the Attorney General
OPEN MEETING LAW CHECKLIST
Special Meetings

Meeting Date and Time: _____
Meeting Location: _____

[Idaho Code § 74-203(4) and (5)]

Before Meeting

- Meeting and Agenda Notice posted at least 24 hours prior to the meeting. [Idaho Code § 74-204(2)]
- Notification provided to the news media. [Idaho Code § 74-204(2)]
- Posting of Amended Agenda [Idaho Code § 74-204(4)]

During Meeting

- First: Any agenda amendments? [Idaho Code § 74-204(4)(b) and (c)]
- Secretary or other person appointed to take minutes. [Idaho Code § 74-205(1)]

After Meeting

- Minutes available to the public within a reasonable time after the meeting. [Idaho Code § 74-205(1)]

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**State of Idaho
Office of the Attorney General
OPEN MEETING LAW CHECKLIST
*Executive Sessions***

Session Date and Time: _____

Session Location: _____

[Idaho Code § 74-203(4) and (5)]

Executive Session Only

- Meeting and Agenda Notice posted at least 24 hours prior to the session. [Idaho Code § 74-204(3)]
- Posting of Amended Agenda [Idaho Code § 74-204(4)]

Executive Session During Regular or Special Meeting

- Motion to enter Executive Session to discuss one of the exemptions listed in Idaho Code § 74-206.
- ¾ vote to enter Executive Session reflected in regular/special meeting minutes. [Idaho Code § 74-205(1)]

During Session

- First: Any agenda amendments? [Idaho Code § 74-204(4)(b) and (c)]
- Secretary or other person appointed to take minutes. [Idaho Code § 74-205(1)]

After Session

- Minutes must reference statutory subsection authorizing executive session and identify purpose and topic of session. [Idaho Code § 74-205(2)]
- Minutes available to the public within a reasonable time after the meeting. [Idaho Code § 74-205(1)]

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>> SAMPLE FORM <<

Public Agency: _____, Idaho
(name of county, city, district, etc.)

Governing Body: _____
(i.e., "Board of County Commissioners", "City Council", etc.)

Meeting Date, Time and Location: _____

EXECUTIVE SESSION MOTION AND ORDER

_____ (print name), _____ (print title),
MOVES THAT THE BOARD, PURSUANT TO IDAHO CODE § 74-206, CONVENE
IN EXECUTIVE SESSION TO: (identify one or more of the following)

- Consider personnel matters [Idaho Code § 74--206(1)(a) & (b)]
- Deliberate regarding an acquisition of an interest in real property [Idaho Code § 74-206(1)(c)]
- Consider records that are exempt from public disclosure [Idaho Code § 74-206(1)(d)]
- Consider preliminary negotiations involving matters of trade or commerce in which this governing body is in competition with another governing body [Idaho Code § 74-206(1)(e)]
- Communicate with legal counsel regarding pending/imminently-likely litigation [Idaho Code § 74-206(1)(f)]
- Communicate with risk manager/insurer regarding pending/imminently-likely claims [Idaho Code § 74-206(1)(l)]

Purpose/Topic summary (required): _____
AND THE VOTE TO DO SO BY ROLL CALL.

CONVENE AT: _____ ADJOURN AT: _____

| | <u>YES</u> | <u>NO</u> | <u>ABSTAIN</u> |
|-------------------------------|------------|-----------|----------------|
| _____, Chair (print name) | _____ | _____ | _____ |
| _____, Member (print name) | _____ | _____ | _____ |
| _____, Member (print name) | _____ | _____ | _____ |

Clerk/Deputy Clerk: _____
(Signature)

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>> SAMPLE FORM <<

Public Agency: _____, Idaho
(name of county, city, district, etc.)

Governing Body: _____
(i.e., "Board of County Commissioners", "City Council", etc.)

Meeting Date, Time and Location: _____

MOTION AND ORDER TO AMEND AGENDA

(less than 48 hours before regular meeting or 24 hours before special meeting)

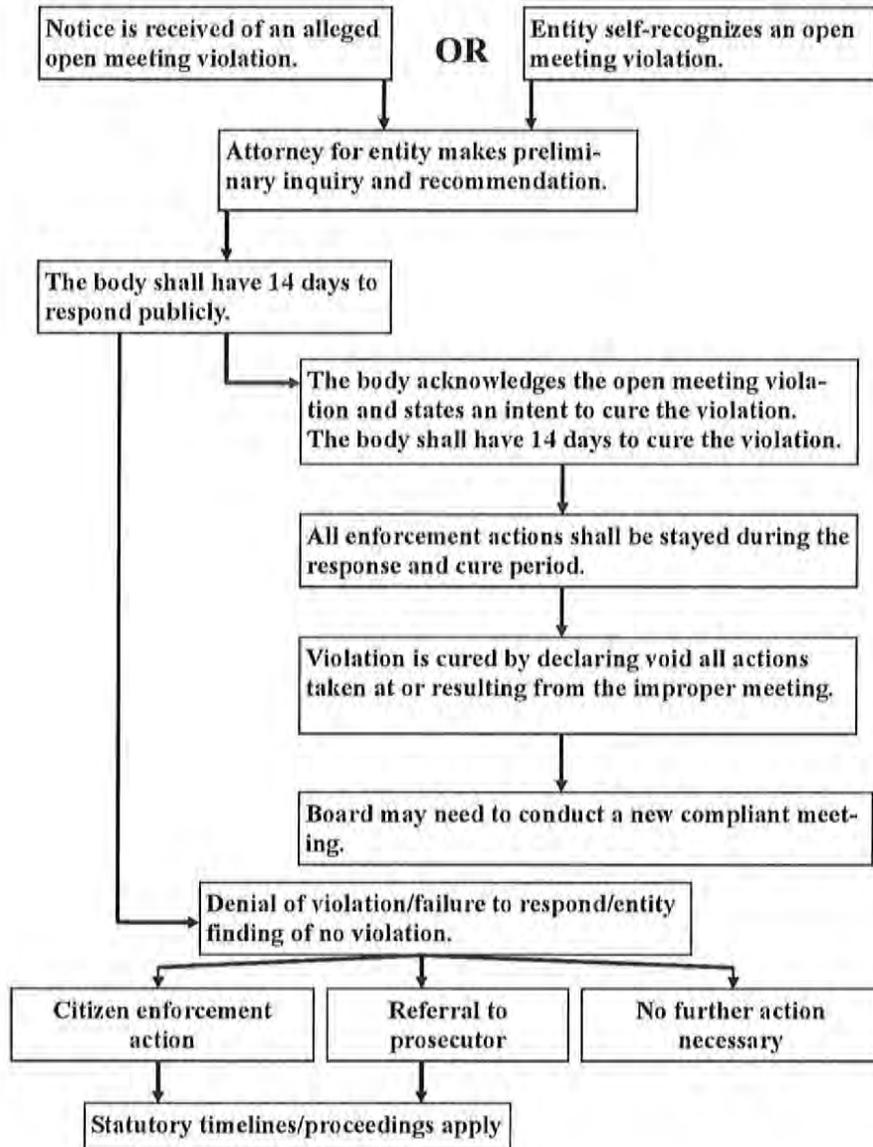
_____, (print name), _____ (print title),
MOVES THAT THIS GOVERNING BODY, PURSUANT TO IDAHO CODE § 74-
204, AMEND THE AGENDA FOR THIS MEETING AS FOLLOWS:

Good faith reason item not included in posted agenda (required):

| | <u>YES</u> | <u>NO</u> | <u>ABSTAIN</u> |
|-------------------------------|------------|-----------|----------------|
| _____, Chair (print name) | _____ | _____ | _____ |
| _____, Member (print name) | _____ | _____ | _____ |
| _____, Member (print name) | _____ | _____ | _____ |

Clerk/Deputy Clerk: _____
(Signature)

Curing Process – Idaho Code § 74-208(7)



MOTIONS
By
BOARD OF HEALTH AND WELFARE

MEETING DATE: August 23, 2018

Criminal History Unit: Criminal History and Background Checks - Updates
Docket No. 16-0506-1801

I, Jim Giuffre, move that the Idaho Board of Health and Welfare adopt the "Temporary" rules for "Criminal History and Background Checks - Updates", presented under Docket No. 16-0506-1801, effective August 23, 2018.

MOTION BY: Jim Giuffre

SECONDED BY: Richard Roberge

VOTE: **Voice Vote:** _____ **Roll Call:** _____

| | <i>Aye</i> | <i>Nay</i> | <i>Absent</i> | <i>Abstain</i> |
|--------------------------|------------|------------|---------------|----------------|
| Mr. Kerby | <u>✓</u> | _____ | _____ | _____ |
| Mr. Giuffre | <u>✓</u> | _____ | _____ | _____ |
| Ms. Hatzenbuehler | <u>✓</u> | _____ | _____ | _____ |
| Dr. Roberge | <u>✓</u> | _____ | _____ | _____ |
| Mr. Stroschein | <u>✓</u> | _____ | _____ | _____ |
| Ms. Jaquet | <u>✓</u> | _____ | _____ | _____ |
| Mr. Rarick | <u>✓</u> | _____ | _____ | _____ |

CONVENE AT: _____ ADJOURN AT: _____

MOTIONS
By
BOARD OF HEALTH AND WELFARE

MEETING DATE: August 23, 2018

Criminal History Unit: Criminal History and Background Checks - Updates
Docket No. 16-0506-1801

I, Timothy Rarick, move that the Idaho Board of Health and Welfare adopt the "Pending" rules for "Criminal History and Background Checks", presented under Docket No. 16-0506-1801, effective Sine Die, 2019.

MOTION BY: Timothy Rarick

SECONDED BY: Linda Hatzenbuehler

VOTE: **Voice Vote:** _____ **Roll Call:** _____

| | <i>Aye</i> | <i>Nay</i> | <i>Absent</i> | <i>Abstain</i> |
|-------------------|-------------------------------------|--------------------------|--------------------------|--------------------------|
| Mr. Kerby | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Mr. Giuffre | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Ms. Hatzenbuehler | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Dr. Roberge | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Mr. Stroschein | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Ms. Jaquet | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Mr. Rarick | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |

CONVENE AT: _____ ADJOURN AT: _____

IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE

16.05.06 - CRIMINAL HISTORY AND BACKGROUND CHECKS

DOCKET NO. 16-0506-1801

NOTICE OF RULEMAKING - ADOPTION OF PENDING RULE AND AMENDMENT TO TEMPORARY RULE

EFFECTIVE DATE: The effective date of the amendment to the temporary rule is **August 23, 2018**. This pending rule has been adopted by the agency and is now pending review by the 2019 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 and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a pending rule and amended a temporary rule. The action is authorized pursuant to Sections 56-202(b), 56-203(2), 56-204A, 56-1004A, 56-1007, 39-1105, 39-1107, 39-1111, 39-1210(10), 39-1211(4), 39-3520, 39-5604, 39-9109, 66-404(7), 15-5-308(4), 15-5-311(5), and 15-5-316(5), Idaho Code, and Under 42 USC Section 9858f.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule and amending the temporary 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.

With the adoption of IDAPA 16.07.17, "Substance Use Disorders Services," DHW has identified a new class of individuals that must complete a DHW criminal history and background check in order to provide those services. This requires that this class of individuals be added to the chapter to ensure that the Department of Health and Welfare retains the statutory authority to complete those background checks. Key elements were inadvertently missed with the previous rulemaking and are now included in this Notice of Rulemaking as part of the pending rule.

The text of the pending rule has been amended in accordance with Section 67-5227, Idaho Code, and is being republished following this notice. Rather than keep the temporary rule as previously adopted while the pending rule awaits legislative approval, the Department amended the temporary rule with the same revisions made to the pending rule. Only the sections that differ from the proposed rule text are printed in this Bulletin. The original text of the temporary and proposed rule was published in the July 4, 2018, Idaho Administrative Bulletin, Vol. 18-7, pages 123 through 126.

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:

There is no fiscal impact to the State General Fund or to dedicated funds for these rule changes. This rulemaking is intended to be cost-neutral. NOTE: The Department will have to change its web-based background check system to enable this change. It estimates that the cost of these system changes will be \$3,000.00. These modifications will be performed by DHW Information Technology staff, and it is an expense that is already integrated in the operational budget of the Department.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning the pending rule and the amendment to temporary rule, contact Fernando Castro, (208) 332-7999.

DATED this _____ day of _____, 2018.

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
dhwrules@dhw.idaho.gov e-mail

**THE FOLLOWING IS THE TEMPORARY RULE AND THE PROPOSED TEXT
OF DOCKET NO. 16-0506-1801
(Only Those Sections With Amendments Are Shown.)**

100. INDIVIDUALS SUBJECT TO A CRIMINAL HISTORY AND BACKGROUND CHECK.

Individuals subject to a Department criminal history and background check are those persons or classes of individuals who are required by statute, or Department rules to complete a criminal history and background check. (3-4-11)

01. Adoptive Parent Applicants. Individuals who must comply with IDAPA 16.06.01, "Child and Family Services," and IDAPA 16.06.02, "Rules Governing Standards for Child Care Licensing." (3-4-11)

02. Behavioral Health Community Crisis Centers. Individuals who must comply with IDAPA 16.07.30, "Behavioral Health Community Crisis Centers." (4-6-15)

03. Behavioral Health Programs. Individuals who must comply with IDAPA 16.07.15, "Behavioral Health Programs." (3-24-17)

04. Certified Family Homes. Individuals who must comply with Section 39-3520, Idaho Code, IDAPA 16.03.19, "Rules Governing Certified Family Homes," and IDAPA 16.03.10, "Medicaid Enhanced Plan Benefits." (3-4-11)

05. Children's Residential Care Facilities. Individuals who must comply with Section 39-1210, Idaho Code, and IDAPA 16.06.02, "Rules Governing Standards for Child Care Licensing." (3-4-11)

06. Children's Therapeutic Outdoor Programs. Individuals who must comply with Section 39-1208, Idaho Code, and IDAPA 16.06.02, "Rules Governing Standards for Child Care Licensing." (3-4-11)

07. Contracted Non-Emergency Medical Transportation Providers. Individuals who must comply with IDAPA 16.03.09, "Medicaid Basic Plan Benefits." (3-4-11)

08. Court Appointed Guardians and Conservators. Individuals who must comply with the requirements of Title 15, Chapter 5, Idaho Code, and Title 66, Chapter 4, Idaho Code. Court required guardian and conservator criminal history and background checks are not provided Department clearances described in Section 180.01 of these rules. (3-20-14)

09. Designated Examiners and Designated Dispositioners. Individuals who must comply with IDAPA 16.07.39, "Appointment of Designated Examiners and Designated Dispositioners." (3-4-11)

10. Developmental Disabilities Agencies. Individuals who must comply with IDAPA 16.03.21, "Developmental Disabilities Agencies (DDA)," and IDAPA 16.03.10, "Medicaid Enhanced Plan Benefits." (3-4-11)

11. Emergency Medical Services (EMS). Individuals who must comply with IDAPA 16.01.05, "Emergency Medical Services (EMS) -- Education, Instructor, and Examination Requirements," and IDAPA 16.01.07, "Emergency Medical Services (EMS) -- Personnel Licensing Requirements." (3-24-17)

12. High Risk Providers of Medicaid. Individuals who must comply with IDAPA 16.03.09, "Medicaid Basic Plan Benefits," and the Medicaid Provider Handbook. (4-6-15)

13. **Home and Community-Based Services (HCBS).** Individuals who must comply with IDAPA 16.03.10, "Medicaid Enhanced Plan Benefits," and IDAPA 16.04.17, "Rules Governing Residential Habilitation Agencies." (7-1-12)
14. **Home Health Agencies.** Individuals who must comply with IDAPA 16.03.07, "Home Health Agencies." (3-4-11)
15. **Idaho Behavioral Health Plan (IBHP).** Individuals who are contractors, contractor's employees, and subcontractors in accordance with IDAPA 16.03.09, "Medicaid Basic Plan Benefits." (4-6-15)
16. **Idaho Child Care Program (ICCP).** Individuals who must comply with IDAPA 16.06.12, "Rules Governing the Idaho Child Care Program." (3-4-11)
17. **Intermediate Care Facilities for Persons with Intellectual Disabilities (ICF/ID).** Individuals who must comply with IDAPA 16.03.11, "Intermediate Care Facilities for Persons with Intellectual Disabilities (ICF/ID)." (3-4-11)
18. **Licensed Foster Care.** Individuals who must comply with Section 39-1211, Idaho Code, and IDAPA 16.06.02, "Rules Governing Standards for Child Care Licensing." (3-4-11)
19. **Licensed Day Care.** Individuals who must comply with Sections 39-1105, 39-1113, and 39-1114, Idaho Code, and IDAPA 16.06.02, "Rules Governing Standards for Child Care Licensing." (3-4-11)
20. **Mental Health Services.** Individuals who must comply with IDAPA 16.07.33, "Adult Mental Health Services," and IDAPA 16.07.37, "Children's Mental Health Services." (4-6-15)
21. **Nonhospital, Medically-Monitored Detoxification/Mental Health Diversion Units.** Individuals who must comply with IDAPA 16.07.50, "Minimum Standards for Nonhospital, Medically-Monitored Detoxification/Mental Health Diversion Units." (3-4-11)
22. **Personal Assistance Agencies.** Individuals who must comply with IDAPA 16.03.10, "Medicaid Enhanced Plan Benefits." (3-4-11)
23. **Personal Care Service Providers.** Individuals who must comply with Section 39-5604, Idaho Code, and IDAPA 16.03.10, "Medicaid Enhanced Plan Benefits." (3-4-11)
24. **Residential Care or Assisted Living Facilities in Idaho.** Individuals who must comply with IDAPA 16.03.22, "Residential Care or Assisted Living Facilities in Idaho." (3-4-11)
25. **Service Coordinators and Paraprofessional Providers.** Individuals who must comply with IDAPA 16.03.10, "Medicaid Enhanced Plan Benefits." (3-4-11)
26. **Skilled Nursing and Intermediate Care Facilities.** Individuals who must comply with IDAPA 16.03.02, "Rules and Minimum Standards for Skilled Nursing and Intermediate Care Facilities." (3-4-11)
- ~~27.~~ **Substance Use Disorders Services.** Individuals who must comply with IDAPA 16.07.17, "Substance Use Disorders Services." (7-1-18)T
- ~~27.~~ **Support Brokers and Community Support Workers.** Individuals who must comply with IDAPA 16.03.13, "Consumer-Directed Services." (3-4-11)

(BREAK IN CONTINUITY OF SECTIONS)

126. **APPLICANTS RECEIVING A DEPARTMENT ENHANCED CLEARANCE.**

The following classes of individuals are required to provide their previous residence information for the preceding five (5) years in their application for a criminal history and background check. (7-1-17)

01. **Adoptive Parent Applicants.** Described in Subsection 100.01 of these rules. (7-1-17)
02. **Behavioral Health Community Crisis Centers.** Described in Subsection 100.02 of these rules. (7-1-17)
03. **Behavioral Health Programs.** Described in Subsection 100.03 of these rules. (7-1-17)
04. **Children's Residential Care Facilities.** Described in Subsection 100.05 of these rules. (7-1-17)
05. **Children's Therapeutic Outdoor Programs.** Described in Subsection 100.06 of these rules. (7-1-17)
- ~~06.~~ ~~**Emergency Medical Services (EMS).** Described in Subsection 100.11 of these rules.~~ ~~(7-1-17)~~
076. **Idaho Child Care Program (ICCP).** Described in Subsection 100.16 of these rules. (7-1-17)
087. **Licensed Foster Care.** Described in Subsection 100.18 of these rules. (7-1-17)
098. **Licensed Day Care.** Described in Subsection 100.19 of these rules. (7-1-17)
- ~~109.~~ **Mental Health Services.** Described in Subsection 100.20 of these rules. (7-1-17)
10. **Nonhospital, Medically-Monitored Detoxification/Mental Health Diversion Units.** Described in Subsection 100.21 of these rules. (7-1-17)
- 11. Substance Use Disorders Services. Described in Subsection 100.27 of these rules. (7-1-18)T**

(BREAK IN CONTINUITY OF SECTIONS)

(Only Those Sections With Amendments Are Shown.)

200. **UNCONDITIONAL DENIAL.**

An individual who receives an unconditional denial is not available to provide services, have access, or to be licensed or certified by the Department. (3-26-08)

01. **Reasons for an Unconditional Denial.** Unconditional denials are issued for: (3-4-11)
 - a. Disqualifying crimes described in Section 210 of these rules; (3-4-11)
 - b. A relevant record ~~or finding~~ on any Child Protection Registry for the classes of individuals listed in Section 126 of these rules; ~~(7-1-17)~~(8-23-18)T
 - c. ~~A relevant record on the Nurse Aide Registry;~~ **A relevant record on the Idaho Child Protection Central Registry with a Level one (1) or Level two (2) designation for all other applicants covered by these rules;** ~~(7-1-14)~~(8-23-18)T
 - d. ~~A relevant record on either the state or federal sex offender registries;~~ **A relevant record on the Nurse Aide Registry;** ~~(7-1-17)~~(8-23-18)T
 - e. ~~A relevant record on the state or federal Medicaid Exclusion List, described in Section 240 of these rules; or~~ **A relevant record on either the state or federal sex offender registries;** ~~(7-1-17)~~(8-23-18)T

f. ~~A materially false statement made knowingly in connection to the Department's criminal history and background check application for the classes of individuals listed in Section 126 of these rules will result in a five-year disqualification period for the applicant.~~ A relevant record on the state or federal Medicaid Exclusion List, described in Section 240 of these rules; or ~~(7-1-17)~~(8-23-18)T

g. A materially false statement made knowingly in connection to the Department's criminal history and background check application for the classes of individuals listed in Section 126 of these rules will result in a five-year disqualification period for the applicant. (8-23-18)T

BOARD 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. A rule can be promulgated as temporary:

"(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.

DHW/BOARD RULEMAKING PROCESS

| | |
|--|---|
| 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 <i>Temporary rule</i> 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 provides LSO a copy of the rulemaking. |
| Step 5 | DHW rulemaking publishes in the Idaho Administrative Bulletin. The public comment period is open for 21 days; public hearings are scheduled at the time of publication or when requested. |
| Step 6 | DHW reviews all written and oral comments received and prepares the pending rule. A <i>Pending rule</i> is adopted by the Director and/or Board. |
| Step 7 | DHW submits pending rule docket to OAR for publication in the Idaho Administrative Bulletin. OAR publishes the pending rule and prepares a rules review book for the next Legislative Session for review. |
| Step 8 | During the legislative session, DHW representatives testify before legislative committees in both houses. The Legislature approves or rejects all or part of the DHW Pending rules. At the close of the legislative session (Sine Die), pending rules become final unless rejected by Legislature. |
| Legend | |
| <p>DHW - Department of Health and Welfare DFM - Division of Financial Management/Governor's Office OAR - Office of Administrative Rules Coordinator LSO - Legislative Services Office Board - Board of Health and Welfare</p> | |



IDAHO DEPARTMENT OF HEALTH & WELFARE

C.L. "BUTCH" OTTER – Governor
RUSSELL S. BARRON – Director

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

DECLARATION OF TEMPORARY RULEMAKING BY THE BOARD OF HEALTH AND WELFARE CONCERNING: DOCKET NO. 16-0506-1801

Pursuant to the authority granted to the Board of Health and Welfare in Title 56, Chapter 10, Idaho Code, and under the provisions for temporary rulemaking contained in Section 67-5226, Idaho Code, I declare that the following Idaho Department of Health and Welfare rules contained in IDAPA 16, Title 05, Chapter 06, "Criminal History and Background Checks," are hereby:

| SECTION AFFECTED | ACTION TAKEN |
|------------------|---------------------|
| 200 | Amended and Adopted |

I hereby certify that these actions have been made in compliance with Title 67, Chapter 52, Idaho Code.

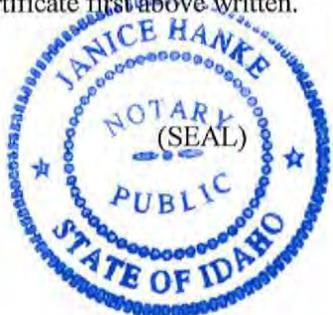
8/23/2018
Date

Darrell Kerby
Darrell Kerby, Chairman

STATE OF IDAHO)
) ss.
County of Ada)

On this 23rd of August, 2018, before me, the undersigned, a Notary Public in and for said State, personally appeared Darrell Kerby, known to me to be the person whose name is subscribed to the within instrument and acknowledged to me that he executed the same.

IN WITNESS WHEREOF, I have set my hand and affixed my official seal the day and year in this certificate first above written.



Janice Hanke
Notary Public for Idaho
Residing at: Meridian
Expires: 08/08/2019



C.L. "BUTCH" OTTER - Governor
RUSSELL S. BARRON - Director

IDAHO DEPARTMENT OF HEALTH & WELFARE

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

DECLARATION OF PENDING RULEMAKING BY THE BOARD OF HEALTH AND WELFARE CONCERNING: DOCKET NO. 16-0506-1801

Pursuant to the authority granted to the Board of Health and Welfare in Title 56, Chapter 10, Idaho Code, I declare that the following Idaho Department of Health and Welfare rules contained in IDAPA 16, Title 05, Chapter 06, "Criminal History and Background Checks," are hereby:

SECTION AFFECTED:

ACTION TAKEN:

100, 126, and 200

Amended and adopted

Declaration of Pending Rulemaking
Docket 16-0506-1801

I hereby certify that these actions have been made in compliance with Title 67, Chapter 52, Idaho Code.

8/23/2018
Date

Darrell Kerby
Darrell Kerby, Chairman

STATE OF IDAHO)
County of Ada)

ss.

On this 23rd of August, 2018, before me, the undersigned, a Notary Public in and for said State, personally appeared Darrell Kerby, known to me to be the person whose name is subscribed to the within instrument and acknowledged to me that he executed the same.

IN WITNESS WHEREOF, I have set my hand and affixed my official seal the day and year in this certificate first above written.



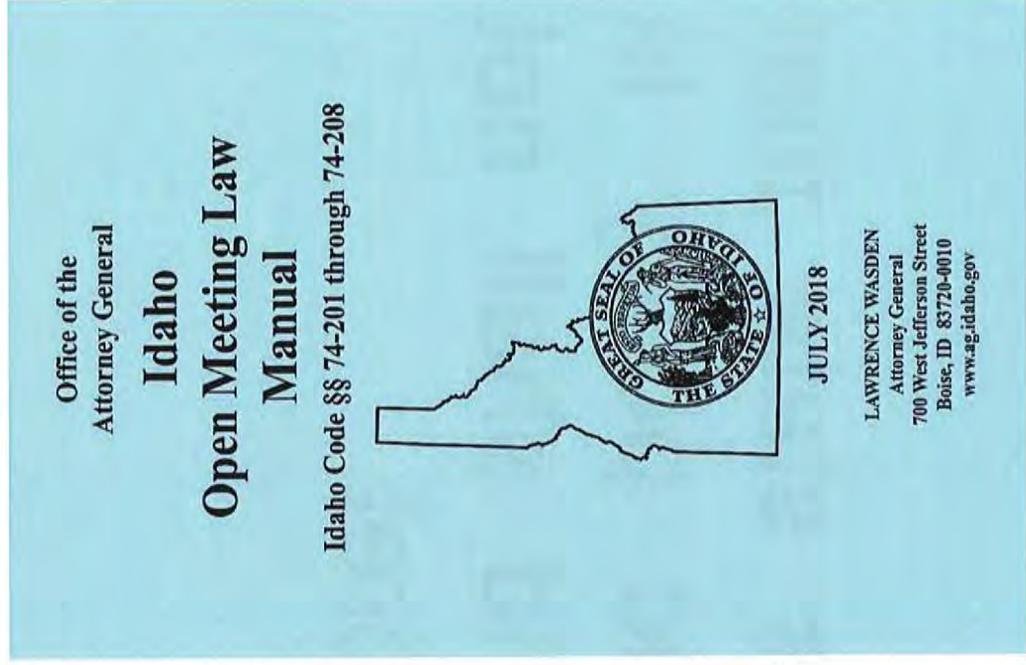
Janice Hanke
Notary Public for Idaho
Residing at: Meridian
Expires: 08/08/2019

Idaho Open Meeting Law

State of Idaho



Office of Attorney General
Lawrence Wasden



It is policy of this state that formation of public policy is public business and shall not be conducted in secret.

(Idaho Code § 74-201)

Office of



Attorney General
Lawrence Wasden

Outline

- I. Definitions
- II. Notice and Agenda
- III. Conduct of the Meeting
- IV. Executive Sessions
- V. Enforcement



Rule of statutory construction

Words are given the meaning set forth in the definition portion of the code section or chapter.

- The definition contained in code controls over the common definition of the word.
- Different chapters or code sections may define the same word slightly differently.
- If no statutory definition exists, the common meaning controls.

Definitions

Decision

Any determination, action, vote or final disposition upon a motion, proposal, resolution, order, ordinance or measure on which a vote of a governing body is required, at any meeting at which a quorum is present. (Idaho Code § 74-202; Open Meeting Law Manual (OML) p. 23)

Deliberation

The receipt or exchange of information or opinion relating to a decision, but shall not include informal or impromptu discussions of a general nature. (OML p. 23)

Office of



Attorney General
Lawrence Wasden

Definitions

Public Agency

Any state board, commission, department, authority, educational institution or other state agency created by or pursuant to statute or executive order of the governor. Any regional board, commission, department or authority created by or pursuant to statute. Any county, city, school district, special district, or other municipal corporation or political subdivision of the state of Idaho any subagency of a public agency which is created by or pursuant to statute or executive order of the governor, ordinance, or other legislative act. (OML p. 23-24)



Definitions

Governing Body

Members of any public agency which consists of two (2) or more members with the authority to make decisions for or recommendations to a public agency regarding any matter. (OML p. 24)

Meeting

Convening of a governing body of a public agency to make a decision or to deliberate toward a decision on any matter. (OML p. 24)

- regular meeting
- special meeting

Notice and Agenda

- **Regular Meetings**
No less than a five (5) calendar day meeting notice and a forty-eight (48) hour agenda notice shall be given, unless otherwise provided by statute. (Idaho Code § 74-204(1); OML p. 25)
- **Special Meetings**
Shall not be held without at least a twenty-four (24) hour meeting and agenda notice, unless an emergency exists. (Idaho Code § 74-204(2); OML p. 25)

****New Provision****

- Notice for meetings and agendas shall also be posted electronically if the entity maintains an online presence through a website or social media platform. (Idaho Code § 74-204(1))



Notice and Agenda

- Executive Sessions

A twenty-four (24) hour meeting and agenda notice shall be given if only an executive session will be held. Notice must state reason and specific provision of law authorizing the executive session. (Idaho Code § 74-204(3); OML p. 26)

Notice and Agenda

- An agenda is required for each meeting.
 - posted same as meeting notice
 - only “good faith” amendments
 - motion and vote required for amendments made within 48 hours of, or during, the meeting

(Idaho Code § 74-204(4); OML p. 26)



****New Provisions****

- An agenda item that requires a vote shall be identified on the agenda as an “action item” to provide notice that action may be taken on that item. Identifying an item as an action item does not require a vote to be taken on that item. (Idaho Code § 74-204(4))
- Final action may not be taken on an agenda item added after the start of a meeting unless an emergency is declared necessitating action at that meeting. The declaration and justification shall be reflected in the minutes. (Idaho Code § 74-204(4)(c))



Conduct of Meeting

- All meetings of a governing body of a public agency shall be open to the public. (Idaho Code § 74-203 & OML p. 24)
- A governing body shall not hold a meeting at any place where discrimination on the basis of race, creed, color, sex, age or national origin is practiced. (Idaho Code § 74-203(4) & OML p. 25)



Conduct of Meeting

- All meetings may be conducted using telecommunications devices. (Idaho Code § 74-203(5) & OML p. 25)
- Members of a public board may not use computers or texting to conduct private conversations among themselves about board business.

Conduct of Meeting

- The governing body of a public agency shall provide for the taking of written minutes of all its meetings, and all minutes shall be available to the public. (Idaho Code § 74-205(1); OML p. 28)
- Minutes shall include:
 - All members of the governing body present
 - All motions, resolutions, orders, or ordinances proposed and their disposition
 - The results of all votes

Office of



Attorney General
Lawrence Wasden

(Idaho Code § 74-205(1); OML p. 26-27)

Executive Sessions

An executive session at which members of the public are excluded may be held, but only for the purposes and only in the manner set forth in this section. The motion to go into executive session shall identify the specific subsections of this section that authorize the executive session. There shall be a roll call vote on the motion and the vote shall be recorded in the minutes. An executive session shall be authorized by a two-thirds (2/3) vote of the governing body. (Idaho Code § 74-206(1); OML p. 27)



Executive Sessions

- a) When, in hiring a public officer, employee, staff member, or individual agent, the respective qualities of individuals are to be evaluated in order to fill a particular vacancy or need.
- b) To consider the evaluation, dismissal or disciplining of, or to hear complaints or charges brought against, a public officer, employee, staff member or individual agent, or public school student.

Executive Sessions

- c) To acquire an interest in real property which is not owned by a public agency.
- d) To consider records that are exempt from disclosure.
- e) To consider preliminary negotiations involving matters of trade or commerce in which the governing body is in competition with governing bodies in other states or nations



Executive Sessions

- f) To communicate with legal counsel for the public agency to discuss the legal ramifications of and legal options for pending litigation, or controversies not yet being litigated but imminently likely to be litigated. The mere presence of legal counsel at an executive session does not satisfy this requirement.



Executive Sessions

- g) To engage in communications with a representative of the public agency's risk manager or insurance provider to discuss the adjustment of a pending claim or prevention of a claim imminently likely to be filed. The mere presence of a representative of the public agency's risk manager or insurance provider at an executive session does not satisfy this requirement.
- h) To consider labor contract matters authorized under Section 74-206 (1)(a) and (b).

Executive Sessions

- The exceptions to the general policy in favor of open meetings stated in this section shall be narrowly construed. It shall be a violation of this act to change the subject within the executive session to one not identified within the motion to enter the executive session or to any topic for which an executive session is not provided. (Idaho Code § 74-206(2); OML p. 28)



Executive Sessions

- No executive session may be held for the purpose of taking any final action or making any final decision. (Idaho Code § 74-206(3); OML p. 28)
- Minutes pertaining to an executive session shall include a reference to the specific statutory subsection authorizing the executive session and shall also provide sufficient detail to identify the purpose and topic of the executive session but shall not contain information sufficient to compromise the purpose of going into executive session. (Idaho Code § 74-205(2); OML p. 27)



Negotiations in Open Session

- All negotiations between a governing board and a labor organization shall be in open session.
- A governing board may hold an executive session for the specific purpose of:
 - Considering a labor contract offer or to formulate a counteroffer; or
 - Receiving private information about a specific employee
- All documentation exchanged between the parties during negotiations shall be subject to public writings disclosure laws.
- Public testimony, if any, shall be posted as an agenda item.
- Any other provision notwithstanding, the governing body shall post notice of all negotiation sessions at the earliest possible time practicable.

(Idaho Code § 74-206A; OML p. 28-29)

Enforcement

- Failure to comply with the provisions of Idaho Code §§ 74-201 – 74-207 renders the action null.
- Any member who participates in a meeting that violates these provisions will be subject to a civil penalty.
 - up to \$250
 - up to \$1,500 for “knowingly” participating
 - up to \$2,500 if subsequent to previous violation within last 12 months

Enforcement

- Attorney General shall have the duty to enforce this act in relation to public agencies of state government.
- Prosecuting Attorneys' duty to enforce this act in relation to local public agencies within their respective jurisdictions.
- Any person affected by a violation of the provisions of this act may commence a civil action.

Enforcement

- A violation may be cured by a public agency upon:
 - The agency's self-recognition of a violation; or
 - Receipt by the secretary or clerk of the public agency of written notice of an alleged violation. A complaint filed and served upon the public agency may be substituted for other forms of written notice.
- Upon notice, the governing body has fourteen (14) days to respond publicly and either acknowledge the violation and state an intent to cure or state that it has determined that no violation has occurred and that no cure is necessary. Failure to respond shall be treated as a denial of any violation for purposes of proceeding with any enforcement action.

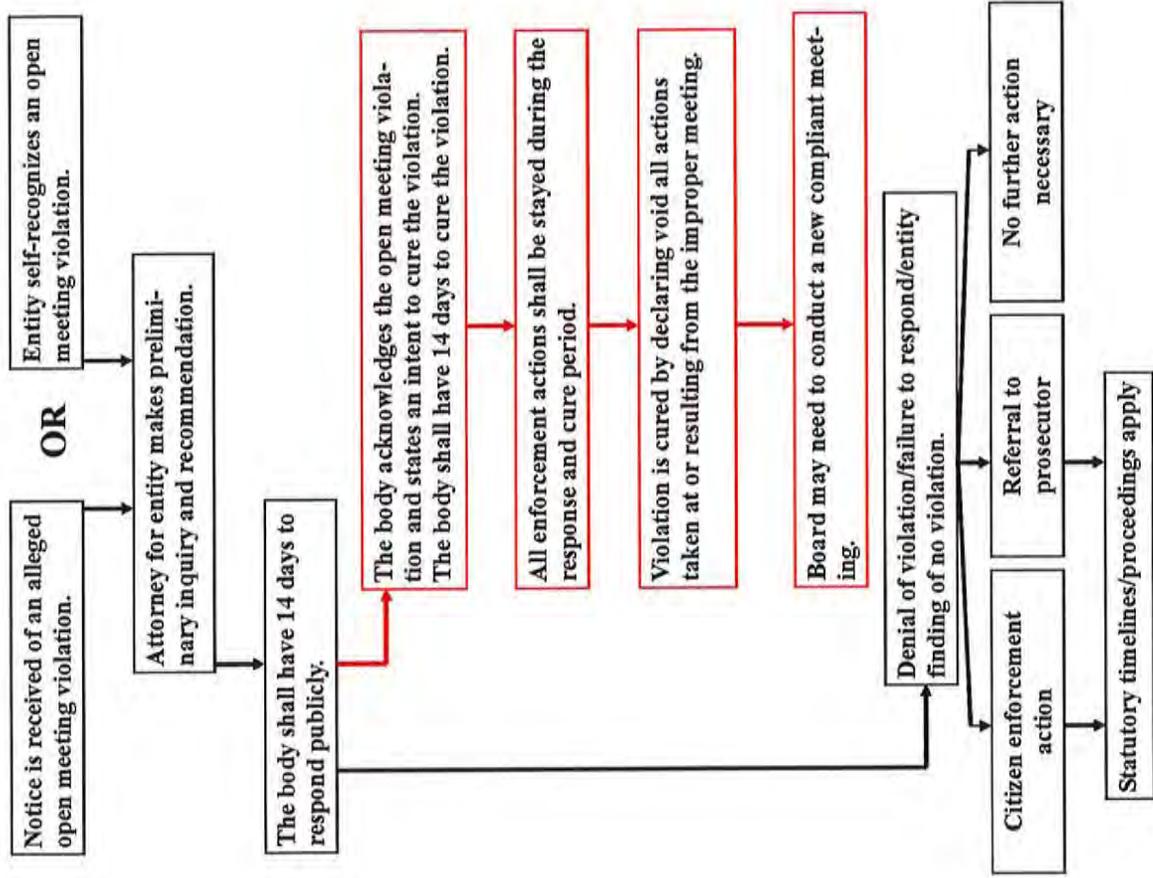
Enforcement

- Following the public agency's acknowledgment of a violation pursuant to paragraph (a)(i) or (a)(ii) of this subsection, the public agency shall have fourteen (14) days to cure the violation by declaring that all actions taken at or resulting from the meeting in violation of this act void.

Enforcement

- All enforcement actions shall be stayed during the response and cure period but may recommence at the discretion of the complainant after the cure period has expired.
- A cure as provided in this section shall act as a bar to the imposition of the civil penalty provided in subsection (2) of this section. A cure of a violation as provided in subsection (7)(a)(i) of this section shall act as a bar to the imposition of any civil penalty provided in subsection (4) of this section.

Curing Process – Idaho Code § 74-208(7)



State of Idaho
Office of the Attorney General
OPEN MEETING LAW CHECKLIST
Regular Meetings

Meeting Date and Time: _____
Meeting Location: _____

[Idaho Code § 74-203(4) and (5)]

Before Meeting

- Meeting Notice posted 5 or more calendar days prior to the meeting date.
[Idaho Code § 74-204(1)]
- Agenda Notice posted at least 48 hours prior to the meeting.
[Idaho Code § 74-204(1)]
- Posting of Amended Agenda [Idaho Code § 74-204(4)]

During Meeting

- First: Any agenda amendments? [Idaho Code § 74-204(4)(b) and (c)]
- Secretary or other person appointed to take minutes.
[Idaho Code § 74-205(1)]

After Meeting

- Minutes available to the public within a reasonable time after the meeting.
[Idaho Code § 74-205(1)]

State of Idaho
Office of the Attorney General
OPEN MEETING LAW CHECKLIST
Special Meetings

Meeting Date and Time: _____
Meeting Location: _____

[Idaho Code § 74-203(4) and (5)]

Before Meeting

- Meeting and Agenda Notice posted at least 24 hours prior to the meeting. [Idaho Code § 74-204(2)]
- Notification provided to the news media. [Idaho Code § 74-204(2)]
- Posting of Amended Agenda [Idaho Code § 74-204(4)]

During Meeting

- First: Any agenda amendments? [Idaho Code § 74-204(4)(b) and (c)]
- Secretary or other person appointed to take minutes. [Idaho Code § 74-205(1)]

After Meeting

- Minutes available to the public within a reasonable time after the meeting. [Idaho Code § 74-205(1)]

State of Idaho
Office of the Attorney General
OPEN MEETING LAW CHECKLIST
Executive Sessions

Session Date and Time: _____
Session Location: _____

[Idaho Code § 74-203(4) and (5)]

Executive Session Only

- Meeting and Agenda Notice posted at least 24 hours prior to the session. [Idaho Code § 74-204(3)]
- Posting of Amended Agenda [Idaho Code § 74-204(4)]

Executive Session During Regular or Special Meeting

- Motion to enter Executive Session to discuss one of the exemptions listed in Idaho Code § 74-206.
- 2/3 vote to enter Executive Session reflected in regular/special meeting minutes. [Idaho Code § 74-206(1)]

During Session

- First: Any agenda amendments? [Idaho Code § 74-204(4)(b) and (c)]
- Secretary or other person appointed to take minutes. [Idaho Code § 74-205(1)]

After Session

- Minutes must reference statutory subsection authorizing executive session and identify purpose and topic of session. [Idaho Code § 74-205(2)]
- Minutes available to the public within a reasonable time after the meeting. [Idaho Code § 74-205(1)]

>> **SAMPLE FORM** <<

Public Agency: _____, Idaho
(name of county, city, district, etc.)

Governing Body: _____
(i.e., "Board of County Commissioners", "City Council", etc.)

Meeting Date, Time and Location: _____

EXECUTIVE SESSION MOTION AND ORDER

(print name), _____ (print title),
MOVES THAT THE BOARD, PURSUANT TO IDAHO CODE § 74-206, CONVENE
IN EXECUTIVE SESSION TO: (Identify one or more of the following)

- Consider personnel matters [Idaho Code § 74-206(1)(a) & (b)]
- Deliberate regarding an acquisition of an interest in real property [Idaho Code § 74-206(1)(c)]
- Consider records that are exempt from public disclosure [Idaho Code § 74-206(1)(d)]
- Consider preliminary negotiations involving matters of trade or commerce in which this governing body is in competition with another governing body [Idaho Code § 74-206(1)(e)]
- Communicate with legal counsel regarding pending/imminently-likely litigation [Idaho Code § 74-206(1)(f)]
- Communicate with risk manager/insurer regarding pending/imminently-likely claims [Idaho Code § 74-206(1)(g)]

Purpose/Topic summary (required): _____
AND THE VOTE TO DO SO BY ROLL CALL.

CONVENE AT: _____ ADJOURN AT: _____

YES NO ABSTAIN

_____, Chair _____
(print name)

_____, Member _____
(print name)

_____, Member _____
(print name)

Clerk/Deputy Clerk: _____
(Signature)

Office of



Attorney General
Lawrence Wasden

>> **SAMPLE FORM** <<

Public Agency: _____, Idaho
(name of county, city, district, etc.)

Governing Body: _____
(i.e., "Board of County Commissioners", "City Council", etc.)

Meeting Date, Time and Location: _____

MOTION AND ORDER TO AMEND AGENDA

(less than 48 hours before regular meeting or 24 hours before special meeting)

_____, (print name), _____ (print title),
MOVES THAT THIS GOVERNING BODY, PURSUANT TO IDAHO CODE § 74-
204, AMEND THE AGENDA FOR THIS MEETING AS FOLLOWS:

Good faith reason item not included in posted agenda (required):

YES NO ABSTAIN

_____, Chair _____
(print name)

_____, Member _____
(print name)

_____, Member _____
(print name)

Clerk/Deputy Clerk: _____
(Signature)



Office of
Attorney General
Lawrence Wasden

Questions?

State of Idaho



Office of Attorney General
Lawrence Wasden

MOTIONS
By
BOARD OF HEALTH AND WELFARE
450 W State Street
Boise, Idaho 83720

Meeting Date: August 23, 2018

EXECUTIVE SESSION MOTION AND ORDER

I, Linda Hatzenbuehler, MOVE THAT THE IDAHO BOARD OF HEALTH AND WELFARE, PURSUANT TO IDAHO CODE §74-206, CONVENE IN EXECUTIVE SESSION TO:

Communicate with legal counsel regarding litigation options and strategies

AND THE VOTE TO DO SO BY ROLL CALL

MOTION BY: Linda Hatzenbuehler

SECONDED BY: Jim Giuffrè

VOTE: **Roll Call:** _____

| | <i>Aye</i> | <i>Nay</i> | <i>Absent</i> | <i>Abstain</i> |
|--------------------------|------------|------------|---------------|----------------|
| Mr. Kerby | <u>✓</u> | _____ | _____ | _____ |
| Mr. Giuffrè | <u>✓</u> | _____ | _____ | _____ |
| Ms. Hatzenbuehler | <u>✓</u> | _____ | _____ | _____ |
| Dr. Roberge | <u>✓</u> | _____ | _____ | _____ |
| Mr. Stroschein | <u>✓</u> | _____ | _____ | _____ |
| Ms. Jaquet | <u>✓</u> | _____ | _____ | _____ |
| Mr. Ranick | <u>✓</u> | _____ | _____ | _____ |

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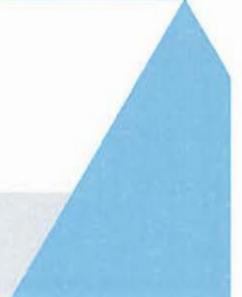
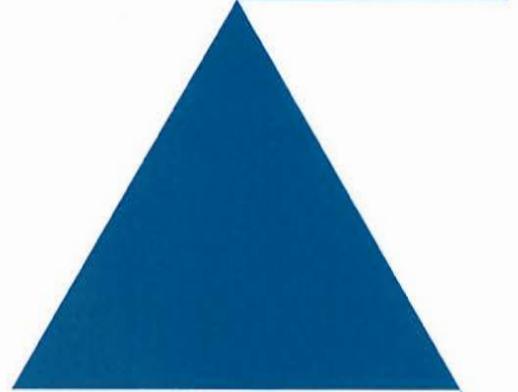
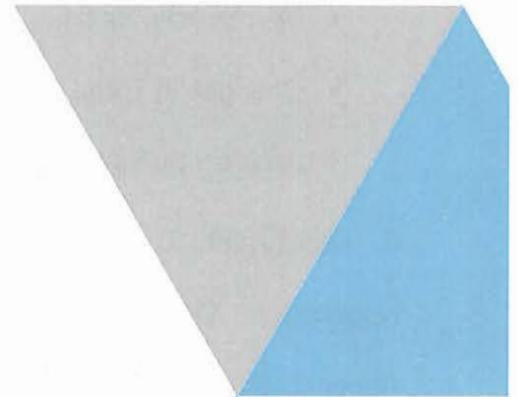
HEALTH WEALTH CAREER

IDAHO STATEWIDE HEALTHCARE INNOVATION PLAN

FINANCIAL ANALYSIS FOR AWARD YEAR 3

AUGUST 2, 2018

Idaho Healthcare Coalition



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1

EXECUTIVE SUMMARY

In 2017, Idaho's Statewide Healthcare Innovation Plan (SHIP) continued promoting the transformation of healthcare payments from volume-based payments to payments focused on outcomes coinciding with the implementation of the patient-centered medical home (PCMH) model of care. To support testing of Idaho's SHIP, Idaho received a four-year federal State Innovation Model (SIM) Model Test grant. As part of the grant's requirements, the State of Idaho (State) engaged Mercer Government Human Services Consulting (Mercer), part of Mercer Health & Benefits LLC, to analyze financial metrics for the State population's health in an effort to determine the impact of changes occurring through the SHIP on the State's healthcare costs. Targeted areas for expected cost avoidance through trend reductions from the implementation of the SHIP PCMH model were identified as generic prescription drug usage, inpatient hospital admission and readmissions, emergency room usage, early deliveries and general primary care savings.

It is important to note that, in addition to the SHIP, the State's payers and providers are implementing a number of other delivery and payment strategies with the goal of improving health outcomes and lowering costs. Thus, the dynamic environment in which the SHIP is being implemented limits the ability to determine the impact of the changes in healthcare costs that can be attributed solely to the SHIP. However, based on national research which shows decreased costs have resulted from the PCMH model, the SHIP is on pace to "bend the cost curve" and is believed to be a significant contributor to the impacts identified through this analysis.

The analysis showed that overall per member per month (PMPM) trend costs rose 3.4% from 2016 to 2017 and 9.5% from 2015 to 2017, which was on par with the projected per capita trend of 4.6% projected for 2016 to 2017 and 9.0% from 2015 to 2017, respectively, by the Centers for Medicare and Medicaid Services (CMS) Office of the Actuary (OACT)¹. However, when analyzing cost avoidance by payer, Medicare (\$57.3 million) and Medicaid (\$66.3 million) cost avoided exceeded increased costs incurred by commercial payers (\$30.1 million) by \$93.5 million. Furthermore, Medicare and Medicaid showed significant progress overall toward achieving their cost avoidance

¹ <https://www.cms.gov/Research-Statistics-Data-and-Systems/Statistics-Trends-and-Reports/NationalHealthExpendData/Downloads/Proj2017Tables.zip>

targets for PCMH services. In 2017, Medicare showed decreases in PMPM costs in nearly all categories except other professional services.

The reported population includes three of the four largest commercial payers in Idaho, Idaho Medicare and Idaho Medicaid, representing roughly 1.1 million of Idaho's 1.6 million people. Actual costs for the demonstration are projected to be over \$93.5 million lower than if no intervention for the SHIP or payment reform were taking place. The costs indicate the financial goals of the SHIP continue to progress as expected after year two of the model test.

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INTRODUCTION

The objective of Idaho's SHIP is to improve the health of all Idahoans by shifting the healthcare delivery system to a patient-centered focus while lowering the overall cost of healthcare through the implementation of the PCMH model of care. One method to lower overall costs is by shifting healthcare payments from volume-based payments to payments focused on outcomes.

The Center for Medicare and Medicaid Innovation (CMMI) selected Idaho for a federal SIM Test grant to support testing of Idaho's SHIP. The four-year grant is comprised of an initial year of preparing to implement the model and referenced as Award Year (AY) 1. The following three years of the grant are to test the model's impact, including the financial impact on Idaho's healthcare system. The "Model Test Years" correspond to AYs 2 to 4. Idaho's selection of the PCMH model of care as a key tenant of its SHIP is supported by both national and state experience.

A decrease in cost was shown from the 2014 evaluation of Idaho's pilot PCMH model. Piloted through the Idaho Medical Home Collaborative in 2013 and serving approximately 9,000 patients, the evaluation found approximately \$2.4 million in savings for Idaho's Medicaid program over each year of the project. The majority of primary care practices participating in Idaho's pilot were nationally certified PCMH practices.

However, payers are concurrently testing other initiatives along with the PCMH model. Other important delivery and payment approaches share the common goal of improved health outcomes and lower costs. The largest commercial payers in the State have all implemented alternatives to fee-for-service (FFS) payments to incentivize and reward quality and improved health outcomes. These payment models include:

- Pay-for-Performance (P4P)
- Enhanced P4P
- Shared Savings
- Shared Risk
- Full Risk
- Quality Bonuses
- Population-Based Payments

- Episode-Based Payments

In addition to the PCMH model, commercial payers are continuing to test alternative models including accountable care organizations (ACOs) with many of the State's hospitals, including total cost of care programs with shared savings payments for improving and managing patients with chronic conditions to reduce avoidable emergency room visits. Payers are also aligning their incentivized quality metrics to guide members to providers delivering high quality care. They are also working to expand value-based programs in an effort to align reimbursements, empower providers with data, focus on overall health and establish shared decision making between patients and their physicians. Together, payers and providers are developing the infrastructure to support partnerships to be successful in new payment arrangements and align payment systems with benefits, network design and consumer engagement.

Medicaid is expanding the payment reform model in Idaho by incentivizing participation in the PCMH model.² Medicaid also is encouraging value-based purchasing through the development of accountable Regional Coalition Organizations where physicians, providers and hospitals join together to create a regional system of care. Through both models, healthcare providers are rewarded for delivering better care instead of being paid for providing "more care" regardless of outcomes.

Idaho believes that the combined efforts of Idaho's commercial payers, Medicaid and the SHIP to implement delivery and payment models that incentivize and reward quality care will have a significant impact on improving the health of Idahoans. In addition, as demonstrated through this financial analysis, there is evidence that these combined efforts are bending the cost curve of the State's healthcare system.

² <http://healthandwelfare.idaho.gov/Default.aspx?TabId=216>

3

BACKGROUND

As part of the SIM grant, the Idaho Department of Health and Welfare (IDHW), together with the Idaho Healthcare Coalition, engaged Mercer to analyze financial metrics for the State's population health in an effort to determine the impact of healthcare cost changes occurring through the SHIP. This financial analysis also fulfills a grant requirement as the Center for Medicare and Medicaid Innovation (CMMI) seeks to understand the financial impact of healthcare delivery and payment models being tested across the nation.

Idaho's SHIP model testing is occurring within a dynamic health system environment. As such, this analysis is limited in that the impact of the SHIP PCMH model on utilization and costs cannot be isolated. Furthermore, while the population health metrics selected for this analysis are those that are most expected to be impacted by the PCMH model, it is expected that these metrics are also impacted by other payer models being implemented in Idaho. Regardless of these inherent limitations, national research supports the assumption that the PCMH model is a significant contributor to the findings of this financial analysis.

GRANT YEAR VERSUS CALENDAR YEAR

The grant period runs from February 1, 2015 through January 31, 2019, and is divided into award years as described previously and shown in Table 1 below. For ease of data collection and participation from the payers, Mercer is collecting and calculating data on a calendar year (CY) basis without adjusting for the lagging grant month. Therefore, although the Model Test years begin on February 1 and end on January 31, CY projections were not adjusted for the lagging month.

TABLE 1: REFERENCES TO TIME PERIODS

| FINANCIAL ANALYSIS YEAR DATA/GRANT YEAR | GRANT AY | MODEL TEST YEAR |
|---|----------|----------------------------|
| CY 2015 / February 1, 2015 through January 31, 2016 | AY 1 | Baseline (Year 0) |
| CY 2016 / February 1, 2016 through January 31, 2017 | AY 2 | Year 1 |
| CY 2017 / February 1, 2017 through January 31, 2018 | AY 3 | Year 2 |
| CY 2018 / February 1, 2018 through January 31, 2019 | AY 4 | End of Model Test (Year 3) |

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PROJECTED IMPACT OF IMPLEMENTING THE SHIP

In 2015, Mercer projected cost mitigation through trend reductions from the implementation of the PCMH model over the Model Test period. The areas expected to be impacted by the PCMH model were generic prescription drug usage, inpatient hospital admission and readmissions, emergency room usage, early deliveries and general primary care savings. The cost savings assumptions were based on research from similar PCMH impact studies. Cost increases associated with new PCMH operations being implemented were also built into the model.

Table 2 below identifies the cost mitigation assumptions.

TABLE 2: COST TARGETS, MILESTONES AND SAVINGS FOR PUBLIC/PRIVATE POPULATIONS COMBINED

| COST AVOIDANCE CATEGORY | END OF MODEL TEST TARGETS | MECHANISM | SAVINGS ASSUMPTIONS |
|--|--|---|---|
| Early Deliveries (in weeks 37–39 of gestation) | 5.0% reduction in expenses related to elective and non-elective preterm birth, prior to 39 weeks | 1.0%–4.0% of total Neonatal Intensive Care Unit (NICU) admissions (\$40 thousand–\$70 thousand/admit) are preventable with later deliveries | 0.56% reduction in Inpatient Hospital utilization for Medicaid child per year ³ |
| Generic Drug Use | Generic fill rate of 85.0% | Each 1.0% improvement in generic fill rates reduces total pharmacy spend (0.5%–1.0% Medicaid, 0.5%–1.0% commercial) | 0.17% reduction in prescription unit costs for Medicaid and commercial per year over 3 years ⁴ |

³ Ohio Perinatal Quality Collaborative 39-Weeks Delivery Charter Project (2008) <https://opqc.net/node/157>

⁴ Benefits of Implementing the Primary Care Patient-Centered Medical Home: A Review of Cost & Quality Results, 2012. Nielsen, Langner, Zema et al. Patient-Centered Primary Care Collaborative viewable at http://www.pcpcc.org/sites/default/files/media/benefits_of_implementing_the_primary_care_pcmh.pdf

| COST AVOIDANCE CATEGORY | END OF MODEL TEST TARGETS | MECHANISM | SAVINGS ASSUMPTIONS |
|--|--------------------------------------|---|--|
| Hospital Readmissions | 5.0%–10.0% reduction | 20.0% of all hospitalizations are preventable re-hospitalizations | 0.5% reduction in Inpatient Hospital utilization for Medicare and Medicaid, 0.33% reduction for commercial ⁵ |
| Acute Care Hospitalizations | 1.0%–5.0% reduction | PCMHs reduce with IMPACT ⁶ & Intensive Outpatient Care Programs training | 0.5% reduction in Inpatient and Outpatient Hospital unit cost for Medicare and Medicaid, 0.25% reduction for commercial ⁷ |
| Non-Emergent Emergency Department (ED) Use | 5.0%–10.0% reduction in total ED use | 10.0%–30.0% of ED visits are non-emergent | 1.0% reduction in ED utilization for all payers ⁸ |
| General Primary Care Savings | Reduction in utilization | Savings typical when moving to a care management setting | 0.5% reduction for Medicare and Medicaid for Specialists, Physical therapy, Occupational therapy and Radiology; 0.25% in DME for Medicaid Duals, 0.25% for Medicare Duals ⁹ |

⁵ Benefits of Implementing the Primary Care Patient-Centered Medical Home: A Review of Cost & Quality Results, 2012. Nielsen, Langner, Zema et al. Patient-Centered Primary Care Collaborative viewable at http://www.pcpcc.org/sites/default/files/media/benefits_of_implementing_the_primary_care_pcmh.pdf

⁶ IMPACT is an evidence-based depression care program developed by the University of Washington. Most IMPACT materials, training, consultation and other assistance to adapt and implement IMPACT are offered free thanks to the generous support of the John A. Hartford Foundation.

⁷ Health Affairs, Health Policy Brief on Patient Engagement. February 14, 2013 viewable at http://www.healthaffairs.org/healthpolicybriefs/brief.php?brief_id=86

⁸ Effect of a Multipayer Patient-Centered Medical Home on Health Care Utilization and Quality: The Rhode Island Chronic Care Sustainability Initiative Pilot Program. JAMA Internal Medicine, Report Abstract published online, September 9, 2013 viewable at <http://archinte.jamanetwork.com/article.aspx?articleid=1735895>

⁹ Health Affairs, Health Policy Brief on Patient Engagement. February 14, 2013 viewable at http://www.healthaffairs.org/healthpolicybriefs/brief.php?brief_id=86

As part of the model testing grant application, Mercer built a comparison model of care using medical expense data supplied by 1) the IDHW for 2013 and 2014 incurred expenses, 2) the OACT for 2012 and 2013 incurred expenses, 3) three of the four largest commercial payers for 2014 and 4) Mercer's proprietary commercial claims database. Mercer also used commercial payers' public filings, as available from 2013 and 2014. Membership was assumed to remain constant and no shift between payers was included in the model. Costs were trended forward using trend rates based on the U.S. Consumer Price Index (CPI) for medical care services to align reporting periods, yielding a baseline for comparison of CY 2015 as the Baseline. Trend assumptions for each Model Test year for Medicare and Medicaid were derived from the National Health Expenditure projections from the CMS OACT. Trend assumptions for commercial data for the same periods were derived from Mercer's proprietary commercial claims database. The results showed a projected cost avoidance of \$89 million over the model testing period.

To collect the data for the analysis, commercial, Medicare and Medicaid (payers) were surveyed using the category of services classifications and definitions included in Appendix A. To isolate the effect on cost per member, member shifts between payers and membership growth was removed from the assumption, leaving member months as a constant in the original model.

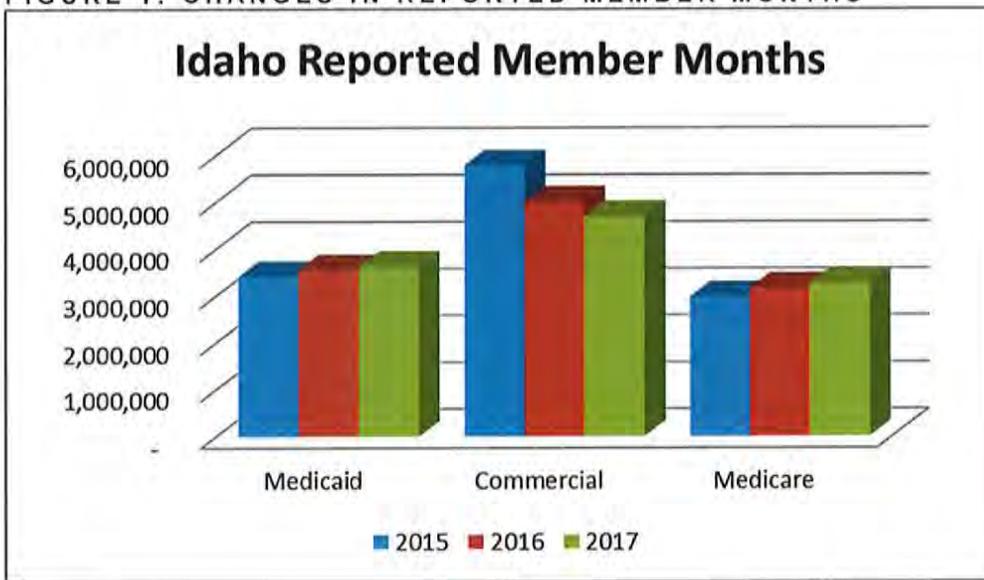
5

2017 FINANCIAL ANALYSIS OBSERVATIONS

MEMBERSHIP SHIFTS

In the projected model, membership was held constant by the payer type. Enrollment trends show a decline in reported commercial membership and steady growth in the public sectors. Member months, as reported by the payers, counts each month of the year for each member reported as one. As shown in Figure 1, the increase in both Medicaid and Medicare member months was more than offset by the reduction in commercial payers reported member months.

FIGURE 1: CHANGES IN REPORTED MEMBER MONTHS



Shifts in membership can affect trend and PMPM costs by payer if there is a change in the overall acuity of the membership base. For instance, Medicaid experienced a large influx of membership in 2016 because of the introduction of Idaho’s marketplace, which identified several beneficiaries as eligible for Medicaid. These beneficiaries were likely healthier as a whole than the base population used in original forecast. Conversely, the commercial payers reported significant decreases in family membership from 2015 to 2016 and showed a decrease in per member costs, indicating movement of high acuity beneficiaries to another payer.

CHANGES IN TREND

Restated costs for Medicaid recipients in 2015 and 2016 led to a restated Idaho trend of 0.8%, down from the previously reported 2.9% in the 2016 financial analysis. Reported trends in total for Idaho increased by 3.4% in 2017. The overall reported PMPM cost of care increased from \$476.58 in 2016 to \$492.96 in 2017.

TABLE 3: REPORTED TRENDS

| PARTICIPANTS | BASELINE PMPM | 2016 ACTUAL PMPM | 2016 ACTUAL TREND | 2017 ACTUAL PMPM | 2017 ACTUAL TREND | 2015- 2017 TOTAL ACTUAL TREND | 2015-2017 PROJECTED TREND |
|-----------------------------|------------------|------------------------|-------------------------|------------------------|-------------------------|---|---------------------------------|
| MEDICAID | | | | | | | |
| Children | \$262.18 | \$265.87 | 1.41% | \$271.51 | 2.12% | 3.56% | 11.33% |
| Dual Eligible | \$1,392.94 | \$1,405.23 | 0.88% | \$1,437.51 | 2.30% | 3.20% | 4.42% |
| Aged/Disabled (non-dual) | \$2,145.39 | \$2,207.54 | 2.90% | \$2,265.95 | 2.65% | 5.62% | 8.54% |
| Other Adult | \$422.70 | \$410.47 | -2.89% | \$407.09 | -0.82% | -3.69% | 9.53% |
| COMMERCIAL | | | | | | | |
| Individual | \$403.38 | \$530.14 | 31.42% | \$558.63 | 5.37% | 38.49% | 10.29% |
| Family | \$375.52 | \$347.91 | -7.35% | \$381.42 | 9.63% | 1.57% | 10.40% |
| MEDICARE | | | | | | | |
| Dual Eligible | \$756.49 | \$876.43 | 15.85% | \$790.41 | -9.81% | 4.48% | 9.71% |
| FFS | \$412.54 | \$425.64 | 3.18% | \$432.23 | 1.55% | 4.77% | 9.98% |
| Medicare Advantage | \$756.23 | \$849.44 | 12.33% | \$818.63 | -3.63% | 8.25% | 11.02% |

ANALYSIS BY PAYER TYPE

Medicaid

Medicaid showed decreases in PMPM costs for adult non-dual, non-aged or disabled beneficiaries, dropping from PMPM costs of \$422.70 in 2015 down to \$407.09 in 2017. Medicaid showed an increase in overall PMPM costs from \$495.92 in 2016 to \$508.52 in 2017—an increase of 3.32%. Categories of service identified in the PCMH model were Inpatient, Emergency Room, Outpatient, Professional Specialty Care, Physical and Occupational Therapies (PT/OT) and Pharmacy. While those cost categories held to a 2.1% trend in 2016, the cost of Inpatient and Outpatient services drove the trend up 4.1% in 2017; and professional primary care costs increased by 4.6% in 2017. Overall, Medicaid cost avoided for 2016 and 2017, as shown in Table 4 is \$66,335,153.

Commercial

While public payers showed decreases in PMPM trend, commercial payers reported a 9.2% increase in PMPM costs, driven by significant increases in costs for Outpatient services, Durable Medical Equipment (DME), and nearly doubling the cost of PT/OT. Like Medicaid, PCMH model assumption categories showed an increase of 17.6% in 2017 compared to 1.7% in 2016.

Professional primary care costs decreased by 13.5% in 2017. Commercial payers in the State exceeded payments nationally in 2016 and 2017 by \$30,089,913.

Medicare

Increases driven by only the rise in PT/OT, Medicare reported significant improvement with negative trends in inpatient, emergency room, DME and prescription drug PMPM costs. Medicare reported PCMH model assumption categories with a 2.6% PMPM decrease in 2017 compared to an increase of 12.7% in 2016. Professional primary care costs decreased by 6.3% in 2017. While exceeding costs nationally in 2016, Idaho Medicare PMPMs went down in 2017 to show two-year costs avoided of \$57,276,736.

TABLE 4: COST AVOIDED BY PAYER

| PAYER | BASELINE PMPM | ACTUAL PMPM | ACTUAL TREND | OACT TREND | PROJECTED PMPM | COST AVOIDED PMPM | TOTAL COST AVOIDED |
|-------------------|---------------|-------------|--------------|------------|----------------|-------------------|---------------------|
| MEDICAID | | | | | | | |
| 2015/2016 | \$492.18 | \$495.82 | 0.76% | 3.95% | \$511.61 | \$15.69 | \$59,193,893 |
| 2016/2017 | \$495.92 | \$508.52 | 2.54% | 2.92% | \$510.38 | \$1.86 | \$7,141,261 |
| COMMERCIAL | | | | | | | |
| 2015/2016 | \$381.41 | \$393.79 | 3.25% | 5.11% | \$400.89 | \$7.10 | \$35,582,245 |
| 2016/2017 | \$393.79 | \$429.96 | 9.19% | 5.63% | \$415.95 | \$(14.00) | \$(65,672,158) |
| MEDICARE | | | | | | | |
| 2015/2016 | \$533.39 | \$585.07 | 9.69% | 3.59% | \$552.53 | \$(32.53) | \$(102,517,554) |
| 2016/2017 | \$585.07 | \$565.35 | -3.37% | 5.02% | \$614.41 | \$49.06 | \$159,794,291 |
| Total | | | | | | | \$93,521,977 |

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CONCLUSION

As described in the AY2 Financial Analysis Report, Idaho's SHIP model testing is occurring within a dynamic health system environment; therefore, the results of this analysis cannot be directly attributed to the impact of the SHIP PCMH model on utilization and costs. These metrics are also impacted by other payer models being implemented in the State, changes occurring in membership enrollment and changes in members' utilization of services.

Cost avoided by Medicaid and Medicare exceeded the additional costs incurred by commercial payers by more than \$93 million dollars. The cost avoidance assumptions for Medicaid show overall rate improvements, but not necessarily in PCMH categories. Commercial payers reported significant increases in total cost PMPMs in both individual and family/group categories. The increases in outpatient and PT/OT more than offset the costs avoided in inpatient costs. Medicare showed reductions in costs in nearly all categories except PT/OT.

In summary, these combined changes in the State may be bending the cost curve for public payers. Actual costs are \$93.5 million less than projected for the first two years of the demonstration for all payers, and nearly \$124 million for public payers. If the State can maintain the current cost avoidance trends, Idahoans should exceed the \$89 million of projected cost avoidance in the SHIP Model Test Grant application.

APPENDIX A

DATA REQUEST

Data Request Template Sent to Payers on February 9, 2018:

Dear Multi-payer workgroup participants,

CMMI requires reports to monitor financial progress for the SIM grant Idaho received. Now that 2017 is complete, we are sending out the data request again. The attached spreadsheet is updated for 2017 but follows the exact same format reported in 2015 and 2016. Please review the spreadsheet and let me know if you have any concerns providing the requested data. Costs should be aggregated based on the category of service logic provided, but split by the category of aid or contract type listed in row 4 of the Report Template tab.

Your signed standard Mercer Client Confidentiality Agreement are still in effect. Reporting to CMMI will be done in aggregate such that no individual payer data will be discernable.

Please review both documents and let me know if you have any concerns about either document by February 15th. If not, we'd like to start receiving data on April 4th. If you're unable to meet that date, please let me know when you think you can get the template completed. I appreciate your participation in the SHIP and would like to make the reporting process as simple as possible.

Thank you!

Scott Banken, CPA

APPENDIX B

DATA REQUEST TABLE

CY 2017

| | MEDICAID/CHIP | | | | | | PRIVATE/OTHER | | | MEDICARE | | |
|-----------------------------|---------------|-------|-----------------------|----------------------------------|------------|------|---------------|---------------|-------------------------------|--------------------|--------|------|
| | ADULT | CHILD | DUAL ELIGIBLES (ONLY) | DISABLED/ELDERLY (WITHOUT DUALS) | INDIVIDUAL | | FAMILY | DUAL ELIGIBLE | FFS/NON-DUALS (PARTS A AND B) | MEDICARE ADVANTAGE | PART C | |
| | | | | | | | | | | | | |
| Member Months | | | | | | | | | | | | |
| Inpatient Hospital | \$ - | \$ - | \$ - | \$ - | \$ - | \$ - | \$ - | \$ - | \$ - | \$ - | \$ - | \$ - |
| Emergency Department | \$ - | \$ - | \$ - | \$ - | \$ - | \$ - | \$ - | \$ - | \$ - | \$ - | \$ - | \$ - |
| Urgent Care | \$ - | \$ - | \$ - | \$ - | \$ - | \$ - | \$ - | \$ - | \$ - | \$ - | \$ - | \$ - |
| Outpatient Hospital | \$ - | \$ - | \$ - | \$ - | \$ - | \$ - | \$ - | \$ - | \$ - | \$ - | \$ - | \$ - |
| Professional Primary Care | \$ - | \$ - | \$ - | \$ - | \$ - | \$ - | \$ - | \$ - | \$ - | \$ - | \$ - | \$ - |
| Professional Specialty Care | \$ - | \$ - | \$ - | \$ - | \$ - | \$ - | \$ - | \$ - | \$ - | \$ - | \$ - | \$ - |

IDAHO CHIP FINANCIAL ANALYSIS FOR
AWARD YEAR 3

IHC

| | MEDICAID/CHIP | | | | PRIVATE/OTHER | | MEDICARE | | |
|-----------------------------------|---------------|-------|-----------------------|----------------------------------|---------------|--------|---------------|-------------------------------|---------------------------|
| | ADULT | CHILD | DUAL ELIGIBLES (ONLY) | DISABLED/ELDERLY (WITHOUT DUALS) | INDIVIDUAL | FAMILY | DUAL ELIGIBLE | FFS/NON-DUALS (PARTS A AND B) | MEDICARE ADVANTAGE PART C |
| Diagnostic Imaging/X-Ray | \$ - | \$ - | \$ - | \$ - | \$ - | \$ - | \$ - | \$ - | \$ - |
| Laboratory Services | \$ - | \$ - | \$ - | \$ - | \$ - | \$ - | \$ - | \$ - | \$ - |
| DME | \$ - | \$ - | \$ - | \$ - | \$ - | \$ - | \$ - | \$ - | \$ - |
| Dialysis Procedures | \$ - | \$ - | \$ - | \$ - | \$ - | \$ - | \$ - | \$ - | \$ - |
| Professional Other (e.g., PT, OT) | \$ - | \$ - | \$ - | \$ - | \$ - | \$ - | \$ - | \$ - | \$ - |
| Skilled Nursing Facility | \$ - | \$ - | \$ - | \$ - | \$ - | \$ - | \$ - | \$ - | \$ - |
| Home Health | \$ - | \$ - | \$ - | \$ - | \$ - | \$ - | \$ - | \$ - | \$ - |
| Custodial Care | \$ - | \$ - | \$ - | \$ - | \$ - | \$ - | \$ - | \$ - | \$ - |
| ICF/MR | \$ - | \$ - | \$ - | \$ - | \$ - | \$ - | \$ - | \$ - | \$ - |
| HCBS | \$ - | \$ - | \$ - | \$ - | \$ - | \$ - | \$ - | \$ - | \$ - |
| Other | \$ - | \$ - | \$ - | \$ - | \$ - | \$ - | \$ - | \$ - | \$ - |
| Behavioral Health | \$ - | \$ - | \$ - | \$ - | \$ - | \$ - | \$ - | \$ - | \$ - |

IDAHO SHIP FINANCIAL ANALYSIS FOR
AWARD YEAR 3

IHC

| | MEDICAID/CHIP | | | PRIVATE/OTHER | | MEDICARE | | | |
|---------------------------------|---------------|-------------|-----------------------|----------------------------------|-------------|-------------|---------------|-------------------------------|---------------------------|
| | ADULT | CHILD | DUAL ELIGIBLES (ONLY) | DISABLED/ELDERLY (WITHOUT DUALS) | INDIVIDUAL | FAMILY | DUAL ELIGIBLE | FFS/NON-DUALS (PARTS A AND B) | MEDICARE ADVANTAGE PART C |
| Prescription Drugs (Outpatient) | \$ - | \$ - | \$ - | \$ - | \$ - | \$ - | \$ - | \$ - | \$ - |
| TOTAL | \$ - | \$ - | \$ - | \$ - | \$ - | \$ - | \$ - | \$ - | \$ - |

APPENDIX C

CATEGORY OF SERVICE CLASSIFICATIONS

Use the following logic in order to classify claims and expenses.

| EMERGENCY DEPARTMENT | |
|-----------------------------------|---|
| | 837I or UB04: Revenue codes 0450, 0451, 0452, 0459, 0981 |
| | 837P or CMS1500: Procedure codes 99281-99285, G0380-G0384, G0390 |
| URGENT CARE | |
| | 837I or UB04: Revenue code 0456 |
| | 837P or CMS1500: Procedure codes S9083, S9088 and/or Place of Service code = 20 |
| Dialysis | |
| | 837I or UB04: Revenue codes 082x-088x |
| | 837P or CMS1500: Place of Service = 65 or Rendering Provider Type = ESRD Treatment or Dialysis Facility |
| INPATIENT HOSPITAL | |
| | 837I or UB04 |
| | Bill Type: 011x or 012x |
| | BH is to be split out into the BH bucket by revenue codes: 0114, 0116, 0124, 0126, 0134, 0136, 0144, 0146, 0154, 0156, 0204, |
| OUTPATIENT HOSPITAL (EXCLUDES ER) | |
| | 837I or UB04 |
| | Bill Type: 013x or 083x |
| SNF | |
| | 837I or UB04: Bill Type 02xx |
| PROFESSIONAL PRIMARY CARE | |
| | 837P or CMS1500: Rendering Provider Type: Family Practice, General Practice, Internal Medicine, Pediatrics, Preventive Medicine, Geriatrics |

<http://www.cms.gov/Regulations-and-Guidance/Guidance/Transmittals/downloads/R2161CP.pdf>

PROFESSIONAL SPECIALTY CARE

837P or CMS1500: Rendering Provider Type: Allergy & Immunology, Anesthesia, Dermatology, Emergency Medicine, Surgery, OBGYN, Ophthalmology, Orthopedics, Otolaryngology, Pathology

<http://cms.gov/Medicare/Provider-Enrollment-and-Certification/MedicareProviderSupEnroll/downloads/taxonomy.pdf> Specialists are Allopathic and/or Osteopathic physicians with specialties in the attached list OTHER than the primary care specialties. Only CMS Specialty Codes 01–99 are to be included.

PROFESSIONAL OTHER

837P or CMS1500: Rendering Provider Type: All other specialties that do not fall into Primary Care or Specialty Care.

DIAGNOSTIC IMAGING/X-RAY

837P or CMS1500: Procedure Codes 70000–79999

LAB SERVICES

837P or CMS1500: Procedure Codes 80000–89999

DME

<http://www.cms.gov/Medicare/Medicare-Fee-for-Service-Payment/DMEPOSFeeSched/DMEPOS-Fee-Schedule.html>

DME15-C is the more current file, but probably would not match data as well. File will need to be filtered to Idaho only data.

HH

837I or UB04: Bill Type 03xx or Revenue codes 0550, 0551, 0559, 057x, 0989

837P or CMS1500 Procedure Codes: T0221, S5180, S5181, S9122-S9125, T1019-T1022, G0160-G0161,

POS = 05 or Provider Type = Home Health Agency

CUSTODIAL CARE

837P or CMS1500: POS = 13, 14, 32, or 33
or Procedure Code: 99324–99339

ICF/MR

837I or UB04: Bill Type 065x or 066x and

Diagnosis codes 317.x-319.x for MR

| BH | |
|---------------------------------------|--|
| | 837P or CMS1500: Primary diagnosis codes 290–319 (excluding ICF claims) |
| | 837I or UB04: Inpatient BH revenue codes: 0114, 0116, 0124, 0126, 0134, 0136, 0144, 0146, 0154, 0156, 0204 |
| HCBS | |
| HCBS SERVICES FROM WAIVER APPLICATION | |
| | Residential Habilitation |
| | Respite |
| | Supported Employment |
| | Community Support Services |
| | Financial Management Services |
| | Support Broker Services |
| | Adult Day Health |
| | Behavior Consultation/Crisis Management |
| | Chore Services |
| | Environmental Accessibility Adaptations |
| | Home Delivered Meals |
| | Non-Medical Transportation |
| | Personal Emergency Response System |
| | Skilled Nursing |
| | Specialized Medical Equipment and Supplies |
| PRESCRIPTION DRUGS | |
| | NCPDP or presence of NDC code. |
| Other | |
| | All other claims that don't fall into the above COS. |

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Idaho Proposition Two Ballot Initiative

Idaho Proposition Two is an initiative to provide that the Department of Health and Welfare shall amend its Medicaid state plan to provide healthcare coverage to certain people, specifically adults with incomes of 138 percent of the Federal Poverty Level (FPL) as described in the Code of Federal Regulations. The initiative has been qualified for the 2018 election ballot by the Idaho Secretary of State's office and voters will consider it on Nov. 6, 2018. The ballot text of Proposition Two is [here](#).

What is the Idaho Department of Health and Welfare's position on Proposition Two?

As an agency of Idaho state government, DHW does not have any position intended to influence the outcome of Proposition Two. Under Idaho Code Ann. § 67-5311, no classified employee of a state department shall use their official authority or influence to interfere with an election.

What has DHW done to analyze the potential financial impacts to Idaho if Proposition Two passes and is implemented by lawmakers?

As the state agency administering the federal Medicaid program in Idaho, DHW hired an outside actuarial firm, Milliman Inc., to analyze the cost impact of expanding Medicaid in the event Proposition Two passes. Milliman had provided similar reports for Idaho on the cost of Medicaid expansion in 2014 and 2016 when inquiries from the public about the cost of expanding Medicaid in Idaho were raised. DHW worked with Milliman to update the report and cost projections based on the current economic environment and the specific proposal in Proposition Two.

What is the Milliman Report?

Milliman Inc. released its Proposition Two financial analysis in a report to DHW on July 19, 2018. It is titled "Financial Impacts from Medicaid Expansion in Idaho," and is available [here](#).

What were the findings of the 2018 Milliman Report?

The report indicates that Medicaid expansion in a single year (using the second-year costs because it represents the first year of full implementation) would cost the state about \$45 million but will also generate about \$40 million in state and local fund offsets. The single year net cost to the state will vary year over year, but the net total 10-year cost estimate from state fiscal year 2020-2030 in state funds is \$105.1 million, once costs and savings are accounted for.

Why did previous Milliman reports on expanding Medicaid in Idaho assume the Catastrophic Health Care Fund (CAT Fund) and counties medically indigent funds would be eliminated?

Several things have changed since the last Milliman report (2016) was published. Currently, there is no financial penalty for not having health insurance. When the previous reports were developed, the individual mandate was enforced, so the assumption was that people would either be covered by insurance or Medicaid. Also, premium increases have made it less affordable for individuals who don't qualify for assistance to afford to purchase coverage, increasing the number of uninsured individuals

over 138 percent of FPL. These changes have had an impact on the catastrophic fund, making the elimination of the program less predictable without legislative and county action to end the funding permanently.

Can the CAT Fund program or the Medically Indigent Funds program be eliminated?

An elimination of the CAT Fund and the Medically Indigent Funds would require a change to Idaho Code.

Why was the Idaho Department of Corrections (IDOC) recidivism reduction removed from the latest report — are the projected savings gone?

Medicaid expansion will provide substance use disorder treatment to a greater number of offenders in the community than what is currently appropriated to IDOC by state general funds. Research indicates that offenders who engage in treatment are less likely to recidivate, which would result in a future cost avoidance for the state because a percentage of those offenders would not return to prison. Because of a significant number of variables, such as total treatment funds available, recent Behavioral Health treatment funding increases, optimum amount of treatment required per offender, and availability of community supervision resources, it is difficult to project and quantify this future cost avoidance.

Why are the per-member per-month cost assumptions different in this new report compared to earlier cost projection reports?

The January 2016 Milliman report was based upon emerging cost data that was reflective of 2015, the second year of Medicaid expansion under the Affordable Care Act, with additional adjustments for the new treatments covered for Hepatitis C. At the time of the 2016 report, data was still being gathered on the durational effects of implementing expansion, while today there is more expansion data available upon which to base calculations. There was a Milliman report update on Nov. 18, 2016, that incorporated additional cost adjustments for durational effects of implementing expansion.

With the Dec. 3, 2014 Milliman report, data on the cost of various options for delivery of care reflected very early emerging experience of high costs for some states that expanded Medicaid in January 2014. At the time, there was insufficient data to determine the level of pent-up demand influence versus the steady state cost of care.

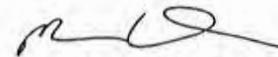
The new July 19, 2018 Milliman report incorporated additional cost adjustments for observed durational effects of implementing expansion and reflects better informed cost assumptions from the 2017 calendar year of actual experience from states with expansion populations. Now that the emerging cost data from states that expanded Medicaid has matured, cost impacts relating to the duration of participation within the program can be most accurately modeled.



Child & Family Services Program (CFS)

Staff Workload & Caseload

Biannual Report



Miren Unsworth, Administrator
June 30, 2018

Background:

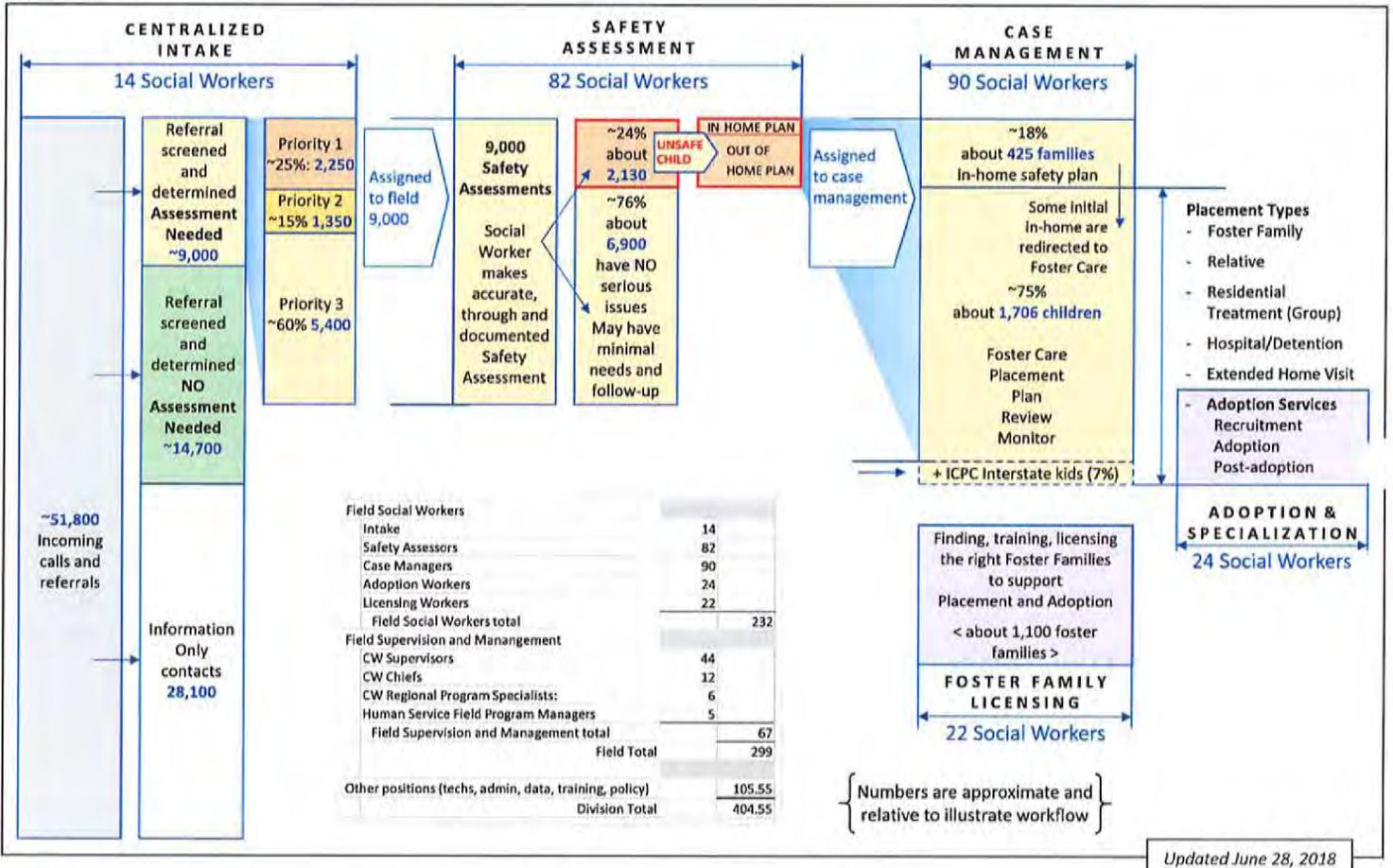
The Biannual Staff Workload and Caseload report provides the Idaho Legislature with information regarding critical challenges to Idaho's Child Welfare Program to increase visibility to staffing and caseload levels and to create a clear understanding of the Department of Health and Welfare's approach to addressing problems and ensuring the safety of Idaho children.

Child Welfare Mission:

The mission of Idaho's Child Welfare Program is to ensure the safety of all Idaho children. All policy and practice decisions must align with our number one priority, a child's safety.

Overview of Operational Structure:

The Child Welfare Program's operational structure is broken down into several key functional groups to manage and meet the needs of Idaho's child protection priorities. These key groups include Centralized Intake, Safety Assessment, Case Management, Foster Care Licensing, and Adoption Services. Each of these groups are staffed according to the estimated resource needs while working with the limited and fixed number of positions allocated to the Idaho Child Welfare Program. The illustration on the following page provides a high-level overview of the child protection workflow along with approximate annual counts and the number of Social Workers (FTE) assigned to each of the field-based functional groups. For purposes of this report and to show the relative number of referrals, families, children, and cases, these annual counts have been generalized and are composites of the most recent metrics; therefore, some values will not precisely match other officially published annual numbers. The Child Welfare Division is currently authorized for 404.55 positions, this count includes the nine new positions authorized and funded during the 2018 Legislative session. The illustration also captures other positions within child welfare, to provide context relative to the staffing levels identified in the child protection workflow. Details associated with each functional group is described following the workflow illustration.



Centralized (statewide) Intake Function:

Idaho uses a Centralized Intake Unit to process all child protection referrals. The Centralized Intake Unit is made up of 14 Social Workers. These positions provide 24 hours per day, seven days per week response to calls and referrals from the community about children potentially at risk. The primary responsibility of this unit is to answer referrals and calls from the public, make priority determinations related to the referral, and assign safety assessments to field social workers based on the priority of the referral; field staff then conduct a safety assessment to determine if the child is safe. Priority 3 referrals make up about 60% of all safety assessments with five days to contact the child and family; Priority 2 referrals make up 15% of all safety assessments with two days to contact the child and family; and Priority 1 referrals make up 25% of all safety assessments with 24 hours to contact the child and family.

| Statewide Centralized Intake Work Levels (most recent 12 months; June 2017 to May 2018) | | |
|---|---------|--|
| Activity | Volume | Required Tasks |
| Answer incoming calls and referrals | ~51,800 | <ul style="list-style-type: none"> • Answer phone 24x7 • Evaluate call for information or safety issue |
| Evaluate referral | ~23,700 | <ul style="list-style-type: none"> • Determine if issue requires home assessment and document in iCare |
| Evaluate level of risk to child | ~9,000 | <ul style="list-style-type: none"> • Determine priority level (1, 2, or 3) • Forward to 'field catcher' for assessment |

Centralized Intake Workforce Summary:

Over the past two years (the two most recently completed 12-month periods), as shown in the table below, the Centralized Intake Unit has seen a 25% increase in phone calls and a 7% increase in Presenting Issues (PI). A referral that is determined to be a Presenting Issue is one in which the Social Worker must decide whether or not a Social Worker must make a home visit. While the Centralized Intake Unit faces increasing challenges in covering the increase in call volume and subsequent increases in Presenting Issues, with some adjustments in workflow, the Unit is adequately staffed to manage current work volumes at acceptable quality levels.

| Statewide Centralized Intake Work Level Comparison (year over year; values rounded) | | |
|---|-------------|--------------------------|
| Time Period | Total Calls | Presenting Issues (PI's) |
| Year ago 12 months (Jun 2016 – May 2017) | 41,500 | 22,100 |
| Most recent 12 months (Jun 2017 – May 2018) | 51,800 | 23,700 |
| Percent Increase | 25% | 7% |

Safety Assessment Function:

Once the Centralized Intake Unit determines that a safety assessment must be completed, the unit transmits this assignment to field Social Workers. Each region monitors transmissions with individuals assigned as “catchers.” In cases of urgency or immediate danger the Centralized Intake Unit will seek and make direct contact with someone in the field to ensure an immediate response. Field Social Workers are assigned using local protocols and the assigned priority level to conduct the safety assessments.

Safety Assessor Social Workers are monitored on time to make face to face contact with the child and time to close an assessment. The goal of a safety assessor is to decide if the child is safe. If there is a determination that the child is unsafe, then decisions are made to either put together a safety plan that can be monitored in the home, or make a recommendation to law enforcement or the Court to remove the child from the home. It is critical to note that law enforcement is contacted in all Priority 1 and Priority 2 safety assessments and they are responsible for making the determination as to whether or not the child is in imminent danger and must be removed from the home. Based on the ~9,000 safety assessments conducted each year, about 76% result in a determination that the child is safe and there are sufficient protective capacities in place that the child does not need to be removed from the home. In about 24% of the safety assessments, there is a determination that the child is unsafe in their current environment.

| Statewide Safety Assessment Annual Work Levels | | |
|---|-----------------|--|
| Activity | Volume | Required Tasks |
| Respond to referrals according to priority | ~9,000 Families | <ul style="list-style-type: none"> Evaluate circumstances and event |
| Determine if child safety is an issue (in about 24% of Assessments safety is an issue) | ~2,130 Families | <ul style="list-style-type: none"> Coordinate with Case Manager to support case planning |
| Determine if/how child can stay in the home (~20% with safety issues <u>can stay</u> at home) | ~425 Families | <ul style="list-style-type: none"> Create in-home safety plan |
| Determine out-of-home placement (~ 80% with safety issues <u>cannot stay</u> at home) | ~1706 Children | <ul style="list-style-type: none"> Place child in foster care Complete initial court reports |

| Statewide Safety Assessment Annual Performance Levels | | |
|---|------------------------|-----------------------|
| Activity | Goal | Current Performance |
| Timeliness to response | 100% | 92% |
| Timeliness to see a child | 100% | 87% |
| Timeliness to complete and close safety assessment | 100% within 45 days | 60% within 45 days |

Safety Assessment Workforce Summary:

One of Child Welfare’s pain points is to conduct and close safety assessments timely, particularly in the Central Hub (Regions 3 and 4). Though initial response and time to see children are made timely, there are delays in documentation required to close assessments. These performance issues have been managed through accountability measures. Leadership at all levels monitor timeliness of closures and put in place performance plans when closures are delinquent. The increased accountability for closures, among other identified missed expectations, has resulted in termination of four social workers, which has created workload instability at the present time. Despite performance challenges, there is acknowledgment that the safety closure process itself has several process inefficiencies that impact a

worker's ability to meet the workload demand. Input from field staff has informed us that many of the standards currently in place around safety assessments add unnecessary administrative burdens and bog down an already stressed system by requiring duplicative documentation and taking extra action that is not necessary to reach a decision. Action is being taken to look at process challenges with the goal to streamline the work to build capacity (see details in the Action Plan at the end of this report).

We appreciate the investment of the Idaho Legislature to fund three new safety assessment positions during the 2018 Legislative Session. The Division filled two of these positions in Region 3 and one position in Region 4. The additional positions were critical to fill gaps due to increased referrals and safety assessments. Ongoing capacity and performance improvements will be made by addressing workflow challenges, providing better tools for staff, and making timelines and decisions more visible to everyone. Technology improvements and decreased paperwork will also be critical changes to current processes.

Case Management (the Case Plan) Function:

Once a safety decision is made and the child is determined to be unsafe, a case staffing is held between the safety assessor and the assigned case manager. The case staffing serves as a transfer of responsibility for working with the family and is a forum for the safety assessor to share pertinent information with the case manager such as primary safety threats, parent functioning, child needs, and changes needed to lead to the child's safe return and case closure.

The case manager develops a case plan with the family outlining safety threats, defining conditions for return, and setting tasks for both the family and the Division that will lead to successful completion of the case plan. The case plan as well as parent/child needs and safety are monitored monthly through individual meetings, collateral contacts with service providers and monitoring of parent/child visitation. The progress towards the permanency goal (reunification, guardianship, and/or adoption) is reported to the court at least every six months and in many jurisdictions, more frequently (60-90 days). The case manager works with the family until a child can safely be returned to a parent, guardianship is attained, or a termination of parent rights occurs.

| Statewide Case Management Annual Work Levels | | |
|---|---|---|
| Activity | Volume | Required Tasks |
| Case Planning: In-home safety plan | ~425 Families | <ul style="list-style-type: none"> Develop and implement Case Plan with family |
| Case Planning: Foster Care plan | ~1706 Children | |
| Manage IPCP (interstate compact) | ~170 Children | <ul style="list-style-type: none"> Monitor plan created by another state |
| Monitoring safety and progress towards permanency goals (reunification, guardianship and/or adoption) | Average 25 children per/worker at any given point in time | <ul style="list-style-type: none"> At least monthly face to face contact with birth parents, foster parents, and children Write court report and attend court Arrange for parent/child visitation Establish paternity as needed Identify Native American tribal status |
| Concurrent permanency planning (as early in the process as possible) | | <ul style="list-style-type: none"> Determine potential relative placements Recommend permanency plan to Courts Identify, locate, and assess potential relatives Obtain outside Idaho relative home studies Determine transition plan if necessary |

| Statewide Case Management Annual Performance Levels | | |
|--|------------|---------------------|
| Activity | Goal | Current Performance |
| Enter monthly parent/child contact narratives by the 15 th of the month | 100% | 70% |
| Reunification with parent | 12 months | 9 months |
| Guardianship with kinship placement | 13 months* | 17 months |

*Federal standard is 18 months for guardianship accomplishment; Idaho's standard is 13 months.

Case Management (the Case Plan) Workforce Summary:

Idaho’s case management practice is impacted by the same factors identified at the national level: worker stability, parent/child visitation, and court oversight. Though individual offices struggle maintaining outcomes in times of turnover, the overall statewide turnover is relatively low at 15.2%. The area of reunification is a strength for Idaho with 67% of children returning safely home with a parent. Idaho also maintains a low rate of re-entry at 8.7%. Case managers continue to struggle with the balance of providing direct services vs. documenting important practice elements such as monthly contact narratives necessary to give clarity to case management decision-making. Idaho is federally required to ensure 95% of children in care have at least monthly contact with their assigned case manager. Though Idaho has met this goal consistently (97%) on the annual due date, narratives are often entered well after the contact occurred creating both case record and data quality issues. Idaho has implemented monthly tracking of contact narratives with performance plans implemented when entry falls behind.

The Idaho Legislature invested three additional positions for the Case Management function during the 2018 Legislative Session. Two of these positions were filled in Region 3 and one position in Region 2. Although our case managers continue to feel the highest levels of stress and workload, we have determined several areas of their work that must be improved to create capacity. Feedback from case managers has helped identify that Central Office continues to layer more and more work on top of the case managers without ever taking work away or modifying expectations to ensure they can be successful with the expectations placed on them. Although stress levels remain high, the intervention in helping case management will not come from more staffing but rather in redefining the work, providing better case management tools and reports, and reducing the amount of administrative work that does not have a direct impact on children or outcomes.

Adoption Services Function:

Adoption workers are assigned case responsibility once termination of parental rights is ordered. Some of the Adoption staff also carry a foster care licensing case load. Adoption workers prepare both foster children and families selected to be the children’s permanent placements for the adoption process. Preparation includes technical readiness for court, finalizing legal paperwork, establishing adoption subsidy, and ensuring supports are in place post-adoption to help parents and children be a family. At least monthly contacts are made with families and children pre-adoption for 3-6 months to ensure technical and emotional readiness, prior to finalizing the adoption. Adoption workers also open cases on a short-term basis to serve families who identify support needs post-adoption. When a family has not been identified for a child, the adoption worker coordinates recruitment efforts to find a family.

| Statewide Adoption Annual Work Levels | | |
|---|--|--|
| Activity | Volume | Required Tasks |
| Adoptive Family Recruitment and Selection | 150 children over the age of 3 36 children age 0 to 3 | <ul style="list-style-type: none"> For children <u>without</u> an identified pre-adoptive placement, coordinate adoptive parent recruitment/selection |
| Adoptive Family Support and Monitoring | 66 children over the age of 3 37 children age 0 to 3 | <ul style="list-style-type: none"> For children <u>with</u> an identified pre-adoptive placement, monitor and support placement |
| Provide Adoption Readiness Services | 236 adoptions completed in SFY 2017 | <ul style="list-style-type: none"> At least monthly contact with child and pre-adoptive parents Complete legal/adoption paperwork reports Provide service referrals and clinical supports |
| Post-Adoption Services | Not currently tracked | <ul style="list-style-type: none"> Providing service referrals and clinical supports |

| Statewide Adoption Performance Annual Levels | | |
|--|------------------|---------------------|
| Activity | Goal | Current Performance |
| Complete Adoption | Within 24 months | Within 28 months |

Adoption Services Workforce Summary:

Adoption Services experience challenges when work that should have been completed in the case management function is not completed timely. The primary pain point for adoption services is to ensure that all relative options are explored early upon a child's entry into care and that all case participants are clear as to where the child will be placed long-term in the event they cannot be reunified with their parents. Idaho's adoption workforce will also need clearer timelines, tools, and processes to address the challenges in this function and to move closer to the desired permanency timelines.

Foster Family Licensing Function:

The Child Welfare Program has 21 licensing workers, some of whom carry a small adoption caseload as well. Foster family licensing workers participate in recruitment events and provide information to community members interested in fostering. Once a foster care application is received and a family is scheduled to take the pre-service training (PRIDE), a licensing worker is assigned to conduct at least 2 home visits and write a comprehensive licensing assessment detailing a families' ability to meet fostering competencies and provide for the environmental home requirements. The licensing worker concludes the assessment with a recommendation for licensure: ages and number of children parameters (i.e. 2 children; ages 0-5). When a child is placed with a relative immediately, licensing workers must conduct the home visit prior to placement to ensure all safety requirements are met and that relatives understand the next steps of becoming fully licensed. Licensing workers conduct semi-annual reviews of all foster homes as well as provide initial and on-going training and support services according to identified needs. In addition, licensing workers must complete licensing investigations in response to reported licensing complaints.

| Statewide Foster Family Licensing Annual Work Levels | | |
|--|-----------|--|
| Activity | Volume | Required Tasks |
| Foster home recruitment | 750 hours | <ul style="list-style-type: none"> Attend recruitment events Provide orientation information |

| Statewide Foster Family Licensing Annual Work Levels | | |
|--|---|--|
| Activity | Volume | Required Tasks |
| Licensing new homes | 320 new homes | <ul style="list-style-type: none"> • Visit homes • Conduct environmental home checks |
| Relicensing of existing homes | 800 re-licenses | <ul style="list-style-type: none"> • Visit homes • Update (document) assessments |
| Foster parent training and support | 500 training hours 55 foster families supported/licensor | <ul style="list-style-type: none"> • Attend pre-service training • Provide support and training referrals for on-going development |
| Responding to licensing complaints | 150 complaints per year | <ul style="list-style-type: none"> • Review alleged licensing complaint with family; • Make validity determination of complaint; • Take appropriate action (from determination of non-issue to license revocation of foster parent license) |

| Statewide Foster Family Performance Annual Levels | | |
|---|----------------|--|
| Activity | Goal | Current Performance |
| Complete licensure | Within 60 days | 60 days for relative homes 90-120 days for non-relative homes |

Foster Family Licensing Workforce Summary:

The art of triage is very real for Idaho’s foster family licensors. Idaho has ~26% of children being placed with relatives. Though there is no argument that children being placed with relatives clearly reduces the trauma to children, the intensity of prioritizing relative licensing does have an impact on the very needed pool of non-relative foster homes. While relatives are becoming licensed within 60 days, non-relative homes must wait longer to become licensed. There is compelling anecdotal evidence that Idaho is losing these non-relative homes due to the wait time. In addition to licensing new homes, Idaho licensing workers serve an average of 800 existing foster homes. Re-licensing responsibilities include providing support and training to the family and responding to reported licensing complaints. The licensing process is described by workers as cumbersome and work to streamline the process has been a lower priority than other more crisis-driven activities. Streamlining work in licensing is a priority focus for the Child Welfare transformation effort. One of the seven positions approved by the Idaho Legislature during the 2018 Legislative Session was filled in Foster Family Licensing to work in Region 4.

Analysis and Pain Points in Child Protection Operations:

In our workload and workforce evaluation, certain critical pain points are clearly visible with significant impacts to the effective management of the Child Welfare Program.

1. There are differences and operational inconsistencies in organizational units across the state (hubs, regions and field offices, and individual supervisors), for example:
 - A. **Safety decisions and safety planning** are based on solid practice models, but there are problems in the current implementation of these practice models. Although the models have been implemented to support decision making, these models are not being applied consistently and there are elements of the model that do not work well in the operational environment. This is a process issue and not a staffing issue. Data shows us that the case to staff ratios in the east are higher than other areas of the state and yet this is the hub that is performing the best in meeting performance outcomes. The table below shows variations in experience, workload and Safety Assessment measures:

- a. Compare Region 3 to Region 6
- b. Compare Regions 6 and 7 (Eastern Idaho) with other areas of the state

| Child Welfare Safety Assessment Staff Breakdown (Apr 2018) and Performance | | | | | | | | |
|--|-------|-------|-------|-------|-------|-------|-------|-------|
| Measures | REG 1 | REG 2 | REG 3 | REG 4 | REG 5 | REG 6 | REG 7 | State |
| Number of Safety Assessors | 13.0 | 7.5 | 18.0 | 19.0 | 11.5 | 6.0 | 7.0 | 82.0 |
| Social Worker Experience (average years) | 5.2 | 5.6 | 4.3 | 5.6 | 5.8 | 8.8 | 8.1 | 5.8 |
| Children per Safety Assessor | 18 | 16 | 24 | 23 | 22 | 35 | 28 | 23 |
| Safety Assessment Timeliness SFY18 Q3 | 64% | 97% | 44% | 57% | 94% | 90% | 98% | 71% |
| PI Timeliness 10/1/2017 - 3/31/2018 | 74% | 91% | 93% | 89% | 84% | 90% | 92% | 88% |

B. **Permanency rates** also vary across regions. Region 7 (Idaho Falls area) had a 66% rate for children achieving permanency within 12 months while Region 2, in comparison, had only a 31% rate in the same period (Dec 2017). While many factors impact this measure, it also demonstrates inconsistencies in permanency planning processes with a need for better implementations and standardizations based on best practices. The table below shows variation in Permanency by Region. Compare Region 2 to Region 7:

| Child Welfare Permanency Rate (Dec 2017) Performance | | | | | | | | |
|--|-------|-------|-------|-------|-------|-------|-------|-------|
| Measure | REG 1 | REG 2 | REG 3 | REG 4 | REG 5 | REG 6 | REG 7 | State |
| Permanency achieved within 12 months | 42% | 31% | 44% | 41% | 50.0% | 39% | 66% | 44% |

2. Supervisors and managers do not have access to appropriate tools and data to support day to day management of work and priorities. They are unable to see the pain points and problems and allow staff to manage work, priorities, and shortcuts according to individualized practices and preferences.
3. Staff work to deadlines, not decisions. The Child Welfare workforce is constantly reacting to the next immediate deadline. This may be a court date, a placement decision deadline, a safety assessment deadline, or similar workflow event. The work is not managed or organized in a way that allows field staff and supervisors to prioritize and support critical decision making.
4. While multiple factors impact the capacity of the field Social Workers and Idaho's overall performance is better than the national averages in almost every child protection category, there is a need to re-design and re-implement practice at the process level. Those processes, when implemented and monitored through routine data that is accessible to local supervisors and managers, can improve overall capacity by removing unnecessary work and focusing on decision-making.
5. Improvements are needed in our concurrent planning process. Too often, when we are attempting to find relative placements while children are in foster care, we struggle in two areas:
 - A. Not finding possible relative placements early enough in the process
 - B. Not communicating effectively with foster parents/relatives regarding permanency planning/decisions

Idaho's percent to permanency within 12 months from entering Foster Care (a federal measurement) is above the national average of 40%; in 2017 Idaho's statewide performance for permanency within 12 months was 44%. Although outcome data shows time to permanency is above national standards, we find that most of our complaints in our Foster Care Program result from confusion in the permanency planning and finalization.

Placement (Type and Stability)

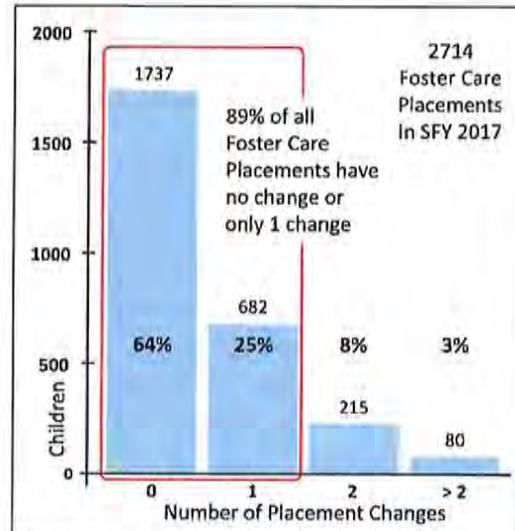
As of May 1, 2018, the placement distribution for children in Foster Care is shown in the table to the right. Most children are placed in a non-relative Foster Care setting (>36%) and ~26% are placed in relative care. The Division attempts to place children with relatives when there is a safe and viable relative willing to care for the child, since these placements are the most stable for children.

| Foster Care Placement Distribution | | |
|------------------------------------|--------------|-------------|
| Placement Type | Number | Percentage |
| Non-Relative | 621 | 36.5% |
| Relative | 441 | 25.9% |
| Home Visit | 216 | 12.7% |
| Fictive Kin | 150 | 8.8% |
| Pre-Adoptive | 126 | 7.4% |
| Congregate Care | 100 | 5.9% |
| Treatment Home | 29 | 1.7% |
| Other | 17 | 1.0% |
| Total | 1,700 | 100% |

Stability in placement is an important factor to ensure children have the best outcomes while in Foster Care. Idaho performs above the national standard and above the national average in the measure of “stability in placement.” This measure is determined by the number of changes experienced by a child in Foster Care. Idaho’s Child Welfare Program has the following changes in placement (illustrated below right):

- **64%** have no change in Foster Care Placement
- **89%** percent of children in Foster Care have no change or only one placement change within one year
- **80%** of the unplanned Foster Care placement changes are made at the Foster Parent’s request (not graphed)

While there are always opportunities for improvements in case management practices to help children achieve permanency in a safe, stable environment, Idaho is achieving good outcomes in this area. The focus for improvement can be made in the following areas:



1. Improve the early identification and assessment of relatives as possible permanent placement options
2. Decrease the time to permanent placement selection for all children
3. Focus on children from birth to age 3
4. Improve communication with relatives and foster parents during permanency planning

Conclusion and a Plan of Action:

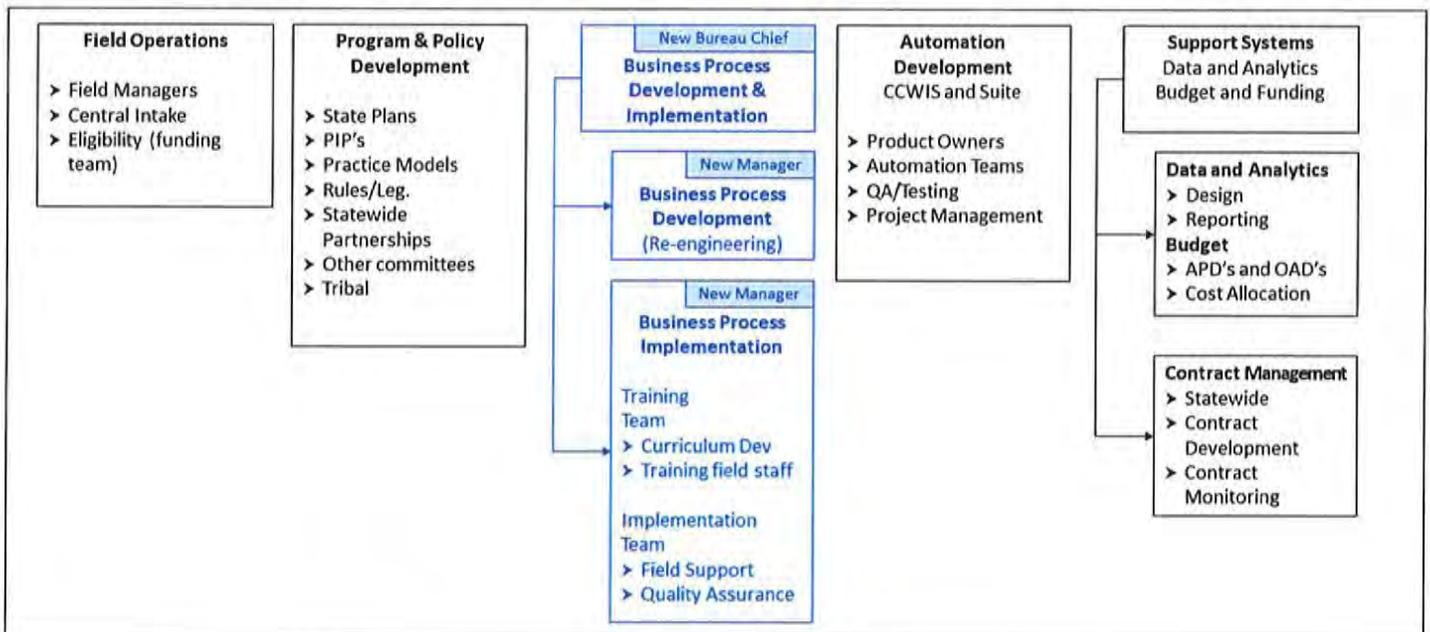
The Division has for many years sought additional staffing to solve the capacity problems clearly visible in Child Welfare Operations. The Division's 2018 workload and workforce analysis confirms pain points that have existed for some time but have not been solved by just adding more staff. Our conclusion is that the pain points facing Child Welfare staff today **MUST** be addressed first by changing our processes, improving our time to decision, making performance data visible for day to day operations, and creating more effective accountability structures. Only as the root causes of our pain points are resolved will an assessment of staffing resource levels make sense. If and when additional resources are needed, it will be determined on the basis of well-defined business processes and accountability.

The Division has created a "Child Welfare Transformation Plan of Action" to address and reduce our identified pain points that **DOES NOT** include requesting more staff. This Plan of Action includes large changes that cannot be made all at once, with some dependencies on early changes to support and reinvest to make subsequent changes, over a three-year period. This Plan of Action will address the identified pain points and new issues that will be uncovered as we make changes to Child Welfare Operations without sacrificing timeliness or decision making related to a child's safety.

Of note in the plan, or as elements within larger initiatives in the plan, are the following changes:

1. Organizational Restructuring (SFY 2018 #1 in the Action Plan on page 15):

The Child Welfare Division will create a new Bureau focused on improving processes and business design, one of the primary causes of the identified pain points. This Bureau will gather expertise and create a discipline for process engineering, training, implementation, and data gathering and reporting that does not exist today. This will create new tools, along with re-defined expectations, for supervisors to manage to workflows rather than to workload. In addition, the other business areas of the Division will be refocused on primary activities and will be staffed according to need. This will ensure that field operations, policy, automation, data and analytics, and contract management are likewise re-tooled to support workflow-based management that will lead to increased capacity and improved performance. These changes will be made by shifting existing positions and creating new roles, skills, and accountability. The illustration on the following page is a high-level visualization of the new Bureau and its relationship to other business units in the Child Welfare Division.



2. A Systemic Focus on Business Priorities:

The current environment in Child Welfare is reactive to many inputs and pressures, but often the efforts to change are one-offs. When reacting to each passing challenge or creating one-time solutions, long term and sustainable solutions are not implemented. The Action Plan is a deliberate staging of priorities and requires focus on what we will do and an ability to say no to many distractions and quick reflexive workarounds. The table below summarizes the activities in year one of the Child Welfare Transformation Plan and the specific line item within the Action Plan (detailed in the Action Plan beginning on page 15).

| Systemic Focus on Business Priorities in 2018 | Action Plan |
|--|-------------|
| Improve safety decision making and safety planning | #2 |
| Improve concurrent planning | #3 |
| Improve permanency decision making processes | #4 |
| Begin the 3-year effort to implement a new federally certified automated system (CCWIS) | #5 |
| Create performance metrics of day to day work, decision making, and actionable tasks | #6 |
| Create business designs (w/ tools and expectations) managing workflow rather than workload | #7 |

3. Stabilizing Current Workforce:

Turnover continues to be a huge challenge in getting ahead of workload problems across the state. Although some regions have stability in their workforce, some do not. Trends show that we have better outcomes in areas where positions remain filled and we have longer tenure. For instance, Region 6 and Region 7 average about 8 years of experience for their Social Worker positions, and they also have the best performance and outcomes. Region 3 and Region 4 average less years in experience and have more vacant positions open at any given time. These Regions struggle in making timely safety decisions as well as permanency outcomes (refer to "Social Worker Experience (average years)" in the table on page 9).

We currently have 78 Social Worker 2 positions that are below 80% compensation ratios for their pay schedule. The Department of Health and Welfare will be making a funding request to bring all Social Worker 2 positions to 80% compensation ratios in SFY 2020. We estimate the cost to be about \$190,000, with 50% of that cost being general funds.

Pay is only a small portion of stability for staff. Many of the exit evaluations we receive when staff leave employment include social workers' complaints of burn-out. We must create capacity and time savings for staff. The Department is releasing an RFP to procure expertise in business process re-engineering and capacity building to support the Child Welfare team to cut out unnecessary administrative processes and better monitor and define priority workflow. We expect to start this work mid-fall. This will be critical to re-designing current practices and processes in Child Welfare, create capacity for staff, and inform technology requirements for the state's new CCWIS implementation.

4. Align Business and Technology:

Idaho's 2018 Legislature approved \$ 3,901,000 in General Funds for the Department to begin building a new Comprehensive Child Welfare Information System (CCWIS). CCWIS is a federal classification for new generation of automated systems with improved case management functionality. Using the Microsoft Dynamics Platform, the Department is working on two Requests for Proposals (RFP) to hire a Technical Integrator to configure and customize case management software on the Microsoft platform and a Business Engineering firm to define new business designs and streamline existing processes.

One lesson the Department has learned from past technology projects is the importance of alignment between business practice and technology tools. We have watched other states spend millions of dollars on new technology that merely automates bad business practices. Our goal in the Child Welfare Transformation Action Plan is to ensure we modernize our business practice to allow staff to focus on critical goals of protecting children while removing unnecessary work and documentation that takes up a majority of their time and effort, taking critical time away from ensuring a child's safety. We believe that once we address our capacity and process challenges we can then use technology to automate the new business strategies we have put in place. The redesign and reinvention of how we work is very different from how we automate our work. There is always a role for technology, but automation is not innovation. Redesigning our business practices and processes with a focus on decision making will allow us to better serve Idaho families, effectively use our resources, and create lasting improvements.

Detailed Plan of Action:

The following pages detail the Child Welfare Transformation Action Plan over the next three years and aligns business priorities with the development of new technology tools to ensure the investment in CCWIS is truly transformational for our staff and the families we serve.

Within this three-year Action Plan are a number of specific plans that provide detail to steer specific efforts. This is not an exhaustive list and can be expected to change and shift as need dictates over the course of the transformation effort. At this time, those specific efforts are called out in the Action Plan, and tabulated here for easy reference:

1. Division of Child Welfare's [Re-Organization Plans](#)
2. ITSD's Laserfiche and Microsoft Dynamics Integration within the [Document Management Plan](#)
3. Comprehensive Child Welfare Information System (CCWIS) [Implementation Plan](#)
4. Business Streamlining using the [Capacity Gain Plan](#)
5. Improving Business Designs with the [Business Redesign Plan](#)
6. Several [Pre-implementation Plans](#) to improve change rollouts and subsequent support/monitoring
7. Year 2 of CCWIS configuration and related rollouts in the [CCWIS Year 2 Implementation Plan](#)
8. Year 3 of CCWIS configuration and related rollouts in the [CCWIS Year 3 Implementation Plan](#)
9. What happens after CCWIS is built and implemented; strategy and budget in the [Post-CCWIS Plan](#)

| Child Welfare Transformation Action Plan (monitoring operational gains ongoing, after implementations; adjusting if outcome is missed) | | Pain Point PP; Fed Performance Improvement Plan PIP; DHW Strategic Plan SP | | | Planned Outcomes and Targeted Dates |
|---|---|--|-----|----|--|
| | | PP | PIP | SP | |
| SFY 2019 | Division Restructure Repurpose existing positions within the Division in a revised organizational structure to build necessary infrastructure to support field-based processes, implementations, and post implementation monitoring. | ✓ | | | <ul style="list-style-type: none"> Infrastructure will be available for CCWIS implementation Infrastructure will be ready to support design process contractor Infrastructure will be ready to support capacity gains in SFY2019 |
| | 1 <i>Next Actionable Steps</i> <ul style="list-style-type: none"> Complete Re-organization planning and documentation Begin work with new organization and Business Design contractor to build capacity | | | | <i>Targeted Dates</i> <ul style="list-style-type: none"> 8/15/2018 Share Re-Organization Plans (and culture discussions) 10/1/2018 Design, Process, and Implementation roles filled |
| SFY 2019 | Safety Comprehensive Safety Assessment (CSA) process refined (evaluated, streamlined, and documented); then re-implemented consistently statewide; 1 st focus of Business Design contractor | ✓ | ✓ | ✓ | <ul style="list-style-type: none"> More accurate and consistent CSA decisions Time to a safety decision, using protocols, 25% less Safety Assessment reports are what courts need |
| | 2 <i>Next Actionable Steps</i> <ul style="list-style-type: none"> Initiate (sign) Business Design contract (RFP successfully fulfilled) Assign Contractor to Assess, Design, Implement, and Monitor new statewide CSA process | | | | <i>Targeted Dates</i> <ul style="list-style-type: none"> 8/1/2018 Business Design contract is in place and ready for use 10/1/2018 Pre-implementation readiness completed |
| 2019 | Concurrent Planning Concurrent-Planning processes re-designed and implemented statewide with data collected at critical steps to monitor expected improvements to identify relatives earlier with placement potential documented | ✓ | ✓ | ✓ | <ul style="list-style-type: none"> A measurement method and baseline is defined and can be used to evaluate improvement attained or need for further tweaks Relative searches are started earlier in the process Placement potential is known/documented earlier in the process |
| | 3 <i>Next Actionable Steps</i> <ul style="list-style-type: none"> Define new processes with needed data and collection methodology Implement statewide after pre-implementation planning and necessary training rolled out | | | | <i>Targeted Dates</i> <ul style="list-style-type: none"> 10/1/2018 New process defined and data collection created 1/1/2019 Implement statewide |
| SFY 2019 | Permanency: Focus on children 0-3 years of age Redesign the existing permanency process including communication enhancements to reach faster permanency decisions for children < 3 years old; apply focus to > 3 years in SFY 2020 (see 2020 #3) | ✓ | | ✓ | <ul style="list-style-type: none"> Decisions reached 50% sooner than average SFY 2018 decisions Improved foster family and relative written communication create shared understanding of decisions, options, and schedules |
| | 4 <i>Next Actionable Steps</i> <ul style="list-style-type: none"> Define new workflow for children < 3 years old with metrics to monitor performance Create a statewide process, data capture methods, and implementation readiness/plan including a communication template and content editing tools to support field staff | | | | <i>Targeted Dates</i> <ul style="list-style-type: none"> 2/1/2019 Design completed and pre-implementation done 4/1/2019 Implement changes statewide and monitor ongoing |

| Child Welfare Transformation Action Plan (monitoring operational gains ongoing, after implementations; adjusting if outcome is missed) | | Pain Point PP; Fed Performance Improvement Plan PIP; DHW Strategic Plan SP | | | Planned Outcomes and Targeted Dates |
|---|--|--|-----|----|--|
| | | PP | PIP | SP | |
| SFY 2019 | Comprehensive Child Welfare Information System (CCWIS) Initiation Initiate and resource the CCWIS initiative for year 1; including organizational infrastructure, role assignments, and implementation plan for three-year effort <i>Next Actionable Steps</i> | ✓ | | ✓ | Technical Integrator can build and DHW can support implementation schedule over three years within planned budget <i>Targeted Dates</i> |
| | <ul style="list-style-type: none"> • Create oversight summary reports and story | | | | <ul style="list-style-type: none"> • 8/1/2018 Present to oversight entities and culture presentations |
| | <ul style="list-style-type: none"> • Acquire through ITSD ITB the Microsoft Dynamics Hosting Environment | | | | <ul style="list-style-type: none"> • 9/1/2018 Hosting Environment configuration/integration begins |
| | <ul style="list-style-type: none"> • Sign Technical Integrator contract (RFP successfully fulfilled) | | | | <ul style="list-style-type: none"> • 10/1/2018 Technical Integrator has 'boots-on-the-ground' |
| | <ul style="list-style-type: none"> • Acquire & develop through ITSD Laserfiche electronic document management functionality | | | | <ul style="list-style-type: none"> • 10/1/2018 Electronic file function (Document Management Plan) |
| | <ul style="list-style-type: none"> • Finalize Technical Integrator implementation plan for CCWIS • Finalize communication for Legislature for CCWIS year 2 with progress reports | | | | <ul style="list-style-type: none"> • 11/1/2018 Begin execution of CCWIS Implementation Plan • 11/1/2018 Communication outline complete |
| SFY 2019 | Data and Performance Initial Visibility: Set 1 of 3 Create data set/methods to track and share information for leadership, managers, and supervisors on safety and permanency performance <i>Next Actionable Steps</i> | ✓ | ✓ | ✓ | Performance information is available to all, starting with what's available now and adding new data and data stories as processes are improved and CCWIS stages are completed <i>Targeted Dates</i> |
| | <ul style="list-style-type: none"> • Identify presentation platform and access strategy for shared statewide performance data | | | | <ul style="list-style-type: none"> • 8/1/2018 Platform established with test information |
| | <ul style="list-style-type: none"> • Present first data set of performance metrics (at least central intake; may include more) | | | | <ul style="list-style-type: none"> • 9/1/2018 Business performance data available |
| SFY 2019 | Business Redesigns Repurpose existing positions with new roles with a focus on processes to achieve capacity gains, support CCWIS development, and create improved workflows <i>Next Actionable Steps</i> | ✓ | | | <ul style="list-style-type: none"> • Gain 15-20 FTE w/ process streamlining w/ Design contractor • Support CCWIS business requirements gathering • Create redesigned (improved) workflows w/ Design contractor |
| | <ul style="list-style-type: none"> • Create Capacity Gain Plan w/ the new Business Design Contractor and Division Reorg Units | | | | <ul style="list-style-type: none"> • 9/1/2018 Execute the Capacity Gain Plan |
| | <ul style="list-style-type: none"> • Achieve and document first capacity gains and confirm SFY 2019 expectations | | | | <ul style="list-style-type: none"> • 1/1/2019 Report to the Legislature gains and future expectations |
| | <ul style="list-style-type: none"> • Complete Business Redesign Plan for improved CW workflows | | | | <ul style="list-style-type: none"> • 1/1/2019 Execute the Business Redesign Plan |
| SFY 2020 | Foster Care (FC) workflow re-design (part 1 of 2) Redesign the Foster Care business workflow including recruitment, licensing, and support processes with the Business Design contractor to provide appropriate communication, expectations, and performance metrics for the foster family function within Child Welfare <i>Next Actionable Steps</i> | ✓ | ✓ | | <ul style="list-style-type: none"> • Increase consistency of FC process statewide • Increase the number of foster families in Idaho • Improve FC experience for families and stakeholders • Document, monitor, and report on performance and compliance to statewide foster family processes |
| | <ul style="list-style-type: none"> • Create new FC workflow design for tasking and notifications – consistent with CCWIS | | | | <ul style="list-style-type: none"> • 8/1/2019 Pre-implementation Plan ready for review |
| | <ul style="list-style-type: none"> • Create support system components including training, data metrics, and accountability | | | | <ul style="list-style-type: none"> • 10/1/2019 Implement FC workflow and monitor ongoing |

| Child Welfare Transformation Action Plan (monitoring operational gains ongoing, after implementations; adjusting if outcome is missed) | | Pain Point PP; Fed Performance Improvement Plan PIP; DHW Strategic Plan SP | | | |
|---|--|--|-----|----|--|
| | | PP | PIP | SP | Planned Outcomes and Targeted Dates |
| SFY 2020 | Comprehensive Child Welfare Information System (CCWIS) Year 2 Continue rollout plan as confirmed in CCWIS Implementation Plan and as adjusted based on experiences of Year 1 <i>Next Actionable Steps</i> | ✓ | | ✓ | Confirm three-year project is on schedule with federal and Idaho approvals and all planned deliverables; adjusting resources and strategies as need to stay on target for project completion <i>Targeted Dates</i> |
| 2 | <ul style="list-style-type: none"> • Complete Legislative request and story for CCWIS year 2 in alignment with oversight reports • Modify CCWIS implementation plan as needed from gains/losses in year 1 | | | | <ul style="list-style-type: none"> • 10/1/2018 Draft of legislative request and progress complete • 3/1/2019 CCWIS Year 2 Implementation Plan revised/approved |
| SFY 2020 | Permanency: Focus on children > 3 years of age Redesign the existing permanency process including communication enhancements to reach faster permanency decisions for children > 3 years old; follow-up activity from SFY 2019 #4 activity for children < 3 years of age <i>Next Actionable Steps</i> | ✓ | | | <ul style="list-style-type: none"> • Decisions reached 50% sooner than average SFY 2019 decisions • Improved foster family and relative written communication create shared understanding of decisions, options, and schedules <i>Targeted Dates</i> |
| 3 | <ul style="list-style-type: none"> • Define new workflow for children > 3 years old with metrics to monitor performance • Create a statewide process, data capture methods, and implementation readiness/plan including a communication template and content editing tools to support field staff | | | | <ul style="list-style-type: none"> • 2/1/2020 Design completed and pre-implementation done • 4/1/2020 Implement changes statewide and monitor ongoing |
| SFY 2020 | Case management workflow re-design (part 2 of 2) Redesign the case management workflow with the Business Design contractor to provide appropriate communication, expectations, and performance metrics for all case management functions <i>Next Actionable Steps</i> | ✓ | ✓ | | <ul style="list-style-type: none"> • Increase case management capacity by 10 to 30% • Improve consistency of foster family communication • Document, monitor, and report on performance and compliance to statewide foster family processes <i>Targeted Dates</i> |
| 4 | <ul style="list-style-type: none"> • Create new Case Management workflows for tasking/notifications – consistent with CCWIS • Create support system components including training, data metrics, and accountability | | | | <ul style="list-style-type: none"> • 4/1/2020 Pre-implementation Plan ready for review • 6/1/2020 Implement case management workflow |
| SFY 2020 | Data and Performance Visibility: Set 2 of 3 (additional data sets) Add FC and Case Management performance data to presentation platform to provide data to all levels of organizational leadership and establish accountability standards; more data available as an active management tool <i>Next Actionable Steps</i> | ✓ | ✓ | | <ul style="list-style-type: none"> • Dashboards or Radiators available to Child Welfare staff; as information defined or created it is added to the CW data set • Access to data defined by roles may be in CCWIS or freestanding <i>Targeted Dates</i> |
| 5 | <ul style="list-style-type: none"> • Create Foster Care (FC) and Case Management presentation and metrics • Validate usability and adjust data or presentation to support resource allocation | | | | <ul style="list-style-type: none"> • 5/1/2020 Publish and train use of new performance data • 6/30/2020 Review feedback w/ plan for ongoing improvements |

| Child Welfare Transformation Action Plan (monitoring operational gains ongoing, after implementations; adjusting if outcome is missed) | | Pain Point PP; Fed Performance Improvement Plan PIP; DHW Strategic Plan SP | | | |
|---|--|--|-----|----|--|
| | | PP | PIP | SP | Planned Outcomes and Targeted Dates |
| SFY 2021 | Complete CCWIS Implementation Fulfill the requirements to move from the current iCare system to a new CCWIS providing new tools and decision support automation; certification will be ongoing and will require ongoing attention <i>Next Actionable Steps</i> | ✓ | | ✓ | <ul style="list-style-type: none"> New CCWIS performs all needed Child Welfare case management and meets federal CCWIS requirements Field staff can more effectively interact with families and children with needed automated functions <i>Targeted Dates</i> |
| 1 | <ul style="list-style-type: none"> Modify CCWIS implementation plan as needed from gains/losses in year 1 and 2 Initiate final CCWIS development and implementation Complete CCWIS implementation with certification process underway | | | | <ul style="list-style-type: none"> 8/1/2020 CCWIS Year 3 Implementation Plan revised/approved 9/1/2020 Begin Final CCWIS implementation year 6/1/2021 CCWIS endpoint defined; certification in process |
| SFY 2021 | Data and Performance Analytics: Set 3 of 3 (Data Analytics Strategy) Define and create an Analytics Strategy that will ensure data can be evaluated to improve decision making, performance improvements, and where appropriate predictive analytics; this may include methodologies not yet known <i>Next Actionable Steps</i> | ✓ | | | <ul style="list-style-type: none"> The CCWIS and operational data (performance and compliance) will be used to improve business operations Analytics will be applied to make the best use of national best practices and allow improvements in practice models <i>Targeted Dates</i> |
| 2 | <ul style="list-style-type: none"> Determine Analytics Engine (maybe Tableau) assessed to ensure needed functionality Implement data analytics strategy | | | | <ul style="list-style-type: none"> 7/1/2020 Share proposal(s) for analytics engine 3/1/2021 Use the analytics tool to improve business design |
| SFY 2021 | Refine Foster Family Recruitment and Retention With the completion of the CCWIS project, re-evaluate the recruitment and retention effort and determine if additional improvements can be made <i>Next Actionable Steps</i> | ✓ | | | Further improve Foster Family recruitment and retention based on performance from Foster Care workflow redesign in SFY 2020 <i>Targeted Dates</i> |
| 3 | <ul style="list-style-type: none"> Evaluate current Foster Family recruitment and retention efficacy Create improvement Plan | | | | <ul style="list-style-type: none"> 12/1/2020 Determine potential improvements 5/1/2021 Improvements implemented |
| SFY 2021 | Implementation of Family First Options Evaluate and determine appropriate opportunities for Idaho as provided by recent federal legislation and yet-to-be-finalized regulations <i>Next Actionable Steps</i> | ✓ | | | Determine fit for Idaho and plan and communicate opportunities and needed decisions for implementation or alternative planning <i>Targeted Dates</i> |
| 4 | <ul style="list-style-type: none"> Assess options for Idaho and share with stakeholders and prepare for any legislation Finalize decisions, including any changes in Idaho legislation and funding changes | | | | <ul style="list-style-type: none"> 7/1/2020 Complete analysis and documentation for next steps 1/1/2021 Present to Legislature if appropriate |
| SFY 2021 | Post CCWIS Operations Create a transition plan from the three-year CCWIS project, anticipating ongoing modernization, maintenance roles, budgets, and necessary infrastructure <i>Next Actionable Steps</i> | ✓ | | | CCWIS can be maintained with existing operational resources and ongoing enhancement can be made to the system to meet always-changing business requirements <i>Targeted Dates</i> |
| 5 | <ul style="list-style-type: none"> Create post CCWIS implementation plan, concurrent with CCWIS final year Operationalize approved post-CCWIS plan with post project resources and approved budget | | | | <ul style="list-style-type: none"> 12/1/2020 Share plan and any proposed funding with Legislature 4/1/2021 Execute the Post-CCWIS Plan |

| | A | F | I | O | V | AB | AC | AD | AE | AH | AI |
|-----|--|--------------|---------------|---------------|---------------|----------------|-------------|--------------|---------------|-------------|----------------|
| 1 | Total | | | | | | | | | | |
| 2 | FY18 Actuals | | | | | | | | | | |
| 3 | | PUBLIC | | | BEHAVIORAL | | Healthcare | Licensing | | INDEPENDENT | |
| 4 | | HEALTH | WELFARE | FACS | HEALTH | MEDICAID | Policy | & Cert. | Indirect | COUNCILS | |
| 5 | | | | | | | | | | | |
| 6 | | | | | | | | | | | Total |
| 7 | FY18 JFAC Action Approp: | | | | | | | | | | |
| 28 | TOTAL | 116,831,700 | 172,320,100 | 107,113,200 | 103,918,500 | 2,285,308,600 | 12,942,700 | 6,895,700 | 46,381,700 | 9,083,100 | 2,860,795,300 |
| 29 | | | | | | | | | | | |
| 30 | Adjustments: | | | | | | | | | | |
| 31 | General Fund Supplemental / Rescission | - | - | 1,690,700 | 1,628,200 | 17,088,700 | - | - | - | - | 20,407,600 |
| 32 | Federal Fund Supplemental | - | - | 90,700 | (1,117,000) | 57,104,500 | - | - | - | - | 56,078,200 |
| 33 | Receipts Supplemental | - | - | - | (450,000) | (25,000,000) | - | - | - | - | (25,450,000) |
| 34 | Dedicated Fund Supplemental | - | - | - | - | 9,103,700 | - | - | - | - | 9,103,700 |
| 35 | Non-Cog Funds | - | - | - | 1,955,000 | - | - | - | - | - | 1,955,000 |
| 36 | Object Transfers | - | - | - | - | - | - | - | - | - | - |
| 37 | Transfers from FY16 Request (DU 6.5x) | 30,000 | (30,000) | (193,800) | - | - | - | 193,800 | - | - | - |
| 38 | Transfers - Receipt Authority | 185,000 | (755,000) | (50,000) | 170,000 | - | - | - | 450,000 | - | - |
| 39 | Transfers - Federal Fund Authority | - | - | - | 8,500 | - | - | - | (8,500) | - | - |
| 40 | Transfers - General Fund | 7,000 | 50,000 | 110,500 | - | (20,000) | 800 | 70,000 | (218,300) | - | - |
| 41 | Transfers - BH Programs | - | - | - | - | - | - | - | - | - | - |
| 42 | Transfers - Public Health Programs | - | - | - | - | - | - | - | - | - | - |
| 43 | Transfers - FACS Programs | - | - | - | - | - | - | - | - | - | - |
| 44 | Transfers - Non-Booked Transfers | - | - | - | - | - | - | - | - | - | - |
| 45 | Transfers - Non-Booked Medicaid T&B | - | - | - | - | - | - | - | - | - | - |
| 46 | Receipts to Appropriation | 9,500 | - | 10,600 | 7,800 | - | - | - | 81,200 | - | 109,100 |
| 47 | Reverted Federal Fund Authority | (7,852,300) | (8,493,700) | (6,532,400) | (3,817,500) | (18,184,800) | (2,801,500) | (189,500) | (2,369,200) | (160,200) | (50,401,100) |
| 48 | Reverted Dedicated Fund Authority | (7,905,900) | (47,800) | - | (46,400) | (3,687,600) | - | - | - | (141,500) | (11,829,200) |
| 49 | Reverted Receipt Authority | (1,392,600) | (506,700) | (1,689,800) | (744,200) | (4,657,400) | - | (13,200) | (7,900) | (1,700) | (9,013,500) |
| 50 | General Fund Carryover | - | - | - | - | - | - | - | - | - | - |
| 51 | | | | | | | | | | | |
| 52 | Total FY18 Est. Approp. with adjustments | 99,912,400 | 162,536,900 | 100,549,700 | 101,512,900 | 2,317,055,700 | 10,142,000 | 6,956,800 | 44,309,000 | 8,779,700 | 2,851,755,100 |
| 53 | | | | | | | | | | | |
| 54 | | | | | | | | | | | |
| 55 | Expenditures | 99,816,100 | 161,478,500 | 100,480,400 | 97,596,100 | 2,316,908,000 | 10,141,600 | 6,938,400 | 43,565,900 | 8,779,600 | 2,845,704,600 |
| 56 | Variance from Appropriation | 96,300 | 1,058,400 | 69,300 | 3,916,800 | 147,700 | 400 | 18,400 | 743,100 | 100 | 6,050,500 |
| 57 | | | | | | | | | | | |
| 58 | General Fund Reversion | 96,300 | 1,058,400 | 69,300 | 3,916,800 | 147,700 | 400 | 18,400 | 743,100 | 100 | 6,050,500 |
| 59 | | | | | | | | | | | |
| 100 | | | | | | | | | | | |
| 101 | General Fund Over <Under> by Object | | | | | | | | | | |
| 102 | Personnel | 51,100 | 269,300 | 21,300 | 1,105,500 | 147,400 | - | 4,400 | 393,900 | - | 1,992,900 |
| 103 | Operating | 40,100 | 146,400 | 21,200 | 1,051,600 | - | 400 | 13,900 | 349,200 | 100 | 1,622,900 |
| 104 | Capital | 600 | 1,000 | 800 | 1,100 | 300 | - | 100 | - | - | 3,900 |
| 105 | T&B | 4,500 | 641,700 | 26,000 | 1,758,600 | - | - | - | - | - | 2,430,800 |
| 106 | Total: | 96,300 | 1,058,400 | 69,300 | 3,916,800 | 147,700 | 400 | 18,400 | 743,100 | 100 | 6,050,500 |
| 107 | | | | | | | | | | | |
| 109 | Total of General Fund Appropriation: | \$ 8,416,500 | \$ 43,270,700 | \$ 39,066,500 | \$ 65,840,900 | \$ 548,992,600 | \$ 255,700 | \$ 1,827,900 | \$ 18,640,700 | \$ 203,600 | \$ 726,515,100 |
| 110 | | | | | | | | | | | |
| 111 | Reversion Percentage: | 1.1% | 2.4% | 0.2% | 5.9% | 0.0% | 0.2% | 1.0% | 4.0% | 0.0% | 0.8% |



**Summary of Work Group Activity
Report to DHW Board
August 23, 2018**



Below is a summary of the progress for each work group.

Skilled Nursing Facility Work Groups:

Culture and Communication:

Members: Tamara Prisock (lead), Mary Ruth Butler, Dennis Carlson, Steve Farnsworth, Cathy Hart, Sandy Kennelly, Sur Linja, Dawn Meyer, Debby Ransom, Joe Reese, Stan Rennaux

Providers on the work group have communicated that recent surveys have been much more collaborative than in the past. The group has suggested several ideas for improving communication during surveys. The Division is preparing a budget request for two Health Facility Surveyors to perform the role of Quality Assurance Nurse, similar to a program the state of Washington had in the past. Quality Assurance Nurses would not survey; rather, they would travel to facilities for the sole purpose of providing training and technical assistance to facilities in the areas of federal certification requirements and preparing for surveys.

Informal Dispute Resolution:

Members: Tamara Prisock (lead), Troy Bell, Lewis Chandler, Dee Erickson, Cathy Hart, Mikeal Pickrell, Debby Ransom, Stan Rennaux, Brent Schneider, Robert Vande Merwe

The work group recommends keeping the current process but has several suggestions for improving communication and instructions concerning the process as well as improving the communication to the facility about the panel's decision. The group also has recommendations for making data about informal dispute resolution more visible, such as the number of

disputes, number of citations upheld, overturned, or modified as a result of the process.

Initial Certification/Survey Efficiency:

Members: Tamara Prisock (lead), Kris Ellis, Joe Frasure, Owen Hammond, Sue Linja, Bill Miller, Debby Ransom, Stan Rennaux, Brent Schneider, Leah Stoltz

The Department has set a goal of completing initial certification surveys within 90 days of the facility completing all of the requirements that must precede the survey. The work group has suggested several ideas for explaining the entire application process and making requirements more clear and accessible on the Department's web site. Concerning survey efficiency, providers and other stakeholders do not yet have enough experience with the new federal survey process implemented in November 2017 to offer many suggestions for more efficient surveys. One area that has been identified that could be made more efficient is surveyor access to facility electronic health records and other facility documentation. The Department's Long-term Care team has estimated that the time a survey team is in a facility could be reduced by 2-4 hours if the access to records was streamlined.

Educational Resources/Training:

Members: Debby Ransom (lead), Tari Yourzek, Mindy Shepard, Nolan Hoffer, Michael Crowley, Monica Perry, Brent Schneider, Cathy Hart, Stan Rennaux, John Williams, Sue Heppler, Dr. John Geis

The work group has developed a list of potential training topics and will work with the Department to determine priority and best delivery methods. This group will work with the Assisted Living Educational Resources/Training group concerning the recommendation to establish an annual Education/Training summit that would convene many agencies/organizations to coordinate their resources to meet industry training needs.

Care Giver Career Project:

Members: Robert Vande Merwe (lead), Debby Ransom, Monica Perry, Joe Rudd, Zendi Meharry, Ofelia Morales (IDOL), Stephanie Mai (CTE)

This project is a collaboration between the Idaho Health Care Association Foundation, the Department of Health and Welfare, and the Department of Labor. The project involves using an approved grant from CMS and leveraging a program through the Department of Labor to provide financial incentives to caregivers and nursing facilities toward achieving the following goals:

- Encourage individuals to enter caregiver careers;**
- To improve the hiring practices, orientation, training and caregiver empowerment that is provided by facilities;**
- Help maintain a sufficient number of competent caregivers to meet the needs of residents in Idaho SNFs; and**
- Reduce caregiver turnover.**

Assisted Living Work Groups:

Access for Individuals with Alzheimer's/Dementia:

Members: Tamara Prisock (lead), Karen Zanelli, Terri Pendleton, Cecilia Owsley, Stacy Gunnerson, Robert Vande Merwe, Keith Fletcher, Kris Ellis, Eric Collett, Catherine Owens, Cathy Hart, David Wilson, Pam Oliason, Jamie Simpson, Beth Kriete, Francoise Cleveland

The work group has focused primarily of the challenges of caring for this population and the need for additional training for facility management and staff. The training program being developed by the Commission on Aging will meet this need and when implemented later this year, will provide easily accessible and free training to facilities. The group has also been discussing Medicaid reimbursement as it relates to this population and is working with the Division of Medicaid to explore options other states use, such as the Community First state plan option and recent changes in reimbursement that helps facilitate more Behavioral Care

Units (BCUs) in nursing facilities that could provide a behavior stabilization option for assisted living residents. The group is also working on tools to help facilities monitor and manage resident behaviors.

Accreditation/Licensing Fees:

Members: Tamara Prisock (lead) Shayne Burr, Kris Ellis, Scott Jenkins, Kathleen Little, Natalie Nathan, Doug Park, Jamie Simpson

The work group is exploring accreditation of assisted living facilities through the Commission on Accreditation of Rehabilitation Facilities (CARF). The CARF representative has shared the accreditation standards with the work group and participated in the group's July 3rd meeting to answer questions. The group will continue to work with CARF representatives to determine if CARF standards facilitate compliance with current state licensing requirements.

Admission/Discharge Requirements:

Members: Tamara Prisock (lead), Chuck Bosen, Dina Brewer, Heidi Brough-Nye, Anita Burdick, Tyson Frantz, Cathy Hart, Maureen Karr, Sandy Kennelly, Kathleen Little, Jamie Simpson, Virginia Thornley

The work group has determined that the requirement most members want to change is the requirement related to wounds. The work group recommends developing criteria for a variance rather than a rule change so facilities can demonstrate the capacity and ability to actively treat the wounds in the assisted living setting. Granting a variance would not require a rule change and would give the Department a year to determine if a future rule change is necessary. The work group is now working on the criteria it would recommend the division use to determine if a variance should be granted. The group has also expressed interest in working with the Department to clarify the requirement that states a facility cannot admit or retain a resident whose physical, emotional, or social needs are not compatible with other residents.

Educational Resources/Training:

Members: Tamara Prisock (lead) Bryan Elliott, Tracy Hulse, Sue Linja, David Martin, Monica Perry, Judy Taylor, Polly Watt-Geier

This group has identified the need for additional training in the following areas:

- **Emergency planning**
- **Medicaid and VA benefits**
- **Informal consent/advanced directives**
- **Activities and food service**
- **Behavior plans/behavior management**
- **Care planning**

The group also expressed how helpful the training the Commission on Aging is developing on caring for residents with Alzheimer's and dementia will be to facilities. The group is also developing a recommendation to establish an annual Education/Training summit that would convene many agencies/organizations to coordinate their resources to meet industry training needs.

Fire Safety/Construction Inspections:

Members: Nate Elkins (lead) Heidi Brough-Nye, Kris Ellis, Don Walker, Mark Maxfield, Brian Bagley, Robert Vande Merwe,

The proposal by the work group is to update IDAPA 16.03.22. sections 250 Requirements for Building Construction and Physical Standards and Sections 400-415 Requirements for Fire and Life Safety Standards with the most significant change to the following proposed new rule. The greatest amount of changes affects "New" construction. The changes encountered with the adoption will be minimal as the purpose was directed toward resident safety and eliminating problematic conflicts in earlier editions of the code.

Public Information/Informal Dispute Resolution:

Members: Jamie Simpson (lead), Mark Maxfield, Robert Vande Merwe, Jason Whittington, Mike Sharp, Brian Bagley, Jim Varnadoe, Brett Waters, Stephanie Persinger, Doug Park, Shane Carlton, Chelsea Kidney

This work group is working on recommendations for the length of time the Department should make survey reports available to the public on the Department's web site. The group is also charged with developing recommendations for an informal process for facilities to dispute non-core deficiencies and ensuring the current rules provide clear guidance related to penalties and when they can be imposed.

Regular Feedback From Facilities:

Members: Dave Taylor (lead), Robert Vande Merwe, Kris Ellis, Mark Maxfield

This group is developing a mechanism for the Department to get regular feedback from facilities related to interactions with the Department.

Division of Licensing and Certification Overview of Workload



- State licensure allows the health care facility/agency to legally operate in Idaho and ensures the facility/agency meets minimum standards outlined in statute and administrative rules.
- Federal certification is required by the Centers for Medicare and Medicaid (CMS) to ensure compliance with federal health care quality standards for continuing care providers serving Medicare and Medicaid beneficiaries (The Social Security Act specifies the providers that are subject to federal health care quality standards).

Status as of July 31, 2017

| Facility Type | How Many in Idaho | State Licensed | State Licensed and Federally Certified | Federally Certified Only | State Licensed Only | Number of Overdue Licensing Surveys | Federal Certification Required for Medicare or Medicaid? | Number of Overdue Federal Certification Surveys | Number of New Facilities Ready and Awaiting Initial Federal Certification Survey | Number of Overdue Complaint Investigations |
|--|-------------------|----------------|--|--------------------------|---------------------|-------------------------------------|--|---|--|--|
| Hospitals | 50 | Yes | Yes | 0 | Yes | 0 | Yes | 0 | 0 | 0 |
| Ambulatory Surgery Centers | 51 | No | No | N/A | Yes | 0 | Yes | 0 | 0 | 0 |
| Home Health Agencies | 86 | Yes | Yes | 0 | Yes | 0 | Yes | 0 | 0 | 0 |
| Hospice Agencies | 73 | No | No | N/A | Yes | 0 | Yes | 0 | 0 | 0 |
| Outpatient Physical Therapy Clinics/Speech Pathology Clinics | 24 | No | No | N/A | Yes | 0 | Yes | 0 | 0 | 0 |
| End-Stage Renal Dialysis Centers | 29 | No | No | N/A | Yes | 0 | Yes | 0 | 0 | 0 |
| Rural Health Clinics | 46 | No | No | N/A | Yes | 0 | Yes | 0 | 0 | 0 |

| Facility Type | How Many in Idaho | State Licensed Required? | Number of Overdue Licensing Surveys | Federal Certification Required for Medicare or Medicaid? | Number of Overdue Federal Certification Surveys | Number of New Facilities Ready and Awaiting Initial Federal Certification Survey | Number of Overdue Complaint Investigations |
|---|-------------------|--------------------------|-------------------------------------|--|---|--|--|
| Skilled Nursing Facilities | 82 | Yes | 6 | Yes | 0 | 0 | 23 |
| Intermediate Care Facilities for the Intellectually Disabled | 65 | Yes | 0 | Yes | 0 | 0 | 0 |
| Residential Assisted Living Facilities (# licensed buildings) | 376 | Yes | 52 | No | N/A | N/A | 12 |
| Certified Family Homes | 2484 | Yes | 0 | No | N/A | N/A | 0 |
| Developmental Disabilities Agencies | 71 | Yes | 0 | No | N/A | N/A | 0 |
| Residential Habilitation Agencies | 70 | Yes | 0 | No | N/A | N/A | 0 |
| Children's Residential Care | 30 | Yes | 0 | No | N/A | N/A | 0 |
| Outdoor/Wilderness Programs | 1 | Yes | 0 | No | N/A | N/A | 0 |
| Non-Accredited Residential Schools | 1 | Yes | 0 | No | N/A | N/A | 0 |
| Children's Agencies | 6 | Yes | 0 | No | N/A | N/A | 0 |
| TOTALS | 3,545 | | 58 | | 0 | 0 | 35 |

Staffing

The division's past/current staffing levels by team/work unit are shown in the table below:

| Team/Work Unit | Staffing as of Dec 2015 | | | Staffing as of July 31, 2018 | | |
|--|------------------------------------|-----------------------------|--|------------------------------------|-----------------------------|--|
| | Total Number of Surveyor Positions | Number of Current Vacancies | Number of Additional Temporary Surveyors | Total Number of Surveyor Positions | Number of Current Vacancies | Number of Additional Temporary Surveyors |
| Medicare Certification | 8 | 2 | 2 | 8 | 1 | 1 (part-time) |
| Intermediate Care Facilities for the Intellectually Disabled | 5 | 1 | 0 | 5 | 1 | 0 |
| Long Term Care | 13 | 7 | 0 | 13 | 4 | *See note below |
| Fire, Safety, and Construction | 3 | 0 | 0 | 3 | 0 | 0 |
| Residential Assisted Living Facilities | 9 | 2 | 1 | 11 | 0 | 3 |
| Therapeutic Residential Programs | 5 | 0 | 0 | 5 | 0 | 0 |
| Certified Family Homes | 11 | 0 | 0 | 11 | 0 | 0 |
| Total | 54 | 12 | 3 | 56 | 6 | 4 |

*The Long-Term Care Program is using contracted surveyors through Healthcare Management Solutions to assist with overdue surveys and complaint investigations.

Department of Health and Welfare

| DEPARTMENT SUMMARY: | FY 2017 Total Appr | FY 2017 Actual | FY 2018 Total Appr | FY 2019 Request | FY 2019 Gov Rec | FY 2019 Approp |
|--------------------------------------|-----------------------|----------------------|-----------------------|----------------------|----------------------|----------------------|
| BY DIVISION | | | | | | |
| Child Welfare | 66,592,900 | 61,883,800 | 71,286,300 | 76,673,100 | 77,210,200 | 76,925,500 |
| Developmentally Disabled Srvc | 31,280,300 | 28,964,000 | 31,546,200 | 32,430,900 | 32,813,100 | 32,783,100 |
| Independent Councils | 9,001,300 | 7,714,000 | 9,083,100 | 9,066,200 | 9,082,000 | 9,082,000 |
| Indirect Support Services | 41,838,300 | 39,758,500 | 46,381,700 | 51,682,300 | 48,720,200 | 48,720,200 |
| Medicaid, Division of | 2,221,946,000 | 2,121,358,600 | 2,343,605,500 | 2,548,565,800 | 2,540,565,300 | 2,449,450,500 |
| Mental Health Services | 43,177,000 | 39,336,300 | 48,874,000 | 54,668,600 | 53,137,300 | 53,137,300 |
| Psychiatric Hospitalization | 38,575,600 | 39,233,400 | 40,280,000 | 39,182,700 | 38,815,600 | 38,815,600 |
| Public Health Services | 116,827,400 | 103,058,500 | 116,831,700 | 120,256,000 | 120,204,300 | 120,787,300 |
| Service Integration | 6,043,500 | 5,612,600 | 6,062,100 | 6,023,500 | 6,067,500 | 6,067,500 |
| Substance Abuse | 18,322,800 | 17,786,200 | 14,825,700 | 17,184,500 | 17,206,300 | 17,206,300 |
| Welfare, Division of | 169,066,000 | 161,582,500 | 172,320,100 | 174,292,300 | 175,052,500 | 175,037,800 |
| Healthcare Policy Initiatives | 10,235,900 | 9,526,400 | 12,942,700 | 17,933,300 | 17,945,400 | 17,945,400 |
| Licensing and Certification | 7,518,900 | 7,579,400 | 6,895,700 | 7,328,300 | 7,434,400 | 7,321,500 |
| Total: | 2,780,425,900 | 2,643,394,200 | 2,920,934,800 | 3,155,287,500 | 3,144,254,100 | 3,053,280,000 |
| BY FUND SOURCE | | | | | | |
| General | 672,719,600 | 670,084,700 | 726,515,100 | 805,454,700 | 788,086,000 | 765,238,100 |
| Dedicated | 387,250,800 | 325,972,000 | 384,194,700 | 372,499,200 | 384,145,300 | 380,947,600 |
| Federal | 1,720,455,500 | 1,647,337,500 | 1,810,225,000 | 1,977,333,600 | 1,972,022,800 | 1,907,094,300 |
| Total: | 2,780,425,900 | 2,643,394,200 | 2,920,934,800 | 3,155,287,500 | 3,144,254,100 | 3,053,280,000 |
| Percent Change: | | (4.9%) | 10.5% | 8.0% | 7.6% | 4.5% |
| BY EXPENDITURE CLASSIFICATION | | | | | | |
| Personnel Costs | 215,486,200 | 203,061,300 | 220,763,500 | 221,392,100 | 223,666,000 | 222,982,300 |
| Operating Expenditures | 188,413,300 | 159,636,000 | 195,031,400 | 220,345,200 | 218,264,800 | 218,674,200 |
| Capital Outlay | 1,372,300 | 3,505,200 | 3,859,600 | 3,933,400 | 2,439,400 | 2,427,800 |
| Trustee/Benefit | 2,372,447,400 | 2,277,191,700 | 2,501,280,300 | 2,709,616,800 | 2,699,883,900 | 2,609,195,700 |
| Lump Sum | 2,706,700 | 0 | 0 | 0 | 0 | 0 |
| Total: | 2,780,425,900 | 2,643,394,200 | 2,920,934,800 | 3,155,287,500 | 3,144,254,100 | 3,053,280,000 |
| Full-Time Positions (FTP) | 2,892.43 | 2,892.43 | 2,918.38 | 2,949.71 | 2,931.71 | 2,922.71 |

LEGISLATIVE INTENT: There are four sections of department-wide intent language that are found in each original appropriation bill:

- 1) Directed the State Controller to make transfers from the General Fund to the Cooperative Welfare Fund.
- 2) Restricted the transfer of funds from the trustee and benefit payments expense class to any other expense class.
- 3) Required the department to provide services authorized or mandated by law in each program, only to the extent that funding and available resources were appropriated for each budgeted program.
- 4) Allowed the department to transfer authorized full-time equivalent positions between budgeted programs.

| | A | B | C | F | G | H | I | M |
|----|------------|-------------------------------|----------------|--|----------|-----|---------------|-----------------|
| 1 | | | | | | | | |
| 2 | | | | DEPARTMENT OF HEALTH & WELFARE | | | | |
| 3 | | | | FY20 Proposed Decision Units (for SFY 2019 really) | | | | |
| 4 | | | | SUPPLEMENTALS | | | | |
| 5 | | | | DRAFT - FOR DISCUSSION PURPOSES ONLY | | | | |
| 6 | | | | | | | Date / Time: | 8/21/18 4:34 PM |
| 7 | FINAL | | | | One | | Funding | |
| 8 | Priorities | Division | Program | Description | Time | FTP | General | Total |
| 9 | 4 | Behavioral Health | SUD | <u>Substance Use Disorders (SUD) Mgmt Services Contract Admin Fees:</u> To cover increases in the administrative costs of the management services contract that operates the substance use disorders services in Idaho. | Ongoing | - | \$ 780,000 | \$ 780,000 |
| 10 | | | | BEHAVIORAL HEALTH SUBTOTAL | | | \$ 780,000 | \$ 780,000 |
| 11 | 7 | Healthcare Policy Initiatives | Administration | <u>Reversion of Graduate Medical Education (GME) for Idaho State University (ISU) funding:</u> ISU was unable to use Medicaid as a funding source for their GME program expansion; therefore, the ongoing funding initially appropriated in SFY 2018 for their portion is being reverted. | Ongoing | - | \$ (107,800) | \$ (375,000) |
| 12 | | | | HEALTHCARE POLICY INITIATIVES SUBTOTAL | | | \$ (107,800) | \$ (375,000) |
| 13 | 1 | Medicaid | Admin | <u>SFY 2018 Held Payments:</u> Held payments to federal government | One-Time | - | \$ 5,075,500 | \$ 9,307,400 |
| 14 | 2 | Medicaid | MSST | <u>MMIS Contracts Extension</u> | Ongoing | - | \$ 632,500 | \$ 2,530,000 |
| 15 | 3 | Medicaid | | <u>Medicaid Receipts Authority Decrease</u> | Ongoing | - | \$ 16,260,000 | \$ - |
| 16 | | | | MEDICAID SUBTOTAL | | | \$ 21,968,000 | \$ 11,837,400 |
| 17 | 5 | Public Health | Administration | <u>Public Health New Grants - Federal Authority:</u> The Division of Public Health is requesting additional, ongoing, federal spending authority due to increased federal awards that were received after the SFY19 budget appropriation. | Ongoing | - | \$ - | TBD |
| 18 | 6 | Public Health | EMS | <u>Emergency Medical Services (EMS) Fund 0190 Spending Authority Increase:</u> The purpose of the EMS III dedicated fund (fund 0190) is to provide grants to rural EMS agencies for the purchase of EMS response vehicles and equipment. | Ongoing | - | \$ - | \$ 300,000 |
| 19 | | | | PUBLIC HEALTH SUBTOTAL | | | \$ - | \$ 300,000 |
| 20 | | | | | | | \$ 22,640,200 | \$ 12,542,400 |
| 21 | | TOTAL | | | | | \$ 22,640,200 | \$ 12,542,400 |
| 22 | | | | | | | | |
| 23 | | | | | | | | |
| 24 | | | | | | | | |
| 25 | | | | | | | | |
| 26 | | | | DIVISION SUB-TOTALS: | | | | |
| 27 | | | | Behavioral Health | | | \$ 780,000 | \$ 780,000 |
| 28 | | | | Councils | | | \$ - | \$ - |
| 29 | | | | FACS | | | \$ - | \$ - |
| 30 | | | | Public Health | | | \$ - | \$ 300,000 |
| 31 | | | | Support Services | | | \$ - | \$ - |
| 32 | | | | Licensing & Certification | | | \$ - | \$ - |
| 33 | | | | Healthcare Policy Initiatives | | | \$ (107,800) | \$ (375,000) |
| 34 | | | | Medicaid | | | \$ 21,968,000 | \$ 11,837,400 |
| 35 | | | | Welfare | | | \$ - | \$ - |
| 36 | | | | TOTAL | | | \$ 22,640,200 | \$ 12,542,400 |
| 37 | | | | CHECK FIGURE | | | \$ 22,640,200 | \$ 12,542,400 |
| 38 | | | | VARIANCE | | | \$ - | \$ - |
| 39 | | | | | | | \$ - | \$ - |
| 40 | | | | | | | \$ - | \$ - |

DRAFT

| | A | B | C | F | G | H | I | M | |
|----|---|-------------------------------|----------------------|--|---------|-----|--------------|-----------------|--------------|
| 1 | | | | | | | | | |
| 2 | DEPARTMENT OF HEALTH & WELFARE | | | | | | | | |
| 3 | FY20 Proposed Decision Units | | | | | | | | |
| 4 | MAINTENANCE | | | | | | | | |
| 5 | DRAFT - FOR DISCUSSION PURPOSES ONLY | | | | | | | | |
| 6 | | | | | | | Date / Time: | 8/21/18 4:34 PM | |
| 7 | Dept | | | | One | | Funding | | |
| 8 | Priorities | Division | Program | Description | Time | FTE | General | Total | |
| 9 | TBD | Behavioral Health | AMH | <u>Behavioral Health Crisis Centers:</u> Annualized funding for 3 crisis centers - partially funded in SFY 2019. | Ongoing | - | \$ 2,592,500 | \$ 2,592,500 | |
| 10 | TBD | Behavioral Health | SHS | <u>Federal Medical Assistance Percentage (FMAP) Rate Change:</u> The forecasted FMAP rates in effect for SFY 2020 are 71.13% for the 1st quarter and 70.93% for the last three quarters. <u>This is for State Hospital South.</u> | Ongoing | - | \$ 11,000 | \$ - | |
| 11 | BEHAVIORAL HEALTH SUBTOTAL | | | | | | - | \$ 2,603,500 | \$ 2,592,500 |
| 12 | TBD | FACS | FCA | <u>Federal Medical Assistance Percentage (FMAP) Rate Change:</u> The forecasted FMAP rates in effect for SFY 2020 are 71.13% for the 1st quarter and 70.93% for the last three quarters. <u>This is for Foster Care and Assistance.</u> | Ongoing | - | \$ 27,900 | \$ - | |
| 13 | TBD | FACS | SWITC | <u>Federal Medical Assistance Percentage (FMAP) Rate Change:</u> The forecasted FMAP rates in effect for SFY 2020 are 71.13% for the 1st quarter and 70.93% for the last three quarters. <u>This is for the Southwest Idaho Treatment Center (SWITC).</u> | Ongoing | - | \$ 14,300 | \$ - | |
| 14 | FACS SUBTOTAL | | | | | | - | \$ 42,200 | \$ - |
| 15 | TBD | Healthcare Policy Initiatives | | <u>Federal Medical Assistance Percentage (FMAP) Rate Change:</u> The forecasted FMAP rates in effect for SFY 2020 are 71.13% for the 1st quarter and 70.93% for the last three quarters. If needed, this relates to the Graduate Medical Education (GME) for Idaho State University (ISU) funding. <u>WE MAY REMOVE THIS REQUEST.</u> | Ongoing | - | TBD | TBD | |
| 16 | HEALTHCARE POLICY INITIATIVES SUBTOTAL | | | | | | - | \$ - | \$ - |
| 17 | TBD | Medicaid | T&B | <u>SFY 2020 Nondiscretionary Adjustments in Idaho's Medicaid Program:</u> Expected increase in Medicaid costs in SFY 2020 based on changes to federally mandated provider rate increases, changes in case load, and changes in utilization of services. | Ongoing | - | TBD | TBD | |
| 18 | TBD | Medicaid | Financial Operations | <u>Federal Medical Assistance Percentage (FMAP) Rate Change:</u> The forecasted FMAP rates in effect for SFY 2020 are 71.13% for the 1st quarter and 70.93% for the last three quarters. <u>This is for Medicaid provider payments.</u> | Ongoing | - | TBD | TBD | |
| 19 | MEDICAID SUBTOTAL | | | | | | - | \$ - | \$ - |
| 20 | | | | | | | | | |
| 21 | | TOTAL | | | | | \$ 2,645,700 | \$ 2,592,500 | |
| 22 | | | | | | | | | |
| 23 | | | | | | | | | |
| 24 | | | | | | | | | |
| 25 | | | | | | | | | |
| 26 | | | | DIVISION SUB-TOTALS: | | | | | |
| 27 | | | | Behavioral Health | | | \$ 2,603,500 | \$ 2,592,500 | |
| 28 | | | | Councils | | | \$ - | \$ - | |
| 29 | | | | FACS | | | \$ 42,200 | \$ - | |
| 30 | | | | Public Health | | | \$ - | \$ - | |
| 31 | | | | Support Services | | | \$ - | \$ - | |
| 32 | | | | Licensing & Certification | | | \$ - | \$ - | |
| 33 | | | | Healthcare Policy Initiatives | | | \$ - | \$ - | |
| 34 | | | | Medicaid | | | \$ - | \$ - | |
| 35 | | | | Welfare | | | \$ - | \$ - | |

DRAFT

| | A | B | C | F | G | H | I | M |
|----|---|----------|---------|--------------|------|-----|--------------|-----------------|
| 1 | | | | | | | | |
| 2 | DEPARTMENT OF HEALTH & WELFARE | | | | | | | |
| 3 | FY20 Proposed Decision Units | | | | | | | |
| 4 | MAINTENANCE | | | | | | | |
| 5 | DRAFT - FOR DISCUSSION PURPOSES ONLY | | | | | | | |
| 6 | | | | | | | Date / Time: | 8/21/18 4:34 PM |
| 7 | Dept | | | | One | | Funding | |
| 8 | Priorities | Division | Program | Description | Time | FTE | General | Total |
| 36 | | | | TOTAL | | | \$ 2,645,700 | \$ 2,592,500 |
| 37 | | | | CHECK FIGURE | | | \$ 2,645,700 | \$ 2,592,500 |
| 38 | | | | VARIANCE | | | \$ - | \$ - |
| 39 | | | | | | | | |
| 40 | | | | | | | | |

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| 2 | DEPARTMENT OF HEALTH & WELFARE | | | | | | | | |
| 3 | FY20 Proposed Decision Units | | | | | | | | |
| 4 | LINE ITEMS | | | | | | | | |
| 5 | DRAFT - FOR DISCUSSION PURPOSES ONLY | | | | | | | | |
| 6 | FINAL | | | | | | Date / Time: | 8/21/18 4:34 PM | |
| 7 | Dept | | | | One | | Funding | | |
| 8 | Priority | Division | Program | Description | Time | FTP | General | Total | |
| 9 | 4 | Behavioral Health | AMH | <u>Mental Health Court Enhancement:</u> Requesting funding for adult mental health to begin contracting for segments of adult mental health court either through contracts with providers or contracts with the courts to then hire or subcontract their own treatment providers. This will free up Adult Mental Health staffing resources to address the growth in mental holds and designated exams. | Ongoing | - | \$ 1,608,000 | \$ 1,608,000 | |
| 10 | 6 | Behavioral Health | SUD | <u>2020 Substance Use Disorder (SUD) Treatment Funding:</u> Funding to increase access to SUD services for adults involved with child protection, co-occurring disorders, addiction to IV drugs, being discharged from state hospitals, pregnant women/women with children, etc. | Ongoing | - | \$ 2,050,000 | \$ 2,050,000 | |
| 11 | 12 | Behavioral Health | SHN | <u>State Hospital North (SHN) Infection Prevention Officer:</u> SHN requests funding for a Registered Nurse, Senior specifically designated to be the Infection Prevention Officer for the hospital. | Ongoing | 1.00 | \$ 88,200 | \$ 88,200 | |
| 12 | 13 | Behavioral Health | SHS | <u>State Hospital South (SHS) is requesting two new FTPs:</u> State Hospital South (SHS) is requesting \$105,000 general funds and two new FTPs – Health Information Specialist (HIS) and Administrative Assistant 1 (AA1). The HIS will work in the Health Information Management (HIM) department and the AA1 will provide administrative support to clinical, medical and nursing personnel at the hospital's Patient Treatment Facility (PTF). | Ongoing | 2.00 | \$ 105,000 | \$ 105,000 | |
| 13 | 14 | Behavioral Health | SHS | <u>State Hospital South (SHS) Reclassify LPNs to RNs:</u> SHS requests funding to reclassify five (5) Licensed Practical Nurse (LPN) positions to five Registered Nurse (RN) positions, one for each of four units at the Patient Treatment Facility (PTF) and one for the skilled nursing facility. | Ongoing | - | \$ 80,300 | \$ 93,700 | |
| 14 | 17 | Behavioral Health | SHN | <u>State Hospital North (SHN) - Psychiatry and Nursing:</u> SHN is requesting funding for contracted psychiatry and nursing costs. SHN continues to face great difficulty in maintaining the amount of psychiatric and nursing care needed to maintain a higher occupancy rate, increased admission rates, and provide quality medical care. | Ongoing | - | \$ 247,800 | \$ 247,800 | |
| 15 | 30 | Behavioral Health | SUD | <u>Problem Solving Court Population Funds Transfer:</u> The Division of Behavioral Health is appropriated \$735,000 in Trustee & Benefits to provide substance use disorders treatment to participants in domestic violence problem solving court and misdemeanor problem solving court. The Idaho Supreme Court oversees these courts in partnership with local court jurisdictions. The Idaho Supreme Court completes an interagency billing process to access the funds from the Department. The Department and the Courts agree these funds should simply be transferred to the Courts for them to administer. | Ongoing | - | \$ (735,000) | \$ (735,000) | |
| 16 | BEHAVIORAL HEALTH SUBTOTAL | | | | | | 3.00 | \$ 3,444,300 | \$ 3,457,700 |
| 17 | 34 | Councils | DV Council | <u>Victims of Crime Act of 1984 (VOCA) Grant:</u> The Idaho Council on Domestic Violence and Victim Assistance is requesting a federal fund authority increase in T&B in the amount of \$4 million. The Crime Victims Fund, established by the Victims of Crime Act of 1984 (VOCA), is a major funding source for victim services throughout the nation. Millions of dollars have been deposited into the fund annually, which has resulted in Congress raising the cap amount. | Ongoing | - | \$ - | \$ 4,000,000 | |
| 18 | COUNCILS SUBTOTAL | | | | | | - | \$ - | \$ 4,000,000 |

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| DEPARTMENT OF HEALTH & WELFARE FY20 Proposed Decision Units | | | | | | | |
| LINE ITEMS | | | | | | | |
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| 6 | FINAL | | | | | Date / Time: | 8/21/18 4:34 PM |
| 7 | Dept | | | | One | Funding | |
| 8 | Priority | Division | Program | Description | Time | FTP | General Total |
| 19 | 3 | FACS | Child Welfare | <u>Child Welfare Transformation (CWT) Initiative:</u> The Division of Family and Community Services (FACS) is requesting \$11,504,000 in one-time funding for the second of three years of funding for the Child Welfare Transformation (CWT) Initiative in the Department of Health and Welfare. With a 50% federal, 50% state match rate, this request for SFY 2020 is for \$5,752,000 in federal authority and \$5,752,000 in general funds. | One-Time | - | \$ 5,752,000 \$ 11,504,000 |
| 20 | 10 | FACS | Child Welfare | <u>Adjust Child Welfare Social Worker 2 compensation rates to 80% of policy:</u> The Division of Family and Community services is requesting \$237,200 (\$118,600 GF/\$118,600 FF) to increase the salary of Child Welfare Social Worker 2 (SW2) positions to an 80% of policy ratio (\$23.62/hour) with the focus on stabilization of the current workforce. As of 7-28-18, there were 94 SW2's paid less than 80% of policy. | Ongoing | - | \$ 118,600 \$ 237,200 |
| 21 | FACS SUBTOTAL | | | | | - | \$ 5,870,600 \$ 11,741,200 |
| 22 | 9 | Healthcare Policy Initiatives | | <u>Office of Healthcare Policy Initiatives:</u> The Office of Healthcare Policy Initiatives (OHPI) is requesting \$795,900 (\$396,800/general funds and \$399,100 in receipt authority – private grants) and 7.0 FTP to continue to advocate for healthcare delivery transformation. | Ongoing | 7.00 | \$ 396,800 \$ 795,900 |
| 23 | 1/A | Healthcare Policy Initiatives | Admin | Graduate Medical Education - Tentative - TBD | Ongoing | - | TBD TBD |
| 24 | HEALTHCARE POLICY INITIATIVES SUBTOTAL | | | | | 7.00 | \$ 396,800 \$ 795,900 |
| 25 | 16 | Licensing & Certification | Long-term Care RALF | <u>Division of Licensing & Certification - New Positions:</u> a) Two Health Facility Surveyors to serve as a Quality Assurance Nurses in skilled nursing facilities. The Quality Assurance Nurses will visit facilities in between surveys to observe facility operations and provide training and technical assistance to assist the facility in meeting federal certification requirements. (Long-term Care) - \$92,800 GF / \$92,800 FF b) One Technical Records Specialist 2 to provide technical support to the team in processing assisted living applications, managing provider training, and maintaining the team's provider and consumer web pages (RALF).- \$28,700 - GF / \$28,800 FF | Ongoing | 3.00 | \$ 121,500 \$ 243,100 |
| 26 | LICENSING & CERTIFICATION SUBTOTAL | | | | | 3.00 | \$ 121,500 \$ 243,100 |
| 27 | 2 | Medicaid | Admin | <u>Idaho's Children's Health Insurance Program (CHIP):</u> Currently, CHIP is 100% federally funded in Idaho through 9/30/2019. The HEALTHY KIDS Act and Bipartisan Budget Act of 2018 reduces the federal matching percentage for CHIP to 93.5% for federal fiscal year 2020 (10/1/2019 – 9/30/2020) and to an estimated 82% for federal fiscal year 2021 and beyond. | Ongoing | - | \$ 4,821,400 \$ - |
| 28 | 5 | Medicaid | BFO | <u>Medicaid 53rd Claims Payment Cycle:</u> The Division of Medicaid is requesting one-time funding to pay for a 53rd claims payment cycle in SFY 2020. | One-Time | - | TBD TBD |
| 29 | 8 | Medicaid | BDDS | <u>Medicaid Children's Intervention Services:</u> Service Changes for Children with Developmental Disabilities | Ongoing | - | TBD TBD |

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| 2 | DEPARTMENT OF HEALTH & WELFARE | | | | | | | | |
| 3 | FY20 Proposed Decision Units | | | | | | | | |
| 4 | LINE ITEMS | | | | | | | | |
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| 7 | Dept | | | | One | | Funding | | |
| 8 | Priority | Division | Program | Description | Time | FTP | General | Total | |
| 30 | 11 | Medicaid | MSST | <u>Medicaid Claims System Reprocurement Quality Control (IV&V):</u> The Division of Medicaid is requesting one-time funding for an Independent Verification and Validation (IV&V) vendor. Medicaid's Management Information System (MMIS) is required by federal and state law to be periodically reprocured. Medicaid is planning a strategic phasing of the reprocurement process to reduce disruption in the provider community and increase positive implementation outcomes. | One-Time | - | TBD | TBD | |
| 31 | 15 | Medicaid | BFO | <u>Medicaid FY20 Accountant Contract Rebid:</u> The Division of Medicaid is requesting funding for a market rate increase for its professional accountant contract. | Ongoing | - | TBD | TBD | |
| 32 | 18 | Medicaid | BMC | <u>Jeff D Settlement Related Staff - Children's Mental Health:</u> The Division of Medicaid (Medicaid) is currently developing and implementing more than 20 new services and supports for children suffering with a Serious Emotional Disturbance (SED) to meet the terms of the Jeff D Settlement agreement. | Both | 3.00 | \$ 127,300 | \$ 254,600 | |
| 33 | 19 | Medicaid | Admin | <u>Healthcare Payment Reform:</u> This one-time funding will build capacity for Medicaid to receive electronically transmitted clinical quality measures data directly from health care providers from a single source. It will also provide support for primary care practices, hospitals, and other Medicaid providers to connect with the Idaho Health Data Exchange (IHDE) to allow improved information sharing and care coordination between primary care and other providers. | One-Time | - | \$ 592,500 | \$ 5,924,600 | |
| 34 | 21 | Medicaid | Admin | <u>Idaho Medicaid non-emergent medical transportation (NEMT) Provider Rate Adjustment</u> | Ongoing | - | TBD | TBD | |
| 35 | 23 | Medicaid | LTC | <u>Medicaid Case Management Module:</u> Case Management Software to Coordinate Care for People with Special Health Needs | Both | - | \$ 400,000 | \$ 4,000,000 | |
| 36 | 25 | Medicaid | Admin | <u>Medicaid Dental Rate Increase:</u> The Division of Medicaid is requesting ongoing Trustee and Benefit payments to provide an increase in the rates that our Idaho Medicaid dental providers are paid by our Dental Benefits Administrator (MCNA). | Ongoing | - | \$ 1,276,900 | \$ 4,400,000 | |
| 37 | 26 | Medicaid | BDDS | <u>Medicaid Developmental Disability Agency Rate Increase:</u> | Ongoing | - | TBD | TBD | |
| 38 | 27 | Medicaid | Admin | <u>Medicaid School Based Services:</u> Behavioral intervention and skills building services to match community rates. | Ongoing | - | \$ - | TBD | |
| 39 | 28 | Medicaid | BDDS | <u>Medicaid Appeals and Due Process Compliance:</u> The Division of Medicaid requests \$88,600 (\$44,300 GF/\$44,300 FF) to fund one full-time position for the implementation and management of the Quality Improvement Contract | Both | 1.00 | \$ 44,300 | \$ 88,600 | |
| 40 | 29 | Medicaid | BMC | <u>Medicaid Pharmacist (Addiction Education and Control):</u> An additional pharmacist is needed focus on the significant issues of opioids on the overall health and safety of our participants. | Both | 1.00 | \$ 38,800 | \$ 1 | |
| 41 | MEDICAID SUBTOTAL | | | | | | 5.00 | \$ 7,301,200 | \$ 14,806,900 |

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| DEPARTMENT OF HEALTH & WELFARE FY20 Proposed Decision Units | | | | | | | | |
| LINE ITEMS | | | | | | | | |
| DRAFT - FOR DISCUSSION PURPOSES ONLY | | | | | | | | |
| 6 | FINAL | | | | | Date / Time: | 8/21/18 4:34 PM | |
| 7 | Dept | | | One | | Funding | | |
| 8 | Priority | Division | Program | Description | Time | FTP | General Total | |
| 42 | 1 | Public Health | Suicide | <u>Suicide Prevention Infrastructure and Implementation:</u> The Suicide Prevention Program (SPP) is requesting funds to implement a complete Idaho suicide prevention plan. | Both | TBD | TBD TBD | |
| 43 | 20 | Public Health | Physical Health Services | <u>Cancer Data Registry of Idaho Funding Support:</u> The Division of Public Health is requesting \$106,000 in ongoing general funds and \$10,000 in one-time dedicated funds from the rolling cash balance in Fund 0181 (Central Tumor Registry) to sustain the division's statutory requirement to maintain a uniform statewide population-based cancer registry system – | Both | - | \$ 106,000 \$ 116,000 | |
| 44 | 22 | Public Health | Physical Health Services | <u>Division of Public Health Increase Federal Spending Authority</u> | Ongoing | - | \$ - \$ TBD | |
| 45 | 24 | Public Health | Physical Health Services | <u>Tuberculosis (TB) Program Operating Funds:</u> The Division of Public Health, Bureau of Communicable Disease Prevention, Tuberculosis (TB) program is requesting \$272,600 in general funds and a decrease of \$12,900 in federal authority to strengthen capacity to respond to the current and future threat of TB. | Ongoing | - | \$ 272,600 \$ 259,700 | |
| 46 | 31 | Public Health | Physical Health Services | <u>Food Protection Program:</u> The temporary Health Program Specialist is currently funded through a grant awarded by the U. S. Food and Drug Administration (FDA). This new funding and FTP request would eliminate the need for a temporary position and allow the <u>Food Protection Program (FPP)</u> to improve oversight of the statewide regulatory program to ensure entities with delegated authority for food inspection and ensuring food safety are exercising authority appropriately. The inability of the FPP to comprehensively audit, train, and follow up with inspection and food safety activities conducted by entities with delegated authority increases the likelihood of foodborne illnesses. | Ongoing | 1.00 | \$ 25,700 \$ 25,700 | |
| 47 | 32 | Public Health | Physical Health Services | <u>Chronic Disease Health Education Specialist:</u> The Bureau of Community and Environmental Health is requesting 1.0 FTP and \$27,500 in ongoing federal fund authority for a full-time classified Health Education Specialist, Sr. This position will replace a temporary, non-classified position currently being utilized by the bureau at 52 hours per payperiod. | Ongoing | 1.00 | \$ - \$ 27,500 | |
| 48 | PUBLIC HEALTH SUBTOTAL | | | | | 2.00 | \$ 404,300 | \$ 428,900 |
| 49 | 7 | Support Services | Operational Services | <u>Workplace Safety and Security Improvements:</u> <u>One-time</u> Statewide safety and security improvements for DHW office buildings. Includes funding for security guards, exterior and interior video surveillance cameras for high-risk areas, emergency response devices for remote workers, remodeling of lobby/reception/office areas to improve safety and security, exterior lighting, panic buttons, door locks, security mirrors, and signage. - \$193,400 GF / \$193,500 FF <u>On-going</u> Statewide safety and security improvements for DHW office buildings for security guards, services for emergency response devices, maintenance costs for cameras - \$151,800 GF / \$151,800 FF | Both | - | \$ 345,200 \$ 690,500 | |
| 50 | SUPPORT SERVICES SUBTOTAL | | | | | - | \$ 345,200 | \$ 690,500 |
| 53 | TOTAL | | | | | 20.00 | \$ 17,883,900 | \$ 36,164,200 |

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| 1 | | | | | | | | |
| 2 | DEPARTMENT OF HEALTH & WELFARE | | | | | | | |
| 3 | FY20 Proposed Decision Units | | | | | | | |
| 4 | LINE ITEMS | | | | | | | |
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| 7 | Dept | | | | One | | Funding | |
| 8 | Priority | Division | Program | Description | Time | FTP | General | Total |
| 56 | | | | | | | | |
| 57 | | | | | | | | |
| 58 | | | | DIVISION SUB-TOTALS: | | | | |
| 59 | | | | Behavioral Health | | 3.00 | \$ 3,444,300 | \$ 3,457,700 |
| 60 | | | | Councils | | - | \$ - | \$ 4,000,000 |
| 61 | | | | FACS | | - | \$ 5,870,800 | \$ 11,741,200 |
| 62 | | | | Public Health | | 2.00 | \$ 404,300 | \$ 428,900 |
| 63 | | | | Support Services | | - | \$ 345,200 | \$ 690,500 |
| 64 | | | | Licensing & Certification | | 3.00 | \$ 121,500 | \$ 243,100 |
| 65 | | | | Healthcare Policy Initiatives | | 7.00 | \$ 396,800 | \$ 795,900 |
| 66 | | | | Medicaid | | 5.00 | \$ 7,301,200 | \$ 14,806,900 |
| 67 | | | | Medicaid/OHPI | | - | \$ - | \$ - |
| 68 | | | | Welfare | | - | \$ - | \$ - |
| 69 | | | | | | | | |
| 70 | | | | TOTAL | | 20.00 | \$ 17,883,900 | \$ 36,164,200 |
| 71 | | | | CHECK FIGURE | | 20.00 | \$ 17,883,900 | \$ 36,164,200 |
| 72 | | | | VARIANCE | | - | \$ - | \$ - |
| 73 | | | | | | | | \$ - |

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Strategic Plan Overview 2019-2023

Governor's Priorities:

Enhancing Economic Opportunity • Empowering Idahoans • Promoting Responsible Government

OUR MISSION

Promote and protect the health and safety of Idahoans.

OUR VISION

Provide leadership for a sustainable, integrated health and human services system.

OUR VALUES

Integrity, high quality customer service, and compassion are the foundation for all Department activities. A focus on these values will lead to success.

OUR STRATEGIC GOAL

Ensure the delivery of services that promote healthier, safer, self-sufficient Idahoans.

STRATEGIC OBJECTIVES

Objective 1:
Transform Idaho's healthcare delivery system to promote healthier Idahoans while increasing healthcare quality and reducing costs

Objective 2:
Protect children and vulnerable adults

Objective 3:
Promote stable and healthy Idahoans through medical coverage, program access, support services, and policy

**Support System
Strategic Initiatives**

STRATEGIC INITIATIVES

- Advance Idaho's healthcare delivery system to enable Idahoans to live healthier lives, to improve healthcare services, and to reduce the cost of healthcare
 - Control Medicaid costs by financially rewarding providers and organizations that deliver measurably better care to our participants
 - Improve the children's mental health system in Idaho for children with serious emotional and behavioral disorders
-
- Ensure children who have experienced abuse or neglect have safe, permanent homes
 - Develop and implement effective residential care for adult Idahoans with severe, chronic mental illness
-
- Reduce suicide attempts and deaths in Idaho by collaborating with multi-sector stakeholders
 - Improve access to residential care settings for residents with Alzheimer's or dementia
 - Reduce opioid addiction and overdose deaths in Idaho
 - Provide job training and education to low-income adults receiving state assistance, to help them gain stable, full time employment and eventually move to self-sufficiency
-
- Empower Idahoans to make informed decisions to improve their lives by connecting them to community services through the "Live Better Idaho" website
 - Deliver services to our customers in a safe environment by providing employees with tools and resources for preventing or responding to potentially violent situations
 - Protect our network and sensitive data by enhancing cybersecurity; and improve the efficiency of department operations by integrating information systems



