

# IDAHO ADMINISTRATIVE BULLETIN

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# Preface

*The Idaho Administrative Bulletin is published once each month by the Department of Administration, Office of the Administrative Rules Coordinator, pursuant to Section 67-5203, Idaho Code. The Bulletin is a compilation of all administrative rulemaking documents in Idaho. The Bulletin publishes the official text notice and full text of such actions.*

*State agencies are required to provide public notice of rulemaking activity and invite public input. The public receives notice of a rulemaking activity through the Idaho Administrative Bulletin and the Legal Notice published monthly in local newspapers. The Legal Notice provides reasonable opportunity for public input, either oral or written, which may be presented to the agency within the time and manner specified in the Legal Notice. After the comment period closes, the agency considers fully all information submitted in regard to the rule. Comment periods are not provided in temporary or final rulemaking activities.*

## **CITATION TO THE IDAHO ADMINISTRATIVE BULLETIN**

*The Bulletin is cited by year and issue number. For example, Bulletin 00-1 refers to the first Bulletin issued in calendar year 2000, Bulletin 01-1 refers to the first Bulletin issued in calendar year 2001, etc. Volume numbers, which proceed from 1 to 12 in a given year, correspond to the months of publication, i.e.; Volume No. 1 refers to January; Volume No. 2 refers to February; and so forth. Example: The Bulletin published in January of 2001 is cited as Volume 01-1, the December 1999 Bulletin is cited as Volume 99-12. The March 2000 Bulletin is cited as Volume 00-3.*

## **RELATIONSHIP TO THE IDAHO ADMINISTRATIVE CODE**

*The **Idaho Administrative Code** is published once a year and is a compilation or supplemental compilation of all final and enforceable administrative rules in effect in Idaho. In an effort to provide the reader with current, enforceable rules, temporary rules are also published in the Administrative Code. Temporary rules and final rules that have been adopted and approved by the legislature during the legislative session, and published in the monthly Idaho Administrative Bulletin, supplement the Administrative Code. Negotiated, proposed, and pending rules are **not** printed in the Administrative Code and are published only in the Bulletin.*

*To determine if a particular rule remains in effect, or to determine if a change has occurred, the reader should refer to the **Cumulative Index of Administrative Rulemaking**, printed in each Bulletin.*

## **TYPES OF RULEMAKINGS PUBLISHED IN THE ADMINISTRATIVE BULLETIN**

*The state of Idaho administrative rulemaking process comprises five distinct activities; Negotiated, Proposed, Temporary, Pending, and Final rulemaking. Not all rulemakings consist of all five. At a minimum a rulemaking includes proposed, pending, and final rulemaking. Many rules are adopted as temporary rules when meeting required statutory criteria and agencies often engage in negotiated rulemaking at the beginning of the process to facilitate consensus building in controversial or complex rulemakings. In the majority of cases, the process begins with proposed rulemaking and ends with final rulemaking. The following is a brief explanation of each type of administrative rule.*

### **NEGOTIATED RULEMAKING**

*Negotiated rulemaking is a process in which all interested parties and the agency seek a consensus on the content of the rule. Agencies are encouraged to proceed through this informal rulemaking whenever it is feasible to do so. Publication of the text in the Administrative Bulletin by the agency is optional. This process should lead the rulemaking to the temporary and/or proposed rule stage.*

### **PROPOSED RULEMAKING**

*A proposed rulemaking is an action by an agency in which the agency is proposing to amend or repeal an existing rule or to adopt a new rule. Prior to the adoption, amendment, or repeal of a rule, the agency must publish a notice of proposed rulemaking in the Bulletin. The notice of proposed rulemaking must include:*

- a) the specific statutory authority for the rulemaking including a citation to a specific federal statute or regulation if that is the basis of authority or requirement for the rulemaking;*
- b) a statement in nontechnical language of the substance of the proposed rule, including a specific description of any fee or charge imposed or increased;*
- c) the text of the proposed rule prepared in legislative format;*
- d) the location, date, and time of any public hearings the agency intends to hold on the proposed rule;*
- e) the manner in which persons may make written comments on the proposed rule, including the name and address of a person in the agency to whom comments on the proposal may be sent;*
- f) the manner in which persons may request an opportunity for an oral presentation; and*
- g) the deadline for public (written) comments on the proposed rule.*

*As stated, the text of the proposed rule must be published in the Bulletin. After meeting the statutory rulemaking criteria for a proposed rule, the agency may proceed to the pending rule stage. A proposed rule does not have an assigned effective date unless published in conjunction with a temporary rule docket. An agency may vacate a proposed rulemaking if it decides not to proceed further with the promulgation process.*

### **TEMPORARY RULEMAKING**

*Temporary rules may be adopted only when the governor finds that it is necessary for:*

- a) the 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.*

*If a rulemaking meets any one or all of the above requirements, a rule may become effective before it has been submitted to the legislature for review and the agency may proceed and adopt a temporary rule.*

*A temporary rule expires at the conclusion of the next succeeding regular session of the legislature unless the rule is approved, amended, or modified by concurrent resolution or when the rule has been replaced by a final rule.*

*In cases where the text of the temporary rule is the same as that of the proposed rule, the rulemaking can be done concurrently as a temporary/proposed rule. State law requires that the text of a proposed or temporary rule be published in the Administrative Bulletin. Combining the rulemaking allows for a single publication of the text.*

*An agency may rescind a temporary rule that has been adopted and is in effect if the rule is being replaced by a new temporary rule or has been published concurrently with a proposed rulemaking that is being vacated.*

### **PENDING RULEMAKING**

*A pending rule is a rule that has been adopted by an agency under the regular rulemaking process and remains subject to legislative review before it becomes a final, enforceable rule.*

*When a pending rule is published in the Bulletin, the agency is required to include certain information in the Notice of Pending Rule. This includes:*

- a) the reasons for adopting the rule;*
- b) a statement of any change between the text of the proposed rule and the pending rule with an explanation of the reasons for any changes;*
- c) the date the pending rule will become final and effective; and*
- d) an identification of any portion of the rule imposing or increasing a fee or charge.*

*Agencies are required to republish the text of the rule when substantive changes have been made to the proposed rule. An agency may adopt a pending rule that varies in content from that which was originally proposed if the subject matter of the rule remains the same, the pending rule is a logical outgrowth of the proposed rule, and the original notice was written so as to assure that members of the public were reasonably notified of the subject. It is not always necessary to republish all the text of the pending rule. With the permission of the Rules Coordinator, only the Section(s) that have changed from the proposed text are republished. If no changes have been made to the previously published text, it is not required to republish the text again and only the Notice of Pending Rule is published.*

### **FINAL RULEMAKING**

*A final rule is a rule that has been adopted by an agency under the regular rulemaking process and is in effect.*

*No pending rule adopted by an agency will become final and effective until it has been submitted to the legislature for review. Where the legislature finds that the agency has violated the legislative intent of the statute under which the rule was made, a concurrent resolution will be adopted rejecting, amending, or modifying the rule or any part thereof. A Notice of Final Rule must be published in the Idaho Administrative Bulletin for any rule that is rejected, amended, or modified by the legislature showing the changes made. A rule that has been reviewed by the legislature and has not been rejected, amended, or modified will become final with no further legislative action. No rule shall become final and effective before the conclusion of the regular or special legislative session at which the rule was submitted for review. However, a rule which is final and effective may be applied retroactively, as provided in the rule.*

### **AVAILABILITY OF THE ADMINISTRATIVE CODE AND BULLETIN**

*The Idaho Administrative Code and all monthly Bulletins are available for viewing and use by the public in all 44 county law libraries, state university and college and community college libraries, the state law library, the state library, the Public Libraries in Boise, Pocatello, Idaho Falls and Twin Falls, the Lewiston City Library, East Bonner County Library, Eastern Idaho Technical College Library, BYU Idaho Library, and Northwest Nazarene College Library.*

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## SUBSCRIPTIONS AND DISTRIBUTION

For subscription information and costs of publications, please contact the Department of Administration, Office of the Administrative Rules Coordinator, 650 W. State Street, Room 100, Boise, Idaho 83720-0306, telephone (208) 332-1820.

*The Administrative Bulletin* is an official monthly publication of the State of Idaho. Yearly subscriptions or individual copies are available for purchase.

*The Administrative Code*, is an annual compilation or supplemental compilation of all final and enforceable temporary administrative rules and includes tables of contents, reference guides, and a subject index.

*Individual Rule Chapters* and *Individual Rulemaking Dockets*, are specific portions of the Bulletin and Administrative Code produced on demand.

**Internet Access** - The Administrative Code and Administrative Bulletin, individual chapters and dockets, are available on the Internet at the following address: <http://www2.state.id.us/adm/adminrules/>

**EDITOR'S NOTE:** All rules are subject to frequent change. Users should reference all current issues of the Administrative Bulletin for negotiated, temporary, proposed, pending, and final changes to all rules, or call the Office of the Administrative Rules at (208) 332-1820.

## HOW TO USE THE IDAHO ADMINISTRATIVE BULLETIN

Rulemaking documents produced by state agencies and published in the *Idaho Administrative Bulletin* are organized by a numbering system. Each state agency has a two-digit identification code number known as the "IDAPA" number. (The "IDAPA" Codes are listed in the alphabetical/numerical index at the end of this Preface.) Within each agency there are divisions or departments to which a two-digit "TITLE" number is assigned. There are "CHAPTER" numbers assigned within the Title and the rule text is divided among major sections with a number of subsections. An example IDAPA number is as follows:

### **IDAPA 38.05.01.060.02.c.ii.**

"IDAPA" refers to Administrative Rules in general that are subject to the Administrative Procedures Act and are required by this act to be published in the Idaho Administrative Code and the Idaho Administrative Bulletin.

"IDAPA 38." refers to the Idaho Department of Administration.

"05." refers to Title 05 which is the Department of Administration's Division of Purchasing.

"01." refers to Chapter 01 of Title 05, "Rules of the Division of Purchasing".

"060." refers to Major Section 060, "Content of the Invitation to Bid".

"02." refers to Subsection 060.02.

"c." refers to Paragraph 060.02.c.

"ii." refers to Subparagraph 060.02.c.ii.



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## DOCKET NUMBERING SYSTEM

Internally, the Bulletin is organized sequentially using a rule docketing system. All rulemaking actions (documents) are assigned a "DOCKET NUMBER". The "Docket Number" is a series of numbers separated by a hyphen "-", (38-0501-0101). The docket numbers are published sequentially by IDAPA designation (e.g. the two-digit agency code). The following example is a breakdown of a typical rule docket:

### **"DOCKET NO. 38-0501-0101"**

"38-" denotes the agency's IDAPA number; in this case the Department of Administration.

"0501-" refers to the TITLE AND CHAPTER numbers of the agency rule being promulgated; in this case the Division of Purchasing (TITLE 05), "Rules of the Division of Purchasing" (Chapter 01).

"0101" denotes the year and sequential order of the docket submitted and published during the year; in this case the first rulemaking action of the chapter published in calendar year 2001.

Within each Docket, only the affected sections of chapters are printed. (See **Sections Affected Index** in each Bulletin for a listing of these.) The individual sections affected are printed in the Bulletin sequentially (e.g. Section "200" appears before Section "345" and so on). Whenever the sequence of the numbering is broken the following statement will appear:

### **"(BREAK IN CONTINUITY OF SECTIONS)"**

## INTERNAL AND EXTERNAL CITATIONS TO ADMINISTRATIVE RULES IN THE CODE AND BULLETIN

When making a citation to another Section or Subsection that is part of the same rule, a typical internal citation may appear as follows:

**"...as found in Section 201 of this rule." OR "...in accordance with Subsection 201.06.c. of this rule."**

It may also be cited to include the IDAPA, Title, and Chapter number also, as follows:

**"...in accordance with IDAPA 38.05.01.201."**

"38" denotes the IDAPA number of the agency.

"05" denotes the TITLE number of the agency rule.

"01" denotes the Chapter number of the agency rule.

"201" references the main Section number of the rule that is being cited.

Citations made within a rule to a different rule chapter (external citation) should also include the name of the Department and the name of the rule chapter being referenced, as well as the IDAPA, Title, and Chapter numbers. The following is a typical example of an external citation to another rule chapter:

**"...as outlined in the Rules of the Department of Administration, IDAPA 38.04.04, 'Rules Governing Capitol Mall Parking.'"**

**BULLETIN PUBLICATION SCHEDULE FOR CALENDAR YEAR 2002**

<b>Volume No.</b>	<b>Monthly Issue of Bulletin</b>	<b>Closing Date for Agency Filing</b>	<b>Publication Date</b>	<b>21-day Comment Period End Date</b>
02-1	January, 2002	<b>*November 14, 2001</b>	January 2, 2002	January 23, 2002
02-2	February, 2002	December 19, 2001	February 6, 2002	February 27, 2002
02-3	March, 2002	January 23, 2002	March 6, 2002	March 27, 2002
02-4	April, 2002	February 20, 2002	April 3, 2002	April 24, 2002
02-5	May, 2002	March 27, 2002	May 1, 2002	May 22, 2002
02-6	June, 2002	April 24, 2002	June 5, 2002	June 26, 2002
02-7	July, 2002	May 22, 2002	July 3, 2002	July 24, 2002
02-8	August, 2002	June 19, 2002	August 7, 2002	August 28, 2002
02-9	September, 2002	July 24, 2002	September 4, 2002	September 25, 2002
02-10	October, 2002	<b>**August 21, 2002</b>	October 2, 2002	October 23, 2002
02-11	November, 2002	September 25, 2002	November 6, 2002	November 27, 2002
02-12	December, 2002	October 23, 2002	December 4, 2002	December 25, 2002

**BULLETIN PUBLICATION SCHEDULE FOR CALENDAR YEAR 2003**

<b>Volume No.</b>	<b>Monthly Issue of Bulletin</b>	<b>Closing Date for Agency Filing</b>	<b>Publication Date</b>	<b>21-day Comment Period End Date</b>
03-1	January, 2003	<b>*November 13, 2002</b>	January 1, 2003	January 22, 2003
03-2	February, 2003	December 18, 2002	February 5, 2003	February 26, 2003
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03-10	October, 2003	<b>**August 20, 2003</b>	October 1, 2003	October 22, 2003
03-11	November, 2003	September 24, 2003	November 5, 2003	November 26, 2003
03-12	December, 2003	October 22, 2003	December 3, 2003	December 24, 2003

***\*Last day to submit proposed rulemaking before moratorium begins and last day to submit pending rules to be reviewed by the legislature.***

***\*\*Last day to submit proposed rules in order to complete rulemaking for review by legislature.***

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<b>IDAPA 11</b>	<b>IDAHO STATE POLICE</b> (Law Enforcement)	<b>VOLUME 2</b>
<b>IDAPA 17</b>	<b>INDUSTRIAL COMMISSION</b>	<b>VOLUME 5</b>
<b>IDAPA 18</b>	<b>INSURANCE</b> , Department of	<b>VOLUME 5</b>
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<b>IDAPA 20</b>	<b>LANDS</b> , Department of	<b>VOLUME 6</b>
<b>IDAPA 52</b>	<b>LOTTERY COMMISSION</b> , Idaho State	<b>VOLUME 9</b>
<b>IDAPA 22</b>	<b>MEDICINE</b> , Board of	<b>VOLUME 6</b>
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<b>IDAPA 24</b>	<b>OCCUPATIONAL LICENSES</b> , Board of Board of Architectural Examiners Board of Barber Examiners Board of Chiropractic Physicians Board of Cosmetology Board of Environmental Health Specialist Examiners Board of Hearing Aid Dealers and Fitters Board of Landscape Architects Board of Morticians Board of Examiners of Nursing Home Administrators Board of Optometry Board of Podiatry Board of Psychologist Examiners Board of Social Work Examiners Idaho Counselor Board Board of Dentistry Board of Acupuncture Real Estate Appraiser Board Board of Residential Care Facility Administrators	<b>VOLUME 6</b>
<b>IDAPA 25</b>	<b>OUTFITTERS AND GUIDES LICENSING BOARD</b>	<b>VOLUME 6</b>
<b>IDAPA 50</b>	<b>PARDONS AND PAROLE</b> , Commission for	<b>VOLUME 9</b>
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<b>IDAPA 59</b>	<b>PUBLIC EMPLOYEES RETIREMENT SYSTEM OF IDAHO - PERSI</b>	<b>VOLUME 9</b>
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## IDAPA 13 - IDAHO FISH AND GAME COMMISSION

### 13.01.03 - PUBLIC USE OF THE LANDS OWNED OR CONTROLLED BY THE DEPARTMENT OF FISH AND GAME

DOCKET NO. 13-0103-0201

#### NOTICE OF RULEMAKING - TEMPORARY AND PROPOSED RULE

**EFFECTIVE DATE:** The temporary rule is effective April 29, 2002.

**AUTHORITY:** In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given this agency has adopted temporary rules and proposed regular rulemaking procedures have been initiated. The action is authorized pursuant to Section 36-104(b), Idaho Code.

**PUBLIC HEARING SCHEDULE:** Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 16, 2002.

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address listed below.

**DESCRIPTIVE SUMMARY:** The following is the required finding and concise statement of the supporting reasons for proposed rulemaking:

Amendment to allow dog training and field trials on some department lands to benefit hunters and bird-dog trainers.

**TEMPORARY RULE JUSTIFICATION:** Pursuant to Section 67-5226(1)(c), Idaho Code, the Governor has found that temporary adoption of the rule is appropriate in order to confer a benefit.

**FEE SUMMARY:** The following is a specific description of the fee or charge imposed or increased. None

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSIONS OF WRITTEN COMMENTS:** For assistance on technical questions concerning the temporary and proposed rule, contact W. Dallas Burkhalter at 208-334-3715.

Anyone may submit written comments regarding the proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 23, 2002.

Dated this 22nd day of August, 2002.

W. Dallas Burkhalter, Deputy Attorney General  
Idaho Department of Fish and Game  
600 South Walnut  
PO Box 25, Boise, ID 83707  
208-334-3715 / FAX: 208-334-2148

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#### THE FOLLOWING IS THE TEXT OF DOCKET NO. 13-0103-0201

**000. LEGAL AUTHORITY.**

The Idaho Fish and Game Commission is authorized under Sections 36-104(b) and 36-104(7), Idaho Code, to adopt rules concerning the public use of lands owned or controlled by the Department of Fish and Game. (4-29-02)T

**001. TITLE AND SCOPE.**

**01. Title.** These rules shall be cited in full as IDAPA 13.01.03.000, et seq., Idaho Fish and Game Commission Rules IDAPA 13.01.03, “Public Use of Lands Owned or Controlled by the Department of Fish and Game”. (4-29-02)T

**02. Scope.** These rules establish the public use of lands that are owned or controlled by the Department of Fish and Game. (4-29-02)T

**002. WRITTEN INTERPRETATIONS.**

In accordance with Section 67-5201(19)(b)(vi), Idaho Code, any written statements which pertain to the interpretation of the rules of this chapter, or to the documentation of compliance with the rules of this chapter are available for public inspection and copying at cost at the headquarters office at 600 South Walnut, Boise, Idaho. (4-29-02)T

**003. ADMINISTRATIVE APPEALS.**

All contested cases shall be governed by the provisions of IDAPA 13.01.01, “Rules of Practice and Procedure of the Idaho Fish and Game Commission”. (4-29-02)T

**004. INCORPORATION BY REFERENCE.**

There are no documents that have been incorporated by reference into this rule. (4-29-02)T

**005. OFFICE -- OFFICE HOURS -- MAILING ADDRESS AND STREET ADDRESS.**

The principal place of business of the Department of Fish and Game is in Boise, Idaho. The office is located at 600 South Walnut, Boise, Idaho and is open from 8 a.m. to 5 p.m., except Saturday, Sunday and legal holidays. The mailing address is: P.O. Box 25, Boise, Idaho 83707. (4-29-02)T

~~006.~~ -- 009. (RESERVED).

**(BREAK IN CONTINUITY OF SECTIONS)**

**100. PUBLIC USE RESTRICTIONS.**

**01. Activities Prohibited Without Director Authorization.** Except as specifically approved by the Director as an exception or for administrative purposes, the following activities are PROHIBITED on all lands, waters, and roads under control or administration of the Department: (7-1-93)

**a.** To enter, use, or occupy lands or water when said lands are posted against such entry, use, or occupancy. (7-1-93)

**b.** To camp, park a vehicle and/or a trailer in any area posted against such use or to leave unattended a camp, vehicle, and/or trailer for more than forty-eight (48) hours or to camp or park a vehicle and/or trailer for more than ten (10) consecutive days in any thirty (30) day period in any designated area; except shorter periods may be set and posted for specific areas by the appropriate regional supervisor. (7-1-99)

**c.** To operate any motorized vehicles, including snow machines, except on established roads. Operation of vehicles on established roads is prohibited when posted against such use. (7-1-93)

**d.** To use floating devices, with or without motors, on any waters which are posted against such use. (7-1-93)

**e.** To start a fire without taking necessary measures to prevent its spreading or to leave a fire unattended. All fires are prohibited in areas posted against their use. (7-1-93)

**f.** To use any form of fireworks or explosives at any time. (7-1-93)

**g.** To permit dogs or other domestic animals to run at large when the owner or guardian is not present to control or care for them. (7-1-93)

**h.** To conduct dog field trials of any type during the period October 1 through July 31. ~~(A specific permit from the Department is required to conduct any dog field trial during the period August 1 through September 30.)~~ All bird-dog field trials and bird-dog training with the use of artificially propagated game birds between August 1 and September 30 will be under department permit as authorized by the director under the rules set forth in IDAPA 13.01.15 "Rules Governing the Use of Dogs, Section 300. ~~(7-1-93)~~(7-29-02)T

**i.** To construct blinds, pits, platforms, or tree stands where the soil is disturbed, trees are cut or altered, and artificial fasteners, such as wire, rope, or nails are used. All blinds shall be available to the public on a "first-come - first-served" basis. (7-1-93)

**j.** To release or abandon any domestic or exotic fish, birds, mammals, amphibians, or reptiles. (7-1-93)

**k.** To adjust, open, close, tamper with, or manipulate in any manner, any diversion structure, headgate, flume, recorded or flow dock or any device for water control. This shall not be construed as limiting the powers of other agencies or irrigation districts as provided by statutory law or rule. (7-1-93)

**l.** To discard dead fish, birds, animals, or parts thereof, human excrement, waste water, metallic cans, bottles, plastic or paper cartons, yard and agricultural wastes, garbage, machines, appliances, or other litter on or in any lands or waters. (7-1-93)

**m.** To remove, destroy, mutilate, modify, or deface any building or other structure, water control device, fence, gate, poster, notice, sign, survey or section marker, or any object of archaeological, geological, or historical value or interest. (7-1-93)

**n.** To discharge any firearm within, across, or into posted safety zones. (7-1-93)

**o.** To leave decoys unattended. Decoys cannot be put in place any earlier than two (2) hours prior to official shooting hours for waterfowl and all decoys must be picked up and removed from the hunting site no later than two (2) hours after official shooting hours for waterfowl that particular day. (7-1-93)

**02. Activities Prohibited Without Other Authorization.** Unless specifically authorized by the Commission, or under lease, permit, contract, or agreement, issued by the Director, Regional Supervisor, or authorized agent, the following activities are PROHIBITED: (7-1-93)

**a.** To disturb or remove any soils, gravel, or minerals. (7-1-93)

**b.** To turn domestic livestock into, or allow said animals to graze or trail on or across Department lands, except riding and pack animals may be used in association with hunting and for recreational uses or as posted. (7-1-93)

**c.** To cut, dig, or remove any crops, trees, shrubs, grasses, forbs, logs, or fuel wood. (7-1-93)

**d.** To place, maintain, or store any beehives or bee boards. (7-1-93)

**e.** To use lands for any commercial purpose. (7-1-93)

**f.** To exercise or train any dogs in posted areas or during periods closed to such uses. In conjunction with authorized field trials, participants may train dogs in the designated area one (1) day prior to and one (1) day following the trial. (7-1-93)

**g.** To prospect or drill for oil and gas on any state owned Wildlife Management Area or other property under the supervision of the Fish and Game Department. (7-1-93)



**IDAPA 13 - IDAHO FISH AND GAME COMMISSION**

**13.01.04 - RULES GOVERNING LICENSING**

**DOCKET NO. 13-0104-0201**

**NOTICE OF RULEMAKING - TEMPORARY AND PROPOSED RULE**

**EFFECTIVE DATE:** The temporary rule is effective July 29, 2002.

**AUTHORITY:** In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given this agency has adopted temporary rules and proposed regular rulemaking procedures have been initiated. The action is authorized pursuant to Section 36-104(b), Idaho Code.

**PUBLIC HEARING SCHEDULE:** Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 16, 2002.

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address listed below.

**DESCRIPTIVE SUMMARY:** The following is the required finding and concise statement of the supporting reasons for proposed rulemaking:

Clarify Landowner Appreciation and Handicapped Motor Vehicle Permit requirements, corrections to outfitter allocation tag and deadline.

**TEMPORARY RULE JUSTIFICATION:** Pursuant to Section 67-5226(1)(c), Idaho Code, the Governor has found that temporary adoption of the rule is appropriate in order to confer a benefit.

**FEE SUMMARY:** The following is a specific description of the fee or charge imposed or increased. None

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSIONS OF WRITTEN COMMENTS:** For assistance on technical questions concerning the temporary and proposed rule, contact W. Dallas Burkhalter at 208-334-3715.

Anyone may submit written comments regarding the proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 23, 2002.

Dated this 22nd day of August, 2002.

W. Dallas Burkhalter  
Deputy Attorney General  
Idaho Department of Fish and Game  
600 South Walnut  
PO Box 25, Boise, ID 83707  
208-334-3715 / FAX: 208-334-2148

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**THE FOLLOWING IS THE TEXT OF DOCKET NO. 13-0104-0201**

**303. HANDICAPPED PERSONS MOTOR VEHICLE HUNTING PERMITS.**

**01. Applications For Handicapped Motor Vehicle Hunting Permits.**

(7-1-93)

a. Applications for handicapped motor vehicle hunting permits shall be on a form prescribed by the Department or an individual may present their valid Idaho driver's license in lieu of the prescribed department form if the individual meets the disability requirements of Section 49-117(7)(b), Idaho Code, except for blindness, and the driver's license is appropriately marked as disabled. Only eligible applicants may submit such applications.

~~(7-1-93)~~(7-29-02)T

b. Applicants shall Individuals using the department form for a handicapped motor vehicle must complete and sign the application form. Nonresident applicants must have their signature notarized. Each application submitted on the department form shall be accompanied by certification from the applicant's physician stating which of the criteria set forth in Idaho Code, Section 36-1101 qualifies the applicant and why. The physician shall also certify that the applicant is capable of holding and firing, without assistance from other persons, legal firearms or archery equipment. If the physician is not licensed to practice in Idaho, a photo copy of the physician's medical license must accompany the application. Physicians must check the appropriate box for short-term or long-term disability on the application. If the disability is short term and physical mobility is expected to improve, the physician must include a date when the disability is expected to end.

~~(7-1-98)~~(7-29-02)T

**02. Handicapped Motor Vehicle Hunting Permits.**

(7-1-93)

a. Handicapped motor vehicle hunting permits shall be issued only by the Director of the Department or his representative and shall expire ~~on~~ no later than December 31 of the fifth year following the date of issuance.

~~(7-1-93)~~(7-29-02)T

b. The permit shall be prominently displayed on any vehicle from which the person is hunting. Where applicable, the permit shall be displayed on the driver's side of the dashboard of the parked vehicle, suspended from the rearview mirror, or otherwise displayed so as to be in plain view of any person looking through the windshield of the vehicle.

(7-1-93)

**(BREAK IN CONTINUITY OF SECTIONS)**

**400. LANDOWNER APPRECIATION PERMITS.**

**01. Eligible Applicants.** Eligible applicants must be registered with the Department and are limited to landowners.

(4-5-00)

**02. Hunt Units.** Landowner Appreciation Permits shall be issued only for those controlled hunt units designated by the Director as eligible for such permits.

(3-30-01)

**03. Reasonable Access.** In 2001, landowners, authorized corporate, or partnership representatives are not required to provide access or retain written records as a condition to qualifying for Landowner Appreciation Permits.

(3-15-02)

**04. Qualifying Property.** Only property that is used by and provides significant habitat values for deer, elk or antelope qualifies for the Landowner Appreciation Permit program. Landowners will receive Landowner Appreciation Permits only for the species and sex that use the property.

(4-5-00)

**05. Applications For Landowner Appreciation Permits.** Applications for landowner appreciation permits shall be on a form prescribed by the Department. Applicants must be registered with the Department and shall sign the application.

(4-5-00)

a. The application shall include the applicant's hunting or combination license number. (5-15-95)

b. Applications will be accepted on or after June 15 of each year. Applications received at the Headquarters Office of the Idaho Department of Fish and Game or postmarked not later than July 15 of each year will be entered in the random drawing for permits. ~~This random draw will be weighted to allow for one (1) chance for~~

~~each six hundred forty (640) acres of eligible property to each applicant. The weighted chance will apply only for each six hundred forty (640) acres of the eligible property within the hunt area with Landowner Appreciation Permits. Each application will be entered in the random drawing one (1) time based upon each six hundred and forty (640) acres of eligible property registered by the landowner that are within the hunt area. For example, if a landowner has six thousand four hundred (6,400) eligible acres, the application will be entered into the random drawing ten (10) times. Applications for left-over-permits will be accepted on or after August 15 of each year on a first-come-first-served basis. Only written applications will be accepted and must be accompanied by a six dollar and fifty cent (\$6.50) application fee.~~ (3-15-02)(7-29-02)T

~~c. Only one (1) application may be submitted for eligible property consisting of six hundred forty (640) acres to four thousand ninety-nine (4,999) acres. Up to two (2) applications may be submitted for eligible property consisting of five thousand (5,000) acres or more.~~ (7-29-02)T

**06. Property And Applicant Registration.** (5-15-95)

a. Prior to any eligible applicant applying for a Landowner Appreciation Permit, the qualifying property and eligible applicant must be registered with the Department. Registering landowners must notify the Department of any changes in property or applicant eligibility. (4-5-00)

b. Registration of property and eligible applicant must be on a form prescribed by the Department. The landowner must submit the registration form and a copy of the deed(s), and the most recent tax assessment(s), describing the eligible property showing the name(s) of the owner(s), and a map of eligible property to the Department regional office. Department personnel will certify the registration and land description and return a copy to the landowner. (4-5-00)

c. If the Person registering is an authorized corporate or partnership representative, he shall submit with his registration written verification from the board of directors, partnership, or an officer of the corporation, other than himself, verifying that he is authorized to register the property and eligible applicants. (4-5-00)

**07. Issuance Of Permits.** (7-1-93)

a. Effective in 1999, once the Department has determined the number of controlled hunt permits to be issued in any controlled hunt unit, an additional ten percent (10%) of the number of controlled hunt permits MAY be issued as Landowner Appreciation Permits. In subsequent years up to twenty-five percent (25%) of the number of controlled hunt permits MAY be issued only if the hunt is over subscribed by eligible Landowner Appreciation Permit applicants. (4-5-00)

b. Where the number of landowner appreciation applicants exceeds the number of landowner appreciation permits available in a unit, successful applicants will be determined by drawing. (4-5-00)

c. No more than two (2) Landowner Appreciation Permits may be issued to any eligible landowner. (4-5-00)

d. Only one (1) landowner appreciation permit may be issued for eligible property consisting of between six hundred forty (640) and four thousand nine hundred ninety-nine (4,999) acres within the hunt area designated by the Director with Landowner Appreciation Permits. However, one (1) additional permit may be issued to a landowner or designated agent(s) for eligible property in excess of five thousand (5,000) acres within the hunt area designated by the Director with Landowner Appreciation Permits. No landowner or designated agent(s) is eligible to receive more than one (1) permit for one (1) species in a calendar year. (3-15-02)

~~e. If more than one (1) application is received for eligible property consisting of from six hundred forty (640) to four thousand nine hundred ninety-nine (4,999) acres, all applications will be disqualified. If more than two (2) applications are received for eligible property consisting of five thousand (5,000) acres or more, all applications will be disqualified.~~ (7-1-98)

f. A successful landowner, corporate or partnership representative drawing a landowner appreciation permit may, without additional fees, designate to whom the permit will be issued. (4-5-00)

**08. Application Of Controlled Hunt Restrictions.** (7-1-93)

**a.** The restriction that applying for a moose, bighorn sheep, or mountain goat controlled hunt makes the applicant ineligible to apply for any other controlled hunt shall not apply to persons who are otherwise eligible to apply for a landowner preference permit. (7-1-93)

**b.** Landowner appreciation permits issued to non-residents shall not be considered as part of the non-resident quota. (4-5-00)

**c.** Landowner preference permits are exempt from the one (1) year waiting periods applicable for certain deer, elk and antelope permits. (3-30-01)

**09. Special Restrictions.** Any person hunting with a Landowner appreciation permit shall hunt only within the boundaries described in the hunt area designated by the Director. Only valid, current-year deer, elk, or antelope tags may be used in conjunction with a landowner appreciation permit. No person shall kill more than one (1) deer, elk or antelope during a calendar year EXCEPT: (3-30-01)

**a.** In designated controlled depredation hunts, one (1) additional deer, elk or antelope may be taken by persons holding permit/tags for those hunts; or (7-1-93)

**b.** In extra tag hunts, one (1) additional deer, elk or antelope may be taken by persons holding tags for those hunts. (7-1-98)

**c.** In no event shall any person take more than two (2) deer, elk or antelope during a calendar year or more than one (1) deer, elk or antelope per day. (7-1-93)

**(BREAK IN CONTINUITY OF SECTIONS)**

**505. DEER AND ELK TAG ALLOCATION.**

**01. Allocation Of Tags.** Pursuant to Idaho Code, Section 36-408(d), the Fish and Game Commission may allocate a number of deer and/or elk tags for use by hunters with signed agreements with licensed outfitters in zones with limited numbers of tags. The allocation will be calculated on a zone basis with reductions or increases in hunting opportunities to be proportionate among resident hunters, nonoutfitted nonresident hunters, and outfitted hunters. When the number of hunters in a general hunt unit or zone becomes restricted, the Department will calculate the initial number of allocated tags for each zone using the Idaho Outfitters and Guides Licensing Board's records of average historic use during the previous five (5) year period. Where it is biologically feasible, any reductions in the number of tags available within a zone which exceeds twenty percent (20%) will be spread over a three (3) year period with a maximum reduction of fifty percent (50%) taken in the first year and twenty-five percent (25%) in the second year. When an area becomes controlled, hunt application and eligibility rules will apply to allocated tags in controlled hunts. Only those units or zones with licensed outfitted areas with historic use will be considered for tag allocation. (7-1-99)

**02. Controlled Hunt Areas.** Only those controlled hunt areas existing prior to 1998 with historic licensed deer and/or elk outfitted area(s) may be considered for a tag/permit allocation. (3-30-01)

**a.** The number of allocated tags will be subtracted from the number of tags authorized by the Commission within each controlled hunt area with historic licensed deer and/or elk outfitter areas. (3-30-01)

**b.** Successful allocated controlled hunt applicants must use the services of an Idaho licensed outfitter. (3-30-01)

**c.** Successful applicants who do not want to participate in the outfitted hunt can decline the hunt upon written notification to the department. Those declining the hunt will then be eligible to participate in a general season or leftover controlled hunt. Those drawing an outfitted controlled hunt and then declining the controlled hunt will be

subject to the appropriate waiting period.

(7-29-02)T

**d.** Successful applicants that do not secure the services of an Idaho licensed outfitter and have not purchased the controlled hunt permit and tag by August 20 will forfeit the opportunity to purchase a controlled hunt permit. The forfeited controlled hunt permit will then be listed as a leftover permit. The department will inform the Idaho Outfitters and Guides Board that a permit is available. After securing a client, the outfitter(s) may then purchase the leftover controlled hunt permit at a department regional or headquarters office.

(7-29-02T)

**ee.** The number of allocated tag/permits will be determined by using one (1) of the following options:  
(3-30-01)

i. The number of allocated tags available within the controlled hunt area will be based on a variable scale depending on the number of tags established by the Fish and Game Commission: less than fifty-one (51) tags = zero percent (0%); fifty-one (51) or more tags = maximum of three percent (3%); or  
(7-1-99)

ii. The number of tags available within the controlled hunt area will be based on the average historic use during the previous five (5) year period and calculated tag numbers will be rounded up when permits equal or exceed zero point six (0.6) and rounded down when permits are less than zero point six (0.6); or  
(3-30-01)

iii. No tags will be allocated.  
(7-1-99)

**ff.** Applicants who apply for an outfitter controlled hunt by their application authorize the Department to provide their names and addresses only to those outfitters licensed for that controlled hunt and only if they are successful in drawing a permit for that controlled hunt.  
(3-30-01)

**03. Controlled Hunts Or Hunts With Limited Hunting Opportunities Established After 1997.** Controlled hunts or hunts with limited hunting opportunities established after 1997, with historic licensed deer and/or elk outfitted areas, may be considered for allocated tags. The number of tags will be determined by the Fish and Game Commission using Subsections 505.02.c.i., 505.02.c.ii., and 505.02.c.iii.  
(3-30-01)

# IDAPA 13 - IDAHO FISH AND GAME COMMISSION

## 13.01.07 - RULES GOVERNING THE TAKING OF UPLAND GAME ANIMALS

DOCKET NO. 13-0107-0201

### NOTICE OF RULEMAKING - TEMPORARY AND PROPOSED RULE

**EFFECTIVE DATE:** The temporary rule is effective April 29, 2002.

**AUTHORITY:** In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given this agency has adopted temporary rules and proposed regular rulemaking procedures have been initiated. The action is authorized pursuant to Sections 36-104(b) and 36-1101(b), Idaho Code.

**PUBLIC HEARING SCHEDULE:** Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 16, 2002.

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address listed below.

**DESCRIPTIVE SUMMARY:** The following is the required finding and concise statement of the supporting reasons for proposed rulemaking:

Biennial season update and proposed closure of pygmy rabbit season.

**TEMPORARY RULE JUSTIFICATION:** Pursuant to Section 67-5226(1)(c), Idaho Code, the Governor has found that temporary adoption of the rule is appropriate in order to confer a benefit.

**FEE SUMMARY:** The following is a specific description of the fee or charge imposed or increased. None

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSIONS OF WRITTEN COMMENTS:** For assistance on technical questions concerning the temporary and proposed rule, contact W. Dallas Burkhalter at 208-334-3715.

Anyone may submit written comments regarding the proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 23, 2002.

Dated this 22nd day of August 2002.

W. Dallas Burkhalter  
Deputy Attorney General  
Idaho Department of Fish and Game  
600 South Walnut  
PO Box 25, Boise, ID 83707  
208-334-3715 / FAX: 208-334-2148

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### THE FOLLOWING IS THE TEXT OF DOCKET NO. 13-0107-0201

**000. LEGAL AUTHORITY.**

The Idaho Fish and Game Commission is authorized under Sections 36-104(b) and 36-1101(b), Idaho Code, to adopt rules concerning the taking of upland game animals. (4-29-02)T

**001. TITLE AND SCOPE.**

**01. Title.** These rules shall be cited in full as IDAPA 13.01.07.000, et seq., Idaho Fish and Game Commission Rules IDAPA 13.01.07, "Rules Governing the Taking of Upland Game Animals". (4-29-02)T

**02. Scope.** These rules establish the methods of take, seasons, and possession limits for upland game animals. (4-29-02)T

**002. WRITTEN INTERPRETATIONS.**

In accordance with Section 67-5201(19)(b)(vi), Idaho Code, any written statements which pertain to the interpretation of the rules of this chapter or to the documentation of compliance with the rules of this chapter are available for public inspection and copying at cost at the headquarters office at 600 South Walnut, Boise, Idaho. (4-29-02)T

**003. ADMINISTRATIVE APPEALS.**

All contested cases shall be governed by the provisions of IDAPA 13.01.01, "Rules of Practice and Procedure of the Idaho Fish and Game Commission". (4-29-02)T

**004. INCORPORATION BY REFERENCE.**

There are no documents that have been incorporated by reference into this rule. (4-29-02)T

**005. OFFICE -- OFFICE HOURS -- MAILING ADDRESS AND STREET ADDRESS.**

The principal place of business of the Department of Fish and Game is in Boise, Idaho. The office is located at 600 South Walnut, Boise, Idaho and is open from 8 a.m. to 5 p.m., except Saturday, Sunday and legal holidays. The mailing address is: P.O. Box 25, Boise, Idaho 83707. (4-29-02)T

~~006.~~ -- 009. (RESERVED).

**(BREAK IN CONTINUITY OF SECTIONS)**

**200. AREAS CLOSED TO HUNTING OF UPLAND GAME ANIMALS.**

Hunting, killing, or molesting upland game animals is prohibited in the following areas: (7-1-93)

**01. Craters Of The Moon.** Craters of the Moon National Monument in Blaine and Butte Counties. (7-1-93)

**02. Harriman State Park.** Harriman State Park Wildlife Refuge In Fremont County. (7-1-93)

~~**03. Idaho National Engineering Laboratory.** Idaho National Engineering Laboratory site in Bingham, Bonneville, Butte, Clark, and Jefferson Counties; (7-1-93)~~

**043. Nez Perce National Historical Park.** Nez Perce National Historical Park in Clearwater, Idaho, and Nez Perce Counties; (7-1-93)

**054. Ada County.** That portion of Ada County within Veterans Memorial Park and the area between State Highway 21, Warm Springs Avenue, and the New York Canal from the New York Canal Diversion Dam downstream to the Boise City limits; (7-1-93)(4-29-02)T

**065. Yellowstone National Park.** Yellowstone National Park in Fremont County; and (7-1-93)

**076. Other.** On any of those portions of federal refuges, State game preserves, State wildlife management areas, bird preserves, bird refuges, and bird sanctuaries for which bird hunting closures have been declared by legislative or Commission action. (7-1-93)

**(BREAK IN CONTINUITY OF SECTIONS)**

**400. UPLAND GAME ANIMALS SEASONS, BAG AND POSSESSION LIMITS.**

The following seasons, bag and possession limits shall apply STATEWIDE:

(7-1-93)

**01. Cottontail Rabbits ~~And Pygmy Rabbits.~~**

~~(7-1-93)~~(4-29-02)T

**a.** Seasons: September 1 through February 28, annually.

(10-26-94)

**b.** Daily bag limit is eight (8) ~~in the aggregate.~~

~~(7-1-93)~~(4-29-02)T

**c.** Possession limit after the first day of the season is sixteen (16) ~~in the aggregate.~~

~~(7-1-93)~~(4-29-02)T

**02. Snowshoe Hares.**

(7-1-93)

**a.** Seasons: September 1 through March 31, annually.

(10-26-94)

**b.** Daily bag limit is eight (8).

(7-1-93)

**c.** Possession limit after the first day of the season is sixteen (16).

(7-1-93)



**IDAPA 13 - IDAHO FISH AND GAME COMMISSION**

**13.01.09 - RULES GOVERNING THE TAKING OF GAME BIRDS  
IN THE STATE OF IDAHO**

**DOCKET NO. 13-0109-0201**

**NOTICE OF RULEMAKING - TEMPORARY AND PROPOSED RULE**

**EFFECTIVE DATE:** The temporary rule is effective April 29, 2002.

**AUTHORITY:** In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given this agency has adopted temporary rules and proposed regular rulemaking procedures have been initiated. The action is authorized pursuant to Section 36-36104(b), Idaho Code.

**PUBLIC HEARING SCHEDULE:** Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 16, 2002.

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address listed below.

**DESCRIPTIVE SUMMARY:** The following is the required finding and concise statement of the supporting reasons for proposed rulemaking:

Annual season adjustments for game bird seasons.

**TEMPORARY RULE JUSTIFICATION:** Pursuant to Section 67-5226(1)(c), Idaho Code, the Governor has found that temporary adoption of the rule is appropriate in order to confer a benefit.

**FEE SUMMARY:** The following is a specific description of the fee or charge imposed or increased. None

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSIONS OF WRITTEN COMMENTS:** For assistance on technical questions concerning the temporary and proposed rule, contact W. Dallas Burkhalter at 208-334-3715.

Anyone may submit written comments regarding the proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 23, 2002.

Dated this 22nd day of August 2002.

W. Dallas Burkhalter  
Deputy Attorney General  
Idaho Department of Fish and Game  
600 South Walnut  
PO Box 25, Boise, ID 83707  
208-334-3715 / FAX: 208-334-2148

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**THE FOLLOWING IS THE TEXT OF DOCKET NO. 13-0109-0201**

**100. TAGS, STAMPS, PERMITS, AND VALIDATIONS.**

**01. Sage Grouse Or Sharp-Tailed Grouse.** No person shall hunt sage or sharp-tailed grouse anywhere

within the state, except licensed shooting preserves, without having in his or her possession the appropriate hunting license that has been validated for sage grouse. The validation shall be valid from January 1 through December 31 of each year. (3-30-01)

**02. Migratory Game Birds.** No person shall hunt ducks, geese, brant, coots, common snipe, sandhill cranes, or mourning doves anywhere within the state, without having in his or her possession the appropriate hunting license that has been validated for the Federal Migratory Game Bird Harvest Information Program. The validation shall be valid from January 1 through December 31 of each year. (7-1-98)

**03. Wild Turkey.** No person shall hunt wild turkey without having in his or her possession the appropriate hunting license, tag, and controlled hunt permit. Persons obtaining and using tags, stamps, and permits must comply with the following requirements: (7-1-98)

**a.** ~~Three (3) turkey tags may be purchased each year, including a spring tag, a second spring tag, and a fall tag. Please review the Wild Turkey brochure, which contains the Commission's proclamation setting seasons and limits.~~ There are four (4) turkey tags available each calendar year. These are the spring general tag, spring controlled tag, late spring/fall general tag, and fall controlled tag. Only three (3) turkey tags may be purchased each year. A hunter may not obtain both a spring general and a spring controlled turkey tag during the spring. ~~(3-30-01)~~(4-29-02)T

**b.** Permits for Controlled Hunts: Any person who receives a controlled hunt permit for wild turkey is prohibited from using that permit/tag to hunt in any other wild turkey hunt. (4-5-00)

**c.** Nonresident permit limitations: On controlled hunts with ten (10) or fewer permits, not more than one (1) permit will be issued to nonresidents. On controlled hunts with more than ten (10) permits, not more than ten percent (10%) of the permits may be issued to nonresidents. (7-1-98)

**d.** Eligibility: The holders of valid hunting licenses are eligible to apply for controlled hunts subject to the following restrictions: (7-1-93)

i. Holders of a Type 208 Nongame Hunting License may not apply for any controlled hunt. (7-1-93)

ii. In the event a permit is issued based on erroneous information, the permit will be invalidated and the person will remain on the drawn list. (7-1-93)

**e.** Applications: Applications for controlled hunts shall be made on a form prescribed by the Department and must be received at the Headquarters Office of the Idaho Department of Fish and Game or postmarked not later than February 15 for Spring hunts and May 31 for Fall hunts, annually. Applications must comply with the following requirements: (12-15-97)T

i. Holders of a Duplicate License (Type 501) must use their original license number to apply for a controlled hunt. Duplicate license numbers will not be accepted. (7-1-93)

ii. Only one (1) application card per person or group will be accepted. Additional application cards will result in all applicants being declared ineligible. (7-1-93)

iii. Fees: All applicants for controlled hunts must submit a non-refundable application fee with their application; one dollar (\$1) of this fee may be donated to the Citizens Against Poaching Program. If you are successful, you will be issued a permit that entitles you to purchase the appropriate controlled hunt tag, beginning April 1, at any license vendor or Fish and Game office by presenting your hunting license and controlled hunt permit. (7-1-98)

iv. A single payment (either cashier's check, money order, certified check, or personal check) may be submitted to cover fees for all applications in the same envelope. If a check or money order is insufficient to cover the fees, all applications will be voided and returned. (2-7-95)

v. A "group application" is defined as two (2) hunters applying for the same controlled hunt on the

- same application. (2-7-95)
- vi. Hunting license and tag fees will NOT be refunded to unsuccessful applicants. (7-1-93)
  - vii. All spring wild turkey hunters may apply for a Fall turkey controlled hunt permit during the same calendar year. (3-30-01)
  - f. Drawing information: Single or group applications which are not drawn for the first choice hunt will automatically be entered into a second choice drawing provided the second choice hunt applied for has not been filled. (7-1-93)
  - g. Tag validation and attachment: Immediately after any wild turkey is killed, the turkey tag must be validated and securely attached to the wild turkey. (7-1-93)
  - h. To validate the tag, the hunter must cut out and completely remove two (2) triangles on the border of the tag, one (1) for the month and one (1) for the day of the kill. (7-1-93)
  - i. The tag must remain attached so long as the turkey is in transit or storage. (7-1-93)
- 04. Early September Canada Goose Hunts. (7-1-98)**
- a. Controlled Hunts: No person shall hunt Canada geese during controlled, early September seasons (September 1-15) without having in his or her possession the appropriate hunting license and controlled hunt permit. Persons obtaining and using controlled hunt permits must comply with the following requirements: (7-1-98)
    - i. Applications: Applications for controlled hunts shall be made on a form prescribed by the Department and must be received at the Headquarters Office of the Idaho Department of Fish and Game or postmarked not later than July 15, annually. Applications must comply with the following requirements: (4-5-00)
    - ii. Fees: All applicants for controlled hunts must submit a nonrefundable application fee with their application; one dollar (\$1) of this fee may be donated to the Citizens Against Poaching Program. Successful applicants will be issued a permit that entitles them to hunt. The Federal Migratory Bird Stamp is required by any person seventeen (17) years of age and older, respectively (Title 50 Code of Federal Regulations, Part 20)). (3-30-01)
    - iii. The following rules previously established for wild turkey also apply to early September Canada goose hunts: Subsections 100.03.b., 100.03.c., 100.03.d., 100.03.e.ii., 100.03.e.iv. through 100.03.e.vi., and 100.03.f. (3-30-01)
    - iv. Any controlled hunt permits for Canada geese that remain unsold after the controlled hunt drawing may be sold by the Department on a first-come, first-served basis. (7-1-98)

**(BREAK IN CONTINUITY OF SECTIONS)**

**400. AREAS CLOSED TO HUNTING OF GAME BIRDS.**

- 01. General.** Hunting, killing, or molesting of any game bird is prohibited in the following areas: (7-1-93)
  - a. Craters of the Moon National Monument in Blaine and Butte Counties. (7-1-93)
  - b. Hagerman Fossil Beds National Monument in Twin Falls County, EXCEPT that portion within an area fifty (50) feet in elevation above the high water level of the Snake River (the upslope area is marked by yellow fiberglass markers, and hunting is permitted downslope to the river). (3-20-97)

- c.** Harriman State Park Wildlife Refuge in Fremont County. (7-1-93)
- d.** ~~Idaho National Engineering Laboratory site in Bingham, Bonneville, Butte, Clark, and Jefferson Counties.~~ (7-1-93)
- ed.** Nez Perce National Historical Park in Clearwater, Idaho, and Nez Perce Counties. (7-1-93)
- fe.** That portion of Ada County within Veterans Memorial Park and the area between State Highway 21, Warm Springs Avenue and ~~the New York Canal from the New York Canal Diversion Dam downstream to the Boise City limits.~~ (7-1-93)(4-29-02)T
- gf.** Yellowstone National Park in Fremont County. (7-1-93)
- hg.** Fort Boise Wildlife Management Area (WMA) in Canyon County from September 15 through the end of the waterfowl hunting season in the area enclosed by the following boundary: Beginning at the bridge across Sand Hollow Creek on Old Fort Boise Road approximately one hundred (100) yards west of the WMA headquarters, then north along the east bank of Sand Hollow Creek to its confluence with the Snake River, then north and northeast downstream along the east bank of the Snake River to the WMA boundary fence, then south and southeast along the WMA boundary fence to Old Fort Boise Road, then west on Old Fort Boise Road to the point of beginning. (3-20-97)
- ih.** Roswell Marsh Wildlife Habitat Area in Canyon County on Sundays, Mondays, Tuesdays and Wednesdays from September 15 through the end of the waterfowl hunting season in the area ~~enclosed by the following boundary: Beginning at the entrance to the Habitat Area parking lot on the south side of State Highway 18 (approximately two (2) miles west of the town of Roswell), then west, south, west and south along the Habitat Area boundary fence to the southwest corner of the Habitat Area, then east along the Habitat Area boundary fence to the southeast corner of the Habitat Area (approximately ten (10) feet east of East Alkali Drain), then north, generally northeast and east along the Habitat Area boundary fence to Pebble Lane, then north along Pebble Lane to State Highway 18, then west along State Highway 18 to the entrance to the Habitat Area parking lot, the point of beginning south of Highway 18 and west of Pebble Lane (Roswell Marsh segment).~~ (3-20-97)(4-29-02)T
- ji.** On any of those portions of federal refuges, State game preserves, State wildlife management areas, bird preserves, bird refuges, and bird sanctuaries for which bird hunting closures have been declared by legislative or Commission action EXCEPT as otherwise expressly stated below in Section 410 under Game Preserves Open to Hunting of Game Birds. (7-1-93)
- 02. Migratory Game Birds.** In addition to the areas listed above, hunting, killing, or molesting of any migratory game bird EXCEPT mourning dove is prohibited in the following areas. Areas CLOSED to hunting of migratory game birds: (7-1-93)
- a.** Fort Hall Indian Reservation in Bingham, Bannock, and Power Counties within three hundred (300) yards each way of the Fort Hall Bluffs from Bigbend Boat Launch to the west boundary of the Fort Hall Indian Reservation, and within one hundred (100) yards of any improved roadway or inhabited dwelling any place within the reservation boundary. (7-1-93)
- b.** Hagerman Wildlife Management Area (WMA) in Gooding County in the area enclosed by the following boundary: Beginning at a point two hundred (200) yards west of the point at which U.S. Highway 30 crosses the south bank of Gridley Island, then northwest along a line two hundred (200) yards southwest of and parallel to U.S. Highway 30 to a point two hundred (200) yards west of the junction of U.S. Highway 30 and the WMA entrance, then west and north and east along a line two hundred (200) yards outside of the WMA boundary which is marked by a fence, to the point at which the fence meets U.S. Highway 30, then east and south along a line five hundred (500) yards outside of the WMA boundary to the Snake River, then downstream along the north bank of the Snake River and then along the south bank of Gridley Island to the point where U.S. Highway 30 crosses the south bank of Gridley Island, then two hundred (200) yards west of U.S. Highway 30 to the point of beginning. (7-1-93)
- c.** Hubbard Reservoir in Ada County including the shoreline area within two hundred (200) yards of

the existing water line. (7-1-93)

**d.** Mann's Lake in Nez Perce County and extending three hundred (300) yards beyond the Bureau of Reclamation property line that encompasses the lake. (3-15-02)

**e.** Mormon Reservoir in Camas County including the shoreline area within two hundred (200) yards of the ordinary high water line. (7-1-93)

**f.** Pend Oreille River in Bonner County within two hundred (200) yards each way of the ordinary high water line two thousand sixty-two and one-half (2,062.5) feet above sea level from the U.S. Highway 95 long bridge at Sandpoint downstream to an imaginary line between Springy Point on the south side of the river and Dover Peninsula on the north side of the river. (7-1-93)

**g.** Spokane River in Kootenai County from the Post Falls Dam to Lake Coeur d'Alene at the orange pilings, within two hundred (200) yards of the ordinary high water line two thousand one hundred twenty-eight (2,128) feet above sea level. (7-1-98)

**h.** Thompson Lake in Kootenai County in the area enclosed by the following center-of-roadway boundary and in the additional area within one hundred (100) yards of the exterior side of said boundary: Beginning at the junction of State Highway 97 and Thompson Lake Road 317 north of the town of Harrison, then along Thompson Lake Road 317 to the junction of Blue Lake Road 318 east of Thompson Lake, then along Blue Lake Road 318 to the junction of Anderson Lake Road 319 at Springston, then along Anderson Lake Road 319 to the Union Pacific Railroad tracks, then west along the Union Pacific Railroad tracks to the junction of State Highway 97 west of Harrison, then along State Highway 97 to the point of beginning. (7-1-93)

**03. Geese.** Areas CLOSED to the hunting of geese. In addition to the areas listed in Section 301 and Subsection 301.01 above, the hunting, killing, or molesting of any species of geese is prohibited in the following areas: (7-1-93)

**a.** Canyon County in the area enclosed by the following roadway boundary and within one hundred fifty (150) feet of the exterior side of said boundary (except that the closure shall extend to one hundred (100) yards from the exterior side of said boundary along that section commencing at the junction of Lake Shore Drive and Rim Road, then south on Rim Road to west Lewis Lane, then east on west Lewis Lane to Lake Shore Drive, then along Lake Shore Drive to Emerald Road): Beginning approximately three fourths (3/4) of a mile south of the City of Nampa at the junction of State Highway 45 (12th Avenue Road) and Greenhurst Road, then west following Greenhurst Road to its junction with Middleton Road, then north following Middleton Road to its junction with Lake Lowell Avenue, then west following Lake Lowell Avenue to its junction with Lake Avenue, then north following Lake Avenue to its junction with West Roosevelt Avenue, then west following West Roosevelt Avenue to its junction with Indiana Avenue, then north following Indiana Avenue to its junction with State Highway 55 (Karcher Road), then west following State Highway 55 to its junction with Riverside Road, then south following Riverside Road to the Deer Flat National Wildlife Refuge boundary, then west along boundary fence below lower embankment as posted to Lake Shore Drive, then in a southeast direction following Lake Shore Drive to its junction with Marsing Road, then east and south on Lake Shore Drive to Rim Drive, then south on Rim Drive to West Lewis Lane, then east on West Lewis Lane to Lake Shore Drive, then southeast on Lake Shore Drive to State Highway 45, then north on State Highway 45 to its junction with Greenhurst Road, the point of beginning. (7-1-93)

**b.** Hagerman Valley in Gooding and Twin Falls Counties in the area enclosed by the following boundary: Beginning at the Gridley Island Bridge on the Snake River, then south and east on U.S. Highway 30 to Miracle Hot Springs, then east on Twin Falls County 4800 North Road (River Road) to Banbury Hot Springs, then upstream approximately three hundred (300) yards to the Banbury Pipeline crossing the Snake River, then east across the Snake River at the Banbury Pipeline, continuing due east to a point two hundred (200) yards east of the east rim of the Snake River Canyon, then north along a line parallel to and two hundred (200) yards east of the Snake River Canyon rim to the Gooding County 3500 South Road (Camp Roach Road), then east on the 3500 South Road to the 1500 East Road, then north on the 1500 East Road to the 3200 South Road, then west on the 3200 South Road to the 1300 East Road, then north on the 1300 East Road to the 1200 East Road, then northwest and north on the 1200 East Road to the 3000 South Road, then west on the 3000 South Road to a point (which is five hundred (500) yards east of the intersection of the 3000 South Road and the Hagerman National Fish Hatchery Road) five hundred (500) yards

east of the Hagerman Wildlife Management Area (WMA) boundary, then north and west five hundred (500) yards outside the Hagerman WMA boundary to U.S. Highway 30, then west and south two hundred (200) yards outside the Hagerman WMA boundary to the 2900 South Road, then west on the 2900 South Road to the 900 East Road, then due south to a point two hundred (200) yards north of the Snake River, then west and north two hundred (200) yards outside the high water line on the east bank of the Snake River to Lower Salmon Dam, then west across the Snake River, then south, southwest and east two hundred (200) yards outside the high water line on the west bank of the Snake River (including the Idaho Power Upper Salmon Dam diversion canal) to the Gridley Bridge on U.S. Highway 30, the point of beginning. (12-7-94)

c. Minidoka and Cassia Counties in the area enclosed by the following boundary: Within two hundred (200) yards of the high water line of the Snake River from Milner Dam upstream to Meridian Road (north side of the Snake River) and 650 East Road (south side of the Snake River), approximately six and one-half (6 1/2) miles east of the City of Burley. (7-1-93)

**(BREAK IN CONTINUITY OF SECTIONS)**

**600. PHEASANT SEASONS, BAG AND POSSESSION LIMITS.**

The following seasons, bag and possession limits shall apply: (10-26-94)

**01. Area 1.** Area 1 includes Benewah, Bonner, Boundary, Clearwater, Idaho, Kootenai, Latah, Lewis, Nez Perce, and Shoshone Counties. (7-1-93)

a. Area 1 annual season begins the second Saturday of October and lasts through December 31. (7-1-98)

b. Area 1 daily bag limit is three (3) cocks. (7-1-93)

c. Area 1 possession limit after the first day of the season is six (6) cocks. (7-1-93)

**02. Area 2.** Area 2 includes Bannock, Bear Lake, Bingham, ~~Blaine~~, Bonneville, Butte, ~~Camas~~, Caribou, Cassia, Clark, Custer, Franklin, Fremont, ~~Gooding~~, Jefferson, ~~Jerome~~, Lemhi, ~~Lincoln~~, Madison, Minidoka, Oneida, Power, Twin Falls, and Teton, ~~and Twin Falls~~ Counties. (7-1-93)(4-29-02)T

a. Area 2 annual season begins at noon on the third Saturday of October and lasts through November 30. (7-1-99)

b. Area 2 daily bag limit is three (3) cocks. ~~EXCEPT Market Lake Wildlife Management Area and Mud Lake Wildlife Management Area in Jefferson County, Cartier Wildlife Management Area in Madison County, and Sterling Wildlife Management Area in Bingham County is two (2) cocks.~~ (3-30-01)(4-29-02)T

c. Area 2 possession limit after the first day of the season is six (6) cocks. EXCEPT Market Lake Wildlife Management Area and Mud Lake Wildlife Management Area in Jefferson County, Cartier Wildlife Management Area in Madison County, and Sterling Wildlife Management Area in Bingham County is four (4) cocks. (3-30-01)

**03. Area 3.** Area 3 includes Ada, Adams, Boise, ~~Blaine~~, ~~Camas~~, Canyon, Elmore, Gem, ~~Gooding~~, ~~Jerome~~, ~~Lincoln~~, Owyhee, Payette, ~~Twin Falls~~, Valley, and Washington Counties (including all islands in the Snake River EXCEPT PATCH AND PORTER ISLANDS). (7-1-93)(4-29-02)T

a. Area 3 annual season begins at noon (12:00 pm) on opening day, the third Saturday of October, and lasts through December 31. (7-1-99)

b. Patch and Porter Islands: Opening Date is the third Saturday of October. Closing Dates: (Will be the same as those set for these areas by the Oregon Fish and Game Commission. Check with Idaho regional offices

for dates or see Oregon small game regulations.)

(10-26-94)

c. Area 3 daily bag limit is three (3) cocks. ~~EXCEPT Fort Boise Wildlife Management Area (including Gold Island) in Canyon County, C.J. Strike Wildlife Management Area in Owyhee County, Kennedy-Keifer segment of the Lower Payette River Wildlife Management Area in Payette County and Montour Management Area in Gem County is two (2) cocks.~~ (7-1-93)(4-29-02)T

d. Area 3 possession limit after the first day of the season is six (6) cocks. ~~EXCEPT Fort Boise Wildlife Management Area (including Gold Island) in Canyon County, C.J. Strike Wildlife Management Area in Owyhee County, Kennedy-Keifer segment of the Lower Payette River Wildlife Management Area in Payette County and Montour Management Area in Gem County is four (4) cocks.~~ (7-1-93)(4-29-02)T

**04. WMA Pheasant Permit.**

(10-26-94)

a. Permit Requirement. Any person seventeen (17) years of age or older hunting for or having a pheasant in his or her possession on any of the Wildlife Management Areas listed in Subsections 600.02 and 600.03 must have a valid WMA Pheasant Permit in his or her possession. (3-30-01)

b. ~~Bag~~ Permit Limit. The WMA Pheasant Permit limit is six (6) cocks. Additional permits may be purchased. (3-30-01)(4-29-02)T

c. Recording Harvest. Any person harvesting a pheasant on any of the Wildlife Management Areas listed in Subsections 600.02 and 600.03 must immediately record their harvest, in writing, on the back of their permit. (3-30-01)

**05. Youth Pheasant Season.** This season shall be open statewide.

(7-1-99)

a. The Youth Pheasant Season begins on the first weekend of October and lasts two (2) days. In Areas 2 and 3 listed under this section, the season begins at noon. (7-1-99)

b. The Youth Pheasant Season shall be open for all licensed hunters fifteen (15) years of age or younger. All youth hunters must be accompanied by an adult eighteen (18) years or older. One (1) adult may take more than one (1) youth hunter. (7-1-99)(4-29-02)T

c. The Youth Pheasant Season daily bag is ~~one~~ three (~~1~~3) cocks. (7-1-99)(4-29-02)T

d. The Youth Pheasant Season possession limit after the first day of the season is ~~two~~ six (26) cocks. (7-1-99)(4-29-02)T

**(BREAK IN CONTINUITY OF SECTIONS)**

**603. BOBWHITE QUAIL AND CALIFORNIA QUAIL SEASONS, BAG AND POSSESSION LIMITS.**

The following seasons, bag and possession limits shall apply:

(10-26-94)

**01. Area 1.** Area 1 includes Bannock, Bear Lake, ~~Benewah~~, Bingham, ~~Bonner~~, Bonneville, ~~Boundary~~, Butte, Caribou, Clark, Custer, Franklin, Fremont, Jefferson, ~~Kootenai~~, Lemhi, Madison, Oneida, Power, ~~Shoshone~~, and Teton Counties. Season for quail in Area 1 is CLOSED. (7-1-93)(4-29-02)T

**02. Area 2.** Area 2 includes Ada, Adams, ~~Benewah~~, Blaine, Boise, ~~Bonner~~, ~~Boundary~~, Camas, Canyon, Cassia, Clearwater, Elmore, Gem, Gooding, Idaho, Jerome, ~~Kootenai~~, Latah, Lewis, Lincoln, Minidoka, Nez Perce, Owyhee, Payette, ~~Shoshone~~, Twin Falls, Valley, and Washington Counties. (7-1-93)(4-29-02)T

a. Area 2 annual season begins the third Saturday of September and lasts through December 31.

(7-1-99)

- b. Area 2 daily bag limit is ten (10) of any kind. (7-1-98)
- c. Area 2 possession limit after the first day of the season is twenty (20) of any kind. (7-1-98)

**(BREAK IN CONTINUITY OF SECTIONS)**

**605. SAGE GROUSE SEASONS, BAG AND POSSESSION LIMITS.**

The following seasons, bag and possession limits shall apply: (5-16-94)

**01. Area 1.** *Includes the following counties or portions of counties. ~~Ada, Adams, Bannock north of Interstate 86 and west of Interstate 15, Benewah, Bingham, and Bonneville west of Interstate 15, Blaine County within the Salmon River drainage and east of the Arco-Minidoka Road, Boise, Bonner, Boundary, Butte that part south of US Highways 20/26 and 22/33 between Mud Lake and Craters of the Moon National Monument and the entire Birch Creek drainage, Canyon, Clark within the Birch Creek drainage, Clearwater, Custer County within the Salmon River drainage upstream from and including Valley Creek, Elmore EXCEPT that portion south and east of US Highway 20 and north of Interstate 84, Gem, Idaho, Jefferson west of Interstate 15 and south of State Highway 33, Kootenai, Latah, Lemhi within the Birch Creek drainage, Lewis, Nez Perce, Payette, Power north of Interstate 86, Shoshone, Valley, and Washington Counties. Season for sage grouse in Area 1 is CLOSED. Ada, Adams, Benewah, Blaine County within the Salmon River drainage, Boise, Bonner, Boundary, Canyon, Cassia County south of Interstate 86 and east of Interstate 84, Clearwater, Custer County within the Salmon River drainage upstream from and including Valley Creek, Elmore County EXCEPT that portion south and east of US Highway 20 and north of Interstate 84, Payette, Power County south of Interstate 86, Shoshone, Valley, and Washington counties - CLOSED.~~* (7-1-99)(4-29-02)T

**02. Area 2.** *Includes the following counties or portions of counties. ~~Bannock EXCEPT that portion north of Interstate 86 and west of Interstate 15, Bear Lake, Bingham, and Bonneville east of Interstate 15, Caribou, Cassia, Clark EXCEPT that portion within the Birch Creek drainage, Franklin, Fremont, Jefferson east of Interstate 15 and that part north of State Highway 33 and west of Interstate 15, Madison, Oneida, Owyhee north of the Juniper Mountain/Mud Flat/Poison Creek roads and Highway 78 to Grandview and the Snake River, Owyhee east of the Bruneau River, Power south of Interstate 86, Twin Falls, and Teton Counties. Bannock, Bear Lake, Bingham, Blaine County east of the Arco-Minidoka road, Bonneville, Butte County south of US Highways 20/26 and 22/33 and the entire Birch Creek drainage, Caribou, Cassia EXCEPT that portion south of Interstate 86 and east of Interstate 84, Clark, Franklin, Fremont, Jefferson, Lemhi County within the Birch Creek drainage, Madison, Oneida EXCEPT that portion north and east of Interstate 84, Owyhee County north of the Juniper Mountain/Mud Flat/Poison Creek roads and Highway 78 to Grandview and the Snake River, Owyhee County east of the Bruneau River, Power County north of Interstate 86, Twin Falls and Teton County north of Interstate 86, Twin Falls and Teton counties.~~* (7-1-98)(4-29-02)T

- a. Area 2 annual season begins the third Saturday of September and lasts seven (7) days. (7-1-98)
- b. Area 2 daily bag limit is one (1). (7-1-98)
- c. Area 2 possession limit after the first day of the season is two (2). (7-1-98)

**03. Area 3.** *Includes the following counties or portions of counties. ~~Blaine EXCEPT that part within the Salmon River drainage and that part of the Arco-Minidoka Road, that part of Butte north of US Highway 20/26 and State Highway 33 not within the Birch Creek drainage, Camas, Custer EXCEPT that portion within the Salmon River drainage upstream from and including Valley Creek, Elmore south and east of US Highway 20 and north of Interstate 84, Gooding, Jerome, Lemhi EXCEPT that portion within the Birch Creek drainage, Lincoln, Minidoka, Owyhee south of the Juniper Mountain/Mud Flat/Poison Creek roads and Highway 78 to Grandview and the Snake River and west of the Bruneau River. Blaine County EXCEPT that part within the Salmon River drainage and that part east of the Arco-Minidoka Road, that part of Butte County north of US Highway 22/33 not within the Birch Creek drainage, and that part west of the Arco-Minidoka Road, Camas, Custer County EXCEPT that portion within the~~*



Salmon River drainage upstream from and including Valley Creek, Elmore County south and east of US Highway 20 and north of Interstate 84, Gooding, Jerome, Lemhi County EXCEPT that portion within the Birch Creek drainage, Lincoln, Minidoka, Owyhee County south of the Juniper Mountain/Mud Flat/Poison Creek roads and Highway 78 to Grandview and the Snake River and west of the Bruneau River. (7-1-99)(4-29-02)T

**(BREAK IN CONTINUITY OF SECTIONS)**

**616. SANDHILL CRANE SEASONS AND BAG AND POSSESSION LIMITS.**

The following seasons, bag and possession limits, and permits shall apply: (7-1-98)

**01. Controlled Hunts.** Controlled hunt areas include the following: (7-1-98)

a. Area 1 includes ~~that portion~~ all of Bear Lake County ~~north of State Highway 36 and U.S. Highway 89;~~ and all of Caribou County EXCEPT that portion downstream from the dam at Alexander Reservoir south of U.S. Highway 30, and that portion lying within the Grays Lake Basin. (4-5-00)(4-29-02)T

b. Area 2 includes ~~that portion~~ all of Teton County ~~south and west of State Highway 33 and north of State Highway 31 within two (2) miles of the Teton River.~~ (7-1-99)(4-29-02)T

c. Area 3 includes ~~that portion~~ all of Fremont County ~~within Township 9 North, Range 42 East, and that portion within Township 9 North, Range 42 East north of the Falls River.~~ (4-5-00)(4-29-02)T

**02. Controlled Hunt Seasons, Bag And Possession Limits, And Permits.**

HUNT AREA	HUNT NUMBER	SEASON	PERMITS
1	9501	September 1-2	<del>5</del> 80
1	9502	September 3- <del>4</del> 5	<del>5</del> 80
1	9503	September <del>5</del> 6-8	<del>5</del> 035
1	9504	September <del>7-8</del> 9-11	<del>5</del> 035
1	9505	September <del>9-10</del> 12-15	<del>5</del> 033
1	9506	September <del>11-12</del> 1-7	<del>5</del> 040
1	9507	September <del>13</del> 8-15	<del>5</del> 035
2	9508	September 1-7	<del>5</del> 040
2	9509	September 8-15	<del>5</del> 035
<del>3</del>	<del>9510</del>	<del>September 1-7</del>	<del>5</del> 0
<del>3</del>	<del>9511</del>	<del>September 8-15</del>	<del>5</del> 0

NOTE: Daily limit, ~~possession limit, season limit~~ ~~are all 1-~~ is two (2) for all hunts. The season limit is nine (9).

(3-30-01)(4-29-02)T

**(BREAK IN CONTINUITY OF SECTIONS)**

**620. EARLY SEPTEMBER CANADA GOOSE SEASONS AND BAG AND POSSESSION LIMITS.**

**01. General Hunts.** General hunts include the following: (7-1-98)

~~**a.** Nez Perce County. Nez Perce County within the following boundary: beginning at the Snake River at the Idaho-Washington state line, then north along the Idaho-Washington state line to the Nez Perce-Latah county line, then east along the Nez Perce county line to the Potlatch River, then south along the east bank of the Potlatch River to the Clearwater River, then west along the south bank of the Clearwater River to Lapwai Creek, then south along Lapwai Creek to Webb Creek Road, then west along Webb Creek Road to Waha Road, then south along Waha Road to Ten Mile Creek, then northwest along Ten Mile Creek to the Snake River, the point of beginning. All of Nez Perce County EXCEPT:~~ (7-1-98)(4-29-02)T

**a.** Mann Lake closure in Lewiston Orchards. This includes all of the lake and three hundred (300) yards beyond the Bureau of Reclamation property encompassing the lake. (4-29-02)T

**b.** Lewiston Preserve along the Clearwater River from Lewiston City limits to Spalding between Highway 12-95 on the north side of the river and the Camas Prarie Railroad on the south side. (4-29-02)T

**c.** Lewiston City limits on the Clearwater River and the Snake River. (4-29-02)T

**d.** Hellsgate State Park along the Snake River from the north end of the park upstream to the besalt bluffs opposite Asotin. (4-29-02)T

**02. General Hunt Seasons, Bag And Possession Limits, And Permits.** (7-1-98)

**a.** Season: September ~~27, 2000~~ through September ~~813, 2000~~. (~~3-30-01~~)(4-29-02)T

**b.** Possession limit after the first day of the season: Eight (8). (7-1-98)

**c.** Daily bag limit: Four (4). (7-1-98)

**(BREAK IN CONTINUITY OF SECTIONS)**

**800. WILD TURKEY CONTROLLED HUNT AREA DESCRIPTIONS.**

**01. Hunt Area 901-1, ~~901-2, and 901-3.~~** All of Game Management Units 1, 2, (except Farragut State Park and Farragut Wildlife Management Area are closed), 3, 4, 4A, 5, and 6. (~~3-30-01~~)(4-29-02)T

**02. Hunt Area 908-1.** All of Game Management Units 8, 8A, and 10A, ~~11, 11A, 12, 13, 14, 15, 16, and 18.~~ (~~3-30-01~~)(4-29-02)T

**03. Hunt Area 922-1.** All of Game Management Units 22, 23, 24, 31, 32, 32A, 33, and 39. (~~3-30-01~~)(4-29-02)T

**04. Hunt Area 938-1.** All of Game Management Unit 38, and that portion of Unit 32 in Payette County. (3-30-01)

**05. Hunt Area 950-1.** All of Unit 50. (4-29-02)T

**056. Hunt Area 954-1 and 954-2.** All of Game Management Unit 54. (~~7-1-98~~)(4-29-02)T

**067. Hunt Areas 968A-1, 968A-2, and 968A-3.** All of Game Management Unit 68A. (3-30-01)

**078. Hunt Areas 977-1, 977-2, and 977-3.** All of Game Management Units 73, 74, 75, and 77. (3-30-01)

## IDAPA 13 - IDAHO FISH AND GAME COMMISSION

### 13.01.13 - RULES GOVERNING THE TAKING OF MIGRATORY BIRDS IN THE STATE OF IDAHO

DOCKET NO. 13-0113-0201

#### NOTICE OF RULEMAKING - TEMPORARY AND PROPOSED RULE

**EFFECTIVE DATE:** The temporary rule is effective April 29, 2002.

**AUTHORITY:** In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given this agency has adopted temporary rules and proposed regular rulemaking procedures have been initiated. The action is authorized pursuant to Sections 36-104(b) and 36-1102(b), Idaho Code.

**PUBLIC HEARING SCHEDULE:** Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 16, 2002.

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address listed below.

**DESCRIPTIVE SUMMARY:** The following is the required finding and concise statement of the supporting reasons for proposed rulemaking:

Annual season adjustments.

**TEMPORARY RULE JUSTIFICATION:** Pursuant to Section 67-5226(1)(c), Idaho Code, the Governor has found that temporary adoption of the rule is appropriate in order to confer a benefit.

**FEE SUMMARY:** The following is a specific description of the fee or charge imposed or increased. None

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSIONS OF WRITTEN COMMENTS:** For assistance on technical questions concerning the temporary and proposed rule, contact W. Dallas Burkhalter at 208-334-3715.

Anyone may submit written comments regarding the proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 23, 2002.

Dated this 22nd day of August 2002.

W. Dallas Burkhalter  
Deputy Attorney General  
Idaho Department of Fish and Game  
600 South Walnut  
PO Box 25, Boise, ID 83707  
208-334-3715 / FAX: 208-334-2148

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#### THE FOLLOWING IS THE TEXT OF DOCKET NO. 13-0103-0201

**000. LEGAL AUTHORITY.**

The Idaho Fish and Game Commission is authorized under Sections 36-104(b) and 36-1102(b), Idaho Code, to adopt rules concerning the taking of migratory birds in the state of Idaho. (4-29-02)T

**001. TITLE AND SCOPE.**

**01. Title.** These rules shall be cited in full as IDAPA 13.01.13.000, et seq., Idaho Fish and Game Commission Rules IDAPA 13.01.13, "Rules Governing the Taking of Migratory Birds in the State of Idaho". (4-29-02)T

**02. Scope.** These rules establish the methods of take, seasons, and possession limits for migratory birds in the state of Idaho. (4-29-02)T

**002. WRITTEN INTERPRETATIONS.**

In accordance with Section 67-5201(19)(b)(vi), Idaho Code, any written statements which pertain to the interpretation of the rules of this chapter or to the documentation of compliance with the rules of this chapter are available for public inspection and copying at cost at the headquarters office at 600 South Walnut, Boise, Idaho. (4-29-02)T

**003. ADMINISTRATIVE APPEALS.**

All contested cases shall be governed by the provisions of IDAPA 13.01.01, "Rules of Practice and Procedure of the Idaho Fish and Game Commission". (4-29-02)T

**004. INCORPORATION BY REFERENCE.**

There are no documents that have been incorporated by reference into this rule. (4-29-02)T

**005. OFFICE -- OFFICE HOURS -- MAILING ADDRESS AND STREET ADDRESS.**

The principal place of business of the Department of Fish and Game is in Boise, Idaho. The office is located at 600 South Walnut, Boise, Idaho and is open from 8 a.m. to 5 p.m., except Saturday, Sunday and legal holidays. The mailing address is: P.O. Box 25, Boise, Idaho 83707. (4-29-02)T

~~006.~~ -- 009. (RESERVED).

**(BREAK IN CONTINUITY OF SECTIONS)**

**200. AREAS CLOSED TO HUNTING OF MIGRATORY BIRDS.**

Hunting, killing, or molesting of any migratory bird is prohibited in the following areas: (7-1-93)

**01. Craters Of The Moon National Monument.** Craters of the Moon National Monument in Blaine and Butte Counties; (7-1-93)

**02. Hagerman Fossil Beds National Monument.** Hagerman Fossil Beds National Monument in Twin Falls County, EXCEPT that portion within an area fifty (50) feet in elevation above the high water level of the Snake River (the upslope area is marked by yellow fiberglass markers, and hunting is permitted downslope to the river). (7-1-98)

**03. Harriman State Park Wildlife Refuge.** Harriman State Park Wildlife Refuge in Fremont County; (7-1-93)

~~**04. Idaho National Engineering Laboratory.** Idaho National Engineering Laboratory site in Bingham, Bonneville, Butte, Clark, and Jefferson Counties;~~ (7-1-93)

**054. Nez Perce National Historical Park.** Nez Perce National Historical Park in Clearwater, Idaho, and Nez Perce Counties; (7-1-93)

**065. Ada County.** That portion of Ada County within Veterans Memorial Park and the area between State Highway 21, Warm Springs Avenue and ~~the New York Canal from the New York Canal Diversion Dam downstream to~~ the Boise City limits; (7-1-93)(4-29-02)T

**076. Yellowstone National Park.** Yellowstone National Park in Fremont County; and (7-1-93)

**087. Other Locations.** On any of those portions of federal refuges, State game preserves, State wildlife management areas, bird preserves, bird refuges, and bird sanctuaries for which bird hunting closures have been declared by legislative or Commission action. (7-1-93)

**IDAPA 13 - IDAHO FISH AND GAME COMMISSION**

**13.01.14 - RULES GOVERNING FALCONRY**

**DOCKET NO. 13-0114-0201**

**NOTICE OF RULEMAKING - TEMPORARY AND PROPOSED RULE**

**EFFECTIVE DATE:** The temporary rule is effective April 29, 2002.

**AUTHORITY:** In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given this agency has adopted temporary rules and proposed regular rulemaking procedures have been initiated. The action is authorized pursuant to Sections 36-104(b) and 36-1102(c), Idaho Code.

**PUBLIC HEARING SCHEDULE:** Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 16, 2002.

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address listed below.

**DESCRIPTIVE SUMMARY:** The following is the required finding and concise statement of the supporting reasons for proposed rulemaking:

Adjust the falconry season based on the annual upland game and game bird seasons.

**TEMPORARY RULE JUSTIFICATION:** Pursuant to Section 67-5226(1)(c), Idaho Code, the Governor has found that temporary adoption of the rule is appropriate in order to confer a benefit.

**FEE SUMMARY:** The following is a specific description of the fee or charge imposed or increased. None

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSIONS OF WRITTEN COMMENTS:** For assistance on technical questions concerning the temporary and proposed rule, contact W. Dallas Burkhalter at 208-334-3715.

Anyone may submit written comments regarding the proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 23, 2002.

Dated this 22nd day of August 2002.

W. Dallas Burkhalter  
Deputy Attorney General  
Idaho Department of Fish and Game  
600 South Walnut  
PO Box 25, Boise, ID 83707  
208-334-3715 / FAX: 208-334-2148

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**THE FOLLOWING IS THE TEXT OF DOCKET NO. 13-0114-0201**

**000. LEGAL AUTHORITY.**

The Idaho Fish and Game Commission is authorized under Sections 36-104(b) and 36-1102(c), Idaho Code, to adopt rules concerning falconry in the state of Idaho. (4-29-02)T

**001. TITLE AND SCOPE.**

**01. Title.** These rules shall be cited in full as IDAPA 13.01.14.000, et seq., Idaho Fish and Game Commission Rules IDAPA 13.01.14, "Rules Governing Falconry". (4-29-02)T

**02. Scope.** These rules establish a falconry program in the state of Idaho. (4-29-02)T

**002. WRITTEN INTERPRETATIONS.**

In accordance with Section 67-5201(19)(b)(vi), Idaho Code, any written statements which pertain to the interpretation of the rules of this chapter or to the documentation of compliance with the rules of this chapter are available for public inspection and copying at cost at the headquarters office at 600 South Walnut, Boise, Idaho. (4-29-02)T

**003. ADMINISTRATIVE APPEALS.**

All contested cases shall be governed by the provisions of IDAPA 13.01.01, "Rules of Practice and Procedure of the Idaho Fish and Game Commission". (4-29-02)T

**004. INCORPORATION BY REFERENCE.**

There are no documents that have been incorporated by reference into this rule. (4-29-02)T

**005. OFFICE -- OFFICE HOURS -- MAILING ADDRESS AND STREET ADDRESS.**

The principal place of business of the Department of Fish and Game is in Boise, Idaho. The office is located at 600 South Walnut, Boise, Idaho and is open from 8 a.m. to 5 p.m., except Saturday, Sunday and legal holidays. The mailing address is: P.O. Box 25, Boise, Idaho 83707. (4-29-02)T

~~006.~~ -- 009. (RESERVED).

**(BREAK IN CONTINUITY OF SECTIONS)**

**100. RESTRICTIONS ON CAPTURE, POSSESSION, TRANSFER, TRANSPORTATION, AND RELEASE OF BIRDS OF PREY.**

**01. Permits.** No person shall capture or possess any birds of prey within the state of Idaho or import into or export from the state of Idaho any such birds without having first obtained the appropriate Idaho permit. The required permits must be in the possession of the permittee while capturing, attempting to capture, flying, or transporting birds of prey within the state of Idaho. Permits are valid ONLY when the holder is also a holder of all necessary and valid federal permits. (7-1-93)

**02. Banded Birds.** (7-1-93)

**a.** No person shall have in possession any live peregrine (*Falco peregrinus*), gyrfalcon (*Falco rusticolus*), or Harris hawk (*Parabuteo unicinctus*), without the bird having been banded with a seamless numbered or a permanent, nonreusable, numbered band, supplied by the U.S. Fish and Wildlife Service. The director may require any species not listed to be banded with a permanent, nonreusable, numbered band supplied by the state. (7-1-93)

**b.** The permittee shall notify the ~~Department~~ U.S. Fish and Wildlife Service within five (5) calendar days of the loss or removal of any band required by the U.S. Fish and Wildlife Service. The lost band must be reported on Form 3-186A and replaced by a U.S. Fish and Wildlife Service permanent, nonreusable band. (7-1-93)(4-29-02)T

**03. Sale, Purchase, Transfer.** (7-1-93)

**a.** No person shall buy, sell, trade, or barter any wild bird of prey within the state of Idaho. Captive-bred birds of prey banded with seamless bands may be sold or purchased by those individuals authorized and licensed

under the Federal regulations so long as such transactions are in compliance with Federal regulations. (7-1-93)

**b.** Transfers of birds of prey other than captive-bred birds, may be made between persons holding valid state and Federal falconry permits provided that: (7-1-93)

i. Permittees ~~obtain an Idaho transfer permit for transfer and~~ comply with the requirements of Form 3-186A. ~~(7-1-93)~~(4-29-02)T

ii. Neither party to such a transaction may receive anything of value other than the transferred bird(s). (7-1-93)

iii. The transfer of any bird does not result in either permittee possessing more than the number of birds indicated on her or his state or federal falconry permit. (7-1-93)

**04. Loss And Release Of Birds.** No person shall: (7-1-93)

**a.** Fail to submit Form 3-186A, in accordance with Federal Regulations, within five (5) days of the loss, death, or escape of any birds of prey covered by any permit issued pursuant to these regulations. A copy of this Form 3-186A shall be sent to the Regional Conservation Officer (10-26-94)

**b.** Intentionally return any bird of prey to the wild except at the direction of the Department. (7-1-93)

**05. Housing Of Birds.** No person shall hold, keep, or house any bird of prey at any place other than the location specified on the permittee's falconry permit. EXCEPT, a licensed falconer may temporarily house and care for the birds of another licensed falconer, if such birds are accompanied at all times by both a properly completed Form 3-186A designating the permittee as the possessor of record, and, by a signed, dated statement from the permittee authorizing the other licensed falconer to have temporary possession. (7-1-93)

**06. Propagation Of Birds Of Prey.** No person shall propagate birds of prey without a permit obtained from the Department. Possession of birds of prey for propagation as authorized by such permit may be in addition to birds of prey held under authority of a falconer's permit. (7-1-93)

**101. -- 149. (RESERVED).**

**150. PERMITS, QUALIFICATIONS, AND PERMITTED SPECIES.**

**01. Validity, Expiration, Transfer And Renewal.** (10-26-94)

**a.** Idaho permits are valid ONLY when the holder is also a holder of all necessary and valid federal permits. (7-1-93)

**b.** Each permit, unless otherwise indicated on the face thereof by the Department, shall expire three (3) years from the date of issuance or renewal. A check or money order made payable to the U.S. Fish and Wildlife Service in the amount required is due upon application for a permit. The holder of any valid Idaho permit shall, at the request of the Department, make a written report to the Department indicating the number of birds of prey in possession, species, and whether wild or captive-bred, which were acquired, captured, imported, exported, lost, or released under the authority of such permit for the required period. Failure to make such report shall be grounds for denial of any request for renewal of such permit. (10-26-94)

**c.** Idaho permits are NOT transferable. (7-1-93)

**02. Types Of Permits.** The following types of permits are available to persons possessing the required qualifications. (7-1-93)

**a.** Apprentice Falconer's Permit. An Apprentice Falconer's Permit may be issued to those persons meeting the following qualifications: (7-1-93)



- i. The applicant must be a bona fide resident of the state of Idaho and at least fourteen (14) years of age. (7-1-93)
  - ii. The applicant must be sponsored by the holder of a Master Falconer's Permit for the first two (2) years the apprentice holds a permit. The applicant must present a letter of acceptance from his sponsor before receiving a permit. A sponsor may not have more than three (3) apprentices at any time. (10-26-94)
  - iii. The applicant has correctly answered at least eighty percent (80%) of the questions on the current Department examination consisting of not less than fifty (50) questions relating to the basic biology, care, and handling of birds of prey, literature sources, laws, regulations, or other appropriate subject matter. Examinations shall be given at Department regional offices or by other persons authorized by the Department. (7-1-93)
  - iv. The applicant has, in the Department's determination, an assurance of an adequate food supply, proper shelter, bath facilities, and equipment; (See Subsection 150.02.v. below.) (7-1-93)
  - v. The applicant possesses the following equipment: Jesses, Swivels, Leashes, Gauntlet glove, Weight scales graduated to increments of not more than fifteen (15) grams or one-half (1/2) ounce, Aylmeri jesses or equivalent are required when the bird is flown free. (10-26-94)
- b.** Apprentice falconers may possess only the American kestrel (*Falco sparverius*) or red-tailed hawk (*Buteo jamaicensis*). No apprentice may possess more than one (1) bird of prey at any time. No apprentice may acquire more than one (1) bird of prey for replacement during any twelve (12) month period. (7-1-93)
- c.** General Falconer's Permit. A General Falconer's Permit may be issued to those persons meeting the following qualifications: (7-1-93)
- i. The applicant is an Idaho resident at least eighteen (18) years of age or older with at least two (2) years' experience under an Apprentice Falconer's Permit; (7-1-93)
  - ii. The applicant has furnished the Department with a progress report from her or his sponsor recommending the applicant's permit be upgraded to "General". (10-26-94)
  - iii. General Falconers may possess any bird of prey EXCEPT golden eagles, gyrfalcons, or any bird of prey listed as threatened or endangered by state of Idaho or federal regulations. However, captive-bred birds of prey that have been declared exempt by federal regulation may be possessed. Not more than two (2) birds of prey may be possessed at any time, and not more than two (2) birds of prey may be captured or otherwise acquired, whether for initial stocking or for replacement of birds of prey already under permit, during any twelve (12)-month period. (7-1-93)
- d.** Master Falconer's Permit. A Master Falconer's Permit may be issued to persons meeting the following qualifications: (7-1-93)
- i. The applicant is an Idaho resident eighteen (18) years or older with at least five (5) years' experience under a General Falconer's Permit. (7-1-93)
  - ii. Master Falconers may possess any bird of prey EXCEPT those listed as threatened or endangered by state of Idaho or federal regulations. However, captive-bred birds of prey that have been declared exempt by federal regulations may be possessed. Birds listed on the U.S. Department of the Interior List of Endangered Species that were legally in possession of a Master Falconer prior to the adoption of these regulations or legally obtained outside of the state of Idaho shall be permitted after notification to and verification by the Department that the birds are legally possessed. Golden eagles may be possessed ONLY under federal permit and in compliance with federal regulations. (7-1-93)
  - iii. Master Falconers may possess not more than three (3) birds of prey at any one (1) time. Birds lawfully in possession may be replaced any time with captive-bred birds bearing seamless bands. Not more than two (2) wild birds of prey may be captured or acquired, whether for initial stocking or for replacement of birds of prey already under permit, during any twelve (12)-month period. A Master Falconer may not possess more than two (2)

prairie falcons taken from the wild, nor more than two (2) gyrfalcon(s), taken from the wild. Not more than one (1) gyrfalcon may be taken from the wild in any twelve-month period. (7-1-93)

**e.** Raptor Rehabilitator's Permit. A Raptor Rehabilitator's Permit may be issued to qualified persons for the purpose of care and treatment of sick or injured birds of prey. Such birds are and shall remain the property of the State, and final disposition of such birds will be determined by the Department. (7-1-93)

**f.** Capture Permit. (7-1-93)

**i.** Holders of valid Idaho falconry permits may capture from the wild, the species and number of birds which the falconer is licensed to possess. Replacement of lost or destroyed birds will be allowed only upon submittal of a Form 3-186A to the U.S. Fish and Wildlife Service with a copy to the Regional Conservation Officer, by the falconer affirming the loss. (10-26-94)

**ii.** Upon payment of statutory fees, nonresidents who possess valid federal permits and a valid state permit from a state or states which have entered into a reciprocal agreement with the state of Idaho, may apply to capture one approved bird of prey during the period specified by the permit. (10-26-94)

**iii.** The capture of birds of prey taken under authority of a Capture Permit must be reported within five (5) days to the Department. (7-1-93)

**g.** Export Permit. The holder of a valid Idaho falconry permit may temporarily transport birds of prey out of and into Idaho. However, if a bird of prey is being permanently transferred to an out-of-state location, the falconer must ~~apply for an Idaho export permit and~~ complete a Form 3-186A. ~~(7-1-93)~~(4-29-02)T

**h.** Import Permit. An Import Permit may be issued to the holder of any valid Idaho falconer's permit to bring into the state of Idaho, lawfully acquired birds of prey authorized by the holder's falconry permit. Imported birds must be accompanied by such export and import permits as may be required by the state of origin and Federal regulations. (7-1-93)

**i.** Captive Breeding Permit. A Captive Breeding Permit may be issued to the holder of a Master Falconer's Permit or a scientific institution or institution of higher education for the purposes of obtaining birds of prey for initiating and conducting captive breeding experiments. ~~Any applicant must have secured a Special Purpose (raptor breeding) Permit from the U.S. Fish and Wildlife Service prior to application.~~ ~~(7-1-93)~~(4-29-02)T

**03. Nonresidents.** Nonresidents may be issued Idaho Apprentice, General Falconer, or Master Falconer permits without a waiting period upon permanently moving to the state of Idaho. The nonresident shall surrender permits issued by other states to the Idaho Department of Fish and Game, and execute a statement verifying the nonresident's intent to become an Idaho resident. The nonresident shall be issued the equivalent class license that was surrendered from the resident state. (10-26-94)

**04. Nonresidents.** Nonresidents may be issued Idaho Apprentice, General Falconer, or Master Falconer permits without a waiting period upon permanently moving to the state of Idaho, surrender of permits issued by other states to the Idaho Department of Fish and Game, and execution of a statement verifying the nonresident's intent to become an Idaho resident. (7-1-93)

**(BREAK IN CONTINUITY OF SECTIONS)**

**610. FALCONRY SEASONS, BAG AND POSSESSION LIMITS FOR UPLAND GAME ANIMALS.**  
The following seasons, bag and possession limits shall apply statewide: (10-26-94)

**01. Rabbit.** The cottontail rabbit ~~and pygmy rabbit~~ season is March 1 through August 31, annually. ~~(10-26-94)~~(4-29-02)T

- 02. Hare.** The snowshoe hare season is March 1 through August 31, annually. (10-26-94)
- 03. Bag Limit.** Daily bag limit is two (2) of any kind. (7-1-98)
- 04. Possession Limit.** After the first day of the season: four (4) of any kind. (7-1-98)

**(BREAK IN CONTINUITY OF SECTIONS)**

**650. TRAINING FALCONS ~~BY INDIVIDUALS~~ USING ~~PRIVATELY RAISED~~ ARTIFICIALLY PROPAGATED GAME BIRDS.**

**01. Establishing Limitations And Guidelines.** In addition to the rules set forth, ~~the~~ Director is authorized to establish limitations and guidelines as to dates, locations, and conditions where under permits may be issued allowing the party or parties listed thereon to use and kill game birds obtained from a private source for the purpose of field training birds of prey. (~~7-1-93~~)(4-29-02)T

**02. Falcon Field Training.** Falcon field training with the use of artificially propagated game birds is lawful when the following conditions are met: (4-29-02)T

**a. The owner of the birds of prey being trained possesses a valid Falconry Training Permit and permit is available for inspection at the training site. Permits are valid two (2) years from date of issue.** (4-29-02)T

**b. Artificially propagated game birds used for training purposes are certified as disease free under the standards set forth by the National Poultry Improvement Program (NPIP).** (4-29-02)T

**c. Proof of lawful game bird origin is available for inspection at the training site.** (4-29-02)T

**d. Permittee complies with all additional stipulations outlined on the permit at time of issuance.** (4-29-02)T

**IDAPA 13 - IDAHO FISH AND GAME COMMISSION**

**13.01.15 - RULES GOVERNING THE USE OF DOGS**

**DOCKET NO. 13-0115-0201**

**NOTICE OF RULEMAKING - TEMPORARY AND PROPOSED RULE**

**EFFECTIVE DATE:** The temporary rule is effective April 29, 2002.

**AUTHORITY:** In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given this agency has adopted temporary rules and proposed regular rulemaking procedures have been initiated. The action is authorized pursuant to Sections 36-104(b) and 36-1101(b)(6), Idaho Code.

**PUBLIC HEARING SCHEDULE:** Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 16, 2002.

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address listed below.

**DESCRIPTIVE SUMMARY:** The following is the required finding and concise statement of the supporting reasons for proposed rulemaking:

Clarify the distinction between dog training and field trial permits.

**TEMPORARY RULE JUSTIFICATION:** Pursuant to Section 67-5226(1)(c), Idaho Code, the Governor has found that temporary adoption of the rule is appropriate in order to confer a benefit.

**FEE SUMMARY:** The following is a specific description of the fee or charge imposed or increased. None

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSIONS OF WRITTEN COMMENTS:** For assistance on technical questions concerning the temporary and proposed rule, contact W. Dallas Burkhalter at 208-334-3715.

Anyone may submit written comments regarding the proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 23, 2002.

Dated this 22nd day of August 2002.

W. Dallas Burkhalter  
Deputy Attorney General  
Idaho Department of Fish and Game  
600 South Walnut  
PO Box 25, Boise, ID 83707  
208-334-3715 / FAX: 208-334-2148

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**THE FOLLOWING IS THE TEXT OF DOCKET NO. 13-0115-0201**

**300. BIRD-DOG TRAINING AND FIELD TRIALS BY INDIVIDUALS USING PRIVATELY-RAISED ARTIFICIALLY PROPAGATED GAME BIRDS.**

In addition to the rules set forth, The Director is authorized to establish additional limitations and guidelines as to dates, locations, and conditions where under permits may be issued allowing the party or parties listed thereon to use

and kill artificially propagated game birds obtained from a private source for the purpose of dog field trials or field training bird dogs. (7-1-93)(4-29-02)T

**01. Bird-Dog Training.** Bird-dog training with the use of artificially propagated game birds is lawful when the following conditions are met: (4-29-02)T

**a.** The owner of the dog(s) being trained possesses a valid Bird-Dog Training Permit, and permit is available for inspection at the training site. Permits are valid two (2) years from the date of issue. (4-29-02)T

**b.** Artificially propagated game birds used for training purposes on Wildlife Management Areas are certified as disease free under the standards set forth by the National Poultry Improvement Program (NPIP). (4-29-02)T

**c.** Permittee complies with any additional stipulations outlined on the permit at time of issuance. (4-29-02)T

**02. Bird-Dog Field Trials.** Bird-dog field trials conducted with the use of artificially propagated game birds is lawful when the following conditions are met: (4-29-02)T

**a.** Organization or its designee possesses a valid Bird-Dog Field Trial Permit, and permit is available for inspection at the field trial site. Permits are valid for up to one (1) calendar year for the number of events/trials listed on permit by specific date(s). (4-29-02)T

**b.** Artificially propagated game birds used for training purposes are certified as disease free under the standards set forth by the National Poultry Improvement Program (NPIP). (4-29-02)T

**c.** Proof of lawful game-bird origin is available for inspection at the field trial site. (4-29-02)T

**d.** Permittee complies with any additional stipulations outline on the permit at time of issuance. (4-29-02)T

## IDAPA 13 - IDAHO FISH AND GAME COMMISSION

### 13.01.16 - THE TRAPPING OF PREDATORY AND UNPROTECTED WILDLIFE AND THE TAKING OF FURBEARING ANIMALS

DOCKET NO. 13-0116-0201

#### NOTICE OF RULEMAKING - TEMPORARY AND PROPOSED RULE

**EFFECTIVE DATE:** The temporary rule is effective April 29, 2002.

**AUTHORITY:** In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given this agency has adopted temporary rules and proposed regular rulemaking procedures have been initiated. The action is authorized pursuant to Section 36-104(b), Idaho Code.

**PUBLIC HEARING SCHEDULE:** Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 16, 2002.

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address listed below.

**DESCRIPTIVE SUMMARY:** The following is the required finding and concise statement of the supporting reasons for proposed rulemaking:

Biennial adjustment of trapping and furbearer seasons.

**TEMPORARY RULE JUSTIFICATION:** Pursuant to Sections 67-5226(1)(c), Idaho Code, the Governor has found that temporary adoption of the rule is appropriate in order to confer a benefit.

**FEE SUMMARY:** The following is a specific description of the fee or charge imposed or increased. None

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSIONS OF WRITTEN COMMENTS:** For assistance on technical questions concerning the temporary and proposed rule, contact W. Dallas Burkhalter at 208-334-3715.

Anyone may submit written comments regarding the proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 23, 2002.

Dated this 22nd day of August 2002.

W. Dallas Burkhalter  
Deputy Attorney General  
Idaho Department of Fish and Game  
600 South Walnut  
PO Box 25  
Boise, ID 83707, 208-334-3715  
FAX: 208-334-2148 /

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#### THE FOLLOWING IS THE TEXT OF DOCKET NO. 13-0116-0201

##### 150. PERMITS.

01. **General.** No person may trap in a controlled trapping unit for the designated species without

having a valid permit for that controlled trapping unit in possession. In the event that a permit is issued based on erroneous information, the permit will be invalidated by the Department and may NOT be used. The Department will notify the permittee of the invalidation of the permit. The person will remain on the drawn list, and if there is a waiting period in a succeeding year, the person will be required to wait the specified time period. (7-1-93)

**02. Eligibility.** Any person possessing a valid Idaho trapping license is eligible to apply for a controlled trapping unit permit. (10-26-94)

**03. Applications.** Applications for controlled trapping permits shall be made on a form prescribed by the Department and must be received at the Headquarters Office of the Idaho Department of Fish and Game or postmarked not later than September 15 of each year. Any application which is unreadable, has incomplete or incorrect trapping license numbers, or which lacks the required information or fee will be declared void and will not be entered in the drawing. All applications will be considered final. They may not be resubmitted after correction. Applicants must comply with the following requirements: (7-1-93)

**a.** No person may submit more than one (1) application for a controlled beaver trapping permit. (~~3-30-01~~(4-29-02)T)

**b.** No group applications will be accepted. (7-1-93)

**04. Controlled Trapping Permit Drawing.** (7-1-93)

**a.** Applications that are not drawn for the first choice unit will automatically be entered into a second choice drawing, provided the second choice applied for has not been filled. (7-1-93)

**b.** If an insufficient number of "first choice" applications are received for a unit, remaining permits will be filled from applications listing the unit as a second choice. (10-26-94)

**c.** Any permits left unfilled after the second choice drawing may be issued on a first-come-first-served basis. (10-26-94)

**05. Successful Applicants.** Successful applicants will be notified by mail and must contact the person listed on the notice by October 14 to obtain the permit. The permittee, upon agreeing to follow trapping instructions for the unit, will be issued a permit. (7-1-93)

**06. Revocation Of Permits.** Any permittee who does not comply with the following will have his permit revoked: (7-1-93)

**a.** The Fish and Game Code and these rules; or (7-1-93)

**b.** The instructions for the trapping unit. (7-1-93)

**07. Alternative Permittee.** Any revoked permit may be issued to an alternate, selected at the time of the drawing. If there is no alternate, or the alternate fails to comply with Subsection 150.05 above, the permit may be issued to the first eligible trapper answering a notification of vacant trapping Unit as approved by the Regional Supervisor. (7-1-93)

**151. -- 199. (RESERVED).**

**200. TRAPS.**

**01. Checking Traps.** (7-1-93)

**a.** No person shall place snares or traps for furbearing animals, predatory or unprotected wildlife, EXCEPT pocket gophers, ground squirrels and other unprotected rodents, without visiting every trap or snare once every seventy-two (72) hours and removing any catch therein. (7-1-93)

**b.** Trappers acting under authority of the U.S. Department of Agriculture, Animal Plant Health Inspection Service, Wildlife Services are exempt from this rule. (7-1-99)

**02. Removing Trapped Animals Of Another.** No person shall remove wildlife from the trap or snare of another EXCEPT licensed trappers with written permission from the owner. (7-1-93)

**03. Release Of Non-Target Catches.** (7-1-93)

**a.** All non-target species caught alive shall be released immediately. Non-target species are defined as any species caught for which the season is closed. (7-1-93)

**b.** Any trapper who catches a non-target species that is dead shall: (7-1-93)

**i.** Prior to removing the animal, ~~note on the back of the trapping license, the~~ record of the date and species of animal caught, the date and shall sign his or her name. This information must be included in the mandatory ~~trapping report~~ furtaker harvest report. (~~7-1-99~~)(4-29-02)T

**ii.** Remove the animal from the trap and take it into possession. (7-1-93)

**iii.** Notify the Department of Fish and Game through the local Conservation Officer, Subregional or Regional office within seventy-two (72) hours to make arrangements to transfer the animal to the Department. (10-26-94)

**iv.** The Department will reimburse trappers five dollars (\$5) for each lynx, otter, or fisher caught accidentally and turned in. (7-1-99)

**(BREAK IN CONTINUITY OF SECTIONS)**

**400. METHODS OF TAKE.**

**01. Furbearing Animals.** No person shall take beaver, muskrat, mink, ~~or~~ marten, or otter by any method other than trapping. In Valley County and portions of Adams County in the Little Salmon River drainage, red fox may be taken only by trapping. (~~7-1-99~~)(4-29-02)T

**02. Hunting.** No person hunting permissible furbearing animals or predatory or unprotected wildlife shall: (7-1-93)

**a.** Hunt with any weapon the possession of which is prohibited by state or federal law. (7-1-93)

**b.** Hunt with dogs unless they comply with IDAPA 13.01.15, "Rules Governing the Use of Dogs". (7-1-93)

**c.** Hunt any furbearing animal, except raccoon, with or by the aid of artificial light. (7-1-93)

**d.** No person hunting raccoon at night shall: (7-1-93)

**i.** Hunt from a motorized vehicle. (7-1-93)

**ii.** Use any light attached to any motor vehicle. (7-1-93)

**iii.** Hunt on private land without obtaining written permission from the landowner or lessee. (7-1-93)

**03. Trapping.** No person trapping furbearing animals or predatory or unprotected wildlife shall: (7-1-93)



- a. Use for bait or scent, any part of any game bird, game animal, game fish, or protected nongame wildlife. (7-1-93)
- b. Use any dry land set within thirty (30) feet of any visible bait except bleached bones of: furbearers, unprotected, or predatory wildlife. (7-1-93)
- c. Use a dirt hole set with bait unless the person ensures that the bait remains covered at all times to protect raptors and other meat-eating birds from being caught accidentally. (7-1-93)

**401. -- 499. (RESERVED).**

**500. MANDATORY CHECK AND REPORT - PELT TAG REQUIREMENTS.**

**01. Mandatory Check And Report.** Any person trapping river otter or taking bobcat, whether by hunting or trapping, must comply with the mandatory check and report and pelt tag requirements by:  
(~~3-30-01~~)(4-29-02)T

a. Presenting the pelts of all bobcat taken to a regional office, the McCall office or official check point to obtain the appropriate pelt tag and complete a harvest report. To have a pelt tagged, the pelt must be legally taken in Idaho and must be presented to a regional office, the McCall office, or designated checkpoint of IDFG during normal working hours -- 8 a.m. to 5 p.m. (3-30-01)

b. Additional River Otter Requirements: (3-30-01)

i. Pelts must be tagged by IDFG personnel at the regional office in the region in which the animal was taken within seventy-two (72) hours of taking. Trappers unable to comply with the tagging requirements due to special or unique circumstances must report their harvest to the appropriate regional office or field personnel within seventy-two (72) hours and make arrangements for tagging at the proper regional office. Pelts not registered or presented to Department personnel within seventy-two (72) hours are subject to confiscation. (3-30-01)

ii. Trappers must surrender the skull and possibly other organs or the entire carcass to the Department to aid in evaluating the harvest. Check with the IDFG regional office for further information when reporting a harvest. (~~3-30-01~~)(4-29-02)T

iii. No person shall have in possession, except during the open season and for seventy-two (72) hours after the close of the season, any raw otter pelt legally harvested in Idaho which does not have an official state export tag attached. (3-30-01)

**02. Pelt Tags.** A fee of two dollars (\$2) will be charged for each pelt tag. An additional one-dollar and fifty cent (\$1.50) vendor fee will be charged to each license holder when pelts are brought in for tagging. (3-30-01)

a. No person shall have in possession, except during the open season and for ten (10) days after the close of the season, any raw bobcat pelt which does not have an official state export tag attached (either Idaho's or another state's official export tag). (7-1-98)

b. No person shall sell, offer for sale, purchase, or offer to purchase any raw bobcat or ~~other~~ otter pelt which does not have an official state export tag attached. (~~3-30-01~~)(4-29-02)T

**(BREAK IN CONTINUITY OF SECTIONS)**

**650. AREAS CLOSED TO THE TRAPPING OF PREDATORY AND UNPROTECTED WILDLIFE AND THE TAKING OF FURBEARING ANIMALS.**

Hunting, trapping, killing or molesting of furbearing animals, predatory and unprotected wildlife is prohibited in the

- following areas: (7-1-93)
- 01. Craters Of The Moon.** National Monument in Blaine and Butte Counties. (7-1-98)
  - 02. Hagerman Fossil Beds National Monument In Twin Falls County.** (7-1-98)
  - ~~**03. Idaho National Engineering Laboratory.** Site in Bingham, Bonneville, Butte, Clark and Jefferson Counties. (7-1-98)~~
  - 043. Nez Perce National Historical Park.** In Clearwater, Idaho, and Nez Perce Counties. (7-1-98)
  - 054. Ada County.** That portion of Ada County: (7-1-93)
    - a.** Within Veterans Memorial Park; (7-1-93)
    - b.** Within one quarter (1/4) mile of the Boise River from the New York Canal Diversion Dam downstream to the Glenwood Bridge; and (7-1-93)
    - c.** Between State Highway 21 and the New York Canal from the New York Canal Diversion Dam downstream to the Boise City limits. (7-1-93)
  - 065. Stanley Creek.** Wildlife Interpretive Area in Custer County. (7-1-98)
  - 076. Yellowstone National Park.** In Fremont County. (7-1-98)
  - 087. Other Areas.** On any of those portions of State game preserves, State wildlife management areas, bird preserves, bird refuges, and bird sanctuaries for which trapping closures have been declared by legislative or Commission action. (7-1-93)
  - 098. National Wildlife Refuges.** All or portions of national wildlife refuges, EXCEPT as specified in federal regulations for individual refuges. (7-1-93)

**(BREAK IN CONTINUITY OF SECTIONS)**

**800. TRAPPING REPORTS.**

**01. Trapping Report Completion.** All trappers shall fill out the mandatory ~~trapping~~ furtaking harvest report provided by the Department. Trappers shall return the completed mandatory report to the Department of Fish and Game, Box 25, Boise, Idaho 83707, by July 31. Any trapper failing to make such a report by July 31 shall be refused a license to trap animals for the ensuing year. ~~(7-1-99)~~(4-29-02)T

**02. Return Of Reports And Permits.** All permittees shall return their controlled trapping unit permits and controlled trapping reports to the person from whom they obtained their controlled trapping unit permits within ten (10) days of the close of the season for the controlled trapping unit. (7-1-93)

**IDAPA 15 - OFFICE OF THE GOVERNOR  
IDAHO COMMISSION ON AGING**

**15.01.01 - RULES GOVERNING SENIOR SERVICES PROGRAM**

**DOCKET NO. 15-0101-0201**

**NOTICE OF RULEMAKING - PROPOSED RULE**

**AUTHORITY:** In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Section 67-5003, Idaho Code.

**PUBLIC HEARING SCHEDULE:** Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 16, 2002.

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

**DESCRIPTIVE SUMMARY:** The following is a nontechnical explanation of the substance and purpose of the proposed rulemaking:

The proposed rule changes will make technical corrections to the rules, amend references to the UAI provisions to provide that the assessment instrument utilized by AAAs will be such assessment instruments that may from time to time be approved by the Commission, and amend references to the completion of client assessments to clarify that Case Management shall perform such assessments.

**FEE SUMMARY:** the following is a specific description of the fee or charge imposed or increased: N/A

**NEGOTIATED RULEMAKING:** Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because of the general housekeeping and non-controversial nature of the proposed rule changes.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the proposed rule, contact Lois S. Bauer, Administrator, at (208) 334-3833.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 23, 2002.

DATED this 9th day of August, 2002.

Lois S. Bauer, Administrator  
Idaho Commission on Aging  
3380 Americana Terrace, Ste. 120  
Boise, ID 83706  
Phone: (208) 334-3833 / Fax: (208) 334-3033

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**THE FOLLOWING IS THE TEXT OF DOCKET NO. 15-0101-0201**

**002. WRITTEN INTERPRETATIONS.**

This agency may have written statements which pertain to the interpretation of the rules in this chapter. To obtain copies, contact the Idaho Commission on Aging by writing to the ~~Director~~ Administrator. (7-1-98)( )

**(BREAK IN CONTINUITY OF SECTIONS)**

**010. DEFINITIONS.**

**01. Act.** The Idaho Senior Services Act. Programs and services established in Idaho Code, Section 67-5001, et seq., Idaho Code. (7-1-98)

**02. Activities Of Daily Living (ADL).** Bathing, dressing, toileting, transferring, eating, walking. (7-1-98)

**03. Adult Day Care.** A structured day program which provides individually planned care, supervision, social interaction, and supportive services for frail older persons in a protective group setting, and provides relief and support for caregivers. (7-1-98)

**04. Aging Network.** The ICOA, ~~the~~ the AAAs, and other providers. (7-1-98)( )

**05. Advance Directive.** A Living Will or Durable Power of Attorney for ~~Healthcare~~ healthcare executed under the Natural Death Act, 39-4501, Idaho Code. (7-1-98)( )

**06. Area Agency On Aging (AAA).** Separate organizational unit within a multipurpose agency which functions only for purposes of serving as the area agency on aging that plans, develops, and implements services for older persons within a specified geographic area. (4-5-00)

**07. Area Plan.** Plan for aging programs and services which an AAA is required to submit to the Idaho Commission on Aging, in accordance with the OAA, in order to receive OAA funding. (7-1-98)

**08. Assessment Instrument.** A comprehensive instrument utilizing uniform criteria to assess a client's needs. ( )

**089. Case Manager.** A licensed social worker, licensed professional nurse (RN), or Certified Case Manager, or an individual with a BA or BS in a human services field or equivalent and at least one (1) year's experience in service delivery to the service population. (3-30-01)

**0910. Case Management.** Case management is a service provided to older individuals and disabled adults, at the direction of the individual or a family member of the individual, to assess the needs of the person and to arrange, coordinate, and monitor an optimum package of services to meet those needs. Activities of case management include: comprehensive assessment of the individual; development and implementation of a service plan with the individual to mobilize formal and informal resources and services; coordination and monitoring of formal and informal service delivery; and periodic reassessment. (3-30-01)

**101. Case Management Supervisor.** An individual who has at least a BA or BS degree and is a licensed social worker, psychologist or licensed professional nurse (registered nurse/RN) with at least two (2) years' experience in service delivery to the service population. (4-5-00)

**12. Certified Case Manager.** ~~One~~ A Case Manager who has met the requirements for certification as established by the National Academy of Care/Case Managers or other professional association recognized by the Idaho Commission on Aging. (4-5-00)( )

**123. Chore Services.** Providing assistance with ~~normal~~ routine yard work, sidewalk maintenance, heavy cleaning, or minor household maintenance to persons who have functional limitations that prohibit them from performing these tasks. (4-5-00)( )

**134. Client.** Person who has met program eligibility requirements for services addressed in this chapter. (7-1-98)

**145. Cognitive Impairment.** A disability or condition due to mental impairment. (7-1-98)

- 156. Congregate Meals.** Meals that meet the requirements of the OAA, as amended, served in a group setting. (7-1-98)
- 167. Department.** Department of Health and Welfare. (7-1-98)
- 178. Direct Costs.** Costs incurred from the provision of direct services. These costs include, but are not limited to, salaries, fringe benefits, travel, equipment, and supplies directly involved in the provision of services. Salaries of program coordinators and first line supervisors are considered direct costs. (7-1-98)
- 189. Eligible Clients.** Residents of the state of Idaho who are sixty (60) years or older ~~and their spouses.~~ (7-1-98)(\_\_\_\_)
- 190. Fee For Services.** An established payment required from individuals receiving services under the Act. The fee varies according to client's current annual household income. (7-1-98)
- 201. Fiscal Effectiveness.** A financial record of the cost of all formal services provided to insure that maintenance of an individual at home is more cost effective than placement of that individual in an institutional long-term care setting. (7-1-98)
- 212. Formal Services.** Services provided to clients by a formally organized entity, including, but not limited to, Medicaid HCBS. (7-1-98)(\_\_\_\_)
- 223. Functional Impairment.** A condition that limits an individual's ability to perform ADLs and IADLs. (7-1-98)
- 234. Home-Delivered Meals.** Meals delivered to eligible clients in private homes. These meals shall meet the requirements of the OAA. (7-1-98)
- 245. Homemaker.** A person who has successfully completed a basic prescribed training, who, with additional supervision, provides homemaker services. (7-1-98)
- 256. Homemaker Service.** Assistance with housekeeping, meal planning and preparation, essential shopping and personal errands, banking and bill paying, medication management, and, with restrictions, bathing and washing hair. (7-1-98)
- 267. Household.** For sliding fee purposes, a "household" includes a client and any other person(s) permanently resident in the same dwelling who share accommodations and expenses with the client. (7-1-98)
- 278. Idaho Commission On Aging (ICOA).** Commission designated by the Governor to plan, set priorities, coordinate, develop policy, and evaluate state activities relative to the objectives of the OAA. (7-1-98)
- 289. Informal Supports.** Those supports provided by church, family, friends, and neighbors, usually at no cost to the client. (7-1-98)
- 290. Instrumental Activities Of Daily Living (IADL).** Meal preparation, money management, transportation, shopping, using the telephone, medication management, heavy housework, light housework. (7-1-98)
- 301. Legal Representative.** A person who carries a *Durable* Power of Attorney or who is appointed Guardian or Conservator with legal authority to speak for a client. (7-1-98)(\_\_\_\_)
- 312. Medicaid HCBS.** Services approved under the Medicaid Waiver for the aged and disabled. (3-30-01)
- 323. National Aging Program Information System.** (NAPIS) Standardized Nationwide reporting system that tracks: (7-1-98)

**a.** Service levels by individual service, identifies client characteristics, State and AAA staffing profiles, and identifies major program accomplishments; and (4-5-00)

**b.** Complaints received against long term care facilities and family members or complaints related to rights, benefits and entitlements. (7-1-98)

**334. Non-Institutional.** Living arrangements which do not provide medical oversight or organized supervision of residents' activities of daily living. Non-institutional residences include congregate housing units, board and room facilities, private residential houses, apartments, condominiums, duplexes and multiplexes, hotel/motel rooms, and group homes in which residents are typically unrelated to individuals. Non-institutional does not include skilled nursing homes, residential care facilities, homes providing adult foster care, hospitals, or residential schools/hospitals for the severely developmentally disabled or the chronically mentally ill. (7-1-98)

**345. Older Americans Act (OAA).** Federal law which authorizes funding to states to provide supportive and nutrition services for the elderly. (7-1-98)

**356. Ombudsman.** An individual or program providing a mechanism to receive, investigate, and resolve complaints made by, or on behalf of, residents of long-term care facilities, ~~or persons aged sixty (60) and older living in the community.~~ (7-1-98)(\_\_\_\_)

**367. Performance-Based Agreements.** A written ~~agreement~~ contract between the ICOA and AAAs which establishes statements of work for services to be performed by the AAA, including output and outcome projections, program review and process for contract termination. (4-5-00)(\_\_\_\_)

**378. Program.** The Idaho Senior Services Program. (7-1-98)

**389. Planning And Service Area (PSA).** Substate geographical area designated by the ICOA for which an AAA is responsible. (4-5-00)

**390. Provider.** An AAA ~~that provides services directly~~ or another entity under contract with the AAA to provide a specific service(s). (7-1-98)(\_\_\_\_)

**401. Respite.** Short-term, intermittent relief provided to caregivers (individuals or families) of a functionally-impaired relative or custodial charge. (4-5-00)

**412. Shopping Assistance.** Accompaniment and provision of assistance to an elderly individual for the purpose of purchasing food, medicine and other necessities for an elderly individual who is disabled or homebound. (7-1-98)

**423. Sliding Fee Scale.** A fee scale ranging from zero percent (0%) to one hundred percent (100%) of the cost of services. Cost of services shall be based on the contractor's or provider's actual unit costs. A client's percentage (payment) shall be determined by ranking the client's annual household income against the federally determined poverty guidelines for that year. (3-19-99)

**434. Supportive Service Plan (SSP).** An individual support plan outlining an array of services or the components of an individual service required to maintain a client at home. For Adult Protection purposes the SSP shall address the available remedial, social, legal, medical, educational, mental health, or other services available to reduce risks and meet the care needs of a vulnerable adult. (7-1-98)

**445. Supportive Services Technician.** AAA employee working under the supervision of a licensed social worker or case manager assisting with investigation of Adult Protection reports, completion of ~~Sections One and Two of the UAI~~ ICOA approved assessment instrument for services of clients of ICOA funded in-home services, or development and initiation of SSPs. The employee shall have a High School diploma and at least two (2) years' experience delivering services to the elderly or at-risk populations. (3-15-02)(\_\_\_\_)

**456. Transportation Services.** Services designed to transport eligible clients to and from community facilities/resources for the purposes of applying for and receiving services, reducing isolation, or otherwise promoting

independence.

(7-1-98)

~~46. **Uniform Assessment Instrument (UAI).** A comprehensive assessment instrument utilizing uniform criteria. The ICOA mandates use of a UAI in determining an applicant's need for care and services. (7-1-98)~~

**(BREAK IN CONTINUITY OF SECTIONS)**

**020. PROGRAM OUTCOMES.**

State Senior Services are designed to provide older individuals with assistance they need to compensate for functional or cognitive limitations. Individuals qualifying for these services are those who require personal assistance, stand-by assistance, supervision or cueing to accomplish ADLs, IADLs, or both. The program aims to help clients: (7-1-98)

**01. Avoid Inappropriate Or Premature Institutional Placement.** ~~Avoid inappropriate institutionalization of a client; F~~facilitate ~~earlier~~ timely discharge of an institutionalized client; or prevent ~~inappropriate or premature~~ reinstitutionalization of a formerly discharged client. (7-1-98)( )

**02. Enhance Ability To Accomplish Short-Term Rehabilitation.** ~~Provide the opportunity for~~ Facilitate rehabilitation at home by providing supportive services to those who are temporarily incapacitated due to short-term illness or injury. (7-1-98)( )

**03. Assist In Crisis Intervention.** Maintain older individuals in their own homes, on a short-term basis, during a crisis when the primary caregiver is incapacitated or absent. (7-1-98)

**04. Provide Protection.** Enable individuals to remain in their own homes during a crisis through coordination with Adult Protection Services. (7-1-98)

**(BREAK IN CONTINUITY OF SECTIONS)**

**022. CLIENT ASSESSMENT.**

Applicants for services under this chapter, where multiple needs are being addressed and in other cases where ~~a~~Adult ~~p~~Protection or ~~e~~Case ~~m~~Management personnel determine it necessary, shall be assessed utilizing the ICOA ~~DHW~~ standardized UAI approved assessment instrument. (4-5-00)( )

~~023. **UNIT OF SERVICE.**~~

~~One (1) hour, or fraction thereof, providing Adult Day Care, Care Coordination, Chore, Homemaker, or Respite Service. (7-1-98)~~

~~0243. FAMILY AND CAREGIVER SUPPORTS.~~

**01. Intent Of ICOA.** It is the intent of ICOA to support efforts of family caregivers to maintain functionally or cognitively-impaired elderly relatives in the household. (7-1-98)

**02. Eligibility.** Based on eligibility and fee for service requirements, AAAs shall support family caregiver efforts by making program services available to such families. (7-1-98)

~~0254. ACCOMMODATIONS.~~

**01. Accommodations For Geographic Inaccessibility.** All providers shall make and document efforts to locate and hire a part-time worker or generate a volunteer to meet the client service need. (7-1-98)

**02. Accommodations For Language.** All providers ~~providing services under these rules~~ shall make reasonable accommodations to work with persons who speak a language other than English. (7-1-98)( )

**03. Cultural Accommodations.** All providers shall make reasonable accommodations for cultural differences and take them into account when delivering services. (7-1-98)(\_\_\_\_)

**04. Accommodations For Disabilities.** All providers shall make reasonable accommodations to work with persons who have vision or hearing impairments or other disabilities. (7-1-98)(\_\_\_\_)

**0265. FEES AND CLIENT CONTRIBUTIONS.**

**01. Poverty Guidelines.** Clients whose income exceeds one hundred percent (100%) of poverty (as established by the United States Department of Health and Human Services) shall be required to pay a fee for services according to a variable fee schedules established by the ICOA. (7-1-98)(\_\_\_\_)

**02. Income Declaration.** Income shall be determined by an annual client self-declaration. When a client's income increases or decreases, the client shall notify the provider for a redetermination of income. (7-1-98)

**03. Determining Income.** For this purpose, income means gross household income from all sources, less the cost of medical insurance and expenditures for non-covered medical services and prescription drugs. Payments the client receives from owned property currently being leased shall be counted as income after expenses are deducted if paid by the client, i.e., insurance, taxes, water, sewer, and trash collection. ~~In determining income for respite clients, income means the gross income of the client as specified above but shall not include the income of any other person(s) who reside in the household.~~ (3-19-99)(\_\_\_\_)

**04. Fee Based On Actual Cost.** Assessed fee shall be a percentage of the provider's actual unit cost. (7-1-98)

**05. Fee Waived.** The fee may be waived for clients who refuse to pay a fee if there is documented evidence that not providing the service would increase risk or harm to the client. (3-19-99)

**06. Fee Required.** Fees are required from clients receiving either Chore or Homemaker Services. (3-19-99)

**07. Client Contributions.** ~~All~~ clients whose annual income falls below poverty from whom a fee is not required shall be given the opportunity to make voluntary contributions. (7-1-98)(\_\_\_\_)

**08. Use Of Fees And Contributions.** Providers shall maintain accounting records of all fees and contributions collected and of all monies expended from these sources. All monies derived from fees, contributions, or both, shall be used to offset the costs of providing the service(s) for which they were collected. (7-1-98)

**~~027. CLIENT WAITING LISTS.~~**

~~When an eligible applicant is denied service based on lack of available service personnel or funding, the applicant shall be placed on a waiting list. The applicant shall receive an in-home assessment prior to placement on a waiting list. Applicants on the waiting list for service shall be prioritized according to IDAPA 15.01.20, Section 053, "Rules Governing Area Agency on Aging Operations". All applicants placed on a waiting list shall be notified of this action in writing.~~ (7-1-98)

**~~0286. DISCLOSURE OF INFORMATION.~~**

~~AAA employees' and contractors' Providers'~~ disclosure of information about clients is limited by law. All information obtained from a client, whether verbal or written, and any records created from that information, shall be treated as confidential. The OAA requires that confidentiality regarding clients shall be followed thus: (7-1-98)(\_\_\_\_)

**01. Disclosure.** ~~An AAA provider or contractor~~ may disclose to anyone the content of a client's communication only with the client's prior, informed consent. Without the client's prior, informed consent, the provider ~~or contractor~~ may: (7-1-98)(\_\_\_\_)

**a.** Only disclose information for purposes directly related to the administration of the program under which the client is applying for or receiving benefits; or (7-1-98)



b. Disclose client information to auditors and to persons conducting research within certain defined circumstances as approved in writing by the ICOA. (7-1-98)(\_\_\_\_)

**02. Client's Expectation Of Privacy.** Disclosure of information to others does not abrogate a client's expectation of privacy as protected by law. Those to whom disclosure is made have a duty to maintain the confidentiality of the disclosure. (7-1-98)

**03. Disclosure Required.** The disclosure of information required for a coordinated assessment of a client and for coordinating delivery of services to a client is allowed between aging network providers ~~and contractors~~ and, if required, the Department. Disclosure to individuals outside that group shall not be authorized without prior written approval from the ICOA. (7-1-98)(\_\_\_\_)

**0297. DENIAL OF SERVICE.**

An applicant shall be notified in writing of a denial of service and the right to appeal in accordance with IDAPA 15.01.20, Section 003, "Rules Governing Area Agency on Aging Operations". The request for services may be denied for any of the following reason(s) listed below, or at the discretion of the AAA director: (3-19-99)(\_\_\_\_)

**01. Applicant Not In Need Of Service.** The applicant's functional or cognitive deficits are not severe enough to require services. (7-1-98)

**02. Family Or Other Supports Adequate.** Family, or other available formal or informal supports are adequate to meet applicants current needs. (7-1-98)(\_\_\_\_)

**03. Other Care Required.** The ~~client's~~ applicant's needs are of such magnitude that more intensive supports, such as Medicaid ~~PCS~~ HCBS, attendant care, or referral for residential or nursing home placement are indicated. In such instances, alternatives shall be explored with the ~~client~~ applicant and the ~~client's~~ applicant's legal representative and family, if available. Referrals shall be made by the provider, as appropriate. (7-1-98)(\_\_\_\_)

**04. Barriers To Service Delivery Exist.** The applicant's home is hazardous to the health or safety of service workers. (7-1-98)

**05. Geographical Inaccessibility.** The AAA determines that the applicant's home is ~~more than twenty~~ (20) miles geographically inaccessible from the nearest point of service provision of home-delivered meals, homemaker, chore, or respite and the provider can document efforts to locate a worker or volunteer to fill the service need have been unsuccessful. (7-1-98)(\_\_\_\_)

**06. Lack Of Personnel Or Funding.** Services are unavailable based on a lack of available service personnel or funding. When an eligible applicant is denied service based on a lack of available service personnel or funding, the applicant shall be placed on a waiting list. The applicant shall receive an in-home assessment prior to placement on a waiting list. Applicants on the waiting list for service shall be prioritized according to IDAPA 15.01.20, "Rules Governing Area Agency on Aging Operations." Section 053. All applicants placed on a waiting list shall be notified of this action in writing. (\_\_\_\_)

**03028. CONDUCT OF ~~IN-HOME~~ SERVICE WORKERS.**

~~Contractors~~ Providers shall ensure, through personnel policies, orientation procedures, signed ~~In-Home~~ Service ~~W~~workers' agreements, and supervision, that the ~~In-Home~~ Service ~~W~~worker's conduct is governed by the following restrictions. A copy of these restrictions, signed by the ~~In-Home~~ Service ~~W~~worker, shall be placed in each ~~In-Home~~ Service ~~W~~worker's personnel file. (3-30-01)(\_\_\_\_)

**01. Accepting Money Or Loans.** ~~In-Home~~ Service ~~W~~workers shall not accept money or a loan, in any form, from a client. (3-30-01)(\_\_\_\_)

**02. Sale Of Goods.** ~~In-Home~~ Service ~~W~~workers shall not solicit the purchase of goods, materials or services. (3-30-01)(\_\_\_\_)

**03. Addresses And Telephone Numbers.** ~~In-Home~~ Service ~~W~~workers shall not provide a personal telephone number or home address to clients. (3-30-01)(\_\_\_\_)

**04. Private Work.** *In-Home* Service ~~W~~workers shall not work privately for a client of homemaker services. (3-30-01)(\_\_\_\_)

**05. Client's Residence.** *In-Home* Service ~~W~~workers shall not enter a client's residence in the absence of the client unless the client has given permission to enter to accomplish scheduled work and the permission is documented in the client file. (3-30-01)(\_\_\_\_)

**06. Proselytizing.** *In-Home* Service ~~W~~workers shall not engage in religious proselytizing during the course of employment. (3-30-01)(\_\_\_\_)

**07. Medication Administration.** *In-Home* Service ~~W~~workers shall not administer medications. The homemaker may remind a client to take medications, assist with removing the cap from a multi-dose or bubble pack container, and may observe the client taking medications. (3-30-01)(\_\_\_\_)

**08. Confidentiality.** *In-Home* Service ~~W~~workers shall regard all client communications and information about clients' circumstances as confidential. (3-30-01)(\_\_\_\_)

**09. Smoking.** *In-Home* Service ~~W~~workers shall not smoke in the home of a client. (3-30-01)(\_\_\_\_)

~~03429.~~ -- **039. (RESERVED).**

**040. TERMINATION OF SERVICE.**

**01. Documentation.** Documentation of notice of termination shall be placed in the client's case record, signed, and dated by the provider. (7-1-98)

**02. Appeals Process.** The client shall be informed of the appeals process, in accordance with IDAPA 15.01.20, Section 003, "Rules Governing Area Agency on Aging Operations". (3-19-99)

**03. AAA Services.** AAA authorized services may be discontinued by the provider for any of the reasons listed below, or at the discretion of ~~a program director or~~ the AAA director: (7-1-98)(\_\_\_\_)

- a. Services proved ineffective, insufficient, or inappropriate to meet client needs. (7-1-98)
- b. Other resources ~~were utilized,~~ including, but not limited to, formal and informal supports, became available. (7-1-98)(\_\_\_\_)
- c. Client withdrew from the program or moved. (7-1-98)
- d. Family or other available formal or informal support to client increased. (7-1-98)(\_\_\_\_)
- e. Client placed in a long-term care facility. (7-1-98)
- f. Client died (no notification of termination required). (7-1-98)
- g. Client's functioning improved. (7-1-98)
- h. Client refused service. (7-1-98)
- i. Client's home is hazardous to the service provider (requires prior notification of the AAA Director with final approval being at the discretion of the AAA Director). (7-1-98)
- j. Client's home is not reasonably accessible. (7-1-98)
- k. Client's behavior is a threat to the safety of the provider (requires prior notification of the AAA Director with final approval being at the discretion of the AAA Director.) (7-1-98)

- l.** Client verbally abuses or sexually harasses service provider. (7-1-98)
- m.** Client refuses to pay fee determined for service. (7-1-98)
- n.** Service provider is not available in locale. (7-1-98)
- o.** Services are no longer cost effective. (7-1-98)

**04. Notification Of Termination And Right To Appeal.** At least two (2) weeks prior to termination, the Client shall be informed in writing of the reasons for provider initiated service termination and the right to appeal at least two (2) weeks prior to termination in accordance with IDAPA 15.10.20, "Rules Governing Area Agency on Aging Operations," Section 003. Exceptions to the two (2) week advance notification of termination will be justified to the AAA Director with final approval being at the discretion of the AAA Director. Appeal actions are the responsibility of the AAA. The client shall be referred to other services as appropriate. (7-1-98)(\_\_\_\_)

**041. HOMEMAKER.**

**01. Policy.** Homemaker service is designed to provide assistance required to compensate for functional or cognitive limitations. Homemaker services provide assistance to eligible individuals in their own homes, or, based on an adult protection referral, in a caregivers home; to restore, enhance, or maintain their capabilities for self-care and independent living. Available family shall be involved in developing a supportive services plan for the client to ensure the formal services provided shall enhance any available informal supports provided. A client or legal representative shall have the right to accept or refuse services at any time. ~~Homemaker providers~~ AAAs shall reserve funds to support the expenditure of up to a maximum of ten percent (10%) of their annual Act Homemaker Service funding to support emergency service requests and response to adult protection referrals. (7-1-98)(\_\_\_\_)

**02. Service Eligibility.** Individuals are eligible for homemaker services if they meet any of the following requirements: (7-1-98)

**a.** They have been assessed to have ADL deficits, IADL deficits, or both, which prohibit their ability to maintain a clean and safe home environment. (7-1-98)

**b.** Clients over age sixty (60), who have been assessed to need homemaker service, may be living in the household of a family member (of any age) who is the primary caregiver. (7-1-98)

**c.** They are Adult Protection referrals for whom homemaker service is being requested as a component of an SSP to remediate or resolve an adult protection complaint. (7-1-98)

~~**d.**~~ Vulnerable adults under age sixty (60), who have been assessed to need homemaker service are eligible to receive the service a maximum of three (3) consecutive months within a program year. (7-1-98)(\_\_\_\_)

**ed.** They are home health service or hospice clients who may be eligible for emergency homemaker service. (7-1-98)(\_\_\_\_)

**03. Medicaid HCBS.** When clients are determined by the Department to be eligible for Medicaid HCBS, they are no longer eligible for homemaker services unless the services are determined to be needed on an interim, emergency basis until Medicaid HCBS is initiated. Interim emergency services shall not exceed two (2) months' duration. (3-30-01)

**04. Purpose Of Service.** (7-1-98)

**a.** Maintain Independence and Dignity. To secure and maintain in a home environment the independence and dignity of clients who are capable of self-care with appropriate supportive services. (7-1-98)

**b.** Prevent Institutionalization. To avoid or delay placement into long-term care institutions. (7-1-98)

- c. Remedy Harmful Living Arrangements. To promote the health and safety of the client. (7-1-98)
- d. Crisis Intervention. To assist the client through a crisis situation, if the homemaker service(s) required meet the client's needs and can be provided within the guidelines set forth in these rules. (7-1-98)
- 05. Exclusions.** (7-1-98)
- a. Meal Preparation. Homemakers shall not prepare meals for a client if home-delivered meals are available. (7-1-98)
- b. Transportation. Homemakers shall not transport a client unless the provider carries liability insurance. (7-1-98)
- c. Medical Judgments. Homemakers shall not make medical judgments nor any determinations regarding the application of advance directives. (7-1-98)
- d. Bathing and Washing Hair. ~~Contractors~~ Providers shall obtain adequate and appropriate insurance coverage prior to assigning their homemakers to assist clients with bathing and (or) washing hair. ~~(3-19-99)~~(\_\_\_\_)
- 06. Service Priority.** Once approved, clients shall be prioritized to receive homemaker services based on their needs, as determined through the completion of the ~~HA~~ ICOA approved assessment instrument as follows: ~~(7-1-98)~~(\_\_\_\_)
- a. Highest priority shall be given to clients with the greatest degree of functional or cognitive impairment; then (7-1-98)
- b. To clients lacking other formal and/or informal supports; then ~~(7-1-98)~~(\_\_\_\_)
- c. To clients whose homes are in poor condition with respect to those circumstances which the homemaker service can remedy. (7-1-98)
- 07. Homemaker Training And Supervision.** All homemakers shall receive an employee orientation from the provider before performing homemaker services. Orientation shall include the purpose and philosophy of homemaker services, review of homemaking skills, program regulations, policies and procedures, proper conduct in relating to clients, and handling of confidential and emergency situations involving a client. (7-1-98)
- a. CPR. Homemakers shall complete CPR training within three (3) months of hire and shall maintain certification thereafter. (7-1-98)
- b. In-Service Training. Providers shall annually provide homemakers with a minimum of ten (10) hours training, including CPR, for the purpose of upgrading their skills and knowledge. (7-1-98)
- c. Providers shall assure that homemakers who assist clients with bathing or hair washing receive specific training in performing these services prior to being assigned to a client. (7-1-98)
- d. Homemaker Supervision. All providers shall maintain written job descriptions for homemakers and shall have written personnel policies. All homemakers shall receive an annual performance evaluation. Homemaker supervisors shall be available to homemakers during work hours to discuss changes in client's circumstances, to resolve problems with schedules, or to respond to emergencies. (7-1-98)
- 08. Medical Emergencies.** In case of medical emergency, the homemaker shall immediately call 911 or the available local emergency medical service and, if appropriate, shall initiate CPR. (7-1-98)
- 09. Intake And Assessment.** (7-1-98)
- a. Normal Intake. Client contact shall be initiated within five (5) days of receipt of the referral, and an assessment shall be conducted within two (2) weeks of referral. (7-1-98)

**b.** Emergency Intake. Referrals indicating a crisis or potential crisis such as a marked decline in health or functional status, hospital discharge, or adult protection referral require a home visit be conducted to assess service need within one (1) working day of receipt of referral. If appropriate and available, a homemaker shall be assigned and service shall be initiated immediately. Such emergency homemaker service shall not exceed two (2) weeks' duration. Referrals assessed to need emergency service shall take precedence over applicants carried on a waiting list. (7-1-98)

**c.** Client Assessment. To determine the level of need and the type of service needed, ~~the provider an~~ AAA Case Manager or SST shall conduct an in-home assessment using the ICOA ~~UAF~~ approved assessment instrument. Service alternatives shall be discussed and referrals initiated as appropriate. (7-1-98)(\_\_\_\_)

**d.** Assessment Coordination. A client need not be re-assessed if an assessment completed within the past ninety (90) days by ~~another human services agency~~ the Department provides the same information as the ICOA's ~~UAF~~ approved assessment instrument and the client signs a Release of Information form. A client assessment shall be completed if no current assessment from another agency is available. In either case, a home visit shall be included in the process of developing the client's individual SSP. (7-1-98)(\_\_\_\_)

**10. Individual Supportive Service Plan (SSP).** A supportive service plan shall be signed by the client or legal representative prior to initiation of homemaker service. (7-1-98)(\_\_\_\_)

**a.** An approved plan shall reflect needed services to be provided by available family or others. (7-1-98)

**b.** Revision of the SSP. After services have been in place for one (1) month, the homemaker shall inform the supervisor of any modifications needed in the SSP, such as changes in hours of service or tasks to be performed. (7-1-98)

**c.** Reassessments of SSP. The SSP shall be updated at least annually. Any revisions to an SSP shall be initiated by the client prior to being put into effect. An SSP may be updated more often than annually if changes in a client's circumstances (i.e., functional or cognitive ability, living conditions, availability of supports) indicate a necessity for re-assessment. (7-1-98)

**042. CHORE.**

**01. Policy.** Chore service is designed to be provided to individuals who reside in their own homes or who occupy individual rental units. Chore services for those individuals who rent housing shall not provide repairs or maintenance that are contractually the responsibility of the property owner. (7-1-98)

**02. Service Eligibility.** Clients qualify to receive chore service if: (7-1-98)

**a.** They have been assessed to have ADL or IADL deficits which inhibit their ability to maintain their homes or yards; (7-1-98)

**b.** There are no available formal or informal supports; (7-1-98)(\_\_\_\_)

**c.** Chore service is needed to improve the client's safety at home or to enhance the client's use of existing facilities in the home. These objectives shall be accomplished through one-time or intermittent service to the client. (3-19-99)

**03. Service Priority.** Service provision shall be prioritized based on client's degree of functional impairment. (7-1-98)

**04. Program Intake And Eligibility Determination.** (7-1-98)

**a.** A home visit shall be made within five (5) work days of the referral. (7-1-98)

**b.** Client assessment shall be conducted Case Management utilizing the ~~UAI~~ ICOA approved assessment instrument. (7-1-98)(    )

**c.** If chore services are to be provided, the income declaration, service determination and work plan shall be completed prior to any work being done. The work plan shall be signed by both the client and the service provider. The work plan shall include a description of the work to be accomplished, the start and completion dates for such work, and a summary of any cost to the client (for labor or materials) the work shall incur. (7-1-98)

**d.** If the client is not eligible for services, appropriate referrals shall be made. (7-1-98)

**043. ADULT DAY CARE.**

**01. Policy.** Adult Day Care is designed to meet the needs of eligible participants whose functional or cognitive abilities have deteriorated. It is intended to provide relief for care providing family members. It is a comprehensive program which provides a variety of social and other related support services in a protective setting other than the participant's home during any part of a day, but for a duration of less than twenty-four (24) hours. (7-1-98)(    )

**02. Eligibility.** Individuals eligible for adult day care include: (7-1-98)

**a.** Those who have physical or cognitive disabilities affecting ADL or IADL functioning; (7-1-98)

**b.** Those capable of being transported; (7-1-98)

**c.** Those capable of benefiting from socialization, structured and supervised group-oriented programs; (7-1-98)  
and

**d.** Those capable of self-care with supervision or cueing. (7-1-98)

**03. Eligibility Determination.** An assessment using the ICOA approved assessment instrument shall be completed by the Area Agency on Aging (AAA) case management program. Highest priority shall be given to clients with the greatest degree of functional or cognitive impairment and then to clients lacking informal supports other than the regular caregiver. (    )

**034. Enrollment Agreement.** A signed enrollment agreement shall be completed ~~to~~ by the provider and the client, or his or her legal representative, and shall include: (7-1-98)(    )

**a.** Scheduled days of attendance; (7-1-98)

**b.** Services and goals of the ~~center~~ day care provider; (7-1-98)(    )

**c.** Amount of fees and when due; (7-1-98)

**d.** Transportation agreement, if appropriate; (7-1-98)

**e.** Emergency procedures; (7-1-98)

**f.** Release from liability (for field trips, etc.); (7-1-98)

**g.** Conditions for service termination; (7-1-98)

**h.** A copy of the center's policy; and (7-1-98)

**i.** An SSP. (7-1-98)(    )

**045. Staffing.** Staff shall be adequate in number and skills to provide essential services. (7-1-98)

**a.** There shall be at least two (2) responsible persons at the center at all times when clients are in attendance. One (1) shall be a paid staff member. (7-1-98)

**b.** Staff to client ratio shall be increased appropriately if the number of clients in day care increases or if the degree of severity of clients' functional or cognitive impairment increases. (7-1-98)

**c.** Staff persons counted in the staff to client ratio shall be those who spend the major part of their work time in direct service to clients. (7-1-98)

**d.** If the site administrator is responsible for more than one (1) site or has duties not directly related to adult day care, a program manager shall be designated for each site. (~~7-1-98~~)(\_\_\_\_)

**e.** Volunteers shall be included in the staff ratio only when they conform to the same standards and requirements as paid staff. (7-1-98)

**056. Services.** Adult Day Care Programs shall, at a minimum, provide the following services: (7-1-98)

**a.** Assistance with transferring, walking, eating, toileting; (7-1-98)

**b.** Recreation; (7-1-98)

**c.** Nutrition and therapeutic diets; and (7-1-98)

**d.** Exercise. (7-1-98)

**067. National Standards.** Adult Day Care Programs shall operate under guidelines established by the ICOA in accordance with national standards developed by the National Council on Aging's National Institute on Adult Day Care. (7-1-98)

**044. RESPITE.**

**01. Policy.** Respite is a Home and Community Based Service designed to encourage and support efforts of family caregivers to maintain functionally or cognitively impaired elderly relatives at home. The family caregiver may utilize respite care to meet emergency needs, to restore or maintain the physical and mental well being of family caregivers, and provide socialization for the client. Paid respite staff and volunteers provide companionship and/or personal care services when needed and appropriate for the homebound consumer/client in the absence of the caregiver. (~~3-30-01~~)(\_\_\_\_)

**02. Eligibility.** (7-1-98)

**a.** The client shall be homebound or have physical or cognitive impairments affecting ADL or IADL functioning to the extent twenty-four (24) hour care or supervision is required. (3-30-01)

**b.** Functionally or cognitively-impaired persons under sixty (60) years of age living in the household of a person sixty (60) years of age or older are eligible to receive Respite. (7-1-98)

**03. Service Limitations.** (3-30-01)

**a.** Personal care services incidental to in-home respite care may be performed when necessary by trained paid or volunteer workers to help facilitate caregiver relief. Respite workers may provide assistance with personal care only when such services are not otherwise available. (~~3-30-01~~)(\_\_\_\_)

**b.** Services requiring supervision of a registered nurse in accordance with the Nurse Practices Act shall not be performed by respite workers. (3-30-01)

**c.** The ~~contractor~~ Provider shall provide adequate and appropriate insurance coverage prior to assigning its respite employees or volunteers to assist clients with personal care tasks. (~~3-30-01~~)(\_\_\_\_)

- d. Respite care volunteers shall not transport clients. (7-1-98)

**04. Eligibility Determination.** An ~~UAF~~ assessment using the ICOA approved assessment instrument shall be completed by the Area Agency on Aging (AAA) case management program ~~(where case management is offered as a service by the AAA) for respite services exceeding three (3) visits or for a plan of care that exceeds two (2) weeks.~~ Highest priority shall be given to clients with the greatest degree of functional or cognitive impairment and then to clients lacking informal supports other than the regular caregiver. (3-30-01)(\_\_\_\_)

~~**05. Volunteer and Employee Recruitment, Training, And Supervision.**~~ (3-30-01)

~~**a. Job Descriptions.** All respite care programs shall have written job descriptions for employees and volunteers.~~ (3-30-01)

~~**b. Employee and Volunteer Screening.** All respite care programs shall accept applications from, interview, and screen all potential respite workers prior to employment.~~ (3-30-01)

~~**c. Orientation and Training.** All respite care employees and volunteers shall receive necessary orientation and training prior to placement.~~ (3-30-01)

~~**d. Respite Contractors.** Respite contractors shall be available to all respite workers to discuss changes in client circumstances and service provision.~~ (3-30-01)

~~**e. The regular caregiver is responsible for providing the appropriate caregiving instructions to the respite worker. The contractor shall insure that this meeting takes place between the caregiver and respite worker prior to providing services.**~~ (3-30-01)

**065. Medical Emergencies.** Employees and volunteers, in performance of their respite duties, shall in the case of an emergency immediately call 911 or the available emergency medical service. (3-30-01)

~~**07. Conduct Of Volunteers And Employees.** Rules relating to conduct of In-Home Service Workers, as set forth in Section 030, shall also apply to the conduct of respite workers.~~ (3-30-01)

**086. Client Outreach.** In coordination with Information & Assistance (I&A) and other referral sources, providers shall actively promote the program. (7-1-98)

**(BREAK IN CONTINUITY OF SECTIONS)**

**056. CASE MANAGEMENT.**

**01. Policy.** Case management is a consumer-driven, social model case management service that empowers individuals and their families to make choices concerning in-home, community-based or institutional long-term care services. (4-5-00)

**02. Qualifications.** Any person hired to fill the position of case management supervisor or case manager on or after July 1, 1998, shall have the qualifications identified in Subsections 010.08 and 010.10 of this chapter. (4-5-00)

**03. Service Priority.** Service priority is based on the following criteria: (7-1-98)

a. Require minimal assistance with one or more ADLs or IADLs; (7-1-98)

b. Require services from multiple health/social services providers; and (7-1-98)

c. Are unable to obtain the required health/social services for themselves; or (7-1-98)



d. Lack available ~~family or friends who~~ formal or informal supports that can provide the needed assistance. ~~(3-19-99)~~(\_\_\_\_)

**04. Screening And Referral.** (7-1-98)

a. The purpose of screening is to determine whether an older person needs service referral, assistance and client advocacy, or is a potential case management client who should receive a home visit and a comprehensive assessment. (4-5-00)

b. Screening shall be provided over the telephone. Screening may also be provided in the field, if appropriate. (7-1-98)

c. Screening shall usually be accomplished by the ~~I&A~~ Information and Assistance component, Adult Protection, provider, or by a community agency. However, case management may receive a direct referral of a potential client who has not been screened. In such cases, case management shall conduct screening or refer the potential client to the ~~I&A~~ Information and Assistance component for screening. ~~(4-5-00)~~(\_\_\_\_)

d. Pre-referral screening shall be done to determine if a potential client meets the criteria for receipt of Case Management Services. If the potential client meets the criteria and agrees to the referral, the client shall be referred for a comprehensive assessment utilizing the ~~UAF~~ ICOA approved assessment instrument. ~~(4-5-00)~~(\_\_\_\_)

e. Referrals who do not meet the criteria for Case Management Services shall be referred for other appropriate services. (4-5-00)

f. If notification was requested, the referral source shall be notified of case disposition following the screening. (7-1-98)

**05. Referral For Case Management.** Referrals shall be accepted from any source and may include eligible clients who are seeking or already receiving other services. (4-5-00)

**06. Working Agreements.** (7-1-98)

a. The Case Management Program shall enter into working agreements with primary community resources utilized by older persons. These resources may include AAA service providers, mental health centers, hospitals, home health agencies, legal services providers, and others. (4-5-00)

b. Working agreements shall address at least the following: (7-1-98)

i. How long each party shall take to respond to a request for service; (7-1-98)

ii. Release of information procedures; (7-1-98)

iii. Referral and follow-up procedures; (7-1-98)

iv. How each party shall notify the other of program changes and non-availability of service; and (7-1-98)

v. Procedures for working out problems between the two (2) parties. (7-1-98)

**07. Core Services.** Case management provides responsible utilization of available informal (unpaid) supports before arranging for formal (paid) services. The case manager and client, or client's legal representative, shall work together in ~~determining~~ developing an SSP to establish the frequency and duration of needed services. Services shall be arranged subsequent to approval by the client or legal representative. Services provided shall be recorded and monitored to ~~insure~~ ensure cost effectiveness and compliance with the SSP. ~~(4-5-00)~~(\_\_\_\_)

a. Client assessment shall be conducted during a home visit and shall utilize the ~~UAF~~ ICOA approved

assessment instrument.

(7-1-98)( )

**b.** A client need not be re-assessed if an assessment completed within the past ninety (90) days by ~~another human service agency~~ the Department provides the same information as the ~~ICOA's UAI approved~~ assessment instrument and the client signs a Release of Information form. (7-1-98)( )

**c.** SSP. Based on the information obtained during the client assessment and input obtained from family or professionals familiar with the client, the case manager shall develop a written SSP which shall include at least the following: (4-5-00)

i. Problems identified during the assessment; (7-1-98)

ii. Exploration of opportunities for family and other informal support involvement to be included in development of the SSP; (7-1-98)

iii. Overall goals to be achieved; (7-1-98)

iv. Reference to all services and contributions provided by informal supports including the actions, if any, taken by the case manager to develop the informal support services; (4-5-00)

v. Documentation of all those involved in the service planning, including the client's involvement; (7-1-98)

vi. Schedules for case management monitoring and reassessment; (4-5-00)

vii. Documentation of unmet need and service gaps; and (7-1-98)

viii. References to any formal services arranged, including fees, specific providers, schedules of service initiation, and frequency or anticipated dates of delivery. (7-1-98)

**d.** The SSP shall be reevaluated and updated by the case manager at least annually or when significant changes in the client's status occur; (4-5-00)

**e.** A copy of the current SSP shall be provided to the client or legal representative. (7-1-98)

**f.** Case files shall be maintained for three (3) years following service termination. (7-1-98)

**08. Other Supportive Services.** (7-1-98)

**a.** Necessary Services. Case managers shall assist clients to obtain available benefits, services, medically related devices, assistive technology, necessary home modifications, or other services required to fulfill unmet needs. (4-5-00)

**b.** Social-Emotional Support. Case managers shall link clients and their families with available services which facilitate life adjustments and bolster informal supports. (4-5-00)

**c.** Unmet Needs. To assist the AAA in future planning, case managers shall identify and document unmet client needs. (4-5-00)

**d.** Other ~~Informal~~ Resources. In all cases, other available formal and informal supports shall be explored prior to utilization of formal Aging Network services. (7-1-98)( )

**09. Structure And Role.** Case management is a centralized evaluator and arranger of services and provides those activities previously outlined under "Service Functions". AAAs shall be the direct provider for case management services. The AAA is responsible for the implementation of the case management program. (4-5-00)

**a.** Case managers shall coordinate service delivery between multiple agencies, individuals, and

others. (4-5-00)

**b.** ~~All providers of Case Management Services~~ Each AAA shall carry insurance covering case management services in the types and amounts which meet acceptable business and professional standards. (~~4-5-00~~)(\_\_\_\_)

**c.** Providers shall conduct an orientation program for all new case management employees which covers, at least, local resources available, case management service delivery, confidentiality of information, and client rights. (~~4-5-00~~)(\_\_\_\_)

**d.** In addition to the development and maintenance of the SSP, program and client records shall be maintained to provide an information system which assures accountability to clients, the Case Management Program, and funding agencies, and which supplies data for AAA planning efforts. The information system established shall comply with the following ICOA requirements: (4-5-00)

- i. NAPIS Registration Form; (7-1-98)
- ii. Completed ~~UAF~~ ICOA approved assessment instrument; (~~7-1-98~~)(\_\_\_\_)
- iii. Pertinent correspondence relating specifically to the client; (7-1-98)
- iv. A narrative record of client and community contacts, including problems encountered and SSP modifications developed in response; (7-1-98)
- v. Completed SSP, signed by the client; (7-1-98)
- vi. Written consent and acceptance of Case Management Services and release of information forms; (4-5-00)
- vii. Any other documentation necessary for systematic case management and SSP continuity. (4-5-00)

**10. Standards Of Performance.** AAAs shall assure case management meets the requirements for service neutrality. ~~An agency providing case management~~ AAAs shall not be a direct provider of other in-home services, other than Adult Protection, without proper written justification and approval by the ~~Director~~ Administrator of the ICOA. (~~4-5-00~~)(\_\_\_\_)

**11. Evaluation.** Evaluation is required to assure quality control. The AAA is responsible for monitoring case management activities for quality control and assurance. The AAA shall review client records to determine: (4-5-00)

- a.** Services are being provided as outlined in the SSP; (7-1-98)
- b.** Services are meeting the goals established in the SSP; (7-1-98)
- c.** The client is satisfied with the service(s) being provided; (7-1-98)
- d.** Changes in service have been authorized; (7-1-98)
- e.** The SSP continues to be cost-effective; (7-1-98)
- f.** Providers are noting observations and relating information about informal caregivers, additional actions required by the case manager, re-evaluations, amendments to the SSP, and client contacts. (4-5-00)

**12. Waiver.** The Director of the Idaho Commission on Aging may waive the requirement that Supportive Services Technicians must be employees of the AAA. In order to grant such a waiver, the AAA must submit a written request to the ICOA that includes appropriate justification. (4-5-00)

**IDAPA 15 - OFFICE OF THE GOVERNOR  
IDAHO COMMISSION ON AGING**

**15.01.02 - RULES GOVERNING AREA AGENCY ADULT PROTECTION PROGRAMS**

**DOCKET NO. 15-0102-0201**

**NOTICE OF RULEMAKING - PROPOSED RULE**

**AUTHORITY:** In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Section 67-5003, Idaho Code.

**PUBLIC HEARING SCHEDULE:** Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 16, 2002.

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

**DESCRIPTIVE SUMMARY:** The following is a nontechnical explanation of the substance and purpose of the proposed rulemaking:

The proposed rule changes include adding an additional definition, revising the investigative requirements to provide that AP workers immediately forward reports to the Department of Health and Welfare which are to be initially reported to the Department pursuant to Section 39-5303, Idaho Code and revising the duty of AP workers requiring them to make referrals to Law Enforcement in substantiated cases involving serious injury or serious imposition of rights.

**FEE SUMMARY:** the following is a specific description of the fee or charge imposed or increased: N/A

**NEGOTIATED RULEMAKING:** Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because of the general housekeeping and non-controversial nature of the proposed rule changes.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the proposed rule, contact Lois S. Bauer, Administrator, at (208) 334-3833.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 23, 2002.

DATED this 9th day of August, 2002.

Lois S. Bauer, Administrator  
Idaho Commission on Aging  
3380 Americana Terrace, Ste. 120  
Boise, ID 83706  
Phone: (208) 334-3833  
Fax: (208) 334-3033

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**THE FOLLOWING IS THE TEXT OF DOCKET NO. 15-0102-0201**

**002. WRITTEN INTERPRETATIONS.**

This agency may have written statements which pertain to the interpretation of the rules in this chapter. To obtain copies, contact the Idaho Commission on Aging by writing to the ~~Director~~ Administrator. (7-1-98)( )

(BREAK IN CONTINUITY OF SECTIONS)

**010. DEFINITIONS.**

Any item not specifically defined below shall have the same meaning as those defined in Idaho Code or IDAPA 15.01.01, "Rules Governing Idaho Senior Services Program". (7-1-98)

**01. Adult Protection (AP).** Statutory protections safeguarding vulnerable adults through investigations of reports alleging abuse, neglect, self-neglect or exploitation, and arrangements for the provision of emergency or supportive services necessary to reduce or eliminate risk of harm. (7-1-98)

**02. ~~Adult Protection~~ Supervisor.** AAA employee responsible for overseeing the provision of AP services. The Supervisor's duties include the direct supervision of AP staff, case assignments, the monitoring of case loads and documentation, and the maintenance of cooperative relationships with other agencies, organizations or groups serving vulnerable "at risk" populations. The employee shall be a social worker licensed to practice in Idaho. (~~7-1-98~~)( )

**03. ~~Adult Protection~~ Worker.** AAA employee providing AP services. The Worker's duties include the investigation of AP reports, client risk assessment and the development of plans for protective actions, supportive services and/or law enforcement referral. The employee shall be a social worker licensed to practice in Idaho. (~~7-1-98~~)( )

**04. Serious Injury Or Serious Imposition Of Rights.** A situation of substantiated abuse, or neglect involving serious mental or physical injury, or exploitation. (~~7-1-98~~)( )

**05. Protective Action Plan (PAP).** An individual plan addressing the remedial, social, legal, medical, educational, mental health or other services available to reduce or eliminate the risk of harm to a vulnerable adult. A PAP may include a Supportive Services Plan as defined in IDAPA 15.01.01, "Rules Governing Idaho Senior Services Program". ( )

**~~056.~~ Serious Physical Injury.** Includes, but is not limited to: (3-30-01)

**a. Severe ~~S~~skin bruising;** (~~3-30-01~~)( )

**b. Burns;** (3-30-01)

**c. Bone fractures;** (3-30-01)

**d. Decubitis ulcers;** ( )

**~~he.~~ Internal injuries;** (~~3-30-01~~)( )

**~~df.~~ Lacerations;** (3-30-01)

**~~eg.~~ Scratches Malnutrition resulting in serious medical consequences;** (~~3-30-01~~)( )

**~~fh.~~ Subdural hematoma; or** (~~3-30-01~~)( )

**~~gi.~~ Soft tissue swelling; ~~or~~** (~~3-30-01~~)( )

(BREAK IN CONTINUITY OF SECTIONS)

**031. INVESTIGATIVE REQUIREMENTS.**

**01. Review Of Allegations.** Upon receipt of a report of abuse, neglect or exploitation the AAAP worker shall conduct a review of the allegations of such report to determine whether: ~~(3-30-01)~~(\_\_\_\_)

**a.** The report was required to be made to ICOA or its contractors pursuant to Section 39-5303, Idaho Code; (3-30-01)

**b.** An emergency exists; and (3-30-01)

**c.** In cases involving resident-to-resident contact reported pursuant to Section 39-5303(A), Idaho Code, determine whether the case involves the sexual abuse, death, or serious physical injury jeopardizing the life, health, or safety of a vulnerable adult, or involves repeated physical or verbal altercations between residents, not resulting in observable physical or mental injury, but constituting an ongoing pattern of resident behavior that a facility's staff are unable to remedy through reasonable efforts. (3-30-01)

**02. Need For Investigation.** If, based on its review, the AP worker determines that a report involves a nursing facility defined in Section 39-1301(b), Idaho Code, and was required to be made to the Department pursuant to Section 39-5303, Idaho Code, the AAA shall immediately refer the report to the Department. If, based on its review, the AAA determines that ~~the~~ a report involving resident-to-resident contact was ~~not required~~ exempted from reporting by Section 39-5303A, Idaho Code, no further investigation need be conducted on such report. The AAA shall investigate all other reports. ~~(3-30-01)~~(\_\_\_\_)

**03. Vulnerability Determination.** Upon investigating an AP report, each AAAP worker shall determine whether an alleged victim is vulnerable as defined in Section 39-5302, Idaho Code. If the alleged victim is determined to be vulnerable as defined in Section 39-5302, Idaho Code, the AP worker shall continue the investigation. If the alleged victim is not vulnerable as defined in Section 39-5302, Idaho Code, the case shall be closed; however, the AP worker may refer the complaint to Information and Assistance, Case Management, the Ombudsman, Law Enforcement or other appropriate entity for investigation and resolution. ~~(3-30-01)~~(\_\_\_\_)

**04. Assessment Of Alleged Victim.** An alleged victim's vulnerability and associated risk factors shall be determined through the administration of ~~the UAT~~ an ICOA approved assessment instrument or other standardized supplemental forms. Initial interviews and assessments of an alleged victim shall be conducted by an AP worker. ~~(7-1-98)~~(\_\_\_\_)

**05. Investigative Findings.** An AP worker shall make one (1) of two (2) investigative findings upon completion of an AP investigation: ~~(7-1-98)~~(\_\_\_\_)

**a.** Substantiated. The AP worker determines, based upon a preponderance of the evidence, that a report is valid~~based on sufficient evidence.~~ ~~(7-1-98)~~(\_\_\_\_)

**b.** Unsubstantiated. A finding of unsubstantiated shall be made by the AP worker if he is unable, based upon a preponderance of the evidence, to substantiate a report. This finding requires the AP worker to close the case. ~~(7-1-98)~~

**i.** If an allegation is unsubstantiated, but the vulnerable adult has unmet service needs, the AP worker shall initiate appropriate referrals with consent of the vulnerable adult or his legal representative. ~~(7-1-98)~~(\_\_\_\_)

**ii.** ~~A case shall be closed if AP determines that an allegation has been made in bad faith or for a malicious purpose.~~ ~~(7-1-98)~~

**iii.** ~~A case shall be closed if AP determines that an alleged victim is not a vulnerable adult.~~ ~~(7-1-98)~~

**06. Protective Action Plan.** Upon substantiating a report of abuse, neglect or exploitation of a vulnerable adult, the AP worker shall develop and implement a PAP. (\_\_\_\_)

**067. Caretaker Neglect.** In investigating a report of caretaker neglect, the AP worker shall take into

account any deterioration of the mental or physical health of the caregiver resulting from the pressures associated with care giving responsibilities that may have contributed to the neglect of the vulnerable adult. In such cases, the AP worker shall make every effort to assist the primary caregiver in accessing program services necessary to reduce the risk to the vulnerable adult. In AP cases in which family members are experiencing difficulties in providing twenty-four (24) hour care for a functionally impaired relative, the AP worker shall make appropriate referrals to available community services to provide needed assistance. (7-1-98)(\_\_\_\_)

**078. Referral To Law Enforcement.** A substantiated report of abuse, neglect or exploitation ~~is presumed to have caused~~ a serious injury or a serious imposition of rights ~~or injury~~ to the alleged victim ~~and~~ shall be immediately referred to law enforcement pursuant to Section 39-5310, Idaho Code. Other substantiated reports of abuse, neglect or exploitation may be referred to law enforcement at the discretion of the AP worker. (7-1-98)(\_\_\_\_)

**089. Adult Protection And Ombudsman Coordination.** AAAs shall ensure that AP staff and the substate ombudsman maintain a written agreement establishing cooperative protocols in the investigation of complaints. (3-30-01)

**0910. Confidentiality.** All records relating to a vulnerable adult and held by an AAA are confidential and shall only be divulged as permitted pursuant to Sections 39-5307, 39-5304(5), 39-5308, Idaho Code, and IDAPA 15.01.01, Section 028, "Rules Governing Senior Services Program". (3-30-01)

**032. SUPPORTIVE SERVICES AND CASE CLOSURE.**

**01. Supportive Services Plan.** If determined necessary to reduce risk to a vulnerable adult, in substantiated cases and as part of a PAP, the AP worker shall assist Case Management in the development and ~~initiation~~ implementation of an SSP with the consent of the vulnerable adult or his legal representative. (3-19-99)(\_\_\_\_)

**02. Documentation Of Client Consent.** A vulnerable adult's consent, refusal to grant consent, or withdrawal of consent to an SSP shall be documented in the client case record. (7-1-98)(\_\_\_\_)

**03. Case Review.** The implemented SSP shall be reviewed annually or more frequently based on the circumstances of each individual case. (3-19-99)

**04. Case Closure.** AP shall close a case under the following circumstances: (7-1-98)

**a.** The AP worker shall close a substantiated case upon a determination that an initiated PAP, SSP or law enforcement involvement has successfully reduced the risk to the vulnerable adult. (7-1-98)(\_\_\_\_)

**b.** The AP worker may close a substantiated case when the vulnerable adult refuses to consent to receive services, or upon a determination that the AAA has implemented all measures available to reduce risk but has been unable to reduce risk. (\_\_\_\_)

**b.c.** The AP worker may close a case if another program or agency has agreed to assume responsibility to monitoring and reviewing implementation of an SSP. (7-1-98)(\_\_\_\_)

**d.** A case shall be closed if the AP worker determines that an allegation has been made in bad faith or for a malicious purpose. (\_\_\_\_)

**05. Suspense File.** Closed cases shall be maintained in a suspense file until formal action is completed by law enforcement and/or the courts in the following instances: (7-1-98)

**a.** Cases referred by an AP worker to law enforcement for criminal investigation and prosecution as determined necessary by the law enforcement agency. (7-1-98)(\_\_\_\_)

**b.** Cases referred by an AP worker for guardianship/conservatorship proceedings. (7-1-98)(\_\_\_\_)

**IDAPA 15 - OFFICE OF THE GOVERNOR  
IDAHO COMMISSION ON AGING**

**15.01.21 - RULES GOVERNING OLDER AMERICANS ACT SERVICES**

**DOCKET NO. 15-0121-0201**

**NOTICE OF RULEMAKING - PROPOSED RULE**

**AUTHORITY:** In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Section 57-5003, Idaho Code.

**PUBLIC HEARING SCHEDULE:** Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 16, 2002.

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

**DESCRIPTIVE SUMMARY:** The following is a nontechnical explanation of the substance and purpose of the proposed rulemaking:

The proposed rule changes revise the information and assistance services (I&A) provisions to provide that Area Agencies on Aging rather than service providers shall maintain records required by the Idaho Commission on Aging regarding I&A services provided in their area.

**FEE SUMMARY:** the following is a specific description of the fee or charge imposed or increased: N/A

**NEGOTIATED RULEMAKING:** Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because of the general housekeeping and non-controversial nature of the proposed rule changes.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the proposed rule, contact Lois S. Bauer, Administrator, at (208) 334-3833.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 23, 2002.

DATED this 9th day of August, 2002.

Lois S. Bauer  
Administrator  
Idaho Commission on Aging  
3380 Americana Terrace, Ste. 120  
Boise, ID 83706  
Phone: (208) 334-3833  
Fax: (208) 334-3033

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**THE FOLLOWING IS THE TEXT OF DOCKET NO. 15-0121-0201**

**021. INFORMATION AND ASSISTANCE.**

**01. Area-Wide Information and Assistance (I&A) Service.** Each AAA shall, ~~in accordance with~~



~~Section 306, OAA,~~ directly provide area-wide toll-free I&A telephone service. ~~(4-5-00)~~(\_\_\_\_)

**02. Client Screening.** I&A shall provide client screening and appropriate referrals. (4-5-00)

**03. Client Assessment.** All screened clients requiring assessment shall be referred to case management or adult protection as appropriate. (4-5-00)

**04. Reporting Requirements.** ~~I&A service providers~~ Each AAA shall maintain records as required by the ICOA, ~~and shall report to the ICOA the number of persons who use the service.~~ Such records shall include information about the purpose and date of incoming calls, referrals of callers to other service providers, and any follow-up information regarding the outcome of referrals. The AAA shall report to the ICOA the units of service attributable to the I&A services provided. ~~(7-1-98)~~(\_\_\_\_)

## IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE

### NOTICE OF LEGISLATIVE ACTION AFFECTING THE DEPARTMENT OF HEALTH AND WELFARE ADMINISTRATIVE RULE CHAPTERS 16.03.09, 16.03.15, AND 16.06.08

DOCKET NO. 16-0000-0201

#### NOTICE OF RULEMAKING - PROPOSED RULE

**AUTHORITY:** In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Section(s)56-203(b) and 56-203(g), Idaho Code.

**PUBLIC HEARING SCHEDULE:** Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 16, 2002.

**DESCRIPTIVE SUMMARY:** The following is a non-technical explanation of the substance and purpose of the proposed rule making:

House Bill 406 passed by the 2002 Legislature amended the Social Work Licensing Act and changed the titles of Licensed Certified Social Worker-Private Independent Practice (LCSW-P) to Licensed Clinical Social Worker (LCSW), and Licensed Certified Social Worker (LCSW) to Licensed Masters Social Worker (LMSW). Rules of the Idaho Counselor Licensing Board, IDAPA 24.15.01, were amended in 2002 to change the title of Licensed Professional Counselor-Private Practice (LPC-P) to Licensed Clinical Professional Counselor. These title changes are non-substantive and only subsections of rules with these titles are being amended and published.

The proposed rule text is in legislative format. Language the agency proposes to add is underlined. Language the agency proposes to delete is struck out. It is these additions and deletions to which the public comment should be addressed.

**NEGOTIATED RULEMAKING:** Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because amendments to the rules were non-substantive and were required because of 2002 Legislation.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the proposed rules, contact Ray Millar, at (208) 364-1844.

Anyone can submit written comments regarding this rulemaking. All written comments and data concerning the rule must be directed to the undersigned and delivered on or before October 23, 2002.

DATED this 7th day of August, 2002.

Sherri Kovach  
Administrative Procedures Coordinator  
DHW – Administrative Procedures Section  
450 West State Street - 10th Floor  
P.O. Box 83720  
Boise, Idaho 83720-0036  
(208) 334-5564 phone  
(208) 332-7347 fax  
kovachs@idhw.state.id.us e-mail

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THE FOLLOWING IS THE TEXT OF DOCKET NO. 16-0000-0201

**16.03.09 - RULES GOVERNING THE MEDICAL ASSISTANCE PROGRAM**

**SUBSECTIONS 079.06.b.iii. AND 079.06.b.iv.**

**079. INPATIENT PSYCHIATRIC HOSPITAL SERVICES.**

Pursuant to the philosophy and principles governing children's mental health services in Chapter 24, Title 16, Idaho Code, the Department will pay for medically necessary in-patient psychiatric hospital services in a free standing psychiatric hospital (IMD) or psychiatric unit of a general hospital for recipients under the age of twenty-one (21). Recipients must have a DSM IV diagnosis with substantial impairment in thought, mood, perception or behavior. Admissions must be authorized by the Department or its designee. Failure to request a preadmission or continued stay review in a timely manner will result in a retrospective review being conducted by the Department or its designee. If the retrospective review determines the admission is medically necessary, the Department will assess a penalty to the hospital as specified in Subsection 079.11. The primary care physician will be assessed a penalty for failure to request a preadmission review in a timely manner as specified in Subsection 079.12. A physician who provides hospital care but has no control over the admission, continued stay, or discharge of the recipient is not subject to this penalty.

(3-30-01)

**06. Individual Plan Of Care.** The individual plan of care is a written plan developed for the recipient upon admission to an in-patient psychiatric hospital to improve his condition to the extent that acute psychiatric care is no longer necessary. The plan of care must be developed and implemented within seventy-two (72) hours of admission, reviewed at least every three (3) days, and must:

(7-1-99)

b. Be developed by an interdisciplinary team capable of assessing the child's immediate and long range therapeutic needs, developmental priorities and personal strengths and liabilities, assessing the potential resources of the child's family, setting the treatment objectives, and prescribing therapeutic modalities to achieve the plan's objectives. The team must include at a minimum:

(7-1-99)

i. Board-certified psychiatrist (preferably with a specialty in child psychiatry); or (7-1-99)

ii. A licensed psychologist and a physician licensed to practice medicine or osteopathy; or (7-1-99)

iii. A physician licensed to practice medicine or osteopathy with specialized training and experience in the diagnosis and treatment of mental disease and a licensed clinical professional counselor ~~private practice~~; and  
(7-1-99)(\_\_\_\_\_)

iv. Either a ~~certified licensed, clinical or masters~~ social worker ~~private practice~~ or a registered nurse with specialized training or one (1) year's experience in treating mentally ill individuals (preferably children); or  
(7-1-99)(\_\_\_\_\_)

v. A licensed occupational therapist who has had specialized training or one (1) year of experience in treating mentally ill individuals (preferably children); and (7-1-99)

vi. The recipient and his parents, legal guardians, or others into whose care he will be released after discharge. (7-1-99)

**(BREAK IN CONTINUITY OF SECTIONS)**

**SUBSECTION 455.06**

**455. PROVIDER QUALIFICATIONS.**

All individuals providing services must meet at least one (1) of the following qualifications:

(3-15-02)

**06. ~~Certified Masters Social Worker, Clinical Social Worker.~~** A ~~certified masters~~ social worker (~~CLMSW~~) or ~~Certified clinical Social Worker, Private/Independent Practice (LCSW-P)~~, shall hold a license in accordance with Title 54, Chapter 32, Idaho Code and IDAPA 24.14.01, "Rules of the State Board of Social Work Examiners"; (3-15-02)(\_\_\_\_)

**(BREAK IN CONTINUITY OF SECTIONS)**

**SUBSECTIONS 466.04.e. AND 466.04.f.**

**466. CARE AND SERVICES PROVIDED.**

**04. Provider Qualifications.** Licensed, qualified professionals providing clinic services to eligible MA recipients must have, at a minimum, one (1) or more of the following qualifications: (3-30-01)

**e.** Licensed ~~Certified Masters~~ Social Workers, or Licensed ~~Certified Clinical~~ Social Workers, ~~Private/Independent Practice~~; or (7-1-99)(\_\_\_\_)

**f.** Licensed Clinical Professional Counselor—~~Private Practice Licensure (LPC-P)~~; or (7-1-99)(\_\_\_\_)

**(BREAK IN CONTINUITY OF SECTIONS)**

**SUBSECTIONS 468.03.c. AND 468.03.e.**

**468. EVALUATION AND DIAGNOSTIC SERVICES.**

**03. Qualified Therapist.** The medical psychosocial intake and plan development is reimbursable if conducted by a primary therapist who, at a minimum, has one (1) or more of the following qualifications: (3-30-01)

**c.** Licensed ~~Certified Masters~~ Social Worker, or Licensed ~~Certified Clinical~~ Social Worker, ~~Private/Independent Practice; Licensed Social Worker~~; or (7-1-99)(\_\_\_\_)

**e.** Licensed Clinical Professional Counselor—~~Private Practice Licensure (LPC-P)~~; or (7-1-99)(\_\_\_\_)

**(BREAK IN CONTINUITY OF SECTIONS)**

**SUBSECTIONS 469.06.e. AND 469.06.f.**

**469. TREATMENT SERVICES.**

**06. Provider Qualifications.** Licensed, qualified professionals providing psychotherapy services as set forth in Subsections 469.01 through 469.04 of these rules must have, at a minimum, one (1) or more of the following degrees: (3-15-02)

- e. Licensed ~~Certified~~ Masters Social Worker or Licensed ~~Certified~~ Clinical Social Worker—~~Private Practice~~; or (7-1-99)(\_\_\_\_)
- f. Licensed Clinical Professional Counselor—~~Private Practice Licensure~~; or (7-1-99)(\_\_\_\_)

**(BREAK IN CONTINUITY OF SECTIONS)**

**SUBSECTION 481.01**

**481. PROVIDER QUALIFICATIONS.**

All individual CM providers must be employees of an organized provider agency that has a valid CM provider agreement with the Department. The employing entity will supervise individual CM providers and assure that the following qualifications are met for each individual CM provider: (3-30-01)

**01. Staff Qualifications.** Must be a Psychiatrist, M.D., D.O.; or physician, M.D., D.O.; or Licensed Psychologist; or Psychologist Extender who is registered with the Bureau of Occupational Licenses; or social worker with a valid Idaho social work license issued by the Board of Social Work Examiners; or nurse, R.N.; or Licensed Clinical Professional Counselor—~~Private Practice Licensure~~; or a clinician employed by a state agency and who meets the requirements of the Division of Human Resources and the Personnel Commission; or an individual having a B.A./B.S. in a human services field and at least one (1) year experience with the target population. (~~3-30-01~~)(\_\_\_\_)

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**BREAK IN CHAPTERS**

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**16.03.15 - RULES AND MINIMUM STANDARDS GOVERNING SEMI-INDEPENDENT  
GROUP RESIDENTIAL FACILITIES FOR THE DEVELOPMENTALLY  
DISABLED OR MENTALLY ILL**

**SUBSECTION 003.11.c.**

**003. DEFINITIONS.**

**11. Mental Health Professional.** A person who is either: (3-15-85)

c. A licensed, licensed clinical, or licensed-~~certified~~ masters social worker who has either a bachelor's or master's degree in social work from an accredited program; or a bachelor's degree in a field other than social work and at least three (3) years social work experience under the supervision of a qualified social worker, and has either one (1) year specialized training in mental illness or one (1) year of experience in treating mental illness; or (~~3-15-85~~)(\_\_\_\_)

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**BREAK IN CHAPTERS**

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**16.06.08 - RULES AND MINIMUM STANDARDS FOR DUI EVALUATORS**

***SUBSECTION 400.01.d.***

**400. QUALIFICATIONS.**

**01. Qualifications Of Staff.** In order for the applicant to be licensed as a DUI evaluator, the applicant shall meet the following criteria: (3-10-88)

- d.** Is an Idaho Licensed, Licensed Clinical, or ~~Certified~~ Licensed Masters Social Worker; or  
(~~4-5-00~~)( )

## **IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE**

### **16.02.05 - RULES GOVERNING HUMAN IMMUNODEFICIENCY VIRUS (HIV) RELATED SERVICES**

#### **DOCKET NO. 16-0205-0201 (NEW CHAPTER)**

#### **NOTICE OF RULEMAKING - PROPOSED RULE**

**AUTHORITY:** In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Section(s) 56-1003, Idaho Code.

**PUBLIC HEARING SCHEDULE:** Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 16, 2002.

**DESCRIPTIVE SUMMARY:** The following is a non-technical explanation of the substance and purpose of the proposed rule making:

The Idaho STD/AIDS Program receives federal and state funding to provide HIV related services to eligible individuals. Administrative rules are being promulgated to help guide the planning and disbursement of funds for the federal Ryan White CARE Act and the state supported AIDS Drug Assistance Program (ADAP).

This proposed rulemaking is a new chapter that is being promulgated.

**NEGOTIATED RULEMAKING:** Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because these rules are being promulgated to comply with the federal Ryan White CARE Act. These rules are to clarify current practice and were not negotiated.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the proposed rules, contact Russell Duke at (208) 334-0670.

Anyone can submit written comments regarding this rulemaking. All written comments and data concerning the rule must be directed to the undersigned and delivered on or before October 23, 2002.

DATED this 21st day of August, 2002.

Sherri Kovach  
Administrative Procedures Coordinator  
DHW – Administrative Procedures Section  
450 West State Street - 10th Floor  
P.O. Box 83720  
Boise, Idaho 83720-0036  
(208) 334-5564 phone; (208) 332-7347 fax  
kovachs@idhw.state.id.us e-mail

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**THE FOLLOWING IS THE TEXT OF DOCKET NO. 16-0205-0201**

#### **IDAPA 16, TITLE 02, Chapter 05**

#### **16.02.05 - RULES GOVERNING HUMAN IMMUNODEFICIENCY VIRUS (HIV) RELATED SERVICES**

**000. LEGAL AUTHORITY.**

The Idaho Board of Health and Welfare is authorized under Section 56-1003, Idaho Code, to adopt rules concerning the administration of Human Immunodeficiency Virus (HIV) Related Services in compliance with the Ryan White CARE Act of 1990 as amended. ( )

**001. TITLE AND SCOPE.**

**01. Title.** These rules are cited as IDAPA 16.02.05, Idaho Department of Health and Welfare, "Rules Governing Human Immunodeficiency Virus (HIV) Related Services". ( )

**02. Scope.** These rules contain definitions, application process, eligibility requirements, and services available, for individuals with HIV. HIV related services provide treatment of HIV infection to eligible participants based upon available funds. The Department provides these services to improve the public health by treating people living with HIV, its complications, and side effects of HIV treatment in order to decrease the risk of clients with HIV infecting others. ( )

**002. WRITTEN INTERPRETATIONS.**

In accordance with Section 67-5201(19)(b)(iv), Idaho Code, the Department has no written interpretations that apply to rules of this chapter. ( )

**003. ADMINISTRATIVE APPEALS.**

All contested cases are governed by provisions of IDAPA 16.05.03, "Rules Governing Contested Case Proceedings and Declaratory Rulings". ( )

**004. CONFIDENTIALITY OF RECORDS.**

Any disclosure of information obtained by the Department is subject to the restrictions in Idaho law including those contained in Section 39-610, Idaho Code, and the Idaho Department of Health and Welfare Rules, IDAPA 16.05.01, "Rules Governing the Protection and Disclosure of Department Records". ( )

**005. OFFICE -- OFFICE HOURS -- MAILING ADDRESS -- STREET ADDRESS.**

**01. Office Hours.** Office hours are 8 a.m. to 5 p.m., Mountain Time, Monday through Friday, except holidays designated by the State of Idaho. ( )

**02. Mailing Address.** The mailing address for the business office is Idaho Department of Health and Welfare, P.O. Box 83720, Boise, Idaho 83720-0036. ( )

**03. Street Address.** The business office of the Idaho Department of Health and Welfare is located at 450 West State Street, Boise, Idaho 83720-0036. ( )

**006. INCORPORATION BY REFERENCE.** No documents have been incorporated by reference into these rules. ( )

**007. -- 009. (RESERVED).**

**010. DEFINITIONS.**

**01. AIDS.** AIDS means acquired immunodeficiency syndrome. ( )

**02. AIDS Drug Assistance Program (ADAP).** AIDS Drug Assistance Program is the Idaho Department of Health and Welfare's program that provides medications for the treatment of HIV, prevention and treatment of opportunistic infections associated with HIV. ( )

**03. Case Manager.** An individual qualified to assess needs of an eligible HIV participant. ( )

**04. Department.** Department means the Idaho Department of Health and Welfare. ( )



**05. Family.** Family means a group of individuals related by marriage and their dependents who are living as one household or economic group. ( )

**06. Federal Poverty Level.** Federal poverty level is the official income level for poverty adjusted by family size released by the Federal Office of Management and Budget every February. ( )

**07. HIV Related Services.** Those services identified in Section 200 of these rules. ( )

**08. Income.** Income means gross monthly income before deductions as set forth in Section 100 of these rules. ( )

**09. Medicaid.** Medicaid is a federal and state health program established by Title XIX of the Social Security Act. ( )

**10. Provider.** Health care professionals providing pharmaceutical, medical, dental or laboratory services to the participant. ( )

**11. Participant.** The person applying for or determined to be eligible for HIV related services. ( )

**011. -- 099. (RESERVED).**

**100. WHO IS ELIGIBLE FOR HIV RELATED SERVICES?**

The Department must approve the participant's application. Beginning the month the application is approved, the participant is eligible for twelve (12) months of HIV related services. The participant must reapply annually. ( )

**01. Participant Eligibility Requirements.** ( )

**a.** A medical diagnosis of HIV; and ( )

**b.** Must have an Idaho state address and reside in the state; and ( )

**c.** A monthly income as defined in Subsection 101.02 of these rules equal to or less than two hundred percent (200%) of the federal poverty level; and ( )

**d.** Not currently an inmate of any state correctional institution or will not be when their application is approved; and ( )

**e.** Does not have available resources from other sources sufficient to pay for HIV related services. ( )

**02. Income.** Income means gross monthly income before deductions. Income includes the following: ( )

**a.** Monetary compensation for services, including wages, salary, commission or fees; ( )

**b.** Net income from farm and on-farm self-employment; ( )

**c.** Unemployment Insurance compensation; ( )

**d.** Government civilian employee or military retirement or pension, including Veteran's payments; ( )

**e.** Private pensions or annuities; ( )

**f.** Alimony or child support payments; ( )

- g.** Regular contributions from persons not living in the household; ( )
- h.** Net royalties; ( )
- i.** Social Security benefits; ( )
- j.** Dividends or interest on savings or bonds, income from estates or trusts, or net rental income; ( )
- k.** Public assistance or welfare payments; and ( )
- l.** Other cash income would include cash amounts received or withdrawn from any source including savings, investments, trust accounts and other resources which are readily available to the family or participant. ( )

**03. Private Insurance Coverage.** If a participant has private insurance coverage that includes medication coverage, ADAP services for medications are available after the private insurance limitations are reached. ( )

**04. Change In Participant's Eligibility.** When the participant has a change in his eligibility requirements which includes private insurance coverage or income, he must inform the Department of those changes. ( )

**101. HOW DO PARTICIPANTS APPLY FOR ASSISTANCE FROM THE HIV RELATED SERVICES?**

**01. Application.** The participant must submit an application form provided by the Department. The application form will include information for determining each participant's eligibility and private insurance coverage. ( )

**02. Applicant Eligible For Other Programs.** The applicant may be eligible for services while waiting for a Medicaid eligibility determination or for services not provided by Medicaid. ( )

**03. Waiver Of Liability.** Each participant is required to sign a waiver of liability and acknowledgement that financial assistance for the purchase of medication and services is subject to limits of federal and state funding available for this program. ( )

**102. -- 199. (RESERVED).**

**200. WHAT SERVICES ARE AVAILABLE?**

**01. Ambulatory Outpatient Medical Care.** Ambulatory outpatient medical care to include provision of professional diagnostic and therapeutic services related to HIV provided by a physician, physician's assistant, clinical nurse specialist, or nurse practitioner in an outpatient community based setting. ( )

**02. Case Management Service.** Case management services provided by a qualified case manager. A case manager must have a bachelor's degree or extensive experience in a human services related field such as social work, psychology, nursing, counseling, or health education. The services will include: ( )

- a.** An assessment of the participant's needs and personal support systems; ( )
- b.** Development of an individual service plan; ( )
- c.** Coordination of services identified in the individual's service plan; ( )
- d.** Monitoring services received; and ( )
- e.** Re-evaluation of the participant's service plan periodically to make revisions to reflect the ( )

individual's needs. ( )

**03. Dental Care Service.** Dental care service includes diagnostic, prophylactic, and therapeutic services related to HIV provided by dentists, dental hygienists, and similar professional practitioners. ( )

**04. Drug Reimbursement Service.** Drug reimbursement includes ongoing service to pay for approved pharmaceutical medications related to HIV. This service includes ADAP and locally administered reimbursement programs. ( )

**05. Health Insurance Service.** Health insurance includes a program of financial assistance to maintain a continuity of health insurance or to receive medical benefits that covers HIV related services. Financial assistance for health insurance must be proven to be cost effective. ( )

**06. Mental Health Service.** Mental health therapy and counseling includes psychological and psychiatric treatment and counseling services, including individual and group counseling. The service must be provided by a mental health professional employed by or under contract with the Department's Mental Health Program. ( )

**07. Nutritional Service.** Nutritional services includes the provision of nutrition education and counseling. Nutritional supplements will also be covered if prescribed by a physician. ( )

**08. Substance Abuse Service.** Substance abuse treatment and counseling includes the provision of treatment to address substance abuse problems provided in an outpatient or residential health service setting under contract with the Department's Substance Abuse Program. ( )

**09. Transportation Service.** Transportation includes conveyance services provided to an individual in order to access HIV related services. ( )

**10. Limitations To Services.** ( )

**a.** Services and individual participant caps will be determined annually based upon available federal and state funding that has been allocated specifically for HIV related services. All services, with the exception of emergency services, must be included in a participant's individual service plan in order to be covered by Ryan White Title II funds. ( )

**b.** The HIV related services will not be provided through this program if the services are available through other state or federal programs. ( )

**c.** The Department may waive the limitations based on available funding, number of participant, and ability to maintain service throughout the year. ( )

**201. -- 219. (RESERVED).**

**220. HOW ARE FUNDS FOR THE HIV RELATED SERVICES DISTRIBUTED?**

**01. Distribution Of Funds.** The Department is responsible for the distribution of Ryan White Grant funds. Distribution of funds is based on the needs identified using a periodic needs assessment in each geographic region of Idaho. The amount allocated to each geographic region will be based upon HIV prevalence, participants served during the previous twelve (12) month period, and results of needs assessment information. ( )

**02. Scope Of Services.** The Department identifies services to be covered in each geographic region based on participant needs and services available. ( )

**03. Budgetary Limitations.** The scope of HIV related services is limited to federal or state funds appropriated for this purpose. ( )

**221. -- 229. (RESERVED).**

**230. WHAT MEDICATIONS MAY BE PAID FOR THROUGH THE HIV-AIDS DRUG ASSISTANCE PROGRAM (ADAP)?**

The Department determines which medications are eligible to be included under the ADAP. A list of currently eligible medications is available from the Department upon request. ( )

**231. -- 239. (RESERVED).**

**240. WHAT HAPPENS IF FALSE INFORMATION IS GIVEN?**

Providing false information may cause the Department to: ( )

**01. Discontinue Participation.** Discontinue participation within the Department's HIV related services. ( )

**02. Require Benefits Be Repaid.** Require benefits received from the Department's HIV related services be repaid. ( )

**03. Refer Information To Authorities.** Refer the matter to civil or criminal enforcement authorities. ( )

**241. -- 999. (RESERVED).**

**IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE**  
**16.03.04 - RULES GOVERNING THE FOOD STAMP PROGRAM IN IDAHO**

**DOCKET NO. 16-0304-0201**

**NOTICE OF RULEMAKING**

**PENDING RULE AND AMENDMENT TO TEMPORARY RULE**

**EFFECTIVE DATE:** The amendments to the temporary rule are effective August 18, 2002. These rules have been adopted by the agency and are now pending review by the 2003 Idaho State Legislature for final approval. The pending rule becomes final and effective upon adjournment of the legislature, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified 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 Section(s) 56-202b and 56-1004, Idaho Code.

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

Section 227 has been amended to comply with Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PL 104-193), also known as PRWORA. Section 232 is being amended to complete the list of supportive services for which Job Search Assistance Program (JSAP) funds must not be used. Subsections 05 through 09 were inadvertently omitted from Section 232 in the text of Docket No. 16-0304-0201 which was published as a Temporary and Proposed rule in the July 3, 2002 Bulletin, with an April 1, 2002 effective date. These transcriptional corrections to the rules are being amended pursuant to Section 67-5227, Idaho Code.

Only the sections that have changes are printed in this bulletin. The original text of the proposed rules was published in the July 3, 2002 Administrative Bulletin, Volume 02-7, pages 141 through 147.

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning the pending rule, contact Phil Gordon at (208) 334-5818.

DATED this 8th day of August, 2002.

Sherri Kovach  
Administrative Procedures Coordinator  
DHW - Legal Services Division  
450 West State Street - 10th Floor  
P.O. Box 83720, Boise, Idaho 83720-0036  
(208) 334-5564 phone; (208) 332-7347 fax  
kovachs@idhw.state.id.us e-mail

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**IDAPA 16, TITLE 03, Chapter 04**

**RULES GOVERNING THE FOOD STAMP PROGRAM IN IDAHO**

There are substantive changes from the proposed rule text.

Only those sections that have changed from the original proposed text are printed in this Bulletin following this notice.

The text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 02-7, July 3, 2002, pages 141 through 147.

This rule has been adopted as a pending rule by the Agency and is now pending review and approval by the 2003 Idaho State Legislature as a final rule.

THE FOLLOWING IS THE AMENDED TEXT OF DOCKET NO. 16-0304-0201

SECTION 227 AND SUBSECTION 227.04.c.

**227. EXEMPTIONS FROM JSAP ~~FOR HOUSEHOLD MEMBERS NOT PARTICIPATING IN TAFI.~~**

Exemptions from JSAP ~~for household member not participating in the TAFI program~~ are listed in Subsections 227.01 through 227.12 of these rules. ~~(4-1-02)F~~(8-18-02)T

**04. Students Enrolled Half Time.** A person who is eighteen (18) years or older is exempt from JSAP if: (4-1-02)T

**c.** He remains enrolled during normal periods of class attendance, vacation, and recess. If he graduates, enrolls less than half-time, is suspended or expelled, drops out, or does not intend to register for the next normal school term (excluding summer), he must register for work unless exempt for another reason. (8-18-02)T

(BREAK IN CONTINUITY OF SECTIONS)

SUBSECTIONS 232.05 through 232.09

**232. SUPPORTIVE SERVICES.**

Supportive services for JSAP participants that involve a cost to JSAP participants may be paid by the Department. The maximum monthly supportive service payment is twenty-five dollars (\$25). JSAP supportive services must not be used for any service available through other resources. Also, JSAP funds must not be used for any Supportive Services listed in Subsections 232.02 through 232.04 of these rules. ~~(4-1-02)F~~(4-1-02)T

**05. Services For A Child.** Services for a child, including counseling, or purchases for a child, including clothing and school supplies. (4-1-02)T

**06. Credit Card Accounts.** Payments on a participant's credit card account(s). (4-1-02)T

**07. Household Items.** Furniture or major home appliances. (4-1-02)T

**08. Fines.** Any type of fine(s). (4-1-02)T

**09. Professional Or Trade Union Dues.** Any type of professional or trade union dues. (4-1-02)T

## **IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE**

### **16.03.08 - RULES GOVERNING TEMPORARY ASSISTANCE FOR FAMILIES IN IDAHO (TAFI)**

**DOCKET NO. 16-0308-0201**

#### **NOTICE OF RULEMAKING**

#### **PENDING RULE AND AMENDMENT TO TEMPORARY RULE**

**EFFECTIVE DATE:** The amendments to the temporary rule are effective April 1, 2002. These rules have been adopted by the agency and are now pending review by the 2003 Idaho State Legislature for final approval. The pending rule becomes final and effective upon adjournment of the legislature, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified 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 Section(s) 56-1004 and 56-203B, Idaho Code.

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

The words "service" and "plan" were capitalized in Subsection 370.03. The word "services" was changed to "Assistance" in Subsection 370.05. The proposed rules have been amended pursuant to Section 67-5227, Idaho Code.

Only the sections that have changes are printed in this bulletin. The original text of the proposed rules was published in the July 3, 2002 Administrative Bulletin, Volume 02-7 pages 150 through 155.

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning the pending rule, contact Phil Gordon at (208) 334-5818.

DATED this 8th day of August, 2002.

Sherri Kovach  
Administrative Procedures Coordinator  
DHW - Legal Services Division  
450 West State Street - 10th Floor  
P.O. Box 83720  
Boise, Idaho 83720-0036  
(208) 334-5564 phone; (208) 332-7347 fax  
kovachs@idhw.state.id.us e-mail

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### **IDAPA 16, TITLE 03, Chapter 04**

#### **RULES GOVERNING TEMPORARY ASSISTANCE FOR FAMILIES IN IDAHO (TAFI)**

**There are substantive changes from the proposed rule text.**

Only those sections that have changed from the original proposed text are printed in this Bulletin following this notice.

The text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 02-7, July 3, 2002, pages 150 through 155.

This rule has been adopted as a pending rule by the Agency and is now pending review and approval by the 2003 Idaho State Legislature as a final rule.

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THE FOLLOWING IS THE AMENDED TEXT OF DOCKET NO. 16-0308-0201

*SUBSECTIONS 370.03 AND 370.05*

**370. CAREER ENHANCEMENT ASSISTANCE ELIGIBILITY CRITERIA.**

The individual must meet the criteria in Subsections 370.01 through 370.14.

(4-1-02)

**03. Eligible Individual.** The individual must not have failed, without good cause, to comply with a previous Career Enhancement ~~Service~~ Plan. The individual must be a parent or a caretaker relative with a dependant child in the home, a pregnant woman; or a non-custodial parent legally responsible to provide support for a dependent child who does not reside in the same home. ~~(3-30-01)~~(4-1-02)T

**05. Income Limit.** The family must meet the income limit for only the first month of the service to receive Career Enhancement ~~services~~ Assistance. The family's income must be below two hundred percent (200%) of the federal poverty guidelines, or the family must be eligible for Food Stamps, Medicaid or ICCP. For non-custodial parents, the family's income must be below four hundred percent (400%) of the federal poverty guidelines, or the family must be eligible for Food Stamps or Medicaid. ~~(3-30-01)~~(4-1-02)T



**IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE**  
**16.03.09 - RULES GOVERNING THE MEDICAL ASSISTANCE PROGRAM**

**DOCKET NO. 16-0309-0202**

**NOTICE OF CORRECTION TO PENDING RULE**

**CORRECTION:** This notice corrects an error that occurred during the publication of the pending rule. This correction is being done in conjunction with the Office of the Administrative Rules Coordinator.

**EFFECTIVE DATE:** This rule has been adopted by the agency and is now pending review by the 2003 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, rejected, amended or modified 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 67-5228, Idaho Code, notice is hereby given that this agency is correcting a transcriptional error in conjunction with the Office of the Administrative Rules Coordinator. The action is authorized pursuant to Section 58-104, Idaho Code.

**DESCRIPTIVE SUMMARY:** The following is a concise explanatory statement of the reasons for rescinding the temporary rule.

The pending rules were adopted with an amendment to Section 152, which deleted Subsection 152.02.a. Section 151 referenced Subsections in Section 152 that subsequently were renumbered because of the deletion. These changes are to correct the references to the subsections in Section 152 of these rules. The temporary and proposed docket published in the May 1, 2002 Administrative Bulletin, Volume 02-5, pages 45 through 48 and the pending rule docket with an amendment to the temporary rule published in the August 7, 2002, Volume 7-02, pages 39 through 41.

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning this correction, contact Arla Farmer at (208) 364-1958.

DATED this 20th day of August, 2002.

Sherri Kovach, Administrative Procedures Coordinator  
DHW – Administrative Procedures Section  
450 West State Street, 10th Floor  
P.O. Box 83720, Boise, Idaho 83720-0036  
(208) 334-5564 phone, (208) 332-7347 fax  
kovachs@idhw.state.id.us e-mail

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**THE FOLLOWING IS THE CORRECTION TO THE PENDING RULE DOCKET NO. 16-0309-0202**

**151. NON-EMERGENCY TRANSPORTATION.**

**02. Exceptions.** Despite the preceding rules, Medicaid will cover transportation services under the following circumstances: (3-15-02)

**b.** If the trip distance is less than twenty-one (21) miles, prior approval for non-commercial non waiver transport is not necessary. For Subsection 151.02, a trip is the distance a transporter carries a client in the course of a day. Therefore, the total mileage of a round-trip transport that takes place within one (1) day will be considered in determining whether this exception applies. Even though prior approval is not required, the transporter shall maintain all records as described in Subsection 152.02.~~4c.~~ of these rules. This exception is not available to commercial providers. (~~1-1-02~~)F(1-1-02)T

**IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE**  
**16.03.09 - RULES GOVERNING THE MEDICAL ASSISTANCE PROGRAM**

**DOCKET NO. 16-0309-0207**

**NOTICE OF RULEMAKING - PENDING RULE**

**EFFECTIVE DATE:** This rule has been adopted by the agency and is now pending review by the 2003 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, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

**AUTHORITY:** In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 56-203(b) and 56-203(g), Idaho Code.

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

The pending rules are being adopted as proposed. The original text of the proposed rules was published in the July Administrative Bulletin, Volume 02-7, pages 158 through 168.

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning the pending rule, contact Mary Wells at (208) 364-1955.

DATED this 21st day of August, 2002.

Sherri Kovach  
Administrative Procedures Coordinator  
DHW – Administrative Procedures Section  
450 West State Street - 10th Floor  
P.O. Box 83720, Boise, Idaho 83720-0036  
(208) 334-5564 phone; (208) 332-7347 fax  
kovachs@idhw.state.id.us e-mail

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**IDAPA 16, TITLE 03, Chapter 09**

**RULES GOVERNING MEDICAL ASSISTANCE**

**There are no substantive changes from the proposed rule text.**

**The complete text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 02-7, July 3, 2002, pages 158 through 168.**

**This rule has been adopted as a pending rule by the Agency and is now pending review and approval by the 2003 Idaho State Legislature as a final rule.**

**IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE**  
**16.03.09 - RULES GOVERNING THE MEDICAL ASSISTANCE PROGRAM**

**DOCKET NO. 16-0309-0210**

**NOTICE OF RULEMAKING - PROPOSED RULE**

**AUTHORITY:** In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has proposed rulemaking. The action is authorized pursuant to Section(s) 56-202(b) and 56-203(g), Idaho Code.

**PUBLIC HEARING SCHEDULE:** Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 16, 2002.

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

**DESCRIPTIVE SUMMARY:** The following is a statement in nontechnical language of the substance of the proposed rules:

This rule change affects two sections in the Medical Assistance Program. Both sections have been revised to ensure that the correct term "participant" is used consistently throughout the rule. The term "client" and "patient" has been replaced with "participant" where necessary. Both sections have changes in format to enable the rule to be more understandable.

Section 146 reduces the cost of nursing visits by leaving the decision for a review visit to a participant up to the professional judgment of the Regional Medicaid Services program. The nursing visit was changed from mandatory to optional. A Registered Nurse visit every ninety (90) days is not required for all participants and can be an unnecessary cost.

Section 149 was revised to add more clarity and consistency. A table replaces cumbersome text to direct how a Personal Needs Allowance is determined. Redundant sections were revised or deleted. A subsection was added to address over and under payments to the participants.

The proposed rule text is in legislative format. Language the agency proposes to add is underline. Language the agency proposes to delete is struck out. It is these additions and deletions to which the public comment should be addressed.

**NEGOTIATED RULEMAKING:** Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not needed due to the nature of this rule change. Policies that were already being enacted were clarified in this rule change.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning these proposed rules, contact Chris Cuellar at (208) 364-1891.

Anyone can submit written comments regarding these rules. All written comments and data concerning the rule must be directed to the undersigned and delivered on or before October 23, 2002.

DATED this 12th day of August, 2002.

Sherri Kovach, Administrative Procedures Coordinator  
DHW - Legal Services Division  
450 West State Street - 10th Floor  
P.O. Box 83720, Boise, Idaho 83720-0036  
(208) 334-5564 phone / (208) 332-7347 fax  
kovachs@idhw.state.id.us e-mail

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**THE FOLLOWING IS THE TEXT OF DOCKET NO. 16-0309-0210**

**146. PERSONAL CARE SERVICES.**

Pursuant to Sections 39-5601 through 39-5607, Idaho Code, it is the intention of the Department to provide personal care services to eligible participants in their personal residence in order to prevent unnecessary institutional placement, to provide for the greatest degree of independence possible, to enhance the quality of life, to encourage individual choice, and to maintain community integration. For a participant to be eligible for personal care services, the Department must find that the participant requires personal care services due to a medical condition which impairs their physical or mental function or independence and must find the participant capable of being maintained safely and effectively in their own home or residence with personal care services. (3-30-01)

**01. Care And Services Provided. (1-1-91)**

**a.** Medically oriented tasks having to do with a ~~patient's~~ participant's physical or functional requirements, as opposed to housekeeping or skilled nursing care, provided in the ~~patient's~~ participant's home. Such services may include, but are not limited to: (~~1-1-91~~)(\_\_\_\_)

i. Basic personal care and grooming to include bathing, care of the hair, assistance with clothing, and basic skin care, but excluding the irrigation or suctioning of any body cavities which require sterile procedures and the application of dressings, involving prescription, medication, and aseptic techniques; and (1-1-91)

ii. Assistance with bladder or bowel requirements which may include helping the ~~patient~~ participant to and from the bathroom or assisting the ~~patient~~ participant with bedpan routines, but excluding insertion or sterile irrigation of catheters; and (~~5-1-87~~)(\_\_\_\_)

iii. Assisting the ~~patient~~ participant with medications which are ordinarily self-administered, when ordered by a physician, but excluding the giving of injections or fluids into the veins, muscles, or skin, or administering of medicine; and (~~7-15-83~~)(\_\_\_\_)

iv. Assistance with food, nutrition, and diet activities to include the preparation of meals if incidental to medical need, as determined by a physician; and (7-15-83)

v. The continuation of active treatment training programs in the home setting to increase or maintain ~~elient~~ independence for the developmentally disabled ~~elient~~ participant. (~~5-1-87~~)(\_\_\_\_)

vi. Non-nasogastric gastrostomy tube feedings may be performed if authorized prior to implementation by the Department's Regional Medicaid Unit and if the following requirements are met: (2-19-92)

(1) The task is non-complex and can be safely performed in the given ~~patient~~ participant care situation; and (~~2-19-92~~)(\_\_\_\_)

(2) A registered nurse has assessed the ~~patient's~~ participant's nursing care needs and has developed a written standardized procedure for gastrostomy tube feedings, which is individualized for the ~~patient's~~ participant's characteristics and needs; and (~~2-19-92~~)(\_\_\_\_)

(3) Persons to whom the procedure can be delegated are identified by name. The registered nurse must provide proper instruction in the performance of the procedure, supervise a return demonstration of safe performance of the procedure, state in writing strengths and weaknesses of the person performing the procedure, and evaluate the performance of the procedure at least monthly; and (2-19-92)

(4) Any change in the ~~patient's~~ participant's status or problem relative to the procedure must be reported immediately to the registered nurse; and (~~2-19-92~~)(\_\_\_\_)

(5) The individualized procedure, the supervised performance of the procedure, and follow-up evaluation of the performance of the procedure must be documented in writing by the supervising RN, and must be readily available for review, preferably with the ~~patient's~~ participant's record. (~~2-19-92~~)(\_\_\_\_)

(6) Medication previously received could be given by the personal care provider through the non-

nasogastric tube unless contraindicated. (2-19-92)

vii. In addition to performing at least one (1) of the services listed in Subsections 146.01.a.i. through 146.01.a.vi., the provider may also perform the following services: (2-19-92)

(1) Such incidental housekeeping services essential to a ~~patient's~~ participant's comfort and health, to include the changing of bed linens, rearranging furniture to enable the ~~patient~~ participant to move about more easily, laundry and room cleaning when incidental to the ~~patient's~~ participant's treatment. Excluded are cleaning and laundry for any other occupant of the ~~patient's~~ participant's residence; and (~~2-19-92~~)( )

(2) Accompanying the ~~patient~~ participant to clinics, physician office visits, or other trips which are reasonable for the purpose of obtaining medical diagnosis or treatment; and (~~7-15-83~~)( )

(3) Shopping for groceries or other household items required specifically for the health and maintenance of the ~~patient~~ participant. (~~2-19-92~~)( )

**b. Service Limitations.** The maximum amount of personal care services available to an eligible participant is as follows: (3-30-01)

i. For adults receiving services under the State Medicaid Plan option, service delivery is limited to a maximum of sixteen (16) hours per week per participant. (3-30-01)

ii. For individuals under the age of eighteen (18) who meet medical necessity criteria under EPSDT, the eligible participant may receive up to twenty-four (24) hours per day of service delivery under the State Plan option. (3-30-01)

**02. Place Of Service Delivery.** Personal Care Services (PCS) may be provided only in a participant's personal residence. The following living situations are specifically excluded as a personal residence for the purpose of these rules: (3-30-01)

**a.** Certified nursing facilities (NF) or hospitals; and (1-1-91)

**b.** Licensed Intermediate Care Facility for the Mentally Retarded; and (7-15-83)

**c.** Intensive Treatment Facility For Children as described in IDAPA 16.06.01, "Rules Governing Family and Children's Services," Section 620. (4-5-00)

**d.** A home receiving payment for specialized foster care, professional foster care, or group foster care. (4-5-00)

**03. Services Delivered Following A Written Plan.** (7-15-83)

**a.** All PCS are provided based on a written plan of care which is the responsibility of the Personal Assistance Agency and the participant to prepare and is based on: (3-30-01)

i. The physician's or authorized provider's information including the orders; and (3-30-01)

ii. The nurse's or QMRP's assessment and observations of the ~~patient~~ participant; and (~~3-30-01~~)( )

iii. Information elicited from the participant. (3-30-01)

**b.** The plan of care must include all aspects of personal care necessary to be performed by the PCS provider, including the amount, type, and frequency of such services. (7-15-83)

**c.** The plan of care will be signed and approved by the physician or authorized provider, prior to the initiation of the services by the PCS provider. (3-30-01)

d. The plan must be revised and updated based upon treatment results or a ~~patient's~~ participant's changing profile of needs as necessary, but at least annually. (7-15-83)(\_\_\_\_)

**04. Physician/Authorized Provider Supervision Of The Service.** All Personal Care Services are provided under the order of a licensed physician or authorized provider. The physician or authorized provider must: (3-30-01)

a. Certify, in writing, that the services are medically necessary. (3-30-01)

b. Order all services delivered by the PCS provider. Such orders are signed and dated by the physician or authorized provider and include, at a minimum, his signature and date of approval on the participant's plan of care. (3-30-01)

c. Update the plan of care, including his signature and date of approval, as necessary, but at least annually. (1-1-91)

d. Recommend institutional placement of the participant if he identifies that PCS, in combination with other community resources, are no longer sufficient to ensure the health or safety of the participant. (3-30-01)

**05. Service Supervision.** (1-1-91)

a. A registered nurse or a QMRP who is not functioning as the personal care provider may oversee the delivery of PCS. The need for such oversight will be identified by the RMU, and when received will include: (3-30-01)

i. In conjunction with the PAA and attending physician or authorized provider or the RMU or its contractor the development of a plan of care for the participant; and (3-30-01)

ii. Review of the treatment given by the personal care provider through a review of the participant's PCS record as maintained by the provider and on-site interviews with the ~~patient~~ participant at least every ninety (90) days; and (3-30-01)(\_\_\_\_)

iii. Reevaluation of the plan of care as necessary and obtaining physician or authorized provider approval on all changes. The entire plan is reviewed at least annually; and (3-30-01)

iv. Immediate notification of the physician or authorized provider of any significant changes in the participant's physical condition or response to the service delivery; and (3-30-01)

v. Provides an on-site visit to the participant to evaluate changes of condition when requested by the PCS provider, QMRP supervisor, PAA, case manager, or participant. (3-30-01)

b. In addition to, or instead of the supervisory visit by the registered nurse, all clients who are developmentally disabled, other than those with only a physical disability, as determined by the Regional Medicaid Unit may receive oversight of service delivery by a Qualified Mental Retardation Professional (QMRP) as defined in 42 CFR 483.430. Such oversight will include: (3-30-01)

i. In conjunction with the attending physician or authorized provider, the QMRP may assist in the development of the plan of care for the participant for those aspects of active treatment which are provided in the home by the PCS attendant. (3-30-01)

ii. Review of the care and/or training given by the personal care provider through a review of the participant's PCS record as maintained by the provider, and on-site interviews with the ~~client~~ participant at least every ninety (90) days. (3-30-01)(\_\_\_\_)

iii. Reevaluation of the plan of care as necessary, but at least annually. (1-1-91)

iv. An on-site visit to the participant to evaluate any change of condition when requested by the PCS provider, PAA, nurse supervisor, case manager, or participant. (3-30-01)

**06. PCS Provider Qualifications.** (1-1-91)

a. Persons providing PCS: Individuals may provide PCS either as personal assistance agency employees, or employees of record of a personal assistance agency functioning as a fiscal intermediary (FI), if they have at least one (1) of the following qualifications: (3-30-01)

i. Registered Nurse, RN: A person currently licensed by the Idaho State Board of Nursing as a registered nurse; or (7-15-83)

ii. Licensed Practical Nurse, L.P.N.: A person currently licensed by the Idaho State Board of Nursing as a licensed practical nurse; or (7-15-83)

iii. Nursing Assistant: All nursing assistants who provide PCS to ~~eligible individuals~~ participants must appear on the Idaho State Board of Nursing's registry of certified nurse aides (CNA) or other training program approved by the Department. An individual who has completed a certified nurse aide training program may be granted provisional provider status for up to ninety (90) days by the Department to allow for the completion of competency testing and registry. (~~3-30-01~~)(\_\_\_\_)

iv. Specially Qualified Assistant. A person who has documented training to meet the needs of a specific individual by a personal assistance agency, the participant, or the participant's family. Such training must be provided before services are delivered or reimbursed by Medicaid. (3-30-01)

b. All persons who care for participants with a developmental disability other than those with only physical disabilities as identified by the Department's RMU will, in addition to the completion of the requirements of Subsection 146.06.a.iii., have completed one (1) of the Department approved developmental disabilities training courses, or have experience in working directly providing services to people with developmental disabilities. Providers who are qualified as QMRPs will be exempted from the Department approved developmental disabilities training course. Each region may grant temporary approval to an individual who meets all qualifications except for the required developmental disabilities training course or experience to become a PCS provider to a participant with developmental disability if all of the following conditions are met: (3-30-01)

i. The RMU has verified that there are no qualified providers reasonably available to provide services to ~~client~~ the participant requesting services; and (~~7-1-94~~)(\_\_\_\_)

ii. The provider must be enrolled in the next available training course with a graduation date no later than six (6) months from the date of the request for temporary status; and (7-1-94)

iii. The supervising QMRP makes monthly visits until the provider graduates from the training program. (7-1-94)

c. Personal Assistance Agency providers must submit to the Department documentation of their worker's compensation and professional liability insurance coverage. In the case of worker's compensation, agencies will direct their sureties to provide a certificate of insurance to the Department. Termination of either type of insurance by the provider will be cause for termination of Provider status by the Department. Personal Assistance Agency providers will keep copies of employee health screens in their files for review by the Department as necessary. Providers' employees of fact or record will subject themselves to a criminal history check conducted by the Department. If no criminal history is indicated on the Self-Declaration form, individuals may be authorized by the Region to provide services on a provisional basis while awaiting the results of the fingerprinting process. Such authorization may be provided after the ~~client's~~ participant's safety is assured by the responsible Region. (~~3-30-01~~)(\_\_\_\_)

d. Individuals providing supervision to PCS attendants. (1-1-91)

i. RN supervisors will have a current Idaho professional nursing license (RN). (1-1-91)

ii. Qualified Mental Retardation Professional (QMRP) supervisors will be qualified by education and training as required in 42 CFR 483.430. (1-1-91)

e. Provider agency. A personal assistance agency which has a signed provider agreement with the Department and is capable of and responsible for all of the following: (3-30-01)

i. Recruitment, hiring, firing, training, supervision, scheduling and payroll for personal care attendants and the assurance of quality service provided by the personal care attendants; and (1-1-91)

ii. Participation in the provision of worker's compensation, unemployment compensation and all other state and federal tax withholdings; and (8-5-91)

iii. Maintenance of liability insurance coverage; and (1-1-91)

iv. Provision of a licensed professional nurse (RN) or, where applicable, a QMRP supervisor to develop and complete plans of care and provide ongoing supervision of a participant's care; and (3-30-01)

v. Assignment of a qualified personal care attendant(s) to eligible participants after consultation with and approval of such participants; and (3-30-01)

vi. Assure that all PCS attendants meet the qualifications in Subsection 146.06.a.; and (12-31-91)

vii. Billing Medicaid for services approved and authorized by the RMU; and (1-1-91)

viii. Make referrals for PCS eligible participants for case management services when a need for such services is identified; and (3-30-01)

ix. Conduct such criminal background checks and health screens on new and existing employees as required in Subsection 146.10 and 146.11. (12-31-91)

f. Fiscal intermediaries services. Independent living services provided by an entity which has a signed Personal Assistance provider agency agreement with the Department and meets the requirements of Subsection 669.03. (3-30-01)

g. When care is provided in the provider's home, acquire the appropriate level of child foster or day care licensure or certification. The provider must be licensed as defined in Section 39-1213, Idaho Code, for care of individuals under eighteen (18) years of age. Noncompliance with the above standards will be cause for termination of the provider's provider agreement. (3-30-01)

h. A PCS attendant cannot be a relative of any participant to whom the provider is supplying services. (3-30-01)

i. For the purposes of this subsection, a relative is defined as a spouse or a parent of a minor child. (1-1-91)

ii. Nothing in this subsection shall be construed to prohibit a relative from providing PCS where Medicaid is not the payment source for such services. (1-1-91)

**07. Participant Eligibility Determination.** An eligible participant may qualify for PCS coverage ~~either~~ under the Idaho State Medicaid Plan. The participant must be financially eligible for MA as described in Idaho Department of Health and Welfare Rules, IDAPA 16.03.05, "Rules Governing Eligibility for Aid to the Aged, Blind and Disabled (AABD)". The cited chapter implements and is in accordance with the Financial Eligibility Section of the Idaho State Plan. In addition, in the assessment of the RMU, the ~~patient~~ participant could be maintained in their own home or residence and receive safe and effective services through the Personal Care Service Program. Eligible participants receiving PCS under the Idaho State Plan must have a completed UAI, medical justification, physician's or authorized provider's orders, and plan of care for such services. All services will be authorized by the RMU prior



to payment for the amount and duration of services based on this information. (~~3-30-01~~)(\_\_\_\_)

**08. Case Redetermination.** (12-31-91)

**a.** Financial redetermination will be conducted pursuant to Idaho Department of Health and Welfare Rules, IDAPA 16.03.01, "Rules Governing Eligibility for Medicaid for Families and Children," and IDAPA 16.03.05, "Rules Governing Eligibility for Aid to the Aged, Blind and Disabled (AABD)". Medical redetermination will be made at least annually by the RMU, or sooner at the request of the ~~patient~~ participant, the eligibility examiner, PAA, personal care provider, the supervising registered nurse, QMRP, the physician, or authorized provider. The sections cited implement and are in accordance with Idaho's approved state plan with the exception of deeming of income provisions. (~~3-30-01~~)(\_\_\_\_)

**b.** The redetermination process will assess the following factors: (7-15-83)

i. The participant's continued need for Personal Care Services; and (3-30-01)

ii. Discharge from Personal Care Services; and (3-30-01)

iii. Referral of the ~~patient~~ participant from Personal Care Services to a nursing facility. (~~3-30-01~~)(\_\_\_\_)

**09. Criminal History Check.** All personal care providers (case managers, RN supervisors, QMRP supervisors and personal care attendants) shall participate in a criminal history check as required by Section 39-5604, Idaho Code. The criminal history check will be conducted in accordance with IDAPA 16, Title 05, Chapter 06, "Rules Governing Mandatory Criminal History Checks". (10-1-94)

**10. Health Screen.** The Department will require that a health questionnaire be completed by each personal assistance agency employee who serves as a personal care attendant. Personal assistance agencies will retain this in their personnel file. If the applicant indicates on the questionnaire that he has a medical problem, the individual will be required to submit a statement from a physician or authorized provider that his medical condition would not prevent him from performing all the duties required of a personal care provider. Misrepresentation of information submitted on the health screen is cause for termination of employment for agency employees. (3-30-01)

**11. PCS Record.** Three (3) types of record information will be maintained on all participants receiving PCS and are considered to be the PCS record. (3-30-01)

**a.** Personal Care Provider Information. Each provider will maintain a written documentation of each visit made to a ~~patient~~ participant, and will record at a minimum the following information: (~~1-1-91~~)(\_\_\_\_)

i. Date and time of visit; and (1-1-91)

ii. Services provided during the visit; and (1-1-91)

iii. A statement of the participant's response to the service, including any changes noted in the participant's condition; and (3-30-01)

iv. Length of visit and unless it is determined by the RMU that the participant is unable to do so, the record of service delivery should be verified by the participant as evidenced by their signature on the service record; and (3-30-01)

v. Any changes in the treatment plan authorized by the referring physician, authorized provider or supervising registered nurse or QMRP as the result of changes in the participant's condition. (3-30-01)

vi. A copy of the information contained in Subsections 146.13.a.i. through 146.13.a.v., will be maintained in the participant's home unless authorized to be kept elsewhere by the RMU. Failure to maintain such documentation may result in the recoupment of funds paid for undocumented services. (3-30-01)

**b.** Plan of Care. The plan of care which is initiated by the attending physician or authorized provider, developed by the supervising RN or QMRP, must specify diagnosis, general treatment and the Personal Care Services which are required by the participant. The plan will contain all elements required by Subsection 146.03 and a copy of the most current plan of care will be maintained in the participant's home and will be available to the PCS Attendant, Supervising RN, QMRP and, if applicable, the case manager. (3-30-01)

**c.** Oversight Information. In addition to the plan of care, at least every ninety (90) days the Supervising RN or the QMRP ~~will~~ may verify, in writing, that the services provided were consistent with the treatment plan. Any changes in the treatment plan will be documented and include the signature of the Supervising RN or QMRP. (~~3-30-01~~)(    )

**12. Provider Responsibility For Notification.** It is the responsibility of the PAA to notify either ~~the~~ the RMU and physician or authorized provider when any significant changes in the participant's condition are noted during service delivery. Such notification will be documented in the PAA record. (~~3-30-01~~)(    )

**13. Records Maintenance.** In order to provide continuity of services, when a participant is transferred among providers, all of the foregoing participant's records will be delivered to and held by the field office of the Department until a replacement provider assumes the case. PAAs will be responsible to retain their ~~clients'~~ participants' records for five (5) years following the date of service. (~~3-30-01~~)(    )

**14. Provider Coverage Limitations.** (4-5-00)

**a.** In congregate living situations, payment is limited to one (1) claim per provider act. In no case may more time be billed than was actually spent by the provider in service delivery. (4-5-00)

**b.** No provider may serve more than two (2) children who are authorized for eight (8) or more hours of care per day. (3-30-01)

**15. Community Awareness Program.** The Department will establish and maintain a community awareness program that will educate Idaho citizens regarding the purpose and function of all long-term care alternatives including, but not limited to, personal assistance services and individual participant rights. This program will be developed in cooperation with other state agencies including, but not limited to, the Commission On Aging and the State Independent Living Council. (3-30-01)

**(BREAK IN CONTINUITY OF SECTIONS)**

**149. ~~CLIENT~~ PARTICIPATION IN THE COST OF WAIVER SERVICES.**

**01. Waiver Services And Income Limit.** A ~~recipient participant will~~ is not ~~be~~ required to participate in the cost of Home and Community Based (HCBS) waiver services unless ~~the recipient's entitlement to:~~ (    )

**a.** The participant's eligibility for Medical Assistance (MA) is based on approval for and receipt of a waiver service; and (    )

**b.** He would not be income eligible because of excess income if not for the HCBS income limitations contained in IDAPA 16.03.05, "Eligibility for Aid to the Aged, Blind, and Disabled (AABD)," Section 787. (    )

**02. Excluded Income.** Income excluded under the provisions of IDAPA 16.03.05.723 and 16.03.05.725 is excluded in determining ~~client~~ participation. (~~4-5-00~~)(    )

**043. Base Participation.** Base participation is income available for ~~client~~ participation after subtracting all allowable deductions, except for the incurred medical expense deduction in Subsection 149.046. Base participation is calculated by the ~~recipient's~~ participant's Self Reliance Specialist. The incurred medical expense deduction is calculated by the RMU or ACCESS unit. (~~4-5-00~~)(    )

**024. Community Spouse.** Except for the elderly or physically disabled participant's personal needs allowance, base participation for a recipient with a community spouse is calculated under IDAPA 16.03.05.725. These allowances are specified in IDAPA 16.03.05, "Eligibility for Aid to the Aged, Blind, and Disabled (AABD)". A community spouse is the spouse of an HCBS recipient who is not an HCBS recipient and is not institutionalized.

(4-5-00)

~~a. The HCBS personal needs allowance for a participant living independently equals the AABD allowances for his living arrangement.~~ (4-5-00)

~~b. The HCBS personal needs allowance for a participant living in room and board with a person who is not his parent, sibling, or child equals the SSI benefit for an individual living independently.~~ (4-5-00)

~~c. The HCBS personal needs allowance for a participant living in adult residential care equals the federal Supplemental Security Income (SSI) benefit amount rate for an individual living independently.~~ (4-5-00)(\_\_\_\_)

**035. Elderly Or Disabled Waiver Participant With No Home And Community Based Services (HCBS) Spouse.** ~~Base participation for an elderly or physically disabled participants is calculated under IDAPA 16.03.05.723, using the appropriate HCBS personal needs allowance. Except for the elderly or physically disabled participant's personal needs allowance (PNA), base participation for a participant with an HCBS spouse is calculated and specified under IDAPA 16.03.05, "Rules Governing Eligibility for Aid to the Aged, Blind, and Disabled," Section 723. An HCBS spouse is the spouse of a participant who also receives HCBS.~~ (4-5-00)(\_\_\_\_)

~~a. The HCBS personal needs allowance for a participant living independently equals the AABD allowances for his living arrangement.~~ (4-5-00)

~~b. The HCBS personal needs allowance for a participant living in room and board with a person who is not his parent, sibling, or child equals the federal SSI benefit for an individual living independently.~~ (4-5-00)

~~c. The HCBS personal needs allowance for a participant living in adult residential care equals the federal Supplemental Security Income (SSI) benefit amount for an individual living independently.~~ (4-5-00)

**046. Personal Needs Allowance.** The participant's personal needs allowance depends on the participant's his marital status, his living arrangement and whether he has a legal obligation to pay the rent or mortgage or has a lease agreement to rent his housing. The participant's personal needs allowance is deducted from his income after income exclusions and before other allowable deductions. To determine the amount of the personal needs allowance, use Table 149.06: (4-5-00)(\_\_\_\_)

~~a. A participant with no spouse, who is living with a relative, and has no legal responsibility to pay the mortgage or rent, has a personal needs allowance equal to the federal SSI benefit for a person living independently. If the participant is living with his spouse, his personal needs allowance is equal to one hundred and fifty percent (150%) of the federal SSI benefit for a person living independently. A relative is a parent, grandparent, sibling, aunt, uncle, or cousin. Relatives include those of full or half-blood and relatives by marriage, even if the marriage has ended.~~ (4-5-00)

~~b. A participant with no spouse, who is living with a relative and is legally responsible for the mortgage or rent, has a personal needs allowance equal to one hundred fifty percent (150%) of the federal SSI benefit rate for a person living independently. If his spouse is living with him, and is not receiving HCBS, his personal needs allowance is equal to one hundred fifty percent (150%) of the federal SSI benefit rate for a person living independently.~~ (4-5-00)

~~c. A participant who is legally responsible for the mortgage or rent, and is not living with his spouse or a relative, has a personal needs allowance is equal to one hundred fifty percent (150%) of the federal SSI benefit rate for a person living independently.~~ (4-5-00)

~~d. A participant who is legally responsible for the mortgage or rent, and is living with his community spouse, has a personal needs allowance equal to one hundred fifty percent (150%) of the federal SSI benefit rate for a~~

~~person living independently.~~

~~(4-5-00)~~

~~e. A participant who is legally responsible for the mortgage or rent, and is living with his HCBS spouse, has a personal needs allowance equal to one hundred fifty percent (150%) of the federal SSI benefit rate for a couple.~~

~~(4-5-00)~~

<b>TABLE 149.06 - PERSONAL NEEDS ALLOWANCE</b>			
<b>Amount of Personal Needs Allowance (PNA) for Participation</b>			
<b>Not Responsible for Rent or Mortgage</b>		<b>Responsible for Rent or Mortgage</b>	
<b>Marital Status</b>	<b>PNA</b>	<b>Marital Status</b>	<b>PNA</b>
No Spouse	One-hundred percent (100%) of the federal SSI benefit for a person with no spouse	No Spouse	One-hundred and fifty percent (150%) of the Federal SSI benefit for a person with no spouse
Married with Community Spouse	One-hundred and fifty percent (150%) of the Federal SSI benefit for a person with no spouse	Married with Community Spouse	One-hundred and fifty percent (150%) of the Federal SSI benefit for a person with no spouse
Married with HCBS Spouse	One-hundred percent (100%) of the Federal SSI benefit for a person with no spouse. Each spouse receives this amount as his PNA.	Married with HCBS Spouse	One-hundred and fifty percent (150%) of the Federal SSI benefit for a single person. Each spouse receives this amount as his PNA.

( )

**057. Developmentally Disabled Or TBI Participants.** These allowances are specified in IDAPA 16.03.05, "Rules Governing Eligibility for Aid To The Aged, Blind, and Disabled (AABD)". The HCBS personal needs allowance for participants receiving Waiver Services for Adult Developmentally Disabled Recipients or participants receiving services under the Adult Traumatic Brain Injury (TBI) waiver, is three (3) times the federal SSI benefit amount to an individual in his own home.

~~(4-5-00)~~

**068. Incurred Medical Expenses.** Amounts for certain limited medical or remedial services not covered by the Idaho Medicaid Plan and not paid by a third party may be deducted from the base participation amount. The Department must determine whether ~~an individual's~~ participant's incurred expenses for such limited services meet the criteria for deduction. The participant must report such expenses and provide verification in order for an expense to be considered for deduction. Costs for over-the-counter medications are included in the personal needs allowance and will not be considered a medical expense. Deductions for necessary medical or remedial expenses approved by the Department will be deducted at application, and changed, as necessary, based on changes reported to the Department by the participant.

~~(4-5-00)~~( )

**079. Remainder After Calculation.** Any remainder after the calculation in Subsection 149.046 is the maximum participation to be deducted from the participant's provider payments to offset the cost of ~~personal care~~ services. The participation amount will be collected from the participant by the provider. The provider and the participant will be notified by the Department of the amount to be collected.

~~(4-5-00)~~( )

**0810. Recalculation Of ~~Client~~ Participation.** The ~~client~~ participant's participation amount must be recalculated annually at redetermination or whenever a change in income or deductions becomes known to the Department.

~~(7-1-97)~~( )

**11. Adjustment Of Participation Overpayment Or Underpayment Amounts.** The participant's participation amount is reduced or increased the month following the participant overpaid or underpaid the provider.

( )

**IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE**  
**16.03.09 - RULES GOVERNING THE MEDICAL ASSISTANCE PROGRAM**

**DOCKET NO. 16-0309-0211**

**NOTICE OF RULEMAKING - PROPOSED RULE**

**AUTHORITY:** In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Sections 56-202(b) and 56-203(g), Idaho Code.

**PUBLIC HEARING SCHEDULE:** Public hearing(s) concerning this rulemaking will be held as follows:

**Monday, Oct. 7, 2002**  
**7:00 - 9:00 p.m.**  
**Region I**  
**1120 Ironwood Drive**  
**Lower Level**  
**Coeur d' Alene, ID**

**Tuesday, Oct. 8, 2002**  
**7:00 - 9:00 p.m.**  
**Region IV**  
**1720 Westgate Drive**  
**Suite D**  
**Boise, ID**

**Wednesday, Oct. 9, 2002**  
**7:00 - 9:00 p.m.**  
**Region VI**  
**Human Development Center**  
**421 Memorial Drive Rm. 210**  
**Pocatello, ID**

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made no later than five (5) days prior to the hearing, to the agency address below.

**DESCRIPTIVE SUMMARY:** The following is a non-technical explanation of the substance and purpose of the proposed rule making:

These rule changes are being made in order to maintain consistency of provider qualifications for Intensive Behavioral Intervention (IBI) services delivered either through a school district or a developmental disabilities agency. The current language in Health Related Services rules (IDAPA 16.03.09.569) gives providers a range of options under which providers may qualify as Intensive Behavioral Intervention Professionals. It also allows for "related degrees" which the amendment to this rule will clarify. Title changes for counselors and social workers will also be made in order to bring the rule into compliance with HB 406 passed by the 2002 Legislature.

The proposed rule text is in legislative format. Language the agency proposes to add is underlined. Language the agency proposes to delete is struck out. It is these additions and deletions to which the public comment should be addressed.

**NEGOTIATED RULEMAKING:** Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not formally conducted because the rulemaking schedule did not allow time to hold negotiated meetings. Notification was sent to all affected stakeholders with a draft copy of proposed rules asking for input regarding the amendments to the rules.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the proposed rules, contact Mary Wells at (208) 364-1955.

Anyone can submit written comments regarding this rulemaking. All written comments and data concerning the rule must be directed to the undersigned and delivered on or before October 23, 2002.

DATED this 21st day of August, 2002.

Sherri Kovach  
Administrative Procedures Coordinator  
DHW – Administrative Procedures Section  
450 West State Street - 10th Floor  
P.O. Box 83720  
Boise, Idaho 83720-0036  
(208) 334-5564 phone; (208) 332-7347 fax  
kovachs@idhw.state.id.us e-mail

**THE FOLLOWING IS THE TEXT OF DOCKET NO. 16-0309--0211**

**560. SCHOOL-BASED HEALTH RELATED SERVICES PROVIDED BY IDAHO PUBLIC SCHOOL DISTRICTS OR OTHER PUBLIC EDUCATIONAL AGENCIES (IDAHO INFANT TODDLER PROGRAM).**

The Department will pay school districts and other public educational agencies for covered rehabilitative and health related services pursuant to IDAPA 16.03.09, "Rules Governing the Medical Assistance Program," including medical or remedial services provided by school districts or other cooperative service agencies (as defined in Section 33-317, Idaho Code) which have entered into a provider agreement with the Department. Medicaid payment is also contingent upon school districts following current procedural guidelines established by the Department of Health and Welfare, Division of Medicaid for health related services provided by school districts and other public educational agencies. (4-5-00)(\_\_\_\_\_)

**(BREAK IN CONTINUITY OF SECTIONS)**

**563. REIMBURSABLE SERVICES.**

School Districts/Infant Toddler Programs may bill for the following health related services provided to eligible students when provided under the recommendation of a physician or other practitioner of the healing arts: (4-5-00)

- 01. Annual Plan Development.** Annual IEP or IFSP plan development. (4-5-00)
- 02. Collateral Contact.** Consultation or treatment direction about the student to a significant other in the student's life. (7-1-99)
- 03. Developmental Therapy Evaluation And Treatment.** Assessment, treatment and instruction of the student in the acquisition of developmental milestones and activities of daily living skills that the student has not gained at the normal developmental stages in his or her life, or is not likely to develop without training or therapy beyond age appropriate learning situations. Developmental therapy does not include tutorial activities or assistance with educational tasks associated with educational needs that result from the student's disability. (7-1-99)
- 04. Early Periodic Screening, Diagnosis, And Treatment (EPSDT) Services.** Services include age appropriate health history and health screening services. (7-1-99)
- 05. Medical Equipment And Supplies.** Includes medical equipment and supplies that are covered under the Idaho Medicaid program. (7-1-99)
- 06. Nursing Services.** Includes skilled nursing services that must be provided by a licensed nurse. (7-1-99)
- 07. Occupational Therapy Evaluation And Treatment.** Does not include components of occupational therapy that deals with vocational assessment, training or vocational rehabilitation. (7-1-99)
- 08. Personal Care Services.** School based personal care services include medically oriented tasks having to do with the student's physical or functional requirements such as basis personal care and grooming; assistance with bladder or bowel requirements; assistance with eating (including feeding); or other tasks delegated by a Registered Nurse. (4-5-00)
- 09. Physical Therapy Evaluation And Treatment.** (7-1-99)
- 10. Psychological Evaluation And Therapy.** (7-1-99)

**11. Psychosocial Rehabilitation Evaluation And Treatment.** Includes assistance in gaining and utilizing skills necessary to participate in school such as training in behavior control, social skills, communication skills, appropriate interpersonal behavior, symptom management, and coping skills. (7-1-99)

**12. Intensive Behavioral Intervention.** Intensive Behavior Interventions are individualized, comprehensive, proven interventions used on a short term, one-to-one basis that produce measurable outcomes which diminish behaviors that interfere with the development and use of language and appropriate social interaction skills or broaden an otherwise severely restricted range of interest. Intensive Behavioral Intervention is available only to children birth through age twenty-one (21) who have self-injurious, aggressive or severely maladaptive behavior and severe deficits in the areas of verbal and nonverbal communication; or social interaction; or leisure and play skills. (4-5-00)

**a. Parent and Staff Consultation.** Professionals may provide consultation to parents and to other staff who provide therapy for the child in other disciplines to assure successful integration and transition from Intensive Behavioral Intervention to other therapies and environments. ( )

**b. Prior Authorization.** Initial Intensive Behavioral Intervention services or consultation must be prior authorized by the Department. The school district/Infant Toddler Program must submit evidence of each child's eligibility for Intensive Behavioral Intervention, the Individual Education Plan listing the need for the service, the number of hours of service requested, and the measurable outcomes expected as the result of the intervention. (4-5-00)

**c. Continuation of Prior Authorization.** The school district/Infant Toddler Program must submit a report on the child's progress toward Intensive Behavioral Intervention outcomes to the Department every one hundred twenty (120) days and seek prior authorization for continuation or modification of services. On an annual basis, a multi disciplinary treatment team that includes at a minimum, the parent(s), staff psychologist and staff providing services to the child, will review current evaluations and make a recommendation for continuation or modification of the intervention. (4-5-00)

**13. Speech/Audiological Evaluation And Treatment.** (7-1-99)

**14. Social History And Evaluation.** (7-1-99)

**15. Transportation Services.** School districts/Infant Toddler Programs can receive reimbursement for transporting a student when: (4-5-00)

**a.** The student requires special transportation assistance such as a wheelchair lift or an attendant when medically necessary for the health/safety of the student; and (7-1-99)

**b.** The transportation occurs in a vehicle specifically adapted to meet the needs of a student with a disability; and (4-5-00)

**c.** The student requires and receives another Medicaid reimbursable service, other than transportation, on the day that transportation is being provided; and (7-1-99)

**d.** Both the Medicaid covered service and the need for the special transportation are included on the student's IEP or IFSP. (7-1-99)

**16. Interpretive Services.** Interpretive services are those services needed by a student who does not adequately speak or understand English and requires an interpreter to communicate with the professional or paraprofessional providing the student with a health related service. (7-1-99)

**a.** Payment for interpretive services are limited to the specific time that the student is receiving the health related service. (7-1-99)

**b.** Both the Medicaid covered service and the need for interpretive services are included on the student's IEP or IFSP. (7-1-99)

c. Interpretive services would not be covered if the professional or paraprofessional providing services is able to communicate in the student's primary language. (7-1-99)

**(BREAK IN CONTINUITY OF SECTIONS)**

**569. PROVIDER STAFF QUALIFICATIONS.**

Medicaid will only reimburse for services provided by qualified staff. The following are the minimum qualifications for providers of covered services: (4-5-00)

**01. Annual IEP Or IFSP Plan Development.** Must include the professionals who completed the evaluations and recommendations for IEP or IFSP services. May only be billed when the IEP or IFSP includes reimbursable health related services. (7-1-99)

**02. Collateral Contact.** Contact and direction must be provided by a professional who provides the treatment. (4-5-00)

**03. Developmental Therapy Evaluation And Treatment.** Must be provided by or under the direction of a developmental specialist, as set forth in IDAPA 16.04.11 "Rules Governing Developmental Disabilities Agencies". ~~IDAPA 16.03.09, "Rules Governing Medical Assistance," Subsection 569.03, incorporates by reference the full text of the definition of a developmental specialist found in IDAPA 16.04.11, "Rules Governing Minimum Standards for Developmental Disability Agencies".~~ (4-5-00)(\_\_\_\_)

**04. EPSDT Screens.** May be provided by a physician, physician extender (nurse practitioner, clinical nurse specialist, or physician's assistant), or EPSDT RN screener. (4-5-00)

**05. Medical Equipment And Supplies.** (4-5-00)

**06. Nursing Services.** Must be provided by a licensed professional nurse (RN) or licensed practical nurse (LPN) licensed to practice in Idaho. (4-5-00)

**07. Occupational Therapy Evaluation And Treatment.** Must be provided by or under the supervision of an individual qualified and registered to practice in Idaho. (7-1-99)

**08. Personal Care Services.** Must be provided by a nurses aide (CNA) certified by the State of Idaho, a licensed professional nurse (RN) or licensed practical nurse (LPN), licensed by the State of Idaho. When services are provided by a CNA, the CNA must be supervised by a RN. (4-5-00)

**09. Physical Therapy Evaluation And Treatment.** Must be provided by an individual qualified and registered to practice in Idaho. (7-1-99)

**10. Psychological Therapy Evaluation And Treatment.** Must be provided by: (7-1-99)

a. A licensed psychiatrist; (7-1-99)

b. Licensed physician; (7-1-99)

c. Licensed psychologist; (~~7-1-99~~)(\_\_\_\_)

d. Psychologist extender registered with the Board of Occupational Licenses; (7-1-99)

e. Certified psychiatric nurse; (7-1-99)

f. Certified school psychologist; (7-1-99)



- g. Licensed clinical professional counselor ~~with a private practice license~~; or (7-1-99)(\_\_\_\_)
- h. Licensed ~~certified~~ masters social worker or licensed clinical social worker. (7-1-99)(\_\_\_\_)
11. **Psychosocial Rehabilitation.** Must be provided by: (7-1-99)
- a. A licensed psychiatrist; (7-1-99)
- b. Licensed physician; (7-1-99)
- c. Licensed psychologist; (7-1-99)
- d. Psychologist extender registered with the Board of Occupational Licenses; (7-1-99)
- e. Certified psychiatric nurse; (7-1-99)
- f. Certified school psychologist; (7-1-99)
- g. Licensed clinical professional counselor ~~with a private practice license~~; (7-1-99)(\_\_\_\_)
- h. Licensed ~~certified~~ masters social worker or licensed clinical social worker; or (7-1-99)(\_\_\_\_)
- i. Psychosocial rehabilitation specialist. (7-1-99)(\_\_\_\_)
12. **Intensive Behavioral Intervention.** Must be provided by or under the direction of a qualified professional who meets the ~~following~~ requirements; set forth in IDAPA 16.04.11 "Rules Governing Developmental Disabilities Agencies," Section 809 "Qualifications to Provide Intensive Behavioral Intervention". (4-5-00)(\_\_\_\_)
- ~~a. Degree or License. Have at least a bachelor's degree in psychology, special education, social work, applied behavior analysis, speech and language pathology, occupational therapy, physical therapy, deaf education, elementary education or a related field or be a Licensed Professional Counselor Private Practice; and (4-5-00)~~
- ~~b. Training and Certification. Have Department approved training and certification which addresses course work, experience, ethical standards, continuing education and demonstrated competencies. (4-5-00)~~
- ~~e. Use of Paraprofessionals. An aide or therapy technician who has completed the Department approved training and certification may be used to provide Intensive Behavioral Intervention under the supervision of a professional who is certified by the Department to provide Intensive Behavioral Intervention when the school district/Infant Toddler Program assures adequate professional supervision during its services hours and the professional on a weekly basis or more often if necessary, gives instructions, reviews progress and provides training on the program(s) and procedures to be followed. All other requirements pertaining to the use of paraprofessionals as listed in Section 574 of these rules, must also be followed. (4-5-00)~~
- ~~d. Limitation to Service Provision by a Paraprofessional. Intensive Behavioral Intervention provided by a paraprofessional is limited to ninety percent (90%) of the direct intervention time. The remaining ten (10) percent of the direct intervention time must be provided by the professional qualified to provide or direct the provision of Intensive Behavioral Intervention. (4-5-00)~~
- ~~e. Parent and Staff Consultation. Professionals may provide consultation to parents and to other staff who provide therapy for the child in other disciplines to assure successful integration and transition from Intensive Behavioral Intervention to other therapies. (4-5-00)~~
13. **Speech/Audiological Therapy Evaluation And Treatment.** Must be provided by or under the direction of a speech pathologist or audiologist who possesses a certificate of clinical competence from the American Speech, Language and Hearing Association (ASHA); or who will be eligible for certification within one (1) year of employment. (4-5-00)

**14. Social History And Evaluation.** Must be provided by a registered nurse; psychologist; M.D; or by a person who is licensed and qualified to provide social work in the state of Idaho. (4-5-00)

**15. Transportation.** Must be provided by a individual who has a current Idaho driver's license and be covered under vehicle liability insurance that covers passengers for business use. (4-5-00)

**(BREAK IN CONTINUITY OF SECTIONS)**

**576. RECORD REQUIREMENTS.**

In addition to the evaluations and maintenance of the Individualized Education Program (IEP) plan or Individualized Family Service Plan (IFSP), the following documentation must be maintained by the provider and retained for a period of ~~five~~ six (56) years: ~~(4-5-00)~~(\_\_\_\_)

- 01. Service Detail Reports.** A service detail report which includes: (4-5-00)
  - a.** Name of student; (7-1-99)
  - b.** Name and title of the person providing the service; (7-1-99)
  - c.** Date, time, and duration of service; and (7-1-99)
  - d.** Place of service. (7-1-99)
- 02. Activity Record.** An activity record completed at the time the service was provided which describes the service provided and the student's response to the service. (4-5-00)
- 03. One Hundred And Twenty Day Review.** A documented review of progress toward each service plan goal completed at least every one hundred twenty (120) days from the date of the annual IEP/IFSP. (4-5-00)
- 04. Documentation Of Qualifications Of Providers.** (4-5-00)
- 05. Copies Of Required Referrals And Recommendations.** Copies of required referrals and recommendations. (4-5-00)
- 06. Parental Notification.** Documentation that the School District Infant/Toddler Program notified the student's parents of the health related services that they intended to bill to Medicaid. Notification must describe the service and state the type, amount, and frequency of the service. (4-5-00)

**IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE**  
**16.03.14 - RULES AND MINIMUM STANDARDS FOR HOSPITALS IN IDAHO**

**DOCKET NO. 16-0314-0201**

**NOTICE OF RULEMAKING - PROPOSED RULE**

**AUTHORITY:** In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has proposed rulemaking. The action is authorized pursuant to Section(s) 56-1005(8) and 39-1307, Idaho Code.

**PUBLIC HEARING SCHEDULE:** Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 16, 2002.

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

**DESCRIPTIVE SUMMARY:** The following is a statement in nontechnical language of the substance of the proposed rules:

The time frame requirement for hospitals to take a medical history and perform a physical examination is being expanded to no more than seven (7) days before or forty-eight (48) hours after hospital admission. This time frame requirement will be revised in three (3) sections of the hospital rules, IDAPA 16. 03.14, Sections 250, 360, and 380.

These changes are needed in order to align the hospital rules with the Code of Federal Regulations (42 CFR 482) and to make the rules consistent with the current national standards for hospital care.

The proposed rule text is in legislative format. Language the agency proposes to add is underlined Language the agency proposes to delete is struck out. It is these additions and deletions to which the public comment should be addressed.

**NEGOTIATED RULEMAKING:** Pursuant to IDAPA 04.11.01.811, informal negotiated rulemaking was conducted with Idaho Hospitals and the Idaho Hospital Association.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning these proposed rules, contact Debby Ransom or Sylvia Creswell at (208) 334-6626.

Anyone can submit written comments regarding these rules. All written comments and data concerning the rule must be directed to the undersigned and delivered on or before October 23, 2002.

DATED this 6th day of August, 2002.

Sherri Kovach  
Administrative Procedures Coordinator  
DHW - Legal Services Division  
450 West State Street - 10th Floor  
P.O. Box 83720, Boise, Idaho 83720-0036  
(208) 334-5564 phone; (208) 332-7347 fax  
kovachs@idhw.state.id.us e-mail

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**THE FOLLOWING IS THE TEXT OF DOCKET NO. 16-0314-0201**

**250. MEDICAL STAFF.**

The hospital shall have an active medical staff organized under bylaws approved by the governing body and responsible to the governing body for the quality of all medical care provided the patients, and for the professional practices and ethical conduct of the members. (10-14-88)

**01. Medical Staff Qualifications And Privileges.** All medical staff members shall be qualified legally and professionally, for the privileges which they are granted. (10-14-88)

**a.** Privileges shall be granted only on the basis of individual training, competence, and experience. (10-14-88)

**b.** The medical staff, with governing body approval, shall develop and implement a written procedure for determining qualifications for medical staff appointment, and for determining privileges. (10-14-88)

**c.** The governing body shall approve medical staff privileges within the limits of the hospital's capabilities for providing qualified support staff and equipment in specialized areas. (10-14-88)

**02. Medical Staff Appointments And Reappointments.** Medical staff appointments and reappointments shall be made by the governing body upon the recommendation of the active medical staff, or a committee of the active staff. (10-14-88)

**a.** Appointments to the medical staff shall include a written delineation of all privileges including surgical procedures, and governing body approval shall be documented. (10-14-88)

**b.** Reappointments to the medical staff shall be made at least every two (2) years with appropriate documentation indicating governing body approval. (10-14-88)

**c.** Reappointment procedures shall include a means of increasing or decreasing privileges after consideration of the member's physical and mental capabilities. (10-14-88)

**d.** The medical staff and administration with approval of the governing body shall develop a written procedure for temporary or emergency medical staff privileges. (10-14-88)

**03. Required Hospital Functions.** Each hospital shall have a mechanism in place to perform the following functions: (10-14-88)

**a.** Coordinate all activities of the medical staff; and (10-14-88)

**b.** Develop a hospital formulary and procedures for the choice and control of all drugs used in the hospital; and (10-14-88)

**c.** Establish procedures to prevent and control infections in the hospital; and (10-14-88)

**d.** Develop and monitor standards of medical records contents; and (10-14-88)

**e.** Maintain communications between medical staff and the governing body of the hospital; and (10-14-88)

**f.** Review clinical work of the medical staff. (10-14-88)

**04. Documentary Evidence Of Medical Staff Activities.** The medical staff or any committees of the staff shall meet as often as necessary, but at least twice annually, to assure implementation of the required functions in Subsection 250.03. Minutes of all meetings of the medical staff or any committees of the staff shall be maintained. (12-31-91)

**05. Medical Staff Bylaws, Rules, And Regulations.** These shall specify at least the following:

- (10-14-88)
- a.** A description of the medical staff organization which includes: (10-14-88)
    - i.** Officers and their duties; and (10-14-88)
    - ii.** Staff committees and their responsibilities; and (10-14-88)
    - iii.** Frequency of staff and committee meetings; and (10-14-88)
    - iv.** Agenda for all meetings and the type of records to be kept. (10-14-88)
  - b.** A statement of the necessary qualifications for appointment to the staff, and the duties and privileges of each category of medical staff. (10-14-88)
  - c.** A procedure for appointment, granting and withdrawal of privileges. (10-14-88)
  - d.** A mechanism for hearings and appeals of decisions regarding medical staff membership and privileges. (10-14-88)
  - e.** A statement regarding attendance at staff meetings. (10-14-88)
  - f.** A statement of qualifications and a procedure for delineation of clinical privileges for all categories of nonphysician practitioners. (10-14-88)
  - g.** A requirement for keeping accurate and complete medical records. (10-14-88)
  - h.** A requirement that all tissue surgically removed will be delivered to a pathologist for a report on such specimens, unless the medical staff, in consultation with the pathologist, adopts uniform exceptions to sending tissue specimens to the laboratory for analysis. (10-14-88)
  - i.** A statement requiring a medical history and physical, and preoperative diagnosis previous to surgery examination be performed no more than seven (7) days before or within forty-eight (48) hours after admission. The findings from this history and physical examination, including a provisional diagnosis, must be included in the medical record prior to surgery, except in emergencies. ~~(10-14-88)~~(\_\_\_\_) (10-14-88)
  - j.** A requirement that consultation is necessary with unusual cases, except in emergencies. Unusual cases shall be defined by the hospital medical staff. (10-14-88)
- 06. Review Of Policies And Procedures.** The medical staff shall review and approve all policies and procedures directly related to medical care. (10-14-88)
- 07. Dentists And Podiatrists.** If dentists and podiatrists are appointed to the medical staff, the bylaws shall specifically refer to services performed by such professionals, and shall specify at least the following: (10-14-88)
- a.** Patients admitted for dental or podiatry service shall be under the general care of a physician member of the active staff. (10-14-88)
  - b.** All medical staff requirements and procedure for privileges shall be followed for dentists and podiatrists. (10-14-88)
- 08. Dating Of Bylaws.** Bylaws shall be dated and signed by the current officers of the medical staff or the committee of the whole. (10-14-88)
- 09. Medical Orders.** Written, verbal and telephone orders from persons authorized to give medical orders under Idaho law shall be accepted by those health care practitioners empowered to do so under Idaho law and

written hospital policies and procedures. Verbal and telephone orders shall contain the name of the person giving the order, the first initial and last name and professional designation of the health care practitioners receiving the order. The order(s) shall be promptly signed or otherwise authenticated by the prescribing practitioner in a timely manner in accordance with the hospital's policy. (3-15-02)(\_\_\_\_\_)

**(BREAK IN CONTINUITY OF SECTIONS)**

**360. MEDICAL RECORDS SERVICE.**

The hospital shall maintain medical records that are documented accurately and timely, and that are readily accessible and retrievable. (12-31-91)

**01. Facilities.** The hospital shall provide a medical record room, equipment, and facilities for the retention of medical records. Provision shall be made for the safe storage of medical records. (10-14-88)

**02. Policies And Procedures.** There shall be written policies and procedures for the operation of the medical records service. (10-14-88)

**03. Maintenance Of Records.** A medical record shall be maintained for every person who is evaluated or treated as an inpatient, outpatient, emergency patient or a home care patient. (10-14-88)

**04. Access To Records.** Only authorized personnel shall have access to the record. (10-14-88)

**05. Release Of Medical Information.** No release of medical information shall be made without written consent of the patient or by official court order except to legally authorized entities such as third party payors, peer review organizations, licensing agency, etc. (10-14-88)

**06. Removal Of Medical Records.** Medical records shall only be removed from the hospital in accordance with written hospital procedures. (10-14-88)

**07. Retention.** Records shall be retained to conform with Section 39-1394, Idaho Code. (10-14-88)

**08. Personnel.** The medical records service shall be under the overall direction of a Registered Records Administrator or an Accredited Records Technician. If the person in charge of records is not so trained, the facility shall retain an R.R.A. or A.R.T. on a regular consulting basis. (10-14-88)

**09. Identification And Filing.** A system of identifying and filing to ensure prompt retrieval of patient's records shall be maintained as follows: (10-14-88)

**a.** Any system shall bear at least the name, address, birthdate, medical record number, dates of admission and discharge; and (10-14-88)

**b.** Each record shall be maintained so that both in and outpatient records for treatment are readily retrievable. (10-14-88)

**10. Centralizing And Completion Of Records And Reports.** All (clinical) information pertinent to the patient's stay shall be centralized in the record as follows: (10-14-88)

**a.** All reports shall be filed with the record. Copies of reports are acceptable; and (10-14-88)

**b.** All reports and records shall be completed and filed within thirty (30) days following discharge. (10-14-88)

**11. Indexing Of Records.** Records shall be indexed as follows: (10-14-88)

- a. According to disease, operation, and physician; and (10-14-88)
  - b. Any recognized system can be used. As additional indices become appropriate (due to medical advance), their use shall be adopted; and (10-14-88)
  - c. The card index or other record for disease or operation shall list all essential data; and (10-14-88)
  - d. Records of diagnoses and operations shall be expressed in terminology which describes the morbid condition by site, etiology, or method of procedure; and (10-14-88)
  - e. Indexing shall be current within six (6) months following discharge of the patient. (10-14-88)
- 12. Record Content.** The medical records shall contain sufficient information to justify the diagnosis, warrant the treatment and end results. The medical record shall also be legible, shall be written with ink or typed, and shall contain the following information: (10-14-88)
- a. Admission date; and (10-14-88)
  - b. Identification data and consent forms; and (10-14-88)
  - c. History, including chief complaint, present illness, inventory of systems, past history, family history, social history and record of results of physical examination and provisional diagnosis that was completed no more than seven (7) days before or within ~~seventy-two~~ forty-eight (72) hours of after admission; and ~~(10-14-88)~~(\_\_\_\_)
  - d. Diagnostic, therapeutic and standing orders; and (10-14-88)
  - e. Records of observations, which shall include the following: (10-14-88)
    - i. Consultation written and signed by consultant which includes his findings; and (10-14-88)
    - ii. Progress notes written by the attending physician; and (10-14-88)
    - iii. Progress notes written by the nursing personnel; and (10-14-88)
    - iv. Progress notes written by allied health personnel. (10-14-88)
  - f. Reports of special examinations including but not limited to: (10-14-88)
    - i. Clinical and pathological laboratory findings; and (10-14-88)
    - ii. X-ray interpretations; and (10-14-88)
    - iii. E.K.G. interpretations. (10-14-88)
  - g. Conclusions which include the following: (10-14-88)
    - i. Final diagnosis; and (10-14-88)
    - ii. Condition on discharge; and (10-14-88)
    - iii. Clinical resume and discharge summary; and (10-14-88)
    - iv. Autopsy findings when applicable. (10-14-88)
  - h. Informed consent forms. (10-14-88)

- i.** Anatomical donation request record (for those patients who are at or near the time of death) (3-1-90)  
containing:
- i.** Name and affiliation of requestor; and (3-1-90)
  - ii.** Name and relationship of requestee; and (3-1-90)
  - iii.** Response to request; and (3-1-90)
  - iv.** Reason why donation not requested, when applicable. (3-1-90)
- 13. Signature On Records.** Signatures on medical records shall be noted as follows: (10-14-88)
- a.** Every physician shall sign and date the entries which that physician makes, or directs to be made. (10-14-88)
  - b.** A single signature on the face sheet record does not authenticate the entire record. (10-14-88)
  - c.** Any person writing in a medical record shall sign his name to enable positive identification by name and title. (10-14-88)
  - d.** If initials are used, an identifying signature shall appear on each page. (10-14-88)
  - e.** Rubber stamp signatures can be used only by the person whose signature the stamp represents. A signed statement to this effect shall be placed on file with the hospital administrator. (10-14-88)
- 14. Administrative Records.** The following hospital records shall be maintained: (10-14-88)
- a.** Daily census register; and (10-14-88)
  - b.** Record of admissions and discharges; and (10-14-88)
  - c.** Register of live births and still births; and (10-14-88)
  - d.** Death register; and (10-14-88)
  - e.** Register of surgical procedures; and (10-14-88)
  - f.** Register of outpatients; and (10-14-88)
  - g.** Emergency room admissions; and (10-14-88)
  - h.** Narcotic and barbiturate record; and (10-14-88)
  - i.** Annual report. Each year the hospital shall file with the licensing agency an Application for License and Annual Report form furnished by the agency; and (10-14-88)
  - j.** Vital statistics. Hospitals licensed under these rules shall comply with the provisions of Idaho Department of Health and Welfare Rules, IDAPA 16.02.08, "Vital Statistics Rules". (12-31-91)
- 15. Availability Of Records.** The entire medical record of any person who is a patient, or who has been a patient in any hospital in Idaho, shall be available to the state licensing agency or authorized representatives of the agency, during the survey process or a complaint investigation. (10-14-88)
- 16. Standing Orders.** There shall be an annual review and approval of standing orders, and a current signed and dated copy of approved orders shall be available. This review shall be done by the medical staff or appropriate staff committee and there shall be evidence of the review, signed and dated by the designated authority.



(10-14-88)

**(BREAK IN CONTINUITY OF SECTIONS)**

**380. SURGICAL SERVICE.**

A hospital which provides surgical service shall have equipment, facilities and personnel according to the needs of the type of patients served. (10-14-88)

**01. Location Of Surgical Department.** The surgical department shall be segregated from the remainder of the hospital so as to prevent traffic through the area to any other part of the hospital. (10-14-88)

**02. Physical Facilities.** The facilities of each surgical department shall have the following: (12-31-91)

**a.** Scrub sinks with goose neck spout and knee, elbow or foot action water control; and (10-14-88)

**b.** Operating rooms, which shall have floors, walls and ceilings with easily cleanable surfaces; and (10-14-88)

**c.** A housekeeping closet shall be provided for the sole use of the surgical department; and (10-14-88)

**d.** A utility room for the cleaning of contaminated equipment and supplies; and (10-14-88)

**e.** Separate space for the storage of sterile and non-sterile supplies. (10-14-88)

**03. Policies And Procedures.** Written policies and procedures concerning surgical service shall be approved by the medical staff, appropriate nursing staff and the administration. They shall include, but not be limited to, the following: (10-14-88)

**a.** Specific delineation of surgical privileges shall be made for each physician or practitioner performing surgery. Privileges for each physician shall be available to the operating room supervisor; and (10-14-88)

**b.** A policy and procedure for all persons admitted for surgery, and shall include the following: (10-14-88)

**i.** Verification of patient identity; and (10-14-88)

**ii.** Site and side of body to be operated upon; and (10-14-88)

**c.** Written procedures for infection control including aseptic techniques for patients and personnel during preoperative, operative and postoperative periods in the surgery suite; and (10-14-88)

**d.** When appropriate, a procedure for accountability of all instruments, sponges, needles used in surgery; and (10-14-88)

**e.** A procedure for the safe handling and transportation of patients. (10-14-88)

**04. Records.** Prior to surgery patient records shall contain the following: (10-14-88)

**a.** A properly executed informed consent; and (10-14-88)

**b.** Medical history and record of physical examination performed and recorded ~~within the previous no~~ more than seven (7) days before or within forty-eight (48) hours after admission; and ~~(10-14-88)( )~~

**c.** Appropriate screening tests, based on patient needs, completed and recorded prior to surgery.

- (10-14-88)
- d.** Record requirements may be modified in emergency surgery cases to the extent necessary under the circumstances. (10-14-88)
- 05. Records Following Surgery.** Patient records following surgery shall contain the following: (10-14-88)
- a.** Operative report of techniques and findings shall be recorded directly after surgery; and (10-14-88)
- b.** All tissues and foreign bodies shall be sent to a pathologist in accordance with Subsection 350.08; and (12-31-91)
- and
- c.** Sponge and needle count, if appropriate. (10-14-88)
- 06. Operating Room Registry.** Operating room registry shall contain the following: (10-14-88)
- a.** Name, age, sex, and hospital admitting number of patient; and (10-14-88)
- b.** Date and time of surgery; and (10-14-88)
- c.** Preoperative and postoperative diagnosis; and (10-14-88)
- d.** Names of surgeons, assistants, anesthetists, scrub and circulating assistants; and (10-14-88)
- e.** Surgical procedure performed; and (10-14-88)
- f.** Complications, if any, during surgery. (10-14-88)
- 07. Surgical Staff.** The surgical staff of a hospital shall consist of the following personnel: (10-14-88)
- a.** A registered nurse with experience in operating room techniques who acts as supervisor; and (10-14-88)
- b.** Sufficient numbers of personnel to assure there is a registered nurse serving as circulating nurse for each separate operating room where surgery is being performed; and (10-14-88)
- c.** A surgical team of one (1) or more physicians and registered nurses on call at all times; and (10-14-88)
- d.** A physician of the active medical staff shall provide overall direction for the surgical service. (10-14-88)
- 08. Staff Training And Education.** There shall be evidence of continuing education and training for the staff. (10-14-88)
- 09. Surgical Service Supplies And Equipment.** (10-14-88)
- a.** Parenterals, drugs, instruments, equipment and supplies necessary for the scope of services provided shall be readily available to the surgical suite; and (10-14-88)
- b.** Emergency IV fluids and medications as approved by the pharmacy and therapeutics committee shall be available; and (10-14-88)
- c.** There shall be a written procedure for the use, care, and maintenance of all supplies, instruments and equipment, and responsibility for such maintenances. (10-14-88)

## IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE

### 16.03.22 - RULES FOR LICENSED RESIDENTIAL AND ASSISTED LIVING FACILITIES IN IDAHO

DOCKET NO. 16-0322-0201

#### NOTICE OF RULEMAKING - PROPOSED RULE

**AUTHORITY:** In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has proposed rulemaking. The action is authorized pursuant to Section(s) 56-1005(8), 39-3305, 39-3371, 39-3505, and 39-3561, Idaho Code.

**PUBLIC HEARING SCHEDULE:** Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 16, 2002.

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

**DESCRIPTIVE SUMMARY:** The following is a statement in nontechnical language of the substance of the proposed rules:

Changes are needed in order to bring rules into compliance with SB 1365 (2000) (re: Board and Care and Residential Care) (see 2000 Idaho Session Law, Chapter 274).

The Department intends to update chapter title and add "or authorized provider" to all sections which refer to a physician, update definitions and as per changes in statutes cited above, make updates regarding: inspection of facilities, unannounced inspections, resident's rights, administrator qualifications, negotiated service agreement, resident's records, menu planning, modified or therapeutic diets, and building construction and physical standards.

The proposed rule text is in legislative format. Language the agency proposes to add is underlined. Language the agency proposes to delete is struckout. It is these additions and deletions to which the public comment should be addressed.

**NEGOTIATED RULEMAKING:** Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted since changes are being made to comply with changes in law.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning these proposed rules, contact Debby Ransom at (208) 334-6626 or Virginia Loper at (208) 364-1868.

Anyone can submit written comments regarding these rules. All written comments and data concerning the rule must be directed to the undersigned and delivered on or before October 23, 2002.

DATED this 6th day of August, 2002.

Sherri Kovach  
Administrative Procedures Coordinator  
DHW - Legal Services Division  
450 West State Street - 10th Floor  
P.O. Box 83720, Boise, Idaho 83720-0036  
(208) 334-5564 phone; (208) 332-7347 fax  
kovachs@idhw.state.id.us e-mail

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THE FOLLOWING IS THE TEXT OF DOCKET NO. 16-0322-0201

**16.03.22 - RULES FOR LICENSED RESIDENTIAL ~~AND~~ OR ASSISTED LIVING FACILITIES IN IDAHO**

**001. TITLE AND SCOPE.**

**01. Title.** These rules are to be cited as Idaho Department of Health and Welfare Rules, IDAPA 16.03.22, "Rules for Licensed Residential or Assisted Living Facilities in Idaho". ( )

**02. Scope.** The purpose of a licensed residential ~~and~~ or assisted living facility in Idaho is to provide a humane, safe, and home-like living arrangement for individuals with a mental illness, developmental disability, physical disability, or who are elderly. The facilities shall be operated and staffed by individuals who have the knowledge and experience required to provide safe and appropriate services to all residents of the facility. The administrators shall protect the rights and provide appropriate services to meet the needs of the individual residents as determined by the uniform assessment instrument and the negotiated service agreement for both state clients and private pay residents. The state will encourage the development of facilities tailored to the needs of individual populations which operate in integrated settings in communities where sufficient supportive services exist to provide the resident, if appropriate, an opportunity to work and be involved in recreation and education opportunities alongside people who do not have a mental illness, developmental disability, physical disability, or who are not elderly. The licensing agency shall be responsible for monitoring and enforcing the provisions of this chapter. This responsibility includes, but is not limited to, licensing facilities, monitoring the condition of the facility administering a uniform assessment instrument for state clients, and taking enforcement actions. Nothing in this chapter is intended to reduce or eliminate any duty of the Department or any other public or private entity for provision of services for any resident. (3-10-00)( )

**(BREAK IN CONTINUITY OF SECTIONS)**

**010. DEFINITIONS.**

- 01. Abuse.** The non-accidental infliction of physical pain, injury, or mental injury. (3-10-00)
- 02. Activities.** All organized and directed social and rehabilitative services a facility provides, arranges, or cooperates with. (3-10-00)
- 03. Activities Of Daily Living.** The performance of basic self-care activities in meeting an individual's needs to sustain him in a daily living environment, including, but not limited to, bathing, washing, dressing, toileting, grooming, eating, communicating, continence, managing money, mobility, and associated tasks. (3-10-00)
- 04. Adequate Care.** Services provided to the resident as described in his negotiated service agreement and within accepted standards of practice. (3-10-00)
- 05. Administrator.** The person who has primary responsibility for the day-to-day administration of the facility with three (3) or more residents and is employed as a full-time administrator and licensed by the state of Idaho. The administrator and legal owner may not necessarily be the same individual. A full-time administrator shall devote no less than twenty (20) hours a week to the day-to-day administration of the facility. The Department will consider a waiver based on an approved plan of administration and operation by the facility. (3-10-00)
- 06. Adult.** A person who has attained the age of eighteen (18) years. (3-10-00)
- 07. Advanced Directive.** A written instruction, such as a living will or durable power of attorney for health care, recognized under State Law, whether statutory or as recognized by the courts of the State, and relates to the provision of medical care when the individual is unable to communicate. (3-10-00)
- 08. Advocate.** An authorized or designated representative of a program or organization operating under federal or state mandate to represent the interests of a population group served by a facility. (3-10-00)

**09. Alzheimer's Disease And Related Dementia.** A progressive, degenerative, terminal disease that attacks the brain and results in impaired memory, thinking, and behavior. The person may experience memory loss, confusion, personality and behavior changes, impaired judgment, difficulty finding words, finishing thoughts, following directions, and difficulty with other cognitive efforts. (3-10-00)

**10. Ambulatory Person.** A person who, unaided by any other person, is physically and mentally capable of walking a normal path to safety, including the ascent and descent of stairs. (3-10-00)

**11. Assessment.** The conclusions reached using uniform criteria developed by the Department and relevant councils for determining a person's need for care and services. (3-10-00)

**12. Authorized Provider.** An individual who is a nurse practitioner or clinical nurse specialist, licensed by the Idaho State Board of Nursing, or a Physician Assistant, licensed by the Idaho State Board of Medicine. ( )

**123. Basement.** Any floor level below the first story in a building except that a floor level in a building having only one (1) floor level shall be classified as a basement. (3-10-00)

**134. Behavioral Management.** A written program which actively builds and develops new or alternative styles of independent functioning and promotes new behavior which results in the highest potential level of self- sufficiency. (3-10-00)

**145. Care And Supervision.** The provision by the facility of one (1) or more of the following services: (3-10-00)

a. Assisting the resident with activities of daily living; (3-10-00)

b. Arranging for supportive services; (3-10-00)

c. Being aware of the resident's general whereabouts; (3-10-00)

d. Monitoring the activities of the resident while on the premises of the facility to ensure the resident's health, safety, and well-being; and (3-10-00)

e. Assisting residents with self-administration of medication. (3-10-00)

**156. Chemical Restraint.** The use of any medication that results or is intended to result in the modification of behavior. (3-10-00)

**167. Client Of The Department.** Any person who receives financial aid, or services, or both from an organized program of the Department. (3-10-00)

**178. Complaint Investigation.** A survey or visit to determine the validity of allegations of resident abuse, neglect, misappropriation of resident property, or of other noncompliance with applicable state requirements. (3-10-00)

**189. Criminal Offense.** Any crime as defined in Section 18-111, Idaho Code, in 18 U.S.C. Section 4A1.2(o), and 18 U.S.C. Sections 1001 through 1027. (3-10-00)

~~190.~~ **Deficiency.** A determination of non-compliance with a specific rule or part of a rule. (3-10-00)

~~201.~~ **Department.** The Idaho Department of Health and Welfare. (3-10-00)

~~212.~~ **Developmental Disability.** A developmental disability, as defined in Section 66-402, Idaho Code, means chronic disability of a person which appears before the age of twenty-two (22) years of age and: (3-10-00)

**a.** Is attributable to an impairment, such as mental retardation, cerebral palsy, epilepsy, autism, or other conditions found to be closely related to or similar to one (1) of these impairments that requires similar treatment or services, or is attributable to dyslexia resulting from such impairments; and (3-10-00)

**b.** Results in substantial functional limitations in three (3) or more of the following areas of major life activity; self-care, receptive and expressive language, learning, mobility, self-direction, capacity of independent living, or economic self-sufficiency; and (3-10-00)

**c.** Reflects the need for a combination and sequence of special, interdisciplinary or direct care, treatment or other services which are of life-long or extended duration and individually planned and coordinated. (3-10-00)

**223. Director.** The Director of the Idaho Department of Health and Welfare or his designee. (3-10-00)

**234. Elderly.** A person sixty-five (65) years or older who does not have a primary diagnosis of mental illness, or developmental disability, or both, and who does not require active treatment. (3-10-00)

**245. Exploitation.** An action which may include, but is not limited to, the misuse of a vulnerable adult's funds, property, or resources by another person for profit or advantage. (3-10-00)

**256. Finding.** A determination resulting from a survey or complaint investigation of the facility that a potential compliance issue is present, and could, or should have been prevented, or has not yet been identified by the facility, is not being corrected by proper action by the facility, or cannot be justified by special circumstances unique to the facility or the resident. A finding may or may not be cited as a deficiency based upon the scope and severity of the noncompliance. (3-10-00)

**267. Follow-Up Survey.** A survey conducted to verify corrections of deficiencies cited during the previous survey. (3-10-00)

**278. Full License.** A one (1) year license issued by the licensing agency of the Department to a facility complying with this chapter. (3-10-00)

**289. Functional Abilities Assessment.** An assessment of the resident's physical, mental, emotional, and social abilities to cope with the affairs and activities of daily living. (3-10-00)

**2930. Governmental Unit.** The state, any county, municipality, or other political subdivision or any department, division, board, or other agency thereof. (3-10-00)

**301. Hands On.** Physical assistance to the resident beyond verbal prompting. (3-10-00)

**372. Hourly Adult Care.** Nonresident daily services and supervision provided by a facility to individuals who are in need of supervision outside of their personal residence for a portion of the day. (3-10-00)

**323. Immediate Jeopardy.** The licensing agency has determined that residents are subject to an imminent or substantial danger. (3-10-00)

**334. Independent Mobility.** A resident's ability to move about freely of their own choice with or without the assistance of a mobility device such as a wheelchair, cane, crutches, or walker. (3-10-00)

**345. Individual Support Plan.** The written individualized plan approved by the Department, which must be based on a person-centered planning and assessment process outlining the consumers' needs, desires, goals, and objectives, and include the specific types, amounts, frequency, and duration of waiver services to be provided by the agency. (3-10-00)

**356. Initial Deficiency.** The first time that a deficiency or deficiencies are recorded by a surveyor as the result of a survey or complaint investigation. Initial deficiency may be records of deficiencies that occurred prior to the date of the survey visit even if the deficiencies no longer exist at the time of the current survey. (3-10-00)

**367. Legal Guardian/Conservator.** A court-appointed individual who manages the affairs or finances or both of another who has been found to be incapable of handling his own affairs. (3-10-00)

**378. Level Of Care.** This is based on a categorical assessment of the resident's functional ability and the intensity (degree) of care required in the areas of activities of daily living, supervision, response to emergency situations, mobility, medications, and behavior management. (3-10-00)

**389. Level I - Minimal Assistance.** The resident requires room, board, and supervision and may require one (1) or more of the following: (3-10-00)

- a.** Minimal assistance with activities of daily living and nonmedical personal assistance. (3-10-00)
- b.** Minimal assistance with mobility -- the resident is independently mobile. (3-10-00)
- c.** Minimal assistance in an emergency -- the resident is capable of self-preservation in an emergency. (3-10-00)
- d.** Minimal assistance with medications -- the resident does not require medication management or supervision. (3-10-00)
- e.** Minimal behavior management substantiated by the resident's history. (3-10-00)

**390. Level II - Moderate Assistance.** The resident requires room, board, and supervision and may require one (1) or more of the following: (3-10-00)

- a.** Moderate assistance with activities of daily living and nonmedical personal assistance. (3-10-00)
- b.** Moderate assistance with mobility but easily mobile with assistance. (3-10-00)
- c.** Moderate assistance in an emergency but resident is capable of self-preservation with assistance. (3-10-00)
- d.** Moderate assistance with medications. (3-10-00)
- e.** Moderate assistance with behavior management. (3-10-00)

**401. Level III - Extensive Assistance.** The resident requires room, board, supervision, and requires staff up and awake on a twenty-four (24) basis and may require one (1) or more of the following: (3-10-00)

- a.** Extensive assistance with activities of daily living. (3-10-00)
- b.** Extensive personal assistance. (3-10-00)
- c.** Extensive assistance with mobility and may be non-mobile without extensive assistance. (3-10-00)
- d.** Extensive assistance in an emergency and may be incapable of self-preservation without assistance. (3-10-00)
- e.** Extensive assistance with and monitoring of medications. (3-10-00)
- f.** Extensive assistance with training or behavior management or both. (3-10-00)

**422. License.** A permit to operate a facility. (3-10-00)

**423. Licensee.** The holder of a license to operate a facility under this chapter. (3-10-00)

**434. Licensed Environmental Health Specialist.** A person trained and experienced in physical, biological, chemical, and social and sanitary sciences and who is licensed by the Idaho State Bureau of Occupational Licenses. (3-10-00)

**445. Licensing Agency.** The unit of the Department of Health and Welfare that conducts inspections and surveys and issues licenses based on compliance with this chapter. (3-10-00)

**456. Medication.** Any substance or drug used to treat a disease, condition, or symptom, which may be taken orally, injected, or used externally and is available through prescription or over-the-counter. (3-10-00)

**467. Medication Administration.** The issuance of one or more doses of prescribed medication to an individual. (3-10-00)

**478. Medication Assistance.** Assistance to a resident in taking his medication including reminding the resident to take medication, removing a medication container from storage, assisting with the removal of the cap, assisting with the removal of a medication from a container for residents with a disability which prevents independence in this act, and observing the resident taking the medication. (3-10-00)

**489. Medication Dispensing.** Medication dispensing is the issuance of a medication in its original container with a pharmacy label bearing the instructions ordered by the prescriber. (3-10-00)

**4950. Mentally Ill.** A person with one (1) or more of the following: (3-10-00)

**a.** A significant disorder of thought, mood perception, orientation, or memory which impairs judgment, behavior, and capacity to recognize and adapt to reality; (3-10-00)

**b.** Over a period of time has demonstrated marginal social adjustment which prevents him from living independently in the community; (3-10-00)

**c.** Manifested difficulties in social or personal adjustment associated with psychiatric disability, as demonstrated in reduced, lost, or underdeveloped capacities relative to: (3-10-00)

**i.** Personal relationships; (3-10-00)

**ii.** Living arrangements; (3-10-00)

**iii.** Work; (3-10-00)

**iv.** Recreation; (3-10-00)

**v.** Personal care; (3-10-00)

**vi.** Community living skills; or (3-10-00)

**vii.** Other primary aspects of daily living. (3-10-00)

**501. Monitoring Visit.** A visit by a representative of the Department for the purpose of verifying a facility's correction of deficiencies, or to observe the orderly transfer of residents, during a facility's closure. (3-10-00)

**512. Neglect.** The negligent failure to provide those goods or services which are reasonably necessary to sustain the life and health of a person pursuant to Section 39-5302(8), Idaho Code. (3-10-00)

**523. Negotiated Service Agreement.** The agreement reached by the resident and their representative and the facility based on the assessment, physician's or authorized provider's orders, if any, admission records, if any, and desires of the resident, and which outlines services to be provided and the obligations of the facility and the resident. (3-10-00)(\_\_\_\_\_)



- 534. Owner.** Any entity, governmental unit, or person having legal ownership of the facility. (3-10-00)
- 545. Personal Assistance.** The provision by the staff of the facility of one (1) or more of the following services: (3-10-00)
- a.** Assisting the resident with activities of daily living. (3-10-00)
  - b.** Arranging for supportive services. (3-10-00)
  - c.** Being aware of the resident's general whereabouts and supervision as required in the resident's negotiated service agreement. (3-10-00)
  - d.** Monitoring the activities of the resident while on the premises of the facility to ensure the resident's health, safety, and well-being. (3-10-00)
  - e.** Assisting residents with self-administration of medication. (3-10-00)
- 556. Personnel.** Paid or unpaid individuals assigned with the responsibility of oversight of the facility. (3-10-00)
- 567. Physical Restraint.** Any device or physical force that restricts the free movement of, normal functioning of, or normal access to a portion or portions of an individual's body. Excluded are physical guidance and prompting techniques of brief duration. (3-10-00)
- 578. PRN.** Indicates that Aa medication or treatment prescribed by a medical professional to an individual ~~allowing the medication to~~ may be given as needed. (~~3-10-00~~)(\_\_\_\_)
- 589. Pressure Ulcers.** Localized areas of cellular necrosis, pressure ulcers occur most often in the skin and subcutaneous tissue over bony prominence, particularly the sacrum, ischial tuberosities, great trochanter, heels, malleoli, and elbows. (3-10-00)
- 5960. Provisional License.** A license which may be granted to a facility which is not in compliance with the rules but which has no deficiencies that would endanger the health or safety of the residents, pending the satisfactory correction of all deficiencies. (3-10-00)
- 601. Psychosocial History.** A combined summary of psychological and social histories of an individual designed to inform a care giver of a person's strengths, weaknesses, and potential problems. (3-10-00)
- 642. Publicly Funded Programs.** Any program funded in whole or in part by an appropriation of the U.S. Congress, the Idaho Legislature, or a county commission. (3-10-00)
- 623. Punishment.** Any procedure in which an adverse consequence is presented to a resident that is designed to produce a decrease in the rate, intensity, duration or probability of the occurrence of a behavior; or the administration of any noxious or unpleasant stimulus or deprivation of a resident's rights or freedom for the purpose of reducing the rate, intensity, duration, or probability of a particular behavior. (3-10-00)
- 634. Relative(s).** Persons related by birth, adoption, or marriage to the first degree and grand parent and grand child. (3-10-00)
- 645. Repeat Deficiency.** A violation or deficiency found on a resurvey or revisit that was also found on the previous survey or visit. (3-10-00)
- 656. Repeated Noncompliance.** A finding of substandard quality of care on three (3) consecutive surveys, or visits, or both. (3-10-00)
- 667. Representative Of The Department.** An employee of the Department or a designee of the

Department. (3-10-00)

**678. Resident, Boarding Home.** An individual who lives and functions independently and is responsible for making his own decisions. (3-10-00)

**682. Residential ~~And Or~~ Assisted Living Facility.** One (1) or more buildings constituting a facility or residence, however named, operated on either a profit or nonprofit basis, for the purpose of providing twenty-four (24) hour care for three (3) or more adults who need personal care or assistance and supervision essential for sustaining activities of daily living or for the protection of the individual. In this chapter Licensed Residential ~~and or~~ Assisted Living Facilities shall be referred to as "facility". It is the same entity defined in Sections 39-3302(29) and 39-3502(29), Idaho Code. Distinct segments of a facility may be licensed separately, provided each segment meets all applicable rules. (~~3-10-00~~)(\_\_\_\_)

**697. Resident, Residential ~~And Or~~ Assisted Living Facility.** ~~All occupants of a facility~~ An adult, other than the owner, administrator, their immediate families, or employees, who lives in a licensed residential or assisted living facility, and who requires personal assistance or supervision. (~~3-10-00~~)(\_\_\_\_)

**701. Room And Board.** Lodging and meals. (3-10-00)

**712. Scope.** The frequency, incidence, or extent of the occurrence of a deficiency in a facility. (3-10-00)

**723. Self-Administration Of Medication.** The act of a resident taking a single dose of his own medication from a properly labeled container and placing it internally in, or externally on, his own body as a result of an order by a physician, ~~and authorized provider, or~~ dentist. (~~3-10-00~~)(\_\_\_\_)

**734. Self Preservation.** An individual's ongoing ability to execute actions necessary to safeguard against personal harm, injury, or accident. (3-10-00)

**745. Service Plan.** The Negotiated Service Agreement, Personal Care Plan, Plan of Care, or Individual Support Plan. (3-10-00)

**756. Severity.** The seriousness of a deficiency, which means the degree of actual or potential negative impact on a resident (as measured by negative outcomes or rights violations) or the degree to which his highest practicable physical, mental, or psychosocial well-being has been compromised. (3-10-00)

**767. Story.** That portion of a building included between the upper surface of any floor and the upper surface of the floor next above, except that the topmost story shall be that portion of a building included between the upper surface of the topmost floor and the ceiling or floor above. If the finished floor level directly above a basement or unused under-floor space is more than six (6) feet above grade as defined herein for more than fifty percent (50%) of the total perimeter or is more than twelve (12) feet above grade as defined herein at any point, such basement or unused under-floor space shall be a story. (3-10-00)

**778. Story, First.** The lowest story in the building which qualifies as a story, as defined herein, except that a floor level in a building having only one (1) floor level shall be classified as a first story, provided such floor level is not more than four (4) feet below grade, as defined herein, for more than fifty percent (50%) of the total perimeter, or more than eight (8) feet below grade, as defined herein, at any point. (3-10-00)

**782. Substandard Quality Of Care.** A finding by the licensing agency of one (1) or more deficiencies, the existence of which limit(s) the facility's ability to deliver adequate care or services. (3-10-00)

**790. Substantial Compliance.** A facility is in substantial compliance with these rules when there are no deficiencies which endanger the health, safety, or welfare of the residents. Resident welfare includes resident rights, resident property, and the opportunity, where appropriate, to work and be involved in recreation and education opportunities in the community. (~~3-10-00~~)(\_\_\_\_)

**801. Supervision.** Administrative activity which provides protection, guidance, knowledge of the resident's whereabouts, and assistance with activities of daily living. The administrator is responsible for providing

appropriate supervision based on each resident's negotiated service agreement. (3-10-00)

**872. Supportive Services.** The specific services that are provided to the resident in the community and that are required by the negotiated service agreement or reasonably requested by the resident. (3-10-00)

**873. Survey.** An on-site review conducted by a surveyor to determine compliance in the areas of quality of care, rehabilitative care, resident rights, administrative services, dietary and nutrition services, activities, social participation, sanitation, infection control, and physical environment. (3-10-00)

**874. Surveyor.** A person authorized by the Department to conduct surveys or complaint investigations to determine compliance with program requirements. (3-10-00)

**875. Temporary License.** A license, not to exceed six (6) months in duration, which shall be issued to a facility upon compliance with the initial application process. The purpose of the temporary license is to give the Department time to determine the facility's ongoing capability to provide services and to meet rules. (3-10-00)

**876. Trust Account.** Accounts maintained by the facility separate from its own accounts, to deposit, hold, or disburse monies belonging to residents. The facility shall be the trustee of such accounts and the residents shall be the beneficiaries. (3-10-00)

**877. Uniform Assessment Instrument.** A set of standardized criteria adopted by the Department of Health and Welfare to assess functional and cognitive abilities pursuant to IDAPA 16.03.23, "Rules Governing Uniform Assessments for State-Funded Clients". (3-10-00)

**878. Waiver Services.** Home and Community Based (HCBS) Services. (3-10-00)

**882. 1501 Home.** A home as authorized by Section 39-3561(9) of the Idaho Code, to provide care and supervision for up to four (4) adults. Certification as a 1501 home is not transferable to another person or location other than as originally certified. Homes certified under this provision shall not be subject to the licensed residential care facility administrator or facility licensing requirements of Title 54, Chapter 42, Idaho Code, or Title 39, Chapters 33 and 35, Idaho Code. With the exception of the limitation on numbers of residents, 1501 homes are subject to all rules regarding certified family homes in Idaho. (3-10-00)

**(BREAK IN CONTINUITY OF SECTIONS)**

**102. APPLICATIONS.**

**01. Initial License.** The owner/applicant ~~shall~~ **must** apply for a license on forms provided by the Department giving such information as the Department ~~shall~~ **requires** including, ~~but not limited to:~~ (3-10-00)(\_\_\_\_)

**a.** A written statement that the applicant has thoroughly read and reviewed this chapter and is prepared to comply with all provisions of IDAPA 16.03.22, "Rules for Licensed Residential ~~and~~ **or** Assisted Living Facilities in Idaho"; (3-10-00)(\_\_\_\_)

**b.** Satisfactory evidence that the applicant is of reputable and responsible character to include a criminal history check as provided in IDAPA 16.05.06, "Rules Governing Mandatory Criminal History Checks". A criminal history check must be repeated every three (3) years. If the applicant is unable to obtain an acceptable criminal record clearance, the Department shall deny the application; (3-10-00)

**c.** A signed resume including a chronological employment history covering the last five (5) years; (3-10-00)

**d.** Four (4) character references, two (2) of which must be provided by professional licensed individuals, including addresses and telephone numbers. Character references may not include relatives; (3-10-00)

**e.** The applicant must provide a written statement that discloses any license revocation or other disciplinary action taken or in the process of being taken, against a license held or previously held by the entities in Idaho as specified in Section 39-3345 or 39-3545 or both, Idaho Code, or any other jurisdiction, or that verifies that the applicant has never been involved in any such action; (3-10-00)

**f.** A statement must be provided which indicates that the applicant has completed the Department approved orientation; (3-10-00)

**g.** If the owner/applicant is not the administrator, then the administrator shall meet the requirements of Subsections 102.01 through 102.01.f., 102.01.p., and 102.01.q.; (3-10-00)

**h.** If the owner/applicant is a firm, association, organization, partnership, business trust, corporation, or company, the administrator or other members of the organization who will provide direct resident care or who will directly influence the facility shall provide the information contained in Subsections 102.01.a. through 102.01.g. Each shareholder/investor holding ten percent (10%) or more interest in the firm shall be listed on the application; (3-10-00)

**i.** Evidence of liability insurance sufficient to cover claims against the facility; (3-10-00)

**j.** A statement from the local fire authority that the facility is located in a lawfully constituted fire district or affirmation that a lawfully constituted fire authority will respond to a fire at the facility; (3-10-00)

**k.** The building shall be required to meet all applicable requirements of local, state, and national codes, including current electrical and plumbing requirements; (3-10-00)

**l.** A statement from a licensed electrician or the local/state electrical inspector that all wiring in the facility complies with applicable local codes. A copy of the statement shall be kept on file at the facility; (3-10-00)

**m.** If the facility is not utilizing an approved municipal water or sewage treatment system, a statement from a local environmental health specialist indicating that the water supply and sewage disposal system meet the requirements of the Department. The reports shall be kept on file at the facility, and shall be kept current; (3-10-00)

**n.** Completed application form signed by the applicant; (3-10-00)

**o.** A complete set of operational policies and procedures which meets the requirements of these rules. (3-10-00)

**p.** Licensed Administrator Requirements. If the owner/applicant is not the administrator, only the administrator is required to be licensed as an Idaho Residential Care Administrator. (3-10-00)

**q.** Administrator's License. A copy of the Idaho Residential Care Administrator's license, or evidence that the administrator is currently in the process of obtaining a license, must be provided with the application. (3-10-00)

**r.** Facility Floor Plan. A rough sketch detailing the floor plan of the facility, including measurement of all rooms, or a copy of professionally prepared blueprints shall be submitted for evaluation by the Department (see Sections 526 and 527). (3-10-00)

**02. Building Evaluation Fee.** The application must be accompanied by a five hundred dollar (\$500) initial building evaluation fee. (3-10-00)

**03. Written Request For Building Evaluation.** The applicant must provide a written request for a building evaluation for existing buildings, which includes the address of the building that is to be evaluated; the level of care of the residents for whom the building is being evaluated to serve; and the name, address, and telephone number of the person who is to receive the building evaluation report completed by the Department. (3-10-00)

**04. Failure Of The Applicant To Cooperate With The Licensing Agency In The Completion Of The Application Process Shall Result In The Denial Of The Application.** Failure to cooperate means that the information described in ~~this~~ Section 102 of the rules has not been provided, or not provided in the form requested by the licensing agency, or both. This application process cannot exceed six (6) months. ~~(3-10-00)~~(\_\_\_\_)

**(BREAK IN CONTINUITY OF SECTIONS)**

**111. DENIAL OF LICENSE.**

**01. Endangerment Of Resident's Health And Safety.** The Department may deny the issuance of a license when conditions exist that endanger the health or safety of any resident. (3-10-00)

**02. Substantial Compliance With These Rules.** The licensing agency may deny the issuance of a license when the facility is not in substantial compliance with these rules. Additional causes for denial of a license may include the following: (3-10-00)

**a.** The applicant has willfully misrepresented or omitted information on the application or other documents pertinent to obtaining a license; or (3-10-00)

**b.** The applicant has been guilty of fraud, gross negligence, abuse, assault, battery, or exploitation with respect to the operation of a health facility or residential care facility or certified family home; or (3-10-00)

**c.** The applicant is actively affected in his performance by alcohol or the use of drugs classified as controlled substances; or (3-10-00)

**d.** The applicant has been convicted of a criminal offense other than a minor traffic violation within the past five (5) years; or (3-10-00)

**e.** The applicant is of poor moral and responsible character or has been convicted of a felony or defrauding the government; or (3-10-00)

**f.** The applicant has been denied or the applicant's wrongdoing has caused the revocation of the license/certificate of any health facility, residential ~~and~~ or assisted living facility, or certified family home; or ~~(3-10-00)~~(\_\_\_\_)

**g.** The applicant has been convicted of operating any health facility or residential care facility without a license or certified family home without a certificate; or (3-10-00)

**h.** The applicant is directly under the control or influence of any person who has been subject to the proceedings described in Subsection 111.02.c.; or (3-10-00)

**i.** The applicant is directly under the control or influence of any person who is of poor moral and responsible character or has been convicted of a felony or defrauding the government; or (3-10-00)

**j.** The applicant is directly under the control or influence of any person who has been convicted of a criminal offense other than a minor traffic violation in the past five (5) years. (3-10-00)

**(BREAK IN CONTINUITY OF SECTIONS)**

**150. ENFORCEMENT PROCESS.**

**01. Remedies.** If the Department finds that a facility does not or did not meet a rule governing licensed

residential ~~and~~ or assisted living facilities, it may impose the following remedies, independently or in conjunction with others, subject to the provisions of these rules for notice and appeal: ~~(3-10-00)~~(\_\_\_\_)

- a. Ban on all admissions, see Section 925; (3-10-00)
- b. Ban on admissions of residents with certain diagnosis, see Section 926; (3-10-00)
- c. Civil monetary penalties, see Section 927; (3-10-00)
- d. Appointment of temporary management, see Section 928; (3-10-00)
- e. Summary suspension of the license, or transfer residents, or both, see Section 929 and 971; (3-10-00)
- f. Issuance of a provisional license, see Section 930; or (3-10-00)
- g. Revocation of the facility's license, see Section 931. (3-10-00)

**(BREAK IN CONTINUITY OF SECTIONS)**

**170. UNLICENSED FACILITIES.**

**01. Unlicensed Facility.** An operation shall be considered an unlicensed facility if it meets the definition of a facility stated in these rules, or is represented to provide care and serve the population of a residential ~~and~~ or assisted living facility, is not licensed, and is not exempt from licensure. ~~(3-10-00)~~(\_\_\_\_)

**02. Residents In Unlicensed Facilities.** Upon discovery of an unlicensed facility, the Department shall refer residents to appropriate placement or adult protective services agency if either of the following conditions exist: (3-10-00)

- a. There is an immediate threat to the resident's health and safety; or (3-10-00)
- b. The unlicensed facility does not cooperate with the licensing agency to apply for a license, meet licensing standards and obtain a license. (3-10-00)

**03. Operator Of An Unlicensed Facility.** A person found to be operating a facility without a license shall be guilty of a misdemeanor punishable by imprisonment in a county jail not to exceed six (6) months, or by a fine not to exceed five thousand dollars (\$5,000), pursuant to Section 39-3352(4), Idaho Code. (3-10-00)

**04. Prosecution Of Violators.** In the event the county attorney in the county where the alleged violation occurred fails or refuses to act within thirty (30) days of notification of the violation, the Attorney General is authorized to prosecute violations under the provisions of Section 39-3352(5), Idaho Code. (3-10-00)

**05. Placement Of Persons Into An Unlicensed Facility.** No person shall place, refer, or recommend placement of a person into a facility which is operating without a license. To do so shall constitute a misdemeanor, pursuant to Section 39-3353, Idaho Code. (3-10-00)

**(BREAK IN CONTINUITY OF SECTIONS)**

**181. INSPECTIONS.**

**01. Inspection Of Facilities.** The licensing agency ~~shall cause to be made such~~ must ensure that

inspections and investigations, ~~based on previous survey results, as it may deem necessary~~ be conducted at least every twelve (12) months in order to determine compliance with this chapter and applicable rules and standards.

~~(3-10-00)~~(\_\_\_\_)

**02. Unannounced Inspections.** ~~For licensed facilities, with the exception of initial surveys, a~~All inspections and investigations will be made unannounced and without prior notice. ~~(3-10-00)~~(\_\_\_\_)

**03. Inspection Services.** The licensing agency may utilize the services of any legally qualified person or organization, either public or private, to examine and inspect any entity requesting a facility license. (3-10-00)

**04. Access And Authority.** An inspector shall have full access and authority to examine among other things, quality of care, services delivery, resident records, facility's records including any records or documents pertaining to any financial transactions between residents and the facility or any of its employees, resident accounts, physical premises, including the condition of buildings, grounds and equipment, food service, water supply, sanitation, maintenance, housekeeping practices, and any other areas necessary to determine compliance with applicable rules and standards. (3-10-00)

**05. Interview Authority.** An inspector shall have the authority to interview the license holder, administrator, staff, residents, residents' families, or other legally responsible person. Interviews with residents shall be confidential and conducted privately unless otherwise specified by the resident. (3-10-00)

**06. Access To The Entire Facility.** The inspector shall have full authority to inspect the entire facility, including personal living quarters of operators, administrator, or staff living in the facility, to check for inappropriate storage of combustibles, faulty wiring, or other conditions that may have a direct impact on the compliance with these rules. (3-10-00)

**07. Written Report.** Following any investigation or inspection, the licensing agency shall provide within a reasonable period of time, a written report to the administrator of the facility. The report shall include the finding of the investigation or inspection. (3-10-00)

**08. Statement Of Deficiencies.** If deficiencies are identified during the investigation or inspection, the facility shall be sent a statement of deficiencies which requires a plan of correction. (3-10-00)

**09. Plan Of Correction.** An acceptable plan of correction must include how the deficiency was corrected or how it shall be corrected, what steps have been taken to assure that the deficiency does not recur, and acceptable time frames for correction of the deficiency. (3-10-00)

**10. Submit Plan Of Correction.** The facility shall be given a reasonable period of time to develop a plan of correction and to return the plan of correction to the licensing agency. (3-10-00)

**11. Follow-Up Surveys.** Follow-up surveys may be conducted to ascertain if corrections to deficiencies are being made according to time frames established in the plan of correction. (3-10-00)

**(BREAK IN CONTINUITY OF SECTIONS)**

**250. RESIDENTS' RIGHTS.**

Each facility shall develop and implement a written residents' rights policy which shall protect and promote the rights of each resident including, but not limited to, the following: (3-10-00)

**01. Resident Records.** Each facility must maintain and keep current a record of the specific information on each resident (refer to Section 426). Upon request a resident shall be provided access to information in his records. (3-10-00)

**02. Privacy.** Each resident must be assured the right to privacy with regard to accommodations,

medical, and other treatment, written and telephone communications, and visits and meetings of family and resident groups. (3-10-00)

**03. Humane Care And Environment.** Each resident shall have the right to humane care and a humane environment including the following: (3-10-00)

- a. The right to a diet which is consistent with any religious or health-related restrictions; (3-10-00)
- b. The right to refuse a restricted diet; and (3-10-00)
- c. The right to a safe and sanitary living environment. (3-10-00)

**04. Dignity And Respect.** Each resident shall have the right to be treated with dignity and respect, including: (3-10-00)

- a. The right to be treated in a courteous manner by staff; (3-10-00)
- b. The right to receive a response from the facility to any request of the resident within a reasonable time; and (3-10-00)
- c. The right to be free from intimidation, manipulation, coercion, and exploitation. (3-10-00)

**05. Behavior Management Programs.** Each resident shall have the right to be free of unwarranted use of behavior management programs and chemical and physical restraints. (3-10-00)

**06. Habilitation/Training.** The resident shall have the right to participate in a habilitation/training program if the resident qualifies for habilitation/training, as determined by an assessment, if he desires to participate, and if the program is available. (3-10-00)

**07. Participation In The Development Of The Negotiated Service Agreement.** Each resident shall have the opportunity to participate in the development of, review of, and changes to his negotiated service agreement. Residents or their legal guardians must be advised of alternative courses of care and their consequences when such alternatives are available. The resident's preference about alternatives must be elicited and considered in the development of the negotiated service agreement. (3-10-00)

**08. Personal Possessions.** Each resident shall have the right to: (3-10-00)

- a. Wear his own clothing; (3-10-00)
- b. Determine his own dress and hair style; (3-10-00)
- c. Retain and use his own personal property in his own living area so as to maintain individuality and personal dignity; and (3-10-00)
- d. Be provided a separate storage area in his own living area and at least one (1) locked cabinet or drawer, if the resident is capable of managing lock and key, for keeping personal property. (3-10-00)

**09. Personal Funds.** Residents who are clients of the Department shall retain the basic allowance for their personal use. In addition, each client of the Department (Aid to the Aged, Blind, and Disabled (AABD)) is to retain the standard unearned income disregard allowed by the Department. The resident may pay the facility for personal laundry service using the income disregarded by the standard income disregard described in IDAPA 16.03.05, "Rules Governing Eligibility for Aid to the Aged, Blind, and Disabled". The resident is not required to use the facility's laundry service and may retain the disregarded income for their personal use. (3-10-00)

**10. Management Of Personal Funds.** A facility shall not require a resident to deposit his personal funds with the facility. If the facility manages resident funds, the facility must account for the personal funds of the resident deposited with the facility as follows: (3-10-00)



- a.** The resident must give the facility written authorization to manage his funds; (3-10-00)
- b.** The facility must assure a full and complete accounting of each resident's personal funds, maintain a written record of all financial transactions involving each resident's personal funds deposited with the facility, and afford the resident, or legal guardian/conservator of the resident, reasonable access to such record; (3-10-00)
- c.** The facility must deposit any amount of a resident's personal funds in excess of one hundred dollars (\$100) in an interest bearing account that is separate from any of the facility's operating accounts, and credit all interest earned on the separate account to the resident account; (3-10-00)
- d.** The facility may maintain any other resident funds in a non-interest bearing account or petty cash fund; (3-10-00)
- e.** The facility must assure that the resident has access to his personal funds during reasonable hours; (3-10-00)
- f.** Upon the death of a resident with such an account who is not a client of the Department, the facility must promptly convey the resident's personal funds, with a final accounting of such funds, to the individual administering the resident's estate; and (3-10-00)
- g.** Upon the death of a resident with such an account who is a client of the Department, the facility must promptly refund the remaining balance of the resident's personal funds, with a final accounting of such funds, to the Department. (3-10-00)
- 11. Access And Visitation Rights.** Each facility must permit: (3-10-00)
- a.** Immediate access to any resident, by any representative of the Department, by the state Ombudsman for the elderly or his designees, by Co-AD or their designees for individuals with a developmental disability or mental illness, by the Idaho Alliance For Mental Illness or their designee for individuals with a mental illness, or by the resident's physician or authorized provider; ~~(3-10-00)~~(\_\_\_\_)
- b.** Immediate access to a resident, subject to the resident's right to deny or withdraw consent at any time, by immediate family or other relatives; (3-10-00)
- c.** Immediate access to a resident, subject to reasonable restrictions and the resident's right to deny or withdraw consent at any time, by others who are visiting with the consent of the resident; and (3-10-00)
- d.** Reasonable access to a resident by any entity or individual that provides health, social, legal, or other services to the resident, subject to the resident's right to deny or withdraw consent at any time. (3-10-00)
- 12. Access By Advocates And Representatives.** A facility shall permit advocates and representatives of community legal services program, whose purposes include rendering assistance without charge to residents, to have access to the facility at reasonable times in order to: (3-10-00)
- a.** Visit, talk with and make personal, social services programs, and legal services available to all residents; (3-10-00)
- b.** Inform residents of their rights and entitlements, their corresponding obligations under state, federal, and local laws by distribution of educational materials or discussion in groups, or with individuals, or both; (3-10-00)
- c.** Assist residents in asserting their legal rights regarding claims for public assistance, medical assistance, and social security benefits, as well as in all other matters in which residents are interested. This assistance may be provided individually, or in a group basis, and may include organizational activity, counseling, and litigation; (3-10-00)

**d.** Engage in all other methods of assisting, advising, and representing residents so as to extend to them the full enjoyment of their rights; (3-10-00)

**e.** Communicate privately and without restrictions with any resident who consents to the communication; and (3-10-00)

**f.** Observe all common areas of the facility. (3-10-00)

**13. Posting Of Pertinent Advocacy Groups.** The names, addresses, and telephone numbers of all pertinent advocacy groups shall be readily available in the facility for resident access. These groups shall include, but not be limited to: (3-10-00)

**a.** The state licensing agency; (3-10-00)

**b.** The state Ombudsman for the elderly; (3-10-00)

**c.** Co-Ad, Inc., Idaho's Protection and Advocacy System for individuals with a disability; (3-10-00)

**d.** Idaho Alliance For Mental Illness for individuals with a mental illness; and (3-10-00)

**e.** Adult Protection. (3-10-00)

**14. Employment.** Each resident shall have the right to refuse to perform services for the facility except as contracted for by the resident and the administrator of the facility. If the resident is hired by the facility to perform services as an employee of the facility, the wage paid to the resident and withholding shall be consistent with state and federal law. (3-10-00)

**15. Confidentiality.** Each resident shall have the right to confidentiality of personal and clinical records. (3-10-00)

**16. Freedom From Abuse.** Each resident shall have the right to be free from physical, mental or sexual abuse, neglect, corporal punishment, involuntary seclusion, and any physical or chemical restraints imposed for purposes of discipline or convenience. (3-10-00)

**17. Freedom Of Religion.** Each resident shall have the right to practice the religion of his choice or to abstain from religious practice. Residents shall also be free from the imposition of the religious practices of others. (3-10-00)

**18. Control And Receipt Of Health Related Services.** Each resident shall have the right to control his receipt of health related services, including: (3-10-00)

**a.** The right to retain any health-related services including *but not limited to* the services of his own personal physician ~~and or authorized provider, dentist, and other health care professionals;~~ ~~(3-10-00)( )~~ (3-10-00)

**b.** The right to select the pharmacy or pharmacist of his choice; and (3-10-00)

**c.** The right to confidentiality and privacy concerning his medical condition, dental condition, and treatment. (3-10-00)

**19. Grievances.** Each resident shall have the right to voice and file a grievance with respect to treatment or care that is furnished, without discrimination or reprisal for voicing the grievance and the right to prompt efforts by the facility to resolve grievances the resident may have, including those with respect to the behavior of other residents. (3-10-00)

**20. Participation In Resident And Family Groups.** Each resident shall have the right to organize and participate in resident groups in the facility and the right of the resident's family to meet in the facility with the families of other residents in the facility. (3-10-00)

**21. Participation In Other Activities.** Each resident shall have the right to participate in social, religious, and community activities that do not interfere with the rights of other residents in the facility. (3-10-00)

**22. Examination Of Survey Results.** Each resident shall have the right to examine, upon reasonable request, the results of the most recent survey of the facility conducted by the Department with respect to the facility and any plan of correction in effect with respect to the facility. (3-10-00)

**23. Transfer Or Discharge.** Each resident shall have the right to be transferred or discharged only for medical reasons, or for his welfare or that of other residents, or for nonpayment for his stay and in non-emergency conditions is given at least fifteen (15) calendar days advance written notice prior to the date of discharge or transfer or up to thirty (30) calendar days as agreed to in the admission agreement. (3-10-00)

**24. Other Facilities.** Each resident has a right to review a list of other facilities that may be available to meet his needs. (3-10-00)

**25. Citizenship Rights.** Each resident has a right to be encouraged and assisted to exercise his rights as a resident and as a citizen, including the right to be informed and to vote. (3-10-00)

**26. Advanced Directives.** ~~Elderly~~ Residents shall have the right to be informed, in writing, regarding the formulation of an advanced directive to include applicable State law. ~~(3-10-00)~~(\_\_\_\_)

**27. Other Rights.** Each resident shall have any other right established by law. (3-10-00)

**28. Resident Councils.** Every facility over fifteen (15) beds shall assist the residents in establishing and maintaining a resident council. The council shall be composed of residents of the facility and may include their family members. The council may extend membership to advocates, friends and others. (3-10-00)

**29. Council Duties.** The council shall have the following duties: (3-10-00)

**a.** To assist the facility in developing a grievance procedure; (3-10-00)

**b.** To communicate resident opinions and concerns; (3-10-00)

**c.** To obtain information from the facility and disseminate the information to the residents; (3-10-00)

**d.** To identify problems and participate in the resolution of those problems; and (3-10-00)

**e.** To act as a liaison with the community. (3-10-00)

**30. Waiver For Resident Council.** The requirement that every facility over fifteen (15) beds shall assist the residents in establishing and maintaining a resident council may be waived provided the following conditions are met: (3-10-00)

**a.** The operator meets regularly with residents; (3-10-00)

**b.** Residents decline to participate in a formal council; and (3-10-00)

**c.** Appropriate documentation exists to indicate the residents' decision. (3-10-00)

**(BREAK IN CONTINUITY OF SECTIONS)**

**376. QUALIFICATIONS OF THE ADMINISTRATOR.**

**01. Qualifications Of The Administrator.** Each facility shall have at least one (1) full-time administrator who: (3-10-00)

**a.** ~~Has not been convicted of any felony or defrauding of the federal government;~~ Is of good moral and responsible character and has not been convicted, as verified by a criminal background check (refer to Section 39-5604, Idaho Code), or is not under the influence or control of anyone convicted of: (~~3-10-00~~)( )

**i.** A criminal offense related to the delivery of an item or service under Medicare, Medicaid, or another state health care program; ( )

**ii.** A criminal offense related to neglect, or abuse of a patient, in connection with the delivery of a health care item or service; or ( )

**iii.** A criminal offense related to fraud, theft, embezzlement, breach of fiduciary responsibility, or other financial misconduct; or ( )

**iv.** A criminal offense resulting in death or injury to another person; ( )

**b.** Has sufficient physical, emotional, and mental capacity to carry out the requirements of the rules as verified by a statement from a licensed physician or ~~nurse practitioner~~ authorized provider upon assuming duties; (~~3-10-00~~)( )

**c.** Has sufficient management and administrative ability to carry out the requirements of these rules. ( )

**e02. Investigations Of Administrator By The Department.** The Department may conduct such investigations as it may deem necessary to determine the capabilities of an administrator and may request an administrator to provide any additional information it deems necessary related to that person's character and qualifications; and (~~3-10-00~~)( )

**#03. Representation Of Residents.** The administrator, his relatives, or employees shall not act as or seek to become the legal guardian of, or have power of attorney for any resident, unless a waiver is granted by the Department at the time of each survey on a case-by-case basis considering cases where guardianship is in the best interest of the resident including ~~but not limited to~~ medical necessity, protection from abuse ~~and~~ neglect, or safety and supervision issues of the resident. The administrator may not require the resident to name them as the payee as a condition of providing services. Specific limited powers of attorney to address emergency procedures where competent consent cannot otherwise be obtained are permitted. (~~3-10-00~~)( )

**024. Valid License For Administrator.** The administrator shall have a valid residential care administrator's license. (3-10-00)

**(BREAK IN CONTINUITY OF SECTIONS)**

**420. OPERATIONAL STANDARDS AND PROCEDURES.**

**01. Operational Policies.** Each facility shall develop and implement a written set of operational policies; which shall be available at all times and shall include, but not be limited to: (3-10-00)

**a.** Appropriate transfer to other facilities for acute medical or other care to include timely transfer when needed; (3-10-00)

**b.** Signed release by the resident or legal guardian/conservator for transfer of pertinent information to the receiving facility; (3-10-00)

- c. Arrangements made for emergency medical, dental, or other services; (3-10-00)
- d. Temporary detention of a resident against his will to protect him or others from harm, which shall include how this is to be accomplished, and persons to be notified including the resident's legal guardian/conservator or family, the Department and local law enforcement; (3-10-00)
- e. Maintenance of a log to include documentation indicating any significant change in a resident's physical or mental status and the facility's action or response. A twelve (12) month record of logs shall be maintained in the facility; (3-10-00)
- f. Notification of significant changes in physical or mental condition to the family, legal guardian/conservator, or should there be none, the Department; (3-10-00)
- g. Conditions under which transfer of a resident can be made without prior notification to, or consent of, the family or legal guardian/conservator; (3-10-00)
- h. Assurance that physician's or authorized provider's orders are adhered to; ~~(3-10-00)~~(\_\_\_\_)
- i. Death of a resident while in the facility; (3-10-00)
- j. Provision and maintenance of a system of identifying each resident's personal property and methods for safekeeping of his valuables. Each resident's clothing and other property shall be reserved for his own use; (3-10-00)
- k. Provision for the timely return of the resident's valuables and personal purchases at the time of his transfer, discharge, or death; (3-10-00)
- l. Provisions for smoking or non-smoking; (3-10-00)
- m. Provisions for alerting or calling an operator or attendant during the night and permitting any resident to secure the attention of personnel at any time; (3-10-00)
- n. Plans and procedures for the operation of the physical plant, which include, but are not limited to, utilities, fire safety, and plant maintenance; (3-10-00)
- o. Investigations and review of written reports by the administrator of every incident ~~and~~ accident involving a resident; and ~~(3-10-00)~~(\_\_\_\_)
- p. Notification of the resident's family or legal guardian/conservator, or in the case of Department clients, the regional office of the Department, of any unusual happenings to a resident such as accidents, sudden illness, disease, unexplained absence, or death. (3-10-00)
- q. Any physician or authorized provider, nurse, employee of a public or private health facility, or a state licensed or certified residential facility serving vulnerable adults, medical examiner, dentist, Ombudsman for the elderly, osteopath, optometrist, chiropractor, podiatrist, social worker, police officer, pharmacist, physical therapist, or home care worker who has reasonable cause to believe that a vulnerable adult is being or has been abused, neglected, or exploited shall immediately report such information to the Idaho Commission on Aging or its Area Agencies on Aging (Section 39-5303, Idaho Code). ~~(3-10-00)~~(\_\_\_\_)
- r. It is the facility's responsibility to immediately report suspected abuse, neglect or exploitation of any vulnerable adult to the Commission on Aging. When there is reasonable cause to believe that abuse, or sexual assault has resulted in death or serious physical injury jeopardizing the life, health, or safety of a vulnerable adult resident, the facility must report such information within four (4) hours to the appropriate law enforcement agency. (refer to Sections 39-5303 and 39-5310, Idaho Code). (3-10-00)
- 02. Resident Medications.** There shall be a policy describing the facility's system for handling resident medications in accordance with Section 428 of these rules. (3-10-00)

**03. Behavior Management Programs.** If any behavior management is used, there shall be a policy describing the facility's behavior management program which is: (3-10-00)

- a. Designed and closely monitored to assure that the interventions of the program are positive; (3-10-00)
- b. The least restrictive and least aversive means of obtaining the desired result; and (3-10-00)
- c. Must be approved by an individual qualified in resident behavior management and must be approved by the Department if the client is a client of the Department. (3-10-00)

**04. Habilitation/Training.** If appropriate, there shall be a policy describing the facility's habilitation/training program which: (3-10-00)

- a. Is designed to promote optimal independence; (3-10-00)
- b. Maximize the developmental or independence potential of the resident; and (3-10-00)
- c. Is provided in the setting that is the least restrictive of the resident's personal liberties. (3-10-00)

**(BREAK IN CONTINUITY OF SECTIONS)**

**422. ADMISSION POLICIES.**

**01. Admission Policies.** Each facility shall develop and follow a written admission policy. This written description of services provided by the facility to the residents shall be on file and available to the public and shown to any potential resident, his legal guardian/conservator, or both. The written admission policy shall include as a minimum, but not be limited to, the following: (3-10-00)

- a. The purpose, quantity and characteristics of the service; (3-10-00)
- b. Any restrictions or conditions imposed on the resident as a result of religious beliefs or philosophy of the owner or administrator, any particular dietary beliefs, or any unusual restrictions or practices or both regardless of the reason; (3-10-00)
- c. Any limitations concerning delivery of routine personal care by persons of the opposite sex. (3-10-00)
- d. Placement to Meet the Needs of the Resident. The health, number, age, and sex of children or other adults in the facility shall be taken into account in evaluating the appropriateness of a placement for meeting the needs of an adult. (3-10-00)

**02. Review Prior To Admission.** Services offered, charges, and information required of residents shall be reviewed with the potential resident or his legal guardian/conservator prior to admission. (3-10-00)

**03. Fee Description.** A written description of how fees shall be handled by the facility for a partial month's care shall be included. (3-10-00)

**04. Notice Of Increase Of Monthly Fee.** Resident or resident's legal guardian/conservator shall be notified in writing of an increase in the facility monthly rates at least thirty (30) calendar days prior to such a raise in monthly rates. (3-10-00)

**05. Agreement To Handle Funds.** A written agreement whether or not the facility shall accept

responsibility for the residents' personal funds shall be available. (3-10-00)

**06. Signed Admission Agreement.** The admission agreement must be signed by the resident or his legal guardian/conservator and a representative of the facility. (3-10-00)

**07. Policies Of Acceptable Admissions.** Written descriptions of the conditions for admitting residents to the facility shall include but not be limited to: (3-10-00)

**a.** No resident shall be admitted or retained for whom the facility does not have the capability or services to provide appropriate care, or who requires a level of service, or type of service for which the facility is not licensed to provide or which the facility does not provide or arrange for, or if the facility does not have the personnel, appropriate in numbers and with appropriate skill to provide such services; (~~3-10-00~~)(\_\_\_\_)

**b.** No resident shall be admitted or retained who requires ongoing skilled nursing, intermediate care, or care not within the legally licensed authority of the facility unless there are specialized facility provisional agreements with the Department that allow for skilled nursing or intermediate care; (3-10-00)

**c.** No resident shall be admitted or retained who requires ongoing highly technical skilled nursing procedures. Limited nursing services will require a nurse on site during the nursing procedure; (3-10-00)

**d.** No resident shall be admitted or retained who requires skilled nursing care on a twenty-four (24) hour basis; (3-10-00)

**e.** No resident shall be admitted or retained with pressure ulcers or open wounds that are not healing; (3-10-00)

**f.** No resident shall be admitted or retained with draining wounds for which the drainage cannot be contained; (3-10-00)

**g.** No resident shall be admitted or retained who is beyond the level of fire safety provided by the facility; and (3-10-00)

**h.** No resident shall be admitted or retained whose physical, emotional, or social needs are not compatible with the other residents in the facility. (3-10-00)

**08. Categories Of Residents.** The facility shall notify potential residents of the types of populations it specializes in serving and it will not discriminate on the basis of race, color, national origin, religion, sex or disability. (3-10-00)

**09. Admission Of Residents.** The facility shall not admit any residents without a written order by the attending physician or authorized provider or authorization by the Department. (~~3-10-00~~)(\_\_\_\_)

**10. Short-Term Care Admissions For Fourteen Days Or Less.** Facilities may provide care for potential residents that meet regular admission requirements including physician or authorized provider orders for diet, treatment, medications, and an authorized negotiated service agreement. No admission is permitted that places the facility over its licensed bed capacity. (~~3-10-00~~)(\_\_\_\_)

#### **423. ADMISSION AGREEMENTS.**

**01. Admission Agreements.** Prior to or on the day of admission to the facility, the facility and the resident or the resident's legal guardian/conservator shall enter into an admission agreement. The agreement shall be in writing and shall be signed by both parties. The admission agreement may be integrated with the negotiated service agreement provided that all requirements for the negotiated service agreement and admission agreement are met. The admission agreement shall include at a minimum the following: (~~3-10-00~~)(\_\_\_\_)

**a.** Services that the facility shall provide including, but not limited to, daily activities, recreational activities, maintenance of self-help skills, assistance with activities of daily living, arrangements for medical and

dental services, provisions for trips to social functions, special diets, and arrangements for payments; (3-10-00)

**b.** Whether or not the resident shall assume responsibility for his own medication including reporting missed medication or medication taken on a PRN basis; (3-10-00)

**c.** Whether or not the facility shall accept responsibility for the residents' personal funds; (3-10-00)

**d.** How a partial month's refund shall be handled; (3-10-00)

**e.** Responsibility for valuables belonging to the resident and provision for the return of residents' valuables should the resident leave the facility; (3-10-00)

**f.** Fifteen (15) calendar days' written notice or up to thirty (30) calendar days as agreed to in the admission agreement prior to transfer or discharge on the part of either party; (3-10-00)

**g.** Conditions under which emergency transfers shall be made; (3-10-00)

**h.** Permission to transfer pertinent information from the resident's medical record to an acute care facility, nursing facility, licensed residential ~~and~~ or assisted living facility, or certified family home; ~~(3-10-00)~~( )

**i.** Resident responsibilities as appropriate; and (3-10-00)

**j.** Other information as may be appropriate. (3-10-00)

**k.** Written documentation of the resident's preference regarding the formulation of an Advance Directive in accordance with Idaho state law. If applicable, a copy of the resident's Advance Directive shall be available. (3-10-00)

**02. Conditions Of Termination Of The Admission Agreement.** The admission agreement shall not be terminated except under the following conditions: (3-10-00)

**a.** By written notification by either party giving the other party fifteen (15) calendar days' written notice or up to thirty (30) calendar days as agreed to in the admission agreement; (3-10-00)

**b.** The resident's mental or physical condition deteriorates to a level requiring evaluation, service, or both that cannot be provided in a facility; (3-10-00)

**c.** Nonpayment of the resident's bill; (3-10-00)

**d.** In emergency conditions a resident may be transferred out of the facility without fifteen (15) days' written notice or up to thirty (30) days as agreed to in the admission agreement to protect the resident or other residents in the facility from harm; and (3-10-00)

**e.** Other written conditions as may be mutually established between the resident, the resident's legal guardian/conservator and the administrator of the facility at the time of admission. (3-10-00)

**03. Admission And Discharge Register.** Each facility shall maintain an admission and discharge register listing names of each resident, date admitted, the place from which the resident was admitted, date discharged, reason for discharge, and adequate identification of the facility to which the resident is discharged or future home address. (3-10-00)

**04. Maintaining The Admission And Discharge Register.** The admission and discharge register shall be maintained as a separate document, apart from individual resident files, and shall be kept current. (3-10-00)



(BREAK IN CONTINUITY OF SECTIONS)

425. NEGOTIATED SERVICE AGREEMENT.

**01. Use Of Negotiated Service Agreement.** Each resident shall enter into a negotiated service agreement to provide for coordination of services and for guidance of the personnel and management of the facility where the person resides. A personal care services plan of care and an Individual Support Plan which includes the core elements of the Negotiated Service Agreement is considered equivalent to the Negotiated Service Agreement. Upon completion, the agreement shall clearly identify the resident and describe the services to be provided to the resident and how such services are to be delivered, and the Negotiated Service Agreement shall be implemented. (3-10-00)

**02. Core Elements Of The Negotiated Service Agreement, Plan Of Care, Or Individual Support Plan.** A resident's service plan shall be based on the following, but not limited to: (3-10-00)

- a. Assessment; (3-10-00)
- b. Service needs for activities of daily living; (3-10-00)
- c. Need for limited nursing services; (3-10-00)
- d. Need for medication assistance; (3-10-00)
- e. Frequency of needed services; (3-10-00)
- f. Level of assistance; (3-10-00)
- g. Habilitation/Training needs, to specify the program being used; (3-10-00)
- h. Behavioral management needs, to include a specific plan which identifies situations that trigger inappropriate behavior; (3-10-00)
- i. Physician's or authorized provider's signed and dated orders; (~~3-10-00~~)( )
- j. Admission records; (3-10-00)
- k. Community support systems; (3-10-00)
- l. Resident's desires; (3-10-00)
- m. Transfer/discharge; and (3-10-00)
- n. Other identified needs. (3-10-00)

**03. Signature And Approval Of Agreement.** The administrator and resident/resident's legal guardian/conservator, shall sign the service agreement upon its completion, no later than fourteen (14) calendar days after the resident's admission. (3-10-00)

**04. Signing Date That The Agreement Was Approved.** The administrator and resident/resident's legal guardian/conservator shall date the service agreement upon its completion, not to exceed fourteen (14) calendar days after the resident's admission. (3-10-00)

**05. Review Date.** The service agreement shall document the next scheduled date of review. (3-10-00)

**06. Development Of The Service Agreement.** The facility administrator shall consult the resident and those other relevant persons identified by the consumer/resident, in the development of their service agreement. As

required by applicable program requirements, licensed and professional staff will be involved in the development of the plan. (3-10-00)

**07. Provision Of Copy Of Agreement.** Signed copies of the agreement shall be given to the resident, to the resident's legal guardian/conservator, or for Department clients, to the Department for review, and authorization and approval, and a copy placed in the resident's records file, no later than fourteen (14) calendar days from admission. (3-10-00)

**08. Resident Choice.** A resident shall be given the choice and control of how and what services the facility or external vendors will provide, to the extent the resident can make choices. (3-10-00)

**09. Record.** A record shall be made of any changes or inability to provide services outlined in the negotiated service agreement. (3-10-00)

**10. External Services.** The agreement shall include a statement regarding when there is no need for access to external services. (3-10-00)

**11. Periodic Review.** The negotiated service agreement ~~may~~ **must** be reviewed ~~as necessary but must be reviewed~~ **when a significant change in condition or function occurs or** at least every ~~six~~ **twelve** (6) months. (3-10-00)(\_\_\_\_)

#### **426. RESIDENT RECORDS.**

**01. Admission Records.** Records required for admission to a facility shall be maintained and updated and shall be confidential. Their availability without the consent of the resident, subject to IDAPA 16.05.01, "Rules Governing the Protection and Disclosure of Department Records," shall be limited to the facility staff, professional consultants, the resident's physician **or authorized provider** and representatives of the Department. All entries shall be kept current, recorded legibly in ink, dated, signed, and shall include, but not be limited to, the following: (3-10-00)(\_\_\_\_)

- a. Name and Social Security number; and (3-10-00)
- b. Permanent address if other than the facility; and (3-10-00)
- c. Marital status and sex; and (3-10-00)
- d. Birth place and date of birth; and (3-10-00)
- e. Name and addresses of responsible agent or agency including telephone numbers; and (3-10-00)
- f. Personal physician **or authorized provider** and dentist; and (3-10-00)(\_\_\_\_)
- g. Admission date and name of person who completed admission form; and (3-10-00)
- h. Results of a history and physical examination performed by a licensed physician or ~~nurse practitioner~~ **authorized provider** within six (6) months prior to admission; and (3-10-00)(\_\_\_\_)
- i. For persons not clients of the Department, the history and physical shall include a description of the functional abilities of the resident including his specific strengths and limitations and the specific needs for personal assistance and supervision indicating that the resident is appropriate for placement in a facility; and (3-10-00)
- j. A list of medications, diet, and treatments prescribed for the resident which is signed and dated by the physician **or authorized provider** giving the order; and (3-10-00)(\_\_\_\_)
- k. Religious affiliation if resident chooses to so state; and (3-10-00)
- l. Interested relatives and friends other than those outlined in Subsection 426.01.e. to include, names,

addresses, and telephone numbers of family members, legal guardian/conservator, and significant others; and (3-10-00)

**m.** For clients of the Department a psychosocial history, completed within six (6) months prior to admission, by a licensed social worker, psychologist, psychiatrist, ~~or~~ licensed physician, or authorized provider; and ~~(3-10-00)~~(\_\_\_\_)

**n.** Social information, obtained by the facility through interview with the resident, family, case manager, targeted service coordinator or legal guardian/conservator. The information shall include the resident's social history, hobbies, and interests; and (3-10-00)

**o.** Written admission agreement which is signed and dated by the administrator and the resident/ resident's legal guardian/conservator; and (3-10-00)

**p.** A signed copy of the resident's bill of rights as detailed in Section 250, or documentation that the resident or resident's legal guardian/conservator has read and understands his rights as a resident of the facility; and (3-10-00)

**q.** A copy of the resident's admission Uniform Assessment Instrument for residential ~~and~~ or assisted living; and ~~(3-10-00)~~(\_\_\_\_)

**r.** A copy of the signed and dated admission negotiated service agreement; plan of care, or individual support plan between the resident/resident's legal guardian/conservator and the facility. (3-10-00)

**02. Ongoing Resident Records.** At the time of admission, an inventory of items belonging to the resident shall be developed. That inventory can be updated at any time during their stay. Records shall be kept current, to include but not be limited to: (3-10-00)

**a.** Admission information as required in Section 426.01 of this Chapter; and (3-10-00)

**b.** A current list of medications, diet, and treatments prescribed for the resident which is signed and dated by the physician or authorized provider giving the order. Current orders may be a copy of the signed ~~doctor's~~ physician's or authorized provider's order from the pharmacy; and ~~(3-10-00)~~(\_\_\_\_)

**c.** Any incident/accident occurring while the resident is in the facility; and (3-10-00)

**d.** Documentation of any medication refused by the resident, not given to the resident or not taken by the resident with the reason for the omission. All PRN medication shall be documented with the reason for taking the medication; and (3-10-00)

**e.** Notes from the contract nurse, home health, physical therapy, or other service providers, or all documenting the services provided to each resident at each visit; and (3-10-00)

**f.** Documentation of significant changes in the residents' physical, mental status, or both and the facility's response; and (3-10-00)

**g.** If appropriate, the resident's financial trust fund accounting records; and (3-10-00)

**h.** The resident's Uniform Assessment Instruments, to include the admission assessment and all assessments for the past year, for facility care; and (3-10-00)

**i.** Signed and dated negotiated service agreements, plans of care, or individual support plans, to include the admission negotiated service agreement and all service agreements for the past year, between the resident/ resident's legal guardian/conservator and the facility; and (3-10-00)

**j.** Contact name, address, phone number of individuals providing paid supports; and (3-10-00)

k. Signed copies of all care plans that are prepared by all outside service agencies. (3-10-00)

**03. Maintenance Of Resident Records.** Resident records shall be maintained on each resident at the facility for not less than one (1) year after the resident has left the facility. (3-10-00)

**(BREAK IN CONTINUITY OF SECTIONS)**

**428. MEDICATION STANDARDS AND REQUIREMENTS.**

**01. Medication Policy.** Each facility shall develop and implement a written medication policy and procedure that outlines in detail the procedures to be followed regarding the delegation of medications and to include the requirements of the Administrative Rules of the Board of Nursing, IDAPA 23.01.01, "Rules of the Board of Nursing," Subsection 010.05, Section 400, Subsections 400.02, 400.04, and 400.05 where applicable. The medication policy shall include, but not be limited to, the following: (3-10-00)

a. If the resident is granted responsibility for his own medication, a written approval stating that the resident is capable of self-administration of medications, must be obtained from the resident's primary physician or authorized provider; ~~(3-10-00)~~(\_\_\_\_)

b. The facility shall take the necessary precautions to protect residents from obtaining medications that are being stored either in individual resident rooms or by the facility; (3-10-00)

c. The facility administrator shall be responsible for providing the necessary assistance to the resident in taking his medication; (3-10-00)

d. Documentation of any medication refused by the resident, not given to the resident or not taken by the resident with the reason for the omission. All PRN medication shall be documented with the reason for taking the medication. (3-10-00)

**02. Medication Distribution System.** Each facility shall use Medi-sets, or blister pack, or other system as approved by the department. The Medication System must be filled by a pharmacist and appropriately labeled in accordance with pharmacy standards. A licensed nurse may fill Medi-sets which must be appropriately labeled with medication name, dosage, amount and time to be taken, and special instructions if appropriate.(3-10-00)

**03. Assistance With Medication.** PRN medications and temporary routine medications of fourteen (14) days or less may be maintained in an appropriately labeled multidose container. Each medication must be given to the resident directly from the medi-set or blister pack or medication container. The resident must be observed taking the medication. (3-10-00)

**04. Unused Medication.** Unused or discontinued medications shall not accumulate at the facility for longer than thirty (30) days, unless there is reason to believe that the medication will be reordered by the attending physician or authorized provider within a reasonable length of time. The unused medication shall be disposed of in a manner that assures that it cannot be retrieved. A written record of all disposal of drugs shall be maintained in the facility and shall include: ~~(3-10-00)~~(\_\_\_\_)

a. A description of the drug, including the amount; (3-10-00)

b. The resident for whom the medication was prescribed; (3-10-00)

c. The reason for disposal; (3-10-00)

d. The method of disposal; and (3-10-00)

e. Signatures of responsible facility personnel and a witness. (3-10-00)

**(BREAK IN CONTINUITY OF SECTIONS)**

**430. NURSING SERVICES.**

A licensed nurse shall visit the facility at least once every month, not to exceed a forty (40) day time period. Verification of the nurse's current license must be on file at the facility. That nurse shall perform the following functions: (3-10-00)

**01. Resident Response To Medications.** Conduct a nursing assessment of each resident's response to medications; and (3-10-00)

**02. Current Medication Orders.** Assure that the residents' medication orders are current by verifying that the medication listed by the pharmacist on the medi-set, blister pack, or medication container, to include over-the-counter-medication as appropriate, is current with physician or authorized provider orders; and ~~(3-10-00)~~(\_\_\_\_)

**03. Resident Health Status.** Conduct a nursing assessment, in accordance with the resident's uniform assessment and negotiated service agreement, of the health status of each resident by identifying symptoms of illness, or changes, or both in mental and physical health status; and (3-10-00)

**04. Recommendations.** Make recommendations to the administrator regarding any medication needs or other health need requiring follow up; and (3-10-00)

**05. Progress Of Previous Recommendations.** Conduct a nursing assessment of the progress on previous recommendations made to the administrator regarding any medication needs or other health needs that required follow up; and (3-10-00)

**06. Self Medicator.** Conduct a nursing assessment on each resident participating in a self administration medication regime of the resident's ability to safely continue the self administration medication regime for the next month; and (3-10-00)

**07. Medication Interactions And Usage.** Conduct a review of residents' use of over-the-counter medications for side effects, interactions, abuse or a combination of these adverse effects. If side effects are determined the nurse shall notify the resident's physician or authorized provider and make the appropriate counseling available to the resident; and ~~(3-10-00)~~(\_\_\_\_)

**08. Date.** Document the nursing assessments with the date of each visit. (3-10-00)

**(BREAK IN CONTINUITY OF SECTIONS)**

**451. MENU PLANNING.**

Residents<sup>2</sup> shall be provided at least the minimum food and nutritional needs of the residents ~~in accordance with the current set forth in the~~ Recommended Dietary Allowances established by the Food and Nutrition Board of the National ~~Research Council~~ Academy of Sciences and found in the Idaho Diet Manual, adjusted for age, sex and activity. ~~(3-10-00)~~(\_\_\_\_)

**01. Additional Menu Items.** Items on the menu shall: (3-10-00)

**a.** Include foods commonly served within the community and to which the residents are accustomed; (3-10-00)

**b.** Reflect seasonal food selections as well as residents' food habits, preferences, and physical abilities; (3-10-00)

- c. Provide a sufficient variety of foods in adequate amounts at each meal; (3-10-00)
- d. Be varied for each day of the week, different for the same days from week to week; and (3-10-00)
- e. Not include restrictions of any kind based on dietary beliefs or practices of the owner and administrator unless the facility's admission policies clearly indicate. (3-10-00)
- 02. Menus Must:** (3-10-00)
  - a. Be reviewed, signed and dated by a dietitian, nutritionist or home economist ensuring that the menus meet the current RDAs before being implemented; (3-10-00)
  - b. Be available where they can be easily viewed by residents upon request; (3-10-00)
  - c. Be corrected to reflect substitutions that were made and snacks provided; and (3-10-00)
  - d. Be kept on file in the facility for three (3) months. (3-10-00)
  - e. Facilities of sixteen (16) residents or more shall have available in the kitchen a current diet manual approved by the licensing agency. A facility using a diet manual other than the Idaho Diet Manual shall be submitted to the licensing agency for approval. (3-10-00)
- 03. Facilities With Fifteen Beds Or Less.** In facilities of fifteen (15) beds or less, menus shall be planned, in writing at least three (3) weeks in advance for regular diets. (3-10-00)
- 04. More Than Sixteen Beds.** Facilities serving sixteen (16) or more residents shall develop and implement a cycle menu which covers a minimum of two (2) seasons and is ~~six~~ four (64) to ~~nine~~ five (95) weeks in length. (3-10-00)(\_\_\_\_)

**452. MODIFIED OR THERAPEUTIC DIETS.**

~~Modified or Therapeutic Diets.~~ When therapeutic diet services are provided, the facility shall meet the following: (3-10-00)(\_\_\_\_)

- 01. Modified Or Therapeutic Diet.** Have on file, a physician's or authorized provider's order for each modified or therapeutic diet; (3-10-00)(\_\_\_\_)
- 02. Planned Or Approved Menu.** Have a menu planned or approved, signed and dated by a dietitian prior to being served, which meets the nutritional standards to the extent possible; (3-10-00)
- 03. ~~Regular Diet~~ Modified Or Therapeutic Menu.** The menu shall be planned as close to the regular diet as possible; (3-10-00)(\_\_\_\_)
- 04. Types And Amounts Of Food To Be Served.** Have readily available, in the kitchen, the meal pattern, including types and amounts of food to be served; (3-10-00)
- 05. Serve The Menu As Planned;** and (3-10-00)
- 06. Keep The Therapeutic Menus On File For Three (3) Months.** (3-10-00)

**(BREAK IN CONTINUITY OF SECTIONS)**

**500. REQUIREMENTS FOR FIRE AND LIFE SAFETY STANDARDS.**

- 01. Local And State Codes.** Buildings on the premises used as a facility must meet all requirements of

local and state codes concerning fire and life safety that are applicable to licensed residential ~~and~~ or assisted living facilities. ~~(3-10-00)(\_\_\_\_\_)~~

**02. Life Safety Code Requirements.** Licensed residential ~~and~~ or assisted living facilities shall meet the provisions of the Life Safety Code of the National Fire Protection Association, 1988 Edition, which are applicable to residential and assisted living facilities as specified below and outlined in Section 008 of these rules. ~~(3-10-00)(\_\_\_\_\_)~~

**03. Existing Facilities Housing Nine Or Less Residents.** Existing facilities licensed prior to July 1, 1992, and housing nine (9) or less residents on the first story only shall comply with the requirements of Chapter 21, Residential Board and Care Section of the Life Safety Code, 1988 Edition for Prompt Evacuation Capability except that the requirement for door closures on sleeping room doors shall not apply. Facilities may elect to comply with the fire safety evaluation system for Residential Board and Care, Prompt Evacuation Capability as outlined in Chapter 6 of NFPA Manual 101M, 1988 Edition which is incorporated by reference and outlined in Section 008 of these rules. ~~(3-10-00)(\_\_\_\_\_)~~

**04. New Buildings.** Newly constructed buildings or buildings being converted to a facility, or both, after July 1, 1992, and who house nine (9) or less residents on the first story only shall comply with the requirements of Chapter 21, Residential Board and Care Section of the Life Safety Code, 1988 Edition for Impractical Evacuation Capability. Exceptions: ~~(3-10-00)~~

**a.** Any newly constructed building or building being converted to a facility and who house only residents classified as Level I or Level II need only comply with the requirements for Prompt Evacuation Capability as outlined in Subsection 500.03; ~~(3-10-00)~~

**b.** In any newly constructed building or building being converted to a facility, the minimum water supply for residential sprinkler systems shall be equal to the water demand rate times ten (10) minutes; and ~~(3-10-00)~~

**c.** A facility may elect to comply with the Fire Safety Evaluation System (FSES) for Residential Board and Care, Impractical Evacuation Capability, as outlined in Chapter 6 of NFPA Manual 101M, 1988 Edition which is incorporated by reference and outlined in Section 008 of these rules. ~~(3-10-00)(\_\_\_\_\_)~~

**05. Facilities Housing Ten Through Fifteen Residents.** Buildings housing ten (10) through fifteen (15) residents on the first story only shall comply with the requirements of either: ~~(3-10-00)~~

**a.** The Limited Care Section of the Life Safety Code, 1988 Edition; ~~(3-10-00)~~

**b.** Chapter 21, Residential Board and Care Section of the Life Safety Code, 1988 Edition, for Impractical Evacuation Capability and have a Department approved resident safety plan which includes staffing. A facility may elect to comply with the Fire Safety Evaluation System (FSES) for Residential Board and Care, Impractical Evacuation Capability, as outlined in Chapter 6 of NFPA Manual 101M, 1988 Edition which is incorporated by reference and outlined in Section 008 of these rules; or ~~(3-10-00)(\_\_\_\_\_)~~

**c.** The minimum water supply for the residential sprinkler system shall be equal to the water demand rate times ten (10) minutes. ~~(3-10-00)~~

**06. Housing Of Sixteen Or More Residents.** Buildings housing sixteen (16) or more residents or any building housing residents on stories other than the first story shall comply with the Limited Care Section of the Life Safety Code, 1988 Edition. Exception: Facilities licensed prior to July 1, 1992, may continue to comply with the Residential Custodial Care Section of the Life Safety Code, 1981 Edition as outlined in Section 008 of these rules. Existing licensed facilities shall be in compliance by July 1, 1994. ~~(3-10-00)(\_\_\_\_\_)~~

**07. Fire Alarm/Smoke Detection System.** An electrically supervised, manually operated fire alarm/smoke detection system shall be installed throughout each building housing residents. The system shall include a control panel, manual pull stations, smoke detectors, sounding devices, power backup and any sprinkler flow/alarm devices that may be present and must be compatible with any future sprinkler system add on. The system, including devices, their location, and installation shall be approved by the licensing agency prior to installation. Buildings

licensed prior to July 1, 1992, shall be given until July 1, 1995, to install the system. Exception: Facilities that comply with the requirements of Chapter 21, Residential Board and Care Section of the Life Safety Code, 1988 Edition for Impractical Evacuation Capability. (3-10-00)

**08. Corridors Or Hallways.** Dead-end corridors or dead-end hallways shall not exceed thirty (30) feet in length. (3-10-00)

**09. Resident Placement.** Any resident requiring assistance in ambulation shall reside on the first story unless the facility complies with Subsection 500.06 of these rules. (~~3-10-00~~)(\_\_\_\_)

**10. Fire Drills.** All personnel and residents shall participate in a minimum of one (1) fire drill per shift per quarter. Fire drills shall be unannounced. Written documentation of each drill shall be maintained on file at the facility and shall contain a description of each drill, the date and time of the drill, response of the personnel and residents, problems encountered and recommendations for improvement, and the name of each personnel in attendance during the drill. (3-10-00)

**11. Structure, Maintenance, Equipment To Assure Safety.** The facility shall be structurally sound and shall be maintained and equipped to assure the safety of residents, personnel, and the public, to include, but not be limited to: (3-10-00)

**a.** Furnishings, decorations, or other objects shall not be placed so as to obstruct exit access or exits; (3-10-00)

**b.** All ramps, open porches, sidewalks, and open stairs shall be maintained free of snow and ice buildup; (3-10-00)

**c.** Wood stoves shall be provided with railings or other protection designed to prevent residents from coming into contact with the stove surfaces; (3-10-00)

**d.** All fireplaces shall be provided with heat tempered glass fireplace enclosures or equivalent; (3-10-00)

**e.** Boilers, hot water heaters, and unfired pressure vessels shall be equipped with automatic pressure relief valves; (3-10-00)

**f.** Portable comfort heating devices of any kind shall be prohibited; and (3-10-00)

**g.** Quantities of flammable and highly combustible materials deemed hazardous by the licensing agency shall not be stored in the facility unless the building is protected throughout by an approved automatic fire extinguishing system. (3-10-00)

**12. Natural Or Man-Made Hazards.** On the premises of each facility where natural or man-made hazards are present, suitable fences, guards, railing, or a combination shall be provided to protect the residents. (3-10-00)

**13. Weeds, Trash, And Rubbish.** The premises and all buildings used as a facility shall be maintained free from the accumulation of weeds, trash, and rubbish. (3-10-00)

**14. Exit Door Locks.** Any locks on exit doors shall be single action easily operable from the inside without the use of keys or any special knowledge. Exception: Special locking arrangements as permitted under Section 5-2.1.6. of the Life Safety Code, 1988 Edition which is incorporated by reference as outlined in Section 008 of these rules. (~~3-10-00~~)(\_\_\_\_)

**15. Portable Fire Extinguishers.** Portable fire extinguishers shall be installed throughout each building utilized as a facility. Each extinguisher shall be installed in accordance with requirements set forth in NFPA Standard #10, Standard for Portable Fire Extinguishers, 1988 Edition which is incorporated by reference as outlined in Section 008 of these rules. (~~3-10-00~~)(\_\_\_\_)



**16. Electrical Installations And Equipment.** Electrical installations and equipment shall comply with applicable local or state electrical requirements to include but not be limited to the following: (3-10-00)

**a.** Equipment designed to be grounded shall be maintained in a grounded condition; and (3-10-00)

**b.** Extension cords and multiple electrical adapters shall be prohibited. Exception: Listed grounded multiple electrical adapters with built-in breaker. (3-10-00)

**17. Solid Fuel Heating Devices.** Solid fuel heating devices shall be installed in accordance with NFPA Standards #211, Standards for Chimneys, Fireplaces, Vents, and Solid Burning Appliances, 1988 Edition which is incorporated by reference and is outlined in Section 008. (3-10-00)

**18. Medical Gases.** Medical gas storage, handling, and use shall be in accordance with NFPA Standard 99, Standards for Health Care Facilities, 1990 Edition which is incorporated by reference and is outlined in Section 008. (3-10-00)

**19. Telephone.** There shall be a telephone available on the premises for use in the event of an emergency. Emergency telephone numbers shall be posted near the telephone. (3-10-00)

**20. Smoking.** The facility shall develop written rules governing smoking; and, these rules shall be adopted, posted, and made known to all facility personnel, residents, and the public. These rules shall include at least the following: (3-10-00)

**a.** Prohibiting smoking in any area where flammable liquids, gases, or oxidizers are in use or stored; (3-10-00)

**b.** Prohibiting residents from smoking in bed; (3-10-00)

**c.** Prohibiting unsupervised smoking by residents classified as not mentally or physically responsible. This includes residents so affected by medication; (3-10-00)

**d.** Prohibiting smoking in areas where combustible supplies or materials are stored; (3-10-00)

**e.** Designating areas for personnel, resident, and public smoking; and (3-10-00)

**f.** Nothing in this section requires that smoking be permitted in a facility whose admission policies prohibit smoking. (3-10-00)

**21. Disaster Preparedness.** Each facility shall develop and implement a disaster preparedness plan to follow in the event of fire, explosion, flood, earthquake, high wind, or other disaster. The plan shall include, but not be limited to, the following: (3-10-00)

**a.** Written procedures outlining steps to be taken in the event of a fire including who is to respond, each person's responsibilities, to where residents are to be evacuated, and notification of the fire department; (3-10-00)

**b.** Information as to where residents shall be taken in the event the building cannot be immediately reentered. A written agreement shall be developed between the facility and the location to which residents are to be relocated; and (3-10-00)

**c.** Documentation shall be available in each facility indicating that the residents have been advised, upon admission, of actions required under emergency conditions. (3-10-00)

**22. Report Of Fire.** A separate report on each fire incident occurring within the facility shall be submitted to the Department within thirty (30) days of the occurrence. The reporting form, "Facility Fire Incident Report," shall be issued by the Department to secure specific data concerning date, origin, extent of damage, method

of extinguishment, and injuries, if any.

(3-10-00)

**(BREAK IN CONTINUITY OF SECTIONS)**

**525. BUILDING CONSTRUCTION AND PHYSICAL STANDARDS.**

**01. Building Character.** All buildings utilized as licensed residential ~~and~~ or assisted living facilities shall be of such character as to be suitable for such use. Facilities shall be of such character as to enhance normalization and integration of residents into the community. ~~(3-10-00)(\_\_\_\_\_)~~

**02. Remodeling Or Additions.** Remodeling or additions to facilities shall be consistent with and not detract from the residential use of the property. Remodeling which identifies the facility such as remodeling garages when this is not the general practice in the neighborhood or constructing large buildings which overwhelm the lot on which the facility is located is prohibited. (3-10-00)

**03. Approval.** All buildings shall be subject to the approval of the licensing agency. (3-10-00)

**04. Walls And Floor Surfaces.** Walls and floors shall be of such character to permit frequent cleaning. Walls and ceilings in kitchens, bathrooms, and utility rooms shall have smooth enameled or equally washable surfaces. (3-10-00)

**05. Toilet And Bathrooms.** Each facility shall provide: (3-10-00)

**a.** A toilet and bathroom for resident use so arranged that it is not necessary for an individual to pass through another resident's room to reach the toilet or bath; (3-10-00)

**b.** Toilet and bathrooms separated from all adjoining rooms by solid walls or partitions; (3-10-00)

**c.** Mechanical ventilation to the outside from all inside toilet and bathrooms without operable windows; (3-10-00)

**d.** Each tub, shower, and lavatory connected to hot and cold running water; (3-10-00)

**e.** At least one (1) flush toilet for every six (6) persons, residents, or personnel; (3-10-00)

**f.** At least one (1) tub or shower for every eight (8) persons, residents, or personnel; (3-10-00)

**g.** At least one (1) lavatory with a mirror for each toilet; and (3-10-00)

**h.** At least one (1) toilet, tub or shower, and lavatory in each building in which residents sleep, with additional units if required by the number of persons. Residents shall not be required to go outside to get to the toilet, tub or shower, or lavatory. (3-10-00)

**06. Accessibility For Persons With Mobility And Sensory Impairments.** For residents with mobility or sensory impairments, the facility shall provide a physical environment which meets the needs of the person for independent mobility and use of appliances, bathroom facilities, and living areas. New construction must meet the requirements of the Americans with Disabilities Act Accessibility Guidelines (ADAAG). Existing facilities shall comply, to the maximum extent feasible with Title III 4.4000 of 28 CFR Sections 36.304 and 36.305 regarding removal of barriers under the Americans with Disabilities Act, without creating an undue hardship or burden on the facility, and shall provide as required, the necessary accommodations: ~~(3-10-00)(\_\_\_\_\_)~~

**a.** Ramps for residents who require assistance with ambulation shall comply with the requirements of the Americans with Disabilities Act Accessibility Guidelines (ADAAG) 4.8; ~~(3-10-00)(\_\_\_\_\_)~~

**b.** Bathrooms and doors large enough to allow the easy passage of a wheelchair as provided for in the *Americans with Disabilities Act Accessibility Guidelines* (ADAAG) 4.13; (3-10-00)(\_\_\_\_)

**c.** Grab bars in resident toilet and bathrooms that comply with the *Americans with Disabilities Act Accessibility Guidelines* (ADAAG) 4.26; (3-10-00)(\_\_\_\_)

**d.** Toilet facilities that comply with the *Americans with Disabilities Act Accessibility Guidelines* (ADAAG) 4.16 and 4.23; (3-10-00)(\_\_\_\_)

**e.** Nonretractable faucet handles that comply with the *Americans with Disabilities Act Accessibility Guidelines* (ADAAG) 4.19 (with the exception of self-closing valves under 4.19.5) and 4.27; and (3-10-00)(\_\_\_\_)

**f.** Suitable hand railing shall be provided on both sides of all stairs leading into and out of a building for residents who require the use of crutches, walkers, or braces. (3-10-00)

**07. Lighting.** The facility shall provide adequate lighting in all resident sleeping rooms, dining rooms, living rooms, recreation rooms, and hallways. (3-10-00)

**08. Ventilation.** The facility shall be ventilated, and precautions shall be taken to prevent offensive odors. (3-10-00)

**09. Plumbing.** All plumbing in the facility shall comply with local and state codes. All plumbing fixtures shall be easily cleanable and maintained in good repair. (3-10-00)

**10. Heating.** A heating system shall be provided for the facility that is capable of maintaining a minimum temperature of seventy (70) degrees Fahrenheit during the day and a minimum of sixty-two (62) degrees Fahrenheit during the night. Wood stoves shall not be permitted as the sole source of heat and the thermostat for the primary source of heat shall be remotely located away from any wood stove. (3-10-00)

**11. Dining/Recreation/Living Space.** For facilities licensed after July 1, 1991, the total area set aside for these purposes shall be not less than thirty (30) square feet per resident. A hall or entry shall not be included as living or recreation space. (3-10-00)

**12. Residents Required To Go Outside.** Residents requiring the use of wheelchairs, walkers, or assistance with ambulation shall not be admitted to facilities that require residents to go outside to go back and forth from the dining room/shower/bath/recreation areas. (3-10-00)

**13. Covered Cement Walks.** For facilities licensed after July 1, 1991, where residents are required to leave their rooms to go to dining or recreation, covered cement walks are required. (3-10-00)

**14. Resident Sleeping Rooms.** The facility shall assure that: (3-10-00)

**a.** Each resident sleeping room is not in attics, stairs, halls, or any other room commonly used for other than bedroom purposes; (3-10-00)

**b.** A room with a window that opens into an exterior window well shall not be used for a resident sleeping room; (3-10-00)

**c.** Not more than four (4) residents shall be housed in any multi-bed sleeping room in facilities licensed prior to July 1, 1991. New facilities or conversions licensed after July 1, 1992, shall not have more than two (2) residents in any multi-bed sleeping room. The sale of a facility licensed prior to July 1, 1992, shall not be considered a new facility or conversion; (3-10-00)

**d.** Square footage requirements for existing facilities that have been continuously licensed since before May 9, 1977, shall provide sleeping rooms which allow for not less than seventy-five (75) square feet of floor space per resident in a single-bed sleeping room and not less than sixty (60) square feet of floor space per resident in a multi-bed sleeping room with a minimum of three (3) feet between beds; (3-10-00)

**e.** Square footage requirements for facilities licensed on or after May 9, 1977, shall provide sleeping rooms which allow for not less than one-hundred (100) square feet of floor space per resident in a single-bed sleeping room and not less than eighty (80) square feet of floor space per resident in a multi-bed sleeping room; (3-10-00)

**f.** Each resident's sleeping room shall be provided with an operable window. The window opening shall be not less than twenty-two (22) inches wide, twenty-four (24) inches in height, and five and seven-tenths (5.7) square feet in area. Exception: This is not necessary if there is a door to the outside; (3-10-00)

**g.** The operable window sill height shall not exceed thirty-six (36) inches above the floor in new construction, additions, or remodeling; (3-10-00)

**h.** The operable window sill height shall not exceed forty-four (44) inches above the floor in existing buildings being converted to a facility; (3-10-00)

**i.** Each resident sleeping room shall provide a total window space that equals at least ten percent (10%) of the room's total square footage; (3-10-00)

**j.** Window screens shall be provided on operable windows; (3-10-00)

**k.** Resident sleeping rooms shall be provided with walls that run from floor to ceiling and with doors that will stop the passage of smoke and provide the resident with adequate privacy; (3-10-00)

**l.** Ceiling heights in sleeping rooms shall be at least seven (7) feet, six (6) inches; and (3-10-00)

**m.** Closet space in each resident sleeping room shall be provided at the rate of at least four (4) square feet per resident. Common closets utilized by two (2) or more residents shall be provided with substantial dividers for separation of each resident's clothing. All closets shall be equipped with doors. Free-standing closets shall be deducted from the square footage of the sleeping room. (3-10-00)

**15. Storage Areas.** In addition to the storage area in the resident's room, general storage shall be provided at the rate of ten (10) square feet per licensed bed. (3-10-00)

**16. Intercom System.** An intercom system shall be installed in the facility based upon the design of the building, needs of the residents, or staffing pattern. The intercom shall not be a substitute for supervision. (3-10-00)

**17. Dietary Standards.** The facility shall assure that: (3-10-00)

**a.** Newly constructed facilities, admitting or planning to admit sixteen (16) or more residents, shall submit professionally prepared drawings or plans of the kitchen for review prior to construction; and (3-10-00)

**b.** Carpeting is prohibited in the food preparation area, and where existing, shall be replaced with an easily cleanable surface when worn out or becomes heavily soiled. (3-10-00)

**526. REQUIREMENTS FOR EXISTING BUILDINGS TO BE CONVERTED TO A FACILITY.**

In addition to requirements set forth in Section 525, buildings to be converted to facilities shall comply with the following: (3-10-00)

**01. Site.** The building/home location shall be: (3-10-00)

**a.** In a lawfully constituted fire district; and (3-10-00)

**b.** Served by an all-weather road kept open to motor vehicles at all times of the year; and (3-10-00)

**c.** Accessible to physician, authorized provider, or emergency medical services within thirty (30) minutes driving time; and ~~(3-10-00)~~(\_\_\_\_)

**d.** Accessible within thirty (30) minutes driving time to necessary social, medical, and rehabilitation services. (3-10-00)

**02. Occupancy Approval.** Any building proposed for conversion to a facility shall be approved by the licensing agency prior to issuance of a license. Any items of noncompliance shall be corrected prior to issuance of the license. (3-10-00)

**(BREAK IN CONTINUITY OF SECTIONS)**

**528. USE OF MODULAR (I.E., FACTORY BUILT) BUILDINGS AND MANUFACTURED HOMES.** Modular Buildings as defined in Section 39-4105, Idaho Code, must conform to the requirements of the Uniform Building Code unless approved for use as a facility prior to July 1, 1999, and may continue to be licensed when evaluated on a case-by-case basis for fire and life safety issues. Manufactured Homes as defined in Section 39-4105, Idaho Code, that meet Uniform Building Code requirements can be considered for use as residential ~~and~~ or assisted living facilities. (~~3-10-00~~)(    )

**(BREAK IN CONTINUITY OF SECTIONS)**

**675. HOURLY ADULT CARE.**

**01. Policies.** Policies governing the acceptance of individuals to the hourly adult care program shall be developed and implemented and shall provide at least the following: (3-10-00)

**a.** Types of individuals who may not be accepted; (3-10-00)

**b.** Health and other pertinent information regarding the individual's needs; (3-10-00)

**c.** Emergency telephone numbers ~~for contact with~~ of family members ~~or~~ and physician or authorized provider and other identification information; and (~~3-10-00~~)(    )

**d.** Written policies shall be available to participants, families and general public. (3-10-00)

**02. Hourly Adult Care Operation.** Policies shall be developed and implemented governing the operation of the hourly adult care program and shall include at least the following: (3-10-00)

**a.** Time periods of program not to exceed fourteen (14) consecutive hours in a twenty-four (24) hour period; (3-10-00)

**b.** Cost of program to resident; (3-10-00)

**c.** A description of services offered, including, but not limited to meals, activities, transportation services, if offered, and supervision; and (3-10-00)

**d.** Records required. (3-10-00)

**03. Medications.** (3-10-00)

**a.** The facility shall not admit residents to the hourly adult care program who cannot administer their own medications. See Subsection 010.47; (3-10-00)

**b.** Each hourly adult care resident shall be responsible for bringing his own supply of medications for the stay; and (3-10-00)

c. The facility shall be responsible for the safeguarding of the hourly adult care resident's medications while he is at the facility. (3-10-00)

**04. Records.** (3-10-00)

a. The facility shall maintain a record for each hourly adult care resident which includes at least admission identification information including responsible party and physician or authorized provider; ~~(3-10-00)~~(\_\_\_\_)

b. The facility shall maintain a record for each hourly adult care resident which includes at least pertinent health and social information relevant to the supervision of the resident; (3-10-00)

c. A log of hourly adult care participants shall be maintained for at least the previous year. (3-10-00)

**05. Restrictions.** (3-10-00)

a. Hourly adult care services may be provided to such number of individuals that the facility can handle without interference with the normal activities of the facility; (3-10-00)

b. Provision of time appropriate accommodations shall be made available for the participant, to include, but not be limited to, napping furniture for day time hours, 6 a.m. through 10 p.m., such as lounge chairs, recliners, and couches; (3-10-00)

c. The facility shall have the ability to space napping furniture at least three (3) feet apart if needed or requested; (3-10-00)

d. Beds and bedrooms shall be available for the sleeping hours when needed by the hourly adult care resident. This bed will not be counted as a licensed bed if resident sleeps over; (3-10-00)

e. Beds, and bedrooms of residents shall not be utilized; and (3-10-00)

f. No individual shall be admitted to the hourly adult care program who requires skilled nursing or intermediate care or for whom the facility cannot adequately provide services and supervision. (3-10-00)

**(BREAK IN CONTINUITY OF SECTIONS)**

**700. SPECIALIZED CARE UNITS/FACILITIES FOR ALZHEIMER/DEMENTIA RESIDENTS.**

The facility or unit caring for Alzheimer/Dementia residents shall meet the requirements of Rules For Licensed Residential ~~and~~ or Assisted Living Facilities In Idaho, Sections 000 through Section 699 and Sections 900 through 999. ~~(3-10-00)~~(\_\_\_\_)

**01. Type Of Facility Required To Meet Specialized Requirements.** All facilities, who have a Level III resident with a diagnosis of Alzheimer or an equivalent dementing illness shall meet the requirements for the Specialized Care Units/Facilities For Alzheimer/Dementia Residents, Section 700. (3-10-00)

**02. Policy.** Specialized residential care ~~and~~ or assisted living units/facilities are specifically designed, dedicated, and operated to provide the individual with chronic confusion, or dementing illness, or both, with the maximum potential to reside in a secure residential environment through the provision of a supervised life-style which is safe, structured but flexible, stress free, and encourages physical activity through a well developed activity and recreational program. The program constantly strives to enable residents to maintain the highest practicable physical, mental or psychosocial well-being. ~~(3-10-00)~~(\_\_\_\_)

**03. Services.** Habilitation services, activity program, and behavior management shall be provided to

meet the needs of the resident according to their individualized negotiated service agreement. (3-10-00)

**04. Additional Licensure Requirements.** A written program of care to be offered by the special care unit/facility shall be developed to include, but not be limited to: (3-10-00)

- a. A description of the resident population to be served; (3-10-00)
- b. A statement of philosophy, objectives, and beliefs upon which decisions will be made regarding the special care unit/facility and the expected results; (3-10-00)
- c. A description of the admission and discharge criteria; (3-10-00)
- d. A description of security systems; (3-10-00)
- e. Policies and procedures developed for the specialized unit/facility; (3-10-00)
- f. A proposed staffing pattern; (3-10-00)
- g. A plan for specialized personnel training; and (3-10-00)
- h. A description of programs for activities and social services. (3-10-00)

**05. Personnel Orientation.** Each facility offering specialized care units/facilities for Alzheimer/Dementia residents shall develop an orientation training program, for personnel providing care and supervision to these residents, to include, but not be limited to, the following: (3-10-00)

- a. Alzheimer and Dementia; (3-10-00)
- b. Symptoms and behaviors of memory impaired people; (3-10-00)
- c. Communication with memory impaired people; (3-10-00)
- d. The resident's adjustment to residency in the special care unit/facility; (3-10-00)
- e. Inappropriate and problem behavior of special care unit/facility residents and appropriate personnel interventions; (3-10-00)
- f. Activities of daily living for special care unit/facility residents; and (3-10-00)
- g. Stress reduction for special care unit/facility personnel and resident. (3-10-00)

**06. Orientation Training.** Personnel shall have at least six (6) additional hours of orientation training prior to providing unsupervised service. (3-10-00)

**07. Continuing Training.** An additional two (2) hours of the required eight (8) hours per year of continuing training shall be in the provision of services to resident's with Alzheimer's disease or dementia disorders. (3-10-00)

**08. Admission Policy.** Each facility offering special care units/facilities for Alzheimer/Dementias shall develop and implement a written admission policy governing the acceptance of individuals into the unit/facility. The written policy shall include, but not be limited to the following: (3-10-00)

- a. All residents shall be evaluated by their primary physician or authorized provider for the resident's appropriateness for placement into a secure residential environment prior to admission. The facility shall obtain a written statement from the physician or authorized provider stating that the resident is appropriate for admission prior to the resident's admission; (~~3-10-00~~)(\_\_\_\_)

**b.** Clients of the Department shall also have an assessment from the Department, for the resident's appropriateness for placement into a secure residential environment of the special care unit/facility prior to admission. The facility shall obtain from the Department a written statement that the resident is appropriate for admission prior to the resident's admission; (3-10-00)

**c.** The facility shall not admit any resident without a written statement from the resident's primary physician or authorized provider for private-pay residents and from the Department for clients of the Department that the resident's degree/stage of confusion/dementia is appropriate for the level of services that the facility is licensed to provide; (~~3-10-00~~)(\_\_\_\_)

**d.** No resident shall be admitted whose safety cannot be assured by the appropriate combination of personnel and facility design. (3-10-00)

**e.** Residents shall be at a stage of their disease such that only periodic professional observation and evaluation are required; and (3-10-00)

**f.** The facility administrator/personnel shall immediately report to the resident's attending physician or authorized provider for private-pay residents and to the Department for Department clients any sudden or significant change in orientation and behavior, especially wandering, which may indicate the need for a more secure environment. The resident shall be re-evaluated by their primary physician or authorized provider for private-pay residents and by the Department for Department clients for progression of the resident's dementia requiring transfer to a facility with greater supervision and security. (~~3-10-00~~)(\_\_\_\_)

**09. Medications.** (3-10-00)

**a.** Psychotropic/behavioral modifying medication intervention shall be used as a last recourse only and at the lowest effective dosage. Prior to the facility obtaining physician or authorized provider orders for psychotropic/behavior modifying medication, the facility shall implement a less restrictive systematic non medication, behavioral management, approach to assist and redirect the resident to control his behavior. (~~3-10-00~~)(\_\_\_\_)

**b.** The facility shall ensure that physician or authorized provider orders for psychotropic/behavioral modifying medications are ordered for a specific condition as diagnosed and documented in the medical record, at the lowest possible dosage and for a duration not to exceed a six (6) month period. At the end of the six (6) month period, the need for the medication and the current dosage shall be reassessed by the resident's physician or authorized provider for possible dose reduction and discontinuation of the medication. The facility shall have written documentation, signed and dated by the physician or authorized provider and the consultant pharmacist regarding his reassessment and determinations, in the resident's medical record. (~~3-10-00~~)(\_\_\_\_)

**10. Behavioral Management.** The resident with inappropriate behaviors shall be evaluated with appropriate documentation for each incident of inappropriate behavior to determine the following: (3-10-00)

**a.** Baseline to determine the intensity, duration, and frequency of the inappropriate behavior; (3-10-00)

**b.** Study of antecedent behaviors and activities; (3-10-00)

**c.** Identification of recent changes or additional risk factors in the resident's life; (3-10-00)

**d.** Environment factors such as time of day, personnel involved, noise, levels; (3-10-00)

**e.** Medical status; (3-10-00)

**f.** Staffing patterns at times of inappropriate behavior; (3-10-00)

**g.** Alternative, structured activities or behaviors that have been successful or unsuccessful for the resident in the past; and (3-10-00)



- h.** Effectiveness of behavioral management approaches. (3-10-00)
- 11. Safety.** (3-10-00)
  - a.** The unit/facility shall have available an outside area or yard that assures the safety of the residents. Areas are to be fenced/walled, gates are to be easily operable to public and personnel, plants are to be non-hazardous for human contact/consumption and adequate personnel will be present. (3-10-00)
  - b.** Procedures shall be written and implemented, outlining the steps to be taken by personnel when a resident is discovered to be missing from the unit/facility. (3-10-00)
  - c.** Procedures shall be written and implemented, outlining precautions to be taken when hazardous cleaning materials or potentially dangerous mechanical equipment is being used in the unit/facility. (3-10-00)
  - d.** Procedures shall be written and implemented, outlining the steps to be taken by personnel when a resident's behavior becomes uncontrollable. (3-10-00)

**(BREAK IN CONTINUITY OF SECTIONS)**

**951. NOTICE OF ENFORCEMENT REMEDY.**

The Department shall give notice of the imposition of any remedy described in this chapter after the facility is afforded any allowable reviews or hearings as follows: (3-10-00)

- 01. Notice To Facility.** The Department shall give notice to the facility in writing, transmitted in a manner which shall reasonably ensure timely receipt by the facility such as certified mail or personal delivery; and (3-10-00)
- 02. Notice To Public.** The Department shall give notice to the public by transmitting printed notices to the facility. The facility shall post all notices where they can reasonably be expected to be read by the facility's residents or their representatives, including, but not limited to, exits and common areas. The notices shall remain in place until all remedies are officially removed by the licensing agency. Failure of a facility to comply with notice posting requirements shall constitute a Class B deficiency; and (3-10-00)
- 03. Notice To The Ombudsman.** The Department shall give notice to the state Ombudsman for the elderly; and (3-10-00)
- 04. Notice To The Resident's Attending Physicians Or Authorized Providers.** The Department shall give notice to the attending physician or authorized provider of each resident affected by a finding of substandard quality of care; and (~~3-10-00~~)(\_\_\_\_)
- 05. Notice To The Professional Licensing Boards.** The Department shall give notice to professional licensing boards, as appropriate; and (3-10-00)
- 06. Failure To Effect Notice.** Failure of the Department to effect notice as required in Section 951 through Subsection 951.06 shall not be grounds for the facility to contest any action taken under this chapter. (3-10-00)

**IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE**  
**16.04.11 - RULES GOVERNING DEVELOPMENTAL DISABILITIES AGENCIES**

**DOCKET NO. 16-0411-0201**

**NOTICE OF RULEMAKING - PROPOSED RULE**

**AUTHORITY:** In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Sections 39-4601 et seq., Idaho Code.

**PUBLIC HEARING SCHEDULE:** Public hearing(s) concerning this rulemaking will be held as follows:

**Monday, Oct. 7, 2002**  
**7:00 - 9:00 p.m.**  
**Region I**  
**1120 Ironwood Drive**  
**Lower Level**  
**Coeur d' Alene, ID**

**Tuesday, Oct. 8, 2002**  
**7:00 - 9:00 p.m.**  
**Region IV**  
**1720 Westgate Drive**  
**Suite D**  
**Boise, ID**

**Wednesday, Oct. 9, 2002**  
**7:00 - 9:00 p.m.**  
**Region VI**  
**Human Development Center**  
**421 Memorial Drive Rm. 210**  
**Pocatello, ID**

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

**DESCRIPTIVE SUMMARY:** The following is a non-technical explanation of the substance and purpose of the proposed rule making:

Rule changes are needed to clarify provider qualifications for Intensive Behavioral Intervention (IBI) certified providers who deliver services through a Developmental Disabilities Agency (DDA). Current IBI provider qualifications allow an IBI Professional to have one of a number of degrees listed in rule. The rule allows for "related degrees" which is being clarified by this amendment. Title changes for counselors and social workers enacted by 2002 legislation are being amended to bring the rules into compliance with those changes.

The proposed rule text is in legislative format. Language the agency proposes to add is underlined. Language the agency proposes to delete is struck out. It is these additions and deletions to which the public comment should be addressed.

**NEGOTIATED RULEMAKING:** Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not formally conducted because the rulemaking schedule did not allow time to hold negotiated meetings. Notification was sent to all affected stakeholders with a draft copy of proposed rules asking for input regarding the amendments to the rules.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the proposed rules, contact Mary Jones at (208) 334-5523.

Anyone can submit written comments regarding this rulemaking. All written comments and data concerning the rule must be directed to the undersigned and delivered on or before October 23, 2002.

DATED this 21st day of August, 2002.

Sherri Kovach  
Administrative Procedures Coordinator  
DHW – Administrative Procedures Section  
450 West State Street - 10th Floor  
P.O. Box 83720  
Boise, Idaho 83720-0036  
(208) 334-5564 phone; (208) 332-7347 fax  
kovachs@idhw.state.id.us e-mail

THE FOLLOWING IS THE TEXT OF DOCKET NO. 16-0411-0201

**809. QUALIFICATIONS TO PROVIDE INTENSIVE BEHAVIORAL INTERVENTION.**

A professional qualified to provide or direct the provision of Intensive Behavioral Intervention (IBI) must meet the following requirements: (4-5-00)( )

**01. Recognized Degree Or License.** ~~Have~~ A qualified IBI professional shall be a licensed clinical or a licensed masters social worker, a licensed clinical professional counselor, or hold at least a bachelor's degree ~~in~~ ~~psychology, special education, social work, applied behavior analysis, speech and language pathology, occupational therapy, physical therapy, deaf education, elementary education or a related field or be a Licensed Professional Counselor Private Practice; and~~ from a nationally accredited university or college in one (1) of the following: (4-5-00)( )

- a. Applied Behavioral Analysis: ( )
- b. Deaf Education: ( )
- c. Early Childhood Special Education: ( )
- d. Occupational Therapy: ( )
- e. Physical Therapy: ( )
- f. Psychology: ( )
- g. Special Education; or ( )
- h. Speech and Language Pathology. ( )

**02. Non-Recognized Degree.** An individual who does not meet the requirements of Subsection 809.01 of these rules may be qualified as an IBI professional when the individual holds at least a Bachelor's Degree from a nationally accredited university or college that includes at least twenty-one (21) transcribed semester credit hours or quarter hour equivalents in one (1) or a combination of psychology, special education or counseling fields. The twenty-one (21) credit hours must include a transcribed course in each of the following: ( )

- a. Assessment of individuals: ( )
- b. Behavior management; ( )
- c. Services or treatment of individuals; and ( )
- d. Supervised practicum in a behavioral field or in psychology, special education or counseling. ( )

**023. Training And Certification.** ~~Have~~ Qualified IBI professionals and paraprofessionals must complete Department approved training and certification ~~which that~~ addresses ~~course work, experience, standards of competence for provision of intensive behavioral intervention and ethical standards, continuing education and demonstrate~~ competencies by passing the related examination. A certified IBI professional who has a break in the provision of IBI services of more than one (1) year will be required to meet any additional Department requirements implemented subsequent to the individual's certification. (4-5-00)( )

**04. Individuals Previously Certified.** Beginning July 1, 2003, an individual certified as an IBI professional prior to that date shall continue to be certified as an IBI professional as long as they meet the requirements of Subsection 809.03 of these rules. ( )

**035. Use Of Paraprofessionals.** An aide or therapy technician who has completed Department approved training and certification may be used to provide Intensive Behavioral Intervention under the supervision of a professional who is certified by the Department to provide Intensive Behavioral Intervention. (4-5-00)

**a.** The agency shall assure adequate professional supervision during its services hours; and (4-5-00)

**b.** Paraprofessionals shall not conduct evaluations or establish the Implementation Plan. These activities shall be conducted by a professional qualified to provide or direct the provision of Intensive Behavioral Intervention; and (4-5-00)

**c.** The professional shall, on a weekly basis or more often if necessary, give instructions, review progress and provide training on the program(s) and procedures to be followed; and (4-5-00)

**d.** A professional shall, on a monthly basis or more often if necessary, observe and review the work performed by the paraprofessional to assure the paraprofessional has been trained on the program(s) and demonstrates the necessary skills to correctly implement the program(s). (4-5-00)

**046. Limitation To Service Provision By A Paraprofessional.** Intensive Behavioral Intervention provided by a paraprofessional is limited to ninety percent (90%) of the direct intervention time. The remaining ten percent (10%) of the direct intervention time must be provided by the professional qualified to provide or direct the provision of Intensive Behavioral Intervention. (4-5-00)

## **IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE**

### **16.06.02 - RULES GOVERNING CHILD CARE LICENSING**

**DOCKET NO. 16-0602-0102**

#### **NOTICE OF VACATION OF PROPOSED RULEMAKING**

**AUTHORITY:** In compliance with Section 67-5221, Idaho Code, notice is hereby given that this agency has vacated the proposed rulemaking previously initiated under this docket. The action is authorized pursuant to Section(s) 39-1111, 39-1209, 39-1210, 39-1211, 39-1213 and 56-1005(8), Idaho Code.

**DESCRIPTIVE SUMMARY:** The following is a summary of the reasons for the vacating this rulemaking:

In 2001, Family and Community Services undertook a large scale public participation and negotiated rulemaking process to re-write IDAPA 16.06.02, "Rules Governing Child Care Licensing" pertaining to child placements and adoptions and licensure of agencies performing those functions in Foster Care and Residential Care for Children. As part of the initial process, rules were developed for children placed in therapeutic outdoor camps not previously covered under the child care licensing rules. However, since there were no previous rules or statutory authority for children's outdoor programs the decision was made to gather additional public input and to introduce a bill to the 2002 Legislature. Legislation was passed in 2002.

This docket (16-0602-0102) is being vacated and has been replaced by Docket No. 16-0602-0201 which published in the July 3, 2002 Administrative Bulletin, Vol. 7-02, pages 194 through 215.

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning this vacation, contact Jim Puett at (208) 334-5700 or Ed Van Dusen at (208) 334-5702.

DATED this 21st day of August, 2002.

Sherri Kovach  
Administrative Procedures Coordinator  
DHW – Administrative Procedures Section  
450 West State Street, 10th Floor  
P.O. Box 83720  
Boise, Idaho 83720-0036  
(208) 334-5564 phone, (208) 332-7347 fax  
kovachs@idhw.state.id.us e-mail

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**THIS PROPOSED RULEMAKING UNDER DOCKET NO. 16-0602-0102 IS VACATED.**

## IDAPA 17 - INDUSTRIAL COMMISSION

### 17.07.01 - SAFETY RULES FOR ELEVATORS, ESCALATORS AND MOVING WALKS

DOCKET NO. 17-0701-0201

#### NOTICE OF RULEMAKING - TEMPORARY AND PROPOSED RULE

**EFFECTIVE DATE:** The effective date of the temporary rule is November 1, 2002.

**AUTHORITY:** In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a temporary rule, and proposed rulemaking procedures have been initiated. The action is authorized pursuant to Section(s) 72-508, 72-720, 72-721, 72-722, and 72-723, Idaho Code.

**PUBLIC HEARING SCHEDULE:** Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 16, 2002.

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

**DESCRIPTIVE SUMMARY:** The following is a nontechnical explanation of the substance and purpose of the proposed rulemaking:

The existing rule requires Division of Building Safety personnel to observe a competent and trained professional during an inspection. The rule change proposes an owner shall hire a qualified elevator inspector of their choice, provide written notice to the Division of Building Safety of any new installations or any major alteration or repairs to be made to existing equipment installations and receive a state registration number from the Division of Building Safety to be permanently affixed to the equipment for which the notice was submitted; excepting installations or any major alteration or repairs in public schools and in state owned or occupied buildings where a Division of Building Safety inspector will witness inspections. The proposed rule changes include the addition of general requirements for emergency communications and records of oil loss for hydraulic cylinders buried in the ground.

**TEMPORARY RULE JUSTIFICATION:** Pursuant to Section(s) 67-5226(1)(c), Idaho Code, the Governor has found that temporary adoption of the rule is appropriate for the following reason:

To confer a benefit by eliminating an unnecessary Industrial Safety Program inspector position through attrition.

**FEE SUMMARY:** The following is a specific description of the fee or charge imposed or increased: N/A

**NEGOTIATED RULEMAKING:** Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted by the Industrial Commission or the Division of Building Safety in an attempt to confer an immediate benefit by streamlining the Industrial Safety Program, which would in turn decrease the Industrial Commission's disbursement to the Division of Building Safety for the Industrial Safety Program.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the proposed rule, contact Tom Limbaugh, Commissioner, Industrial Commission, (208) 334-6000, or Dave Munroe, Administrator, Division of Building Safety, (208) 332-7100.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 23, 2002.

DATED this 27th day of August, 2002.

Thomas E. Limbaugh, Commissioner  
Industrial Commission  
317 Main St.  
PO Box 83720, Boise, Idaho 83720-0041  
(208) 334-6000 / (208) 334-2321

**THE FOLLOWING IS THE TEXT OF DOCKET NO. 17-0701-0201****003. ADMINISTRATIVE APPEALS.**

There are no provisions for administrative appeal of these rules. The procedures for appeals in safety matters ~~is~~ are prescribed by Sections and 72-714 and 72-718 through 72-722, Idaho Code. ~~(7-1-97)~~(11-1-02)T

**004. INCORPORATION BY REFERENCE.**

- 01.** ANSI/ASME A17.1. - 2000~~2~~ edition, Safety Code for Elevators and Escalators. ~~(3-15-02)~~(11-1-02)T
- 02.** ANSI/ASME A17.2.~~1~~. - 1996 2001 edition, *Inspector's Manual for Electric Guide for Inspection* of Elevators, Escalators, and Moving Walks. ~~(3-15-02)~~(11-1-02)T
- ~~03.~~ ~~ANSI/ASME A17.2.2.~~ - 1997 edition, *Inspector's Manual for Hydraulic Elevators.* ~~(3-15-02)~~
- ~~04.~~ ~~ANSI/ASME A17.2.3.~~ - 2000 edition, *Inspector's Manual for Escalators and Moving Walks.* ~~(3-15-02)~~
- 053.** ANSI/ASME A17.3. - 2000~~2~~ edition, Existing Elevators and Escalators. ~~(3-15-02)~~(11-1-02)T
- 064.** ANSI/ASME A17.4. - 2000 edition, Emergency Evacuation of Passengers from Elevators. (3-15-02)
- 075.** ANSI/ASME A17.5. - 1996 edition, Standard for Elevator and Escalator Electrical Equipment. (3-30-01)
- 086.** ANSI/ASME A10.4. - 1990 edition, Safety Requirements for Personnel Hoists and Employee Elevators for Construction and Demolition of Operations. (3-30-01)
- 097.** ANSI A117.1, Section 407. - 1998 edition, Accessible and Usable Buildings and Facilities, Elevators. (3-30-01)
- ~~108.~~ ANSI A18.1. - 2001 edition, Safety Standards for Platform Lifts and Stairway Chairlifts. (3-15-02)
- 09.** ASME OEI-1 - 2001 edition, Standards for the Qualification of Elevator Inspectors. (11-1-02)T

**005. OFFICE ADDRESS AND HOURS.**

The standards incorporated by reference herein are available for review at the Division of Building Safety, 1090 E. Watertower St., Meridian Idaho, 83642 between the hours of 8 a.m. and 5 p.m., except Saturday, Sunday and legal holidays. ~~(3-15-02)~~(11-1-02)T

**(BREAK IN CONTINUITY OF SECTIONS)****010. DEFINITIONS.**

- 01.** **Alteration.** Any change to equipment other than maintenance, repair, or replacement. (3-30-01)
- 02.** **Approved.** Acceptable to the authority having jurisdiction. (7-1-97)
- 03.** **Authority Having Jurisdiction.** The State of Idaho, ~~Division of Building Safety~~ Industrial

Commission. ~~(7-1-97)~~(11-1-02)T

**04. Authorized Personnel.** Persons who have been instructed in the operation and/or maintenance of the equipment designated by the owner to use or maintain the equipment. (7-1-97)

**05. Building Code.** The latest state adopted version of the *Uniform International Building Code*. ~~(7-1-97)~~(11-1-02)T

**06. Certified.** A certification by a testing laboratory, a professional engineer, a manufacturer, or a contractor that a device or an assembly conforms to the requirements of the Safety Code for Elevators and Escalators (ASME A17.1). (7-1-97)

**07. Competent Person.** A person who is capable of identifying existing and predictable hazards and who has authorization to take prompt corrective action to eliminate them. (7-1-97)

~~08. Department.~~ *The Division of Building Safety.* ~~(3-30-01)~~

~~098.~~ **Designated Attendant.** A person who operates an elevator that is controlled from the inside of the car. (3-30-01)

~~109.~~ **Designated Level.** The main floor or other level that best serves the needs of emergency personnel for firefighting or rescue purposes. (3-30-01)

~~110.~~ **Director.** The administrator of the Division of Building Safety. (3-30-01)

**11. Division.** The Division of Building Safety. (11-1-02)T

**12. Dumbwaiter.** A hoisting and lowering mechanism equipped with a car of limited size which moves in guide rails and serves two (2) or more landings, and classified by the following types: (3-30-01)

**a.** Hand dumbwaiter. A dumbwaiter utilizing manual energy to move the car. (3-30-01)

**b.** Power dumbwaiter. A dumbwaiter utilizing energy other than gravitational or manual to move a car. (3-30-01)

**c.** Electric dumbwaiter. A power dumbwaiter where the energy is applied by means of an electric driving machine. (3-30-01)

**d.** Hydraulic dumbwaiter. A power dumbwaiter where the energy is applied, by means of a liquid under pressure, in a cylinder equipped with a plunger or piston. (3-30-01)

**e.** Direct plunger hydraulic dumbwaiter. A hydraulic dumbwaiter having a plunger or cylinder directly attached to the car frame or platform. (3-30-01)

**f.** Electro-Hydraulic Dumbwaiter. A direct plunger dumbwaiter where liquid is pumped under pressure directly into the cylinder by a pump driven by an electric motor. (3-30-01)

**g.** Maintained pressure hydraulic dumbwaiter. A direct plunger dumbwaiter where liquid under pressure is available at all times for transfer into the cylinder. (3-30-01)

**h.** Roped Hydraulic Dumbwaiter. A dumbwaiter having its piston connected to the car with wire rope. (3-30-01)

**i.** Under-counter dumbwaiter. A dumbwaiter which has its top terminal landing located underneath a counter. (3-30-01)

**13. Earthquake Protective Devices.** A device or group of devices which serve to regulate the



operation of an elevator or group of elevators in a predetermined manner during or after an earthquake. (7-1-97)

**14. Elevator.** A hoisting and lowering mechanism, equipped with a car or platform, which moves in guide rails and serves two (2) or more landings and is classified by the following types: (7-1-97)

**a.** Freight elevator. An elevator used primarily for carrying freight and on which only the operator and the persons necessary for unloading and loading the freight are permitted to ride. (3-30-01)

**b.** Gravity elevator. An elevator utilizing gravity to move the car. (3-30-01)

**c.** Hand elevator. An elevator utilizing manual energy to move the car. (3-30-01)

**d.** Inclined elevator. An elevator which travels at an angle of inclination of seventy (70) degrees or less from the horizontal. (3-30-01)

**e.** Multi-deck elevator. An elevator having two (2) or more compartments located one (1) immediately above the other. (3-30-01)

**f.** Observation elevator. An elevator designed to permit exterior viewing by passengers while the car is traveling. (3-30-01)

**g.** Passenger elevator. An elevator used primarily to carry persons other than the operator and persons necessary for unloading and loading. (3-30-01)

**h.** Power elevator. An elevator utilizing energy other than gravity or manual to move the car. (3-30-01)

**i.** Electric elevator. A power elevator where the energy is applied by means of an electric driving machine. (3-30-01)

**j.** Hydraulic elevator. A power elevator where the energy is applied by means of a liquid under pressure in a cylinder equipped with a plunger or piston. (3-30-01)

**k.** Direct plunger hydraulic elevator. A hydraulic elevator having a plunger or cylinder directly attached to the car frame or platform. (3-30-01)

**l.** Electro-hydraulic elevator. A direct plunger elevator where liquid is pumped under pressure directly into the cylinder by a pump driven by an electric motor. (3-30-01)

**m.** Limited-use/limited application elevator. A power passenger elevator where the use and application is limited by size, capacity, speed, and rise, intended principally to provide vertical transportation for people with physical disabilities. (3-30-01)

**n.** Maintained pressure hydraulic elevator. A direct plunger elevator where liquid under pressure is available at all times for transfer into the cylinder. (3-30-01)

**o.** Personnel hoist. A mechanism and its related hoistway for use in connection with the construction, alteration, on-going maintenance, or demolition of a building, structure, or other work. It is used for hoisting and lowering workers or materials or both, and is equipped with a car that moves vertically on guide members. (3-30-01)

**p.** Roped hydraulic elevator. A hydraulic elevator having its plunger or piston connected to the car with wire ropes or indirectly coupled to the car by means of wire ropes and sheaves. (3-30-01)

**q.** Rack and pinion elevator. A power elevator with or without a counterweight which is supported, raised, and lowered by a motor or motors which drive a pinion or pinions on a stationary rack mounted in the hoistway. (3-30-01)

- r.** Screw column elevator. A power elevator having an uncounter-weighted car which is supported, raised, and lowered by means of a screw thread. (3-30-01)
- s.** Private residence elevator. A power passenger elevator which is limited in size, capacity, rise, and speed, and is installed in a single family private residence or in a multiple dwelling as a means of access to an individual private residence. (3-30-01)
- t.** Rooftop elevator. A power passenger or freight elevator operating between a landing at roof level and one (1) landing below. It opens onto the exterior roof level of the building through a horizontal opening. (3-30-01)
- u.** Sidewalk elevator. An elevator of the freight type operating between a landing in a sidewalk or other exterior area and the floors below the sidewalk or grade level. It opens onto the exterior area through a horizontal opening. (3-30-01)
- v.** Special purpose personnel elevator. An elevator which is limited in size, capacity, and speed, and permanently installed in structures such as grain elevators, radio antenna, bridge towers, underground facilities, dams, power plants, and similar structures to provide vertical transportation of authorized personnel and their tools and equipment only. (3-30-01)
- w.** Construction elevator. An elevator being used temporarily, only for construction purposes. (3-30-01)
- 15. Enforcing Authority.** The Industrial Commission, state of Idaho. (7-1-97)
- 16. Escalator.** A power driven, inclined, continuous stairway used for raising or lowering passengers. (7-1-97)
- 17. Hoistway Enclosure.** The fixed structure, consisting of vertical walls or partitions, which isolates the hoistway from all other areas or from an adjacent hoistway and in which the hoistway doors and door assemblies are installed. (7-1-97)
- 18. Inspection and Tests.** (7-1-97)
- a.** Acceptance. The initial inspection and tests of new or altered equipment by a ~~competent person and witnessed by a State Inspector~~ Qualified Elevator Inspector to check for compliance with the applicable code requirements. (~~7-1-97~~)(11-1-02)T
- b.** Periodic. Routine inspection and tests plus additional detailed examination and operation of equipment at specified intervals performed by a ~~competent person and witnessed by a State Inspector~~ Qualified Elevator Inspector to check for compliance with the applicable code requirements. (~~7-1-97~~)(11-1-02)T
- c.** Routine. The examination and operation of equipment at specified intervals by a competent person to check for compliance with applicable code requirements. (7-1-97)
- 19. Installation.** A complete elevator, dumbwaiter, escalator, lift, inclined lift, or moving walk including its hoistway, hoistway enclosures and related construction, and all machinery and equipment for its operation. (7-1-97)
- a.** Existing installation. An installation that has been completed or was under construction prior to the effective date of the adoption of the latest applicable ASME standard. (7-1-97)
- b.** New installation. Any installation not classified as an existing installation by definition, or an existing elevator, dumbwaiter, escalator, lift, inclined lift, or moving walk moved to a new location subsequent to the effective date of the adoption of the latest applicable ASME standard. (7-1-97)
- 20. Installation Placed Out Of Service.** An installation on which the power feed lines have been

disconnected from the mainline disconnect switch. (3-30-01)

**a.** An electric elevator, dumbwaiter, or lift on which the suspension ropes have been removed, whose car and counterweights rest at the bottom of the hoistway, and the hoistway doors have been permanently barricaded or sealed in the closed position on the hoistway side. (3-30-01)

**b.** A hydraulic elevator, dumbwaiter, or lift on which the car rests at the bottom of the hoistway; when provided with suspension ropes and counterweights, the suspension ropes have been removed and the counterweights rest at the bottom of the hoistway, and the hoistway doors are permanently barricaded or sealed in the closed position on the hoistway side. (3-30-01)

**c.** An escalator or moving walk on which the entrances have been permanently barricaded. (3-30-01)

**21. Labeled.** Equipment or materials to which the manufacturer has attached a label, symbol, or other identifying mark of an independent certifying organization with authority to perform product evaluation and to perform periodic inspection of the production of labeled equipment or materials. By affixing the label the manufacturer indicates the equipment or materials comply with appropriate standards or perform in a specified manner. (3-30-01)

**22. Listed.** Equipment or materials included in a list published by an independent certifying organization with authority to perform product evaluation and to perform periodic inspection of the production of listed equipment or materials. The certifying organization states whether the listed equipment or material meets appropriate standards or has been tested and found suitable for use in a specified manner. (3-30-01)

**23. Main Floor.** The floor providing normal egress from the building. (7-1-97)

**24. Maintenance.** A process of routine examination, lubrication, cleaning, adjustment, and replacement of parts for the performance in accordance with applicable Code requirements. (7-1-97)

**25. Material Lift.** A hoisting and lowering mechanism not normally classified as an elevator, equipped with a platform, serving two (2) or more landings for the purpose of transporting materials only (no persons), which may be manually or automatically operated from outside the hoistway. (3-30-01)

**26. Moving Walk.** A type of passenger-carrying device on which passengers stand or walk, and which the passenger-carrying surface remains parallel to its direction of motion and is uninterrupted. (3-30-01)

**27. Penetrate A Floor.** To pass through or pierce a floor in such a way that the opening has a continuous perimeter and is provided only to allow equipment to pass through the floor. (7-1-97)

**28. Phase I Emergency Recall.** The first phase of an emergency during which an elevator is automatically or manually recalled to a specific landing and removed from normal service due to the activation of a fire detection device. (3-30-01)

**29. Phase II Emergency In-Car Operation.** The operation and control of an elevator by firefighters during an emergency. (3-30-01)

**30. Pit.** That portion of a hoistway extending from the sill level of the lowest landing to the floor at the bottom of the hoistway. (7-1-97)

**31. Private Residence.** A separate dwelling or a separate apartment in a multiple dwelling which is occupied only by the members of a single family unit. (7-1-97)

**32. Qualified Elevator Inspector.** A person certified by an American Society of Mechanical Engineers (ASME) accredited certifying organization as meeting the requirements of ASME QEI-1 standard. (11-1-02)T

**323. Repair.** The process of rehabilitation or replacement of parts that are basically the same as the original for the purpose of ensuring performance in accordance with the applicable code requirements. (7-1-97)

**334. Replacement.** The substitution of a device or component in its entirety with a new unit that is basically the same as the original for the purpose of ensuring performance in accordance with the applicable code requirements. (7-1-97)

**345. Weather Proof.** So constructed or protected that exposure to the weather will not interfere with the successful operation of the equipment. (7-1-97)

**011. ABBREVIATIONS.**

- 01. ANSI.** American National Standards Institute. (7-1-97)
- 02. ASME.** American Society of Mechanical Engineers. (7-1-97)
- 03. DBS.** Division of Building Safety. (7-1-97)
- 04. IDAPA.** Idaho Administrative Procedures Act. (7-1-97)
- 05. NEC.** National Electric Code. (7-1-97)
- 06. NFPA.** National Fire Protection Association. (7-1-97)
- 07. PSIG.** Pounds per Square Inch Gauge. (7-1-97)
- 08. ~~IBC.~~ *Uniform* International Building Code.** (~~7-1-97~~)(11-1-02)T
- 09. UL.** Underwriters Laboratories. (7-1-97)

**(BREAK IN CONTINUITY OF SECTIONS)**

**020. GENERAL REQUIREMENTS.**

**01. Compliance With Code And Rules.** All new ~~elevators, dumbwaiters, moving walks, material lifts, wheelchair lifts, stairway chair lifts, and escalators~~ installations, unless otherwise exempted by these rules, to be installed or operated in the state of Idaho shall be designed, constructed, installed, operated, and inspected in accordance with the applicable ANSI/ASME code, the latest addenda, and these rules. (~~3-30-01~~)(11-1-02)T

**02. State Registration Number.** All ~~elevators, dumbwaiters, moving walks, material lifts, wheelchair lifts, stairway chair lifts, and escalators~~ installations, unless otherwise exempted by these rules, shall have a state of Idaho registration number permanently affixed to the equipment. (~~3-30-01~~)(11-1-02)T

**03. Manual Shutoff Valve.** All hydraulic elevators shall have a manual shutoff valve in the supply line to the hydraulic cylinder located in the elevator machine room. (3-30-01)

**04. Pressure Gage Installations.** All hydraulic elevators shall have a hydraulic nipple type H-1 located between the hydraulic oil pump and the machine room manual shutoff valve to standardize pressure gage installations. (3-30-01)

**05. Emergency Unlocking Devices.** Hoistway door unlocking provisions and devices shall be provided for use by authorized and emergency personnel for each elevator car at every landing where there is an entrance. (3-30-01)

**06. Main Line Disconnect Or Shunt Trip.** A fused or circuit breaker elevator main line disconnect shall be located in the appropriate elevator machine room for the elevator being controlled. Where used, shunt trips shall be located in the appropriate elevator machine room for the elevator being controlled. (3-30-01)

**07. Emergency Communications.** Two-way communication between the elevator car and a twenty-four (24) hour, seven (7) day a week manned location shall be provided for all elevators. (11-1-02)T

**08. Hydraulic Elevator Cylinders Buried In The Ground.** For all hydraulic elevator cylinders buried in the ground a record of hydraulic oil loss shall be kept. Loss of unaccountable hydraulic oil shall result in the replacement of the hydraulic cylinder or placing the elevator out of service. (11-1-02)T

## 021. NOTIFICATION REQUIREMENTS.

**01. Prior To Installation, Major Alterations, Or Repairs.** Before ~~the installation of any major alteration or repairs are made to an existing~~ new elevator, dumbwaiter, moving walk, material lift, wheelchair lift, stairway chair-lift, and or escalator, unless otherwise exempted by these rules, or before ~~the installation of any new major alteration or repairs are made to an existing~~ elevator, dumbwaiter, moving walk, material lift, wheelchair lift, stairway chair-lift, or escalator, unless otherwise exempted by these rules, notice of such installation, major alteration, or repairs must be given in writing to the Idaho Division of Building Safety. Upon receipt of said notification, the Division of Building Safety will provide a state registration number to be permanently affixed to the equipment for which the notice was submitted. (3-30-01)(11-1-02)T

**02. Accidents.** When an accident occurs involving an ~~elevator, dumbwaiter, moving walk, material lift, wheelchair lift, stairway chair lift, or escalator~~ installation, unless otherwise exempted by these rules, the owner, user, or designated representative shall promptly notify the Division of Building Safety and submit a detailed report of the accident. (3-30-01)(11-1-02)T

## 022. EXEMPTIONS.

**01. Private Residences.** ~~Elevators, dumbwaiters, moving walks, material lifts, wheelchair lifts, stairway chair lifts, and escalators~~ Installations in private residences are exempt from these rules. (3-30-01)(11-1-02)T

**02. Federal Government.** ~~Elevators, dumbwaiters, moving walks, material lifts, wheelchair lifts, stairway chair lifts, and escalators~~ Installations in buildings or on premises owned by the Federal Government are exempt from these rules. (3-30-01)(11-1-02)T

**03. Designated Representatives Of The Division.** ~~Designated representatives of the Division of Building Safety are exempt from the ASME QEI-1 requirements.~~ (3-30-01)

## (BREAK IN CONTINUITY OF SECTIONS)

## 026. INSPECTIONS.

Elevators installed or operated in the state of Idaho, unless otherwise exempted by these rules, shall have an inspection in accordance with the ANSI/ASME standards incorporated by reference in Subsections 004.01, 004.02, ~~or~~ 004.03, and 004.11 of these rules. The following types of inspections are required. (3-30-01)(11-1-02)T

**01. Acceptance Inspection.** An acceptance inspection shall be conducted by a ~~competent person~~ Qualified Elevator Inspector representing the owner ~~and witnessed by a designated representative of the Division of Building Safety~~ for all new or altered elevators, unless otherwise exempted by these rules. In addition, elevators in public schools and in state owned or occupied buildings will have their inspections witnessed by a state inspector from the Division of Building Safety. (3-30-01)(11-1-02)T

**02. Routine Inspection.** A routine inspection shall be conducted annually by a competent person

representing the owner for all ~~elevators, dumbwaiters, moving walks, material lifts, wheelchair lifts, stairway chair lifts, and escalators~~ installations, unless otherwise exempted by these rules, utilizing forms provided by the Division of Building Safety. ~~(3-30-01)(11-1-02)T~~

**03. Periodic Inspection.** Periodic inspections shall be conducted every five (5) years by a ~~competent person~~ Qualified Elevator Inspector representing the owner ~~and witnessed by a designated representative of the Division of Building Safety~~ for all elevators, unless otherwise exempted by these rules. In addition, elevators in public schools and in state owned or occupied buildings will have their inspections witnessed by a state inspector from the Division of Building Safety. ~~(3-30-01)(11-1-02)T~~

#### 027. CERTIFICATE TO OPERATE ELEVATOR.

An elevator, unless otherwise exempted by these rules, shall not be placed into operation until an inspection has been performed and a Certificate to Operate has been issued by the ~~Division of Building Safety~~ person making the inspection. ~~(3-30-01)(11-1-02)T~~

**01. Inspection Prior To Issuance.** A Certificate to Operate may be issued only if, after a thorough inspection, the ~~designated representative of the Division of Building Safety~~ Qualified Elevator Inspector finds that the elevator meets the required safety standards. If the elevator is found to be unsafe, the ~~representative~~ Qualified Elevator Inspector shall prohibit the use of the elevator until it is made safe. ~~(See Figure 027.01, Appendix I)~~ ~~(3-30-01)(11-1-02)T~~

**02. Term Of Certificate.** A Certificate to Operate shall be in effect for five (5) years, provided that the elevator continues to meet the requirements of the appropriate codes. (3-30-01)

**03. Revocation Of Certificate.** The Certificate to Operate shall remain the property of the state of Idaho and may be revoked at any time if the elevator fails to meet the requirements of the appropriate codes. (3-30-01)

#### 028. TEMPORARY CERTIFICATE TO OPERATE.

A temporary certificate to operate is effective for sixty (60) days and may be issued to allow use of the elevator while non-critical non-conformances are corrected. Before the expiration of sixty (60) days, the elevator shall be reinspected and a permanent Certificate to Operate shall be issued, or the elevator shall be put out of service. ~~(See Figure 028, Appendix II)~~ ~~(3-30-01)(11-1-02)T~~

#### 029. INSPECTION REPORTS.

Inspection reports must be filed ~~as follows~~ with the Division of Building Safety: ~~(3-30-01)(11-1-02)T~~

**01. Inspection Witnessed By Division.** For elevators in public schools or in state owned or occupied buildings ~~Whenever~~ an inspection is conducted by a competent person representing the owner and witnessed by a designated representative of the Division of Building Safety, a copy of the inspection report shall be filed with the Division of Building Safety and a copy sent to the owner or the owner's representative for corrective actions as required. ~~(3-30-01)(11-1-02)T~~

**02. Inspection By Owner's Representative.** Whenever an inspection is conducted by a ~~competent person~~ Qualified Elevator Inspector representing the owner, a copy of the inspection report shall be filed with the Division of Building Safety. ~~(3-30-01)(11-1-02)T~~

#### 030. REMUNERATION.

~~Competent persons~~ Qualified Elevator Inspectors representing the owner or elevator installer, referred to in Sections 026 and 029, shall be considered to be employees of the owner or the owner's representative and shall receive no salary from, nor shall any of their expenses be paid by the state of Idaho. ~~(3-30-01)(11-1-02)T~~

#### 031. CONSTRUCTION, REPAIR, ALTERATION, OR DISMANTLING.

**01. Training And Experience Requirements.** Only persons who are qualified by virtue of training and experience shall construct, repair, alter, or dismantle ~~elevators, dumbwaiters, moving walks, material lifts, wheelchair lifts, stairway chair lifts, and escalators~~ installations. EXCEPTION: an apprentice while under the direct

supervision of a qualified journeyman.

~~(3-30-01)~~(11-1-02)T

**02. Barricades And Signs.** ~~Elevators, dumbwaiters, moving walks, material lifts, wheelchair lifts, stairway chair lifts, and escalators~~ Installations that are under maintenance, repair, inspection, alteration, construction, being dismantled, or are otherwise out of service shall have their points of entry appropriately barricaded and signed. Additionally mechanical rooms/ spaces or controllers shall be appropriately signed.

~~(3-30-01)~~(11-1-02)T

**03. Safety Devices.**

(3-30-01)

**a.** No person shall attempt to remove or do any work on any safety device until the ~~elevator, dumbwaiter, moving walk, material lift, wheelchair lift, stairway chair lift, or escalator~~ installation is removed from service.

~~(3-30-01)~~(11-1-02)T

**b.** No person shall alter any safety device in any manner to render it ineffective except as part of a required test or during an inspection procedure.

(3-30-01)

***APPENDIX I***

***FIGURE 027.01 - A SAMPLE OF A CERTIFICATE TO OPERATE***

(Graphic not shown)

***APPENDIX II***

***FIGURE 028, SAMPLE OF A TEMPORARY CERTIFICATE TO OPERATE***

(Graphic not shown)

# IDAPA 19 - IDAHO STATE BOARD OF DENTISTRY

## 19.01.01 - RULES OF THE IDAHO STATE BOARD OF DENTISTRY

### DOCKET NO. 19-0101-0201 (FEE RULE)

#### NOTICE OF RULEMAKING - PROPOSED RULE

**AUTHORITY:** In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has proposed rulemaking. The action is authorized pursuant to Sections 54-912(2), (4) and (10), Idaho Code.

**PUBLIC HEARING SCHEDULE:** Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 16, 2002.

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

**DESCRIPTIVE SUMMARY:** The following is a nontechnical explanation of the substance and purpose of the proposed rulemaking:

The proposed rulemaking is for the following purposes: to require CPR certification for initial licensure and renewal for dentists, dental specialists and dental hygienists; to make mandatory and increase the administrative fee for anesthesia permit applications, renewals and reinstatements to \$300; to specify that the duration of a provisional license cannot exceed one (1) year; to require American Board dental specialty certification as of the date of application for specialty licensure in Idaho; to require advance training in anesthesiology within five (5) years of application for an anesthesia permit with identified exceptions; to correct a citation; and to provide for reinstatement of anesthesia permits.

**FEE SUMMARY:** The following is a specific description of the fee or charge imposed or increased. This fee or charge is being imposed pursuant to Section 54-912(10), Idaho Code.

The proposed revision to Rule 12 changes the anesthesia permit application fee from \$100 to \$300. The fee increase was necessitated by the fact that the effective period of the anesthesia permit was lengthened from 3 to 5 years and the administrative costs to the Board for the evaluations conducted in connection with an application for an initial, renewed or reinstated permit greatly exceed the amount of the current fee being assessed.

**NEGOTIATED RULEMAKING:** Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted. Notice of discussions regarding proposed rule changes was sent to interested parties prior to Board of Dentistry meetings.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the proposed rule, contact Michael J. Sheeley, Executive Director, at (208) 334-2369.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 23, 2002.

DATED this 16th day of August, 2002.

Michael J. Sheeley, Executive Director  
Idaho State Board of Dentistry  
708½ W. Franklin Street  
Boise, Idaho 83702  
(208) 334-2369 (telephone)  
(208) 334-3247 (facsimile)



**THE FOLLOWING IS THE TEXT OF DOCKET NO. 19-0101-0201**

**012. LICENSE AND APPLICATION FEES (Rule 12).**

The annual license fees and application fees shall be as follows: (7-1-93)

**01. Application Fees For Dentists:** (7-1-91)

**a. General:** (3-18-99)

i. By examination -- one hundred dollars (\$100). (3-18-99)

ii. By credentials -- six hundred dollars (\$600). (3-18-99)

**b. Specialty:** (7-1-91)

i. By examination -- one hundred dollars (\$100). (7-1-91)

ii. By credentials -- six hundred dollars (\$600). (3-18-99)

**02. Application Fees For Dental Hygienists:** (7-1-91)

**a.** By examination -- fifty dollars (\$50). (7-1-91)

**b.** By credentials -- one hundred and fifty dollars (\$150). (7-1-92)

**03. Annual License Fees For Dentists:** (3-18-99)

**a.** Active -- one-hundred and fifty dollars (\$150). (3-18-99)

**b.** Inactive -- seventy-five dollars (\$75). (7-1-91)

**c.** Specialty -- one hundred and fifty dollars(\$150). (3-18-99)

**04. Annual License Fees For Hygienists:** (3-18-99)

**a.** Active -- seventy dollars (\$70). (3-18-99)

**b.** Inactive -- forty dollars (\$40). (7-1-91)

**05. Application Fees For General Anesthesia And Conscious Sedation Permits:** ( )

**a.** Initial Application -- three hundred dollars (\$300). ( )

**b.** Renewal Application -- three hundred dollars (\$300). ( )

**c.** Reinstatement Application -- three hundred dollars (\$300). ( )

**(BREAK IN CONTINUITY OF SECTIONS)**

**018. REQUIREMENT FOR CPR (Rule 18).**

Applicants for initial or renewal licensure as a dentist, dental specialist, or dental hygienist shall provide written

verification of current cardiopulmonary resuscitation (CPR) certification as a requirement for licensure. ( )

~~018.~~ **019.** (RESERVED).

**(BREAK IN CONTINUITY OF SECTIONS)**

**025. PROVISIONAL LICENSURE (Rule 25).**

This type of license may be granted at the Board's discretion to applicants who meet the following requirements: (3-18-99)

**01. Active Practice.** Active practice within the previous two (2) years. (7-1-93)

**02. Current Licensure.** Current licensure in good standing in another state. (7-1-93)

**03. Evidence.** Evidence that the applicant has not failed an exam given by the Board or its agent. (3-18-99)

**04. Provisional License.** The provisional license shall be valid ~~only until the next regularly scheduled examination given by the Board or its agent~~ for the period of time specified on the provisional license which shall not exceed one (1) year from the date of issuance. ~~(3-18-99)~~( )

**05. Additional.** Any additional requirements as specified by the Board. (3-18-99)

**(BREAK IN CONTINUITY OF SECTIONS)**

**045. LICENSURE OF DENTAL SPECIALISTS (Rule 45).**

**01. Qualifications.** Each applicant shall have a general license for the practice of dentistry in the state of Idaho or another state. Any applicant who desires to be licensed in one of the recognized specialties must be a graduate of and hold a certificate from both a dental school and a Graduate Training Program that is accredited by the Commission on Dental Accreditation of the American Dental Association. Any dentist licensed in Idaho who has met the educational requirements and standards approved by the Board, and who has practiced in an American Dental Association recognized specialty prior to February 1, 1992, may be granted a specialty license by the Board without undergoing examination. (3-18-99)

**02. Application.** Application for license to practice a recognized dental specialty must be filed in the office of the Board of Dentistry, Statehouse Mail, Boise, Idaho. The application must be attested before a notary public. (7-1-93)

**03. Examination.** Specialty licensure in those specialties recognized by the American Dental Association may be granted solely at the discretion of the Idaho State Board of Dentistry. An examination covering the applicant's chosen field may be required and, if so, will be given by the Idaho State Board of Dentistry or its agent. Candidates who are certified by the American Board of that particular specialty ~~within ten (10) years of Idaho as of the date of application for specialty licensure,~~ and who meet the qualifications set forth in the Board's Rules, may be granted specialty licensure by Board approval. ~~(3-18-99)~~( )

**04. Advertising And Practice.** No dentist shall announce or otherwise hold himself out to the public as a specialist unless he has first complied with the requirements established by the Idaho State Board of Dentistry for such specialty and has been issued a specialty license authorizing him to do so. The issuing of a specialty license allows him to announce to the public that he is specially qualified in a particular branch of dentistry. Any individual granted a specialty license must limit his practice to the specialty(s) in which he is licensed. (7-1-93)

**(BREAK IN CONTINUITY OF SECTIONS)**

**055. GENERAL ANESTHESIA AND DEEP SEDATION (Rule 55).**

Dentists licensed in the state of Idaho cannot use general anesthesia or deep sedation techniques in the practice of dentistry unless they have obtained the proper permit from the Idaho State Board of Dentistry by conforming with the following conditions: (10-1-87)

**01. General Requirements.** A dentist applying for a permit to administer general anesthesia and deep sedation shall provide proof that the dentist: (10-1-87)

**a.** Has completed a minimum of one (1) year of advance training in anesthesiology and related academic subjects beyond the undergraduate dental school level within the five (5) year period immediately prior to the date of application for a permit. The five (5) year requirement shall not be applicable to applicants who hold an equivalent permit in another state which has been in effect for the twelve (12) month period immediately prior to the date of application or to applicants who verify that they have regularly administered general anesthesia or deep sedation to patients within the twelve (12) month period immediately prior to the date of application. An applicant must verify the administration of general anesthesia or deep sedation on at least two (2) occasions in each of the twelve (12) months immediately prior to the date of application to be considered to have regularly administered general anesthesia or deep sedation. This training is described in Part II of the "Guidelines for Teaching the Comprehensive Control of Pain and Anxiety in Dentistry," as referred to in Subsection 0064.01.b., or ~~(4-5-00)~~( )

**b.** Is a diplomate of the American Board of Oral and Maxillofacial Surgery; or (10-1-87)

**c.** Is a member of the American Association of Oral and Maxillofacial Surgeons; or (10-1-87)

**d.** Is a Fellow of the American Dental Society of Anesthesiology; and (4-5-00)

**e.** Has current Certification of Advanced Cardiac Life Support Training or its equivalent; and (3-15-02)

**f.** Has an established protocol or admission to a recognized hospital. (3-18-99)

**02. Facility Requirements.** The dentist must have a properly equipped facility for the administration of general anesthesia, staffed with a dentist-supervised team of auxiliary personnel capable of reasonably handling procedures, problems, and emergencies incident thereto. Adequacy of the facility and competence of the anesthesia team will be determined by evaluators appointed by the Board. The Board adopts the standards regarding approval of equipment within the facility as set forth by the American Association of Oral and Maxillofacial Surgeons in their office anesthesia evaluation manual (see Subsection 004.01.a.). (3-15-02)

**03. Personnel.** For general anesthesia and deep sedation techniques, the minimum number of personnel shall be three (3) including: (10-1-87)

**a.** A qualified person to direct the sedation as described in Subsections 055.01.a. through 055.01.f.; and (3-18-99)

**b.** A qualified person whose primary responsibilities are observation and monitoring of the patient and who has documented current CPR certification; and (3-18-99)

**c.** An assistant for the operator who has documented current CPR certification. (3-18-99)

**04. Conscious Sedation.** A dentist holding a permit to administer general anesthesia under this rule may also administer conscious sedation. (3-18-99)

**05. Permit Renewal.** Renewal of the permit will be required every five (5) years in conjunction with

the routine dental licensure renewal. Proof of a minimum of twenty-five (25) credit hours of continuing education in general anesthesia and deep sedation techniques will be required to renew a permit. A fee ~~may~~ shall be assessed to cover administrative costs. (3-15-02)(\_\_\_\_)

**06. Reinstatement.** A dentist may make application for the reinstatement of an expired or surrendered permit issued by the Board under this rule within five (5) years of the date of the permit's expiration or surrender. Applicants for reinstatement of a permit shall satisfy the facility and personnel requirements of this rule and shall be required to verify that they have obtained an average of five (5) credit hours of continuing education in general anesthesia and deep sedation techniques for each year subsequent to the date upon which the permit expired or was surrendered. A fee for reinstatement shall be assessed to cover administrative costs. (\_\_\_\_)

**(BREAK IN CONTINUITY OF SECTIONS)**

**060. ADMINISTRATION OF CONSCIOUS SEDATION (Rule 60).**

Dentists licensed in the state of Idaho cannot use conscious sedation in the practice of dentistry unless they have obtained the proper permit from the Idaho State Board of Dentistry by conforming with the following conditions: (4-5-00)

**01. General Requirements.** A dentist applying for a permit to administer conscious sedation shall provide proof that the dentist has received formal training and certification in the use of conscious sedation drugs as described in the "Guidelines for Teaching the Comprehensive Control of Pain and Anxiety in Dentistry," as referred to in Subsection 004.01.b. published by the American Dental Association within the five (5) year period immediately prior to the date of application for a permit. The five (5) year requirement shall not be applicable to applicants who hold an equivalent permit in another state which has been in effect for the twelve (12) month period immediately prior to the date of application or to applicants who verify that they have regularly administered conscious sedation to patients within the twelve (12) month period immediately prior to the date of application. An applicant must verify the administration of conscious sedation on at least two (2) occasions in each of the twelve (12) months immediately prior to the date of application to be considered to have regularly administered conscious sedation. The formal training program shall: (3-15-02)(\_\_\_\_)

**a.** Be sponsored by or affiliated with a dental school accredited by the Commission on Dental Accreditation of the American Dental Association or a teaching hospital or facility approved by the Board of Dentistry; and (4-5-00)

**b.** Consist of a minimum of sixty (60) hours didactic education and twenty (20) hours patient contact. Patient contact includes the administration of the intravenous (IV) sedation and management by the participant from induction through emergence. (3-18-99)

**c.** Include the issuance of a certificate of successful completion that indicates the type, number of hours, and length of training received. (3-18-99)

**d.** In addition, the dentist must show proof of current certification of Advanced Cardiac Life Support training or its equivalent. (3-15-02)

**02. Facility Requirements.** The dentist must have a properly equipped facility for the administration of conscious sedation staffed with a dentist-supervised team of auxiliary personnel capable of reasonably handling procedures, problems, and emergencies incident thereto. Adequacy of the facility and competence of the anesthesia team will be determined by evaluators appointed by the Idaho State Board of Dentistry. (3-18-99)

**03. Personnel.** For conscious sedation, the minimum number of personnel shall be two (2) including: (10-1-87)

**a.** The operator; and (10-1-87)

**b.** An assistant trained to monitor appropriate physiologic parameters and assist in any support or resuscitation measures required. (10-1-87)

**c.** Auxiliary personnel must have documented training in basic life support, shall have specific assignments, and shall have current knowledge of the emergency cart inventory. The practitioner and all office personnel must participate in documented periodic reviews of office emergency protocol, including simulated exercises, to assure proper equipment function and staff interaction. (3-18-99)

**04. Permit Renewal.** Renewal of the permit will be required every five (5) years in conjunction with the routine dental licensure renewal. Proof of a minimum of twenty-five (25) credit hours continuing education in conscious sedation will be required to renew a permit. A fee ~~may~~ shall be assessed to cover administrative costs.

~~(3-15-02)~~(\_\_\_\_)

**05. Reinstatement.** A dentist may make application for the reinstatement of an expired or surrendered permit issued by the Board under this rule within five (5) years of the date of the permit's expiration or surrender. Applicants for reinstatement of a permit shall satisfy the facility and personnel requirements of this rule and shall be required to verify that they have obtained an average of five (5) credit hours of continuing education in conscious sedation techniques for each year subsequent to the date upon which the permit expired or was surrendered. A fee for reinstatement shall be assessed to cover administrative costs. (\_\_\_\_)

## IDAPA 21 - DIVISION OF VETERANS SERVICES

### 21.01.01 - RULES GOVERNING ADMISSION, RESIDENCY, AND MAINTENANCE CHARGES IN IDAHO STATE VETERANS HOMES AND DIVISION OF VETERANS SERVICES ADMINISTRATIVE PROCEDURE

DOCKET NO. 21-0101-0201

#### NOTICE OF RULEMAKING - PROPOSED RULE

**AUTHORITY:** In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has proposed rulemaking. The action is authorized pursuant to Section(s) 65-202, 65-204, and 66-907, Idaho Code.

**PUBLIC HEARING SCHEDULE:** Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 16, 2002.

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

**DESCRIPTIVE SUMMARY:** The following is a non-technical explanation of the substance and purpose of the proposed rulemaking:

To clarify certain nursing care eligibility requirements for admission to Idaho State Veterans Homes and to change the requirement that nursing care residents pay a \$100 security deposit.

**FEE SUMMARY:** The following is a specific description of the fee or charge imposed or increased. N/A

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OR WRITTEN COMMENTS:** For assistance on technical questions concerning the proposed rule, contact Richard Jones at (208) 334-3513.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 23, 2002.

DATED this 8th day of August, 2002.

Richard W. Jones, Administrator  
Idaho Division of Veterans Services  
320 Collins Road  
Boise, Idaho 83702  
Telephone: (208) 334-3513  
FAX (208) 334-2627

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#### THE FOLLOWING IS THE TEXT OF DOCKET NO. 21-0101-0201

**004. INCORPORATION BY REFERENCE.**

IDAPA 21.01.01, "Rules Governing Admission, Residency, and Maintenance Charges in Idaho State Veterans Homes and Division of Veterans Services Administrative Procedure," incorporates by reference 5 U.S.C. Section 2108 (1) (a), (b) and (c) (June 13, 1951). Electronic copies are available at [uscode.house.gov/uscaddr.htm](http://uscode.house.gov/uscaddr.htm). Printed copies are available from the Superintendent of Documents, U.S. Government Printing Office, P.O. Box 371954, Pittsburgh, PA 15250-7954. ( )

**0045. POLICY.**

Through the facilities and services available at Idaho State Veterans Homes, the Division of Veterans Services will provide necessary care for honorably discharged eligible veterans. No applicant will be denied admission on the basis of sex, race, color, age, political or religious opinion or affiliation, national origin, or lack of income, nor will any care or other benefit at a Home be provided in a manner, place, or quality different than that provided for other residents with comparable disabilities and circumstances. However, if residents are financially able to do so, they must contribute to the cost of their care, with allowances made for retention of funds for their personal needs. (3-30-01)

**0056. OFFICE - OFFICE HOURS - MAILING ADDRESS AND STREET ADDRESS.**

The principal place of business of the Office of the Idaho Division of Veterans Services is in Boise, Idaho. The office is located at 320 Collins Road, Boise, Idaho and is open from 8 a.m. to 5 p.m., except Saturday, Sunday and legal holidays. The mailing address is: 320 Collins Road, Boise, Idaho, 83702. The telephone number of the office is (208)334-3513. The facsimile number of the office is (208)334-2627. (3-15-02)

**0067. PUBLIC RECORDS ACT COMPLIANCE.**

The rules contained herein have been promulgated according to the provisions of Title 67, Chapter 52, Idaho Code, and are public records. (3-15-02)

**0078. -- 009. (RESERVED).****(BREAK IN CONTINUITY OF SECTIONS)****100. ELIGIBILITY REQUIREMENTS.**

An applicant/resident must be a veteran of the armed forces and must satisfy the following requirements, pursuant to Sections 66-901 and 66-907, Idaho Code: (3-30-01)

**01. Idaho Residency.** The applicant must be a bona fide resident of the state of Idaho at the time of admission to a Home. (3-30-01)

**02. Incompetent Applicants.** Applicants who are considered incompetent must provide copies of guardianship or power of attorney. (3-30-01)

**03. Necessity Of Required Services.** Applicants must meet the requirements for the level of care for which they apply. (3-30-01)

**a. Nursing Care.** To be eligible to receive nursing care in a state veterans home, applicants must be referred by a VA physician or a physician currently licensed by the Idaho Board of Medicine to practice medicine or surgery in the state of Idaho. (3-30-01)

**b. Residential Care.** Each applicant must submit to a physical examination performed at the VA Medical Center or by the clinical specialist assigned to a Home and meet the physical limitation requirements for residential care. The applicant must be unable to earn a living and have no adequate means of support due to wounds, old age, or physical or mental disabilities. However, each residential care resident must ambulate independently or with the aid of a wheelchair, walker, or similar device and be capable of performing at the time of admission, and for the duration of his residency, all of the following with minimal assistance: (3-30-01)

- i. Making his bed daily; (3-30-01)
- ii. Maintaining his room in a neat and orderly manner at all times; (3-30-01)
- iii. Keeping all clothing clean through proper laundering; (3-30-01)
- iv. Observing cleanliness in person, dress and living habits and dressing himself; (3-30-01)

- v. Bathing or showering frequently; (3-30-01)
- vi. Shaving daily or keeping his mustache or beard neatly groomed; (3-30-01)
- vii. Proceeding to and returning from the dining room and feeding himself; (3-30-01)
- viii. Securing medical attention on an ambulatory basis and managing medications; (3-30-01)
- ix. Maintaining voluntary control over body eliminations or control by use of an appropriate prosthesis; and (3-30-01)
- x. Making rational decisions as to his desire to remain or leave the Home. (3-30-01)

**c. Domiciliary Care.** Each applicant must submit to a physical examination performed at the VA Medical Center or by the clinical specialist assigned to a Home and meet the physical limitation requirements for domiciliary care. The applicant must be unable to earn a living and have no adequate means of support due to wounds, old age, or physical or mental disabilities. However, each domiciliary care resident must be able to ambulate independently and must be capable of performing at the time of admission, and for the duration of his residency, all of the following without assistance: (3-30-01)

- i. Making his bed daily; (3-30-01)
- ii. Maintaining his room in a neat and orderly manner at all times; (3-30-01)
- iii. Keeping all clothing clean through proper laundering; (3-30-01)
- iv. Observing cleanliness in person, dress and living habits and dressing himself; (3-30-01)
- v. Bathing or showering frequently; (3-30-01)
- vi. Shaving daily or keeping his mustache or beard neatly groomed; (3-30-01)
- vii. Proceeding to and returning from the dining room and feeding himself; (3-30-01)
- viii. Securing medical attention on an ambulatory basis and managing medications; (3-30-01)
- ix. Maintaining voluntary control over body eliminations or control by use of an appropriate prosthesis; and (3-30-01)
- x. Making rational and competent decisions as to his desire to remain or leave the Home. (3-30-01)

**04. Placement Restriction.** A Home shall not accept applicants or continue to extend care to residents for whom the facility does not have the capability or services to provide an appropriate level of care. (3-30-01)

**05. Financial Statement.** Each applicant must file a signed, dated statement with the Home Administrator containing a report of income from all sources and a report of all liquid assets which will be used to determine the amount of the maintenance charge which is required in accordance with Section 66-907, Idaho Code, and IDAPA 21.01.01, "Rules Governing Admission, Residency, and Maintenance Charges in Idaho State Veterans Homes and Division of Veterans Services Administrative Procedure". (3-30-01)

**06. Social Security Benefits.** If eligible for Social Security benefits, the applicant/resident and spouse must apply for those benefits unless waived by the Home Administrator. (3-30-01)

**07. Medicare Coverage.** If eligible for Medicare parts "A" and "B," the applicant/resident must elect to participate, unless participation is waived by the Home Administrator. (3-30-01)

**08. Income Limitation.** (3-30-01)



a. Nursing Care. None. (3-30-01)

b. Residential and Domiciliary Care. An applicant whose total monthly net income, at the time of his application for residency, exceeds the current maximum annual rate of VA pension for a single veteran pursuant to Public Law 95-588 divided by twelve (12) cannot be admitted unless granted a waiver by the Home Administrator. This waiver must include a statement from a VA Medical Center physician indicating the veteran is in "need of continuing medical care". (3-30-01)

**09. VA Pension - Nursing Care.** Unless waived by the Home Administrator, a wartime veteran, as defined in 5 U.S.C. Section 2108, who is a nursing care applicant/resident must be eligible for, apply for, and/or be in receipt of a VA disability pension in accordance with Public Law 95-588. Such waivers may be considered only when the applicant/resident has signed a statement indicating he is unable to defray the necessary expenses of the medical care for which he is applying and arrangements are made to secure medical services not provided by VA. ~~(3-30-01)~~(\_\_\_\_)

**10. Agreements For Behavior And Care Needs.** The Idaho State Veterans Homes may require that applicants or residents enter into agreements concerning the applicant or resident's behavior and/or care needs while residing in the Home. The resident's failure to perform these agreements is a basis for discharge from the Home. (3-15-02)

**(BREAK IN CONTINUITY OF SECTIONS)**

**915. MAINTENANCE CHARGES.**

Upon becoming a resident of an Idaho State Veterans Home, each resident is liable for the payment of a maintenance charge as well as expenses for supplies, medication, equipment, and services (other than basic services for the assigned level of care) that are not provided or paid for by VA, Medicaid, Medicare, or other insurance unless otherwise determined by the Home Administrator. Residents living in a Home for any part of a month must pay for each day, based on the actual number of days in the month, at that fraction of their total charge. Refusal or failure to pay the established maintenance charge or related expenses is cause for discharge from the Home. (3-30-01)

**01. Charges.** Charges will be computed, based on the following factors: (3-30-01)

a. If the resident has an income, those items used to compute the charge will include: (3-30-01)

i. Social Security benefits; (3-30-01)

ii. Retirement benefits; (3-30-01)

iii. Income from annuities; (3-30-01)

iv. Insurance benefits; (3-30-01)

v. Rental from property; (3-30-01)

vi. Farm income; (3-30-01)

vii. VA pensions or compensations; (3-30-01)

viii. Tax refunds; and (3-30-01)

ix. Income from any and all other sources. (3-30-01)

b. If the resident is single, incompetent, and has liquid assets in excess of one thousand five hundred

dollars (\$1,500), he will be assessed the current maximum charge until those assets are reduced to less than one thousand five hundred dollars (\$1,500). (3-15-02)

**c.** If the resident is single, competent, and has liquid assets in excess of fifteen hundred dollars (\$1,500), he will be assessed the current maximum charge until those assets are reduced to less than fifteen hundred dollars (\$1,500). (3-30-01)

**d.** Joint income will be used in computing charges for married persons. If the resident has dependents who rely upon him for financial support, the amount of liquid assets will not be drawn upon after they have declined to a level of five thousand dollars (\$5,000). (3-30-01)

**02. Exclusions From Income Or Payment.** The only exclusions in computing monthly charges will be: (3-30-01)

**a.** Those funds which a resident receives from the sale of hobby/craft items constructed and sold as part of a Home occupational therapy program; or (3-30-01)

**b.** Those unusual expenses specified below, which are incurred after the resident's admission to a Home and are approved by the Home Administrator, up to a maximum monthly allowance which is established pursuant to Section 980: (3-30-01)

i. Prosthetic, orthopedic, and paraplegic appliances; (3-30-01)

ii. Sensory aids; (3-30-01)

iii. Wheelchairs; (3-30-01)

iv. Therapy services; (3-30-01)

v. Hospital, medical, surgical expenses and bills for prescription drugs incurred and paid by the individual in the current month and documented by a paid receipt. (3-30-01)

**c.** Reasonable medical insurance premiums, as paid, with documentation of payment. Other insurance premiums are excluded from consideration; or (3-30-01)

**d.** An allowance established pursuant to Section 980 for retention by a resident for personal needs; (3-30-01)

**e.** That amount necessary for a resident of a Home to contribute to the support of a legal dependent where proof of actual payment is documented. A monthly allowance will be established for a spouse or additional dependents pursuant to Section 980. (These allowances take into consideration housing and utility costs.) (3-30-01)

**03. Income Eligibility Limits.** (3-30-01)

**a.** Nursing Care. None. (3-30-01)

**b.** Residential and Domiciliary Care. A resident's total monthly net income, from all sources, may not exceed the current maximum annual rate of VA pension for a single veteran pursuant to Public Law 95-588 divided by twelve (12) unless waived by the Home Administrator in accordance with Subsection 100.08. (3-30-01)

**c.** While in residence at a Home, a domiciliary resident may seek outside employment and receive income so that his total monthly net income from all sources will exceed the current maximum annual rate of VA pension for a single veteran pursuant to Public Law 95-588 divided by twelve (12) for a one (1) month transitional period. At the end of this one (1) month transitional period, the resident will be discharged. (3-30-01)

**04. Continued Eligibility.** (3-30-01)

**a.** Nursing Care. A resident may continue to be eligible for residency in a Home, regardless of income changes, if the conditions defined in Subsection 100.09 continue to be met. (3-30-01)

**b.** Residential and Domiciliary Care. If a resident's net monthly income exceeds the income eligibility limit after admission to the Home, the resident may appeal to the Home Administrator for a waiver of the income eligibility limit which may be granted for good cause. Consideration for good cause must include "need for continuing medical care" as documented by a VA Medical Center physician. (3-30-01)

**05. Charges.** (3-30-01)

**a.** Nursing Care. After allowable deductions, a resident will be assessed a fee equal to the remaining portion of his net monthly income up to the maximum charge. The maximum monthly maintenance charge is based on historical costs that are adjusted to include anticipated costs and an inflation factor. Changes to the maximum charge are made pursuant to Section 980. (3-30-01)

**b.** Residential Care. After allowable deductions, a resident will be assessed a fee of seventy-five percent (75%) of the remaining portion of his net monthly income up to the maximum charge. The maximum monthly maintenance charge shall be seventy-five percent (75%) of the current maximum annual rate of VA pension for a single veteran pursuant to Public Law 95-588 divided by twelve (12). (3-30-01)

**c.** Domiciliary Care. After allowable deductions, a resident will be assessed a fee of sixty percent (60%) of the remaining portion of his net monthly income up to the maximum charge. The maximum monthly maintenance charge shall be sixty percent (60%) of the current maximum annual rate of VA pension for a single veteran pursuant to Public Law 95-588 divided by twelve (12). (3-30-01)

**06. Payment Schedule.** Maintenance charges are due the first of each month and must be paid in full by the resident or guardian on or before the tenth (10) day of the month. Payments may be made either by cash or by check, and a receipt will be issued. (3-15-02)

**07. Security Deposit.** A deposit of one hundred dollars (\$100) will be required by domiciliary and residential care residents upon admission to a Home, unless waived by the Home Administrator. This deposit will be held until the resident leaves. Any debts or liabilities on behalf of the resident will be offset against this deposit at that time. After payment of any debts or liabilities, the remaining balance of the deposit will be returned to the outgoing resident. ~~(3-30-01)~~( )

**08. Leave Of Absence Or Hospitalization.** No reduction in charges will be made for leave of absence or hospitalization and each day will count as if the resident were present at a Home. Also, in the case of a leave of absence in excess of ninety-six (96) hours or a hospital stay in excess of ten (10) days, the resident will be charged the current VA per diem rate for each absent day unless waived by the Home Administrator. (3-15-02)

**IDAPA 21 - DIVISION OF VETERANS SERVICES**  
**21.01.02 - RULES GOVERNING EMERGENCY RELIEF FOR VETERANS**

**DOCKET NO. 21-0102-0201**

**NOTICE OF RULEMAKING - PROPOSED RULE**

**AUTHORITY:** In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has proposed rulemaking. The action is authorized pursuant to Section(s) 65-201, 65-202, 65-203, 65-204, 65-207, Idaho Code.

**PUBLIC HEARING SCHEDULE:** Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 16, 2002.

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

**DESCRIPTIVE SUMMARY:** The following is a non-technical explanation of the substance and purpose of the proposed rulemaking:

To clarify who is eligible to receive Idaho Division of Veterans Services emergency grants; to change certain eligibility requirements; to provide the administrator of the Division of Veterans Services with authority to waive certain emergency grant requirements; to improve fiscal management; and to clarify who may make requests for reimbursement for state service officer training.

**FEE SUMMARY:** The following is a specific description of the fee or charge imposed or increased. N/A

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OR WRITTEN COMMENTS:** For assistance on technical questions concerning the proposed rule, contact Richard Jones at (208) 334-3513.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 23, 2002.

DATED this 8th day of August, 2002.

Richard W. Jones, Administrator  
Idaho Division of Veterans Services  
320 Collins Road, Boise, Idaho 83702  
Telephone: (208) 334-3513 - FAX (208) 334-2627

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**THE FOLLOWING IS THE TEXT OF DOCKET NO. 21-0102-0201**

**012. BASIC ELIGIBILITY.**

The applicant must be a(n): (3-30-01)

**01. Bona Fide Resident.** At the time of application, the applicant must provide proof that he maintains a principal or primary place of abode in the state of Idaho coupled with the present intent to remain at that home or abode and return to it after any period of absence. (3-30-01)

**02. Armed Forces Veteran.** Pursuant to Section 65-203, Idaho Code, a person whose home of record was Idaho while serving during a wartime period and who actually served during any war or conflict officially engaged in by the government of the United States and was discharged, under honorable conditions, after ninety (90) or more days of military service or was separated from military service earlier because of service-connected

disability.

(3-30-01)(\_\_\_\_)

**013. PERSONS TO RECEIVE RELIEF -- CLASSIFICATIONS.**

Emergency relief grants may be made by the Idaho Division of Veterans Services to veterans and their dependents who come under the following classifications: (3-30-01)

**01. Destitute Veterans.** Those persons meeting the basic eligibility criteria who demonstrate a state of extreme emergency need resulting from an accident or catastrophic event which has occurred within ninety (90) days of the date of the application for emergency relief, unless such ninety-day period is waived by the division administrator. (3-30-01)(\_\_\_\_)

**02. Disabled Veterans.** Those persons meeting the basic eligibility criteria who demonstrate a state of extreme emergency need who are unemployed as the result of a disabling condition which has occurred within ninety (90) days of the date of application for emergency relief, unless such ninety-day period is waived by the division administrator. (3-30-01)(\_\_\_\_)

**03. Surviving Spouse and Dependent Children.** Surviving spouses and dependent children of once eligible veterans who meet the criteria of Subsections 013.01 or 013.02. (3-15-02)

**(BREAK IN CONTINUITY OF SECTIONS)**

**021. PURPOSE OF GRANTS.**

Relief grants are provided to eligible individuals for the purchase of food, fuel, shelter, and other necessities of daily living in a time of temporary emergency need. No grants will be made to residents of domiciliaries or long-term care facilities or to a potential recipient who refuses to take advantage of available government benefits or federal-state-local relief. Applicants will be required to obtain certification that they have applied for available assistance programs. Emergency relief funds may not be used to duplicate assistance from other sources. (3-30-01)(\_\_\_\_)

**(BREAK IN CONTINUITY OF SECTIONS)**

**027. VETERANS SERVICE OFFICER SUPPORT.**

Veterans service officers, whether of the counties or the recognized veterans service organizations, must have a current knowledge and understanding of United States Department of Veterans Affairs programs to adequately serve the citizens of the state in the recovery of earned veterans benefits. (3-30-01)

**01. Training.** The Division of Veterans Services will conduct a minimum of ~~three~~ one (1) regional training conferences each year in support of the statewide service officer program. (3-30-01)(\_\_\_\_)

**02. Reimbursement.** Eligible counties and service organizations sending service officers to scheduled training sessions may apply to the Division of Veterans Services for reimbursement of travel expenses for one (1) participant. Payment will not be provided for expenses reimbursed by other sources and shall be limited to one (1) regional training conference per year. (3-30-01)

**03. Rate of Reimbursement.** Reimbursement of travel expenses shall be for mileage and meals and at the same rate as established by the State Board of Examiners. (3-30-01)

**04. Requests for Reimbursement.** All requests for reimbursement must be submitted from an official county service officer or from an administrative officer of a congressionally chartered veterans service organization. Requests for reimbursement shall be submitted in a format as prescribed by the Division of Veterans Services. Requests must be submitted within thirty (30) days after the conclusion of a training conference. All reimbursements are subject to the availability of funds. (3-30-01)(\_\_\_\_)

**05. Validation.** Request for reimbursement shall be validated by cross-referencing attendance lists from service officer training conferences. (3-30-01)

**IDAPA 21 - DIVISION OF VETERANS SERVICES**  
**21.01.03 - RULES GOVERNING MEDICAID QUALIFIED UNITS**  
**IN IDAHO STATE VETERANS HOMES**

**DOCKET NO. 21-0103-0201**

**NOTICE OF RULEMAKING - PROPOSED RULE**

**AUTHORITY:** In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has proposed rulemaking. The action is authorized pursuant to Section(s) 65-202, 65-204, 65-907, Idaho Code.

**PUBLIC HEARING SCHEDULE:** Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 16, 2002.

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

**DESCRIPTIVE SUMMARY:** The following is a non-technical explanation of the substance and purpose of the proposed rulemaking:

To change the requirement that all veterans homes must charge the same and to provide a mechanism whereby veterans homes can write off uncollectable debts.

**FEE SUMMARY:** The following is a specific description of the fee or charge imposed or increased. N/A

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OR WRITTEN COMMENTS:** For assistance on technical questions concerning the proposed rule, contact Richard Jones at (208) 334-3513.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 23, 2002.

DATED this 8th day of August, 2002.

Richard W. Jones, Administrator  
Idaho Division of Veterans Services  
320 Collins Road  
Boise, Idaho 83702  
Telephone: (208) 334-3513  
FAX (208) 334-2627

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**THE FOLLOWING IS THE TEXT OF DOCKET NO. 21-0103-0201**

**011. CALCULATION OF MAXIMUM CHARGES.**

The maximum monthly nursing care charges at the Idaho State Veterans Homes shall be established by the Division Administrator with the advice of the Veterans Affairs Commission. ~~Said amount shall be uniform for all three (3) Veterans Homes.~~ (3-30-01)(\_\_\_\_\_)

**IDAPA 21 - DIVISION OF VETERANS SERVICES**  
**21.01.04 - RULES GOVERNING THE IDAHO STATE VETERANS CEMETERY**

**DOCKET NO. 21-0104-0201**

**NOTICE OF RULEMAKING - PROPOSED RULE**

**AUTHORITY:** In compliance with Section 67-5220(1), Idaho Code, notice is hereby given that this agency has proposed rulemaking. The action is authorized pursuant to Section(s) 65-202, Idaho Code.

**PUBLIC HEARING SCHEDULE:** Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 16, 2002.

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

**DESCRIPTIVE SUMMARY:** The following is a non-technical explanation of the substance and purpose of the proposed rulemaking:

To establish rules for the operation and maintenance of Idaho's new State Veterans Cemetery.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OR WRITTEN COMMENTS:** For assistance on technical questions concerning the proposed rule, contact Richard Jones at (208) 334-3513.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 23, 2002.

DATED this 8th day of August, 2002.

Richard W. Jones, Administrator  
Idaho Division of Veterans Services  
320 Collins Road  
Boise, Idaho 83702  
Telephone: (208) 334-3513  
FAX (208) 334-2627

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**THE FOLLOWING IS THE TEXT OF DOCKET NO. 21-0104-0201**

**IDAPA 21**  
**TITLE 01**  
**Chapter 04**

**21.01.04 - RULES GOVERNING THE IDAHO STATE VETERANS CEMETERY**

**000. LEGAL AUTHORITY.**

The Idaho Legislature has given the administrator of the Division of Veterans Services the authority to promulgate rules governing the Idaho State Veterans Cemetery pursuant to Section 65-202, Idaho Code. ( )

**001. TITLE AND SCOPE.**

**01. Title.** These rules shall be cited as IDAPA 21.01.04, "Rules Governing the Idaho State Veterans Cemetery". ( )

**02. Scope.** These rules contain the provisions for eligibility for interment at the Idaho State Veterans Cemetery and the provisions for operation and maintenance of the Idaho State Veterans Cemetery. ( )

**002. WRITTEN INTERPRETATIONS.**

There are no written interpretations that pertain to the interpretation of the rules of this chapter. ( )

**003. ADMINISTRATIVE APPEALS.**

Contested case appeals shall be governed by the provisions of IDAPA 04.11.01, "Idaho Rules of Administrative Procedures of the Attorney General". ( )

**004. INCORPORATION BY REFERENCE.**

**01. Incorporated Documents.** IDAPA 21.01.04 incorporates by reference the following: ( )

**a.** The full text of 38 C.F.R. Section 1.620, dated July 1, 2001. ( )

**b.** 38 U.S.C. Section 2402, 1991 main volume, 2002 pocket part, Code of Federal Regulations, published by the Office of the Federal Register National Archives and Records Administration. ( )

**02. Document Availability.** Copies are available from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C., 20402-0001. ( )

**005. OFFICE -- OFFICE HOURS -- MAILING ADDRESS AND STREET ADDRESS.**

The mailing address and the street address of the office of the Division of Veterans Services is 320 Collins Road, Boise, Idaho 83702. The office is open from 8 a.m. to 5 p.m., except Saturday, Sunday, and legal holidays. The telephone number of the division is (208) 334-3513. The division's facsimile number is (208) 334-2627. ( )

**006. PUBLIC RECORDS ACT COMPLIANCE.**

The records associated with this chapter are subject to the provisions of the Idaho Public Records Act, Title 9, Chapter 1, Idaho Code. ( )

**007. FILING OF DOCUMENTS -- NUMBER OF COPIES -- FACSIMILE TRANSMISSION (FAX).**

Documents in contested cases shall be filed with the administrator. Unless additional copies are specifically requested by the administrator, parties may file one (1) copy of any document with the administrator. Documents, not exceeding ten (10) pages in length and documents requiring urgent or immediate action by the administrator may be filed with the administrator by facsimile transmission (FAX). Whenever a document is filed by FAX, originals must be delivered to the administrator by overnight mail or by hand delivery on the next business day. ( )

**008. -- 009. (RESERVED).**

**010. DEFINITIONS.**

**01. Administrator.** The administrator of the Idaho Division of Veterans Services or his designee. ( )

**02. Applicant.** The individual requesting interment, disinterment or reinterment of a qualified person. ( )

**03. Armed forces member.** A member or former member of the armed forces of the United States, the reserve component of the armed forces of the United States, the reserve officers training corps of the United States, or the armed forces of an ally of the United States who is eligible for burial in national cemeteries pursuant to 38 C.F.R. Section 1.620 and 38 U.S.C. Section 2402. ( )



- 04. Cemetery.** The Idaho State Veterans Cemetery authorized pursuant to Section 65-108, Idaho Code. ( )
- 05. Committal Service.** A gathering of one (1) or more individuals prior to interment or reinterment. ( )
- 06. Cremains.** Cremated human remains. ( )
- 07. Disinterment.** The removal of human remains from their place of interment. ( )
- 08. Division.** The Idaho Division of Veterans Services. ( )
- 09. Interment.** The disposition of human remains by burial or the placement of cremains in a grave plot or in any location designated by the administrator for use as a permanent location of cremains. ( )
- 10. Qualified Person.** A person who satisfies the requirements for eligibility for interment in national cemeteries found at 38 C.F.R. Section 1.620 and 38 U.S.C. Section 2402. ( )
- 11. Reinterment.** The interment of previously interred human remains. ( )
- 12. Unremarried Spouse.** An individual who is the surviving spouse of a deceased armed forces member and who has not remarried. ( )
- 13. USDVA.** The United States Department of Veterans Affairs. ( )

**011. -- 019. (RESERVED).**

**020. ELIGIBILITY FOR INTERMENT.**

- 01. Eligibility.** An individual is eligible for interment at the cemetery if the individual is a qualified person. An individual who is a qualified person based upon a relationship to an armed forces member is eligible for interment at the cemetery if the armed forces member is pre-registered for interment at the cemetery or is interred at the cemetery. ( )
- 02. Requirements.** ( )
- a. Proof of Qualification as an Armed Forces Member.** The following documents may be submitted as proof that an individual is a qualified person: ( )
- i. A valid discharge from the armed forces of the United States in the name of the individual indicating that the character of discharge was other than dishonorable; or ( )
- ii. A copy of a Reserve Retirement Eligibility Benefits Letter in the name of the individual; or ( )
- iii. A valid certificate of naturalization or a valid United States passport in the name of the individual and a valid discharge in the name of the individual from the armed forces of an ally of the United States in a war during which the individual served indicating that the character of discharge was other than dishonorable; or ( )
- iv. Any other evidence satisfactory to the administrator. ( )
- b. Proof of Qualification for Relatives of an Armed Forces Member.** The following documents may be submitted as proof that an individual is a qualified person: ( )
- i. One (1) of the items listed in Subsections 020.02.a.i through 020.02.a.iii. of these rules for a parent of the individual, a valid birth or adoption record identifying such parent, and proof of the individual's birth date; or ( )

ii. One (1) of the items listed in Subsections 020.02.a.i through 020.02.a.iii. of these rules for the spouse of the individual, a valid record of marriage between the individual and the armed forces member, and a certification that the individual was an unremarried spouse at the time of death, if the armed forces member predeceased the individual; or ( )

iii. Any other evidence satisfactory to the administrator. ( )

**03. Burden Of Proof.** The burden of proof in establishing eligibility for interment or reinterment in the cemetery shall be upon the applicant. ( )

**021. APPLICATION FOR INTERMENT.**

**01. Who May Apply.** A qualified person seeking to pre-register for interment or their legal representative, the administrator of a qualified person's estate, the personal representative of a deceased qualified person, or a relative of a deceased qualified person may apply for interment. If the qualified person was married at the time of death, that person's spouse must consent to the application. If no relative or legal representative of a qualified person is available to apply on the behalf of a deceased qualified person, a veteran's organization or the administrator may apply for interment. ( )

**02. Pre-Registration For Interment.** A qualified person or the legal representative of a qualified person may pre-register for interment by submitting proof of eligibility and completing an application form prescribed by the administrator. If the individual seeking to be pre-registered for interment is a qualified person based upon a relationship to an armed forces the armed forces member must be pre-registered for interment or interred at the cemetery. If a qualified person is eligible based upon marriage to an armed forces member, the administrator must receive proof that the qualified person was an unremarried spouse at the time of death prior to interment. ( )

**03. Application Following Death.** An applicant may submit an application for interment following the death of a qualified person by submitting proof of eligibility and completing an application form prescribed by the administrator. ( )

**022. INTERMENT AND REINTERMENT.**

**01. Remains.** Remains shall be delivered to the cemetery in a casket or, if cremated, in a recoverable container. The container for cremains designated by the applicant for interment in a location other than a grave plot shall not exceed five and one half (5 ½) inches in width, eleven (11) inches in height, and eleven (11) inches in depth. ( )

**02. Committal Services.** The cemetery shall provide a designated location for committal services. Graveside committal services shall not be held in the cemetery. The cemetery shall not provide facilities for viewing of remains. The arrangements for and any expenses associated with committal services shall be the responsibility of the applicant. The administrator may assist the applicant in applying for military honors. ( )

**023. DISINTERMENT AND REINTERMENT.**

**01. Disinterment.** The administrator may approve an application for disinterment where the applicant for interment, the surviving unremarried spouse, if any, and the children of the interred person, or the legal representatives of any of the foregoing persons, complete and sign an application form prescribed by the administrator and submit proof of applicable governmental approval of the disinterment, transporting, and reinterment of the remains. The administrator shall approve an application for disinterment accompanied by the order of a court of competent jurisdiction. ( )

**02. Reinterment.** ( )

**a. Who May Be Reinterred.** The administrator may approve an application for reinterment of remains in the cemetery where the remains are of a qualified person and the applicant for interment desires that the remains be interred with remains interred in the cemetery or with the remains of a qualified person pre-registered for interment in

the cemetery. ( )

**b. Application and Proof of Eligibility.** The applicant for reinterment shall complete an application form prescribed by the administrator and submit proof of the eligibility of the qualified person and proof of applicable governmental approval of the disinterment, transporting, and reinterment of the remains. If the application seeks reinterment of the remains of a qualified person, the applicant shall identify the qualified person with whom the reinterred remains will be interred. ( )

**024. -- 029. (RESERVED).**

**030. CEMETERY USE.**

**01. Public Use.** The cemetery will be open to public access from 8 a.m. to sunset daily. ( )

**02. Interment Schedule.** Cemetery staff will schedule interments to ensure that cemetery staff completes their duties between the hours of 8 a.m. and 5 p.m. Cemetery staff will not schedule interments on Saturdays, Sundays and legal holidays without the prior approval of the administrator. ( )

**031. -- 039. (RESERVED).**

**040. MEMORIALS AND DONATIONS.**

**01. Flowers And Grave Decorations.** The administrator shall establish and post the requirements for natural and artificial flowers and other grave decorations in the cemetery. Cemetery personnel may remove and discard grave decorations that fail to comply with the posted requirements or that are faded, wilted, tattered or worn. ( )

**02. Plaques, Statues, And Other Memorials.** The administrator may approve plaques, statues, and other memorials to commemorate events, units, individuals, groups, and organizations. Persons wishing to install such memorials shall submit an application on a form prescribed by the administrator. The cost of all such memorials shall be the responsibility of the applicant. Memorials approved by the administrator shall be donations to the cemetery. ( )

**03. Grave Markers.** All grave markers in the cemetery shall be markers issued by the USDVA. Upright granite markers shall be used to mark graves. Flush granite markers shall be used to mark interments in an area reserved for the interment of cremains in the soil. Granite niche markers shall be used to mark the interment of cremains in a structure reserved for the interment of cremains. The administrator may assist the applicant in completing all forms for ordering a grave marker required by the USDVA. ( )

**04. Donations And Gifts.** The administrator may accept gifts and donations to the veterans cemetery maintenance fund established pursuant to Section 65-107, Idaho Code. ( )

**041. -- 049. (RESERVED).**

**050. PUBLIC BEHAVIOR IN THE CEMETERY.**

**01. Littering.** Littering is prohibited in the cemetery. ( )

**02. Preservation Of Cemetery Property.** The destruction, injury, defacement, removal or disturbance in or of any building, sign, equipment, monument, statute, marker or any other structures, or of any tree, flower, or other vegetation, or of any artifact or any other property in the cemetery is prohibited unless authorized by the administrator. ( )

**03. Recreation And Entertainment.** The cemetery shall not be used for any form of sports, entertainment or recreation, other than use limited solely to designated interpretive trails. The cemetery shall not be used as a picnic ground. ( )

**04. Public Ceremonies And Gatherings.** Except for committal services, any individual or group organizing a ceremony or gathering in the cemetery must first obtain the prior written approval of the administrator. The cemetery shall not be used for partisan activities. ( )

**05. Animals.** Animals shall be allowed in the cemetery only on designated interpretive trails. Dogs shall be on a leash while in the cemetery. Animal owners shall observe posted requirements for the disposal of animal waste. ( )

**06. Motor Vehicles.** Except as authorized by the administrator: ( )

**a.** Motor vehicles shall remain on authorized, established roadways or parking areas; ( )

**b.** Motor vehicles are prohibited on interpretive trails; ( )

**c.** Motor vehicle drivers shall observe posted traffic, directional, parking, and speed signs and all applicable state and local laws governing traffic on public roads; and ( )

**d.** Overnight parking is prohibited in the cemetery. ( )

**07. Alcohol.** No alcoholic beverages shall be consumed in the cemetery. ( )

**08. Photographs.** No commercial video or commercial still photographs shall be taken in the cemetery without the prior written approval of the administrator. ( )

**051. -- 999. (RESERVED).**

## **IDAPA 21 - DIVISION OF VETERANS SERVICES**

### **21.01.05 - RULES GOVERNING MEDICAL TRANSPORTATION PAYMENT FOR WHEELCHAIR CONFINED VETERANS**

**DOCKET NO. 21-0105-0201**

#### **NOTICE OF RULEMAKING - PENDING RULE**

**EFFECTIVE DATE:** This rule has been adopted by the agency and is now pending review by the 2003 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, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

**AUTHORITY:** In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section 65-202, Idaho Code.

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

The pending rule is being adopted as proposed. The original text of the proposed rule was published in the July 3, 2002 Idaho Administrative Bulletin, Volume 02-7, pages 235 through 238.

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning this pending rule, contact Richard W. Jones, Administrator, (208) 334-3513.

DATED this 8th day of August, 2002.

Richard W. Jones  
Administrator  
Idaho Division of Veterans Services  
320 Collins Road  
Boise, Idaho 83702  
Phone: (208) 334-3513  
Fax: (208) 334-2627

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### **IDAPA 21, TITLE 01, Chapter 05**

#### **RULES GOVERNING MEDICAL TRANSPORTATION PAYMENT FOR WHEELCHAIR CONFINED VETERANS**

**There are no substantive changes from the proposed rule text.**

**The complete text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 02-7, July 7, 2002, pages 235 through 238.**

**This rule has been adopted as a pending rule by the Agency and is now pending review and approval by the 2003 Idaho State Legislature as a final rule.**

## **IDAPA 22 - BOARD OF MEDICINE**

### **22.01.01 - RULES OF THE BOARD OF MEDICINE FOR LICENSURE TO PRACTICE MEDICINE AND SURGERY AND OSTEOPATHIC MEDICINE AND SURGERY**

**DOCKET NO. 22-0101-0101**

#### **NOTICE OF RULEMAKING - PENDING RULE**

**EFFECTIVE DATE:** These rules have been adopted by the agency and are now pending review by the 2003 Idaho State Legislature for final approval. The pending rule becomes final and effective upon adjournment of legislature unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

**AUTHORITY:** In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 67-5224 and 67-5226, Idaho Code and Section 54-1806 (2), Idaho Code.

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

The pending rule is being adopted as proposed. The original text of the proposed rule was published in the Idaho Administrative Bulletin, November 7, 2001, Volume 01-11, pages 73 through 77.

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning this pending rule, contact Nancy M. Kerr, Executive Director at (208) 327-7000.

DATED this 24th day of July, 2002.

Nancy M. Kerr, Executive Director  
Idaho State Board of Medicine  
1755 Westgate Drive  
PO Box 83720, Boise, Idaho 83720-0058  
(208) 327-7000, Fax (208) 327-7005

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### **IDAPA 22, TITLE 01, Chapter 01**

#### **RULES OF THE BOARD OF MEDICINE FOR LICENSURE TO PRACTICE MEDICINE AND SURGERY AND OSTEOPATHIC MEDICINE AND SURGERY**

**There are no substantive changes from the proposed rule text.**

**The complete text of the proposed rule was published in the Idaho Administrative  
Bulletin, Volume 01-11 November 7, 2001, pages 73 through 77.**

**This rule has been adopted as a pending rule by the Agency and is now pending  
review and approval by the 2003 Idaho State Legislature as a final rule.**

## IDAPA 22 - IDAHO STATE BOARD OF MEDICINE

### 22.01.01 - RULES OF THE BOARD OF MEDICINE FOR LICENSURE TO PRACTICE MEDICINE AND SURGERY AND OSTEOPATHIC MEDICINE AND SURGERY

DOCKET NO. 22-0101-0201

#### NOTICE OF RULEMAKING - PROPOSED RULE

**AUTHORITY:** In compliance with Sections 67-5221(1), Idaho Code, notice is hereby given that this agency has proposed rulemaking. The action is authorized pursuant to Section 54-1806 (2), Idaho Code.

**PUBLIC HEARING SCHEDULE:** Public hearings concerning this rule making will be held as follows:

**October 17, 2002  
1:00 pm to 5:00 pm (Mountain)  
Board of Medicine, Conference Room  
1755 Westgate Drive, Boise, Idaho**

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

**DESCRIPTIVE SUMMARY:** The following is a non-technical explanation of the substance and purpose of the proposed rulemaking:

The rules define the requirement for continuing education for physicians, specify the number of hours of education required in a two year license cycle, identify acceptable alternatives to continuing education and define the method of reporting continuing education.

**FEE SUMMARY:** The following is a specific description of the fee or charge imposed or increased: N/A

**NEGOTIATED RULEMAKING:** Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because public hearings have been scheduled and written comments are being solicited for consideration.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the proposed rule, contact Nancy M. Kerr, Executive Director at (208) 327-7000.

Anyone may submit written comments regarding this proposed rule making. All written comments must be directed to the undersigned and must be delivered on or before October 23, 2002.

DATED this 24th day of July, 2002.

Nancy M. Kerr  
Executive Director  
Idaho State Board of Medicine  
1755 Westgate Drive  
PO Box 83720  
Boise, Idaho 83720-0058  
(208) 327-7000  
Fax (208) 327-7005

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**THE FOLLOWING IS THE TEXT OF DOCKET NO. 22-0101-0201**

**080. CONTINUING MEDICAL EDUCATION (CME) REQUIRED.**

**01. Purpose.** The purpose of practice relevant CME is to enhance competence, performance, understanding of current standards of care, and patient outcomes. ( )

**02. Renewal.** Each person licensed to practice medicine and surgery or osteopathic medicine or surgery in Idaho shall complete no less than forty (40) hours of practice relevant, Category 1, CME every two (2) years. ( )

**03. Approved Programs.** All education offered by institutions or organizations accredited by the Accreditation Council on Continuing Medical Education (ACCME) and reciprocating organizations or the American Osteopathic Association (AOA) are considered approved. ( )

**04. Verification Of Compliance.** Licensees shall, at license renewal, provide a signed statement to the Board indicating compliance. The board, in its discretion, may require such additional evidence as is necessary to verify compliance. ( )

**05. Alternate Compliance.** The board may accept certification or recertification by a member of the American Board of Medical Specialties, the American Osteopathic Association Bureau of Professional Education, or the Royal College of Physicians and Surgeons of Canada in lieu of compliance with continuing education requirements during the cycle in which the certification or recertification is granted. The board may also grant an exemption for full time participation in a residency or fellowship training at a professionally accredited institution. ( )

**06. Penalties For Noncompliance.** The board may condition, limit, suspend, or refuse to renew the license of any person whom the board determines has failed to comply with the continuing education requirements of this chapter. ( )

**0801. -- 099. (RESERVED).**



**IDAPA 22 - IDAHO STATE BOARD OF MEDICINE**  
**22.01.03 - RULES FOR THE LICENSURE OF PHYSICIAN ASSISTANTS**  
**DOCKET NO. 22-0103-0201**  
**NOTICE OF RULEMAKING - PROPOSED RULE**

**AUTHORITY:** In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has proposed rulemaking. The action is authorized pursuant to Section 54-1806 (2), Idaho Code.

**PUBLIC HEARING SCHEDULE:** Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 16, 2002.

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

**DESCRIPTIVE SUMMARY:** The following is a nontechnical explanation of the substance and purpose of the proposed rulemaking:

These proposed rules will update the physician assistants' scope of practice to make it more consistent with current practice of physician assistants in Idaho and to make it more compatible with the language in statutes of other states especially those neighboring Idaho. The rules will also tighten the education requirements for a baccalaureate college degree and for the physician assistant program. Graduate physician assistants are also more clearly defined with time limits imposed for completion of requirements for full licensure. Language is also added to address supervision of physician assistants who render care during a disaster or emergency.

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

This rules change does not impose any new or additional fee. The purpose of adding this new language is to specifically identify graduate physician assistants as separate from physician assistants. The renewal and penalty fees for renewal of a cancelled license did not change for the graduate physician assistant.

**NEGOTIATED RULEMAKING:** Pursuant to IDAPA 04.11.01.811, informal negotiated rulemaking was conducted with the Idaho Academy of Physician Assistants and the Physician Assistant Advisory Committee who worked closely with Board staff to draft the proposed rule changes.

**SUBMISSION OF WRITTEN COMMENTS AND ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning this proposed rule, contact Nancy M. Kerr, Idaho State Board of Medicine, (208) 327-7000.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 23, 2002.

DATED this 19th day of August, 2002.

Nancy M. Kerr  
Executive Director  
Idaho State Board of Medicine  
1755 Westgate Drive  
PO Box 83720, Boise, ID 83720-0058  
(208) 327-7000, Fax (208) 327-7005

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**THE FOLLOWING IS THE TEXT OF DOCKET NO. 22-0103-0201**

**010. DEFINITIONS.**

- 01. Board.** The Idaho State Board of Medicine. (7-1-93)
- 02. Approved Program.** A course of study for the education and training of physician assistants which is ~~approved~~ accredited by the Committee on Allied Health Education and Accreditation or the Commission on Accreditation of Allied Health Education Programs or the Accreditation Review Commission on Education for Physician Assistants (ARC-PA) or its successor agency. (~~3-19-99~~)( )
- 03. Supervising Physician.** A person registered by the Board who is licensed to practice medicine and surgery or osteopathic medicine and surgery in Idaho, who is responsible for the direction and supervision of the activities of the physician assistant. (3-19-99)
- 04. Alternate Supervising Physician.** A physician licensed to practice medicine and surgery or osteopathic medicine and surgery in Idaho who has been designated by the supervising physician and authorized by the Board to supervise the physician assistant in the temporary absence of the supervising physician. (3-19-99)
- 05. Graduate Physician Assistant.** A person who is a graduate of an approved program and who meets all the requirements, but: ( )
- a.** Who has not yet taken and passed the certification examination, and who has been authorized by the Board to render patient services under the direction of a supervising physician for a period of six (6) months; or ( )
- b.** Who has passed the certification examination but who has not yet obtained a college baccalaureate degree, and who has been authorized by the Board to render patient services under the direction of a supervising physician for a period of not more than five (5) years. ( )
- 056. Physician Assistant.** A person who is a graduate of an approved program and who is qualified by general education, training, experience and personal character, and who has been authorized by the Board, to render patient services under the direction of a supervising physician. (3-19-99)
- 067. Delegation Of Services (DOS) Agreement.** A written document mutually agreed upon and signed and dated by the physician assistant or graduate physician assistant and supervising physician that defines the working relationship and delegation of duties between the supervising physician and the physician assistant or graduate physician assistant as specified by Board rule. The Board of Medicine may review the written delegation of services agreement, job descriptions, policy statements, or other documents that define the responsibilities of the physician assistant in the practice setting, and may require such changes as needed to achieve compliance with these rules, and to safeguard the public. (~~3-19-99~~)( )

**(BREAK IN CONTINUITY OF SECTIONS)**

**021. REQUIREMENTS FOR LICENSURE.**

- 01. Baccalaureate Degree.** Applicants for licensure shall have completed an approved program as defined in Subsection 010.02 and shall provide evidence of having received a college baccalaureate degree ~~and completed an approved program as defined in Subsection 010.02~~ from a nationally accredited school with a curriculum approved by the United States Secretary of Education, the Council for Higher Education Accreditation, or both, or from a school accredited by another such agency approved by the Board. (~~3-19-99~~)( )
- 02. National Certifying Examination.** Satisfactory completion and passage of the certifying examination for physician assistants, administered by the National Commission of Certification of Physician Assistants or such other examinations, which may be written, oral or practical, as the Board may require. (3-19-99)

**03. Personal Interview.** The Board may at its discretion, require the applicant or the supervising physician, or both, to appear for a personal interview. (3-19-99)

**04. Completion Of Form.** If the applicant is to practice in Idaho, complete a form provided by the Board indicating: (3-19-99)

**a.** The applicant has completed a delegation of services agreement signed by the physician assistant, supervising physician and alternate supervising physicians; and (3-19-99)

**b.** The agreement is on file at the Idaho practice sites; or (3-19-99)

**c.** Complete a form provided by the Board indicating the applicant is not practicing in Idaho and prior to practicing in Idaho, the applicant will meet the requirements of Subsections 021.04.a. and 021.04.b. (3-19-99)

**(BREAK IN CONTINUITY OF SECTIONS)**

**028. SCOPE OF PRACTICE.**

Physician assistants and graduate physician assistants assist in the practice of medicine under the supervision of a licensed physician. Within the physician/physician assistant relationship, physician assistants and graduate physician assistants exercise autonomy in medical decision making and provide a broad range of diagnostic, therapeutic and health promotion and disease prevention services. They may perform those duties and responsibilities delegated to them by the supervising physician when the duties and responsibilities are provided under the supervision of the board-approved physician, within the scope of the physician's practice and expertise and within the skills of the physician assistant or graduate physician assistant in accordance with the Delegation of Services agreement. Physician assistants and graduate physician assistants are health care providers and shall be considered health care providers for all provisions of law. Physician assistants and graduate physician assistants are agents of their supervising physician in the performance of all practice-related activities, including, but not limited to the ordering of diagnostic, therapeutic and other medical services. ( )

~~**01. Physical Examination.** A physician assistant may evaluate the physical and psychosocial health status through a comprehensive health history and physical examination. This may include the performance of pelvic examinations and pap smears; and (3-19-99)~~

~~**02. Screening And Evaluating.** Initiate appropriate laboratory or diagnostic studies, or both, to screen or evaluate the patient health status and interpret reported information in accordance with knowledge of the laboratory or diagnostic studies, provided such laboratory or diagnostic studies are related to and consistent with the physician assistant's scope of practice. (3-19-99)~~

~~**03. Minor Illness.** Diagnose and manage minor illnesses or conditions. (7-1-93)~~

~~**04. Manage Care.** Manage the health care of the stable chronically ill patient in accordance with the medical regimen initiated by the supervising physician. (7-1-93)~~

~~**05. Emergency Situations.** Institute appropriate care which might be required to stabilize a patient's condition in an emergency or potentially life threatening situation until physician consultation can be obtained. (7-1-93)~~

~~**06. Surgery.** The acts of surgery which may be performed by a physician assistant are minor office surgical procedures such as punch biopsy, sebaceous cyst and ingrown toenail removal, cryotherapy for wart removal; assist in surgery with retraction, surgical wound exposure, and skin closure with direct personal supervision of the supervising physician; use non-ablative lasers under supervision; and the repair of lacerations, not involving nerve, tendon, or major vessel. (3-15-02)~~

~~07. **Casting.** Manage the routine care of non-displaced fractures and sprains. (7-1-96)~~

~~08. **Hospital Discharge Summary.** May complete hospital discharge summaries and the discharge summary shall be co-signed by the supervising physician. (3-19-99)~~

**029. CONTINUING EDUCATION REQUIREMENTS.**

**01. Continuing Competence.** A physician assistant or graduate physician assistant may be required by the Board at any time to demonstrate continuing competence in the performance of any of the tasks for which he has been previously approved. (3-19-99)(\_\_\_\_)

**02. Requirements For Renewal.** Every other year, and prior to renewal of each license as set forth on its expiration date on the face of the certificate. for that year, physician assistants and graduate physician assistants will be required to present evidence of having received one hundred (100) hours of continuing medical education over a two (2) year period. The courses and credits shall be subject to approval of the Board. (3-19-99)(\_\_\_\_)

**030. PRACTICE STANDARDS.**

**01. Identification.** The physician assistant and graduate physician assistant must at all times when on duty wear a placard or plate identifying himself or her as a physician assistant or a graduate physician assistant. (3-19-99)(\_\_\_\_)

**02. Advertise.** No physician assistant or graduate physician assistant may advertise or represent himself or herself, either directly or indirectly, as a physician. (3-19-99)(\_\_\_\_)

~~**03. Unauthorized Procedures.** A physician assistant shall not write prescriptions or complete and issue prescription blanks previously signed by any physician; diagnose and manage major illnesses or conditions or manage the health care of unstable or acutely ill or injured patients unless those conditions are minor; or, act as or engage in the functions of a physician assistant when the supervising physician is absent and other physician coverage is not available. (3-19-99)~~

**043. Delegation Of Services Agreement.** Each licensed physician assistant and graduate physician assistant shall maintain a current copy of a Delegation of Services (DOS) Agreement between the physician assistant or graduate physician assistant and each of his or her supervising physicians. This agreement shall not be sent to the Board, but must be maintained on file at each location in which the physician assistant is practicing. This agreement shall be made immediately available to the Board upon request and shall include: (3-19-99)(\_\_\_\_)

**a.** A listing of the specific activities which will be performed by the physician assistant or graduate physician assistant. (3-19-99)(\_\_\_\_)

**b.** The specific locations and facilities in which the physician assistant or graduate physician assistant will function; and (3-19-99)(\_\_\_\_)

**c.** The methods to be used to insure responsible direction and control of the activities of the physician assistant or graduate physician assistant which shall provide for: (3-19-99)(\_\_\_\_)

**i.** An on-site visit at least monthly; (3-19-99)

**ii.** Regularly scheduled conferences between the supervising physician and the physician assistant or graduate physician assistant; (3-19-99)(\_\_\_\_)

**iii.** Periodic review of a representative sample of records and a periodic review of the medical services being provided by the physician assistant or graduate physician assistant. This review shall also include an evaluation of adherence to the delegation of services agreement; (3-19-99)(\_\_\_\_)

**iv.** Availability of the supervising physician to the physician assistant or graduate physician assistant in person or by telephone and procedures for providing backup for the physician assistant in emergency situations;

and (3-19-99)( )

v. Procedures for addressing situations outside the scope of practice of the physician assistant or graduate physician assistant. (3-19-99)( )

d. The drug categories or specific legend drugs and controlled drugs, Schedule II through V that will be prescribed provided that the legend drugs and controlled drugs shall be consistent with the regular prescriptive practice of the supervising physician. (3-15-02)

**054. On-Site Review.** The Board, by and through its designated agents, is authorized and empowered to conduct on-site reviews of the activities of physician assistants or graduate physician assistants and the locations and facilities in which ~~the physician assistant~~ they practices at such times as the Board deems necessary. (3-19-99)( )

**031. PARTICIPATION IN DISASTER AND EMERGENCY CARE.**

A physician assistant or graduate physician assistant licensed in this state or licensed or authorized to practice in any other state of the United States who is responding to a need for medical care created by an emergency or a state or local disaster (not to be defined as an emergency situation which occurs in the place of one's employment) may render such care that they are able to provide without supervision as it is defined in Section 028 of this rule, or with such supervision as is available. Any physician who supervises a physician assistant or graduate physician assistant providing medical care in response to such an emergency or state or local disaster shall not be required to meet the requirements set forth in Section 028 of this rule for an approved supervising physician. ( )

~~032.~~ -- **035. (RESERVED).**

**036. GRADUATE PHYSICIAN ASSISTANT.**

**01. Licensure Prior To Certification Examination.** Any person who has graduated from an approved program and meets all requirements, but has not yet taken and passed the certification examination, may be licensed for six (6) months with the Board as a graduate physician assistant. ( )

a. All applications for licensure as a graduate physician assistant will be made to the Board on forms supplied by the Board. ( )

b. The applicant will promptly notify the Board upon receipt of the national certification examination results. ( )

c. After the graduate physician assistant has passed the certification examination, the Board must receive verification of national certification directly from the certifying entity. Once the verification is received by the Board, the graduate physician assistant's license will be converted to a permanent license and he may apply for prescribing authority pursuant to Section 042 of these rules. ( )

d. ~~Such~~ The graduate physician assistant license shall automatically be canceled upon receipt of the certification examination score if the graduate physician assistant fails to pass the certifying examination. (3-19-99)( )

e. The applicant who has failed the certification examination, may petition the Board for a one (1) time extension of his graduate physician assistant license for an additional six (6) months. ( )

**02. Licensure Prior To College Baccalaureate Degree - Board Consideration.** Registration as a graduate physician assistant may also be considered by the Board upon application for licensure made to the Board on forms supplied by the Board and when: (3-19-99)( )

a. All application requirements have been met as set forth in Subsection 021.01, except receipt of documentation of a college baccalaureate degree. A college baccalaureate degree from a nationally accredited school with a curriculum approved by the United States Secretary of Education, the Council for Higher Education Accreditation, or both, or from a school accredited by another such agency approved by the Board shall be completed within five (5) years of licensure in Idaho; and (7-1-93)( )

b. A personal interview with the applicant or the supervising physician or both may be required and will be conducted by a designated member of the Board; and (3-19-99)(\_\_\_\_)

c. A plan shall be submitted with the application and shall be approved by the Board for the completion of the college baccalaureate degree. (7-1-96)(\_\_\_\_)

**03. No Prescribing Authority.** Physician assistants operating under a graduate physician assistant license shall not be entitled to write any prescriptions and shall be required to have a weekly record review by their supervising physician. (3-19-99)

**037. TERMINATION OF APPROVAL AND DISCIPLINARY PROCEEDINGS.**

**01. Discipline.** Every person licensed as a physician assistant or graduate physician assistant is subject to discipline pursuant to the procedures and powers established by and set forth in Section 54-1806A, Idaho Code and the Administrative Procedures Act. (3-19-99)(\_\_\_\_)

**02. Grounds For Discipline.** In addition to the grounds for discipline set forth in Section 54-1814, Idaho Code, persons licensed as physician assistants or graduate physician assistants are subject to discipline upon the following grounds if the physician assistant or graduate physician assistant: (3-19-99)(\_\_\_\_)

a. ~~The physician assistant h~~Had held himself or herself out, or permitted another to represent him or her to be a licensed physician; (3-19-99)(\_\_\_\_)

b. ~~The physician assistant h~~Had, in fact, performed otherwise than at the discretion and under the supervision of a physician licensed by the Board; (3-19-99)(\_\_\_\_)

c. ~~The physician assistant h~~Has performed a task or tasks beyond the scope of activities allowed by Section 028. (3-19-99)(\_\_\_\_)

d. ~~The physician assistant i~~Is a habitual or excessive user of intoxicants or drugs; (3-19-99)(\_\_\_\_)

e. ~~The physician assistant h~~Had demonstrated manifest incapacity to carry out the functions of a physician assistant. (3-19-99)(\_\_\_\_)

f. ~~The physician assistant h~~Has failed to complete or maintain a current copy of the Delegation of Services Agreement as specified by Subsection 030.04 of this rule. (3-19-99)(\_\_\_\_)

g. ~~The physician assistant h~~Has failed to notify the Board of a change or addition of a supervising physician as specified by Subsection 037.03 of this rule. (3-19-99)(\_\_\_\_)

**03. Notification Of Change Or Addition Of Supervising Physician.** A physician assistant or graduate physician assistant upon changing supervising physicians or adding an additional supervising physician must notify the Board. Such notification shall include: (3-19-99)(\_\_\_\_)

a. The name, business address and telephone of the new or additional supervising physician(s); (3-19-99)

b. The name, business address, and telephone number of the physician assistant; and (3-19-99)

c. Comply with the requirements of Subsection 021.04. (3-19-99)

**038. -- 040. (RESERVED).**

**041. PHYSICIAN ASSISTANT TRAINEE.**

**01. Registration In Training.** Any person undergoing training at an approved program as a physician

assistant must register with the Board as a trainee, and must comply with the rules as set forth herein. All applications for registration as a physician assistant trainee shall be made to the Board on forms supplied by the Board. Each registration as a physician assistant trainee shall be issued for a period of not more than two (2) years. Each registration shall set forth its expiration date on the face of the certificate. (3-19-99)(\_\_\_\_)

**02. Approved Program.** Notwithstanding any other provision of these rules, a trainee may perform patient services when such services are rendered within the scope of an approved program. (7-1-93)

**042. PRESCRIPTION WRITING.**

**01. Approval And Authorization Required.** A physician assistant may issue written or oral prescriptions for legend drugs and controlled drugs, Schedule II through V only in accordance with approval and authorization granted by the Board and in accordance with the current delegation of services agreement and shall be consistent with the regular prescriptive practice of the supervising physician. (3-15-02)

**02. Application.** A physician assistant who wishes to apply for prescription writing authority shall submit an application for such purpose to the Board of Medicine. In addition to the information contained in the general application for physician assistant approval, the application for prescription writing authority shall include the following information: (3-19-99)

**a.** Documentation of all pharmacology course content completed, the length and whether a passing grade was achieved (at least thirty (30) hours). (7-1-93)

**b.** A statement of the frequency with which the supervising physician will review prescriptions written. (7-1-93)

**c.** A signed statement from the supervising physician certifying that, in the opinion of the supervising physician, the physician assistant is qualified to prescribe the drugs for which the physician assistant is seeking approval and authorization. (3-19-99)

**d.** The physician assistant to be authorized to prescribe Schedule II through V drugs shall be registered with the Federal Drug Enforcement Administration and the Idaho Board of Pharmacy. (3-15-02)

**03. Prescription Forms.** Prescription forms used by the physician assistant must be printed with the name, address, and telephone number of the physician assistant and of the supervising physician. A physician assistant shall not write prescriptions or complete and issue prescription blanks previously signed by any physician. (3-19-99)(\_\_\_\_)

**04. Record Keeping.** The physician assistant shall maintain accurate records, accounting for all prescriptions written and medication delivered. (3-19-99)

**05. Pharmaceutical Samples.** The physician assistant who has prescriptive authority may request, receive, sign for and distribute professional samples of drugs and devices in accordance with the current delegation of services agreement and consistent with the regular prescriptive practice of the supervising physician. (\_\_\_\_)

**(BREAK IN CONTINUITY OF SECTIONS)**

**051. FEES.**

**01. Licensure/Registration Fee.** The fee for the initial year of licensure shall be one hundred twenty dollars (\$120) for a physician assistant; and ten dollars (\$10) and for a graduate physician assistant. The fee for registration as physician assistant trainee shall be ten dollars (\$10). (3-18-99)(\_\_\_\_)

**02. License Renewal.** Each license to practice as a physician assistant shall be issued for a period of

not less than one (1) year or more than five (5) years. Each license to practice as a graduate physician assistant prior to obtaining a college baccalaureate degree shall be issued for a period of not less than one (1) year but not more than five (5) years. Each license shall set forth its expiration date on the face of the certificate. The Board shall collect a fee of fifty dollars (\$50) for each renewal year of a license. (3-15-02)(\_\_\_\_)

**03. License Cancellation.** Failure to renew a license to practice as a physician assistant and pay the renewal fee shall cause the license to be canceled. However, ~~a~~ such license can be renewed up to two (2) years following cancellation by payment of past renewal fees, plus a penalty fee of twenty-five dollars (\$25). After two (2) years it will be necessary to file an original application for licensure with payment of the appropriate fee. Failure to renew a license to practice as a graduate physician assistant prior to obtaining a college baccalaureate degree and pay the renewal fee shall cause the license to be canceled. However, such license can be renewed up to six (6) months following cancellation by payment of the past renewal fee, plus a penalty fee of twenty-five dollars (\$25). After six (6) months it will be necessary to file an original application for licensure with payment of the appropriate fee. (3-15-02)(\_\_\_\_)



## IDAPA 22 - IDAHO STATE BOARD OF MEDICINE

### 22.01.05 - RULES FOR REGISTRATION OF PHYSICAL THERAPISTS AND PHYSICAL THERAPIST ASSISTANTS

DOCKET NO. 22-0105-0201

#### NOTICE OF RULEMAKING - PROPOSED RULE

**AUTHORITY:** In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has proposed rulemaking. The action is authorized pursuant to Section 54-2202, Idaho Code.

**PUBLIC HEARING SCHEDULE:** Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 16, 2002.

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

**DESCRIPTIVE SUMMARY:** The following is a nontechnical explanation of the substance and purpose of the proposed rulemaking:

These proposed rule changes are minor housekeeping and clarification changes to correct the term of office of the chairman of the Physical Therapy Advisory Committee, provide clarification regarding applicants who fail the examination and for those who apply for licensure by endorsement and will clarify the requirements for reinstating an expired license.

**FEE SUMMARY:** The following is a specific description of the fee or charge imposed or increased: None

**NEGOTIATED RULEMAKING:** Pursuant to IDAPA 04.11.01.811, informal negotiated rulemaking was conducted with the Idaho Physical Therapy Association during the development of the rules in 2001. The changes being made in this rulemaking are minor in nature.

**SUBMISSION OF WRITTEN COMMENTS AND ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning this proposed rule, contact Nancy M. Kerr, Idaho State Board of Medicine, (208) 327-7000.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 23, 2002.

DATED this 19th day of August, 2002.

Nancy M. Kerr  
Executive Director  
Idaho State Board of Medicine  
1755 Westgate Drive  
PO Box 83720  
Boise, ID 83720-0058  
(208) 327-7000  
Fax (208) 327-7005

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THE FOLLOWING IS THE TEXT OF DOCKET NO. 22-0105-0201

**020. PHYSICAL THERAPY ADVISORY COMMITTEE (Rule 20).**

Pursuant to Section 54-2205, Idaho Code, the committee shall work in conjunction with the board to perform the following duties and functions: (3-13-02)

**01. Meetings.** The committee shall meet not less than two (2) times per year. A majority of committee members present shall constitute a quorum for the conduct of committee business. The director or the director's designee shall keep written minutes of the committee's meetings, such minutes to be signed by the committee chairperson, and submitted to the director. (3-13-02)

**02. Chairperson.** Each committee appointee shall serve as chairperson of the committee during the final year of their appointed and reappointed term. In the event of a vacancy in the chairpersonship, for any reason, the committee shall, by majority vote, select a chairperson. If a chairperson cannot be selected by majority vote, then the director shall appoint an appointee of the committee as chairperson. Such term, whether appointed by the director, or selected by majority vote of the committee, shall cease on ~~January~~ July 1 of the year following such appointment or selection. The board shall provide for the timely orientation of a new appointee to the committee regarding the duties and functions of the committee as set forth in this chapter and Chapter 22, Title 54, Idaho Code. (~~3-13-02~~)( )

**03. Evaluation Of Qualifications.** The committee shall review all applications for licensure referred to the committee by the director, and shall make a recommendation to the board regarding any applicant's application for licensure, character and fitness, education, training, and any other qualifications deemed relevant by the board or committee for licensure. (3-13-02)

**04. Examinations.** The committee shall administer all examinations of applicants for licensure by advising the board of acceptable national examinations for licensure, and recommending to the board appropriate passing scores for such examinations. (3-13-02)

**a.** An applicant who fails any board authorized examination may retake a board authorized examination one (1) additional time without reapplication for licensure, provided that the second attempt occurs within six (6) months from the notification of the first failure. ( )

**b.** If an applicant applying for licensure has failed any board authorized examination two (2) or more times, the committee shall make a determination if the applicant shall reapply for licensure or if additional clinical training or coursework is needed, and recommend to the board such reapplication or such additional clinical training or coursework for such applicant. (~~3-13-02~~)( )

**c.** If licensure is by endorsement, the minimum passing score for the examination, which must be substantially similar to a board authorized examination, required by the other state must be equal to or higher than the minimum passing score in Idaho for the same year. ( )

**05. Issuing And Renewing Licenses.** If the requirements for licensure as set forth in Chapter 22, Title 54, Idaho Code have been met, the committee shall issue and renew licenses, and submit such licenses to the director for distribution to the licensee, upon board approval. (3-13-02)

**a.** The committee shall examine any application for a license by a former licensee whose license has been expired for a period equal to or exceeding of three (3) consecutive years, and shall recommend to the board whether such applicant can demonstrate competency in the practice of physical therapy, and recommend whether such applicant should be required to take an examination or remedial courses, or both, prior to issuance of a license. (~~3-13-02~~)( )

**06. Investigations And Discipline.** The committee shall review all complaints received by the board regarding a licensee. If the board finds that probable cause exists to institute proceedings against the licensee and determines that the institution of proceedings against the licensee are appropriate, the committee shall serve as an advisor to the board with such proceedings. (3-13-02)

**a.** Proceedings instituted against such licensee shall be conducted in accordance with the procedures

established in Chapter 22, Title 54, Idaho Code, Chapter 52, Title 67, Idaho Code, and Chapter 18, Title 54, Idaho Code. (3-13-02)

**b.** Upon any entering of findings of fact or conclusions of law entered by the board or its designee, or prior to the signing of any stipulation and order, the committee shall review such findings of fact or conclusions of law, or stipulation and order rendered during such proceedings and recommend to the board the appropriate disciplinary action or penalty, as those disciplinary actions and penalties are set forth in Section 54-2220, Idaho Code. (3-13-02)

**07. Maintenance Of List.** The committee shall maintain a current list of persons licensed in accordance with Chapter 22, Title 54, Idaho Code. Such list shall include the licensee's name, business address, business telephone number, and license number. (3-13-02)

**08. Rules.** The committee may submit proposed rules to the board, and shall review all proposed rules relating to these rules governing the licensure of physical therapists and physical therapist assistants contemplated by the board prior to their adoption, and provide comment and recommendation thereon. (3-13-02)

**09. Information.** In conjunction with the board and director, the committee shall provide such information as follows: (3-13-02)

**a.** At least thirty (30) days prior to their effect, information shall be provided to all licensees regarding changes in Chapter 22, Title 54, Idaho Code, and changes to these administrative rules. (3-13-02)

**b.** Information shall be provided to the general public, upon request, regarding the disciplinary proceeding process. (3-13-02)

**c.** At least annually, all licensees shall be provided information regarding any board or attorney general interpretations of Chapter 22, Title 54, or these administrative rules, and disciplinary actions taken or penalties assessed against a licensee, unless such disciplinary action is a censure or reprimand by informal admonition for minor misconduct in accordance with Section 54-2220(1), Idaho Code. (3-13-02)

**(BREAK IN CONTINUITY OF SECTIONS)**

**032. FEES (Rule 32).**

**01. Fee Table.** (3-13-02)

**a.** The fee for the initial licensure of a physical therapist shall be one hundred and twenty dollars (\$120) and the renewal fee shall be sixty-five dollars (\$65). (~~3-13-02~~)(\_\_\_\_)

**b.** The fee for the initial licensure of a physical therapist assistant shall be eighty dollars (\$80) and the renewal fee shall be forty-five dollars (\$45). (~~3-13-02~~)(\_\_\_\_)

**c.** The examination fee shall equal the cost of the examination plus an administrative fee of forty dollars (\$40). (3-13-02)

**d.** A reinstatement fee shall be thirty-five dollars (\$35). (3-13-02)

**02. Application Fees And Refunds.** Necessary fees shall accompany applications. Fees shall not be refundable. (3-13-02)

**03. Extraordinary Expenses.** In those situations where the processing of an application requires extraordinary expenses, the board may charge the applicant reasonable fees to cover all or part of the extraordinary expenses. (3-13-02)

033. LICENSE RENEWAL (Rule 33).

**01. License Renewal.** Each license to practice as a physical therapist or physical therapist assistant shall be issued for a period of not less than one (1) year or more than five (5) years. Each license shall set forth its expiration date on the face of the certificate. The Board shall collect a fee for each renewal year of a license. The failure of any licensee to renew his or her license shall not deprive such person of the right to renewal, except as provided for herein and Section 54-2214, Idaho Code. ~~(3-13-02)(\_\_\_\_\_)~~

**02. Time For Application.** All applications for license renewal shall be received by the board no later than June 30 of the year in which the license has expired. Applications received after June 30 of the year in which the license expires shall not deprive such person of the right to renewal, unless such license shall have been expired for a period equal to or exceeding three (3) consecutive years. (3-13-02)

**a.** An application for renewal which has not been expired for a period ~~equal to or exceeding~~ of three (3) consecutive years, but which is received after June 30 of the year in which the license has expired, shall require a reinstatement fee of thirty-five dollars (\$35) in addition to the renewal fee of sixty-five dollars (\$65). ~~(3-13-02)(\_\_\_\_\_)~~

**b.** An application for renewal of a license which has been expired for a period ~~equal to or exceeding~~ of three (3) consecutive years shall not be eligible for renewal, but shall require a re-application for a licensure, payment of a licensure fee, successful demonstration to the board of competency in the practice of physical therapy. The board may require the applicant for licensure to take an examination or remedial courses, or both, prior to issuing a license. ~~(3-13-02)(\_\_\_\_\_)~~

**IDAPA 22 – IDAHO STATE BOARD OF MEDICINE**  
**22.01.09 - RULES FOR THE LICENSURE OF OCCUPATIONAL THERAPISTS**  
**AND OCCUPATIONAL THERAPY ASSISTANTS**

**DOCKET NO. 22-0109-0301**

**NOTICE OF RULEMAKING - PROPOSED RULE**

**AUTHORITY:** In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has proposed rulemaking. The action is authorized pursuant to Section 54-3714 (2), Idaho Code.

**PUBLIC HEARING SCHEDULE:** Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 16, 2002.

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

**DESCRIPTIVE SUMMARY:** The following is a nontechnical explanation of the substance and purpose of the proposed rulemaking:

Addition of major sections to the rules as required by IDAPA 44.01.01.101.02; clarification of requirements for licensure and the fees required for reinstatement of inactive to active licenser; addition of language to allow the Board to collect costs for extraordinary expenses related to license application; addition of the Occupational Therapy Code of Ethics and other minor housekeeping corrections.

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

This rule change does not impose any new or additional fee. The purpose of adding this new language is to clarify the process and the fees for converting an inactive license to an active license. In the past, converting an inactive license to an active license has been considered the same as reinstating a lapsed license and the fee charged has always been the same as for reinstatement.

**NEGOTIATED RULEMAKING:** Pursuant to IDAPA 04.11.01.811, informal negotiated rulemaking was conducted with the Occupational Therapy Licensure Board members who were actively involved in drafting these changes and the Idaho Occupational Therapy Association was informed of the changes being proposed.

**SUBMISSION OF WRITTEN COMMENTS AND ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning this proposed rule, contact Nancy M. Kerr, Idaho State Board of Medicine, (208) 327-7000.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 23, 2002.

DATED this 19th day of August, 2002.

Nancy M. Kerr  
Executive Director  
Idaho State Board of Medicine  
1755 Westgate Drive  
PO Box 83720  
Boise, ID 83720-0058  
(208) 327-7000  
Fax (208) 327-7005

**THE FOLLOWING IS THE TEXT OF DOCKET NO. 22-0109-0201**

**002. WRITTEN INTERPRETATIONS – AGENCY GUIDELINES.**

Written interpretations of these rules in the form of explanatory comments accompanying the notice of proposed rulemaking that originally proposed the rules and review of comments submitted in the rulemaking process in the adoption of these rules are available for review and copying at cost from the Board of Medicine, 1755 Westgate Drive, Suite 140, Box 83720, Boise, Idaho 83720-0058. ( )

**003. ADMINISTRATIVE APPEAL.**

All contested cases shall be governed by the provisions of IDAPA 04.11.01, "Idaho Rules of Administrative Procedure of the Attorney General," and IDAPA 22.01.07, "Rules of Practice and Procedure of the Board of Medicine". ( )

**004. INCORPORATION BY REFERENCE.**

The Occupational Therapy Code of Ethics is incorporated by reference. ( )

**005. OFFICE -- OFFICE HOURS -- MAILING ADDRESS AND STREET ADDRESS.**

The central office of the Board of Medicine is in Boise, Idaho. ( )

**01. Address.** The Board's mailing address, unless otherwise indicated will be Idaho State Board of Medicine, Statehouse Mail, Boise, Idaho 83720. The Board's street address is 1755 Westgate Drive, Suite 140, Boise, Idaho 83704. ( )

**02. Telephone.** The telephone number of the Board is (208) 327-7000. ( )

**03. FAX.** The Board's facsimile (FAX) number is 327-7005. ( )

**04. Office Hours.** The Board's office hours for filing documents are 8 a.m. to 5 p.m. MST. ( )

**006. PUBLIC RECORD ACT COMPLIANCE.**

These rules have been promulgated according to the provisions of Title 67, Chapter 52, Idaho Code and are public records. ( )

**007. FILING OF DOCUMENTS -- NUMBER OF COPIES.**

All documents in rulemaking or contested case proceedings must be filed with the office of the Board. The original and ten (10) copies of all documents must be filed with the office of the Board. ( )

**0028. -- 009. (RESERVED).**

**010. DEFINITIONS.**

**01. Association.** The Idaho Occupational Therapy Association. (1-5-88)

**02. Board.** The Idaho State Board of Medicine. (1-5-88)

**03. Licensure Board.** The Occupational Therapy Licensure Board. (1-5-88)

**04. Occupational Therapy.** The use of purposeful, goal-oriented activity with individuals who are limited by physical injury or illness, psychological dysfunction, developmental or learning disabilities or deficits, poverty or cultural difficulties or the aging process in order to achieve optimum functional performance, independence, prevent further disability and maintain health. The practice of occupational therapy encompasses the evaluation, consultation and treatment of individuals whose abilities to cope with the tasks of daily living are threatened or impaired by physical injury or illness, psychosocial dysfunction, developmental or learning disabilities

or deficits, poverty or cultural difficulties or the aging process and includes a treatment program through the use of specific techniques which enhance functional performance and includes the evaluation or assessment of the patient or clients self-care, work and leisure skills, cognition, perception; sensory and motor performance; play skills; vocational and prevocational capacities; need for adaptive equipment; application of selected prosthetic or orthotic devices; and the administration of standardized and non-standardized assessments. (1-5-88)

**05. Occupational Therapist.** A person licensed to practice ~~O~~ccupational ~~T~~herapy. ~~(1-5-88)~~(\_\_\_\_)

**06. Occupational Therapy Assistant.** A person licensed to assist in the practice of ~~O~~ccupational ~~T~~herapy, who works under the supervision of an ~~O~~ccupational ~~T~~herapist. ~~(1-5-88)~~(\_\_\_\_)

**a.** Occupational Therapy Assistant Supervision. The occupational therapist shall be responsible for the supervision of the occupational therapy assistant. The supervising and consulting therapist need not be physically present or on the premises at all times the occupational therapy assistant is performing the service. The mode and extent of the communication between the supervising or consulting occupational therapist and the occupational therapy assistant shall be determined by the competency of the assistant, the treatment setting and the diagnostic category of the client. (7-1-99)

**07. Graduate Occupational Therapist.** A person who holds a certificate of graduation from an approved ~~O~~ccupational ~~T~~herapy curriculum, has submitted a completed application for licensure by examination, and may practice ~~O~~ccupational ~~T~~herapy in association with and under the supervision of an ~~O~~ccupational ~~T~~herapist and under authority of a Limited Permit. ~~(1-5-88)~~(\_\_\_\_)

**a.** Graduate OT Supervision. Supervision of a "Graduate Occupational Therapist" shall require the supervising licensed occupational therapist to review and countersign all patient documentation. (7-1-99)

**08. Graduate Occupational Therapy Assistant.** A person who holds a certificate of graduation from an approved ~~O~~ccupational ~~T~~herapy ~~A~~ssistant curriculum, has submitted a completed application for licensure by examination and is performing the duties of ~~O~~ccupational ~~T~~herapy ~~A~~ssistant in association with and under the supervision of an ~~O~~ccupational ~~T~~herapy and under the authority of a Limited Permit. ~~(1-5-88)~~(\_\_\_\_)

**a.** Graduate OTA Supervision. Supervision of a "Graduate Occupational Therapy Assistant" shall require the supervising licensed occupational therapist to review and countersign all patient documentation. (7-1-99)

**09. Occupational Therapy Aide.** An unlicensed person who aids a licensed occupational therapist or occupational therapy assistant in the practice of occupational therapy, whose activities require an understanding of occupational therapy but do not require professional or advanced training in the basic anatomical, biological, psychological, and social sciences involved in the practice of occupational therapy. (7-1-99)

**a.** Supervision. Supervision of an occupational therapy aide shall require ~~that such supervision by a~~ person ~~be~~ licensed to practice as an ~~O~~ccupational ~~T~~herapist or as an ~~O~~ccupational ~~T~~herapy ~~A~~ssistant and shall be consistent with Section 033 of these rules. ~~(7-1-99)~~(\_\_\_\_)

**(BREAK IN CONTINUITY OF SECTIONS)**

**020. GENERAL QUALIFICATIONS FOR LICENSURE:**

**01. Applicant.** An applicant must be of good moral character. The Board may refuse licensure if it finds the applicant has engaged in conduct prohibited by Section 54-3712, Idaho Code; provided, the Board shall take into consideration the rehabilitation of the applicant and other mitigating circumstances. (1-5-88)

**02. Education.** Each applicant shall provide evidence of successful completion of the academic requirements of a program in occupational therapy accredited by the Accreditation Council for Occupational Therapy Education, or an accrediting agency recognized by the United States Secretary of Education, the Council for Higher

Education Accreditation or both. ( )

**03. Experience.** Each applicant shall submit evidence of having successfully completed a period of supervised fieldwork experience acceptable to the board, which fieldwork shall be: ( )

**a.** For an occupational therapist, a minimum of six (6) months of supervised fieldwork experience; or ( )

**b.** For an occupational therapy assistant, a minimum of (2) months of supervised fieldwork experience. ( )

**024. Examination.** Each applicant shall either pass an examination required by the Board or shall be entitled to apply for licensure by endorsement or limited permit. (1-5-88)

**a.** The written examination ~~and passing score required for licensure as an Occupational Therapist or Occupational Therapist Assistant, shall be designated and approved by the licensure board~~ shall be the examination conducted by the National Board for Certification in Occupational Therapy, Inc. (NBCOT) and the passing score shall be the passing score established by the NBCOT. (1-5-88)( )

**b.** An applicant for licensure by examination who fails to pass the examination must submit a new application as in Subsection 021.01. (4-30-93)

**c.** An applicant for licensure by examination who has failed to pass the examination on two (2) separate occasions will be denied eligibility to reapply; however his or her application may be considered on an individual basis if he or she submits proof of additional training. (1-5-88)

**d.** An applicant may obtain his examination scores and may review his papers in accordance with Section 54-3707(3), Idaho Code and this rule. ( )

**035. Application Expiration.** An application upon which the applicant takes no further action will be held for no longer than one (1) year. (1-5-88)

**021. APPLICATION FOR LICENSURE.**

**01. Licensure By Examination.** Each applicant for licensure by examination shall submit a completed written application to the Board, on forms prescribed by the Board, together with the application fee. The application shall be verified and under oath and shall require the following information: (7-1-99)

**a.** A certificate of graduation from an approved ~~O~~ccupational ~~T~~herapy curriculum; or an approved ~~O~~ccupational ~~T~~herapy ~~A~~ssistant's curriculum accredited by the Accreditation Council for Occupational Therapy Education, or an accrediting agency recognized by the United States Secretary of Education, the Council for Higher Education Accreditation, or both; (1-5-88)( )

**b.** The disclosure of any criminal conviction or charges against the applicant other than minor traffic offenses; (1-5-88)

**c.** The disclosure of any disciplinary action against the applicant by any state professional regulatory agency or professional organization; (1-5-88)

**d.** The disclosure of the denial of registration or licensure by any state or district regulatory body; (1-5-88)

**e.** Not less than two (2) certificates of recommendation from persons having personal knowledge of the applicant's character; (1-5-88)

**f.** Two (2) unmounted photographs of the applicant, no larger than three by four inch (3" x 4") (head and shoulders), taken not more than one (1) year prior to the date of the application; (1-5-88)



**g.** Such other information as deemed necessary for the Board to identify and evaluate the applicant's credentials; and (1-5-88)

**h.** A copy of the application to write the qualifying exam and the date the examination is scheduled. (1-5-88)

**02. Licensure By Endorsement.** An applicant may be eligible for licensure without examination if he or she meets all of the other qualifications prescribed in Section 54-3708, Idaho Code, and also holds a current valid license or registration from some other state, territory or district of the United States, or certified by the National Board for Certification in Occupational Therapy providing they meet Idaho standards and are equivalent to the requirements for licensure pursuant to these rules. (7-1-99)

**a.** Each applicant for licensure by endorsement shall submit a completed written application to the Board on forms prescribed by the Board, together with the application fee. The application shall be verified, under oath, and contain the specific information in Subsection 021.01, above. (1-5-88)

**b.** Proof of such licensure or registration shall be verified in a manner acceptable to the Board. (1-5-88)

**03. Limited Permit.** ~~The Board may issue Aa Limited Permit shall not be issued unless a complete application has been filed with the board establishing that the person has completed the educational and experience requirements of the Act to a graduate occupational therapist or graduate occupational therapy assistant who meets the requirements set forth by Sections 54-3706(1) and 54-3706(2), Idaho Code, who has not yet passed the examination as required in Subsection 020.04.a.~~ (1-5-88)( )

**a.** A Limited Permit shall only allow a person to practice occupational therapy in association with and under the supervision of a licensed occupational therapist. (1-5-88)

**b.** A Limited Permit shall be valid only until the person is granted or denied a license under Section 54-3709, Idaho Code, or until the results of the examination are available to the Board, whichever occurs first; provided however, a Limited Permit shall not be effective for more than six (6) months from the date of issue. (1-5-88)

**c.** A Limited Permit may only be renewed once. (1-5-88)

**04. Personal Interview.** The Board may, at its discretion, require the applicant to appear for a personal interview. (1-5-88)

**05. Occupational Therapists Practicing In Idaho On Effective Date Of These Rules.** All persons practicing Occupational Therapy in Idaho and holding American Occupational Therapy Certification Board (AOTCB) registration on the effective date of these rules shall qualify for license by endorsement, providing completed application is submitted within the six (6) months following the effective date of these rules. (1-5-88)( )

**022. LICENSE EXPIRATION AND RENEWAL.**

All licenses to practice as an occupational therapist or occupational therapy assistant shall expire on ~~the 30th day of~~ June 30 following issuance or renewal and shall become invalid after that date unless renewed. The Board may condition the issuance of such license for the full term upon the occurrence of events specified by the Board and the Board may extend such certification for an intermediate period of time. (1-5-88)( )

**01. Annual Renewal.** Each license shall be renewed annually before July 1~~st~~ by submitting a completed request for renewal accompanied by payment of the renewal fee to the Board. Licenses not renewed by the expiration date shall be canceled. (1-5-88)( )

**02. Reinstatement.** Licenses canceled for nonpayment of yearly renewal fees may be reinstated by filing a completed request for renewal with the Board and paying reinstatement fees. (1-5-88)

**03. Reapply.** A person whose license has been canceled or has lapsed for a period of more than five (5) years shall be required to reapply as a new applicant by examination. (1-5-88)

**04. Continuing Education.** A summary of continuing education activities during the preceding year may be submitted with the renewal application to document this effort by the therapist. Appropriate continuing professional education activities include but are not limited to, the following: (1-5-88)

- a. Reading of professional books and journals. (1-5-88)
- b. Attending or presenting at conferences, seminars or inservice programs. (1-5-88)
- c. Supervision of clinical students. (1-5-88)
- d. Holding state or national office in professional organizations. (1-5-88)
- e. Formal course work in Occupational Therapy related subjects. (~~1-5-88~~)( )
- f. Presentation of Occupational Therapy related information to allied professional or community groups. (~~1-5-88~~)( )
- g. Conduct of Occupational Therapy related research or grant supported activity. (~~1-5-88~~)( )
- h. Publication of an original article, review or report of clinical experience in an appropriate professional publication. (1-5-88)

**(BREAK IN CONTINUITY OF SECTIONS)**

**032. DENIAL OR REFUSAL TO RENEW, SUSPENSION OR REVOCATION OF LICENSE.**

**01. Disciplinary Authority.** A new ~~or renewal~~ application may be denied or renewal refused, and every person licensed pursuant to Title 54, Chapter 37, Idaho Code and these rules is subject to discipline, pursuant to the procedures and powers established by and set forth in Section 54-3712, Idaho Code, ~~and the Administrative Procedure Act~~ IDAPA 04.11.01, "Idaho Rules of Administrative Procedure of the Attorney General," and IDAPA 22.01.07, "Rules of Practice and Procedure of the Board of Medicine". (~~1-5-88~~)( )

**02. Grounds For Discipline.** In addition to the grounds set forth in Section 54-3712, Idaho Code, applicants may be denied or refused licensure and licensees are subject to discipline upon the following grounds, including but not limited to: (~~1-5-88~~)( )

- a. Obtaining a license by means of fraud, misrepresentation, or concealment of material facts; (1-5-88)
- b. Being guilty of unprofessional conduct or violating the Code of Ethics governing said licensees, including the provision of health care which fails to meet the standard of health care provided by other qualified licensees in the same community or similar communities, taking into account the licensee's training, experience and the degree of expertise to which he holds himself out to the public; (1-5-88)
- c. Being convicted of a felony by a court or competent jurisdiction; (1-5-88)
- d. The unauthorized practice of medicine; (1-5-88)
- e. Violating any provisions of this act or any of the rules promulgated by the Board under the authority of the act; or (1-5-88)

f. Failure to properly supervise the activities of Occupational Therapy Assistants or occupational therapy aides. (7-1-99)(\_\_\_\_)

**033. OCCUPATIONAL THERAPY AIDE.**

**01. Evaluation Of Patient/Client Before Task Assignment.** The occupational therapist shall evaluate each patient/client before tasks are assigned to an occupational therapy aide. Only the occupational therapist or the occupational therapy assistant shall determine, assign, and modify those tasks that can be safely and effectively performed by an occupational therapy aide. (7-1-99)

**02. What Aids Cannot Do.** The occupational therapist and occupational therapy assistant shall not assign or permit aides to: (7-1-99)

- a. Interpret referrals or prescriptions for occupational therapy services; (7-1-99)
- b. Interpret or analyze evaluation data; (7-1-99)
- c. Develop, plan, or modify treatment plans; (7-1-99)
- d. Act independently without the supervision of an occupational therapist or occupational therapy assistant; (7-1-99)
- e. Perform or document services represented as occupational therapy unless the occupational therapy aide is under the supervision of an occupational therapist or occupational therapy assistant. All documentation must be countersigned by the occupational therapist. (7-1-99)

**03. Professional Supervision Of An Occupational Therapy Aide.** ~~Is Defined As~~ Professional supervision of an occupational therapy aide shall be provided by a licensed occupational therapist or occupational therapy assistant and shall include: (7-1-99)(\_\_\_\_)

- a. Documented training by the occupational therapist or occupational therapy assistant of the occupational therapy aide in each specific occupational therapy technique for each specific client and the training shall be performed on the client. (7-1-99)(\_\_\_\_)
- b. Face to face meetings between the occupational therapy aide and the occupational therapist or an occupational therapy assistant under the direction of the occupational therapist occurring at such intervals as determined by the occupational therapist to meet the client's needs, but shall occur at least once every two (2) weeks: (7-1-99)
- c. The occupational therapist or occupational therapy assistant shall observe the occupational therapy aide perform on the client the specific techniques for which the aide was trained at intervals as determined by the occupational therapist to meet the client's need, but shall occur at least once a month. (7-1-99)(\_\_\_\_)
- d. Meetings and client contacts will be documented in the client's record. (7-1-99)

**034. -- 040. (RESERVED).**

**041. FEES.**

Actual fees shall be set to reflect costs of Board administration. (1-5-88)

**01. Fees.** Necessary fees shall accompany applications. Fees shall not be refundable. In those situations where the processing of an application requires extraordinary expenses, the Board will charge the applicant with reasonable fees to cover all or part of the extraordinary expenses. (\_\_\_\_)

**02. Initial Licensure.** The fee for initial licensure of Occupational Therapists shall be one hundred ten dollars (\$110); and the fee for Occupational Therapy Assistants shall be eighty dollars (\$80). (4-2-93)(\_\_\_\_)

**023. Limited Permit.** The fee for a limited permit shall be twenty-five dollars (\$25) for Occupational Therapists and for Occupational Therapy Assistants. ~~(1-5-88)~~(\_\_\_\_)

**034. Renewal Fee.** The annual renewal fee shall be sixty-five dollars (\$65) for Occupational Therapists and forty-five dollars (\$45) for Occupational Therapy Assistants. The failure of any licensee to renew his or her license shall not deprive such person of the right to renewal, except as provided for in Sections 54-3710 and 54-3712, Idaho Code. ~~(4-2-93)~~(\_\_\_\_)

**045. Reinstatement Fee.** The reinstatement fee for a lapsed license shall be the annual renewal fee for each year not licensed plus a fee of thirty-five dollars (\$35). (1-5-88)

**056. Inactive Fee.** The fee for inactive licensure shall be forty-five dollars (\$45) for Occupational Therapists and Occupational Therapy Assistants. ~~(4-2-93)~~(\_\_\_\_)

~~**a.** Necessary fees shall accompany applications. (1-5-88)~~

~~**b.** Fees shall not be refundable. (1-5-88)~~

~~**c.** In those situations where the processing of an application requires extraordinary expenses, the Board may charge the applicant with reasonable fees to cover all or part of the extraordinary expenses. (1-5-88)~~

**07. Inactive To Active License Fee.** An inactive license may be converted to an active license by application to the Board and payment of required fees. (\_\_\_\_)

**a.** The fee for converting an inactive to an active license shall be a fee of thirty-five dollars (\$35) and the annual renewal fee for each year not actively licensed minus inactive fees previously paid. (\_\_\_\_)

**b.** Before the license will be converted the applicant must account for the time during which an inactive license was held. The Board may, in its discretion, require a personal interview. (\_\_\_\_)

**IDAPA 22 - IDAHO STATE BOARD OF MEDICINE**

**22.01.13 - RULES FOR THE LICENSURE OF DIETITIANS**

**DOCKET NO. 22-0113-0301**

**NOTICE OF RULEMAKING - PROPOSED RULE**

**AUTHORITY:** In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has proposed rulemaking. The action is authorized pursuant to Section 54-3505(2), Idaho Code.

**PUBLIC HEARING SCHEDULE:** Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 16, 2002.

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

**DESCRIPTIVE SUMMARY:** The following is a nontechnical explanation of the substance and purpose of the proposed rulemaking:

These rules changes add required major sections, add definitions, change licensure language to allow for provisional licensure, to clarify the fees for reactivation of an inactive license and to require current certification by the CDR for license renewal.

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

This rule change does not impose any new or additional fee. The purpose of this new language is to clarify the process and the fees for converting an inactive license to an active license. In the past, converting an inactive license to an active license has been considered the same as reinstating a lapsed license and the fee charged has always been the same as for reinstatement.

**NEGOTIATED RULEMAKING:** Pursuant to IDAPA 04.11.01.811, informal negotiated rulemaking was conducted with the Dietetic Licensure Board members who actively participated with Board staff to draft the rule changes.

**SUBMISSION OF WRITTEN COMMENTS AND ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning this proposed rule, contact Nancy M. Kerr, Idaho State Board of Medicine, (208) 327-7000.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 23, 2002.

DATED this 19th day of August, 2002

Nancy M. Kerr  
Executive Director  
Idaho State Board of Medicine  
1755 Westgate Drive  
PO Box 83720  
Boise, ID 83720-0058  
(208) 327-7000  
Fax (208) 327-7005

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**THE FOLLOWING IS THE TEXT OF DOCKET NO. 22-0113-0201**

**002. WRITTEN INTERPRETATIONS -- AGENCY GUIDELINES.**

Written interpretations of these rules in the form of explanatory comments accompanying the notice of proposed rulemaking that originally proposed the rules and review of comments submitted in the rulemaking process in the adoption of these rules are available for review and copying at cost from the Board of Medicine, 1755 Westgate Drive, Suite 140, Box 83720, Boise, Idaho 83720-0058. ( )

**003. ADMINISTRATIVE APPEAL.**

All contested cases shall be governed by the provisions of IDAPA 04.11.01, "Idaho Rules of Administrative Procedure of the Attorney General," and IDAPA 22.01.07, "Rules of Practice and Procedure of the Board of Medicine". ( )

**004. PUBLIC RECORD ACT COMPLIANCE.**

These rules have been adopted in accordance with Title 67, Chapter 52, Idaho Code and are public records. ( )

**005. INCORPORATION BY REFERENCE.**

There are no documents incorporated by reference into this rule. ( )

**006. OFFICE -- OFFICE HOURS -- MAILING ADDRESS AND STREET ADDRESS**

The central office of the Board of Medicine will be in Boise, Idaho.

**01. Address.** The Board's mailing address, unless otherwise indicated, will be Idaho State Board of Medicine, Statehouse Mail, Boise, Idaho 83720. The Board's street address is 1755 Westgate Drive, Suite 140, Boise, Idaho 83704. ( )

**02. Telephone.** The telephone number of the Board is (208) 327-7000. ( )

**03. FAX.** The Board's facsimile (FAX) number is (208) 327-7005. ( )

**04. Office Hours.** The Board's office hours for filing documents are 8 a.m. to 5 p.m. MST. ( )

**007. FILING OF DOCUMENTS – NUMBER OF COPIES.**

All documents in rulemaking or contested case proceedings must be filed with the office of the Board. The original and ten (10) copies must be filed with the office of the Board. ( )

**0028. -- 009. (RESERVED).**

**010. DEFINITIONS.**

Applicable definitions are set forth in Sections 54-3502 and 54-3505(3), Idaho Code. (12-28-94)

**01. Board.** The Idaho State Board of Medicine. ( )

**02. Dietitian.** A person who meets all of the requirements of and is licensed under the provisions of Title 54, Chapter 35, Idaho Code, to engage in the practice of dietetics as set forth in Section 54-3505(3), Idaho Code. Dietitian and dietician are interchangeable terms. ( )

**03. Dietetic Practice.** Dietetic practice, the practice of dietetics or practicing dietetics means the integration and application of principles derived from the sciences of nutrition, biochemistry, food physiology, management, and behavioral and social sciences to achieve and maintain human health through the provision of medical nutrition services and the development of therapeutic nutrition care plans to assist in the maintenance of health and the prevention and treatment of disorders of body function, systems or organs. ( )

**04. Licensure Board.** The Dietetic Licensure Board. ( )

**05. Medical Nutrition Services.** Medical nutrition services refers to the nutritional assessment, the design and implementation of therapeutic nutrition care plans, and nutrition therapy counseling provided by a

licensed dietitian. ( )

**06. Monitor Of Provisionally Licensed Graduate Dietitian.** An Idaho licensed dietitian who shall be responsible for the activities of the provisionally licensed graduate dietitian being supervised and shall review and countersign all patient documentation performed by the provisionally licensed graduate dietitian being supervised. ( )

**07. Nutritional Assessment.** The evaluation of nutritional needs of individuals and groups based upon appropriate biochemical, anthropometric, physical, and dietary data which is necessary to determine nutrient needs and to recommend appropriate enteral or parenteral nutritional intake. ( )

**08. Nutrition Therapy Counseling.** The advising or assisting individuals or groups on appropriate nutrient intake by integrating information from the nutritional assessment and therapeutic nutrition care plan with information on food and other sources of nutrients and meal preparation consistent with health needs, disease state, psychological status, cultural background, and available resources. ( )

**07. Provisional License.** The Board may issue a provisional license to a graduate dietitian who meets the requirements set forth by Sections 54-3506(1) and 54-3506(2), Idaho Code. A provisional license shall authorize the practice of dietetics under the supervision of a monitor who is an Idaho licensed dietitian. ( )

**08. Therapeutic Nutrition Care Plan.** A plan of care developed by a licensed dietitian that includes: ( )

**a.** The design and implementation of nutrition goals and objectives for individuals and groups for the maintenance of health and prevention of disease; ( )

**b.** The design and implementation of therapeutic nutrition regimens, including enteral and parenteral nutrition for the treatment of disorders of body functions, systems, or organs; ( )

**c.** Establishing priorities, goals, and objectives that meet nutritional needs and are consistent with available resources and constraints; ( )

**d.** Developing, implementing, and managing nutrition care systems; and ( )

**e.** Evaluating, making changes in, and maintaining appropriate standards of quality in food and nutrition care services. ( )

**011. -- 019. (RESERVED).**

**020. GENERAL QUALIFICATIONS FOR LICENSURE.**

**01. Applicant.** An applicant must be of good moral character and shall meet the requirements set forth in Section 54-3506, Idaho Code. The Board may refuse licensure if it finds the applicant has engaged in conduct prohibited by Section 54-3510, Idaho Code, provided, the Board shall take into consideration the rehabilitation of the applicant and other mitigating circumstances. (12-28-94)

**02. Examination.** Each applicant shall either pass an examination required by the Board or shall be entitled to apply for a waiver pursuant to Section 54-3508, Idaho Code. (~~12-28-94~~)( )

**a.** The written examination shall be the examination conducted by the Commission on Dietetic Registration and the passing score shall be the passing score established by the Commission. (12-28-94)

**b.** An applicant who fails to pass the examination must submit a new application. (12-28-94)

**c.** An applicant who has failed to pass the examination on two (2) separate occasions will be denied eligibility to reapply; however his application may be considered on an individual basis if he submits proof of additional training. (12-28-94)

**03. Application Expiration.** An application upon which the applicant takes no further action will be held for no longer than one (1) year. (12-28-94)

**021. APPLICATION FOR LICENSURE.**

**01. Application.** Each applicant for licensure shall submit a completed written application to the board on forms prescribed by the board, together with the application fee. The application shall be verified and under oath and shall require the following information: (12-28-94)

**a.** A certificate of successful completion of a program approved by the American Dietetic Association and a certificate of successful completion of a dietetic internship or preprofessional program approved or accredited by the American Dietetic Association; (12-28-94)

**b.** The disclosure of any criminal conviction or charges against the applicant other than minor traffic offenses; (12-28-94)

**c.** The disclosure of any disciplinary action against the applicant by any state professional regulatory agency or professional organization; (12-28-94)

**d.** The disclosure of the denial of registration or licensure by any state or district regulatory body; (12-28-94)

**e.** Not less than two (2) certificates of recommendation from persons having personal knowledge of the applicant's character; (12-28-94)

**f.** Two (2) unmounted photographs of the applicant, no larger than three inches by four inches (3" x 4") (head and shoulders), taken not more than one (1) year prior to the date of the application; (12-28-94)

**g.** A copy of any registration by the Commission on Dietetic Registration, if applicable; (12-28-94)

**h.** A copy of examination results or the application to write the qualifying exam and the date the examination is scheduled; ~~and~~ (12-28-94)(\_\_\_\_)

**i.** Such other information as deemed necessary for the Board to identify and evaluate the applicant's credentials; and (12-28-94)(\_\_\_\_)

**j.** A Provisional License Dietitian/Monitor Affidavit, if applicable. (\_\_\_\_)

**02. Personal Interview.** The Board may, at its discretion, require the applicant to appear for a personal interview. (12-28-94)

**022. LICENSE EXPIRATION AND RENEWAL.**

**01. Provisional Licensure Expiration.** Provisional licenses shall become full active licenses to practice as a dietitian upon the date of receipt of a copy of registration by the Commission on Dietetic Registration. All provisional licenses shall expire on the 30th day of June 30 following issuance or renewal and shall become invalid after that date unless renewed. The board may condition the issuance of such license for the full term upon the occurrence of events specified by the Board and the Board may extend such certification for an intermediate period of time. (12-28-94)(\_\_\_\_)

**02. Annual Renewal.** Each full license shall be renewed annually before July 1~~st~~ by submitting a completed request for renewal accompanied by payment of the renewal fee and a copy of current registration as a registered dietitian, as determined by the Commission on Dietetic Registration of the American Dietetic Association, or current credentialing as a credentialed dietitian by any other association which is also recognized by the National Commission for Health Certifying Agencies to the Board. Full ~~£~~licenses not renewed by the expiration date shall be canceled. (12-28-94)(\_\_\_\_)



**023. PROVISIONAL LICENSURE.**

**01. Provisional License.** The Board may issue a provisional license to a person who has successfully completed the academic requirements of an education program in dietetics approved by the licensure board and has successfully completed a dietetic internship or preprofessional practice program, coordinated program or such other equivalent experience as may be approved by the board and who has met all the other requirements set forth by Section 021 of this rule but who has not yet passed the examination conducted by the Commission on Dietetic Registration. ( )

**02. Provisional License Dietitian/Monitor Affidavit.** An affidavit signed by an Idaho licensed dietitian affirming and attesting to be responsible for the activities of the provisionally licensed graduated dietitian being supervised and countersign all patient documentation performed by the provisionally licensed graduate dietitian being supervised. ( )

**03. Supervision By Monitor.** The practice or provision of dietetics by a graduate dietitian holding a provisional license to practice dietetics shall be in direct association with an Idaho licensed dietitian who shall be responsible for the activities of the provisionally licensed graduate dietitian being supervised and shall review and countersign all patient documentation performed by the provisionally licensed graduate dietitian. The supervising monitor need not be physically present or on the premises at all times but must be available for telephonic consultation. The extent of communication between the monitor and the provisionally licensed graduate dietitian shall be determined by the competency of the individual, the treatment setting, and the diagnostic category of the patients. ( )

**0234. -- 029. (RESERVED).**

**(BREAK IN CONTINUITY OF SECTIONS)**

**032. DENIAL OR REFUSAL TO RENEW, SUSPENSION OR REVOCATION OF LICENSE.**

**01. Disciplinary Authority.** A new or renewal application may be denied, and every person licensed pursuant to Title 54, Chapter 35, Idaho Code and these rules is subject to discipline, pursuant to the procedures and powers established by and set forth in Section 54-37120, Idaho Code, ~~the~~ IDAPA 04.11.01, "Idaho Rules of Administrative Procedure ~~Act~~ of the Attorney General," and ~~the~~ IDAPA 22.01.07, "Rules of Practice and Procedure of the Board of Medicine". (~~12-28-94~~)( )

**02. Grounds For Discipline.** In addition to the grounds set forth in Section 54-3510, Idaho Code, applicants may be refused licensure and licensees are subject to discipline upon the following grounds, including but not limited to: (12-28-94)

**a.** Being guilty of unprofessional conduct, including the provision of care which fails to meet the standard of care provided by other qualified licensees within the state of Idaho. (12-28-94)

**b.** Violating any provisions of this act or any of the rules promulgated by the Board under the authority of the act. (12-28-94)

**033. -- 040. (RESERVED).**

**041. FEES.**

Actual fees shall be set to reflect costs of Board administration. (12-28-94)

**01. Initial/Provisional Licensure And Examination Fee.** The fee for initial licensure and examination shall be eighty dollars (\$80). (~~12-28-94~~)( )

- 02. Renewal Fee.** The annual renewal fee shall be forty-five dollars (\$45). (12-28-94)
- 03. Reinstatement Fee.** The reinstatement fee for a lapsed license shall be the annual renewal fee for each year not licensed plus a fee of thirty-five dollars (\$35). (12-28-94)
- 04. Inactive Fee.** The fee for inactive licensure shall be twenty-five dollars (\$25). (12-28-94)
- 05. Inactive To Active License Fee.** An inactive license may be converted to an active license by application to the Board and payment of required fees. ( )
- a.** The fee for converting an inactive license to an license shall be a fee of thirty-five dollars (\$35) and the annual renewal fee for each year not actively licensed minus inactive fees previously paid. ( )
- b.** Before the license will be converted, the applicant must account for the time during which an inactive license was held. The Board, in its discretion, may require a personal interview. ( )
- 05. ~~Necessary Fees Shall Accompany Applications~~ Fees And Refunds.** Necessary fees shall accompany applications. Fees shall not be refundable. (12-28-94)( )
- 06. ~~Fees Shall Not Be Refundable.~~** (12-28-94)
- 076. Extraordinary Expenses.** In situations where the processing of an application requires extraordinary expenses, the Board ~~may~~ will charge the applicant with reasonable fees to cover all or part of the extraordinary expenses. (12-28-94)( )

# **IDAPA 23 - IDAHO STATE BOARD OF NURSING**

## **23.01.01 - RULES OF THE IDAHO BOARD OF NURSING**

### **DOCKET NO. 23-0101-0201**

#### **NOTICE OF RULEMAKING - PENDING FEE RULE**

**EFFECTIVE DATE:** This rule has been adopted by the agency and is now pending review by the 2003 Idaho State Legislature for final approval. The pending rule becomes final and effective after the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Sections 67-5224 and 67-5291, Idaho Code. After the pending rule is approved, rejected, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

**AUTHORITY:** In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 54-1404, 54-1410, and 54-1411, Idaho Code.

**DESCRIPTIVE SUMMARY:** The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change. The pending rule is being adopted as proposed. The original text of the proposed rule was published in the August 7, 2002 Idaho Administrative Bulletin, Vol. 02-8, pages 65 through 68.

**FEE SUMMARY:** The following is a specific description of the fee or charge imposed or increased. This fee or charge is being imposed pursuant to Sections 54-1410 and 54-1411, Idaho Code. The fees created by this rulemaking are necessary to fulfill the statutory mandate to issue emeritus licenses. Pursuant to Section 67-5224(5)(c), Idaho Code, this pending rule will not become final and effective until it has been approved, amended or modified by concurrent resolution of the legislature because of the fee being imposed or increased through this rulemaking.

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning the pending rule, contact Sandra Evans, MAEd., R.N., Executive Director, at (208) 334-3110, ext. 26.

DATED this 29th day of August, 2002.

Sandra Evans, MAEd., R.N.  
Executive Director  
Idaho Board of Nursing  
280 N. 8<sup>th</sup> St., Ste. 210  
P. O. Box 83720  
Boise, ID 83720-0061  
Phone: (208) 334-3110, ext. 26  
Facsimile: (208) 334-3262

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### **IDAPA 23, TITLE 01, Chapter 01**

#### **RULES OF THE BOARD OF NURSING**

**There are no substantive changes from the proposed rule text.**

**The complete text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 02-8, August 7, 2002, pages 65 through 68.**

**This rule has been adopted as a pending rule by the Agency and is now pending review and approval by the 2003 Idaho State Legislature as a final rule.**

**IDAPA 23 - BOARD OF NURSING**  
**23.01.01 - RULES OF THE BOARD OF NURSING**  
**DOCKET NO. 23-0101-0202**  
**NOTICE OF RULEMAKING - PROPOSED RULE**

**AUTHORITY:** In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Sections 54-1404, Idaho Code.

**PUBLIC HEARING SCHEDULE:** Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 16, 2002.

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

**DESCRIPTIVE SUMMARY:** The following is a nontechnical explanation of the substance and purpose of the proposed rulemaking:

The proposed rules consolidate and renumber existing rules and provide additional clarification and structure, which is part of a multi-year project in which the Board has conducted a complete review of all of its rules. The previous detailed listing of nursing functions for each category of licensure is replaced with a standard or model for decision making within a particular scope of process.

**FEE SUMMARY:** The following is a specific description of the fee or charge imposed or increased: N/A

**NEGOTIATED RULEMAKING:** Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because the changes are essentially clerical in nature and are not, therefore, believed to be a topic of specific interest to any identifiable group.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the proposed rule, contact Sandra Evans, MAEd. R.N., Executive Director, at (208) 334-3110 ext. 26.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 23, 2002.

DATED this 21st day of August, 2002.

Sandra Evans, MAEd. R.N.  
Executive Director  
Idaho State Board of Nursing  
280 N. 8<sup>th</sup> St., Ste. 210  
P. O. Box 83720, Boise, ID 83720-0061  
Phone: (208) 334-3110 ext. 26  
Fax: (208) 334-3262

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**THE FOLLOWING IS THE TEXT OF DOCKET NO. 23-0101-0202**

**010. DEFINITIONS.**

**01. Accreditation.** The official authorization or status granted by a recognized accrediting entity or

agency other than a state board of nursing. (7-1-93)

**02. Administration Of Medications.** The process whereby a prescribed medication is given to a patient by one (1) of several routes—~~oral, inhalation, topical, or parenteral. The nurse verifies the properly prescribed drug order; removes the medication from stock supply or a previously dispensed, properly labeled container (including a unit dose container); assesses the patient's status and disease process; assures that the drug is given as prescribed to the patient for whom it is prescribed and that there are no known contraindications to the use of the drug or the dosage that is being prescribed; prepares the medication in accordance with accepted principles and procedures as taught in nursing curricula; records the time and dose given; and assesses the patient following administration for expected effects and possible untoward side effects.~~ Administration of medication is a complex nursing responsibility which requires a knowledge of anatomy, physiology, pathophysiology and pharmacology. Licensed nurses may administer medications and treatments as prescribed by health care providers authorized to prescribe medications. (7-1-93)(\_\_\_\_)

**03. Approval.** The process by which the Board evaluates and grants official recognition to *nursing* education programs that meet ~~the~~ standards established by the Board. (7-1-93)(\_\_\_\_)

**04. Assist.** To aid or help in the accomplishment of a prescribed set of actions. (7-1-93)

**05. Assistance With Medications.** The ~~designated care provider in a non-institutional care setting process whereby a non-licensed care provider is delegated tasks by a licensed nurse to aid~~ ~~the~~ a patient who cannot independently self-administer medications; ~~provided that:~~ (7-1-93)(\_\_\_\_)

**a:** ~~The patient's health condition is stabilized.~~ (5-21-89)

**b:** ~~The patient does not require nursing assessment of health status before receiving the medication nor nursing assessment of the therapeutic or side effects after the medication is taken.~~ (5-21-89)

**c:** ~~The medication is a maintenance level drug given at routine times by a non-injectable route.~~ (5-21-89)

**d:** ~~The medication is in the original pharmacy dispensed container with proper label and directions or the medication has been removed from the original container and placed in a unit container by a licensed nurse. Proper measuring devices must be available for liquid medication that is poured from a pharmacy dispensed container.~~ (5-21-89)

**e:** ~~Written and oral instructions have been given to the designated care provider by a licensed physician, pharmacist or nurse concerning the reason(s) for the medication, the dosage, expected effects, adverse reactions or side effects, and action to take in an emergency.~~ (5-21-89)

**f:** ~~Any medication dosages not taken and the reasons thereof are recorded and reported to appropriate supervisory persons.~~ (5-21-89)

**g:** ~~Assistance with medication does not include mixing or compounding a medication. Assistance with medication may include: breaking a scored tablet; crushing a tablet; and aiding the patient who requires non-routine dosages of oral medications for seizure activity or for the symptomatic relief of pain, only after proper instruction from a licensed physician, pharmacist or nurse and if the patient is assessed at least monthly by a licensed physician or nurse. Inventories of any narcotic medications are to be maintained.~~ (5-21-89)

**h:** ~~Injectable medication that cannot be self-administered shall be administered only by a licensed nurse or by persons exempted from licensure.~~ (5-21-89)

**06. Board.** The Idaho Board of Nursing. (7-1-93)

**07. Board Staff.** The Executive Director and other such personnel as are needed to implement the Nursing Practice Act and these Rules. (7-1-93)

**08. Charge Nurse.** A licensed nurse who bears primary responsibility for assessing, planning, prioritizing and evaluating care for the patients on a unit, as well as the overall supervision of the licensed and unlicensed staff delivering the nursing care. (7-1-93)(\_\_\_\_)

**09. Clinical Facilities Preceptor.** ~~Those institutions which are established for the delivery of health care services, and which are utilized by students enrolled in nursing education programs. A licensed professional nurse who acts to facilitate student training in a manner prescribed by a written agreement between the preceptor's employer and an educational institution.~~ (7-1-93)(\_\_\_\_)

**10. Competence.** ~~Safely performing the those functions that are~~ within the role of the licensee ~~with skill and proficiency and in a manner~~ that demonstrates essential knowledge, judgment and skills. (7-1-93)(\_\_\_\_)

~~**11. Conditional Approval.** Approval, with conditions or restrictions, granted to a nursing education program that does not meet selected criteria, standards, or curriculum requirements of the Board.~~ (7-1-93)

~~**12. Cooperating Agency.** A facility which is used by a nursing education program to provide clinical experiences for students.~~ (7-1-93)

~~**13. Criterion.** A dimension of quality or a standard upon which a judgment can be made.~~ (7-1-93)

**141. Curriculum.** The systematic arrangement of learning experiences including didactic courses, clinical practical experiences, and other activities needed to meet the requirements of the nursing program and of the certificate or degree conferred by the parent institution. (7-1-93)(\_\_\_\_)

**12. Delegation.** The process by which a licensed nurse assigns tasks to be performed by others. (\_\_\_\_)

~~**15. Direction.** The providing of leadership, guidance, or instruction to another.~~ (7-1-93)

**163. Disability.** Any physical, ~~or~~ mental, or emotional condition that ~~impairs or~~ interferes with the nurse's ability to practice nursing safely and competently. (7-1-93)(\_\_\_\_)

**14. Emeritus License.** A license issued to a nurse who desires to retire from active practice for any length of time. (\_\_\_\_)

**15. Licensing Examination.** A licensing examination that is acceptable to the board. (\_\_\_\_)

~~**17. Full Approval.** Approval without conditions or restrictions, granted to a nursing education program that meets selected criteria, standards, or curriculum requirements of the Board.~~ (7-1-93)

~~**18. Functions, Dependent.** Those activities delegated to the nurse by order of a legally authorized person, under whose direction or supervision such orders are carried out.~~ (7-1-93)

~~**19. Functions, Independent.** Those functions initiated and performed by a licensed professional nurse and for which complete responsibility is assumed.~~ (7-1-93)

~~**20. Functions, Interdependent.** Those functions which are the results of collaboration with members of the inter-disciplinary team, and for which the responsibility is shared.~~ (7-1-93)

~~**21. Health Need.** The lack of a component essential for optimum health status of an individual, group or community.~~ (7-1-93)

~~**2316. License In Good Standing.** A license not subject to current disciplinary action, restriction, probation or investigation in any jurisdiction.~~ (7-1-93)(\_\_\_\_)

~~**2417. Limited License.** A nursing license ~~authorizing the practice of nursing with~~ subject to specific restrictions, or monitoring requirements terms, and conditions. (7-1-93)(\_\_\_\_)~~

~~2518.~~ **Nursing Assessment.** The systematic collection of data related to the patient/~~client's~~ nursing health care needs. (7-1-93)(      )

~~2619.~~ **Nursing Diagnosis.** The clinical judgment or conclusion regarding patient/client/family/community response to actual or potential health problems made as a result of the nursing assessment. (7-1-93)

~~27.~~ **~~Nursing Education Administrator.~~** ~~A licensed professional nurse who has administrative responsibility for the nursing education program.~~ (7-1-93)

~~28.~~ **~~Nursing Education Program.~~** ~~A course of instruction offered and conducted to prepare persons for the practice of nursing, or to increase the knowledge and skills of the practicing nurse.~~ (7-1-93)

~~29.~~ **~~Nursing Faculty.~~** ~~Licensed professional nurses who are employed to teach the theory and practice of nursing.~~ (7-1-93)

~~30.~~ **Nursing Intervention.** An action deliberately selected and performed to ~~implement~~ support the strategy plan of care. (7-1-93)(      )

~~31.~~ **~~Nursing Process.~~** ~~The systematic method a licensed nurse uses to provide nursing care. The nursing process includes assessment, problem identification, planning, intervention and evaluation.~~ (7-1-93)

~~321.~~ **Nursing Service Administrator.** A licensed professional nurse who has administrative responsibility for the nursing services provided in a health care setting. (7-1-93)

~~3322.~~ **Organized Program Of Study.** A written plan of instruction to include course objectives and content, teaching strategies, provisions for supervised clinical practice, evaluation methods, length and hours of course, and faculty qualifications. (7-1-93)

~~34.~~ **~~Parent Institution.~~** ~~The educational agency of which the nursing education program is an integral part.~~ (7-1-93)

~~3523.~~ **Patient/Client.** An individual or a group of individuals who require are the services beneficiaries of nursing services in any setting and may include client, resident, family, community. (7-1-93)(      )

~~3624.~~ **Patient Education.** ~~Instruction to~~ The act of teaching patients/clients and their families, for the purpose of improving or maintaining an individual's health status. (7-1-93)(      )

~~4125.~~ **Strategy Plan Of Care.** The goal-oriented plan strategy developed to assist individuals or groups to achieve optimum health potential. ~~This includes, but is not limited to, hygiene and comfort measures, supporting human functions and responses, administration of prescribed medications and treatments, health counseling and teaching and establishment of an environment conducive to well being.~~ (7-1-93)(      )

~~26.~~ **Practice Standards.** General guidelines that identify roles and responsibilities for a particular category of licensure and, used in conjunction with the decision-making model, define a nurse's relationship with other care providers. (      )

~~37.~~ **Prescribing.** ~~Specifying nursing interventions intended to implement the strategy of care. This includes the nursing behaviors that nurses should perform when delivering nursing care.~~ (7-1-93)

~~3827.~~ **Probation.** ~~An order permitting the nurse to continue to practice nursing under terms and conditions approved by the Board upon a stay of an order of revocation or suspension. A period of time set forth in an order in which certain restrictions, conditions or limitations are imposed on a licensee.~~ (7-1-93)(      )

~~28.~~ **Protocols.** Written standards that define or specify performance expectations, objectives, and criteria. (      )

~~39.~~ **Provisional Approval.** ~~Approval granted by the Board to a new nursing education program that~~

*has not been in operation long enough to graduate its first class and demonstrate its eligibility for full approval.*  
(7-1-93)

**4029. Revocation.** *An order of annulment or cancellation of a license* Termination of the authorization to practice. (7-1-93)(\_\_\_\_)

**2230. Legal Scope Of Practice.** The extent of treatment, activity, influence, or range of actions permitted or authorized for licensed nurses based on the nurse's education, preparation, training, and experience. (7-1-93)(\_\_\_\_)

**4231. Supervision.** Except as provided in Subsection 271.17, concerning advanced practice professional nursing, designating or prescribing a course of action, or giving procedural guidance, initial direction, and periodic evaluation for individuals to whom tasks are delegated. (7-1-93)

**43. Supervision, Direct. Being** Direct supervision requires the supervisor to be physically present and immediately accessible to designate or prescribe a course of action or to give procedural guidance, direction, and periodic evaluation. (7-1-93)(\_\_\_\_)

**4432. Suspension.** An order *of withdrawal of the* temporarily withdrawing a nurse's right to practice nursing for a definite or indefinite period of time. (7-1-93)(\_\_\_\_)

**4533. Universal Precautions Standards.** The recommendations published by the Center for Disease Control, Atlanta, Georgia, for preventing transmission of infectious disease, *by blood and body fluids* also referred to as "Standard Precautions". (7-1-93)(\_\_\_\_)

**34. Wrongful Abandonment.** The termination of a nurse/patient relationship without first making appropriate arrangements for continuation of required nursing care by others. The nurse/patient relationship begins when responsibility for nursing care of a patient is accepted by the nurse. Refusal to accept an employment assignment or refusal to accept or begin a nurse/patient relationship is not wrongful abandonment. Reasonable notification, or a timely request for alternative care for a patient, directed to an attending physician or to a staff supervisor, prior to leaving the assignment, is sufficient to permit termination of the nurse/patient relationship. (\_\_\_\_)

**011. -- 039. (RESERVED).**

**040. TEMPORARY LICENSE.**  
A temporary license is a nonrenewable license of limited duration. (\_\_\_\_)

**01. Issued At Discretion Of Board.** Temporary licenses are issued at the discretion of the Board. (6-1-78)

**02. Applicant For Temporary Licensure By Interstate Endorsement—Current Licensure In Another State.** A license issued by interstate endorsement is a license issued by the board of this state, based on the fact of licensure in another state. A temporary license may be issued to an applicant for interstate endorsement on proof of current licensure in good standing in another state, satisfactory documentation of employment within the three (3) years immediately preceding application, and compliance with the requirements of Section 242 of these rules. (3-30-01)(\_\_\_\_)

**03. Applicant For Temporary Licensure By Examination.** A temporary license to practice nursing until notification of examination results may be issued to an applicant for Idaho licensure following graduation from a nursing education program recognized by the professional licensing board for nursing of any state or territory of the United States, and compliance with Section 221 of these rules. (3-30-01)(\_\_\_\_)

**a.** The practice of nursing by new graduates holding temporary licensure shall be limited as follows: (3-30-01)

**i.** Direct supervision by a licensed professional nurse must be provided. (3-30-01)



- ii. ~~Charge responsibilities m~~May not ~~be assumed~~ act as charge nurse. (11-28-84)(\_\_\_\_)
- b. Terms of temporary licenses issued to examination candidates are as follows: (3-30-01)
- i. Temporary licenses will be issued for a period of no more than three (3) months; ~~and~~ (3-30-01)(\_\_\_\_)
- ii. Temporary licenses are not renewable. (3-30-01)
- 04. Unsuccessful Examination Candidates.** (6-11-93)
- a. An applicant who fails to pass the licensing examination shall not be eligible for further temporary licensure. (3-30-01)
- b. In the event that such applicant subsequently passes the licensing examination after twelve (12) months or more have elapsed following completion of the educational program, a temporary license with conditions may be issued until verification of clinical competence is received. (3-30-01)
- 05. Applicants Not In Active Practice.** A temporary license with specific terms and conditions may be issued to a person who has not actively engaged in the practice of nursing in any state for more than three (3) years immediately prior to the application for licensure or to an applicant whose completed application indicates the need for confirmation of the applicant's ability to practice safe nursing. (3-30-01)
- 06. Applicants From Other Countries.** Upon final evaluation of the completed application, the Board may, at its discretion, issue a temporary license to a graduate from a nursing education program outside of the United States or its territories, pending notification of results of the licensing examination. (6-11-93)
- 07. Fee.** The applicant must pay the temporary license fee, as prescribed in Subsection 901.037 of these rules. (7-1-93)(\_\_\_\_)

**(BREAK IN CONTINUITY OF SECTIONS)**

- 400. ~~STANDARDS FOR THE PRACTICE OF NURSING—PURPOSE~~ DECISION-MAKING MODEL.**  
*To identify the roles and responsibilities of the licensed professional nurse and the licensed practical nurse working in hospitals, nursing homes, physicians' offices, and other settings. The decision-making model is the process by which a licensed nurse evaluates whether a particular act is within the legal scope of that nurse's practice and determines whether to delegate the performance of a particular nursing task in a given setting. This model applies to all licensure categories permitting active practice, regardless of practice setting.* (7-1-96)(\_\_\_\_)
- 01. ~~Decision-Making For~~ Determining Scope Of Practice.** To ~~determine if~~ evaluate whether a specific act is within the legal scope of nursing practice, a licensed nurse shall determine whether: (7-1-96)(\_\_\_\_)
- a. The act is expressly ~~permitted or~~ prohibited by the Nursing Practice Act ~~or, Board of Nursing Rules or Board of Nursing interpretations or position statements~~ the act is limited to the scope of practice of advanced practice professional nurses or to licensed professional nurses, or the act is prohibited by other laws; and (7-1-96)(\_\_\_\_)
- b. The act ~~is something that~~ was taught ~~in the basic nursing education program~~ as a part of the nurse's educational institution's required curriculum and the nurse possesses current clinical skills; ~~or and~~ (7-1-96)(\_\_\_\_)
- c. The act ~~is limited to advanced practice or to licensed professional nurse practice~~ does not exceed any existing policies and procedures established by the nurse's employer; and (7-1-96)(\_\_\_\_)
- d. The act is consistent with standards of practice published by a national specialty nursing

organization or supported by recognized nursing literature or reputable published research and the nurse can document successful completion of additional education through ~~formal classroom instruction and an organized program of study including supervised clinical practice; and~~ or equivalent demonstrated competency. (7-1-96)(\_\_\_\_)

e. The employment setting/agency has established policies and procedures or job descriptions authorizing performance of the act; and (7-1-96)

f. Performance of the act is within the accepted standard of care that would be provided in a similar situation by a reasonable and prudent nurse with similar education and experience and the nurse is prepared to accept the consequences of the act. (7-1-96)

**02. Deciding To Delegation Responsibilities.** When delegating nursing care ~~acts,~~ the licensed nurse retains responsibility for the delegated acts and the consequences of delegation, ~~and~~ Before delegating any task the nurse shall: (7-1-96)(\_\_\_\_)

~~ba.~~ Determine that the acts to be delegated are not expressly prohibited by the Nursing Practice Act or Board Rules and that the activities are consistent with job descriptions or policies of the practice setting; and (7-1-96)

~~bb.~~ Assess the client's status and health care needs prior to delegation, taking into consideration the complexity of assessments, monitoring required and the degree of physiological or psychological instability; and (7-1-96)

~~bc.~~ Exercise professional judgment to ~~decide which~~ determine the safety of the delegated activities, may be delegated and to whom the acts may be delegated, and the potential for harm; and (7-1-96)(\_\_\_\_)

~~c.~~ Determine that the act is one that, in the opinion of the delegating nurse, can be performed without jeopardizing the client's safety and welfare; and (7-1-96)

~~ed.~~ Consider the nature of the act, the complexity of the care needed; the degree of critical thinking required and the predictability of the outcome of the act to be performed; and (7-1-96)(\_\_\_\_)

~~fe.~~ Consider the impact of timeliness of care; continuity of care; and the ~~potential for harm and the~~ level of interaction required with the ~~client/~~ patient and family; and (7-1-96)(\_\_\_\_)

~~gf.~~ Consider the type of technology employed in providing care and the knowledge and skills required to effectively use the technology, including relevant infection control and safety issues; and (7-1-96)

~~dg.~~ Determine that the person to whom the act is being delegated has documented education or training to perform the activity and is currently competent to perform the act; and (7-1-96)

~~ih.~~ Provide appropriate instruction for performance of the act, ~~to include reporting of any observation of a change in client status, any relevant emergency procedures, and assist directly in the performance of the act as necessary;~~ and (7-1-96)(\_\_\_\_)

**SUBSECTION 400.03 HAS BEEN MOVED AND RENUMBERED TO SECTION 491**

**03. Monitoring Delegation.** Subsequent to delegation, the licensed nurse shall: (\_\_\_\_)

~~ja.~~ Evaluate the client's response and the outcome of the delegated act; and take such further action as necessary; and (7-1-96)(\_\_\_\_)

**SUBSECTION 400.04 HAS BEEN MOVED AND RENUMBERED TO SECTION 490.**

~~05b. **Supervision Responsibilities.** When nursing care activities are delegated, the licensed nurse shall determine the degree of supervision required and shall evaluate whether the activity is completed in a manner that meets acceptable outcomes. The degree of supervision shall be based upon the health status and stability of the client, the complexity of the care and the knowledge and competence of the individual to whom the activity is delegated. (7-1-96)(\_\_\_\_)~~

**SECTION 401 HAS BEEN MOVED AND RENUMBERED TO SECTION 460 AND SECTION 460 HAS BEEN MOVED AND RENUMBERED TO SECTION 401.**

**4601. LICENSED PROFESSIONAL NURSE (RN OR REGISTERED NURSE).**

~~In addition to providing hands-on nursing care, licensed professional nurses work and serve in a broad range of capacities including, but not limited to, regulation, delegation, management, administration, teaching, and case management. A licensed professional nurse, may perform independent, dependent, and interdependent functions as defined in these rules. The licensed professional nurse is also referred to as registered nurses or as "RNs." are expected to demonstrate exercise competency in judgment, decision making, implementation of nursing interventions, delegation of functions or responsibilities, and administration of medications and treatments prescribed by legally authorized persons. The interpretation of functions as set forth in the legal definition of licensed professional nurse, Section 54-1402(b)(1), Idaho Code, (Nursing Practice Act) is as follows: (7-1-96)(\_\_\_\_)~~

~~01. **Standards Of Practice.** A licensed professional nurse adheres to the decision-making model set forth in Section 400. (\_\_\_\_)~~

~~02. **Functions.** A partial listing of tasks within the licensed professional nurse's function follows. This listing is for illustrative purposes only, it is not exclusive. The licensed professional nurse: (\_\_\_\_)~~

~~01a. **Assessing The Health Status.** The licensed professional nurse is accountable and responsible for assessing and evaluating Assesses the health status of individuals and groups by: and (11-28-84)(\_\_\_\_)~~

~~a. *Collecting objective and subjective data from observations, examinations, interviews, and written records in an accurate and timely manner. The data includes, but is not limited to:* (7-1-93)~~

~~i. *Biophysical and emotional status;* (11-28-84)~~

~~ii. *Growth and development;* (7-1-96)E~~

~~iii. *Cultural, religious and socio-economic background;* (11-28-84)~~

~~iv. *Family health history;* (11-28-84)~~

~~v. *Information collected by other health team members;* (11-28-84)~~

~~vi. *Knowledge and perception about health status and potential, or maintaining health status gathered from client, family and others;* (7-1-96)~~

~~vii. *Ability to perform activities of daily living;* (11-28-84)~~

~~viii. *Patterns of coping and interacting;* (11-28-84)~~

~~ix. *Consideration of client's health goals and discharge needs;* (7-1-96)~~

~~x. *Environmental factors (e.g., physical, social, emotional and ecological); and* (11-28-84)~~

~~xi. *Available and accessible human and material resources.* (11-28-84)~~

~~b. *Interpreting the data, determining the interrelationships and the significance of the data to the client's health status and treatment regimen.* (7-1-96)~~

- ~~e. Recording and reporting the data. (7-1-91)~~
- ~~d. Validating, refining and modifying the data by using available resources including interactions with the client, family, health team members, and others. (7-1-96)~~
- ~~e. Conducting screening to indentify deviations from normal and referring deviations from normal for further evaluation and follow-up. (7-1-96)L~~
- ~~02b. **Identifying Health Care Problems That Are Amenable to Nursing Intervention.** The licensed professional nurse is accountable and responsible for utilizing Utilizes data obtained by assessment to identify and document nursing diagnoses which serve as a basis for the strategy plan of nursing care; and (7-1-91)(\_\_\_\_)~~
- ~~03c. **Establishing Goals And Client Outcomes.** The licensed professional nurse is accountable and responsible for collaborating Collaborates with the elient patient, family, and health team members; and others in; and (7-1-96)(\_\_\_\_)~~
- ~~a. Identifying present and predicted needs of the client. (7-1-96)~~
- ~~b. Establishing realistic and measurable short and long term goals or outcomes to meet identified health care needs. (7-1-96)~~
- ~~04. **Planning a Strategy Of Care And Prescribng Nursing Interventions.** The licensed professional nurse is accountable and responsible for: (11-28-84)~~
- ~~a. d. Prescribng nursing care by developing and documenting Develops and documents a plan for nursing intervention based on assessment, analysis of data, identified nursing diagnoses and elient patient outcomes. This includes; and (7-1-96)(\_\_\_\_)~~
- ~~i. Recognizing, understanding, respecting and incorporating into the plan of care, the client's cultural and ethnic background, spiritual needs, values and beliefs, and the client's right of choice. (7-1-96)~~
- ~~ii. Identifying measures to maintain hygiene and comfort, to support human functions and responses, and to maintain an environment conducive to safety and health. (11-28-84)~~
- ~~iii. Determining client's educational and counseling needs to promote, maintain and restore health. (7-1-96)~~
- ~~iv. Identifying community resources as appropriate for referral and continued care. (7-1-91)~~
- ~~v. Determining priority needs in collaboration with the client. (7-1-96)~~
- ~~b. Reviewing and revising the plan of nursing care as necessary. (7-1-91)~~
- ~~05c. **Implementing The Strategy Of Care.** The licensed professional nurse ~~is~~ accountable and responsible for ~~the~~ implementation of ~~the~~ planned ~~of~~ and prescribed nursing care ~~by;~~ and (7-1-93)(\_\_\_\_)~~
- ~~a. Initiating care, giving direct care, assisting with care, coordinating care, or delegating care to qualified persons who may include family members and others. (7-1-96)~~
- ~~b. Exercising judgment when executing nursing and medical regimen to assure that the medical orders and nursing orders are accurate, that there are no documented contraindications to carrying out the orders and that the medical orders are properly authorized. Medication and treatment orders received from physicians in bordering states may be administered. (7-1-96)L~~
- ~~e. Administering medication through a variety of routes (oral, topical, rectal, parenteral) as prescribed by those health care providers authorized to prescribe medications, based on knowledge, rationale,~~

~~purpose and their effects. (See Subsections 400.01.a. through 400.01.f.) (7-1-96)L~~

~~i. Administration of medication may include but is not limited to: intravenous diagnostic agents, intravenous chemotherapy, epidural/intrathecal analgesia, continuous subcutaneous narcotics; medication through chest tubes, ventricular shunts, tumor catheters, intercostal catheters; topical cervical gels, injection of wounds with local anesthetics for cleansing, and programming pumps. (7-1-96)~~

~~ii. Provision of medication includes but is not limited to: providing medications according to Board-approved protocols. (7-1-96)~~

~~iii. Medication orders must be obtained from legally authorized prescribers; labels on prescription containers do NOT constitute authorized orders. (7-1-96)~~

~~d. Administering treatments and performing procedures as prescribed by those health care providers authorized to prescribe those treatments based on documented knowledge, rationale, purpose and their effects: (See Subsections 400.01.a. through 400.01.f.) (7-1-96)L~~

~~i. Insertion of various lines and tubes including but not limited to: enteral feeding tubes, weighted gastric tubes, infant/pediatric intraosseous lines, peripherally inserted central or midline catheters, umbilical catheters, fetal monitoring electrodes with amniotomy, radial arterial catheters, and reinsertion of preexisting catheters and tubes with established tracts. (7-1-96)L~~

~~ii. Removal of various lines and tubes including but not limited to: epidural catheters, fetal scalp electrodes, and arterial sheath. (7-1-96)~~

~~iii. Ordering tests based on protocols including but not limited to: laboratory tests, and radiographic confirmation of placement of nasogastric tubes. (7-1-96)L~~

~~iv. Applying casts, performing instrument debridement of non-viable tissue, obtaining amniotic fluid volume index measurements and providing specialized foot care. (7-1-96)L~~

~~e. Providing education and counseling to clients and their significant others to facilitate accomplishment of immediate and long-term goals and outcomes: (7-1-96)L~~

~~i. Assess ability of the client to comprehend instruction. (7-1-96)~~

~~ii. Provide instruction to include return demonstration and action to take in an emergency. (7-1-96)~~

~~f. Monitoring health status parameters including hemodynamic, cardiac and electroencephalogram, and progression toward established outcomes to include on-going responses to treatments, medication, and intravenous therapy: (7-1-96)~~

~~g. Determining necessary care through triage and making other clinical judgments and decisions regarding client's status for the purpose of modifying care as indicated. (7-1-96)~~

~~h. Documenting nursing interventions, responses to care, modification of care, education and counseling. (7-1-96)~~

~~i. Communicating nursing interventions and responses to care to other members of the health team. (7-1-91)~~

~~06. **Authorizing Nursing Interventions.** The licensed professional nurse is accountable and responsible for: (11-28-84)~~

~~a. Assuring implementation of planned and prescribed care. (7-1-96)~~

~~b. Assigning specific duties to licensed practical nurses, technicians, and unlicensed assistive~~

~~personnel in accordance with Board rules. The licensed professional nurse may perform all functions of the licensed practical nurse, unlicensed assistive personnel and technicians.~~ (7-1-96)

~~07f.~~ Maintaining safe and effective nursing care. ~~The licensed professional nurse is accountable and responsible for~~ by: (11-28-84)(\_\_\_\_)

~~a.i.~~ Maintaining a safe environment; and (7-1-91)(\_\_\_\_)

~~b.ii.~~ Evaluating ~~a client's~~ patient status and instituting appropriate therapy or procedures which might be required in emergency situations to stabilize ~~a client's~~ the patient's condition or prevent serious complications in accordance with standard procedures established by the policy-making body in the health care setting, including but not limited to administration of intravenous drugs and starting intravenous therapy based on protocols if the ~~client~~ patient has been assessed and determined to be in peril; and (7-1-96)L(\_\_\_\_)

~~c.iii.~~ Acting as a ~~client~~ patient's advocate; and (7-1-96)(\_\_\_\_)

~~d.iv.~~ Applying principles of asepsis and infection control and universal ~~precautions~~ standards when providing nursing care; and (7-1-96)(\_\_\_\_)

~~e.~~ ~~Functioning as the circulating nurse in the operating room.~~ (7-1-91)

~~f.v.~~ ~~Accepting~~ Implementing orders for medications and treatments ~~initiated~~ issued by an authorized prescriber; and (7-1-96)(\_\_\_\_)

~~g.vi.~~ Providing ~~advice to clients via telecommunication~~ information and making recommendations to patients and others in accordance with ~~agency employer~~ agency approved documents for first aid or self-care and recognized community resources; and (7-1-96)(\_\_\_\_)

~~08.~~ ~~**Functions That May Not Be Performed.** The licensed professional nurse may NOT:~~ (7-1-96)

~~a.~~ ~~Perform deliveries of babies if not certified as a nurse midwife.~~ (7-1-96)

~~b.~~ ~~Perform anesthesia care services if not registered as a nurse anesthetist.~~ (7-1-96)

~~c.~~ ~~Function routinely with organized pre-hospital emergency services if not certified as an emergency medical technician.~~ (7-1-96)

~~d.~~ ~~Perform any acts of surgery except as set forth in Section 490 of these rules.~~ (7-1-96)L

~~09g.~~ ~~**Evaluating Responses To Interventions.** Utilizing~~ Utilizes identified goals and outcomes; ~~the licensed professional nurse is accountable and responsible for:~~ to evaluate responses to interventions; and (7-1-96)(\_\_\_\_)

~~a.~~ ~~Determining the data to be collected to evaluate progress toward achievement of outcomes of care.~~ (7-1-96)

~~b.~~ ~~Documenting and communicating evaluation data appropriately.~~ (11-28-84)

~~c.~~ ~~Evaluating the responses of individuals or groups to nursing interventions and involving the client, appropriate health team members and others in the evaluation process.~~ (7-1-96)

~~d.~~ ~~Revising the plan of care and prescribing changes in interventions.~~ (7-1-96)

~~12h.~~ ~~**Collaborating With Other Health Professionals.** The licensed professional nurse is accountable and responsible for:~~ Collaborates with other health professionals by: (11-28-84)(\_\_\_\_)

~~a.i.~~ Communicating significant changes in a ~~client's~~ patient's status or responses to ~~therapy~~ and

~~nursing intervention to~~ appropriate health team professionals; ~~and~~ (7-1-96)(\_\_\_\_)

~~bii.~~ Coordinating the plan of care ~~as appropriate~~ with other health team professionals ~~in order to provide optimum client care;~~ ~~and~~ (7-1-96)(\_\_\_\_)

~~eiii.~~ Consulting with nurses and other health team members as necessary ~~to meet the client's identified health care needs;~~ ~~and~~ (7-1-96)(\_\_\_\_)

~~10i.~~ ~~Teaching The Theory And Practice Of Nursing.~~ ~~The licensed professional nurse is accountable and responsible for:~~ Teaches the theory and practice of nursing; ~~and~~ (7-1-96)(\_\_\_\_)

~~a.~~ ~~Teaching nursing theory and its application in organized educational programs.~~ (7-1-96)

~~bj.~~ Facilitatings, mentorings and guidings the practice of nursing formally and informally in practice settings. (7-1-96)(\_\_\_\_)

~~11.~~ ~~Managing The Practice Of Nursing.~~ (7-1-96)

~~403.~~ **Chief Administrative Nurse.** A licensed professional nurse functioning as chief administrative nurse is accountable and responsible for: (7-1-96)(\_\_\_\_)

~~ia.~~ Prescribing, directing and evaluating the quality of nursing services including but not limited to staff development and quality improvement; ~~and~~ (7-1-96)

~~ib.~~ Assuring that organizational policies and procedures, job descriptions and standards of nursing practice conform to the Nursing Practice Act and Nursing Practice Rules; ~~and~~ (7-1-96)

~~ic.~~ Assuring that the knowledge, skills and abilities of nursing care staff are assessed and that nursing care activities do not exceed the legally defined boundaries of practice; ~~and~~ (7-1-96)

~~id.~~ Assuring that documentation of all aspects of the nursing organization is maintained. (7-1-96)

~~404.~~ **Management Role.** A licensed professional nurse functioning in a management role shall be accountable and responsible for: (7-1-96)(\_\_\_\_)

~~ia.~~ The quality and quantity of nursing care provided by nursing personnel under his supervision; ~~and~~ (7-1-96)(\_\_\_\_)

~~ib.~~ Managing and coordinating nursing care in accordance with established guidelines for delegation; ~~and~~ (7-1-96)(\_\_\_\_)

~~ic.~~ Providing leadership in formulating, interpreting, implementing, and evaluating the objectives and policies of nursing practice. (7-1-96)

**4902. LICENSED PROFESSIONAL NURSE FUNCTIONING IN SPECIALITY AREAS.**

A licensed professional nurse may carry out functions beyond the basic educational preparation under certain conditions. (7-1-96)

**01. Conditions For Licensed Professional Nurses Functioning In Speciality Practice Areas.** ~~The A~~ licensed professional nurse ~~may carry out functionings~~ beyond ~~basic~~ the educational preparation ~~shall~~ described in Sections 600 through 682 when the nurse: (7-1-96)(\_\_\_\_)

~~a.~~ In addition to completion of the curriculum requirements of Sections 600 through 682, has completed any organized program of study and supervised clinical practice which prepares him to carry out those functions specific education, training, and supervised practice as may be required in the Nursing Practice Act or rules; ~~and~~ (7-1-96)(\_\_\_\_)

- b. Conforms to recognized standards for practice of the specialty; and (7-1-96)( )
- c. Follows written protocols approved by medical staff, nursing administration, and the employing agency administration. (7-1-96)( )

**02. ~~Flight/Transport Nurse~~ Recognized Specialty Practice Areas. Additional education, training, and practice: (7-1-96)( )**

a. Flight/Transport Nurse. A flight/transport nurse is a licensed professional nurse who provides critical care services with an ~~organized~~ duly licensed transporting agency. ~~Critical care services include intensive care, cardiac care, pre-hospital, maternal high risk, neonatal and pediatric populations. The flight/transport nurse must be able to evaluate rapidly changing physiological conditions and act immediately and appropriately in an independent, unsupervised setting.~~ (7-1-96)( )

~~bi.~~ Basic qualifications include at least two (2) years (four thousand (4,000) hours) of critical care nursing experience in the specialty area pertinent to the type of service being provided. ( )

~~ii.~~ Licensed professional nurses who regularly provide care in the pre-hospital setting must maintain emergency medical technician credentialing. ( )

~~iii.~~ Individual educational requirements commensurate with the specialty care being provided may include, but are not limited to: Neonatal Resuscitation Program ("NRP"), Advanced Cardiac Life Support (ACLS), Pediatric Advanced Life Support (PALS), Trauma Nurse Core Curriculum (TNCC) or Flight Nurse Advanced Trauma Course (FNATC) and radio communications. ( )

~~iv.~~ Flight nurses must also have course work in flight physiology, aircraft safety and survival. ( )

~~v.~~ A flight/transport nurse must have received a minimum of forty (40) hours of supervised clinical experience before functioning independently. (7-1-96)( )

~~e.~~ *In addition to functions authorized for a licensed professional nurse, the flight/transport nurse may perform acts including but not limited to: endotracheal intubation; insertion of arterial, central and intraosseous lines; cricothyrotomy; chest tube insertion and escharotomy. Maternal transport nurses may perform midline episiotomies with repairs to be done by a physician. Neonatal transport nurses may insert umbilical arterial and venous catheters.* (7-1-96)

~~03h.~~ Surgical First Assistants. (7-1-96)

~~a.~~ A surgical first assistant is a licensed professional nurse who, under direct supervision, assists the operating surgeon. (7-1-96)( )

~~b.~~ *In addition to professional nurse licensure, the surgical first assistant in the operating room must have demonstrated proficiency in scrub and circulator functions as well as knowledge of surgical anatomy and operative techniques and safety hazards in the operative field. Formal course work and clinical experience must also be commensurate with the standards specified by a national specialty organization recognized by the Board of Nursing. First assistant functions should be delineated by the employing agency.* (7-1-96)

~~ei.~~ *Under the direct supervision of the operating surgeon, the licensed professional nurse first assistant in the operating room may perform acts including but not limited to: tissue handling (maneuvering tissue with instruments), providing exposure (retracting, keeping the field clear), using instruments, suturing skin and subcutaneous tissue and providing hemostasis. Nurses acting as surgical first assistants may not concurrently serve as a scrub or instrument nurse.* ( )

~~ii.~~ *The Δ licensed professional nurse first surgical assistant in cardiovascular surgery may harvest saphenous veins after completing additional Board-approved educational instruction acceptable to the board and supervised practice, ~~and~~ under direct supervision of the operating ~~surgeon~~ physician.* (7-1-96)( )



~~402. -- 449. (RESERVED).~~

~~450. ADDITIONAL LICENSED PRACTICAL NURSE FUNCTIONS.~~

~~Licensed Practical Nurses may perform additional functions provided. (7-1-96)~~

~~01. Educational Program. The licensed practical nurse has received classroom instruction and supervised clinical practice in the basic education program or through a program approved by the Board of Nursing and administered through the State Board for Vocational Education. (7-1-96)~~

~~02. Additional Functions. The additional functions may include: (7-1-96)~~

~~a. Charge nurse responsibilities in a nursing home facility in accordance with state facility licensure requirements. (7-1-91)~~

~~b. Performing vein punctures to start an intravenous infusion on upper extremities by needle or catheter no longer than one and one-half (1-1/2) inches in length. (7-1-96)~~

~~c. Performing the following for a stable client with a long-term central venous access catheter: hang containers of unmedicated solutions or medicated solutions premixed by a pharmacy, obtain blood samples, hang blood products, change dressings, change intravenous tubing, adjust drip rates and flush lines. (7-1-96)~~

~~451-459. (RESERVED).~~

**SECTION 460 HAS BEEN MOVED AND RENUMBERED TO SECTION 401.**

**40160. LICENSED PRACTICAL NURSE (LPN).**

~~The licensed practical nurses function in dependent roles. Licensed practical nurses, also referred to as LPNs, provides nursing care at the direction delegation of a licensed professional nurse, licensed physician, or licensed dentist and under pursuant to guidelines rules established by the Board of Nursing and the employing agency. The stability of the patient's environment, and the patient's clinical state, and the predictability of the client outcome determine the degree of direction and direct supervision that must be provided to the licensed practical nurse. ( )~~

~~01. Standards. The licensed practical nurse shall be personally accountable and responsible for all actions taken in carrying out nursing activities and adheres to the decision-making model set forth in Section 400. ( )~~

~~02. Functions. The interpretation of functions as set forth in A partial listing of some of the functions that are included within the legal definition of licensed practical nurse, Section 54-1402(b);(23), Idaho Code, (Nursing Practice Act) is as follows: This list is for example only, it is not complete. The licensed practical nurse: (7-1-96)( )~~

~~01a. Contributing To The Assessment Of Health Status. The licensed practical nurse contributes to the assessment of health status by collecting, reporting and recording objective and subjective data. Data collection includes: and (7-1-96)( )~~

~~a. Obtaining a health history. (7-1-91)~~

~~b. Making systematic observations to identify deviations from normal. (7-1-91)~~

~~c. Identifying signs and symptoms of change in behavior or condition. (7-1-91)~~

~~d. Identifying need for immediate nursing intervention based upon data collected. (7-1-91)~~

~~02b. Participating In The Development And Modification Of Care. The licensed practical nurse participates in the development and modification of the strategy plan of care by: and (7-1-93)( )~~

~~a. Recognizing, understanding, and respecting the client's cultural background, spiritual needs, values and beliefs, and right of choice. (7-1-96)~~

~~b. Identifying common, recurrent health problems. (7-1-91)~~

~~c. Identifying priority needs. (7-1-91)~~

~~d. Identifying major short and long term goals or outcomes. (7-1-96)~~

~~e. Identifying measures to maintain hygiene and comfort, to support human functions, to maintain an environment conducive to safety and well-being, and to provide health instruction. (7-1-91)~~

~~f. Utilizing data collected to assist in the development of the plan of nursing care. (7-1-91)~~

~~03c. **Implementing Aspects Of The Strategy Of Care.** The licensed practical nurse i~~ Implements aspects of the ~~strategy plan~~ of care by: ~~and~~ (7-1-93)(\_\_\_\_)

~~a. Providing direct physical care and comfort measures and emotional support for clients whose conditions are stabilized or predictable. (7-1-96)~~

~~b. Providing care under the direct supervision of the licensed professional nurse, licensed physician or licensed dentist, for clients whose conditions are complex or unstable. (7-1-96)~~

~~c. Assisting the client in activities of daily living and assisting the client in assuming responsibility for self-care. (7-1-96)~~

~~d. Assisting with the rehabilitation of clients through knowledge and application of principles of supportive therapy and of prevention of deformities, such as the normal range of motion exercises, body mechanics and body alignment. (7-1-96)~~

~~e. Providing an environment conducive to safety and health. (11-28-84)~~

~~f. Assisting with client teaching. (7-1-96)~~

~~g. Administering prescribed medications through a variety of routes (except by intravenous push), including but not limited to allergy injections and continuous subcutaneous administration of narcotics after client stabilization. (7-1-96)~~

~~h. Providing prescribed treatments and procedures as are taught in Board approved curriculum for practical nurses, including but not limited to: (7-1-96)~~

~~i. Inserting, monitoring and caring for various lines and tubes including but not limited to: gavage feeding (including infants), nasogastric tubes, reinsertion of gastrostomy and suprapubic catheters with established tracts and nasotracheal or tracheal tube suctioning. (7-1-96)~~

~~ii. Removing drains and packing, sutures/elips/staples, casts, and Gomco clamps in circumcisions. (7-1-96)~~

~~iii. Performing a variety of procedures including but not limited to: application of monitoring equipment, recording of readings and hemodialysis or peritoneal dialysis. (7-1-96)~~

~~i. Monitoring responses to medication, intravenous therapy and treatments. (7-1-96)~~

~~j. Performing peripheral intravenous therapy functions as follows: (7-1-96)~~

~~i. Observing, monitoring, reporting and documenting the status of intravenous sites and taking~~

~~appropriate action to minimize or prevent intravenous complications. (7-1-96)~~

~~ii. Hanging containers of medicated or unmedicated intravenous solutions which are commercially prepared or pre-mixed by pharmacy, hanging blood or blood derivatives, inserting analgesic cartridges and programming and monitoring patient controlled analgesia pumps and performing autoinfusion. (7-1-96)~~

~~iii. Calculating and maintaining flow rates, adjusting the drip rates on intravenous infusions and pumps, filling solusets and volume controls, changing intravenous tubing, converting an intravenous infusion to a heparin/saline lock, flushing lines and setting up and managing syringe pump infusions. (7-1-96)~~

~~iv. Performing veinpunctures to draw blood. (7-1-96)~~

~~v. Discontinuing intravenous infusions. (7-1-96)~~

~~k. Documenting nursing interventions and responses to care. (11-28-84)~~

~~l. Communicating nursing interventions and responses to care to appropriate members of the health team. (11-28-84)~~

~~m. Executing the legal orders of a health care provider authorized to prescribe medications based on requisite knowledge of the cause and effect of the order. This includes verifying that the order is accurate, and that there are no documented contraindications to carrying out the order. (7-1-93)~~

~~n. Carrying out those duties that may be performed by unlicensed assistive personnel. (7-1-96)~~

~~**04. Functions That May Not Be Performed.** The licensed practical nurse may NOT: (7-1-96)~~

~~a. Hang or adjust drip rates on chemotherapy or oxytocic solutions or titrated or continuously monitored medicated intravenous solutions. (7-1-96)~~

~~b. Administer any medication by intravenous push. (7-1-91)~~

~~c. Perform physical examinations for screening purposes. (7-1-96)~~

~~d. Function routinely with organized pre-hospital emergency services if not certified as an emergency medical technician. (7-1-96)~~

~~e. Serve as circulating nurse in the operating room. (7-1-96)~~

~~**05d. Maintaining Safe And Effective Nursing Care.** The licensed practical nurse ~~m~~ Maintains safe and effective nursing care by: and (7-1-93)(\_\_\_\_)~~

~~a. Consulting with a licensed professional nurse or other appropriate sources and seeking guidance as necessary. (7-1-93)~~

~~b. Initiating appropriate standard emergency procedures established by the agency or institution until a licensed professional nurse, licensed physician or licensed dentist is available, including but not limited to defibrillation and use of a bag valve mask in an emergency. (7-1-96)~~

~~e. Applying principles of asepsis, infection control and universal precautions when performing nursing care measures. (7-1-96)~~

~~d. Serving as a scrub nurse/technician in the operating room with proper training. (7-1-96)~~

~~e. Participating in the development, revision, and implementation of policies and procedures. (11-28-84)~~

- ~~f. Maintaining a safe environment. (6-11-93)~~
- ~~g. Accepting orders for medications and treatments initiated by an authorized prescriber. (7-1-96)~~
- ~~h. Providing home, school or community nursing care services only under the direction and supervision of a licensed professional nurse. (7-1-96)~~
- ~~i. Providing surgical recovery room care with licensed professional nurse assessment of the client on admission and prior to discharge from the recovery area. (7-1-96)~~
- ~~06g. **Participating In The Evaluation Of Responses To Interventions.** The licensed practical nurse participates in the evaluation of responses to interventions by: and (7-1-93)( )~~
- ~~a. Documenting and communicating to appropriate members of the health team outcomes of care given to individuals or groups. (11-28-84)~~
- ~~b. Assisting with collection of evaluation data. (11-28-84)~~
- ~~c. Collaborating with the health team in revision of the plan of nursing care. (7-1-91)~~
- ~~f. Fulfills charge nurse responsibilities in health care facilities as allowed by state and federal law; and ( )~~
- ~~g. Delegates to others as allowed by application of the decision-making model; and ( )~~
- ~~h. Accepts delegated assignments only as allowed by application of the decision-making model. ( )~~

**(BREAK IN CONTINUITY OF SECTIONS)**

**SECTION 490 HAS BEEN MOVED AND RENUMBERED TO SECTION 402**

**SUBSECTION 400.04 HAS BEEN MOVED AND RENUMBERED TO SECTION 490**

**0490. UNLICENSED ASSISTIVE PERSONNEL (UAP).**

The term unlicensed assistive personnel, also referred to as "UAP," is used to designate unlicensed personnel employed to perform nursing care services ~~for the ill, injured, handicapped or disabled when authorized/delegated at~~ under the direction and supervision of licensed nurses ~~in hospitals, nursing homes, private homes and other health care agencies and settings where health care is needed or performed. In the public or private school setting, unlicensed assistive personnel may also include, but are not limited to, teachers, secretaries, administrators and teacher aides.~~ The term unlicensed assistive personnel ~~additionally also~~ includes ~~other~~ licensed or credentialed health care workers whose job responsibilities extend to ~~client~~ health care services beyond their usual and customary roles and which activities are provided under the direction and supervision of licensed nurses. (7-1-96)( )

**001. Not A Substitute For The Licensed Nurse.** Unlicensed assistive personnel may complement the licensed nurse in the performance of nursing functions, but may not substitute for the licensed nurse; unlicensed assistive personnel may not redelegate a delegated act. (7-1-96)( )

**002. Delegation.** The nursing care tasks that may be ~~authorized/delegated~~ to unlicensed assistive personnel shall be stated in writing in the practice setting ~~and shall not exceed the functions authorized by the Board. The employing agency shall verify completion of training. Unlicensed assistive personnel shall be personally accountable and responsible for all actions taken in carrying out the activities delegated to them.~~ Decisions

concerning delegation will be determined in accordance with the provisions of Section 400. (7-1-96)( )

**03. Training.** The following training requirements apply to all unlicensed assistive personnel. The training program shall: ( )

**a.** Include written objectives which describe the expected outcomes for the learner and which can be evaluated by written or oral examination and by clinical demonstration of competency or application; and ( )

**b.** Incorporate learning experiences appropriate to the stated objectives; and ( )

**c.** ~~The following functions may be performed:~~ Be conducted by licensed professional nurses and other licensed health professionals, including, but not limited to, physicians, pharmacists, psychologists, social workers, and dieticians; and (7-1-96)( )

**i.** ~~Unlicensed assistive personnel may be delegated normal activities of daily living, such as bathing, dressing, grooming, oral hygiene, hair and skin care, preparation of food, oral feeding, ambulation and body movement, elimination and maintenance of a safe environment after on-the-job orientation and prior to completion of Board-approved training.~~ (7-1-96)

**ii.** ~~Unlicensed assistive personnel who have completed a Board-approved formal training program, or who are exempted from training, may be delegated such other functions included in the Board-approved curriculum for unlicensed assistive personnel.~~ (7-1-96)

**d.** ~~Unlicensed assistive personnel may be delegated additional functions as approved by the Board, provided classroom instruction and supervised clinical practice have been obtained in a training program approved by the Board.~~ Include an evaluation mechanism to determine the effectiveness of the program; and (7-1-96)( )

**SUBSECTION 400.04.e. HAS BEEN MOVED AND RENUMBERED TO 490.06**

**e.** Address the general unlicensed assistive personnel curriculum content areas set forth in Subsection 681.04.h. ( )

**04. Nurse Aide Registry.** In addition to the foregoing training requirements, UAP desiring placement on the Nurse Aide Registry must comply with the requirements set forth in Sections 600 through 681. ( )

**05. Assistance With Medications.** Where permitted by law, After completion of a Board-approved training program, unlicensed assistive personnel in ~~a non-institutional~~ care settings may assist ~~the~~ clients who cannot independently self-administer medications, provided that: (7-1-96)( )

**i.** A plan of care has been developed by a licensed professional nurse; and (7-1-96)

**ii.** The act has been delegated by a licensed nurse; and (7-1-96)

**iii.** Written and oral instructions have been given to the unlicensed assistive personnel by a licensed nurse concerning the reason(s) for the medication, the dosage, expected effects, adverse reactions or side effects, and action to take in an emergency; and (7-1-96)

**iv.** The medication is in the original pharmacy-dispensed container with proper label and directions or in an original over-the-counter container or the medication has been removed from the original container and placed in a unit container by a licensed nurse. Proper measuring devices must be available for liquid medication that is poured from a pharmacy-dispensed container. Inventories of narcotic medications must be maintained; and (7-1-96)

**v.** Any medication dosages not taken and the reasons thereof are recorded and reported to appropriate supervisory persons; and (7-1-96)( )

~~vif.~~ Assistance with medication may include: breaking a scored tablet, crushing a tablet, instilling eye, ear or nose drops, giving medication through a pre-mixed nebulizer inhaler or gastric (non nasogastric) tube, assisting with oral or topical medications and insertion of suppositories. (7-1-96)

~~vii.~~ ~~Assistance with medication does not include mixing or compounding of a medication or administration of medication by injection or intravenously or through intermittent positive pressure breathing machines.~~ (7-1-96)

~~e06.~~ **Prohibitions And Limitations.** Unlicensed assistive personnel are prohibited from performing any licensed nurse functions that are specifically defined in Section 54-1402 (b), Idaho Code. ( )

~~a.~~ ~~Additionally, u~~Unlicensed assistive personnel may not be delegated procedures involving acts that require nursing assessment or diagnosis, establishment of a plan of care or teaching, the exercise of nursing judgment, or procedures requiring specialized nursing knowledge, skills or techniques. (7-1-96)( )

~~b.~~ Examples of procedures that should not be delegated to unlicensed assistive personnel include, but are not limited to: ( )

- ~~i.~~ Sterile procedures; and ( )
- ~~ii.~~ Preparation or administration of injections; and ( )
- ~~iii.~~ Start, stop or adjust any IV therapy; and ( )
- ~~iv.~~ Oxygen adjustment without clear direction from a licensed nurse; and ( )
- ~~v.~~ Nasogastric tube feedings or medication administration; and ( )
- ~~vi.~~ Mixing or compounding medications; and ( )
- ~~vii.~~ Prepare, apply or adjust intermittent positive-pressure breathing machines; and ( )
- ~~viii.~~ Assisting with either preparation or administration of non-routine medications; and ( )
- ~~ix.~~ Any act not consistent with Subsection 490.02. ( )

***SUBSECTION 400.03 HAS BEEN MOVED AND RENUMBERED TO SECTION 491***

**~~03491.~~ TECHNICIANS/TECHNOLOGISTS.**

These individuals are not credentialed by regulatory bodies in Idaho and may include, but are not limited to, surgical, dialysis and radiology technicians/technologists, monitor technicians and medical assistants ~~who~~. ( )

**01.** **Functions.** Technicians/technologists may perform limited nursing functions within the ordinary, customary, and usual roles in their fields and are exempted from licensure by the Board of Nursing under Section 54-141~~7~~2, Idaho Code, (Nursing Practice Act), provided they are: (7-1-96)( )

~~a.~~ Enrolled in or have completed a ~~Board-recognized~~ formal training program acceptable to the board; or (7-1-96)( )

~~b.~~ Registered with or certified by ~~appropriate Board-recognized~~ a national ~~bodies; and~~ organization acceptable to the board. (7-1-96)( )

~~e.~~ ~~Employed in a state-licensed or certified health care facility or physician's office.~~ (7-1-96)

**02.** **Supervision.** Technicians/technologists providing basic nursing care services on an organized

nursing unit in an institutional setting must function under the supervision of a licensed professional nurse. A licensed professional nurse shall be responsible for the development of the job description, guidelines/protocols under which the technician/ technologist provides nursing care. (7-1-96)(\_\_\_\_)

~~e. Monitor Technicians. Monitor technicians may provide continuous observation of monitors provided the individual has: (7-1-96)~~

~~i. Completed a Board-approved training program; and (7-1-96)~~

~~ii. Direct supervision of a licensed professional nurse at all times; and (7-1-96)~~

~~iii. No nursing responsibilities concerning a client's cardiac rhythm or status. (7-1-96)~~

~~4942. -- 599. (RESERVED).~~

**(BREAK IN CONTINUITY OF SECTIONS)**

**631. ADMINISTRATION OF EDUCATIONAL PROGRAM.**

**01. Program Preparing Unlicensed Assistive Personnel.** The educational program shall be administered by ~~the State Division of Professional Technical Education in accredited~~ an educational institutions accredited by an organization recognized by the United States Department of Education. (4-5-00)(\_\_\_\_)

**02. Programs Preparing Practical Nurse, Professional Nurse, And Advanced Practice Professional Nurse.** (4-5-00)

**a.** The educational program in nursing shall be an integral part of an accredited institution of higher learning. (4-5-00)

**b.** There shall be an institutional organizational design that demonstrates the relationship of the program to the administration and to comparable programs within the institution, and that clearly delineates the lines of authority, responsibility, and channels of communication. The program faculty are given the opportunity to participate in the governance of the program and the institution. (4-5-00)

**i.** Qualifications, rights, and responsibilities of faculty are addressed in written personnel policies which are consistent with those of the parent institution as well as those of other programs within the institution. (4-5-00)

**ii.** Faculty work loads shall be consistent with responsibilities identified in Section 644. (4-5-00)

**c.** The program must have an organizational design with clearly defined authority, responsibility, and channels of communication that assures both faculty and student involvement. (4-5-00)

**d.** Administrative responsibility and control shall be delegated to the nursing education administrator by the parent institution. (4-5-00)

**e.** The program must have a written purpose that is consistent with the mission of the institution. The program must have written policies that are congruent with the institution's policies and are periodically reviewed. (4-5-00)

**(BREAK IN CONTINUITY OF SECTIONS)**

**681. CURRICULUM REQUIREMENTS FOR NURSING EDUCATION PROGRAMS.**

**01. General Curriculum.** The curriculum for licensed practical nurses, professional nurses, and advanced practice professional nurses shall: (4-5-00)

- a. Be planned, implemented, and evaluated by the faculty with provisions for student input; and (4-5-00)(\_\_\_\_)
- b. Reflect the mission and purpose of the nursing education program; and (4-5-00)(\_\_\_\_)
- c. Be organized logically and sequenced appropriately; and (4-5-00)(\_\_\_\_)
- d. Facilitate articulation for horizontal and vertical mobility; and (4-5-00)(\_\_\_\_)
- e. Have a syllabus for each nursing course; and (4-5-00)(\_\_\_\_)
- f. Have written, measurable terminal outcomes that reflect the role of the graduate; and (4-5-00)
- g. Be responsive to changing healthcare environment. (4-5-00)

**02. Curriculum Changes.** Major curriculum changes, as defined in Section 700, must be submitted to the Board for approval prior to implementation. (4-5-00)

**03. Practice Sites.** The program must have sufficient correlated practice experiences to assure development of nursing competencies. (4-5-00)

**04. Unlicensed Assistive Personnel Curriculum:** (4-5-00)

a. The curriculum shall reflect classroom hours and clinical hours sufficient to accomplish stated objectives; and (4-5-00)(\_\_\_\_)

b. Each unit of instruction shall have behaviorally stated objectives; and (4-5-00)(\_\_\_\_)

c. Clinical (skills) experience shall be selected to enable achievement of the defined objectives; and (4-5-00)(\_\_\_\_)

d. Within the identified hours of training, at least sixteen (16) hours of classroom instruction shall be provided prior to direct involvement with a facility resident, and shall include the following topics: communication and interpersonal skills, infection control, safety/emergency procedures, promoting residents' independence, and respecting residents' rights; and (4-5-00)(\_\_\_\_)

~~e. Content that is included in Units 1-3 of the approved curriculum must be taught before the basic care tasks defined in Subsection 400.04 can be done for residents. (4-5-00)~~

~~f. Curriculum must include content and clinical practice in basic nursing skills, personal care skills, mental health and social service needs, basic restorative services, and residents' rights; and (4-5-00)(\_\_\_\_)~~

~~g. Clinical training component. Training programs must use a skills checklist to document students' performance of all skills taught in the program. Upon program completion, a copy of the performance record will be given to the student; and (4-5-00)(\_\_\_\_)~~

~~g. General Unlicensed Assistive Personnel Curriculum. (\_\_\_\_)~~

~~i. Course Content. The course content shall address the following (as appropriate): (\_\_\_\_)~~

~~(1) Related anatomy, physiology, and pathology; and (\_\_\_\_)~~



- (2) Clinical signs, symptoms, and complications; and ( )
- (3) Measures for prevention and intervention; and ( )
- (4) Precautions and related hazards; and ( )
- (5) Emergency measures; and ( )
- (6) Documentation. ( )
- ii. Additional Training. Unless the individual has completed course work in the following areas, the following topics must be addressed in the context of the training: ( )
- (1) Communication and interpersonal skills; and ( )
- (2) Infection control; and ( )
- (3) Universal standards; and ( )
- (4) Safety procedures. ( )
- 05. Practical Nurse Curriculum. The curriculum includes:** (4-5-00)( )
- a.** ~~The curriculum includes~~ Nursing didactic content and practice experience that establish the knowledge base for demonstrating beginning competency; and (4-5-00)( )
- b.** ~~The curriculum includes content necessary to prepare the graduate for practice consistent with defined standards for practice as defined in Section 401; and~~ (4-5-00)
- eb.** ~~The curriculum includes~~ i Integrated, combined or separate coursework from the following academic disciplines and meets requirements for the credential with a major in practical nursing: (4-5-00)( )
- i. Communication and information systems concepts; and (4-5-00)( )
- ii. Behavioral and social science concepts that serve as a framework for understanding growth and development throughout the life cycle, human behavior, interpersonal relationships, and cultural diversity; and (4-5-00)( )
- iii. Physical and biological sciences concepts that help the students gain an understanding of the principles of scientific theory and computation; and (4-5-00)( )
- iv. Nursing concepts that provide the basis for understanding the principles of nursing care and appropriate and sufficient correlated nursing practice experiences to assure development of competencies as a member of the interdisciplinary team; and (4-5-00)( )
- v. Concepts regarding legal, managerial, economic, and ethical issues related to responsibilities of the practical nurse; and (4-5-00)
- vi. Courses to meet the school's general education requirements for the credential awarded. (4-5-00)
- 06. Professional Nurse Curriculum. The curriculum includes:** (4-5-00)( )
- a.** ~~The curriculum includes~~ Nursing didactic content and practice experience that establish the knowledge base for demonstrating beginning competency related to: (4-5-00)( )
- i. Nursing practice; and (4-5-00)( )

- ii. Systems thinking and interdisciplinary team function; and (4-5-00)
- iii. The promotion and restoration of optimal patient health ~~in clients across~~ throughout the lifespan in a variety of primary, secondary and tertiary settings focusing on individuals, groups, and communities. ~~(4-5-00)( )~~
- ~~b. The curriculum includes content necessary to prepare the graduate for practice consistent with defined standards for practice as defined in Section 460; and (4-5-00)~~
- ~~eb. The curriculum includes~~ Integrated, combined or separate coursework from the following academic disciplines and meets requirements for a degree with a major in nursing: ~~(4-5-00)( )~~
- i. Concepts in written and oral communication, values clarification, scientific inquiry, computation, and informatics; and ~~(4-5-00)( )~~
- ii. Behavioral and social sciences concepts that serve as a framework for the understanding of growth and development throughout the life cycle, human behavior, interpersonal relationships, cultural diversity, and economics related to the social context of healthcare; and ~~(4-5-00)( )~~
- iii. Physical and biological sciences concepts that help the student gain an understanding of the principles of scientific theory; and ~~(4-5-00)( )~~
- iv. Arts and humanities concepts that develop the aesthetic, ethical, and intellectual capabilities of the student; and ~~(4-5-00)( )~~
- v. Concepts regarding research, nursing theory, legal and ethical issues, trends in nursing, principles of education and learning, and professional responsibilities; and ~~(4-5-00)( )~~
- vi. Experiences that promote the development of leadership and management skills, interdisciplinary and professional socialization; and (4-5-00)
- vii. Courses to meet the school's general education requirements for the academic degree. (4-5-00)
- 07. Advanced Practice Professional Nursing Program Curriculum. The curriculum includes:** ~~(4-5-00)( )~~
- ~~a. The curriculum includes~~ Content necessary to prepare the graduate for practice consistent with defined standards for advanced nursing practice; and ~~(4-5-00)( )~~
- ~~b. The curriculum shall include~~ Content from nursing and related academic disciplines and meet requirements for a graduate degree with a major in nursing: ~~(4-5-00)( )~~
- i. Advanced theory and research in nursing, biological and behavioral sciences, interdisciplinary education, cultural diversity, economics and informatics sufficient to practice as a graduate prepared professional nurse; and ~~(4-5-00)( )~~
- ii. Legal, ethical, and professional responsibilities of a graduate prepared professional nurse; and ~~(4-5-00)( )~~
- iii. Didactic content and supervised practice experience relevant to the nursing focus of the graduate specialty; and ~~(4-5-00)( )~~
- iv. Courses to meet the school's requirements for the ~~master's~~ graduate degree. ~~(4-5-00)( )~~

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# Bulletin Summary of Proposed Rulemakings

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## PUBLIC NOTICE OF INTENT TO PROPOSE OR PROMULGATE NEW OR CHANGED AGENCY RULES

The following agencies of the state of Idaho have published the complete text and all related, pertinent information concerning their intent to change or make the following rules in the new issue of the state Administrative Bulletin.

### IDAPA 02 – DEPARTMENT OF AGRICULTURE 2270 Old Penitentiary Rd, Boise, ID 83712

**02-0403-0204**, Rules Governing Animal Industry. Provides for certification, inspections, and record keeping for the poultry and ratite industries pursuant to the National Poultry Improvement Plan. Comment by: 10/23/02.

**\*\*02-0403-0205**, Rules Governing Animal Industry. Establishes timeframes and deadlines regarding Trichomoniasis testing and reporting. Comment by: 10/23/02.

**\*\*02-0416-0201**, Rules Governing Agriculture Odor Management. Adds definitions, revises requirements and procedures for design and construction for liquid waste systems. Comment by: 10/23/02.

**\*\*02-0422-0201**, Rules Governing Animal Health Emergencies. New chapter governs procedures, requirements, and the declaration of an animal health emergency in Idaho. Comment by: 10/23/02.

**02-0600-0201**, Notice of Legislative Action. Complies with state law affecting the legal authority of the rules of the Division of Plant Industries; adds required sections. Comment by: 10/23/02.

**02-0606-0201**, Rules Concerning Bacterial Diseases of Beans, *Phaseolus* Species. Repeal of chapter. Comment by: 10/23/02.

**02-0606-0202**, Rules Governing the Planting of Beans, (*Phaseolus*) Species, in Idaho. Rewrite of chapter updates rules and adds late fee for applications received after July 1 of each year. Comment by: 10/23/02.

### IDAPA 05 – DEPARTMENT OF JUVENILE CORRECTIONS PO Box 83720, Boise, ID 83720-0285

**05-0103-0201**, Rules of the Idaho Department of Juvenile Correction Custody Review Board. New chapter implements the operations and procedures of the board as required by law. Comment by: 10/23/02.

### IDAPA 07 – DIVISION OF BUILDING SAFETY 1090 E. Watertower St., Meridian, ID 83642

**07-0301-0201**, Rules of Building Safety – General; **07-0302-0201**, Rules of the Advisory Board; **07-0303-0201**, Rules Governing Manufactured Buildings; **07-0305-0201**, Rules Governing Manufactured Homes; **07-0308-0201**, Rules Governing Commercial Coaches. Changes conform to statutory changes to Idaho Building Code Act under Title 39, Chapter 41, Idaho Code. Comment by: 10/23/02.

**07-0306-0201**, Rules Governing the Use of the Uniform Building Code. Adopts and incorporates by reference the 2000 International Building Code. Comment by: 10/23/02.

**07-0307-0201**, Rules Governing Certification; **07-0310-0201**, Rules Governing the Use of the Life Safety Code. Repeal of chapters. Comment by: 10/23/02.

**07-0307-0202**, Rules Governing Certification. New chapter prescribes the use of the 2000 International Energy

Conservation Code. Comment by: 10/23/02.

**07-0310-0201**, Rules Governing the Use of the International Residential Code. New chapter adopts and incorporates by reference the use of the 2000 International Residential Code. Comment by: 10/23/02.

**07-0312-0201**, Rules Governing Manufactured Home Installations. Changes accommodate new or revised provisions relative to foundations contained within the recently adopted 2000 International Building Code and HUD's Permanent Foundations Guide For Manufactured Housing. Comment by: 10/23/02.

### **IDAPA 08 – IDAHO STATE BOARD OF EDUCATION**

**PO Box 83720, Boise, ID 83720-0037**

08.02.02 - Rules Governing Uniformity: **08-0202-0201** - Requires that technology competency must be demonstrated before being granted a renewed certificate; **08-0202-0202** - Creates a process for out-of-state certificate holders to obtain an interim three-year, nonrenewable certificate in Idaho; **08-0202-0203** - Provides for minimum course standards for teen driver education and separates requirements for commercial and public school programs. Comment by: 10/23/02.

08.02.03 - Rules Governing Thoroughness: **08-0203-0202** - Removes requirement that nonpublic students take state tests at their own expense; designates standards tests be called Idaho Standards Achievement Tests, with distinctions by grade level. **08-0203-0203** - Rules Governing Thoroughness. Removes general statements of opinion in the preamble; makes adjustments to the Humanities standards and removes separate World History category. **08-0203-0204** - Ensures that Language Arts/Communication standards content knowledge and skills are grade appropriate. Comment by: 10/23/02.

### **IDAPA 09 – DEPARTMENT OF LABOR**

**317 W. Main St., Boise, ID 83735**

**09-0104-0201**, Rules of the Benefits Payment Control Bureau. Allows a write-off of minimal overpayment balances when collection costs exceed amount of debt or are overly burdensome administratively and may be excluded. Comment by: 10/23/02.

### **IDAPA 11 – IDAHO STATE POLICE**

**PO Box 700, Meridian, ID 83680-0700**

**11-1101-0201**, Rules of the Idaho Peace Officer Standards and Training Council. Defines "prosecutor"; allows Executive Director to waive less serious misdemeanor convictions; clarifies that rules apply to county juvenile probation officers; establishes the "Patrol-to-Detention Transition Academy"; requires officers challenging the academy to complete courses in Emergency Vehicle Operation, Arrest Techniques, Handgun Retention, and Practical Problems; clarifies requirements for different certifications and for reserve certification; enhances and establishes requirements for certification for communications specialist, Master Instructor, and schools utilizing alternate methods of training delivery. Comment by: 10/23/02.

### **IDAPA 13 – IDAHO FISH AND GAME COMMISSION**

**PO Box 25, Boise, ID 83707**

13-0103-021, Public Use of Lands Owned or Controlled by the Department of Fish and Game. Allows dog training and field trials on some department lands. Comment by: 10/23/02.

**13-0104-0201**, Rules Governing Licensing. Clarifies Landowner Appreciation and Handicapped Motor Vehicle Permit requirements, makes corrections to outfitter allocation tag and deadline. Comment by: 10/23/02.

**13-0107-0201**, Rules Governing the Taking of Upland Game Animals. Biennial season update and proposed closure of pygmy rabbit season. Comment by: 10/23/02.

**13-0109-0201**, Rules Governing the Taking of Game Birds. Annual season adjustments for game bird seasons. Comment by: 10/23/02.

**13-0113-0201**, Rules Governing the Taking of Migratory Birds. Annual season adjustments. Comment by: 10/23/02.

**13-0114-0201**, Rules Governing Falconry in the State of Idaho. Adds required sections; adjusts the falconry season based on the annual upland game and game bird seasons; allows for field training using artificially propagated birds. Comment by: 10/23/02.

**13-0115-0201**, Rules Governing the Use of Dogs. Clarifies the distinction between dog training and field trial permits. Comment by: 10/23/02.

**13-0116-0201**, The Trapping of Predatory and Unprotected Wildlife and the Taking of Furbearing Animals. Biennial adjustment of trapping and furbearer seasons. Comment by: 10/23/02.

**IDAPA 15 – OFFICE OF THE GOVERNOR  
IDAHO COMMISSION ON AGING  
3380 Americana Terrace, Ste. 120, Boise, ID 83706**

**15-0101-0201**, rules Governing Senior Services Program. Amends references to the UAI provisions to provide that the assessment instrument utilized by AAAs will be such assessment instruments that may be approved by the Commission; amend references to the completion of client assessments to clarify that Case Management shall perform such assessments. Comment by: 10/23/02.

**15-0102-0201**, Rules Governing Area Agency Adult Protection Programs. Adds a definition; revises the investigative requirements to provide that AP workers immediately forward reports to the Department of Health and Welfare which are to be initially reported to the Department; revises the duty of AP workers requiring them to make referrals to Law Enforcement in substantiated cases involving serious injury or serious imposition of rights. Comment by: 10/23/02.

**15-0121-0201**, Rules Governing Older American Act Services. Revises the information and assistance services provisions to provide that Area Agencies on Aging rather than service providers shall maintain records required by the Idaho Commission on Aging regarding I&A services provided in their area. Comment by: 10/23/02.

**IDAPA 16 – DEPARTMENT OF HEALTH AND WELFARE  
PO Box 83720, Boise, Id 83720-0036**

**16-0000-0201**, Notice of Legislative Action. Statutory change amended the Social Work Licensing Act and changed the titles of Licensed Certified Social Worker-Private Independent Practice (LCSW-P) to Licensed Clinical Social Worker (LCSW), and Licensed Certified Social Worker (LCSW) to Licensed Masters Social Worker (LMSW). Comment by: 10/23/02.

**16-0205-0201**, Rules Governing Human Immunodeficiency Virus (HIV) Related Services. New chapter guides the planning and disbursement of funds to provide HIV related services to eligible individuals for the federal Ryan White CARE Act and the state supported AIDS Drug Assistance Program (ADAP). Comment by: 10/23/02.

**16-0309-0210**, Rules Governing the Medical Assistance Program. Uses the term “participant” to replace “client” and “patient”; reduces the cost of nursing visits by leaving the decision for a review visit to a participant up to the professional judgment of the Regional Medicaid Services program; clarifies how a Personal Needs Allowance is determined. Comment by: 10/23/02.

**\*\*16-0309-0211**, Rules Governing the Medical Assistance Program. Changes maintain consistency of provider qualifications for Intensive Behavioral Intervention services delivered either through a school district or a developmental disabilities agency. Comment by: 10/23/02.

**16-0314-0201**, Rules and Minimum Standards for Hospitals in Idaho. Changes make rule consistent with the current national standards for hospital care and conform to federal regulations; The time frame requirement for hospitals to take a medical history and perform a physical examination is being expanded to no more than seven (7) days before or forty-eight (48) hours after hospital admission. Comment by: 10/23/02.

**16-0322-0201**, Rules for Licensed Residential and Assisted Living Facilities in Idaho. Changes conform to statutory changes; add "or authorized provider" to all sections which refer to a physician; update definitions; make updates regarding: inspection of facilities, unannounced inspections, resident's rights, administrator qualifications, negotiated service agreement, resident's records, menu planning, modified or therapeutic diets, and building construction and physical standards. Comment by: 10/23/02.

**\*\*16-0411-0201**, Rules Governing Developmental Disabilities Agencies. Clarifies provider qualifications for Intensive Behavioral Intervention certified providers who deliver services through a Developmental Disabilities Agency (DDA). Comment by: 10/23/02.

**IDAPA 17 – IDAHO INDUSTRIAL COMMISSION**  
**PO Box 83720, Boise, ID 83720-0043**

**17-0701-0201**, Safety Rules for Elevators, Escalators, and Moving Walks. Proposed that an owner shall hire a qualified elevator inspector of their choice, provide written notice to the Division of Building Safety of any new installations or any major alteration or repairs to be made to existing equipment installations and receive a state registration number from the Division of Building Safety to be permanently affixed to the equipment for which the notice was submitted; excepting installations or any major alteration or repairs in public schools and in state owned or occupied buildings where a Division of Building Safety inspector will witness inspections. The proposed rule changes include the addition of general requirements for emergency communications and records of oil loss for hydraulic cylinders buried in the ground. Comment by: 10/23/02.

**IDAPA 19 – IDAHO STATE BOARD OF DENTISTRY**  
**708½ W. Franklin St., Boise, ID 83702**

**19-0101-0201**, Rules of the Idaho State Board of Dentistry. Requires CPR certification for initial licensure and renewal for dentists, dental specialists and dental hygienists; makes mandatory and increases the administrative fee for anesthesia permit applications, renewals and reinstatements to \$300; specifies that the duration of a provisional license cannot exceed 1 year; requires American Board dental specialty certification as of the date of application for specialty licensure in Idaho; requires advance training in anesthesiology within five (5) years of application for an anesthesia permit with identified exceptions; to correct a citation; and to provide for reinstatement of anesthesia permits. Comment by: 10/23/02.

**IDAPA 21 – IDAHO DIVISION OF VETERANS SERVICES**  
**320 Collins Rd., Boise, ID 83702**

**21-0101-0201**, Rules Governing Admission, Residency, And Maintenance Charges in Idaho State Veterans Homes and Division of Veterans Services Administrative Procedure. Clarifies certain nursing care eligibility requirements for admission to Idaho State Veterans Homes and changes the requirement that nursing care residents pay a \$100 security deposit. Comment by: 10/23/02.

**21-0102-0201**, Rules Governing Emergency Relief for Veterans. Clarifies who is eligible to receive Division emergency grants; changes certain eligibility requirements; provides the administrator of the Division with authority to waive certain emergency grant requirements; improves fiscal management; and clarifies who may make requests for reimbursement for state service officer training. Comment by: 10/23/02.

**21-0103-0201**, Rules Governing Medicaid Qualified Units in Idaho State Veterans Homes. Changes requirement that all veterans homes must charge the same and to provide a mechanism whereby veterans homes can write off uncollectable debts. Comment by: 10/23/02.

**21-0104-0201**, Rules Governing the Idaho State Veterans Cemetery. Establishes rules for the operation and maintenance of Idaho's new State Veterans Cemetery. Comment by: 10/23/02.

**IDAPA 22 – IDAHO STATE BOARD OF MEDICINE**  
**PO Box 83720, Boise, Idaho 83720-0058**

**\*\*22-0101-0201**, Rules of the Board of Medicine for Licensure to Practice Medicine and Surgery and Osteopathic Surgery. Defines requirements for continuing education for physicians, specifies the number of hours of education required in a two-year license cycle, identifies acceptable alternatives to continuing education and defines the method of reporting continuing education. Comment by: 10/23/02.

**22-0103-0201**, Rules for the Licensure of Physician Assistants. Updates the physician assistants' scope of practice; tightens the education requirements for a baccalaureate college degree and for the physician assistant program; more clearly defines graduate physician assistants with time limits imposed for completion of requirements for full licensure; addresses supervision of physician assistants who render care during a disaster or emergency. Comment by: 10/23/02.

**22-0105-0201**, Rules Governing Licensure of Physical Therapists and Physical Therapist Assistants. Corrects the term of office of the chairman of the Physical Therapy Advisory Committee; provides clarification regarding applicants who fail the examination and for those who apply for licensure by endorsement; clarifies requirements for reinstating an expired license. Comment by: 10/23/02.

**22-0109-0201**, Rules for the Licensure of Occupational Therapists and Occupational Therapists Assistants. Adds required sections; clarifies requirements for licensure and the fees required for reinstatement of inactive to active licensure; allows the Board to collect costs for extraordinary expenses related to license application; adds Occupational Therapy Code of Ethics. Comment by: 10/23/02.

**22-0113-0201**, Rules for the Licensure of Dietitians. Add required sections; adds definitions; allows for provisional licensure; clarifies the fees for reactivation of an inactive license and to require current certification by the CDR for license renewal. Comment by: 10/23/02.

**IDAPA 23 – IDAHO STATE BOARD OF NURSING  
PO Box 83720, Boise, ID 83720-0061**

**23-0101-0202**, Rule of the Idaho State Board of Nursing. Consolidates and renumbers existing rules and provides additional clarification and structure; replaces detailed listing of nursing functions for each category of licensure with a standard or model for decision making within a particular scope of process. Comment by: 10/23/02.

**IDAPA 24 – BUREAU OF OCCUPATIONAL LICENSES  
1109 Main St., Suite 220, Boise, ID 83702**

**24-0301-0201**, Rules of the State Board of Chiropractic Physicians. Changes expiration date and reinstatement of licenses and establishes requirement for licenses canceled over 5 years to conform to Idaho Code. Comment by: 10/23/02.

**24-0401-0201**, Rules of the Idaho State Board of Cosmetology. Clarifies high school education equivalent to be any test approved by the Department of Education; clarifies working floor space in a primary and contiguous establishment; establishes that no original license fee is required for relocation of a contiguous establishment within the same primary establishment; establishes requirements for: out of business shop; practical and written reexamination for cosmetology, electrology, esthetics and nail technician; and for instructor reexamination. Deletes models for nail technology exam may not have artificial nails. Comment by: 10/23/02.

**24-0501-0201**, Rules of the Board of Environmental Health Specialist Examiners. Repeal of chapter. Comment by: 10/23/02.

**24-0901-0201**, Rules of the Board of Examiners of Nursing Home Administrators. Deletes the reference under nursing home administrator-in-training requirement to the facility administrator not being the preceptor. Comment by: 10/23/02.

**24-1101-0201**, Rules of the State Board of Podiatry. Updates the Incorporation by Reference section to reflect current publication date; deletes reference to annual renewal date; changes passing grade on examination to 70%; and changes the standards of ethical practice shall be the American Podiatric Medical Association's Code of Ethics.

Comment by: 10/23/02.

**24-1201-0201**, Rules of the State Board of Psychologist Examiners. Adds that the reexamination fee shall be those charged by the national examining entity plus \$25 processing fee and change reciprocity fee to endorsement fee. Comment by: 10/23/02.

**24-1201-0202**, Rules of the State Board of Psychologist Examiners. Allows a one (1) year carryover of continuing education hours; deletes unnecessary record keeping requirement; require the training faculty to be on site and of adequate size; clarifies the definition of a professional psychology program. Comment by: 10/23/02.

**24-1401-0201**, Rules of the State Board of Social Work Examiners. Adds Bureau contact information; deletes obsolete social work classifications and establish current classifications and definitions to be in compliance with current law changes; adds the board/bureau contract is to include investigative, legal and fiscal responsibilities; clarifies reimbursement expenses for board members; deletes that expired licenses will cancel on July first; updates the classifications under fees to reflect those in the current law change; changes board meeting dates to be at least three (3) times each year and at such other times and places as deemed by the board; clarifies endorsement requirements; changes application deadline date to be at least ten (10) days prior to the next board meeting; clarifies continuing education requirements. Comment by: 10/23/02.

**24-1501-0201**, Rules of the Idaho Licensing Board of Professional Counselors and Marriage and Family Therapists. Adds an Incorporation by Reference for supervisors; adds postgraduate supervision requirement to be effective July 1, 2004; establishes counselor supervisor requirements; establishes acceptable supervised experience for a Clinical Professional Counselor, Pastoral Counselor and Marriage and Family Therapists; adds effective July 1, 2004 Marriage and Family Therapist must be registered with the board to provide post graduate supervision; deletes continuing education rules for Pastoral Counselor, Clinical Professional Counselor and Marriage and Family Therapists and incorporates all under one rule; delete rules for conditional counseling license; establishes requirements for registered interns. Comment by: 10/23/02.

**24-1601-0201**, Rules of the State Board of Dentistry. Inserts rules for Administrative Appeals, Incorporation by Reference; adds Bureau contact information; adds Public Records section; adds Bureau definition; adds the board may meet and have examinations at such other times as determined by the board; establishes the examination shall include a theory examination; establishes grading and reexamination requirements; establishes the reexamination fee shall be the same as the original examination fee. Comment by: 10/23/02.

**24-1701-0201**, Rules of the State Board of Acupuncture. Inserts rules for Incorporation by Reference; adds Bureau contact information; adds Public Records section; defines Bureau; updates qualification for licensure to be has received certification from NCCAOM; changes renewal of license to be in accordance with Section 67-2614, Idaho Code; establishes continuing education requirements; establishes waiver of continuing education requirements for an inactive license. Comment by: 10/23/02.

**24-1801-0201**, Rules of the Real Estate Appraiser Board. Updates Incorporation by Reference rule to reflect current publication date. Comment by: 10/23/02.

**24-1901-0201**, Rules of the Board of Examiners of Residential Care Facility Administrators. Further defines courses approved for continuing education; changes the requirement for renewal of a license to be in accordance with section 67-2614, Idaho Code; increases the license application fee to \$50 and deletes reference to recertification in annual renewal fee. Comment by: 10/23/02.

**24-1901-0202**, Rules of the Board of Examiners of Residential Care Facility Administrators. Establishes that an applicant for examination shall be required to register with and pay the examination fee to NAB; deletes the contents of examination; establishes that a passing score on the examination shall be determined by NAB; deletes requirement for retakes; adds approved courses of study to qualify for licensure. Comment by: 10/23/02.

**IDAPA 25 – OUTFITTERS AND GUIDES LICENSING BOARD**  
**1365 North Orchard, Suite 172, Boise, ID 83706**

**25-0101-0202**, Rules of the Outfitters and Guides Licensing Board. Defines “administrative noncompliance” to



address repeated failure to apply for license renewal in a timely manner or repeated failures to file a complete application and provides for administrative noncompliance to be included in the definition of unethical/unprofessional conduct; provides that the "Trainees Under Supervision" are boat trainees; clarifies that first aid cards must be in possession at all times while guiding; provides that first aid cards must be in possession at all times while guiding; includes proof of non-owner liability insurance as part of notification to the board when an outfitter utilizes equipment from another outfitter; provides for a single deadline for review of outfitter license applications and provides that outfitter applications to amend licenses will be reviewed by the Board within 90 days from receipt of the completed application; provides that an affidavit by the outfitter that the guide will have a valid first aid card while hunting must accompany guide applications; provides that the outfitter's name shall be visible on boats being used by that outfitter; provides for a reduction in the guide ratio for guided snowmachine activities; provides that in addition to granting or denying licenses, the Executive Director may suspend or revoke temporary authorizations, licenses and license amendments with the concurrence of the Board, clarifies that first aid cards are grounds for license denial and provides that the Executive Director may issue a temporary authorization to an applicant pending final approval and issuance of a license. Comment by: 10/23/02

**IDAPA 26 – DEPARTMENT OF PARKS AND RECREATION  
PO Box 83720, Boise, ID 83720-0065**

**26-0120-0201**, Rules Governing the Administration of Park and Recreation Areas and Facilities. Adds definitions; describes compliance requirements and penalties for non-compliance; outlines park and campground requirements for use, reservations and fees and moorage use and fees; provides for designation of proper livestock use areas through proper signing; addresses the protection of wildlife and the protection of historical, cultural and natural resources; clarifies the authority for personal safety and use of firearms; direction for dealing with abandoned property; deletes numerous obsolete sections. Comment by: 10/23/02.

**IDAPA 27 – BOARD OF PHARMACY  
PO Box 83720, Boise, ID 83720-0067**

**27-0101-0202**, Rules of the Idaho Board of Pharmacy. Conforms to statutory changes and changes the time restriction for filing prescriptions for Schedule II controlled substances from 7 to 30 days after date of issue. Comment by: 10/23/02.

**27-0101-0203**, Rules of the Idaho Board of Pharmacy. Clarifies that students enrolled in pharmacy technician training courses and volunteers at hospital pharmacies may register and be authorized to act as pharmacy technicians even though they are not formally employed by the pharmacy; changes definition of pharmacy technician to one who is employed or otherwise authorized to participate in preparing, compounding, distributing, or dispensing of medications at a pharmacy. Comment by: 10/23/02.

**27-0101-0204**, Rules of the Idaho Board of Pharmacy. Allows continuing education units earned during June of any given licensing period to be carried over into the next licensing period to the extent the pharmacist's total hours for the given licensing period exceed that required by the rules. Comment by: 10/23/02.

**IDAPA 31 – PUBLIC UTILITIES COMMISSION  
PO Box 83720, Boise, ID 83720-0074**

**31-2101-0201**, The Utility Customer Relation Rules. Comment by: 9/25/02. Provides additional reasons for a utility to require a deposit from a residential customer or applicant and allows a utility to terminate service after normal business hours if the utility is unable to access the customer's meter during normal business hours. Comment by: 10/23/02.

**IDAPA 33 – IDAHO REAL ESTATE COMMISSION  
PO Box 83720, Boise, ID 83720**

**\*\*33-0101-0201**, Rules of the Idaho Real Estate Commission. Deletes definitions that were moved to statute on July 1, 2002; changes the requirement regarding display of license certificates in branch offices. Comment by: 10/23/02.

**\*\*33-0101-0202**, Rules of the Idaho Real Estate Commission. Eliminates the requirements that IREC collect a \$10

“administration fee” for handling the Errors and Omissions Group Insurance applications and that licensees file their “certificates of coverage” with the Commission, providing for self-certification subject to audit by the Commission. Comment by: 10/23/02.

**\*\*33-0102-0201**, Rules of Practice and Procedure of the Idaho Real Estate Commission Governing Contested Cases. Distinguishes the functions of investigator, prosecutor, and adjudicator and define the roles and prohibited contacts for each; sets forth the procedure for submission of the Executive Director’s investigation report to the Commissioners; expands the scope of discovery; and clarifies rights to disqualify the hearing officer designated by the agency. Comment by: 10/23/02.

**IDAPA 35 – STATE TAX COMMISSION  
PO Box 36, Boise, ID 83722**

**35-0101-0201**, Income Tax Administrative Rules. Updates incorporation by reference documents and various references to Idaho Code; numerous changes conform to statutory changes and deletes obsolete sections and references; addresses the residency status of a qualified funeral trust; identify the tax rates and income tax brackets for tax years beginning in 1987 through 2002; lists the adjustment for deductions related to nonbusiness income as an adjustment required only of multistate corporations, S corporations and partnerships; clarifies and updates allowable health care and insurance deductions, capital gains deductions, new employee credits, and grocery credits; addresses statute of limitations in the case of a duplicate return and to define what constitutes a duplicate return. Comment by: 10/23/02.

**35-0102-0202**, Sales and Use Tax Rules. Clarifies sales of used modular buildings are not exempted from tax; clarifies senior citizen centers that qualify for the exemption; passed by the 2002 Legislature enacted by HB 494. It also clarifies that a long-term care facility does not qualify for the exemption; clarify that a business qualifying for the exemption may produce either radio or television programs and that cable companies do not produce television programs and would not qualify for the exemption. Comment by: 10/23/02.

**35-0105-0201**, Motor Fuels Tax Administrative Rules. Updates references and deletes obsolete rules and references; clarify in Section 130.01 how fuel distributors are to report deductions for ethanol and biodiesel; combines the fuel use tax reporting for gasoline and special fuels under motor fuels; adds statute of limitations for filing fuel tax refund claims; clarify that IFTA licensees must claim IFTA nontaxable miles on their IFTA return. Comment by: 10/23/02.

**\*\*35-0105-0202**, Motor Fuels Tax Administrative Rules. Adds a standard power take-off (PTO) or auxiliary engine allowance for concrete pumping trucks and a new subsection to show the requirements for claiming a refund of the special fuels tax for special fuels consumed by a motor vehicle while idling off-highway. Comment by: 10/23/02.

**35-0201-0201**, Tax Commission Administration and Enforcement Rules. Identifies the interest rate for the calendar year 2003; addresses net operating loss and capital loss carrybacks and their effect on computing penalties; updates code references; adds agencies and officials with whom information may be exchanged. Comment by: 10/23/02.

**IDAPA 37 – DEPARTMENT OF WATER RESOURCES  
1301 N. Orchard, Boise, Idaho 83706**

**37-0203-0201**, Water Supply Bank Rules. Provides for deposit of water bank rental funds received from federal agencies into the federal grant fund. Comment by: 10/23/02.

**\*\*37-0303-0202**, Rules and Minimum Standards for the Construction and Use of Injection Wells in the State of Idaho. Implements the new federal requirements concerning large capacity cesspools and motor vehicle waste disposal wells. Comment by: 10/23/02.

**IDAPA 39 – IDAHO TRANSPORTATION DEPARTMENT  
PO Box 7129, Boise ID 83707-1129**

**39-0273-0201**, Rules Governing Accident Prevention Course. Removes the prohibition on self-instructed courses and requirement that accident prevention courses be comprised of classroom or field driving instruction. Comment by: 10/23/02.

**39-0346-0201**, Rules Governing Studded Tires. Extends the allowable date for use of studded tires from April 15 to April 30, providing a safety benefit to travelers without adversely affecting pavement wear. Comment by: 10/23/02.

**39-0360-0201**, Rules Governing Outdoor Advertising. Addresses the regulation of electronic advertising such as multiple message signs and moveable message signs to meet the needs of the outdoor advertising industry while protecting the safety of the traveling public; clarifies the definition of commercial activity so that only legitimate commercial and industrial sites qualify as sign locations. Comment by: 10/23/02.

**IDAPA 47 – DIVISION OF VOCATIONAL REHABILITATION**

**PO Box 83720, Boise, ID 83720-0096**

**47-0101-0201**, General Administration (Rules of the Division of Vocational Rehabilitation). Rewrite of chapter incorporates all Division rules into one chapter. Comment by: 10/23/02.

**47-0102-0201**, Field Services; **47-0103-0201**, Management Services. Repeal of chapters. Comment by: 10/23/02.

**IDAPA 48 – DEPARTMENT OF COMMERCE**

**PO Box 83720, Boise ID 83720-0093**

**48-0103-0201**, Rules of the Idaho Regional Travel and Convention Grant Program. Revises and streamline the existing rules in regard to the grant application submittal and review process; updates application submittal to allow for electronic delivery. Comment by: 10/23/02.

**IDAPA 56 – IDAHO RANGELAND RESOURCES COMMISSION**

**PO Box 126, Emmett, ID 83617**

**56-0101-0201**, Rules of Administrative Procedure of the Idaho Rangeland Resources Commission. Creates a beginning date for commissioners' terms of appointment and clarifies that these terms continue until appointment of a successor. Comment by: 10/23/02.

**\*\*PUBLIC HEARINGS HAVE BEEN SCHEDULED FOR THESE DOCKETS.**

Please refer to the Idaho Administrative Bulletin, **October 2, 2002, Volume 02-10** for notices and text of all rulemakings, public hearing schedules, Governor's executive orders, and agency contact names.

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**CUMULATIVE RULEMAKING INDEX OF IDAHO ADMINISTRATIVE RULES**

**This index tracks the history of all agency rulemakings from 1993 to the present.  
It includes all rulemaking activities on each chapter of rules  
and includes negotiated, temporary, proposed, pending  
and final rules, public hearing notices  
and vacated rulemaking notices.**

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