

IDAHO ADMINISTRATIVE BULLETIN

June 3, 2020 – Vol. 20-6

Office of the Governor
Division of Financial Management
Office of the Administrative Rules Coordinator
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The Idaho Administrative Bulletin is published monthly by the Office of the Administrative Rules Coordinator, Division of Financial Management, Office of the Governor, pursuant to Title 67, Chapter 52, Idaho Code.

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IDAHO ADMINISTRATIVE BULLETIN

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PREFACE

The Idaho Administrative Bulletin is an electronic-only, online monthly publication of the Office of the Administrative Rules Coordinator, Department of Administration, that is published pursuant to Section 67-5203, Idaho Code. The Bulletin is a compilation of all official rulemaking notices, official rule text, executive orders of the Governor, and all legislative documents affecting rules that are statutorily required to be published in the Bulletin. It may also include other rules-related documents an agency may want to make public through the Bulletin.

State agencies are required to provide public notice of all rulemaking actions and must invite public input. This is done through negotiated rulemaking procedures or after proposed rulemaking has been initiated. The public receives notice that an agency has initiated proposed rulemaking procedures through the Idaho Administrative Bulletin and a legal notice (Public Notice of Intent) that publishes in authorized newspapers throughout the state. The legal notice provides reasonable opportunity for the public to participate when a proposed rule publishes in the Bulletin. Interested parties may submit written comments to the agency or request public hearings of the agency, if none have been scheduled. Such submissions or requests must be presented to the agency within the time and manner specified in the individual “Notice of Rulemaking - Proposed Rule” for each proposed rule that is published in the Bulletin.

Once the comment period closes, the agency considers fully all comments and information submitted regarding the proposed rule. Changes may be made to the proposed rule at this stage of the rulemaking, but changes must be based on comments received and must be a “logical outgrowth” of the proposed rule. The agency may now adopt and publish the pending rule. A pending rule is “pending” legislative review for final approval. The pending rule is the agency’s final version of the rulemaking that will be forwarded to the legislature for review and final approval. Comment periods and public hearings are not provided for when the agency adopts a temporary or pending rule.

CITATION TO THE IDAHO ADMINISTRATIVE BULLETIN

The Bulletin is identified by the calendar year and issue number. For example, Bulletin **13-1** refers to the first Bulletin issued in calendar year **2013**; Bulletin **14-1** refers to the first Bulletin issued in calendar year **2014**. Volume numbers, which proceed from 1 to 12 in a given year, correspond to the months of publication, i.e.; Volume No. **13-1** refers to January 2013; Volume No. **13-2** refers to February 2013; and so forth. Example: The Bulletin published in January 2014 is cited as Volume **14-1**. The December 2015 Bulletin is cited as Volume **15-12**.

RELATIONSHIP TO THE IDAHO ADMINISTRATIVE CODE

The **Idaho Administrative Code** is an electronic-only, online compilation of all final and enforceable administrative rules of the state of Idaho that are of full force and effect. Any temporary rule that is adopted by an agency and is of force and effect is codified into the Administrative Code upon becoming effective. All pending rules that have been approved by the legislature during the legislative session as final rules and any temporary rules that are extended supplement the Administrative Code. These rules are codified into the Administrative Code upon becoming effective. Because proposed and pending rules are not enforceable, they are published in the Administrative Bulletin only and cannot be codified into the Administrative Code until approved as final.

To determine if a particular rule remains in effect or whether any amendments have been made to the rule, refer to the **Cumulative Rulemaking Index**. Link to it on the Administrative Rules homepage at adminrules.idaho.gov.

THE DIFFERENT RULES PUBLISHED IN THE ADMINISTRATIVE BULLETIN

Idaho’s administrative rulemaking process, governed by the Administrative Procedure Act, Title 67, Chapter 52, Idaho Code, comprises distinct rulemaking actions: negotiated, proposed, temporary, pending and final rulemaking. Not all rulemakings incorporate or require all of these actions. At a minimum, a rulemaking includes proposed, pending and final rulemaking. Many rules are adopted as temporary rules when they meet the required statutory criteria and agencies must, when feasible, engage in negotiated rulemaking at the beginning of the process to facilitate consensus building. In the majority of cases, the process begins with proposed rulemaking and ends with the final rulemaking. The following is a brief explanation of each type of rule.

1. NEGOTIATED RULEMAKING

Negotiated rulemaking is a process in which all interested persons and the agency seek consensus on the content of a rule through dialogue. Agencies are required to conduct negotiated rulemaking whenever it is feasible to do so. The agency files a “Notice of Intent to Promulgate - Negotiated Rulemaking” for publication in the Administrative Bulletin inviting interested persons to contact the agency if interested in discussing the agency’s intentions regarding the rule changes. This process is intended to result in the formulation of a proposed rule and the initiation of regular rulemaking procedures. One result, however, may also be that regular (proposed) rulemaking is not initiated and no further action is taken by the agency.

2. PROPOSED RULEMAKING

A proposed rulemaking is an action by an agency wherein 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 Rulemaking - Proposed Rule” in the Bulletin. This notice must include very specific information regarding the rulemaking including all relevant state or federal statutory authority occasioning the rulemaking, a non-technical description of the changes being made, any associated costs, guidance on how to participate through submission of written comments and requests for public hearings, and the text of the proposed rule in legislative format.

3. TEMPORARY RULEMAKING

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

- a) protection of the public health, safety, or welfare; or
- b) compliance with deadlines in amendments to governing law or federal programs; or
- c) conferring a benefit.

If a rulemaking meets one or more of these criteria, and with the Governor’s approval, the agency may adopt and make a temporary rule effective prior to receiving legislative authorization and without allowing for any public input. The law allows an agency to make a temporary rule immediately effective upon adoption. A temporary rule expires at the conclusion of the next succeeding regular legislative session unless the rule is extended by concurrent resolution, is replaced by a final rule, or expires under its own terms.

4. PENDING RULEMAKING

A pending rule is a rule that has been adopted by an agency under regular rulemaking procedures 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 Rulemaking - Pending Rule.” This includes a statement giving the reasons for adopting the rule, a statement regarding when the rule becomes effective, a description of how it differs from the proposed rule, and identification of any fees being imposed or changed.

Agencies are required to republish the text of the pending 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 change 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.

5. FINAL RULEMAKING

A final rule is a rule that has been adopted by an agency under the regular rulemaking procedures and is of full force and effect.

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 schematic. 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 that are further subdivided into subsections. An example IDAPA number is as follows:

IDAPA 38.05.01.200.02.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.

1. “**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”

“**200.**” refers to Major Section **200**, “Content of the Invitation to Bid”

“**02.**” refers to Subsection 200.02.

“**c.**” refers to Subsection 200.02.c.

“**ii.**” refers to Subsection 200.02.c.ii.

DOCKET NUMBERING SYSTEM

Internally, the Bulletin is organized sequentially using a rule docketing system. Each rulemaking that is filed with the Coordinator is assigned a “DOCKET NUMBER.” The docket number is a series of numbers separated by a hyphen “-”, (**38-0501-1401**). Rulemaking dockets are published sequentially by IDAPA number (the two-digit agency code) in the Bulletin. The following example is a breakdown of a typical rule docket number:

“DOCKET NO. 38-0501-1401”

“**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**).

“**1401**” denotes the year and sequential order of the docket being published; in this case the numbers refer to the first rulemaking action published in **calendar year 2014**. A subsequent rulemaking on this same rule chapter in calendar year 2014 would be designated as “**1402**”. The docket number in this scenario would be 38-0501-**1402**.

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)

BULLETIN PUBLICATION SCHEDULE FOR CALENDAR YEAR 2019

Vol. No.	Monthly Issue of Bulletin	ARRF Due to DFM	Closing Date for Agency Filing	Bulletin Publication Date	21-day Comment Period End Date
19-1	January 2019		*November 30, 2018	January 2, 2019	January 23, 2019
19-2	February 2019		January 4, 2019	February 6, 2019	February 27, 2019
19-3	March 2019		February 8, 2019	March 6, 2019	March 27, 2019
19-4	April 2019		March 8, 2019	April 3, 2019	April 24, 2019
19-5	May 2019	March 22, 2019	April 5, 2019	May 1, 2019	May 22, 2019
19-6	June 2019	April 19, 2019	May 3, 2019	June 5, 2019	June 26, 2019
19-7	July 2019	May 24, 2019	June 7, 2019	July 3, 2019	July 24, 2019
19-8	August 2019	June 21, 2019	July 5, 2019	August 7, 2019	August 28, 2019
19-9	September 2019	July 19, 2019	August 2, 2019	September 4, 2019	September 25, 2019
19-10	October 2019	August 16, 2019	**August 30, 2019	October 2, 2019	October 23, 2019
19-11	November 2019	September 20, 2019	October 4, 2019	November 6, 2019	November 27, 2019
19-12	December 2019	October 18, 2019	November 1, 2019	December 4, 2019	December 25, 2019

BULLETIN PUBLICATION SCHEDULE FOR CALENDAR YEAR 2020

Vol. No.	Monthly Issue of Bulletin	ARRF Due to DFM	Closing Date for Agency Filing	Publication Date	21-day Comment Period End Date
20-1	January 2020	November 15, 2019	*November 29, 2019	January 1, 2020	January 22, 2020
20-2	February 2020	December 20, 2019	January 3, 2020	February 5, 2020	February 26, 2020
20-3	March 2020	January 22, 2020	February 7, 2020	March 4, 2020	March 25, 2020
20-4	April 2020	February 21, 2020	March 6, 2020	April 1, 2020	April 22, 2020
20-5	May 2020	March 20, 2020	April 3, 2020	May 6, 2020	May 27, 2020
20-6	June 2020	April 24, 2020	May 1, 2020	June 3, 2020	June 24, 2020
20-7	July 2020	May 22, 2020	June 5, 2020	July 1, 2020	July 22, 2020
20-8	August 2020	June 19, 2020	July 3, 2020	August 5, 2020	August 26, 2020
20-9	September 2020	July 24, 2020	August 7, 2020	September 2, 2020	September 23, 2020
20-10	October 2020	August 21, 2020	**August 28, 2020	October 7, 2020	October 28, 2020
20-11	November 2020	September 18, 2020	October 2, 2020	November 4, 2020	November 25, 2020
20-12	December 2020	October 23, 2020	November 6, 2020	December 2, 2020	December 23, 2020

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

*****Last day to submit a proposed rule in order to have the rulemaking completed and submitted for review by legislature.***

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AND CORRESPONDING IDAPA NUMBERS**

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THE OFFICE OF THE GOVERNOR

**EXECUTIVE DEPARTMENT
STATE OF IDAHO
BOISE**

EXECUTIVE ORDER NO. 2019-14

ESTABLISHING THE IDAHO EARLY CHILDHOOD ADVISORY COUNCIL

WHEREAS, the long-term academic success of children is dependent on third grade reading proficiency, with a foundation built on the language and literacy experiences of children from birth to age five; and

WHEREAS, the deliberate coordination of Idaho's public and private early childhood services will allow for greater efficiency, expanded parental choice, and allow for a more accurate inventory of existing services, programs and initiatives for use by families and policymakers; and

WHEREAS, early childhood development is directly linked to economic development because it improves the quality of the future workforce and has been shown to create cost savings to taxpayers by reducing the need for educational remediation and diminishing social service and other government service utilization; and

WHEREAS, Idaho's quality of life and long-term economic prosperity depend on a well-educated workforce; and

WHEREAS, the federal Improving Head Start for School Readiness Act of 2007, 42 U.S.C. § 9837b(b)(1), requires the governor of each state to designate or establish a State Advisory Council on Early Childhood Education and Care ("State Advisory Council") as part of a parallel federal effort to ensure coordination and collaboration within the states; and

WHEREAS, the governor is further required to designate an individual charged with coordinating the activities of the State Advisory Council;

NOW, THEREFORE, I, BRAD LITTLE, Governor of the State of Idaho, by the authority vested in me under the Constitution and laws of the State of Idaho, do hereby order creation of the Idaho Early Childhood Advisory Council (ECAC), and in so doing do also order that:

- 1. The ECAC is designated as the State Advisory Council required by the Improving Head Start for School Readiness Act of 2007.*
- 2. The ECAC shall:*
 - a. conduct a periodic statewide needs assessment concerning the quality and availability of early childhood education and development programs and services for children from birth to school entry, including an assessment of the availability of high-quality pre-kindergarten services for low-income children in the state;*
 - b. identify opportunities for and barriers to collaboration and coordination among federally funded and state-funded child development, child care, and early childhood education programs and services, including collaboration and coordination among state agencies responsible for administering such programs;*
 - c. develop recommendations for increasing the overall participation of children in existing federal, state, and local childcare and early childhood education programs, including outreach to underrepresented and special populations;*
 - d. develop recommendations regarding the establishment of a unified data collection system for public early childhood education and development programs and services throughout the state;*
 - e. develop recommendations regarding statewide professional development and career advancement plans for early childhood educators in the state;*
 - f. assess the capacity and effectiveness of 2- and 4-year public and private institutions of higher education in the state toward supporting the development of early childhood educators, including the extent to which such institutions have in place articulation agreements,*

- professional development and career advancement plans, and practice or internships for students to spend time in a Head Start or prekindergarten program;*
- g. make recommendations for improvements in state early learning standards and undertake efforts to develop high-quality comprehensive early learning standards, as appropriate; and*
 - h.. carry out other responsibilities as designated by the Governor.*
3. *The ECAC's first report shall be submitted to the Governor no later than December 31, 2020.*
4. *ECAC's members shall be appointed by the Governor; with activities to be coordinated and staffed by the Idaho Association for the Education of Young Children, whose executive director shall serve as the ex-officio chair. Members will be appointed to represent the following:*
- a. Representatives from the Idaho Department of Health and Welfare who represent:*
 - 1. child care,*
 - 2. Medicaid services,*
 - 3. the I.D.E.A. Part C early intervention program, and*
 - 4. mental health services;*
 - b. the Idaho State Board of Education;*
 - c. the Idaho State Department of Education;*
 - d. a local school district;*
 - e. an institution of higher education;*
 - f. a local provider of early childhood education and development services;*
 - g. a local Head Start agency;*
 - h. the State Director of Head Start Collaboration;*
 - i. a member of the Idaho Senate;*
 - j. a member of the Idaho House of Representatives;*
 - k. representatives of other entities determined to be relevant by the Governor.*
5. *The Council shall develop and adopt bylaws governing its operation and may accept funds from private, federal, state or public agencies and any other sources in accordance with state law. The funds shall be used to support statewide efforts in development and sustainability of this council and early childhood programs and services.*



IN WITNESS WHEREOF, I have hereunto set my hand and caused to be affixed the Great Seal of the State of Idaho in Boise on this 31st day of December in the year of our Lord two thousand and nineteen and of the Independence of the United States of America the two hundred forty-fourth and of the Statehood of Idaho the one hundred thirtieth.

BRAD LITTLE

BRAD LITTLE GOVERNOR

LAWRENCE DENNEY

LAWRENCE DENNEY SECRETARY OF STATE

THE OFFICE OF THE GOVERNOR

**EXECUTIVE DEPARTMENT
STATE OF IDAHO
BOISE**

EXECUTIVE ORDER NO. 2019-15

**ASSIGNMENTS OF ALL-HAZARD PREVENTION, PROTECTION, MITIGATION,
RESPONSE AND RECOVERY FUNCTIONS TO STATE AGENCIES IN SUPPORT OF LOCAL
AND STATE GOVERNMENT RELATING TO EMERGENCIES AND DISASTERS**

WHEREAS, widespread property damage, personal injury and loss of life from manmade and natural disasters is an ever-present possibility in Idaho; and

WHEREAS, Chapter 10, Title 46, Idaho Code requires the protection of lives and property in any type of natural or man-made disaster emergency or threat that might conceivably confront the State; and

WHEREAS, local government is the principal provider of emergency services in Idaho; and

WHEREAS, the role of state government is to support and enhance local community emergency management and homeland security efforts including focusing state agency activities on supporting regional and community needs throughout Idaho; and

WHEREAS, the Legislature has directed the development of such state disaster prevention, protection, mitigation, response and recovery plans; and

WHEREAS, effective state protection, prevention, mitigation, response and recovery planning requires proactively identifying functions that would be performed during such emergencies and the assignment of responsibility for developing the capability to implement these plans;

NOW, THEREFORE, I, Brad Little, Governor of the State of Idaho, by virtue of the powers and authority vested in me by the Constitution and laws of this State do hereby assign emergency prevention, protection, mitigation, response and recovery functions to all state agencies.

I. GENERAL ASSIGNMENTS

Each department and agency shall ensure their organization can continue to provide critical services during an event that impacts the ability of the government to fully function. In addition, each department and agency, in order to ensure a coordinated disaster response in alignment with the Idaho Emergency Operation Plan, shall:

A. Prepare for and respond to emergencies or disasters, as defined in Idaho Code Section 46-1002, within the State of Idaho in a manner consistent with the National Incident Management System (NIMS). Agency employees expected to respond to emergencies or disasters within Idaho will have NIMS training commensurate with their expected roles in response to such emergencies or disasters.

B. Designate a NIMS compliant agency emergency coordinator to train, exercise and participate in the State Emergency Management Program to facilitate emergency support and logistics in response to emergencies and disasters. Larger departments will, by necessity, need to appoint subdivision emergency coordinators to report to the agency emergency coordinator. By July 1 of each year, provide or validate the names and contact information of agency emergency coordinators to the Idaho Office of Emergency Management.

C. Develop and maintain an agency specific emergency operations plan (EOP) to carry out the agency's response and recovery support functions consistent with the National Response Framework and the National Recovery Framework. Agency EOP's will be submitted on each even numbered year by July 1 to the Idaho Office of Emergency Management. Agency plans will assign emergency management duties to all applicable subdivisions and personnel within the agency. Agency plans will outline how the agency will support the Idaho Emergency Operation

Center (IDEOC) and agency specific Emergency Support Functions (ESF) as required by the Idaho Emergency Operation Plan and the National Preparedness System. Such agency support includes:

1. Contributing to the agency's assigned ESF role as outlined in the state EOP whether as a coordinating agency, a primary agency, or a supporting agency. Depending on the agency's role in the EOP, this may include functioning as a liaison for all organizations and agencies operating within a specific ESF.

2. Supporting the State's emergency planning preparedness efforts by actively participating in and contributing to the biennial update of the EOP.

3. Supporting the Idaho Emergency Operations Center (IDEOC) processes and standard operating procedures. Providing information for situation reports, incident action plans, resource status, financial status, geospatial data, and organization/staffing/contact information to the IDEOC and its situational awareness platforms;

4. Providing ESF personnel and resources commensurate with IDEOC assigned roles and responsibilities; and

5. Providing resources and capabilities when mission-assigned by the IDEOC. This may include personnel, direct agency assistance or subject matter expertise in response to a request for assistance.

D. Notify the Idaho Office of Emergency Management of any impending emergency or disaster conditions that may warrant the need for support from the Idaho Emergency Operations Center.

E. Develop and maintain a Continuity of Operations Plan (COOP) to (a) address how the agency will continue to perform essential functions in the event of compromised facilities or leadership, and (b) return the agency to normal operations after the conclusion of the compromising event. Beginning calendar year 2020, agency COOP plans will be submitted on each odd numbered year by July 1 to the Idaho Office of Emergency Management.

F. Notify the Idaho Office of Emergency Management of any incident, emergency or disaster that requires activation of their COOP plan or otherwise impacts the ability of government to provide public services within the State of Idaho. The Director, Idaho Office of Emergency Management, will notify the Governor's Office.

G. Grant and/or use waivers in accordance with the applicable provisions of the Idaho Code for necessary disaster emergency response and recovery operations.

H. Coordinate emergency management and homeland security training and exercise with the Idaho Office of Emergency Management to meet state emergency prevention, protection, mitigation, response, and recovery objectives.

I. Coordinate with the Idaho Office of Emergency Management on any agreement or memorandum of understanding that incorporates prevention, protection, mitigation, response, and recovery functions of an emergency or disaster. Such agreements or memorandums of understanding may be integrated as part of the Idaho Emergency Operations Plan.

J. Participate in the state Public Information Emergency Response (PIER) Team program. Public Information Officers of each State agency are collaterally assigned to the State's PIER Team during emergencies and disasters. PIER Team members provide a level of public information expertise not otherwise available to state and local jurisdictions. In the event of emergencies, natural or man-made, PIER Team members can be activated and deployed, as necessary, to the IDEOC, Joint Information Center (JIC), field support offices and/or local jurisdictions.

K. Participation of agency leader in the Senior Advisory Committee, as requested, to exchange information, validate preparedness efforts, and enhance capabilities statewide in the five homeland security mission areas of prevent, protect, mitigate, respond and recover.

L. Participate in long term recovery planning. As requested, provide personnel for the support of long term recovery committees necessary for economic and community recovery of disaster-impacted areas.

M. Provide state personnel, as requested, to assist in conducting damage assessment surveys following a disaster.

N. Coordinate with the Idaho Office of Emergency Management to develop and promote mitigation strategies for state-owned or state-leased buildings. The purpose of the mitigations strategies is to prevent or reduce damage caused by natural or man disaster events.

O. Coordinate with the Idaho Office of Emergency Management to provide support for mitigation, preparedness, and recovery programs and activities in line with the expertise and resources of the agency

II, COORDINATING INSTRUCTION

The Idaho Office of Emergency Management shall have authority to:

A. Draw upon subject matter experts, state agency leadership and existing advisory committees, commissions and councils to form a Senior Advisory Committee (SAC), as required by the Homeland Security Grant Program. The SAC will serve as a forum to exchange information, validate preparedness efforts, and enhance capabilities statewide in the five homeland security mission areas of prevent, protect, mitigate, respond and recover. The SAC shall develop a governing charter consistent with grant funding requirements and will meet at least twice annually.

B. Coordinate state and federal emergency response, recovery and mitigation operations during emergencies and disasters. Provide technical support to local jurisdictions involved in local emergencies and disasters that do not require state resources.

C. Establish and maintain the Idaho Emergency Operations Center for directing the coordination of emergency and disaster operations and information management activities.

D. Develop and coordinate the preparation and implementation of plans and programs for prevention, protection and mitigation to reduce the harmful consequences of disasters.

E. Help ensure state and local prevention, protection, mitigation, response and recovery plans are consistent with national plans and programs. Help ensure state agency plans are consistent with the State's emergency management goals and procedures. Develop annual or bi-annual requirements for promulgation and review of all such plans.

F. Coordinate collaborative emergency management and homeland security efforts with other state governments and federal agencies and private sector entities.

G. Coordinate all requests from state and local governments for disaster emergency assistance.

H. Manage the use of state emergency communications and warning systems. Develop and integrate auxiliary communications, and other volunteer communications programs and organizations into a state system or network. Develop, maintain and exercise a communications plan. Continue to enhance the communications capabilities and capacity of the Idaho Emergency Operations Center with current and new technologies.

1. Support administration of the State's Emergency Alert System (EAS) and Wireless Emergency Alert System (WEA). Facilitate a viable and effective statewide alert system for impending natural or manmade disasters.

2. Maintain the state emergency communications using adopted State and Federal High Frequency (HF) program and capabilities for emergencies and disasters communications.

3. Determine what statewide communication and warning requirements would improve emergency communications, and assist in the development and implementation of disaster emergency plans for use of all non-military communications and warning systems within the State.

I. In coordination with the Governor's Press Secretary and/or Communications Director, coordinate

and administer the Public Information Emergency Response (PIER) Team program in support of state and local emergency and disaster public information prevention, protection, mitigation, response and recovery objectives.

J. Function as the State Administering Agency for federal emergency management and homeland security grant programs.

K. Assist local governments with the development of all-hazard mitigation, preparedness, response, and recovery plans, training and exercises.

L. Administer federal programs for disaster emergency planning and assistance pertinent to state and local governments.

M. Provide ongoing validity assessment of the Idaho Emergency Operations Plan and National Response Plan. Provide training for state agency personnel in the prevent, protect, mitigate, respond and recover mission areas.

N. Regularly review and revise the Idaho Hazardous Materials Incident Command and Response Support Plan used by state agencies to ensure compliance with the Idaho Hazardous Substance Response act in the provision of state assistance for hazardous materials/WMD emergencies in Idaho.

O. Coordinate state and federal emergency response efforts for hazardous materials incidents.

P. Provide technical assistance to emergency response agencies in recovering hazardous materials emergency response costs under state and federal laws.

Q. Administer and coordinate the state-sponsored hazardous materials regional response teams.

Any emergency support function identified in the Idaho Emergency Operations Plan, or parts thereof, may be transferred from one governmental agency to another with the consent of the heads of the agencies involved and with the concurrence of the Director of the Idaho Office of Emergency Management. The Director, Idaho Office of Emergency Management, may assign any new emergency support function to the head of a governmental agency by mutual consent.

With the exception of participation in the Senior Advisory Committee, the head of each governmental agency is hereby authorized to delegate to their staff the assignments outlined by this Order.



IN WITNESS WHEREOF, I have hereunto set my hand and caused to be affixed the Great Seal of the State of Idaho in Boise on this 31st day of December in the year of our Lord two thousand and nineteen and of the Independence of the United States of America the two hundred forty-fourth and of the Statehood of Idaho the one hundred thirtieth.

BRAD LITTLE GOVERNOR

LAWRENCE DENNEY SECRETARY OF STATE

THE OFFICE OF THE GOVERNOR

**EXECUTIVE DEPARTMENT
STATE OF IDAHO
BOISE**

EXECUTIVE ORDER NO. 2020-08-A

ESTABLISHING IDAHO REBOUND CASH GRANTS FOR SMALL BUSINESSES

WHEREAS, I issued a proclamation on March 13, 2020, declaring a state of emergency in the State of Idaho pursuant to Chapter 10, Title 46, Idaho Code, due to the occurrence and imminent threat to public health and safety arising from the effects of the 2019 novel coronavirus (COVID-19); and

WHEREAS, I issued a proclamation on March 25, 2020, declaring a state of extreme emergency in the State of Idaho pursuant to Chapter 6; Title 46, Idaho Code, due to the increasing occurrence and threat to public health and safety arising from the effects of COVID19; and

WHEREAS, each of those Proclamations remain in effect today; and

WHEREAS, Congress has passed the Coronavirus Aid, Relief and Economic Security (CARES) Act (P.L. 116-136) which provided the State of Idaho \$1.25 billion through the Coronavirus Relief Fund for qualifying expenses; and

WHEREAS, on April 30, 2020, the Board of Examiners approved, pursuant to Idaho Code § 67-3516(2), non-cognizable spending authority for the Governor's Office in fund 0345 for the \$1.25 billion for the time period of March 1, 2020 through December 30, 2020; and

WHEREAS, on April 22, 2020, the US. Treasury issued guidance for state, territorial, local, and tribal governments on the proper uses of the Coronavirus Relief Fund; and

WHEREAS, the U.S. Treasury stated that the funds may be used for expenditures incurred to respond to second-order effects of the emergency, such as by providing economic support to those suffering from employment or business interruptions due to COVID-19-related business closures; and

WHEREAS, the U.S. Treasury guidance outlined a non-exclusive list of eligible expenditures, including expenditures related to the provision of grants to small businesses to reimburse the costs of business interruption caused by required closures; and

WHEREAS, in Executive Order 2020-07, I established the COVID-19 Financial Advisory Committee (CFAC) to make recommendations to me for prioritizing the use of Coronavirus Relief Funds; and

WHEREAS, CFAC convened on May 1, 2020, and determined that, in its judgment, the expenditure of Coronavirus Relief Funds on small business interruption grants is necessary to respond to the COVID-19 pandemic and made unanimous recommendations to me on the expenditure of \$300 million with eligibility criteria targeted to the US. Treasury guidance; and

WHEREAS, on May 4, 2020, I provided a letter to CFAC, agreeing with and approving its proposed funding allocations, including a proposal for \$300 million for small business interruption grants, because providing support to these businesses is necessary for the protection of life and property in Idaho and crucial to Idaho's recovery from the COVID-19 pandemic;

WHEREAS, on May 5, 2020, I issued Executive Order No. 2020-08 creating the Idaho Rebound cash grant and setting certain eligibility criteria for Idaho small business;

WHEREAS, on May 6, 2020, I sent a letter to CFAC directing that the Idaho Rebound grant not be available to private entities that directly lobby federal or state officials or to entities that exist for the purpose of advancing partisan political activities. I did so to ensure Coronavirus Relief Funds are used for the purposes intended—to help

Idaho small businesses whose operations were interrupted by the COVID-19 pandemic—and to avoid the appearance of impropriety; and

WHEREAS, these Idaho Rebound grants will also now be available to certain self-employed Idaho residents because providing support to these Idahoans is also necessary for the protection of life and property in Idaho and crucial to Idaho's recovery from the COVID-19 pandemic.

NOW, THEREFORE, I, Brad Little, Governor of the State of Idaho, by virtue of the authority vested in me by the Constitution and laws of this state, including but not limited to Idaho Code §§ 46-601 and 67-3516(2), do hereby order:

- 1. The continuation and expansion of the Idaho Rebound cash grant to Idaho-domiciled small businesses and self-employed Idaho residents, with \$300 million set aside from the Coronavirus Relief Fund. Idaho Rebound grants shall reimburse the costs of business interruption caused by COVID-19- related required closures.*
- 2. Grants of up to \$10,000 shall be made available to small businesses with an Employer Identification Number (EIN) who meet the following eligibility criteria:*
 - a) Has an active Idaho State Tax Commission withholding account established prior to January 1, 2020, and that is not for the purpose of paying household employees or as a home healthcare recipient;*
 - b) Had between one and 50 employees as of February 15, 2020;*
 - c) Has suffered a qualified business interruption including but not limited to reduced sales or suspended operations, increased costs related to COVID-19 prevention measures, or disrupted supply network leading to shortage of critical inventory or materials;*
 - d) Did not receive an SBA-backed Paycheck Protection Program (PPP) loan or an Economic Injury Disaster Loan Emergency Advance, or received less than \$10,000 in such funds;*
 - e) Did not receive and have not been awarded reimbursement under any other federal program for the expenses that will be reimbursed by this grant;*
 - f) Did not receive compensation from an insurance company for the covered business interruption due to the COVID-19 pandemic or received less than \$10,000 in insurance compensation;*
 - g) Is not a subsidiary of a business with more than 50 employees, is not part of a larger business enterprise with more than 50 employees and is not owned by a business with more than 50 employees;*
 - h) Is not an entity that directly lobbies federal or state officials, defined as having a registered lobbyist at any point during 2020, and is not an entity that exists for the purpose of advancing partisan political activities; and*
 - i) Meets other criteria as deemed necessary by CFAC or the Idaho State Tax Commission.*
- 3. Idaho Rebound grants of up to \$7,500 shall be made available to Idaho- domiciled self-employed Idaho residents that meet the following eligibility criteria:*
 - a) Is self-employed by an Idaho-based business;*
 - b) Has filed a 2019 resident income tax return in Idaho;*
 - c) Has suffered a qualified business interruption including but not limited to reduced sales or suspended operations, increased costs related to COVID-19 prevention measures, or disrupted supply network leading to shortage of critical inventory or materials;*
 - d) Has not received Pandemic Unemployment Assistance (PUA) from the Idaho Department of Labor and agrees not to apply for PUA during 2020;*
 - e) Has not received and has not been awarded reimbursement under any other federal program for the expenses that will be reimbursed by this grant;*
 - f) Did not receive compensation from an insurance company for the covered business interruption due to COVID-19 or received less than \$7,500 in insurance compensation;*
 - g) The business does not directly lobby federal or state officials, defined as having a registered lobbyist at any point during 2020, and is not an entity that exists for the purpose of advancing partisan political activities; and*
 - h) Meets other criteria as deemed necessary by CFAC or the Idaho State Tax Commission.*

4. *The Idaho State Tax Commission shall administer the Idaho Rebound grant program. Applications shall be staggered so that grant resources are targeted to the smallest Idaho businesses. In the instance in which more applications are received than resources are available, the Tax Commission shall use a lottery system to select award recipients.*
5. *All grant recipients shall be reported on the Transparent Idaho website, including the business name, the Idaho industry sector, the primary city location, and its total grant award.*



IN WITNESS WHEREOF, I have hereunto set my hand and caused to be affixed the Great Seal of the State of Idaho at the Capitol in Boise on this 26th day of May in the year of our Lord two thousand and twenty.

BRAD LITTLE

COPY COPY

BRAD LITTLE GOVERNOR

LAWRENCE DENNEY

COPY COPY

LAWRENCE DENNEY SECRETARY OF STATE

IDAPA 02 – DEPARTMENT OF AGRICULTURE

02.02.14 – RULES FOR WEIGHTS AND MEASURES

DOCKET NO. 02-0214-2001 (NEW CHAPTER)

NOTICE OF INTENT TO PROMULGATE RULES – NEGOTIATED RULEMAKING

AUTHORITY: In compliance with Sections 67-5220(1) and 67-5220(2), Idaho Code, notice is hereby given that this agency intends to promulgate rules and desires public comment prior to initiating formal rulemaking procedures. This negotiated rulemaking action is authorized pursuant to Section 71-111, Idaho Code.

MEETING SCHEDULE: A negotiated rulemaking meeting has been scheduled. Additional meetings may be scheduled and will be posted on the ISDA website.

MEETING SET FOR PUBLIC PARTICIPATION VIA TELEPHONE AND WEB CONFERENCING

Tuesday, June 23, 2020 - 9:00 a.m. - 11:30 a.m.

Contact Janis.perry@isda.idaho.gov
to make arrangements for participation by telephone and web conferencing.

On March 25, 2020, Governor Little issued a Proclamation declaring an emergency and taking steps to reduce and slow the coronavirus spread. In compliance with the Proclamation and Stages of Reopening, ISDA will hold this meeting via telephone and web conferencing.

METHOD OF PARTICIPATION: Those interested in participating in the negotiated rulemaking process are encouraged to attend the scheduled meeting via telephone and web conferencing. Individuals interested in participating by telephone and web conferencing should contact Janis.perry@isda.idaho.gov. For those who cannot participate by attending the meeting, information for submitting written comments is provided below.

Upon conclusion of the negotiated rulemaking, any unresolved issues, all key issues considered, and conclusions reached during the negotiated rulemaking will be addressed in a written summary and made available on the agency website.

DESCRIPTIVE SUMMARY AND STATEMENT OF PURPOSE: The following is a statement in nontechnical language of the substance and purpose of the intended negotiated rulemaking and the principal issues involved:

This rulemaking is a continuation of negotiations from 2019 originally promulgated under docket [02-0214-1901](#) which first published in the May 1, 2019, Idaho Administrative Bulletin, Vol. 19-5. IDAPA 02.02.14 was not approved by concurrent resolution to become final and effective by the 2020 Legislature and therefore was null, void, and of no force and effect. The purpose of this notice is to notify the public that, in addition to the issues listed in the original Notice of Intent to Promulgate, this negotiated rulemaking will establish a new docket number and include the following topics for discussion and comment:

ISDA will consider increasing fees for device licenses to cover ongoing and rising costs associated with growth in the state and an additional position which was added to ensure devices used for commerce in the State of Idaho are inspected. The proposal would increase the current license fees for commercial weighing and measuring devices in Table 1-A. The agency also proposes to update Table 1-A to include electric vehicle charging stations and mass flow meters and establish a license fee for those new services.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS, OBTAINING DRAFT COPIES: For assistance on technical questions concerning this negotiated rulemaking, contact Kevin Merritt, Section Manager, Weights and Measures at Kevin.Merritt@isda.idaho.gov or (208) 332-8690. Materials pertaining to the negotiated rulemaking, including any available preliminary rule drafts, can be found on the ISDA web site at the following web address: www.agri.idaho.gov/rulemaking.

Anyone may submit written comments regarding this negotiated rulemaking. All written comments must be directed to the undersigned and must be delivered on or before July 7, 2020.

Dated this 30th day of April, 2020.

Brian Oakey
Deputy Director
Idaho Department of Agriculture
2270 Old Penitentiary Road
P.O. Box 7249
Boise, Idaho 83707
Phone: (208) 332-8552
Fax: (208) 334-2170

IDAPA 02 – DEPARTMENT OF AGRICULTURE

02.03.03 – RULES GOVERNING PESTICIDE AND CHEMIGATION USE AND APPLICATION

DOCKET NO. 02-0303-2001 (NEW CHAPTER)

NOTICE OF INTENT TO PROMULGATE RULES – NEGOTIATED RULEMAKING

AUTHORITY: In compliance with Sections 67-5220(1) and 67-5220(2), Idaho Code, notice is hereby given that this agency intends to promulgate rules and desires public comment prior to initiating formal rulemaking procedures. This negotiated rulemaking action is authorized pursuant to Section 22-3421, Idaho Code.

MEETING SCHEDULE: A negotiated rulemaking meeting has been scheduled. Additional meetings may be scheduled and will be posted on the ISDA website.

MEETING SET FOR PUBLIC PARTICIPATION VIA TELEPHONE AND WEB CONFERENCING
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Tuesday, June 30, 2020 - 9:00 a.m. - 11:30 a.m.
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Contact Janis.perry@isda.idaho.gov
to make arrangements for participation by telephone and web conferencing.

On March 25, 2020, Governor Little issued a Proclamation declaring an emergency and taking steps to reduce and slow the coronavirus spread. In compliance with the Proclamation and Stages of Reopening, ISDA will hold this meeting via telephone and web conferencing.

METHOD OF PARTICIPATION: Those interested in participating in the negotiated rulemaking process are encouraged to attend the scheduled meeting via telephone and web conferencing. Individuals interested in participating by telephone and web conferencing should contact Janis.perry@isda.idaho.gov. For those who cannot participate by attending the meeting, information for submitting written comments is provided below.

Upon conclusion of the negotiated rulemaking, any unresolved issues, all key issues considered, and conclusions reached during the negotiated rulemaking will be addressed in a written summary and made available on the agency website.

DESCRIPTIVE SUMMARY AND STATEMENT OF PURPOSE: The following is a statement in nontechnical language of the substance and purpose of the intended negotiated rulemaking and the principal issues involved:

This rule will reorganize Idaho's Rules Governing Pesticide and Chemigation Use and Application. A reorganization is needed to clarify the rules, and to update the rules to comply with federal law changes (Federal Insecticide, Rodenticide, and Fungicide Act "FIFRA"; and 40 CFR, Part 171). The updates are important to maintain Idaho's enforcement primacy under FIFRA and the cooperative agreement with the Environmental Protection Agency.

Additionally, Idaho's pesticide law and rules were the subject of legislative action during the 2020 Legislative Session (House Bill 487a which was vetoed, and House Concurrent Resolution 042). Some of the pesticide applicators and other stakeholders have expressed confusion about the status of the rules. Negotiated rulemaking with all the stakeholders at the table will help clarify the rules for interested stakeholders.

ASSISTANCE ON TECHNICAL QUESTIONS, OBTAINING DRAFT COPIES: For assistance on technical questions concerning this negotiated rulemaking, contact Vic Mason at vic.mason@isda.idaho.gov or (208) 332-8628. Materials pertaining to the negotiated rulemaking, including any available preliminary rule drafts, can be found on the ISDA web site at the following web address: (www.agri.idaho.gov/rulemaking.)

SUBMISSION OF WRITTEN COMMENTS: Anyone may submit written comments regarding this negotiated rulemaking. All written comments must be directed to the undersigned and must be delivered on or before July 17, 2020.

Dated this 30th day of April, 2020.

Brian Oakey
Deputy Director
Idaho Department of Agriculture
2270 Old Penitentiary Road
P.O. Box 7249
Boise, Idaho 83707
Phone: (208) 332-8552
Fax: (208) 334-2170

IDAPA 02 – DEPARTMENT OF AGRICULTURE

02.04.14 – RULES GOVERNING DAIRY BYPRODUCT

DOCKET NO. 02-0414-2002 (NEW CHAPTER)

NOTICE OF INTENT TO PROMULGATE RULES – NEGOTIATED RULEMAKING

AUTHORITY: In compliance with Sections 67-5220(1) and 67-5220(2), Idaho Code, notice is hereby given that this agency intends to promulgate rules and desires public comment prior to initiating formal rulemaking procedures. This negotiated rulemaking action is authorized pursuant to Section 37-603, Idaho Code.

MEETING SCHEDULE: A negotiated rulemaking meeting has been scheduled. Additional meetings may be scheduled and will be posted on the ISDA website.

MEETING SET FOR PUBLIC PARTICIPATION VIA TELEPHONE AND WEB CONFERENCING

Tuesday, June 16, 2020 - 10:00 a.m. - 11:30 a.m.

Contact Janis.perry@isda.idaho.gov
to make arrangements for participation by telephone and web conferencing.

On March 25, 2020, Governor Little issued a Proclamation declaring an emergency and taking steps to reduce and slow the coronavirus spread. In compliance with the Proclamation and Stages of Reopening, ISDA will hold this meeting via telephone and web conferencing.

METHOD OF PARTICIPATION: Those interested in participating in the negotiated rulemaking process are encouraged to attend the scheduled meeting via telephone and web conferencing. Individuals interested in participating by telephone and web conferencing should contact Janis.perry@isda.idaho.gov. For those who cannot participate by attending the meeting, information for submitting written comments is provided below.

Upon conclusion of the negotiated rulemaking, any unresolved issues, all key issues considered, and conclusions reached during the negotiated rulemaking will be addressed in a written summary and made available on the agency website.

DESCRIPTIVE SUMMARY AND STATEMENT OF PURPOSE: The following is a statement in nontechnical language of the substance and purpose of the intended negotiated rulemaking and the principle issues involved:

This rulemaking is a continuation of negotiations from 2018-2019 originally promulgated under docket [02-0414-1801](#) which first published in the June 6, 2018, Idaho Administrative Bulletin, Vol. 18-6. IDAPA 02.04.14 was not approved to remain in effect by the 2020 Legislature and therefore was null, void, and of no force and effect. The purpose of this notice is to notify the public that this negotiated rulemaking will establish a new docket number and include the following topics for discussion and comment:

The remaining issues to be negotiated are 1) to finalize language in the Dairy Nutrient Management Standard pertaining to the maximum soil phosphorus level allowable before producers using phosphorus threshold would be required to transition to phosphorus indexing (aka “trigger point”); 2) determine if a soil margin of error is necessary or feasible if a “trigger point” is implemented; and 3) determine if the penalty provisions of the rule need to be revised to better coincide with the other negotiated changes.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS, OBTAINING DRAFT COPIES: For assistance on technical questions concerning this negotiated rulemaking, contact Dr. Scott Leibsle, Deputy Administrator – Division of Animal Industries at scott.leibsle@isda.idaho.gov or (208) 332-8540. Materials pertaining to the negotiated rulemaking, including any available preliminary rule drafts, can be found on the ISDA web site (www.agri.idaho.gov/rulemaking).

Anyone may submit written comments regarding this negotiated rulemaking. All written comments must be directed to the undersigned and must be delivered on or before June 30, 2020.

Dated this 30th day of April, 2020.

Brian J. Oakey, Deputy Director
Idaho State Department of Agriculture
2270 Old Penitentiary Road
P.O. Box 7249
Boise, Idaho 83707
Phone: (208) 332-8552
Fax: (208) 334-2170

IDAPA 13 – DEPARTMENT OF FISH AND GAME

13.01.04 – RULES GOVERNING LICENSING

DOCKET NO. 13-0104-2001

NOTICE OF RULEMAKING – RESCISSION OF TEMPORARY RULE

AUTHORITY: In compliance with Section 67-5226, Idaho Code, notice is hereby given that this agency has rescinded the temporary rule previously adopted under this docket. The action is authorized pursuant to Sections 36-104 and 36-408, Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for rescinding the temporary rule.

At their May 14, 2020 meeting, the Fish and Game Commission approved rescinding Docket No. 13-0104-2001 (hereinafter “Rescission”) effective 10:00 a.m. Mountain Daylight Time, May 16, 2020. This Rescission effectively approves the resumption of sales of various nonresident licenses, tags, and permits.

The temporary rule in Docket No. 13-0104-2001 had authorized the temporary limit of some nonresident licenses, tags, permits, and hunting passports to the number sold as of April 4, 2020 due to the extreme emergency presented by COVID-19. This action was consistent with Governor and Idaho Department of Health and Welfare orders requiring people entering Idaho to self-quarantine for up to fourteen (14) days.

This Rescission is consistent with Stage 2 of the Governor’s Stay Healthy Order and guidelines for opening up Idaho (effective 12:00 a.m. Mountain Daylight Time, May 16, 2020), where individuals entering Idaho are no longer required to self-quarantine for fourteen (14) days. However, persons entering Idaho from areas with substantial community spread or case rates higher than Idaho are still strongly encouraged to self-quarantine for fourteen (14) days.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning the rescission of this temporary rule, contact Paul Kline at (208) 334-3771.

Dated this 15th day of May, 2020.

Paul Kline
Deputy Director
Idaho Department of Fish and Game
600 S. Walnut Street
P.O. Box 25
Boise, ID 83707
Phone: (208) 334-3771
Fax: (208) 334-4885
Email: rules@idfg.idaho.gov

IDAPA 13 – DEPARTMENT OF FISH AND GAME

13.01.04 – RULES GOVERNING LICENSING

DOCKET NO. 13-0104-2002

NOTICE OF INTENT TO PROMULGATE RULES – NEGOTIATED RULEMAKING

AUTHORITY: In compliance with Section 67-5220, Idaho Code, notice is hereby given that this agency intends to promulgate rules and desires public comment prior to initiating formal rulemaking procedures. This negotiated rulemaking action is authorized pursuant to Sections 36-104(b), 36-301, 36-401 through 413, and 36-1101, Idaho Code.

METHOD OF PARTICIPATION: Interested persons wishing to participate in the negotiated rulemaking must respond to this notice by contacting the undersigned either in writing, by email, or by calling the phone number listed below. To participate, responses must be received by June 26, 2020.

Should a reasonable number of persons respond to this notice, negotiated meetings will be scheduled and all scheduled meetings shall be posted and made accessible on the agency website at the address listed below.

Failure of interested persons to respond to this notice of intent or the lack of a sufficient number of responses to this notice of intent may result in the discontinuation of further informal proceedings. In either event, the agency shall have sole discretion in determining the feasibility of scheduling and conducting informal negotiated rulemaking and may proceed directly to formal rulemaking if proceeding with negotiated rulemaking is deemed infeasible.

Upon the conclusion of the negotiated rulemaking, any unresolved issues, all key issues considered, and conclusions reached during the negotiated rulemaking will be addressed in a written summary. The summary will be made available to interested persons who contact the agency or, if the agency chooses, the summary may be posted on the agency website.

DESCRIPTIVE SUMMARY: The following is a statement in nontechnical language of the substance and purpose of the intended negotiated rulemaking and the principal issues involved. The rulemaking will address the following:

The rulemaking will address moving draw dates for the Landowner Appreciation Program (LAP) controlled hunt tags to an earlier time in the year to provide landowners with adequate notification of draw results for hunts beginning in August. Applications from landowners for LAP controlled hunt tags are currently accepted from June 15 through July 15. Moving the application period to an earlier time in the year (e.g., May 1- June 5), would provide additional processing time and help ensure that the Department can provide timely draw result notification to landowners.

This rulemaking would provide the Commission the authority to limit the number of deer and elk tags made available annually to nonresident Disabled American Veterans (DAV) at nonresident DAV prices. If the number of tags made available at nonresident DAV prices sells out, nonresident DAVs would be eligible to purchase tags available at general, nonresident prices. General season deer and elk tags available to Nonresident DAVs are not included under the statewide general nonresident hunt tag limits for deer and elk (set by rule in IDAPA 13.01.04.550). Nonresident DAV participation has been growing. From 2016 to 2019, nonresident DAV elk tag sales increased from 910 to 1,682 and nonresident DAV deer tag sales increased from 1,149 to 1,839. Nonresident DAV elk and deer tags cost \$22.00 and \$38.00, respectively, and it is reasonable to expect continued growth in at least the near term if tags are not limited, with potential impacts on management of nonresidents in addressing hunter congestion.

ASSISTANCE ON TECHNICAL QUESTIONS, MEETING ACCOMMODATIONS, SUBMISSION OF WRITTEN COMMENTS, OBTAINING DRAFT COPIES: For assistance on technical questions concerning this negotiated rulemaking, requests for special meeting accommodations or accessibility, or to obtain a preliminary draft copy of the rule text (if available), contact Paul Kline at (208) 334-3771. Materials pertaining to the negotiated rulemaking, including any available preliminary rule drafts, can be found on the agency web site at the following web address: <https://idfg.idaho.gov/>.

Dated this 1st day of May, 2020.

Paul Kline
Deputy Director
Idaho Department of Fish and Game
600 S. Walnut Street
P.O. Box 25
Boise, ID 83707
Phone: (208) 334-3771
Fax: (208) 334-4885
Email: rules@idfg.idaho.gov

IDAPA 13 – DEPARTMENT OF FISH AND GAME

13.01.08 – RULES GOVERNING THE TAKING OF BIG GAME ANIMALS

DOCKET NO. 13-0108-2001

NOTICE OF INTENT TO PROMULGATE RULES – NEGOTIATED RULEMAKING

AUTHORITY: In compliance with Section 67-5220, Idaho Code, notice is hereby given that this agency intends to promulgate rules and desires public comment prior to initiating formal rulemaking procedures. This negotiated rulemaking action is authorized pursuant to Sections 36-104, 36-105, 36-405, 36-408, 36-409, and 36-1101(a), Idaho Code.

METHOD OF PARTICIPATION: Interested persons wishing to participate in the negotiated rulemaking must respond to this notice by contacting the undersigned either in writing, by email, or by calling the phone number listed below. To participate, responses must be received by June 26, 2020.

Should a reasonable number of persons respond to this notice, negotiated meetings will be scheduled and all scheduled meetings shall be posted and made accessible on the agency website at the address listed below.

Failure of interested persons to respond to this notice of intent or the lack of a sufficient number of responses to this notice of intent may result in the discontinuation of further informal proceedings. In either event, the agency shall have sole discretion in determining the feasibility of scheduling and conducting informal negotiated rulemaking and may proceed directly to formal rulemaking if proceeding with negotiated rulemaking is deemed infeasible.

Upon the conclusion of the negotiated rulemaking, any unresolved issues, all key issues considered, and conclusions reached during the negotiated rulemaking will be addressed in a written summary. The summary will be made available to interested persons who contact the agency or, if the agency chooses, the summary may be posted on the agency website.

DESCRIPTIVE SUMMARY: The following is a statement in nontechnical language of the substance and purpose of the intended negotiated rulemaking and the principal issues involved. This rule making would establish that any person whose name is drawn on a controlled pronghorn hunt may not apply for any other controlled pronghorn hunt for one (1) year. This proposed waiting period is consistent with IDAPA 13.01.08.257 governing controlled hunt eligibility for antlered deer and elk.

ASSISTANCE ON TECHNICAL QUESTIONS, MEETING ACCOMMODATIONS, SUBMISSION OF WRITTEN COMMENTS, OBTAINING DRAFT COPIES: For assistance on technical questions concerning this negotiated rulemaking, requests for special meeting accommodations or accessibility, or to obtain a preliminary draft copy of the rule text (if available), contact Paul Kline at (208) 334-3771. Materials pertaining to the negotiated rulemaking, including any available preliminary rule drafts, can be found on the agency web site at the following web address: <https://idfg.idaho.gov/>.

Dated this 1st day of May, 2020.

Paul Kline
Deputy Director
Idaho Department of Fish and Game
600 S. Walnut Street
P.O. Box 25
Boise, ID 83707
Phone: (208) 334-3771
Fax: (208) 334-4885
Email: rules@idfg.idaho.gov

IDAPA 13 – DEPARTMENT OF FISH AND GAME

13.01.09 – RULES GOVERNING THE TAKING OF GAME BIRDS

DOCKET NO. 13-0109-2002

NOTICE OF INTENT TO PROMULGATE RULES – NEGOTIATED RULEMAKING

AUTHORITY: In compliance with Section 67-5220, Idaho Code, notice is hereby given that this agency intends to promulgate rules and desires public comment prior to initiating formal rulemaking procedures. This negotiated rulemaking action is authorized pursuant to Sections 36-103, 36-104, 36-1101, and 36-1102, Idaho Code.

METHOD OF PARTICIPATION: Interested persons wishing to participate in the negotiated rulemaking must respond to this notice by contacting the undersigned either in writing, by email, or by calling the phone number listed below. To participate, responses must be received by June 26, 2020.

Should a reasonable number of persons respond to this notice, negotiated meetings will be scheduled and all scheduled meetings shall be posted and made accessible on the agency website at the address listed below.

Failure of interested persons to respond to this notice of intent or the lack of a sufficient number of responses to this notice of intent may result in the discontinuation of further informal proceedings. In either event, the agency shall have sole discretion in determining the feasibility of scheduling and conducting informal negotiated rulemaking and may proceed directly to formal rulemaking if proceeding with negotiated rulemaking is deemed infeasible.

Upon the conclusion of the negotiated rulemaking, any unresolved issues, all key issues considered, and conclusions reached during the negotiated rulemaking will be addressed in a written summary. The summary will be made available to interested persons who contact the agency or, if the agency chooses, the summary may be posted on the agency website.

DESCRIPTIVE SUMMARY: The following is a statement in nontechnical language of the substance and purpose of the intended negotiated rulemaking and the principal issues involved. This rulemaking will address the following:

Consistent with executive orders, the purpose of this rulemaking is simplification of turkey tag options offered to the hunting public. Currently, there are three types of tags available: (1) general tags, (2) extra tags, and (3) special unit tags and there are limitations on how tags may be used (IDAPA 13.01.09.102). A general tag and an extra tag may be used during the spring general season; however, if one or both go unused, the unused tag may be used during the general fall season. A second extra tag may also be used during the general fall season. A general tag or an extra tag may be used with a controlled hunt permit in the spring and fall seasons. Special unit tags may be used in designated units during any season set by the Commission. Consistent with executive orders, the purpose of this amended rule language will make it easier for the hunting public to understand tag options to hunt turkey.

The rulemaking will address a delay in the nonresident pheasant opening date. Section 36-407(e), Idaho Code establishes a 5-day delay from the pheasant season opening date for nonresident holders of small game hunting licenses. The Fish and Game Commission received a rulemaking petition from residents in Franklin and Oneida counties to modify the pheasant season opening date for all nonresident hunters to November 1st. The petitioners would like resident only pheasant hunting before November 1st.

This rulemaking will: establish uniform requirements for the validation and attachment of all game tags that are required for game birds under Section 36, 409(c), eliminate permit requirements for grouse species if game tags are statutorily required, and establish harvest report requirements for swan. Game tags are required for sandhill crane and turkey, with separate rule sections for validation and attachment. Legislation passed in 2020 (House Bill No. 545) established game tags for swan and set tag prices. Making tag validation and attachment requirements uniform for game bird species requiring a game tag, and eliminating permit requirements for a grouse species if a game tag is subsequently required by statute, will simplify rules consistent with executive orders. Establishing harvest report requirements for swan is a condition of federal agency approval of swan harvest in Idaho under the Migratory Bird Treaty Act.

This rulemaking would designate two special waterfowl hunting days for Veterans and Active Military personnel. Federal legislation passed in 2019 (the John D. Dingell, Jr. Conservation, Management, and Recreation

Act) allows states to offer veterans & active military two (2) waterfowl hunting days, which states may offer in combination with the two (2) days allowed for youth. This rulemaking would add the allowance for participation by veterans and active service members to the youth hunt days.

ASSISTANCE ON TECHNICAL QUESTIONS, MEETING ACCOMMODATIONS, SUBMISSION OF WRITTEN COMMENTS, OBTAINING DRAFT COPIES: For assistance on technical questions concerning this negotiated rulemaking, requests for special meeting accommodations or accessibility, or to obtain a preliminary draft copy of the rule text (if available), contact Paul Kline at (208) 334-3771. Materials pertaining to the negotiated rulemaking, including any available preliminary rule drafts, can be found on the agency web site at the following web address: <https://idfg.idaho.gov/>.

Dated this 1st day of May, 2020.

Paul Kline
Deputy Director
Idaho Department of Fish and Game
600 S. Walnut Street
P.O. Box 25
Boise, ID 83707
Phone: (208) 334-3771
Fax: (208) 334-4885
Email: rules@idfg.idaho.gov

IDAPA 13 – IDAHO FISH AND GAME COMMISSION
13.01.09 – RULES GOVERNING THE TAKING OF GAME BIRDS
DOCKET NO. 13-0109-2003P
NOTICE OF PROCLAMATION

AUTHORITY: In compliance with Section 36-105(3), Idaho Code, notice is hereby given that this agency has adopted by proclamation the 2020-2021 Idaho Migratory Game Bird Seasons at a special meeting that occurred on April 16, 2020, with a light geese and scaup date correction occurring at its May 14, 2020 meeting. The proclamation establishes seasons and limits for taking of ducks, geese, mourning doves, sandhill cranes, American coot, Wilson's snipe, and American crow in Idaho.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning the proclamation, contact Owen Moroney at (208) 334-3715.

IDAPA 13 – IDAHO FISH AND GAME COMMISSION

13.01.11 – RULES GOVERNING FISH

DOCKET NO. 13-0111-2001AP

NOTICE OF AMENDED PROCLAMATION

AUTHORITY: In compliance with Section 36-105(3), Idaho Code, notice is hereby given that at a May 14, 2020 meeting the Commission amended by proclamation the 2020 Idaho Spring Chinook Seasons, establishing seasons and limits for fishing in Idaho. The Commission reduced the week days available for Chinook fishing and made closures on certain sections of the Salmon and Little Salmon Rivers.

Fishers are advised that they must consult the text of the Commission's official proclamation before fishing as this notice is merely meant to advise that changes have been made. This notice is not an exhaustive list of those changes.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning the proclamation, contact Owen Moroney at (208) 334-3715.

IDAPA 13 – DEPARTMENT OF FISH AND GAME

13.01.16 – THE TRAPPING OF PREDATORY AND UNPROTECTED WILDLIFE AND THE TAKING OF FURBEARING ANIMALS

DOCKET NO. 13-0116-2002

NOTICE OF INTENT TO PROMULGATE RULES – NEGOTIATED RULEMAKING

AUTHORITY: In compliance with Section 67-5220, Idaho Code, notice is hereby given that this agency intends to promulgate rules and desires public comment prior to initiating formal rulemaking procedures. This negotiated rulemaking action is authorized pursuant to Sections 36-104(b) and 36-1101(a), Idaho Code.

METHOD OF PARTICIPATION: Interested persons wishing to participate in the negotiated rulemaking must respond to this notice by contacting the undersigned either in writing, by email, or by calling the phone number listed below. To participate, responses must be received by June 26, 2020.

Should a reasonable number of persons respond to this notice, negotiated meetings will be scheduled and all scheduled meetings shall be posted and made accessible on the agency website at the address listed below.

Failure of interested persons to respond to this notice of intent or the lack of a sufficient number of responses to this notice of intent may result in the discontinuation of further informal proceedings. In either event, the agency shall have sole discretion in determining the feasibility of scheduling and conducting informal negotiated rulemaking and may proceed directly to formal rulemaking if proceeding with negotiated rulemaking is deemed infeasible.

Upon the conclusion of the negotiated rulemaking, any unresolved issues, all key issues considered, and conclusions reached during the negotiated rulemaking will be addressed in a written summary. The summary will be made available to interested persons who contact the agency or, if the agency chooses, the summary may be posted on the agency website.

DESCRIPTIVE SUMMARY: The following is a statement in nontechnical language of the substance and purpose of the intended negotiated rulemaking and the principal issues involved. The rule making will address the following:

The Fish and Game Commission received a rulemaking petition proposing that certain allowances for use of bait and trap placement in wolf trapping also apply to the trapping of furbearing animals and predatory wildlife. These allowances include the placement of traps over naturally killed big game species as long as the carcass was undisturbed, and the use of legally taken road-killed animals as bait.

The Fish and Game Commission received a rulemaking petition to restrict the use of body-gripping traps with jaws wider than seven and one half (7 1/2) inches inside spread in sets on dry land within thirty (30) feet of bait or other attractant. The petition also requested that the Commission establish additional conditions for the use of body-gripping traps on dry land where the inside spread of the trap jaw is greater than six and one half (6 1/2) and less than seven and one half (7 1/2) inches.

Consistent with executive orders, the negotiated rulemaking may encompass simplification as between IDAPA 13.01.16.400, and IDAPA 13.01.17.400, Rules Governing the Use of Bait and Trapping for Taking Big Game Animals should the rulemaking increase the overlap between methods of takes requirements in the two chapters.

ASSISTANCE ON TECHNICAL QUESTIONS, MEETING ACCOMMODATIONS, SUBMISSION OF WRITTEN COMMENTS, OBTAINING DRAFT COPIES: For assistance on technical questions concerning this negotiated rulemaking, requests for special meeting accommodations or accessibility, or to obtain a preliminary draft copy of the rule text (if available), contact Paul Kline at (208) 334-3771. Materials pertaining to the negotiated rulemaking, including any available preliminary rule drafts, can be found on the agency web site at the following web address: <https://idfg.idaho.gov/>.

Dated this 1st day of May, 2020.

Paul Kline
Deputy Director
Idaho Department of Fish and Game
600 S. Walnut Street
P.O. Box 25
Boise, ID 83707
Phone: (208) 334-3771
Fax: (208) 334-4885
Email: rules@idfg.idaho.gov

IDAPA 16 – DEPARTMENT OF HEALTH AND WELFARE

DOCKET NO. 16-0000-2000F (FEE RULE)

NOTICE OF CORRECTION TO OMNIBUS RULEMAKING – ADOPTION OF TEMPORARY RULE

CORRECTION: This notice corrects an error made by the Office of the Administrative Rules Coordinator during the publication of the April 15, 2020, Special Edition of the Idaho Administrative Bulletin, [Volume 20-4SE](#). In the Notice of Omnibus Rulemaking – Adoption of Temporary Rule, published under [Docket No. 16-0000-2000F](#), certain portions of the temporary rule text were updated to show amendments from rulemakings that the 2020 Legislature reviewed and approved, reflecting a temporary effective date of March 20, 2020. However, the final effective date specified by the Department of Health and Welfare in the Notice of Adoption of Pending Rule for these rulemakings is July 1, 2020. These portions of rules have been clerically revised to rectify the publishing error and accurately reflect agency rulemaking action.

AUTHORITY: The Office of the Administrative Rules Coordinator and this agency are providing notice of a correction to the Notice of Omnibus Rulemaking – Adoption of Temporary Rule previously published in the Idaho Administrative Bulletin under this docket number. The action is authorized pursuant to Sections 67-5202 and 67-5226, Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise statement of the correction being made:

Section 67-5224(5)(c), Idaho Code, requires that any pending rule imposing a fee or charge to be reviewed and approved by concurrent resolution of the legislature in order for the pending rule to become final and effective. During the 2020 legislative session, the legislature did not adopt the required concurrent resolution approving the pending fee rules that were submitted for review and approval thereby voiding these pending fee rules making them null, void and of no force and effect. However, the proactive action taken by state agencies to conditionally re-approve fee rules upon sine die has ensured that they remain in effect as temporary rules as published in the April 15, 2020, Special Edition of the Idaho Administrative Bulletin, [Volume 20-4SE](#).

There were a number of pending rulemakings submitted to the 2020 Idaho Legislature that amended chapters that were also being promulgated as pending fee rules. Although these pending rules were not rejected by concurrent resolution, they were rendered null and void because the rule chapter being amended was not approved as final and expired. When the fee chapters were adopted and published as temporary rules in the April 15, 2020, Special Edition Bulletin, the changes from the pending rulemakings were also adopted and included into these reauthorized fee chapters taking effect on March 20, 2020. However, as authorized by Section 67-5224(2)(c), Idaho Code, the final effective date specified in the pending rules being corrected by this notice is July 1, 2020, and therefore the changes were inadvertently included and prematurely updated in the reauthorized fee chapters as of March 20, 2020.

This rulemaking action corrects the following temporary rule chapters under [Docket No. 16-0000-2000F](#):

IDAPA 16

- IDAPA 16.02.01, *Idaho Time Sensitive Emergency System Council*
- IDAPA 16.03.19, *Certified Family Homes*
- IDAPA 16.03.22, *Residential Assisted Living Facilities*
- IDAPA 16.05.06, *Criminal History and Background Checks*

The complete text of the chapters affected by this corrective action is being republished following this notice.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this corrective action to temporary rules, contact Administrative Rules Unit, dhwrules@dhw.idaho.gov, 450 W State St., 10 Floor, Boise, ID, 83720.

DATED this 3rd day of June, 2020.

Tamara Prisock
DHW – Administrative Rules Unit
450 W. State Street – 10th Floor

P.O. Box 83720 Boise, ID 83720-0036
phone: (208) 334-5500; fax: (208) 334-6558
e-mail: dhwrules@dhw.idaho.gov

16.02.01 – IDAHO TIME SENSITIVE EMERGENCY SYSTEM COUNCIL

000. LEGAL AUTHORITY.

The Idaho Time Sensitive Emergency System Council (TSE) is authorized under Section 56-1028, Idaho Code, to promulgate rules for the purpose of establishing standards and for the administration of a voluntary time sensitive emergency system of care. Sections 56-1024 through 56-1030, Idaho Code, provide requirements for the TSE Council, its membership, duties, regional TSE committees, standards criteria, and the designation of centers. The Department is authorized to charge and collect fees established by rule under Section 56-1007, Idaho Code, and to establish and collect data for a Time Sensitive Emergency (TSE) Registry under Section 57-2003, Idaho Code.

(3-20-20)T

001. TITLE, SCOPE, AND INTENT.

01. Title. The title of these rules is IDAPA 16.02.01, “Idaho Time Sensitive Emergency System Council.”

(3-20-20)T

02. Scope. These rules provide for the administration and establishment of standards for a voluntary statewide time sensitive emergency system of care that includes procedures and requirements for designation of trauma, stroke, and heart attack centers including data reporting, fees, appeal process and enforcement procedures, determination of regions to provide an effective access to the TSE system within the state, and operational procedures for regional TSE committees.

(3-20-20)T

03. Intent. With the maturation of the Time Sensitive Emergency System (TSE), the intent is for the state to have the ability to designate TSE centers without reliance on national accreditation bodies. The TSE Council, upon review of appropriate documentation, may provide reciprocity for facilities in Idaho that also choose to operate under a designation in a neighboring state’s system.

(3-20-20)T

002. -- 003. (RESERVED)

004. INCORPORATION BY REFERENCE.

The Time Sensitive Emergency System Standards Manual, Edition 2019-1, is incorporated by reference in this chapter of rules. Copies of the manual may be obtained online at <https://tse.idaho.gov/> or from the Bureau of Emergency Medical Services and Preparedness located at 2224 East Old Penitentiary Road, Boise, ID 83712-8249.

(3-20-20)T

005. -- 009. (RESERVED)

010. DEFINITIONS.

For the purposes of this chapter, the following terms and definitions apply. (3-20-20)T

01. American College of Surgeons (ACS). The American College of Surgeons (ACS) is a national body that sets standards and verifies compliance with published standards. (3-20-20)T

02. Department. The Idaho Department of Health and Welfare. (3-20-20)T

03. Director. The Director of the Idaho Department of Health and Welfare or their designee. (3-20-20)T

04. Division. The Division of Public Health, Idaho Department of Health and Welfare. (3-20-20)T

05. EMS Agency. Any organization licensed by the Department under Sections 56-1011 through 56-1023, Idaho Code, and IDAPA 16.01.03, “Emergency Medical Services (EMS) - Agency Licensing Requirements,” that operates an air medical service, ambulance service, or non-transport service. (3-20-20)T

06. EMS Bureau. The Bureau of Emergency Medical Services (EMS) & Preparedness of the Idaho Department of Health and Welfare. (3-20-20)T

07. Facility. A health care organization that is voluntarily seeking designation from the Idaho Time Sensitive Emergency Council. A facility may be any of the following: (3-20-20)T

a. Center. A facility designated by the Idaho Time Sensitive Emergency Council is known as a center. (3-20-20)T

- b.** Freestanding emergency department: (3-20-20)T

 - i. Is owned by a hospital with a dedicated emergency department; (3-20-20)T
 - ii. Is located within thirty-five (35) miles of the hospital that owns or controls it; (3-20-20)T
 - iii. Provides emergency services twenty-four (24) hours per day, seven (7) days per week on an outpatient basis; (3-20-20)T
 - iv. Is physically separate from a hospital; and (3-20-20)T
 - v. Meets the staffing and service requirements in IDAPA 16.03.14, "Hospitals." (3-20-20)T
- c.** Hospital. As defined in Section 39-1301, Idaho Code, is a facility primarily engaged in providing, by or under the daily supervision of physicians: (3-20-20)T

 - i. Concentrated medical and nursing care on a twenty-four (24) hour basis to inpatients experiencing acute illness; (3-20-20)T
 - ii. Diagnostic and therapeutic services for medical diagnosis and treatment, psychiatric diagnosis and treatment, and care of injured, disabled, or sick persons; (3-20-20)T
 - iii. Rehabilitation services for injured, disabled, or sick persons; (3-20-20)T
 - iv. Obstetrical care; (3-20-20)T
 - v. Provides for care of two (2) or more individuals for twenty-four (24) or more consecutive hours; and (3-20-20)T
 - vi. Is staffed to provide nursing professional nursing care on a twenty-four (24) hour basis. (3-20-20)T
- d.** Rural Clinic. A health care clinic in a rural area that is located more than thirty-five (35) miles from a hospital via maintained roads and is capable of providing emergency care to patients. (3-20-20)T
- 08. Heart Attack.** STEMI, a common name for ST-elevation myocardial infarction, is a more precise definition for a type of heart attack caused by a prolonged period of blocked blood supply that affects a large area of the heart and has a substantial risk of death or disability calling for a quick response. (3-20-20)T
- 09. Idaho Time Sensitive Emergency (TSE) System Council.** The Idaho Time Sensitive Emergency System Council established in Section 56-1027, Idaho Code. (3-20-20)T
- 10. National Accrediting Body.** An organization whose standards criteria is recognized by the Idaho Time Sensitive Emergency System Council and verifies compliance with those standards. (3-20-20)T
- 11. Regional Time Sensitive Emergency (TSE) Committee.** An Idaho regional TSE committee established under Section 56-1030, Idaho Code. (3-20-20)T
- 12. STEMI.** STEMI is an ST segment elevation myocardial infarction that is a particular type of heart attack, or MI (myocardial infarction), that is caused by a prolonged period of blocked blood supply. It affects a large area of the heart muscle, and so causes changes on the ECG as well as in blood levels of key chemical markers. This is considered a major heart attack and is referred to in medical shorthand as a STEMI. (3-20-20)T
- 13. Stroke.** An interruption of blood flow to the brain causing paralysis, slurred speech, or altered brain function usually caused by a blockage in a blood vessel that carries blood to the brain (ischemic stroke) or by a blood vessel bursting (hemorrhagic stroke). (3-20-20)T
- 14. Time Sensitive Emergency (TSE).** Time sensitive emergencies specifically for this chapter of

rules are trauma, stroke, and heart attack. (3-20-20)T

15. Trauma. The result of an act or event that damages, harms, or hurts a human being resulting in intentional or unintentional damage to the body resulting from acute exposure to mechanical, thermal, electrical, or chemical energy, or from the absence of such essentials as heat or oxygen. (3-20-20)T

16. TSE-Designated Center. A facility that has voluntarily applied for TSE designation, met and is in compliance with the designation criteria and standards of these rules, and that the TSE Council has designated as one (1) or more of the following: (3-20-20)T

- a.** Level I Trauma Center; (3-20-20)T
- b.** Level II Trauma Center; (3-20-20)T
- c.** Level III Trauma Center; (3-20-20)T
- d.** Level IV Trauma Center; (3-20-20)T
- e.** Level V Trauma Center; (3-20-20)T
- f.** Pediatric Level I Trauma Center; (3-20-20)T
- g.** Pediatric Level II Trauma Center; (3-20-20)T
- h.** Level I Stroke Center (Comprehensive); (3-20-20)T
- i.** Level II Stroke Center (Primary); (3-20-20)T
- j.** Level III Stroke Center (Acute Stroke Ready); (3-20-20)T
- k.** Level I STEMI Center (Heart Attack Receiving); or (3-20-20)T
- l.** Level II STEMI Center (Heart Attack Referring). (3-20-20)T

17. TSE Registry. The population-based data system defined under Section 57-2003, Idaho Code. (3-20-20)T

18. TSE System. An organized statewide approach to treating trauma, stroke, and heart attack patients that establishes and promotes standards for patient transportation, equipment, and information analysis for effective and coordinated TSE care. (3-20-20)T

011. -- 074. (RESERVED)

075. TSE COUNCIL.

Under Section 56-1027, Idaho Code, the TSE Council will consist of members appointed by the Governor of Idaho and the chair of each regional TSE committee. (3-20-20)T

076. TSE COUNCIL -- RESPONSIBILITIES AND DUTIES.

The TSE Council is responsible for the duties described under Section 56-1028, Idaho Code. (3-20-20)T

077. -- 079. (RESERVED)

080. TSE REGIONS.

Under Section 56-1028, Idaho Code, the TSE Council is required to establish TSE regions that provide more effective access to the Idaho TSE system through education, but not for the purpose of promoting competition, restricting, or directing patient referrals within the region. The TSE Council has established six (6) regions in Idaho described in the Time Sensitive Emergency System Standards Manual incorporated under Section 004 of these rules. (3-20-20)T

081. TSE REGIONS -- REALIGNMENT OF REGION.

The TSE Council may realign a region by initiation of the TSE Council, or at the request of a regional TSE committee, a county or local government entity within the region, a TSE-designated center, or a licensed EMS agency within the region. (3-20-20)T

01. Requesting Entity. The requesting entity must forward correspondence to the TSE Council specifying the reason for the realignment request. The correspondence must include: (3-20-20)T

- a. Existing patient routing patterns used by both EMS agencies and health care centers; (3-20-20)T
- b. Distances and transport times involved in patient routing patterns; (3-20-20)T
- c. A list of all entities affected by the request; (3-20-20)T
- d. A list of all other licensed health care facilities and licensed EMS agencies in the county; and (3-20-20)T
- e. Documentation that all affected regional TSE committees are agreeable to the realignment. (3-20-20)T

02. Copies of Request for Realignment. The entity requesting the TSE Council for realignment must provide copies of the correspondence to all affected regional TSE committees, county and local governments, licensed health care facilities, and EMS agencies in the requesting entity's county. (3-20-20)T

03. TSE Decision for Realignment. The TSE Council will evaluate the request based on the impact to patient care and will notify all parties of the council's decision. (3-20-20)T

082. REGIONAL TSE COMMITTEES -- ORGANIZATION AND RESPONSIBILITIES.

The regional TSE committees' organization and responsibilities are described under Section 56-1030, Idaho Code. (3-20-20)T

083. -- 099. (RESERVED)

100. DESIGNATION OF TSE CENTERS -- CRITERIA.

Under Section 56-1029, Idaho Code, the TSE Council will designate a hospital as a trauma, stroke, or STEMI (heart attack) center when such hospital, upon proper application and verification, is found by the TSE Council to meet an applicable designation level for trauma, stroke, or STEMI (heart attack) designation criteria established in the Time Sensitive Emergency System Standards Manual incorporated under Section 004 of these rules. (3-20-20)T

101. -- 104. (RESERVED)

105. TRAUMA DESIGNATION CENTERS.

To be an Idaho TSE-designated Level I, II, III, IV, V, or a Pediatric Level I or Level II Trauma Center, a facility must meet or exceed required standards published for state designation in the Time Sensitive Emergency System Standards Manual incorporated under Section 004 of these rules. (3-20-20)T

106. -- 109. (RESERVED)

110. STROKE DESIGNATION CENTERS.

To be an Idaho TSE-designated Level I, II, or III Stroke Center, a facility must meet or exceed required standards published for state designation in the Time Sensitive Emergency System Standards Manual incorporated by reference under Section 004 of these rules. (3-20-20)T

111. -- 114. (RESERVED)

115. STEMI (HEART ATTACK) DESIGNATION CENTERS.

To be an Idaho TSE-designated Level I or II STEMI (Heart Attack) Center, a facility must meet or exceed required standards published for state designation in the Time Sensitive Emergency System Standards Manual incorporated under Section 004 of these rules. (3-20-20)T

116. -- 119. (RESERVED)

120. DESIGNATION OF CENTERS -- GENERAL REQUIREMENTS.

01. Application. A facility applying for initial TSE designation must submit an application along with applicable fees for each designation it is requesting. Application process and requirements are provided in the Time Sensitive Emergency System Standards Manual incorporated under Section 004 of these rules. Fee requirements are provided in Section 200 of these rules. (3-20-20)T

02. Initial Designation. Initial designation requires completion of appropriate application, submission of appropriate fees, and completion of an appropriate on-site survey based on the Time Sensitive Emergency System Standards Manual incorporated by reference under Section 004 of these rules. (3-20-20)T

121. -- 189. (RESERVED)

190. TSE DESIGNATION -- LENGTH OF DESIGNATION.

A TSE center will be designated for a period of three (3) years, unless the designation is rescinded by the TSE Council for non-compliance with the designation standards of these rules or adjusted to coincide with applicable external verification timetables. (3-20-20)T

191. RENEWAL OF TSE DESIGNATION.

A TSE center must submit its renewal application and applicable fees no later than six (6) months prior to the center's designation expiration date. Designation will not lapse due to a delay in scheduling the on-site survey, if the delay is through no fault of renewing center. (3-20-20)T

192. -- 194. (RESERVED)

195. NOTIFICATION OF LOSS OF CERTIFICATION OR LICENSURE.

Any TSE-designated center that has a loss of certification or licensure must immediately notify the TSE Council by contacting TSE program staff. (3-20-20)T

196. -- 199. (RESERVED)

200. DESIGNATION AND TSE ON-SITE SURVEY FEES.

01. Application With National Verification. An applicant applying for a TSE designation that is verified by a national accrediting body must submit the appropriate designation fees with its application for initial designation and renewal. The designation fees are for a three (3) year designation and are payable on an annual basis. TSE designation fees are not to exceed those listed in Subsections 200.03 through 200.05 of this rule. (3-20-20)T

02. Application Without National Verification. An applicant who requires a TSE on-site survey prior to designation is required to pay the applicable on-site survey fee at the time of application. TSE designation and on-site survey fees are not to exceed those listed in Subsections 200.03 through 200.05 of this rule. (3-20-20)T

03. Trauma Designation and TSE On-Site Survey Fees.

TRAUMA DESIGNATIONS 200.03	DESIGNATION FEE 3-year / Annual (Not to exceed)	TSE ON-SITE SURVEY FEE (Not to exceed)
LEVEL I	\$45,000 / \$15,000	\$3,000 / Not applicable with ACS verification

TRAUMA DESIGNATIONS 200.03	DESIGNATION FEE 3-year / Annual (Not to exceed)	TSE ON-SITE SURVEY FEE (Not to exceed)
LEVEL II	\$36,000 / \$12,000	\$3,000 / Not applicable with ACS verification
LEVEL III	\$24,000 / \$8,000	\$,3000 / Not applicable with ACS verification
LEVEL IV	\$12,000 / \$4,000	\$1,500 / Not applicable with ACS verification
LEVEL V	\$3,000 / \$1,000	\$1,500
PEDIATRIC LEVEL I and LEVEL II	\$36,000 / \$12,000	\$3000 / Not applicable with ACS verification

(3-20-20)T

04. Stroke Designation and TSE On-Site Survey Fees.

STROKE DESIGNATIONS 200.04	DESIGNATION FEE 3-year / Annual (Not to exceed)	TSE ON-SITE SURVEY FEE (Not to exceed)
LEVEL I	\$21,000 / \$7,000	\$3,000 / Not applicable with national or acceptable state verification
LEVEL II	\$12,000 / \$4,000	\$3,000 / Not applicable with national or acceptable state verification
LEVEL III	\$1,500 / \$500	\$3,000 / Not applicable with national or acceptable state verification

(3-20-20)T

05. STEMI (Heart Attack) Designation and TSE On-Site Survey Fees.

STEMI (HEART ATTACK) DESIGNATIONS 200.05	DESIGNATION FEE 3-year / Annual (Not to exceed)	TSE ON-SITE SURVEY FEE (Not to exceed)
LEVEL I	\$21,000 / \$7,000	\$3,000 / Not applicable with national or acceptable state verification
LEVEL II	\$1,500 / \$500	\$3,000 / Not applicable with national or acceptable state verification

(3-20-20)T

06. Designation Fee Payment. After completion of the TSE on-site survey, the TSE Council will notify the applicant facility of the designation determination by letter. The applicant facility must then pay either the annual designation fee or the entire three (3) year designation fee. After designation notification and upon the Department's receipt of the designation fee, designation is effective. The TSE Council will send a certificate of designation and confirmation of the designation period. Annual designation fees for those facilities paying yearly are

due to the Department within thirty (30) days of the date of the invoice in order to maintain designation. Failure to meet this deadline will result in suspension or revocation of designation as provided in Section 285 of these rules. (3-20-20)T

201. -- 249. (RESERVED)

250. TSE ON-SITE SURVEY.

The TSE Council will conduct an on-site survey of each TSE-designated center at least once every three (3) years, unless the center has been verified by a national accrediting body to meet or exceed the standards set in these rules. The TSE Council will schedule the on-site survey with the designated center in a timely manner. (3-20-20)T

251. TSE ON-SITE SURVEY -- GENERAL REQUIREMENTS.

The TSE on-site survey will consist of and consider each facility's application and compliance with the standards published for state designation and incorporated under Section 004 of these rules for the specific type of designation being requested. The general requirements in Subsections 251.01 through 251.06 of this rule apply: (3-20-20)T

01. Survey Team Member Requirements. Survey team members will meet the following inclusion criteria: (3-20-20)T

a. A physician surveyor must: (3-20-20)T

i. Be certified by the American Board of Medical Specialties or the American Board of Osteopathic Medicine; (3-20-20)T

ii. Be board-certified in the specialty area being represented on the review team; (3-20-20)T

iii. Be currently active, or active in the last twelve (12) months, in trauma, stroke, or emergency cardiac care at a center that is at or above the level being reviewed; (3-20-20)T

iv. Have no conflict of interest with the facility under review; (3-20-20)T

v. Be from another state when performing a survey for Level I or Level II Trauma Center designations; and (3-20-20)T

vi. Be from outside the region of the center being verified. (3-20-20)T

b. A nurse surveyor or program manager must: (3-20-20)T

i. Be currently active, or active in the last twelve (12) months, in trauma, stroke, or emergency cardiac care at a center that is at or above the level being reviewed; and (3-20-20)T

ii. Have no conflict of interest with the facility under review; (3-20-20)T

iii. Be from another state when performing a survey for Level I or Level II Trauma Center designations; and (3-20-20)T

iv. Be from outside the region of the center being verified. (3-20-20)T

02. Communication Between Surveyors and Facilities. In order to standardize ethical practice, all communication between surveyors and facilities prior to the survey must be facilitated by TSE program staff. (3-20-20)T

03. Survey Team Member Notification of Potential Conflict of Interest. Upon being assigned to an on-site survey team, a potential team member must notify the TSE Council of any potential conflict of interest regarding any financial, professional, or personal bias that may affect the survey of the applicant's facility. (3-20-20)T

04. Notification to Applicant of Survey Team Members. The TSE Council will provide the applicant with the names of the on-site survey team once they have been selected and at least thirty (30) calendar days prior to the scheduled survey. (3-20-20)T

05. Facility Notification to TSE Council of Potential Conflict of Interest. If the applicant believes that a potential surveyor has a financial, professional, or personal bias that may affect the survey, the applicant must notify the TSE Council in writing no later than seven (7) calendar days after the applicant receives the TSE Council's notification of the proposed survey team. (3-20-20)T

06. Notification of Decision for Conflict of Interest. The TSE Council will consider the conflict of interest notice and make a decision concerning replacement of the survey team member in question. No person who has a substantial conflict of interest in the operation of any facility under review will participate in the on-site survey of the applicant. (3-20-20)T

252. TSE ON-SITE SURVEY -- SURVEY TEAM COMPOSITION.

The TSE Council will select an on-site survey team based on the applicant's designation application and specifications provided in these rules and the standards published in the Time Sensitive Emergency System Standards Manual incorporated under Section 004 of these rules. (3-20-20)T

253. ON-SITE SURVEY -- ADDITIONAL SURVEYS.

The TSE Council may conduct additional, announced or unannounced, full or partial, on-site reviews of TSE designated centers or applicants when there is reason to believe that the center is not in compliance with the designation criteria standards of these rules. (3-20-20)T

254. -- 259. (RESERVED)

260. DESIGNATION DECISION.

01. Summary Report. The survey team will present a verbal summary of the survey results to the applicant. The survey team will submit in writing to the TSE Council its recommendation on the center's designation at the completion of the site survey. (3-20-20)T

02. Written Report. The TSE Council will consider all evidence and notify the applicant in writing of its decision within thirty (30) calendar days of receiving the survey team's recommendation. (3-20-20)T

03. Final Determination. The TSE Council's final determination regarding each application will be based upon consideration of: (3-20-20)T

a. The application; (3-20-20)T

b. The evaluation and recommendations of the on-site survey team; (3-20-20)T

c. The best interests of patients; and (3-20-20)T

d. Any unique attributes or circumstances that make the facility capable of meeting special community needs. (3-20-20)T

04. Provisional Designation. The TSE Council may grant a provisional designation to a facility with deficiencies it deems correctable. A facility receiving a provisional designation must: (3-20-20)T

a. Resolve the deficiencies within the time period specified by the TSE Council; (3-20-20)T

b. Submit documentation that the deficiency has been resolved; and (3-20-20)T

c. If necessary, submit to an additional focused on-site survey and pay the applicable survey fees. (3-20-20)T

05. Denial. If the TSE Council denies an applicant a designation, the provisions of IDAPA 16.05.03, “Contested Case Proceedings and Declaratory Rulings,” will apply. (3-20-20)T

261. -- 269. (RESERVED)

270. WAIVERS.

01. Granting a Waiver. The TSE Council may grant a waiver from one (1) or more designation criteria for a center applying for TSE designation. (3-20-20)T

02. Waiver Application. A center requesting a waiver must submit a completed TSE Waiver Application Form. The TSE Council may require the applicant to provide additional information, and the application will not be considered complete until all required information is provided. (3-20-20)T

03. Post Notice. A center requesting a waiver must post a notice of the waiver application at all public entrances to the center and in at least one (1) area that is commonly used by the patients. The notice must: (3-20-20)T

- a.** Include a meaningful description of the reason for the waiver; (3-20-20)T
- b.** Be posted on the date the waiver application is submitted; (3-20-20)T
- c.** Remain posted for a minimum of thirty (30) calendar days; and (3-20-20)T
- d.** Describe where and to whom comments may be submitted during the thirty (30) calendar days. (3-20-20)T

04. Notice Distribution. When the notice is posted, the center must also distribute copies of the notice to prehospital emergency medical service agencies active in the community served by the center. (3-20-20)T

05. Waiver Application Submission. The completed waiver application must be submitted to the TSE Council at least thirty (30) calendar days before a TSE Council meeting in order to be placed on the agenda. Applications submitted less than thirty (30) calendar days in advance of a TSE Council meeting will be placed on the next agenda. (3-20-20)T

06. Waiver Application Distribution. The TSE Council will make available the public notice of the TSE Council meeting regarding the waiver application to all TSE-designated centers. (3-20-20)T

07. Waiver Application Review. The regional TSE committee must review the request and make recommendations to the TSE Council. The TSE Council must make a decision and notify the facility administrator in writing within thirty (30) calendar days of the TSE Council meeting during which the waiver decision is made. (3-20-20)T

08. Waiver Conditions. When a waiver is granted, the TSE Council must: (3-20-20)T

- a.** Specify the terms and conditions of the waiver; (3-20-20)T
- b.** Specify the duration of the waiver; duration will not exceed the designation period for that center or three (3) years, whichever is shorter; and (3-20-20)T
- c.** Require the submission of progress reports from the center that was granted a waiver. (3-20-20)T

09. Waiver Renewal. A center that plans to maintain a waiver beyond its expiration must submit a new waiver application to the TSE Council no less than three (3) months prior to the expiration of the waiver. (3-20-20)T

10. Waiver Revocation. The TSE Council may revoke or suspend a waiver when it determines: (3-20-20)T

- a. That continuation of the waiver jeopardizes the health, safety, or welfare of the patients;(3-20-20)T
- b. The applicant has provided false or misleading information in the waiver application; (3-20-20)T
- c. The applicant has failed to comply with conditions of the waiver; or (3-20-20)T
- d. That a change in federal or state law prohibits continuation of the waiver. (3-20-20)T

11. Notification and Appeal. When the TSE Council denies, revokes, or suspends a waiver, the TSE Council must provide the center with a written notification of the action and the basis for the action. The notice will inform the facility of the right to appeal and the procedure to appeal the waiver action under the provisions in IDAPA 16.05.03, "Contested Case Proceedings and Declaratory Rulings." Notification will be made in writing within thirty (30) calendar days of the TSE Council meeting during which the appeal decision is made. (3-20-20)T

271. -- 279. (RESERVED)

280. DENIAL AND MODIFICATION.

01. Denial. The TSE Council may deny an initial or renewal application for a center's designation when a center: (3-20-20)T

- a. Does not meet the criteria for designation required in these rules; (3-20-20)T
- b. Application or accompanying documents contain false statements of material facts; (3-20-20)T
- c. Refuses to allow any part of an on-site survey; (3-20-20)T
- d. Fails to comply with or to successfully complete a plan of correction, or (3-20-20)T
- e. Is substantially out of compliance with any TSE rules. (3-20-20)T

02. Modification. When a center fails to meet the criteria at the level of designation for which it applied or opts to surrender its designation, the TSE Council may recommend a designation at a lesser level described in Section 290 of these rules, or a complete revocation of state designation. This action, unless agreed to by the applicant, will represent a denial of the application. (3-20-20)T

03. Notification and Appeal. When the TSE Council denies an application for designation, the TSE Council must provide the center with a written notification of the denial and the basis for the denial. The notice will inform the facility of the right to appeal and the procedure to appeal the denial under the provisions in IDAPA 16.05.03, "Contested Case Proceedings and Declaratory Rulings." (3-20-20)T

281. -- 284. (RESERVED)

285. REVOCATION AND SUSPENSION.

01. Revocation. The TSE Council may revoke the designation of a center or a waiver when an owner, officer, director, manager, or other employee: (3-20-20)T

- a. Fails or refuses to comply with the provisions of these rules; (3-20-20)T
- b. Fails to make annual designation fee payment for those facilities paying yearly; (3-20-20)T
- c. Makes a false statement of material fact about the center's capabilities or other pertinent circumstances in any record or matter under investigation for any purposes connected with these rules; (3-20-20)T
- d. Prevents, interferes with, or attempts to impede in any way, the work of a representative of the TSE

Council in implementing or enforcing these rules; (3-20-20)T

e. Falsely advertises, or in any way misrepresents the facility’s ability to care for patients based on its designation status; (3-20-20)T

f. Is substantially out of compliance with these rules and has not rectified such noncompliance; (3-20-20)T

g. Fails to provide reports required by the TSE registry or the Department in a timely and complete fashion; or (3-20-20)T

h. Fails to comply with or complete a plan of correction in the time or manner specified. (3-20-20)T

02. Suspension. The TSE Council may suspend a center’s designation or waiver when it finds, after investigation, that the center has engaged in a deliberate and willful violation of these rules, or that the public’s health, safety, or welfare is endangered. (3-20-20)T

03. Notification and Appeal. When the TSE Council revokes or suspends a center’s designation or waiver, it must provide the center with a written notification of the action and the basis for the action. The notice will inform the center of the right to appeal and the procedure to appeal the action under the provisions in IDAPA 16.05.03, “Contested Case Proceedings and Declaratory Rulings.” (3-20-20)T

286. -- 289. (RESERVED)

290. DESIGNATION AT A LESSER LEVEL.

01. Inability to Meet Criteria. The TSE Council may opt to redesignate a center at a lesser level due to the center’s inability to meet current designation criteria, without regard to any waiver previously granted. (3-20-20)T

02. Notification and Appeal. When the TSE Council decides to redesignate a center, it must provide the center with a written notification of the action and the basis for the action. The notice will inform the center of the right to appeal and the procedure to appeal the action under the provisions in IDAPA 16.05.03, “Contested Case Proceedings and Declaratory Rulings.” (3-20-20)T

291. -- 999. (RESERVED)

16.03.19 – CERTIFIED FAMILY HOMES

000. LEGAL AUTHORITY.

The Idaho Board of Health and Welfare is authorized under Sections 56-1005 and 39-3505, Idaho Code, to adopt and enforce rules and standards for Certified Family Homes. The Department is authorized under Sections 56-264 and 56-1007, Idaho Code, to adopt and develop application and certification criteria, and to charge and collect application and certification fees. Under Sections 56-1002, 56-1003, 56-1004, 56-1004A, 56-1005, and 56-1009, Idaho Code, the Department and the Board of Health and Welfare have prescribed powers and duties to provide for the administration and enforcement of Department programs and rules. (3-20-20)T

001. TITLE, SCOPE, AND EXCEPTIONS.

- 01. Title.** These rules are titled IDAPA 16.03.19, “Certified Family Homes.” (3-20-20)T
- 02. Scope.** These rules set the minimum standards and administrative requirements for any care provider who is paid to care for an adult living in the care provider’s home, when the adult is elderly or has a developmental disability, mental illness, or physical disability, and needs assistance with activities of daily living. (3-20-20)T
- 03. Exceptions to These Rules.** These rules do not apply to the following: (3-20-20)T
- a.** Any individual who provides only housing, meals, transportation, housekeeping or recreational and social activities. (3-20-20)T
 - b.** Any health facility defined by Title 39, Chapter 13, Idaho Code. (3-20-20)T
 - c.** Any residential care or assisted living facility defined by Title 39, Chapter 33, Idaho Code. (3-20-20)T
 - d.** Any arrangement for care in a relative’s home that is not compensated through a publicly-funded program. (3-20-20)T
 - e.** Any home approved by the Department of Veterans Affairs as a “medical foster home” described in 38 CFR Part 17 and Sections 39-3502 and 39-3512, Idaho Code. Care providers who provide care to both veterans and non-veterans living in a “medical foster home” are not exempt from these rules. (3-20-20)T
- 04. State Certification to Supersede Local Regulation.** These rules will supersede any program of any political subdivision of the state which certifies or sets standards for certified family homes. These rules do not supersede any other local regulations. (3-20-20)T

002. INCORPORATION BY REFERENCE.

The Americans with Disabilities Act Accessibility Guidelines, 28 CFR Part 36 - 2010 ADA Standards for Accessible Design, is incorporated by reference. The internet website is http://www.ada.gov/2010ADASTandards_index.htm. (3-20-20)T

003. -- 008. (RESERVED)

009. CRIMINAL HISTORY AND BACKGROUND CHECK REQUIREMENTS.

- 01. Department Criminal History and Background Check Clearance.** The provider, substitute caregivers, and all adults living in the home are required to complete a Department criminal history and background check and receive a clearance in compliance with IDAPA 16.05.06, “Criminal History and Background Checks.” The resident is exempt from criminal history check requirements. (3-20-20)T
- 02. When Certification Can Be Granted.** Prior to certification being granted: (3-20-20)T
- a.** The provider must have a completed criminal history check, including clearance; and (3-20-20)T
 - b.** Any other adult living in the home must have completed a self-declaration form, must be fingerprinted, and must not have any designated crimes listed in IDAPA 16.05.06, “Criminal History and Background Checks.” (3-20-20)T
- 03. New Adults in the Home After Certification Is Granted.** A new adult who plans to live in the

home must complete a self-declaration form, must be fingerprinted, and must not have any designated crimes listed in IDAPA 16.05.06, "Criminal History and Background Checks," before moving into the home. Any adult who is a visitor in the home and leaves within thirty (30) days is not required to have a criminal history check but must not have unsupervised contact with the resident. (3-20-20)T

04. Minor Child Turns Eighteen. A minor child turning eighteen (18) and living in the home must complete a self-declaration form, must be fingerprinted, and must not have disclosed any designated crimes listed in IDAPA 16.05.06, "Criminal History and Background Checks," within thirty (30) days following the month of his eighteenth birthday. (3-20-20)T

05. Substitute Caregiver. A substitute caregiver must complete a self-declaration form, be fingerprinted, and must not have disclosed any designated crimes listed in IDAPA 16.05.06, "Criminal History and Background Checks," prior to any unsupervised contact with the resident. (3-20-20)T

06. Additional Criminal Convictions, Pending Investigations, or Charges. Once criminal history clearances have been received, the provider must report to the Department any additional criminal convictions, pending investigation or charges for himself, any other adult living in the home or a substitute caregiver as described in Section 210 of these rules. (3-20-20)T

010. DEFINITIONS AND ABBREVIATIONS -- A THROUGH K.

For the purposes of these rules, the following definitions apply: (3-20-20)T

01. Abuse. A nonaccidental act of sexual, physical, or mental mistreatment or injury of the resident through the action or inaction of another individual. (3-20-20)T

02. Activities of Daily Living. The performance of basic self-care activities in meeting an individual's needs to sustain them in a daily living environment, including bathing, washing, dressing, toileting, grooming, eating, communication, mobility, and associated tasks. (3-20-20)T

03. Adult. A person who has attained the age of eighteen (18) years. (3-20-20)T

04. Alternate Caregiver. A certified family home provider approved by the Department to care for a resident from another certified family home for up to thirty (30) consecutive days when the original provider is temporarily absent or unable to care for the resident. (3-20-20)T

05. Assessment. The conclusions reached through evaluation of functional and cognitive ability using uniform criteria that identifies the resident's strengths, weaknesses, risks and needs, and includes functional needs, medical needs and behavioral needs. (3-20-20)T

06. Certificate. A permit issued by the Department to operate a certified family home. (3-20-20)T

07. Certified Family Home. A home certified by the Department to provide a family-styled living environment and care to one (1) or two (2) adults who are not able to reside in their own home and who require care, help with activities of daily living, help with instrumental activities of daily living, protection and security, supervision, personal assistance or encouragement toward independence. The certified family home is referred to as "the home" in these rules. (3-20-20)T

08. Certified Family Home Care Provider. The adult member of the certified family home living in the home who is responsible for providing care to the residents and maintaining the home. The certified family home care provider is referred to as "the provider" in these rules. (3-20-20)T

09. Certifying Agent. A person acting under the authority of the Department to participate in the certification, inspection, and regulation of a certified family home. (3-20-20)T

10. Chemical Restraint. The use of any medication that results or is intended to result in the modification of behavior for the purposes of discipline or convenience and not required to treat the resident's medical condition or symptoms. (3-20-20)T

11. Core Issue. Abuse, neglect, exploitation, inadequate care, inoperable fire detection or extinguishing systems with no fire watch in place pending the correction of the system, and situations in which advocates, representatives, and certifying agents are denied access to records, residents, or the home according to their respective authority. (3-20-20)T

12. 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. (3-20-20)T

13. Critical Incident. Any actual or alleged event or situation that creates a significant risk of substantial or serious harm to the physical or mental health, safety or well being of a resident. (3-20-20)T

14. Department. The Idaho Department of Health and Welfare. (3-20-20)T

15. Director. The Director of the Idaho Department of Health and Welfare or their designee. (3-20-20)T

16. Exploitation. The misuse of a vulnerable adult's funds, property, or resources by another person for profit or advantage. (3-20-20)T

17. Health Care Professional. An individual licensed to provide health care within their respective discipline and scope of practice. (3-20-20)T

18. Immediate Jeopardy. An immediate or substantial danger to a resident. (3-20-20)T

19. Inadequate Care. The provider fails to provide services required to meet the terms of the negotiated plan of service or provide for room, board, activities of daily living, supervision, first aid, assistance and monitoring of medications, emergency intervention, coordination of outside services or a safe living environment, or engages in violations of residents' rights or takes residents who have been admitted in violation of the provisions of Section 39-3507, Idaho Code. (3-20-20)T

20. Incident. An actual or alleged minor event or situation that has impacted or has the potential to impact the resident's health or safety, but does not rise to the level of a critical incident. (3-20-20)T

21. Incidental Supervision. Supervision provided by an individual approved by the provider to supervise the resident, not to exceed four (4) hours per week. (3-20-20)T

22. Instrumental Activities of Daily Living. The performance of secondary level activities that enable a person to live independently in the community, including preparing meals, accessing transportation, shopping, laundry, money management, housework, medication management, using tools and technology, and other associated tasks. (3-20-20)T

011. DEFINITIONS AND ABBREVIATIONS -- L THROUGH Z.
For the purposes of these rules, the following definitions apply: (3-20-20)T

01. Level of Care. A categorical assessment of the resident's functional ability in any given activity of daily living, instrumental activity of daily living or self-preservation and the degree of care required in that area to sustain the resident in a daily living environment. (3-20-20)T

02. Neglect. The failure to provide food, clothing, shelter or medical care to sustain the life and health of a resident. (3-20-20)T

03. Negotiated Service Agreement. The agreement between the resident or their representative, and the provider based on the resident's assessment, health care professional's orders, admission records, and desires of the resident, that outlines services to be provided and the obligations of the provider and the resident. This agreement is also known as a plan of service. (3-20-20)T

04. Personal Assistance. The provision of care to the resident by the provider of one (1) or more of the following services: (3-20-20)T

- a. Assisting the resident with activities of daily living; (3-20-20)T
- b. Assisting the resident with instrumental activities of daily living; (3-20-20)T
- c. Arranging for supportive services; (3-20-20)T
- d. Being aware of the resident's general whereabouts; and (3-20-20)T
- e. Monitoring the activities of the resident while on the premises of the home to ensure the resident's health, safety and well-being. (3-20-20)T

05. Plan of Service. The generic term used in these rules to refer to the Negotiated Service Agreement, Personal Care Plan, Plan of Care, Individual Support Plan, Support and Spending Plan, or any other comprehensive service plan. (3-20-20)T

06. PRN (Pro Re Nata). PRN is an abbreviation meaning “when necessary” used for medication or treatment ordered by a health care professional to an individual allowing the medication or treatment to be given as needed. (3-20-20)T

07. Relative. A person related by birth, adoption, or marriage to the third degree, including spouses, parents, children, siblings, grandparents, grandchildren, aunts, uncles, nephews, nieces, great-grandparents, great-grandchildren, great-aunts, great-uncles, and first cousins. (3-20-20)T

08. Resident. An adult who lives in a certified family home and who requires personal assistance or supervision. (3-20-20)T

09. Substitute Caregiver. An adult designated by the provider to provide care, services and supervision to the resident in the provider's certified family home for up to thirty (30) consecutive days. (3-20-20)T

10. Supervision. An administrative activity which provides the following: protection, guidance, knowledge of the resident's whereabouts and monitoring activities. (3-20-20)T

11. Supportive Services. The specific services that are provided to the resident in the community and that are required by the plan of service or reasonably requested by the resident. (3-20-20)T

12. Variance. A temporary exception not to exceed twelve (12) months issued by the Department to a certified family home allowing noncompliance with a specific standard required under these rules when the provider has shown good cause for such an exception and the variance does not endanger the health and safety of any resident. (3-20-20)T

13. Vulnerable Adult. A person eighteen (18) years of age or older who is unable to protect himself from abuse, neglect, or exploitation due to physical or mental impairment that affects the person's judgment or behavior to the extent that they lack sufficient understanding or capacity to make or communicate or implement decisions regarding their person as defined in Section 39-5302(10), Idaho Code. (3-20-20)T

14. Waiver. A permanent exception issued by the Department to a certified family home allowing noncompliance with a specific standard required under these rules when the provider has shown good cause for such an exception and the waiver does not endanger the health and safety of any resident. (3-20-20)T

012. -- 099. (RESERVED)

100. CERTIFICATION REQUIREMENTS.

Certification is required in order to operate a certified family home in the State of Idaho. The Department will issue a certificate to a provider when all certification requirements are met. (3-20-20)T

01. Certificate Issued in the Name of Provider. The certificate is issued in the name of the provider applying for certification, and only to the address of the home stated in the application. A new certificate is required if the provider or the location of the certified family home changes. (3-20-20)T

02. Accessibility to the Home. The home, physical premises, and all records required under these rules must be accessible at all times to the Department for the purposes of inspection, with or without prior notification. (3-20-20)T

03. Number of Residents in the Home. The home cannot be certified for more than two (2) residents. A variance may be granted by the Department as described in Section 140 of these rules. (3-20-20)T

04. Certification Limitations. (3-20-20)T

a. A home cannot be certified if it also provides room or board to any person who is not a resident or relative of the provider as defined by these rules. A variance may be granted by the Department when the individual receiving room or board is the spouse of the resident and does not require certified family home care or any higher level of care. (3-20-20)T

b. A home cannot be certified as a certified family home and a children's foster home at the same time, unless a variance is granted by the Department. (3-20-20)T

c. The provider, provider's relatives, and other adults living in the home must not be the legal guardian of the resident unless the provider, provider's relative, or other adult living in the home is a relative of the resident. A variance may be granted by the Department when determined the guardianship is in the best interest of the resident. (3-20-20)T

d. The provider may not be absent from the certified family home for more than thirty (30) consecutive days when the home has an admitted resident. Appropriate care and supervision must be provided to the resident in the provider's absence as described in Section 300 of these rules. (3-20-20)T

e. The provider's primary residence must be the certified family home. (3-20-20)T

05. Certification Study Required. Following receipt of an acceptable application and other required documents, the Department will begin a certification study within thirty (30) days. The certification study, along with the application and other required material, will serve as the basis for issuing or denying a certificate. The study will include the following: (3-20-20)T

a. A review of all material submitted; (3-20-20)T

b. A home inspection; (3-20-20)T

c. An interview with the proposed provider; (3-20-20)T

d. An interview with the provider's relatives or other members of the household, when deemed necessary; (3-20-20)T

e. A review of the number, age, and sex of children or other adults in the home to evaluate the appropriateness of a placement to meet the needs of the resident; (3-20-20)T

f. A medical or psychological examination of the provider or other members of the household, when the Department determines it is necessary, including a statement from a health care professional that the provider has the ability to provide adequate care to the resident and ensure a safe living environment; (3-20-20)T

g. Proof that the provider or provider's spouse is listed on the deed, mortgage, or lease of the home; and (3-20-20)T

- h.** Other information necessary to verify that the home is in compliance with these rules. (3-20-20)T
- 06. Provider Training Requirements.** As a condition of initial certification, the provider must receive training in the following areas: (3-20-20)T
- a.** Resident rights; (3-20-20)T
- b.** Certification in first aid and adult Cardio-Pulmonary Resuscitation (CPR) which must be kept current and include hands-on skills training; (3-20-20)T
- c.** Emergency procedures; (3-20-20)T
- d.** Fire safety, including use and maintenance of fire extinguishers, smoke alarms, and carbon monoxide alarms; (3-20-20)T
- e.** Completion of an approved “Assistance with Medications” course available through an Idaho Professional Technical Education Program or other course approved by the Department; and (3-20-20)T
- f.** Complaint investigation and inspection procedures. (3-20-20)T
- 07. Effect of Previous Revocation or Denial of Certificate or License.** The Department is not required to consider the application of any applicant who has had a health care certificate or license denied or revoked until five (5) years have elapsed from the date of denial or revocation according to Section 39-3525, Idaho Code. (3-20-20)T
- 101. APPLICATION FOR CERTIFICATION.**
The applicant must apply for certification on forms provided by the Department, pay the application fee, and provide information required by the Department. (3-20-20)T
- 01. Completed and Signed Application.** A completed application form signed by the applicant. (3-20-20)T
- 02. Statement to Comply.** A written statement that the applicant has thoroughly read and reviewed this chapter and is prepared to comply with all of its provisions. (3-20-20)T
- 03. Criminal History and Background Checks.** Satisfactory evidence that the applicant and all adults living in the home are of reputable and responsible character, including criminal history and background checks as provided in Section 009 of these rules. (3-20-20)T
- 04. Statement Disclosing Revocation or Disciplinary Actions.** A written statement that discloses any revocation or other disciplinary action taken or in the process of being taken against the applicant as a care provider in Idaho or any other jurisdiction, or a statement from the applicant stating they have never been involved in any such action. (3-20-20)T
- 05. Electrical Inspection.** A current statement from a licensed electrician or the local/state electrical inspector that all wiring in the home complies with applicable local code. (3-20-20)T
- 06. Environmental Sanitation Inspection.** If the home is not on a municipal water supply or sewage disposal system, a current statement is needed from the local environmental health agency that the water supply and sewage disposal system meet the legal standards. If the local environmental health agency cannot provide this information, the applicant must obtain a statement to that effect. In addition, the applicant must provide a signed statement from a person in the business of servicing these systems that the water supply and sewage disposal system are in good working order. (3-20-20)T
- 07. Proof of Insurance.** Proof of homeowner's or renter's insurance on the applicant's home. For continued certification, the provider must ensure that insurance is kept current. (3-20-20)T

08. List of Individuals Living in the Home. A list of all individuals living in the home at the time of application and their relationship to the applicant. (3-20-20)T

09. Payment of Application Fee. Payment of the application fee required in Section 109 of these rules. (3-20-20)T

10. Other Information as Requested. Other information that may be requested by the Department for the proper administration and enforcement of the provisions of these rules. (3-20-20)T

11. Termination of Application Process. Failure of the applicant to cooperate with the Department in the application process will result in the termination of the application process. Failure to cooperate means that the information described in Section 101 of these rules is not provided in a timely manner, or not provided in the form requested by the Department, or both. (3-20-20)T

102. -- 108. (RESERVED)

109. APPLICATION AND CERTIFICATION FEES FOR CERTIFIED FAMILY HOMES.

01. Application Fee Amount. An applicant is required to pay to the Department at the time of application a one-time non-refundable application fee of one hundred fifty (\$150) dollars. (3-20-20)T

02. Payment of Application Fees. The application fee is required for the following: (3-20-20)T

a. Upon application to become a certified family home care provider; (3-20-20)T

b. When an application is terminated or the home closes, the applicant must pay the application fee again to reapply for certification; or (3-20-20)T

c. When the home will be operated by a new care provider. (3-20-20)T

03. Certification Fees. The provider is required to pay to the Department a certification fee of twenty-five (\$25) dollars per month. This amount is billed to the provider quarterly, and is due and payable within thirty (30) days of date of the invoice. (3-20-20)T

a. Failure of the provider to pay certification fees when due may cause the Department to take enforcement action described in Section 913 of these rules. (3-20-20)T

b. Monthly certification fees paid in advance for the home will be refunded when the provider operates the home for less than fifteen (15) days during any given month for which payment was received by the Department. An advanced payment refund may be paid when the provider voluntarily closes the home as provided in Section 115 of these rules, or involuntarily closes the home due to an enforcement remedy imposed by the Department. (3-20-20)T

110. ISSUANCE OF CERTIFICATE.

01. Certificate. A certificate is valid for no more than twelve (12) months from the date of approval. The certificate expires at the end of the stated period unless it is continued in effect by the Department as provided in Section 111. of these rules. (3-20-20)T

a. The initial certificate requires a scheduled home inspection by a certifying agent. (3-20-20)T

b. The certificate is valid only for the location and person named in the application and is not transferable or assignable. (3-20-20)T

c. The certificate must be available at the home upon request. (3-20-20)T

02. Temporary Certificate. A temporary certificate may be issued to allow time for the provider to

meet all certification requirements without a lapse in certification when the provider plans to relocate to a residence within the state and plans to continue operation of a certified family home. A temporary certificate is valid for no more than sixty (60) days from the date of approval. (3-20-20)T

a. At least thirty (30) days prior to moving into a new residence, the provider must notify the certifying agent for the region in which the new home will be located. Prior to moving into the new residence, the provider must submit to the certifying agent the following: (3-20-20)T

i. A completed application form as required in Section 101 of these rules. An application fee is not required for only a change of location of the home; (3-20-20)T

ii. An electrical inspection for the new residence as required in Section 101 of these rules; (3-20-20)T

iii. Inspection and approval of any fuel-fired heating system in the new residence as required in Section 600 of these rules; and (3-20-20)T

iv. Other information requested by the Department to ensure the new residence is appropriate for use as a certified family home and safe for occupation. (3-20-20)T

b. The Department will issue a temporary certificate upon review and approval of the information required under Subsection 110.02 of this rule. (3-20-20)T

c. The provider must coordinate with the certifying agent an inspection of the new residence to occur prior to the expiration of the temporary certificate and be prepared to demonstrate compliance with this chapter of rules during the home inspection. (3-20-20)T

d. The Department will issue a certificate as described in Subsection 110.01 of this rule when it determines that the home is in compliance with these rules. (3-20-20)T

03. Provisional Certificate. A provisional certificate may be issued to the home as provided in Section 909 of these rules when it is not in substantial compliance with these rules and the deficiencies do not adversely affect the health or safety of the resident and are not likely to continue beyond six (6) months. (3-20-20)T

a. A provisional certificate may be issued for up to six (6) months and is contingent on compliance with the conditions for the provisional certificate and implementation of an approved plan to correct all deficiencies prior to the expiration of the provisional certificate. (3-20-20)T

b. A provisional certificate may be replaced with a certificate when the Department has determined the home is in substantial compliance with these rules prior to the expiration of the provisional certificate. (3-20-20)T

c. A certified family home will not be issued more than one (1) provisional certificate in any twelve (12) month period. (3-20-20)T

111. RENEWAL OF CERTIFICATE.

The provider must submit a written request on a form provided by the Department to renew the home's certificate at least thirty (30) days prior to the expiration of the existing certificate. The completed renewal application form and any required documentation must be returned to the regional certifying agent where the home is located. (3-20-20)T

01. Home Inspection. A home inspection by a certifying agent is required the year after the initial home certification study and at least every twenty-four (24) months thereafter. The home inspection will consist of the elements of the certification study as required in Section 100 of these rules. (3-20-20)T

02. Desk Review. When the Department determines a home inspection is not required to renew the certificate, the Department may conduct a desk review by written notification to the provider. The provider must submit the renewal application to the certifying agent and copies of the following documentation: (3-20-20)T

a. Current first aid and adult CPR cards; (3-20-20)T

- b.** Furnace, well, and fireplace inspection reports, as applicable; (3-20-20)T
- c.** Septic system inspection or pumping report, as applicable, when the previous inspection is older than five (5) years; (3-20-20)T
- d.** Annual fire extinguisher inspection reports, or sales receipts for fire extinguishers that comply with Section 600 of these rules that are less than twelve (12) months old; (3-20-20)T
- e.** Log of smoke and carbon monoxide alarm tests, fire extinguisher examinations, emergency plan reviews, and fire drill and evacuation summaries; (3-20-20)T
- f.** Training logs; (3-20-20)T
- g.** List of individuals currently living in the home and individuals who moved in and out of the home during the year; (3-20-20)T
- h.** Proof that the provider or provider's spouse is listed on the deed, mortgage, or lease of the home; (3-20-20)T
- i.** Proof of homeowner's or renter's insurance; (3-20-20)T
- j.** Request for a waiver, variance, or renewal of a variance that meets the requirements in Sections 120 through 140 of these rules as applicable; and (3-20-20)T
- k.** Other information as requested by the Department. (3-20-20)T

03. Validity of Existing Certificate. The existing certificate, unless suspended or revoked, remains valid until the Department has acted on the renewal application when the application and supporting documentation is filed in a timely manner with the certifying agent. (3-20-20)T

112. CHANGE OF PROVIDER OR LOCATION.

01. Change of Provider. Certificates are not transferable or assignable from one (1) individual to another. The home must be certified using the same procedure as a new home that has never been certified when a change of care provider occurs. (3-20-20)T

02. Change of Location. Certificates are not transferable or assignable from one (1) location to another. When a change of location occurs, the provider's new home must be: (3-20-20)T

a. Certified using the same procedure as required in Section 100 of these rules for a new home that has never been certified; or (3-20-20)T

b. Temporarily certified by the procedure described in Section 110 of these rules. (3-20-20)T

113. DENIAL OF APPLICATION FOR CERTIFICATE.

The Department may deny the application for issuance of a certificate when conditions exist that endanger the health, safety, or welfare of any resident or when the home is not in substantial compliance with these rules. Additional causes for denial of an application for a certificate include the following: (3-20-20)T

01. False or Incomplete Information. The applicant or provider has willfully misrepresented or omitted information on the application or other documents pertinent to obtaining a certificate; (3-20-20)T

02. Convictions. The applicant or provider has been convicted of fraud, gross negligence, abuse, assault, battery or exploitation; (3-20-20)T

03. Other Criminal Offense. The applicant or provider has been convicted of a criminal offense

within the past five (5) years, other than a minor traffic violation or similar minor offense; (3-20-20)T

04. Denial or Revocation of Health Care License. The applicant or provider has been denied or has had revoked any health facility license, residential care or assisted living facility license, or certified family home certificate; (3-20-20)T

05. Operation Without a License. The applicant or provider has been found to have operated a health facility, residential care or assisted living facility, or certified family home without a license or certificate; (3-20-20)T

06. Court Ordered. A court has ordered that the applicant or provider must not operate a health facility, residential care or assisted living facility, or certified family home; (3-20-20)T

07. Registries or Exclusion List. The applicant or provider is listed on the statewide Child Abuse Registry, Adult Protection Registry, Sexual Offender Registry, or Medicaid exclusion lists; or (3-20-20)T

08. Control or Influence. The applicant or provider is directly under the control or influence of any person who is described in Subsections 113.01 through 113.07 of this rule. (3-20-20)T

09. Procedure for Appeal of Denial of a Certificate. (3-20-20)T

a. Immediately upon denial of any application for a certificate, the Department will notify the applicant or provider in writing by certified mail or by personal service of its decision, the reason for its decision, and how to appeal the decision. (3-20-20)T

b. The appeal is subject to the hearing provisions in IDAPA 16.05.03, "Rules Governing Contested Case Proceedings and Declaratory Rulings." (3-20-20)T

114. FAMILY HOME OPERATING WITHOUT A CERTIFICATE.

01. Operating Without Certificate. A person found to be operating a family home without first obtaining a certificate may be referred for criminal prosecution. (3-20-20)T

02. Placement or Transfer of Resident. Upon discovery of a family home operating without a certificate, the Department may transfer residents to the appropriate placements or refer to the local adult protective services agency when: (3-20-20)T

a. There is an immediate threat to any resident's health and safety; or (3-20-20)T

b. The individual operating the home does not cooperate with the Department to apply for certification, meet certification standards and obtain a valid certificate. (3-20-20)T

115. VOLUNTARY CLOSURE OF THE HOME.

When choosing to voluntarily close the home, the provider must provide written notice to the certifying agent in the region where the home is located. The notification must include the following: (3-20-20)T

01. Date of Notification. (3-20-20)T

02. Provider's Certificate. A copy of the certificate, or information from the certificate that includes: (3-20-20)T

a. Provider's name; (3-20-20)T

b. Address of the home; and (3-20-20)T

c. Certificate number. (3-20-20)T

03. Closure Date. The written notice must include the planned closure date. The Department will not

refund or prorate prepaid certification fees on retroactive closures. (3-20-20)T

04. Discharge Plans. If applicable, discharge plans for current residents must accompany the written notice. (3-20-20)T

116. REQUIRED ONGOING TRAINING.

The provider must document a minimum of eight (8) hours per year of ongoing, relevant training in the provision of supervision, services, and care. (3-20-20)T

01. Initial Provider Training. The initial provider training required in Section 100 of these rules satisfies the eight (8) hour training requirement for the first year of certification. (3-20-20)T

02. Type of Training. (3-20-20)T

a. Interactive training means the provider is able to ask questions of a live instructor and receive answers in real time. The instructor must be a professional or a recognized authority in their subject matter. At least half of the required ongoing training hours each year must consist of interactive training. (3-20-20)T

b. Independent study means any training not provided by a live instructor. The remaining required training hours may be independent study through books, articles, videos, online courses, and other resources. (3-20-20)T

03. Content of Training. (3-20-20)T

a. Resident specific. At least half of the required ongoing training hours each year must be devoted to the specific conditions, diagnoses and needs of admitted residents, when residents are admitted. (3-20-20)T

b. General topics. The remaining hours may be devoted to other topics related to care giving, health or safety. Up to two (2) hours of first aid or adult CPR training will count toward the annual requirement. (3-20-20)T

04. Documentation of Training. The provider must document ongoing training. The documentation must include: (3-20-20)T

a. Topic of the training with a brief description; (3-20-20)T

b. Source of training, including the name of the instructor or author; (3-20-20)T

c. Number of hours; (3-20-20)T

d. Type and content of training: (3-20-20)T

i. Interactive or independent; and (3-20-20)T

ii. Resident specific or general. (3-20-20)T

117. -- 119. (RESERVED)

120. WAIVERS.

The Department may grant permanent waivers. The decision to grant a waiver for a home or provider is not a precedent or applicable to any other home or provider and has no force of effect in any other proceeding. (3-20-20)T

01. Written Request. The provider must submit a written request for a waiver to the regional certifying agent where the home is located prior to any planned noncompliance with any rule under this chapter. The appropriateness of granting a waiver is determined by the Department. The request must include the following: (3-20-20)T

a. Reference to the section of the rules for which the waiver is requested; (3-20-20)T

b. Reasons that show good cause for granting the waiver, including any extenuating circumstances and any compensating factors or conditions that may have bearing on the waiver, such as additional floor space or additional staffing; and (3-20-20)T

c. A signed statement from the provider that assures the resident's health and safety will not be jeopardized if the waiver is granted. The statement must include an agreement to implement any special conditions the Department requires. (3-20-20)T

02. Special Conditions. When granting a waiver, the Department may require the provider to meet special conditions while the waiver is in effect to ensure the health and safety of residents. (3-20-20)T

03. Waiver Not Transferable. A waiver granted under Section 120 of this rule is not transferable to any other provider, home, or resident. (3-20-20)T

121. GENERAL VARIANCES.

The Department may grant temporary variances that may be effective for up to twelve (12) months at a time. The decision to grant a variance for a home or provider is not a precedent or applicable to any other home or provider and has no force of effect in any other proceeding. (3-20-20)T

01. Written Request. The provider must submit a written request for a variance to the regional certifying agent where the home is located prior to any planned noncompliance with any rule under this chapter. The appropriateness of granting a variance is determined by the Department. The request must include the following: (3-20-20)T

a. Reference to the section of the rules for which the variance is requested; (3-20-20)T

b. Reasons that show good cause for granting the variance, including any extenuating circumstances and any compensating factors or conditions that may have bearing on the variance, such as additional floor space or additional staffing; and (3-20-20)T

c. A signed statement from the provider that assures resident health and safety will not be jeopardized if the variance is granted, including an agreement to implement any special conditions the Department may require. (3-20-20)T

02. Special Conditions. When granting a variance, the Department may require the provider to meet special conditions while the variance is in effect to ensure the health and safety of residents. (3-20-20)T

03. Variance Renewal. To renew a variance, the provider must submit a written request to the regional certifying agent where the home is located at least thirty (30) days prior to expiration of the variance. The request for renewal must include the information required in Subsection 121.01 of this rule. The appropriateness of renewing a variance is determined by the Department. (3-20-20)T

04. Variance Not Transferable. A variance granted under Section 121 of this rule is not transferable to any other provider, home, or resident. (3-20-20)T

122. REVOKING A WAIVER OR VARIANCE.

The Department may revoke a waiver or variance. (3-20-20)T

01. Causes for Revocation. Revocation of a waiver or variance may occur when: (3-20-20)T

a. The provider has not met the special conditions associated with granting the exception; (3-20-20)T

b. Conditions within the home have changed such that an exception is no longer prudent; or (3-20-20)T

c. The health and safety of residents have otherwise been compromised. (3-20-20)T

02. Written Notice. The Department will provide written notice to the provider when a waiver or variance is revoked, including the reason for the revocation. (3-20-20)T

03. Time Frame to Comply. The provider must comply with the rule for which the waiver or variance is revoked according to the following time frames: (3-20-20)T

a. Immediately upon notification, when there is a threat to the life or safety of residents; or (3-20-20)T

b. Within thirty (30) days of notification, when there is no threat to the life or safety of residents. (3-20-20)T

123. -- 129. (RESERVED)

130. NURSING FACILITY LEVEL OF CARE VARIANCE.

A certified family home may care for one (1) resident who requires nursing facility level of care as defined in Section 39-1301(b), Idaho Code, without obtaining a variance. A home seeking to provide care to two (2) residents who require nursing facility level of care must request a variance in writing from the Department as required in Section 121 of these rules. (3-20-20)T

01. Conditions for a Variance. The Department may issue a written variance permitting the arrangement when: (3-20-20)T

a. Each of the residents provides a written statement to the Department requesting the arrangement; (3-20-20)T

b. Each of the residents making the request is competent, informed, and has not been coerced; (3-20-20)T

c. The Department finds the arrangement safe and effective. (3-20-20)T

02. Revoking a Variance. The Department will revoke the variance when: (3-20-20)T

a. There is a threat to the life or safety of either resident; (3-20-20)T

b. One (1) of the residents leaves the home permanently; (3-20-20)T

c. One (1) of the residents notifies the Department in writing that they do not wish to live in the home with the other resident; or (3-20-20)T

d. The Department finds the arrangement is no longer safe and effective. (3-20-20)T

03. Variance Not Transferable. A variance granted under Subsection 130.01 of this rule is not transferable to any other provider, home, or resident. (3-20-20)T

131. -- 139. (RESERVED)

140. VARIANCE TO THE TWO RESIDENT LIMIT.

01. Application for Variance. The provider may apply on forms provided by the Department for a variance to the two (2) resident limit in order to care for three (3) or four (4) residents on a per resident basis prior to any new admissions. The application must be submitted to the certifying agent where the home is located. The appropriateness of granting the variance is determined by the Department. (3-20-20)T

02. Criteria for Determination. The Department will determine if safe and appropriate care can be provided based on residents' needs. The Department will consider, at a minimum, the following factors in making its

- determination: (3-20-20)T
- a. Each current or prospective resident's physical, mental and behavioral status and history; (3-20-20)T
 - b. The household composition including the number of adults, children and other family members requiring care from the provider; (3-20-20)T
 - c. The training, education, and experience of the provider to meet each resident's needs; (3-20-20)T
 - d. Potential barriers that might limit egress from and ingress to the home; (3-20-20)T
 - e. The number and qualifications of care givers in the home; (3-20-20)T
 - f. The desires of the prospective and current residents; (3-20-20)T
 - g. The individual and collective hours of care needed by the residents; (3-20-20)T
 - h. The physical layout of the home and the square footage available to meet the needs of all persons living in the home; and (3-20-20)T
 - i. If a variance to the two (2) resident limit would result in two (2) or more residents who require nursing facility level of care living in the home, then the application for the variance must also include the information required in Section 130 of these rules. (3-20-20)T
- 03. Other Employment.** A provider who is granted a variance to admit three (3) or four (4) residents must not have other gainful employment outside the home unless: (3-20-20)T
- a. The total direct care time for all residents as reflected by their plans of service and assessments or, if not indicated by these documents for a publicly-funded program, the time that the program bases its payment, does not exceed eight (8) hours per day; (3-20-20)T
 - b. The provider is immediately available to meet resident needs as they arise; and (3-20-20)T
 - c. Each resident is supervised at all times unless the assessment or plan of service indicates the resident may be left unattended for designated periods of time. (3-20-20)T
- 04. Additional Training.** A provider who is granted a variance to admit three (3) or four (4) residents must obtain additional training to meet the needs of the residents as follows: (3-20-20)T
- a. A provider who cares for three (3) residents must obtain twelve (12) hours per year of ongoing relevant training as required in Section 116 of these rules. (3-20-20)T
 - b. A provider who cares for four (4) residents must obtain sixteen (16) hours per year of ongoing relevant training as required in Section 116 of these rules. (3-20-20)T
- 05. Variance Nontransferable.** A variance to care for more than two (2) residents is not transferable to another provider, home, or resident. (3-20-20)T
- 06. Reassessment of Variance.** A variance to care for more than two (2) residents must be reassessed at least annually and when either of the following occurs: (3-20-20)T
- a. Each time a new admission is considered; or (3-20-20)T
 - b. When there is a significant change in any of the factors specified in Subsection 140.02 of this rule. (3-20-20)T

07. Annual Home Inspection. A certified family home with a variance to care for more than two (2) residents must have a home inspection by a certifying agent at least annually. (3-20-20)T

08. Shared Sleeping Rooms. In addition to the requirements in Section 700 of these rules, the provider must not allow more than two (2) residents to share any one (1) sleeping room. (3-20-20)T

09. Fire Drill Frequency. A provider who is granted a variance to admit three (3) or four (4) residents must conduct fire drills as described in Section 600 of these rules, except the frequency of the fire drills must be at least monthly. (3-20-20)T

141. -- 149. (RESERVED)

150. INSPECTIONS OF HOMES.

The Department will inspect each certified family home at least every twenty-four (24) months, calculated from the first month of the most recent certification. Inspections may occur more frequently as the Department deems necessary. The Department may consider the results of previous inspections, history of compliance with rules, and complaints to determine the frequency of inspections. (3-20-20)T

01. Notice of Inspection. All inspections, except for the initial certification study, may be made unannounced and without prior notice. (3-20-20)T

02. Inspection by Department or Certifying Agent. The Department may use the services of any qualified person or organization, either public or private, to examine and inspect any home requesting certification. The inspector has the authority to have full access to the home and the authority to: (3-20-20)T

a. Examine quality of care and service delivery; (3-20-20)T

b. Examine home records, resident records, and any records or documents pertaining to any financial transactions between residents and the home, including resident accounts; (3-20-20)T

c. Examine the physical premises, including the condition of the home, grounds and equipment, food service, water supply, sanitation, maintenance, and housekeeping practices; (3-20-20)T

d. Examine any other areas necessary to determine compliance with these rules and standards; (3-20-20)T

e. Interview the provider, any adults living in the home, the resident and the resident's relatives, substitute caregivers, persons who provide incidental supervision, and any other person who is familiar with the home or its operation. Interviews with residents are confidential and conducted privately unless otherwise specified by the resident; and (3-20-20)T

f. Inspect the entire home, including the personal living quarters of members of the household, to check for inappropriate storage of combustibles, faulty wiring, or other conditions that may have a direct impact on the operation of the home. The provider, substitute caregiver, or any other adult living in the home may accompany the inspector. (3-20-20)T

03. Statement of Deficiencies. When violations of these rules are identified through the course of an investigation or inspection, depending on the severity, the Department may send a statement of deficiencies to the provider within thirty (30) days of the completed inspection or investigation. The statement of deficiencies will include the findings of the investigation or inspection and any rules the home was found to have violated. (3-20-20)T

04. Plan of Correction. When a statement of deficiencies is issued, the provider must develop a plan of correction and submit it to the Department for review and approval. (3-20-20)T

a. Depending on the severity of the deficiency, the provider may be given up to fourteen (14) calendar days to develop a written plan of correction and to return the plan of correction to the regional certifying agent where the home is located. (3-20-20)T

- b.** An acceptable plan of correction must include: (3-20-20)T

 - i. How each deficiency identified in the statement of deficiencies was corrected or how it will be corrected; (3-20-20)T
 - ii. What steps have been taken to assure that the deficiency does not recur; (3-20-20)T
 - iii. Acceptable time frames for correction of the deficiency; and (3-20-20)T
 - iv. Signature of the provider. (3-20-20)T
 - c.** Follow-up inspections may be conducted to determine whether corrections to deficiencies are being made according to the Department approved plan of correction. (3-20-20)T
 - d.** The Department may provide consulting services to the provider, upon request, to assist in identifying and correcting deficiencies and upgrading the quality of care in the home. (3-20-20)T
- 05. List of Deficiencies.** A current list of deficiencies, including plans of correction, are available to the public upon request at the home or by written request to the Department according to Section 006 of these rules. (3-20-20)T

151. -- 159. (RESERVED)

160. COMPLAINT PROCEDURE.

Any person who believes that any rule in this chapter has been violated by a certified family home may file a complaint with the Department. (3-20-20)T

01. Investigation. (3-20-20)T

a. The Department will investigate any complaint alleging a violation of these rules. Any complaint involving abuse, neglect, or exploitation of a vulnerable adult will also be referred to adult protective services according to Section 39-5303, Idaho Code. (3-20-20)T

b. The Department will investigate or cause to be investigated any reported critical incident affecting health and safety or change in a resident's condition, including the death of a resident, that indicates there was a violation of these rules. (3-20-20)T

02. Investigation Method. The nature of the complaint will determine the method used to investigate the complaint. On-site investigations at the home can be unannounced and without prior notice. (3-20-20)T

03. Written Report. Following completion of an investigation, the Department will provide a written report to the provider within thirty (30) days. The report will include the findings of the investigation. (3-20-20)T

04. Statement of Deficiencies. When violations of these rules are identified through the course of an investigation, depending on the severity, the Department may send the home a statement of deficiencies as described in Section 150 of these rules. When the Department issues a statement of deficiencies, the provider must prepare and submit a plan of correction as described in Section 150 of these rules. (3-20-20)T

05. Public Disclosure. Information received by the Department through filed reports, inspections, or as otherwise authorized under the law, must not be disclosed publicly in such a manner as to identify individual residents except in a proceeding involving a question of certification. (3-20-20)T

161. -- 169. (RESERVED)

170. MINIMUM STANDARDS OF CARE.

The provider must adequately care for each resident as follows: (3-20-20)T

01. Plan of Service. Provide the services required to meet the terms of the resident's plan of service as described in Section 250 of these rules, including development and implementation of the plan of service for private-pay residents and implementation of the plan of service for publicly-funded residents. (3-20-20)T

02. Supervision. Provide appropriate and adequate supervision for twenty-four (24) hours each day according to the resident's plan of service. (3-20-20)T

03. Daily Living Activities. Provide assistance to the resident at the level of care indicated on the resident's plan of service in the areas of activities of daily living and instrumental activities of daily living. (3-20-20)T

04. Medication Management. Provide assistance and monitoring of medications as described in Sections 400 through 402 of these rules, as applicable. (3-20-20)T

05. Emergency Services. Provide immediate and appropriate interventions on behalf of the resident in response to an emergency, including the following: (3-20-20)T

a. Developing plans in advance of an emergency as described in Section 600 of these rules and executing those plans when necessary; (3-20-20)T

b. Evacuating the resident from the home; (3-20-20)T

c. Providing first aid to the resident when seriously injured; (3-20-20)T

d. Administering CPR to the resident unless the resident has an order not to resuscitate; (3-20-20)T

e. Arranging for emergency transportation; and (3-20-20)T

f. Contacting 9-1-1 for involvement of law enforcement officers or the fire department when necessary for the protection of the resident. (3-20-20)T

06. Supportive Services. Coordinate paid services for the resident outside the home, including: (3-20-20)T

a. Medical appointments; (3-20-20)T

b. Dental appointments; (3-20-20)T

c. Other services in the community as identified in the plan of service or reasonably requested by the resident; and (3-20-20)T

d. Arrange transportation to the service location and return to the home. (3-20-20)T

07. Resident Rights. Protect the resident's rights as listed in Section 200 of these rules. (3-20-20)T

08. Safe Living Environment. Provide a physical living environment that complies with Sections 500 through 710 of these rules. (3-20-20)T

171. -- 173. (RESERVED)

174. ACTIVITIES AND COMMUNITY INTEGRATION.

Section 39-3501, Idaho Code, requires that a certified family home provide a homelike, family-styled living environment with a focus on integrated community living. The provider must offer the following: (3-20-20)T

01. Activities. Recreational activities, provisions for trips to social functions, and daily activities. (3-20-20)T

02. Activity Supplies. Activity supplies in reasonable amounts, that reflect the interests of the resident. (3-20-20)T

03. Transportation. Arrangement of transportation to and from community, recreational, and religious activities within twenty-five (25) miles of the home when requested by the resident at least twenty-four (24) hours in advance. (3-20-20)T

175. ROOM, UTILITIES AND MEALS.

The home must provide room, utilities and three (3) daily meals to the resident. The charge for room, utilities and three (3) daily meals must be established in the admission agreement. The following are included in the charge for room, utilities and meals: (3-20-20)T

01. Sleeping Room. The resident sleeping room must meet the requirements of Section 700 of these rules, must be equipped with a dresser, and when requested by the resident a chair, that are both substantially constructed and in good repair. (3-20-20)T

02. Bed. The resident must be provided with their own bed that is at least thirty-six (36) inches wide, substantially constructed, and in good repair. Roll-away type beds, cots, folding beds, or double bunks must not be used. The bed must have box springs kept in good repair, a clean and comfortable mattress, bedspread, sheets and pillow cases, and pillow that are standard for the size of the bed. (3-20-20)T

03. Monitoring or Communication System. A monitoring or communication system must be provided when necessary due to the size or design of the home or the needs of the resident. The provider must hold a written agreement with the resident or resident's representative prior to using a monitoring system that may violate the resident's right to privacy. (3-20-20)T

04. Secure Storage. On request, each sleeping room must be equipped with a lockable storage cabinet or drawer for personal items for each resident, in addition to the required storage in resident sleeping rooms. (3-20-20)T

05. Bathroom. Access to bathing and toilet facilities that meet the requirements of Section 700 of these rules. (3-20-20)T

06. Common Areas. Access to a common living area that contains reading lamps, tables, comfortable chairs or sofas, and basic television. The resident must be allowed to eat with the other members of the household if they so choose. (3-20-20)T

07. Supplies. Bath and hand towels; wash cloths; a reasonable supply of soap, shampoo, toilet paper, and facial tissue; and first aid supplies. (3-20-20)T

08. Housekeeping Service. Housekeeping and maintenance as required in Section 500 of these rules, including laundering of linens and clothing. (3-20-20)T

09. Water. Potable water that meets the requirements of Section 500 of these rules. (3-20-20)T

10. Sewer. A sewage disposal system that meets the requirements of Section 500 of these rules. (3-20-20)T

11. Trash. Disposal of garbage that meets the requirement of Section 500 of these rules. (3-20-20)T

12. Heating and Cooling. Sufficient heating and cooling to meet the requirements of Section 700 of these rules. (3-20-20)T

13. Electricity. Sufficient electricity to power common household and personal devices. (3-20-20)T

14. Telephone. Access to a telephone that meets the requirements of Section 700 of these rules. (3-20-20)T

15. Meals. The provider must offer breakfast, lunch, and dinner to the resident. (3-20-20)T

a. Food must be prepared in safe and sanitary methods that conserve nutritional value, flavor and appearance, when prepared by the provider or other member of the household. (3-20-20)T

b. Meals offered by the home must meet the dietary requirements or restrictions of the resident when so ordered by a health care professional. (3-20-20)T

176. -- 179. (RESERVED)

180. HOURLY ADULT CARE.

Hourly adult care, also referred to as adult day health, is a supervised, structured, paid service that may be provided in the home for up to fourteen (14) hours in any twenty-four (24) hour period to adult participants who are not residents of the home. Hourly adult care encompasses health and social services, recreation, supervision, and assistance with activities of daily living needed to ensure the optimal functioning of the participant. The standards in this section do not apply if the service does not include a payment component to the provider, or the hourly adult care participant is a relative of the provider whose care is not publicly funded. Hourly adult care may be offered in the home when the following requirements are met: (3-20-20)T

01. Participants. No individual will be admitted to the home for hourly adult care who requires ongoing skilled nursing care or for whom the provider cannot adequately provide services and supervision. (3-20-20)T

02. Records. All records of services delivered by the provider must be maintained in the home for at least five (5) years from the date of service. (3-20-20)T

03. Enrollment Contract. The provider maintains an enrollment contract with each hourly adult care participant that contains the following: (3-20-20)T

a. Full name of the participant; (3-20-20)T

b. The participant's date of birth; (3-20-20)T

c. Primary address of the participant; (3-20-20)T

d. Names and telephone numbers of the participant's responsible party and other emergency contacts; (3-20-20)T

e. Name and telephone number of the participant's primary physician; (3-20-20)T

f. List of medications, diets, allergies, services, and treatments prescribed for the participant and other pertinent health information regarding the participant's needs; (3-20-20)T

g. Services the provider must provide to the participant while in the home, which may include: activities, meals, supervision, assistance with medications, and assistance with activities of daily living, and the level of care required for each service; (3-20-20)T

h. The rate charged by the provider for hourly adult care services if the participant is private pay; (3-20-20)T

i. The number of days the provider will give written notice to the participant's primary contact in advance of terminating the enrollment contract; (3-20-20)T

j. The date on which hourly adult day services will commence; and (3-20-20)T

k. The printed name, signature, and contact information of the individual who completed the

enrollment contract and the provider's printed name, signature, and contact information. Upon entering into the contract, a copy of the enrollment information must be provided to each party. (3-20-20)T

04. Service Logs. Service logs that identify, on a per day basis when hourly adult care services are provided in the home, the name of each participant who received services, the times of arrival to and departure from the home for each participant, and the names of staff who provided services and their arrival and departure times. (3-20-20)T

05. Space and Accommodations. The provider must only accept hourly adult care participants for whom the home can provide reasonable accommodations. The home must provide the following for hourly adult care participants: (3-20-20)T

a. Seating on cushioned chairs or sofas positioned at least thirty-two (32) inches apart in common living areas such that all residents and participants in the home may comfortably enjoy the space; (3-20-20)T

b. A rest area away from the common living areas to permit privacy and to isolate participants who become ill or require rest and is equipped with furniture for napping, such as a bed, lounge chair, couch, or recliner; (3-20-20)T

c. Access to a bathroom that meets the requirements of Section 700 of these rules; and (3-20-20)T

d. When caring for participants with physical or sensory impairments, a physical environment that meets the requirements of Section 700 of these rules, as applicable. (3-20-20)T

06. Resident's Personal Space. The personal living space of the resident, including their sleeping room and on-suite bathroom, if equipped, must not be used by hourly adult care participants at any time. (3-20-20)T

07. Staffing. The provider must only accept hourly adult care participants for whom they can safely provide the level and types of service required. The provider must ensure that all staff providing hourly adult care services have been sufficiently trained in and follow universal infection control precautions and each participant's specific care plan as documented in the enrollment contract. In addition: (3-20-20)T

a. Each caregiver providing hourly adult care services must meet the qualifications of a substitute caregiver as described under Section 300 of these rules. (3-20-20)T

b. The provider must employ sufficient staff to assure safe and proper care for both residents and hourly adult care participants. Staffing must be based on: (3-20-20)T

i. The functional and cognitive status of each hourly adult care participant and resident; (3-20-20)T

ii. The size and layout of the home; and (3-20-20)T

iii. Staffing ratios must not fall below one (1) caregiver to four (4) residents and hourly adult care participants, combined. (3-20-20)T

08. Medications. Assistance with medications to hourly adult care participants must meet the requirements in Sections 400 through 402 of these rules. (3-20-20)T

a. The provider is responsible for safeguarding the participant's medications while the participant is receiving services at the home. (3-20-20)T

b. The participant's medications must not be stored at the home during hours in which the participant is not receiving hourly adult care services at the home. (3-20-20)T

09. Fire and Life Safety. The provider must ensure the home adheres to fire and life safety standards described in Section 600 of these rules. For fire and life safety purposes, the hourly adult care participant is considered a "resident" when that term is used in Section 600 of these rules. When offering hourly adult care, the

provider must: (3-20-20)T

- a. Prohibit smoking or unsupervised smoking in accordance with Section 600 of these rules. (3-20-20)T
- b. Review emergency preparedness plans as required under Section 600 of these rules with the individual who completed the enrollment contract and provide a written copy of the plans to that individual. (3-20-20)T
- c. Conduct fire drills as required in Section 600 of these rules, except that the frequency of the drills must be at least monthly. (3-20-20)T

181. -- 199. (RESERVED)

200. RESIDENT RIGHTS POLICY.

The provider must possess, annually review, and implement a written policy designed to protect and promote the rights of each resident as provided in this section. The written resident rights policy must include a statement that the resident or any other individual may file a complaint with the Department as described in Section 160 of these rules, when they believe that any resident's right has been violated. Resident rights policies must include the following: (3-20-20)T

01. Privacy. Each resident must be assured the right to privacy with regard to accommodations, medical and other treatment, written and telephone communications, visits and meetings of family and resident groups, including: (3-20-20)T

a. The right to send and receive mail unopened, either by postal service, electronically, or by other means, unless the resident's plan of service specifically calls for the provider to monitor the correspondence in order to protect the resident from abuse or exploitation; (3-20-20)T

b. If the resident is married, privacy for visits by their spouse. If both are residents in the home, they are permitted to share a room unless medically inadvisable, as documented by the resident's health care professional; (3-20-20)T

c. The right to control the use of pictures and videos containing the resident's image. (3-20-20)T

02. Humane Care. Each resident has the right to humane care and a humane environment, including the following: (3-20-20)T

a. The right to a diet which is consistent with any religious or health-related restrictions; (3-20-20)T

b. The right to refuse a restricted diet; (3-20-20)T

c. The right to a safe and sanitary living environment; and (3-20-20)T

d. The right to an environment free of illicit drug use or possession and other criminal activities. (3-20-20)T

03. Respectful Treatment. Each resident has the right to be treated with dignity and respect, including: (3-20-20)T

a. The right to be treated in a courteous manner by the provider and other individuals in the home; (3-20-20)T

b. The right to receive a response from the provider to any request of the resident within a reasonable time; (3-20-20)T

c. Freedom from discrimination on the basis of race, color, national origin, sex, religion, age,

- disability, or veteran status; (3-20-20)T
- d. Freedom from intimidation, manipulation, and coercion; (3-20-20)T
 - e. The right to wear their own clothing; and (3-20-20)T
 - f. The right to determine their own dress and hair style. (3-20-20)T
- 04. Basic Needs Allowance.** Each resident whose care is paid for by publicly-funded assistance must retain, for their personal use, the difference between their total monthly income and the Certified Family Home basic allowance established by IDAPA 16.03.05. "Eligibility for Aid to the Aged, Blind, and Disabled," Section 513. (3-20-20)T
- 05. Resident Funds and Property.** Each resident has the right to manage their personal funds and use their personal property. (3-20-20)T
- a. The provider must not require the resident to deposit their personal funds into an account controlled by any other person. (3-20-20)T
 - b. Upon accepting written authorization from the resident, or the resident's representative, allowing the provider, provider's relative, or other member of the provider's household to manage the resident's personal funds, the provider must hold, safeguard, and account for the resident's personal funds as required in Section 275 of these rules. (3-20-20)T
 - c. The resident has the right to retain and use their own personal property in their own living area in order to maintain their individuality and personal dignity. The storage and use of these items by the resident must not present a fire or life safety hazard. (3-20-20)T
- 06. Access to Resident.** Each provider and individuals living in the home must permit immediate access to any resident by any representative of the Department, by the state ombudsman for the elderly or their designee, by an adult protection investigator or by the resident's personal health care professional. Each home must also permit the following: (3-20-20)T
- a. Immediate access to a resident by their relatives, subject to the resident's right to deny or withdraw consent at any time; (3-20-20)T
 - b. Immediate access to a resident by others who are visiting with the consent of the resident, subject to reasonable restrictions and the resident's right to deny or withdraw consent at any time; (3-20-20)T
 - c. 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; and (3-20-20)T
 - d. Reasonable access to the resident's records, medications and treatments by the resident's health care professional subject to the resident's permission. (3-20-20)T
- 07. Freedom From Harm.** The resident has the right to be free from: (3-20-20)T
- a. Physical, mental, or sexual abuse; (3-20-20)T
 - b. Neglect; (3-20-20)T
 - c. Exploitation; (3-20-20)T
 - d. Corporal punishment; (3-20-20)T
 - e. Involuntary seclusion; and (3-20-20)T

f. Any physical or chemical restraints imposed for purposes of discipline or convenience and not required to treat a medical condition. (3-20-20)T

08. Health Services. The resident has the right to control their health-related services, including: (3-20-20)T

a. The right to retain the services of their own personal physician and dentist; (3-20-20)T

b. The right to select the pharmacy or pharmacist of their choice; (3-20-20)T

c. The right to confidentiality and privacy concerning their medical or dental condition and treatment; (3-20-20)T

d. The right to participate in the formulation of their plan of service; (3-20-20)T

e. The right to decline treatment for any medical condition; and (3-20-20)T

f. When the resident is unable to give medical consent, the provider will give the name and contact information of the person holding guardianship or power of attorney for health care to any health care provider upon request. (3-20-20)T

09. Grievance. (3-20-20)T

a. The resident has the right to voice or file a grievance with respect to care or service that is or fails to be furnished, without discrimination or reprisal for voicing the grievance and the right to prompt efforts by the provider to resolve grievances the resident may have, including those with respect to the behavior of other residents. (3-20-20)T

b. The provider must provide a written response to the resident or resident's representative describing how they resolved or attempted to resolve the grievance, and maintain a copy of this written response in the resident record. (3-20-20)T

10. Advance Notice. The resident must receive written advance notice at least thirty (30) calendar days prior to their non-emergency transfer or discharge unless the transfer or discharge is for a reason described in Section 260, including the following: (3-20-20)T

a. The resident is transferred or discharged only for medical reasons; (3-20-20)T

b. To protect their welfare or the welfare of other members of the household; (3-20-20)T

c. Nonpayment for their stay; (3-20-20)T

d. The resident violates any condition mutually established between the resident and the provider at the time of admission; or (3-20-20)T

e. The resident engages in unlawful delivery, production, or use of a controlled substance on the premises of the home. (3-20-20)T

11. Other Rights. In addition to the rights outlined in Subsections 200.01 through 200.10 of this rule, the resident has the following rights: (3-20-20)T

a. The resident has the right to refuse to perform services for the home except as contracted between the resident and the provider. The provider agrees to pay the resident for such services, and the provider pays the resident a wage consistent with state and federal law; (3-20-20)T

b. The resident must have access to their personal records, including those described in Section 270 of these rules, and must have the right to confidentiality of personal, medical, and clinical records; (3-20-20)T

- c. The resident has the right to practice the religion of their choice or to abstain from religious practice. Residents must also be free from the imposition of the religious practices of others; (3-20-20)T
- d. The resident has the right to participate in social, religious, and community activities that do not interfere with the rights of other residents in the home; (3-20-20)T
- e. The resident has the right to examine, upon reasonable request, the results of the most recent inspection of the home conducted by the Department with respect to the home and any plan of correction in effect with respect to the home; (3-20-20)T
- f. The resident has the right to review a list of other certified family homes that may be available to meet their needs in case of transfer; (3-20-20)T
- g. The resident has the right to refuse routine care of a personal nature from any person whom the resident is uncomfortable receiving such care; (3-20-20)T
- h. The resident has the right to be informed, in writing, regarding the formulation of advance directives as described in Title 39, Chapter 45, Idaho Code; and (3-20-20)T
- i. The resident must have any other right established by law. (3-20-20)T

201. NOTICE OF RESIDENT RIGHTS.

- 01. Resident Rights Notice.** The provider must inform the resident or their representative, verbally and in writing, at the time of admission to the home, of their legal rights during the stay at the home acknowledged by date and signatures. These rights are found in Section 200 of these rules. The provider must supply a copy of the resident rights policy to the resident or the resident's representative. (3-20-20)T
- 02. Annual Review of Resident Rights.** The provider must review the resident rights policy with the resident or their representative at least annually including date and signature. (3-20-20)T
- 03. Documentation of Review.** The provider must retain the signed and dated copy of the policy in the resident's record indicating that the resident or resident's representative has had the opportunity to review the policy. (3-20-20)T

202. ACCESS BY ADVOCATES AND REPRESENTATIVES.

The provider, substitute caregivers and adult members of the household must permit advocates and representatives of community and legal services programs, whose purposes include rendering assistance without charge to residents, to have access to the home at reasonable times. Advocates and representatives may observe all common areas of the home. Access must be permitted in order for advocates and representatives to provide the following: (3-20-20)T

- 01. Inform Residents of Services.** Visit, talk with and make personal, social and legal services available to all residents. (3-20-20)T
- 02. Inform Residents of Rights.** 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 and with individuals. (3-20-20)T
- 03. Assist Residents to Secure Rights.** Assist residents in asserting their legal rights regarding claims for public assistance, medical assistance, and social security benefits, as well as in other matters in which residents are aggrieved. This assistance may be provided individually or in a group basis, and may include organizational activity, counseling, and litigation. (3-20-20)T
- 04. Advise and Represent.** Engage in other methods of assisting, advising, and representing residents so as to extend to them the full enjoyment of their rights. (3-20-20)T

05. Communicate Privately. Communicate privately and without restrictions with any resident who consents to the communication. (3-20-20)T

203. -- 209. (RESERVED)

210. REPORTING REQUIREMENTS.

The provider must report to the regional certifying agent where the home is located or appropriate agency or individual for the following: (3-20-20)T

01. Serious Physical Injury or Death. The provider must report to the appropriate law enforcement agency within four (4) hours when there is reasonable cause to believe that abuse, neglect, or sexual assault has resulted in death or serious physical injury jeopardizing the life, health, or safety of a resident according to Sections 39-5303 and 39-5310, Idaho Code. (3-20-20)T

02. Abuse, Neglect, or Exploitation. When the provider has reasonable cause to believe that a vulnerable adult is being or has been abused, neglected, or exploited, they must immediately report this information to the Idaho Commission on Aging or its Area Agencies on Aging, according to Section 39-5303, Idaho Code. (3-20-20)T

03. Critical Incidents. The provider must notify the certifying agent when a critical incident affects the health or safety of the resident or leads to a change in the resident's condition, including serious illness, accident, elopement, death, or adult protective services or law enforcement contact and investigation. Reporting requirements are as follows: (3-20-20)T

a. Within twenty-four (24) hours of the resident's death or disappearance; and (3-20-20)T

b. Within three (3) business days following: (3-20-20)T

i. Contact from adult protective services or law enforcement in conjunction with an investigation; (3-20-20)T

ii. A visit to an urgent care clinic or emergency room; or (3-20-20)T

iii. Admission to a hospital. (3-20-20)T

04. Report of Fire. A separate report on each fire incident occurring within the home, for which a fire extinguisher was discharged or 9-1-1 was contacted, must be submitted to the certifying agent within three (3) business days of the occurrence. The report must include: (3-20-20)T

a. Date of the incident; (3-20-20)T

b. Origin of the fire; (3-20-20)T

c. Extent of damage; (3-20-20)T

d. How and by whom the fire was extinguished; and (3-20-20)T

e. Injuries or deaths, if any. (3-20-20)T

05. Additional Criminal Convictions. The provider must immediately report any additional criminal convictions for himself, any other adult living in the home or a substitute caregiver to the certifying agent. (3-20-20)T

06. Notice of Investigations. The provider must immediately report to the certifying agent when they, any other adult living in the home, or a substitute caregiver is charged with or under investigation by law enforcement, adult protection services, or child protection services for: (3-20-20)T

- a. Abuse, neglect, or exploitation of any vulnerable adult or child; (3-20-20)T
- b. Other criminal conduct; or (3-20-20)T
- c. When an adult protection or child protection complaint is substantiated. (3-20-20)T

07. Reporting of Funds Managed by the Provider for a Deceased Resident. For funds managed under Section 275 of these rules, the following is required: (3-20-20)T

- a. On the death of a private-pay resident, the provider must convey the resident's funds, with a final accounting of those funds, to the individual administering the resident's estate within thirty (30) days. (3-20-20)T
- b. On the death of a publicly funded resident, the provider must convey the resident's funds, with a final accounting of those funds, to the Department within thirty (30) days. (3-20-20)T

08. Discharge of a Resident. The provider must immediately notify the certifying agent upon the discharge of any resident from the home. (3-20-20)T

211. -- 224. (RESERVED)

225. UNIFORM ASSESSMENT REQUIREMENTS.

01. State Responsibility for Publicly Funded Residents. The Department will assess residents accessing services through a publicly funded program according to uniform criteria developed to assess all participants within that respective program. Assessment criteria may vary from one program to another, but must be uniform within the same program. (3-20-20)T

02. Provider Responsibility for Private-Pay Residents. The provider will develop, identify, assess, or direct a uniform needs assessment of each private-pay resident. The uniform needs assessment: (3-20-20)T

- a. Must be completed no later than fourteen (14) calendar days after admission; (3-20-20)T
- b. Must be reviewed when there is a change in condition, or every twelve (12) months, whichever occurs first; (3-20-20)T
- c. Must include: (3-20-20)T
 - i. Identification and background information; (3-20-20)T
 - ii. Medical diagnosis; (3-20-20)T
 - iii. Medical and health needs; (3-20-20)T
 - iv. Prescriptions, including route of administration, and all over-the-counter medications, supplements, treatments, and special diets, if applicable; (3-20-20)T
 - v. Historical and current behavior patterns; (3-20-20)T
 - vi. Cognitive function; (3-20-20)T
 - vii. Psychosocial and physical needs of the resident; (3-20-20)T
 - viii. Functional status; (3-20-20)T
 - ix. Assessed level of care; and (3-20-20)T
 - x. A statement from the resident's health care professional indicating the resident is appropriate for

certified family home care. (3-20-20)T

d. May be the Department's Uniform Assessment Instrument (UAI) as described in IDAPA 16.03.23, "Uniform Assessments for State-Funded Clients," for a private-pay resident's uniform needs assessment. Upon request by the provider, the Department will provide training in conducting uniform needs assessments. (3-20-20)T

03. Results of Assessment. The results of the assessment for both publicly funded and private-pay residents are used to evaluate the ability of the provider to meet the identified resident's needs. The results of the assessment may also be used to determine the need for special training or licenses or certificates that may be required to care for certain residents. (3-20-20)T

226. -- 249. (RESERVED)

250. PLAN OF SERVICE.

The resident must have a plan of service. The plan must identify the resident, describe the services to be provided, and describe how the services will be delivered. (3-20-20)T

01. Core Elements. A resident's plan of service must be based on the orders of the resident's health care professionals, and: (3-20-20)T

- a.** Assessment; (3-20-20)T
- b.** Service needs for activities of daily living; (3-20-20)T
- c.** Need for limited nursing services; (3-20-20)T
- d.** Need for medication assistance; (3-20-20)T
- e.** Frequency of needed services; (3-20-20)T
- f.** Level of care; (3-20-20)T
- g.** Habilitation and training needs; (3-20-20)T
- h.** Behavioral management needs, including identification of situations that trigger inappropriate behavior; (3-20-20)T
- i.** Dated history and physical from the resident's health care professional reflecting the resident's current health status and conducted no earlier than twelve (12) months prior to admission; (3-20-20)T
- j.** Admission records; (3-20-20)T
- k.** Community supportive services; (3-20-20)T
- l.** Resident's desires; (3-20-20)T
- m.** Resident's need for supervision, including the degree; (3-20-20)T
- n.** Transfer and discharge requirement; and (3-20-20)T
- o.** Other identified needs. (3-20-20)T

02. Signature and Approval. The provider and the resident or the resident's representative must sign and date the plan of service upon its completion, within fourteen (14) days after the resident's admission. (3-20-20)T

03. Developing the Plan. The provider will consult the resident and other individuals identified by the resident in developing the plan of service. Professional staff must be involved in developing the plan if required by

another program. (3-20-20)T

04. Resident Choice. A resident must be given the choice and control of how and what services the provider or external vendors will provide to the extent the resident can make choices. (3-20-20)T

05. Copy of the Plan. Signed copies of the plan of service must be placed in the resident's file, given to the resident, and given to their representative, if applicable, no later than fourteen (14) days after admission. For a resident receiving services through a publicly-funded program, the copy of the plan must indicate that it has been approved by the Department. (3-20-20)T

06. Changes to the Plan. A record must be made of any changes to the plan or when the provider is unable to provide services outlined in the plan of service. When changes to the plan are made, the resident or resident's representative and the provider must sign and date the changes. (3-20-20)T

07. Periodic Review. The next scheduled date of review must be documented in the plan of service. The plan of service should be reviewed as necessary but must be reviewed at least every twelve (12) months. (3-20-20)T

251. – 259. (RESERVED)

260. ADMISSIONS.

According to Section 39-3507, Idaho Code, the provider must only admit or retain residents in the home for whom they have the training, appropriate skills, and time to provide adequate care. The provider must be able to provide the levels of service or types of service required for each resident admitted to the home. (3-20-20)T

01. Prior Approval Required. The provider must obtain approval from the Department for each admission prior to the prospective resident moving into the home. The following must be provided to the regional certifying agent where the home is located to aid the Department in making its determination: (3-20-20)T

- a. Name, gender and date of birth of the prospective resident; (3-20-20)T
- b. The contemplated date of admittance of the prospective resident into the home; (3-20-20)T
- c. The prospective resident's history and physical from their health care professional, conducted within the previous twelve (12) month period reflecting their current health status; (3-20-20)T
- d. A list of the resident's current medications and treatments from their health care professional; (3-20-20)T
- e. Contact information for the resident's health care professionals; (3-20-20)T
- f. Contact information for the prospective resident's representative, if applicable; (3-20-20)T
- g. The resident's plan of service from another health care setting, or any such plan of service conducted for the resident within the previous six (6) months, if one exists, when the resident transfers to the home from another health care setting; and (3-20-20)T
- h. Other information requested by the Department relevant to the appropriateness of the admission and the provider's ability to provide adequate care. (3-20-20)T

02. Notification. Within five (5) business days of receipt of the documents listed in Subsection 260.01 of this rule, the Department will notify the provider verbally or in writing whether the proposed admission is approved or denied. When verbal notification is given, the Department will provide follow-up written communication to the provider stating the approval or denial within ten (10) business days. (3-20-20)T

03. Emergency Admission. The provider may not accept an emergency admission without prior approval from the Department except under the following conditions: (3-20-20)T

a. The provider may make a conditional admission when they reasonably believe they have the ability to provide adequate care to the resident when the request for an emergency placement occurs after normal business hours and the provider is unable to contact the Department for prior approval. The provider must notify the resident or their representative that the admission is conditional upon Department approval. (3-20-20)T

b. The provider must notify the regional certifying agent where the home is located the next business day after making a conditional admission. (3-20-20)T

c. The provider must follow the regular admission process described in Subsection 260.01 of this rule within two (2) business days of making a conditional admission. The Department may deny the placement and require the resident to transfer when there is reasonable cause to believe the provider lacks the ability to provide adequate care. (3-20-20)T

04. Admission Agreement. At the time of admission to a certified family home, the provider and the resident or resident's representative, if applicable, must enter into an admission agreement. The agreement must be in writing and must be signed and dated by both parties. The agreement must, in itself or by reference to the resident's plan of service, include at least the following: (3-20-20)T

a. Whether or not the resident will assume responsibility for their own medication; (3-20-20)T

b. The provider must have a plan in place for steps the provider will take if the resident is not able to carry out their own self-preservation. (3-20-20)T

c. Whether or not the provider will accept responsibility for the resident's funds; (3-20-20)T

d. How a partial month's refund will be managed; (3-20-20)T

e. Responsibility for valuables belonging to the resident and provision for the return of a resident's valuables should the resident leave the home; (3-20-20)T

f. Amount of liability coverage provided by the homeowner's or renter's insurance policy and whether the insurance policy covers the resident's personal belongings; (3-20-20)T

g. Written notice of at least thirty (30) calendar days as agreed to in the admission agreement prior to discharge on the part of either party or transfer, when the transfer is not for medical reasons or for the resident's welfare or the welfare of others, or when the discharge is not for a situation described in Subsection 260.05.b. of this rule; (3-20-20)T

h. Conditions under which an emergency temporary placement will be made as described under Subsection 260.06 of this rule; (3-20-20)T

i. Signed permission to provide pertinent information from the resident's record to a hospital, nursing home, residential and assisted living facility, or other certified family home; (3-20-20)T

j. Responsibility to obtain consent for medical procedures including the name, address, and telephone number of the guardian or power of attorney for health care for any resident who is unable to make their own medical decisions; (3-20-20)T

k. Resident responsibilities as appropriate; (3-20-20)T

l. Amount the provider will charge the resident for room, utilities and three (3) daily meals on a monthly basis, and if the resident is private-pay or has a share of cost, a separately listed amount the provider will charge for care on a monthly basis; (3-20-20)T

m. Written notice of at least fifteen (15) calendar days as agreed to in the admission agreement prior to the provider changing the charges to the resident as described in Subsection 260.04.l. of this rule; (3-20-20)T

n. Protections that address eviction processes and appeals comparable to those provided under Idaho landlord tenant law. The admission agreement must either: (3-20-20)T

i. Adopt the eviction and appeal processes as described in Title 6, Chapter 3, Idaho Code; or (3-20-20)T

ii. Adopt the eviction and appeal processes as described in the version of the admission agreement provided by the Department; and (3-20-20)T

o. Additional conditions as agreed upon by both parties but consistent with the requirements of these rules. (3-20-20)T

05. Termination of Admission Agreement. The admission agreement must only be terminated under the following conditions: (3-20-20)T

a. The provider or the resident, or the resident's representative, if applicable, provides the other party at least thirty (30) calendar days' written notice as agreed to in the admission agreement; or (3-20-20)T

b. A three (3) day written notice may be given by the provider to the resident or the resident's representative, if applicable, when any of the following occur, subject to the appeal process required under Subsection 260.04.n. of this rule: (3-20-20)T

i. Nonpayment of the resident's bill identified in Subsection 260.04.l. of this rule; (3-20-20)T

ii. The resident violates written conditions as mutually established between the resident and the provider at the time of admission; or (3-20-20)T

iii. The resident engages in the unlawful delivery, production, or use of a controlled substance on the premises of the home. (3-20-20)T

06. Emergency Temporary Placement. The admission agreement will remain in force and effect, excluding the provider's responsibility for care and the charge to the resident for such care as identified in Subsection 260.04.l. of this rule, while the resident is temporarily transferred from the home to another care setting on an emergency basis unless either party terminates the agreement as described in Subsection 260.05 of this rule. An emergency temporary placement must only occur when: (3-20-20)T

a. The resident's mental or physical condition deteriorates to a level requiring evaluation or services that cannot be met by the provider or reasonably accommodated by the home; or (3-20-20)T

b. Emergency conditions requiring the resident to transfer out of the home without thirty (30) calendar days' written notice to protect the resident or other residents, the provider, or other individuals living in the home from harm. (3-20-20)T

07. Discharge Procedure. The provider must immediately notify the Department upon the transfer or discharge of the resident according to Section 210 these rules. (3-20-20)T

08. Return of Resident's Possessions. The provider must document the return of the resident's personal possessions to the resident or resident's representative as agreed in the admission agreement according to Subsection 260.04.e. of this rule: (3-20-20)T

a. Return immediately upon discharge: (3-20-20)T

i. All personal funds belonging to the resident; and (3-20-20)T

ii. Any medication, supplement, or treatment belonging to the resident; (3-20-20)T

- b.** Return within three (3) business days; (3-20-20)T
- i.** If the provider, their relative, or any other member of the household was managing the resident's funds, a copy of the final accounting of the resident's funds; (3-20-20)T
- ii.** All resident belongings as indicated on their belongings inventory; and (3-20-20)T
- iii.** Any other items belonging solely to the resident, including personal documents. (3-20-20)T

261. -- 269. (RESERVED)

270. RESIDENT RECORDS.

The provider must maintain records for each resident admitted to the home as provided in this rule. (3-20-20)T

01. Admission Records. Records required for admission to the home must be maintained, updated, and kept confidential. The availability of the records without the consent of the resident, subject to IDAPA 16.05.01, "Use and Disclosure of Department Records," is limited to the resident and resident's representative, the provider, substitute caregivers, the resident's health care professionals, and representatives of the Department including certifying agents. All entries must be accurate and reflect updated information as changes occur, recorded legibly in ink, signed and dated, and must include: (3-20-20)T

- a.** The resident's full legal name; (3-20-20)T
- b.** The resident's permanent address if other than the home; (3-20-20)T
- c.** The resident's marital status and sex; (3-20-20)T
- d.** The resident's place and date of birth; (3-20-20)T
- e.** The name, address, and telephone number of an individual identified by the resident or the resident's representative who should be contacted in the event of an emergency or death of the resident; (3-20-20)T
- f.** The resident's personal health care professionals; (3-20-20)T
- g.** Admission date and name of the person who completed the admission form; (3-20-20)T
- h.** Results of a history and physical examination performed by a health care professional reflecting the resident's current health status and conducted no earlier than twelve (12) months prior to admission; (3-20-20)T
- i.** A list of medications, treatments, and special diets, if any, prescribed for the resident and signed and dated by their health care professional; (3-20-20)T
- j.** Religious affiliation if the resident so chooses to disclose; (3-20-20)T
- k.** Social information, obtained by the provider from the resident or resident's relatives, service coordinator, legal guardian or conservator, or other knowledgeable individuals to include the resident's social history, hobbies, and interests; (3-20-20)T
- l.** The written admission agreement as described in Section 260 of these rules; (3-20-20)T
- m.** A signed copy of the resident rights policy as described in Section 200 of these rules; (3-20-20)T
- n.** A copy of the resident's assessment as described in Section 225 of these rules; (3-20-20)T
- o.** A copy of the resident's signed and dated plan of service as described in Section 250 of these rules; (3-20-20)T

p. An inventory of the resident's belongings that may consist of photographs or a written descriptive list. The resident or the resident's representative may inventory any personal possession they so choose and expect returned upon the resident's transfer or discharge from the home. The belongings inventory may be updated at any time but must be updated at least annually; (3-20-20)T

q. Information about any specific health problems of the resident that may be useful in a medical emergency; (3-20-20)T

r. Any other health-related, emergency, or pertinent information that the resident requests the provider to keep on record; (3-20-20)T

s. If the resident has a representative, a copy of the document giving the representative legal authority to act on behalf of the resident, including guardianship or power of attorney for healthcare decisions; (3-20-20)T

t. Contact name, address, and telephone number of any individual or agency providing supportive services to the resident; and (3-20-20)T

u. Signed copy of any care plan that is prepared for the resident by an outside service provider. (3-20-20)T

02. Ongoing Resident Records. Records must be kept by the provider for services to the resident showing accurate and updated information as services are rendered, including: (3-20-20)T

a. Any incident or accident occurring while the resident is living in the home and the provider's response. If the incident or accident occurs while the resident is receiving supportive services, the provider must obtain a written report of the event from the service provider; (3-20-20)T

b. The provider's written response to any grievance as described in Section 200 of these rules; (3-20-20)T

c. Notes from the licensed nurse, home health agency, physical therapist, or any other service providers, documenting the services provided to the resident at each visit to the home; (3-20-20)T

d. Documentation of significant changes in the resident's physical or mental status, and the provider's response; (3-20-20)T

e. When the provider, a relative of the provider, or an individual living in the home other than the resident manages the resident's funds, financial accounting records for such funds as described in Section 275 of these rules; and (3-20-20)T

f. Medication records as required in Sections 400 through 402 of these rules, as applicable. (3-20-20)T

03. Maintenance of Resident Records. All records of services delivered by the provider must be maintained in the home for at least five (5) years from the date of service. (3-20-20)T

271. -- 274. (RESERVED)

275. RESIDENT FUNDS AND FINANCIAL RECORDS.

01. Resident Funds Policy. Each provider must possess and implement a policy and procedure outlining how the resident's funds will be managed. This policy and procedure must include the following: (3-20-20)T

a. Statement of whether the provider will or will not manage resident funds. (3-20-20)T

b. When the resident leaves the home under any circumstances, the provider must: (3-20-20)T

- i. Only retain room and board funds prorated to the last day of the notice period as specified in the admission agreement, or upon the resident moving from the home, whichever is later; (3-20-20)T
 - ii. Immediately return all remaining resident funds to the resident or to the resident's representative as specified in the admission agreement according to Section 260 of these rules; and (3-20-20)T
 - iii. Only use the resident's funds for that resident's expenses until a new payee is appointed. (3-20-20)T
- c.** Prohibit personal loans to the resident from the provider, provider's relatives, and other members of the household unless the loan is from a relative of the resident. When such a loan is made, the provider must: (3-20-20)T
- i. Ensure the terms of the loan are described in a written contract signed by the resident or resident's representative; (3-20-20)T
 - ii. Maintain a copy of the loan contract in the resident's record; and (3-20-20)T
 - iii. Immediately update documentation of repayments towards the loan. (3-20-20)T
- 02. Managing Resident Funds.** When the resident's funds are turned over to the provider for any purpose other than payment for services allowed under these rules, or if the provider, their relative, or an individual living in the home acts as the resident's payee, the provider is deemed to be managing the resident's funds. The provider who manages a resident's funds must: (3-20-20)T
- a.** Establish a separate account at a financial institution for each resident to which use of the resident's funds may be reconciled by means of a financial statement; (3-20-20)T
 - b.** Prohibit commingling of the resident's funds with the funds of any other person, including borrowing funds from the resident; (3-20-20)T
 - c.** Upon request, notify the resident or the resident's representative the amount of the resident's funds in their account that are available for their use; (3-20-20)T
 - d.** Charge the resident the amount agreed upon in the admission agreement as described in Section 260 of these rules for their certified family home services on a monthly basis from their funds; (3-20-20)T
 - e.** Maintain accounting documentation, including financial statements, receipts and ledgers, for all financial transactions in excess of five dollars (\$5) in which the resident's funds were used. A separate transaction record must be maintained for each resident; (3-20-20)T
 - f.** Restore funds to the resident if the provider cannot produce proper accounting records of resident's funds or property, including receipts for purchases made using the resident's personal funds. Restitution of the funds to the resident is a condition for continued operation of the home; (3-20-20)T
 - g.** Not require the resident to purchase goods or services from or for the home other than those designated in Section 260 of these rules; (3-20-20)T
 - h.** Provide the resident, their legal guardian, their representative with financial power of attorney, and conservator access to the resident's funds; (3-20-20)T
 - i.** On the death of a private-pay resident, convey the resident's funds with a final accounting of those funds to the individual administering the resident's estate; within thirty (30) days as described in Section 210 of these rules; (3-20-20)T
 - j.** On the death of a publicly-funded resident, convey the resident's funds, with a final accounting of

those funds, to the Department within thirty (30) days as described in Section 210 of these rules. (3-20-20)T

276. -- 299. (RESERVED)

300. SHORT-TERM CARE AND SUPERVISION.

When the provider is temporarily unavailable to provide care or supervision to the resident, they may designate another adult to provide care and supervision, or only supervision to the resident. The provider must assure that this short-term arrangement meets the needs of the resident and protects the resident from harm. (3-20-20)T

01. Alternate Caregiver. An alternate caregiver must be a certified family home provider. An alternate caregiver provides care and supervision in their home to a resident from another certified family home according to the resident's original plan of service and admission agreement. The following applies to an alternate care placement: (3-20-20)T

a. The Department must approve an alternate care placement using the process described in Section 260 of these rules. The alternate caregiver must: (3-20-20)T

i. Not exceed the number of residents for which their home is certified to provide care; (3-20-20)T

ii. Comply with Section 140 of these rules when the resident receiving alternate care will be the third or fourth resident in the alternate caregiver's home; (3-20-20)T

iii. Comply with Section 130 of these rules when the resident receiving alternate care requires nursing facility level of care and any other resident in the alternate caregiver's home requires nursing facility level of care. (3-20-20)T

b. Upon approval from the Department, alternate care may be provided for up to thirty (30) consecutive days; and (3-20-20)T

c. The provider must provide or arrange for resident-specific training to the alternate caregiver, including supplying copies of the resident's current assessment, plan of service, and admission agreement. (3-20-20)T

02. Substitute Caregiver. A substitute caregiver must be an adult designated by the provider to provide care and supervision to the resident in the provider's certified family home. The following apply to the designation of a substitute caregiver: (3-20-20)T

a. The provider is responsible to provide or arrange for resident-specific training for the substitute caregiver including reviewing copies of each resident's current assessment, plan of service, and admission agreement; (3-20-20)T

b. Staffing levels in the home must be maintained at the same level as when the provider is available to provide care and supervision; (3-20-20)T

c. Substitute care can be provided for up to thirty (30) consecutive days; and (3-20-20)T

d. The substitute caregiver must have the following qualifications: (3-20-20)T

i. Current certification in first aid and adult Cardio-Pulmonary Resuscitation (CPR) that meets the standards under Section 100 of these rules; (3-20-20)T

ii. A criminal history check as provided in Section 009 of these rules; and (3-20-20)T

iii. Completion of the "Assistance with Medications" course or other Department-approved training as provided in Section 100 of these rules. (3-20-20)T

03. Incidental Supervision. An individual providing incidental supervision must be approved by the

provider to supervise the resident. Incidental supervision must not include resident care. Incidental supervision may be provided for up to four (4) hours per week. (3-20-20)T

301. -- 399. (RESERVED)

400. MEDICATION POLICY.

The provider must possess and implement written medication policies and procedures that outline in detail how the home will assure appropriate assistance with and handling of and safeguarding of medications. These policies and procedures must be maintained in the home, and include the following: (3-20-20)T

01. Following Orders. Assistance given by the provider must only be as directed by the resident's health care professionals. (3-20-20)T

02. Evidence of Orders. Evidence of each resident's orders must be maintained in the home, regardless of whether the resident is able to self-administer, and may consist of the following: (3-20-20)T

a. Written instructions from the health care professional for the medication including the dosage, expected effects, potential adverse reactions or side effects, and actions to take in an emergency; (3-20-20)T

b. Medisets filled and appropriately labeled by a pharmacist or licensed nurse with the name of the medications, dosage, time to be taken, route of administration, and any special instructions; (3-20-20)T

c. An original prescription bottle labeled by a pharmacist describing the order and instructions for use; and (3-20-20)T

d. If the medication, supplement, or treatment is without a prescription, it will be listed among over-the-counter medications approved by the resident's health care professional as indicated by a signed statement. Over-the-counter medications will be given as directed on the packaging. (3-20-20)T

03. Alteration of Orders. The provider must not alter dosage, discontinue or add medications, including over-the-counter medications and supplements, or discontinue, alter, or add treatments or special diets without first consulting the resident's prescribing health care professional and obtaining an order for the change as required under Subsection 400.02 of this rule. (3-20-20)T

04. Allergies. The provider must list any known food or drug allergies for each resident and take precautions to guard against the resident ingesting such allergens. (3-20-20)T

05. Training. Each adult assisting with resident medications must have successfully completed the "Assistance with Medications" course, or other Department-approved training as described in Section 100 of these rules. Additionally: (3-20-20)T

a. Each resident's orders must be reviewed by each staff person assisting residents with medications prior to offering assistance; and (3-20-20)T

b. Written instructions must be in place that outline who to notify if any of the following occur: (3-20-20)T

i. Doses are not taken; (3-20-20)T

ii. Overdoses occur; or (3-20-20)T

iii. Side effects are observed. (3-20-20)T

c. The provider must ensure any staff assisting with medications has reviewed each resident's known allergies and takes precautions against the resident ingesting such allergens. (3-20-20)T

06. Self-administration. When the provider cares for a resident who self-administers their own

medications, the provider must follow the standards described under Section 401 of these rules. (3-20-20)T

07. Assistance with Medication. When the provider cares for a resident who needs assistance with medications, the provider must follow the standards described under Section 402 of these rules. (3-20-20)T

401. SELF-ADMINISTRATION OF MEDICATION.

If the resident is responsible for administering their own medication without assistance, the provider must ensure the following: (3-20-20)T

01. Approval. The provider must obtain written approval stating that the resident is capable of self-administration from the resident's health care professional; otherwise, the provider must comply with the standards in Section 402 of these rules. (3-20-20)T

02. Evaluation. The resident's record must include documentation that the resident's health care professional has evaluated the resident's ability to safely self-administer medication. The evaluation must include verification of the following: (3-20-20)T

a. The resident understands the purpose of each medication; (3-20-20)T

b. The resident is oriented to time and place and knows the appropriate dosage and times to take the medication; (3-20-20)T

c. The resident understands the expected effects, adverse reactions, or side effects, and knows what actions to take in case of an emergency; and (3-20-20)T

d. The resident is able to take the medication without assistance or reminders. (3-20-20)T

03. Change in Condition. Should the condition of the resident change such that it brings into question their ability to safely continue self-administration of medications, the provider must have a reevaluation and approval of the resident to self-administer as required in Subsections 401.01 and 401.02 of this rule. (3-20-20)T

04. Safeguarding Medication. The provider must ensure that the medications of a resident who self-administers are safeguarded, including providing a lockable storage cabinet or drawer to the resident as described in Section 175 of these rules. Notwithstanding, the resident must be allowed to maintain their medications under their own control and possession. (3-20-20)T

402. ASSISTANCE WITH MEDICATION.

The provider must offer assistance with medications to residents who need assistance; however, only a health care professional may administer medications. Prior to assisting residents with medication, the provider must ensure the following conditions are in place: (3-20-20)T

01. Training. Each person assisting with resident medications must be an adult who successfully completed and follows the "Assistance with Medications" course available through the Idaho Professional Technical Education Program approved by the Idaho State Board of Nursing, or other Department-approved training. (3-20-20)T

02. Condition of the Resident. The resident's health condition is stable. (3-20-20)T

03. Nursing Assessment. The resident's health status does not require nursing assessment before receiving the medication nor nursing assessment of the therapeutic or side effects after the medication is taken, unless the provider is a health care professional. (3-20-20)T

04. Containers and Labels. The medication is in the original pharmacy-dispensed container with proper label and directions or in an original over-the-counter container. (3-20-20)T

a. Each medication must be packaged separately unless in a Mediset, blister pack, or similar system. (3-20-20)T

b. Medication may be placed in a unit container by a licensed nurse when the container is appropriately labeled with the name of the medications, dosage, time to be taken, route of administration, and any special instructions. (3-20-20)T

c. Proper measuring devices must be available for liquid medication that is poured from a pharmacy-dispensed container. (3-20-20)T

05. Safeguarding Medications. The provider must take adequate precautions to safeguard the medications of each resident for whom they provide assistance. Safeguarding consists of the following: (3-20-20)T

a. Storing each resident's medications in an area or container designated only for that particular resident including a label with the resident's name, except for medications that must be refrigerated or over-the-counter medications; (3-20-20)T

b. Keeping the designated area or container for the resident's medications under lock and key when either of the following apply: (3-20-20)T

i. The resident's medications include a controlled substance; or (3-20-20)T

ii. Any resident in the home or other member of the household has drug-seeking behaviors. (3-20-20)T

c. Ensuring each resident's designated medication area or container is clean and kept free of contamination, including disposal of loose pills in accordance with Subsection 402.08 of this rule; (3-20-20)T

d. Dispensing only one (1) resident's set of medications from its designated area or container at one (1) time, so as to mitigate medication errors; and (3-20-20)T

e. On at least a monthly basis, document an inventory of narcotic medications. (3-20-20)T

06. Administration of Medications. Only a health care professional working within the scope of their license may administer medications. Administration of medications must comply with the Administrative Rules of the Board of Nursing, IDAPA 23.01.01, "Rules of the Idaho Board of Nursing." Some procedures are of such a technical nature that they must always be performed by, or under the direct supervision of, a health care professional. These procedures are outlined in IDAPA 23.01.01, "Rules of the Idaho Board of Nursing," Section 490. (3-20-20)T

07. Documentation of Assistance. Documentation of assistance with medications must be maintained by the provider. The documentation must: (3-20-20)T

a. Be logged concurrent with the time of assistance; (3-20-20)T

b. Contain at least the following information: (3-20-20)T

i. The name of the resident receiving the medication; (3-20-20)T

ii. The name of the medication given; (3-20-20)T

iii. The dosage of the medication given; and (3-20-20)T

iv. The time and date the medication was given. (3-20-20)T

c. Indicate the reason for assisting with any PRN medication, including both over-the-counter and prescription medication. (3-20-20)T

08. Disposal of Medication. Medication that has been discontinued as ordered by the resident's health care professional, or has expired, must be disposed of by the provider within thirty (30) days of the order or expiration date. A written record of all disposal of drugs must be maintained in the home and must include: (3-20-20)T

- a. The name of the medication; (3-20-20)T
- b. The amount of the medication, including the number of pills at each dosage, if applicable; (3-20-20)T
- c. The name of the resident for whom the medication was prescribed; (3-20-20)T
- d. The reason for disposal; (3-20-20)T
- e. The date on which the medication was disposed; (3-20-20)T
- f. The method of disposal; and (3-20-20)T
- g. A signed statement from the provider and a credible witness confirming the disposal of the medication. (3-20-20)T

403. -- 499. (RESERVED)

500. ENVIRONMENTAL SANITATION STANDARDS.

The provider is responsible for disease prevention and maintenance of sanitary conditions in the home. (3-20-20)T

- 01. Water Supply.** The water supply for the home must be adequate, safe, and sanitary. (3-20-20)T
 - a. The home must use a public or municipal water supply or a Department-approved private water supply; (3-20-20)T
 - b. If water is from a private supply, water samples must be submitted to an accredited laboratory and show an absence of bacterial contamination at least annually, or more frequently if deemed necessary by the Department. Copies of the laboratory reports must be kept on file at the home; and (3-20-20)T
 - c. There must be adequate water pressure to meet sanitary requirements at all times. (3-20-20)T
- 02. Sewage Disposal.** The sewage disposal system must be in good working order. All sewage and liquid wastes must be discharged, collected, treated, and disposed of in a manner approved by the local municipality or the Department. (3-20-20)T
- 03. Nonmunicipal Sewage Disposal.** (3-20-20)T
 - a. For homes with nonmunicipal sewage disposal, at the time of the initial certification and at least every five (5) years thereafter, the provider must obtain proof that the septic tank has been pumped or that pumping was not necessary, or that the system is otherwise in good working condition. (3-20-20)T
 - b. The Department may require the provider to obtain a statement from the local or area health district indicating that the sewage disposal system meets local requirements. The statement must be kept on file at the home. (3-20-20)T
- 04. Garbage and Refuse Disposal.** Garbage and refuse disposal must be provided by the home. (3-20-20)T
 - a. Garbage containers outside the home used for storage of garbage and refuse must be constructed of durable, nonabsorbent materials and be provided with tight-fitting lids. (3-20-20)T
 - b. Garbage containers must be maintained in good repair and must not leak or absorb liquids. (3-20-20)T
 - c. Sufficient containers must be available to hold all garbage and refuse that accumulates between

periods of removal from the premises. (3-20-20)T

d. Storage areas must be kept free of excess refuse and debris. (3-20-20)T

05. Insect and Rodent Control. The home must be maintained free from infestations of insects, rodents and other pests. Pesticides used in the control program must be selected, stored, and used safely. (3-20-20)T

a. The pesticide must be selected on the basis of the pest involved and used only in the manner prescribed by the manufacturer; (3-20-20)T

b. The provider must take necessary precautions to protect the resident from obtaining toxic chemicals, as appropriate for their functional and cognitive ability. (3-20-20)T

06. Yard. The yard surrounding the home must be safe and maintained. (3-20-20)T

07. Laundry Facilities and Services. A washing machine and dryer must be readily available for the proper and sanitary washing of linen and other washable goods. Laundry services must be offered on at least a weekly basis, or more frequently when soiled linens or clothing create a noticeable odor. (3-20-20)T

08. Housekeeping and Maintenance. Sufficient housekeeping and maintenance must be provided to maintain the interior and exterior of the home in a clean, safe, and orderly manner. (3-20-20)T

a. Resident sleeping rooms must be thoroughly cleaned including the bed, bedding, furnishings, walls, and floors. Cleaning must occur on at least a weekly basis and immediately before being occupied by a new resident. (3-20-20)T

b. Deodorizers must not be used to cover odors caused by poor housekeeping or unsanitary conditions. (3-20-20)T

c. Cleaners and chemicals must be stored and used appropriately and safely. The provider must take necessary precautions to protect the resident from obtaining toxic chemicals, as appropriate for their functional and cognitive ability. (3-20-20)T

501. -- 599. (RESERVED)

600. FIRE AND LIFE SAFETY STANDARDS.

Each home must meet all applicable requirements of local and state codes concerning fire and life safety. (3-20-20)T

01. General Requirements. General requirements for the fire and life safety standards for a certified family home are: (3-20-20)T

a. The home must be structurally sound and equipped and maintained to assure the safety of residents; and (3-20-20)T

b. When natural or man-made hazards are present, suitable fences, guards, and railings must be provided to protect the residents according to their need for supervision as documented in the plan of service; and (3-20-20)T

c. The exterior and interior of the home must be kept free from the accumulation of weeds, trash, debris, rubbish, and clutter. (3-20-20)T

02. Fire and Life Safety Requirements. (3-20-20)T

a. Smoke alarms must be installed in sleeping rooms, hallways, on each level of the home, and as recommended by the local fire district. (3-20-20)T

b. Carbon monoxide (CO) alarms must be installed as recommended when: (3-20-20)T

- i. The home is equipped with gas or other fuel-burning appliances or devices; or (3-20-20)T
- ii. An enclosed garage is attached to the home. (3-20-20)T
- c. Unvented combustion devices of any kind are prohibited from use inside the home. (3-20-20)T
- d. Any locks installed on exit doors must be easily opened from the inside without the use of keys or any special knowledge. (3-20-20)T
- e. An electric portable heating device must only be used under the following conditions: (3-20-20)T
 - i. The unit is maintained in good working order and without obvious damage or fraying of the cord; (3-20-20)T
 - ii. The heating element does not exceed two hundred twelve degrees Fahrenheit (212°F); (3-20-20)T
 - iii. The user complies with safety labels, which are to remain on the unit; (3-20-20)T
 - iv. The unit is equipped with automatic shut-off protection when tipped over; and (3-20-20)T
 - v. The unit is operated under direct supervision and at least thirty-six (36) inches away from combustibles including furnishings, bedding, and blankets. (3-20-20)T
- f. Homes that use fuel-fired stoves must provide adequate railings or other approved protection designed to prevent the resident from coming into contact with the stove surfaces, as appropriate for their functional and cognitive ability. (3-20-20)T
- g. Each resident's sleeping room must have at least one (1) door or window that can be easily opened from the inside and leads directly to the outside. If a window is used as a means of egress/ingress, the following conditions must be met: (3-20-20)T
 - i. The window sill height must not be more than forty-four (44) inches above the finished floor; (3-20-20)T
 - ii. The window opening must be at least twenty (20) inches in width and twenty-four (24) inches in height; and (3-20-20)T
 - iii. If the sleeping room is in a below-ground basement, the window must open into a window well through which the resident can easily exit. (3-20-20)T
- h. Flammable or highly combustible materials must be stored safely. The provider must take necessary precautions to protect the resident from obtaining flammable materials as appropriate for their functional and cognitive ability. (3-20-20)T
- i. Boilers, hot water heaters, and unfired pressure vessels must be equipped with automatic pressure relief valves. (3-20-20)T
- j. A portable fire extinguisher must be mounted on each level of the home. The location of fire extinguishers is subject to Department approval. All extinguishers must be at least five (5) pound dry chemical multipurpose 2A:10B:C type. (3-20-20)T
- k. Electrical installations and equipment must comply with the applicable local and state electrical codes. (3-20-20)T
- l. Fuel-fired heating devices must be approved by the local heating/venting/air conditioning (HVAC) board. (3-20-20)T

- m.** Exits must be free from obstruction. (3-20-20)T
- n.** Paths of travel to exits and all exit doorways must be at least twenty-eight (28) inches wide. (3-20-20)T
- o.** The door into each bathroom and sleeping room must unlock from both sides, if equipped with a lock, in case of an emergency. (3-20-20)T
- 03. Smoking.** Smoking is a fire hazard. The provider may choose to allow or not allow smoking. If the provider chooses to allow smoking, they must reduce the risk of fire by: (3-20-20)T

 - a.** Prohibiting smoking in any area where flammable liquids, gases, or oxidizers are in use or stored; (3-20-20)T
 - b.** Prohibiting residents from smoking in bed; and (3-20-20)T
 - c.** Prohibiting unsupervised smoking by the resident unless unsupervised smoking is specifically allowed in their plan of service. (3-20-20)T
- 04. Emergency Preparedness.** Each provider must develop and implement a written emergency preparedness plan. The provider must review the emergency plan with the resident(s), or their representative, at admission and at least every six (6) months thereafter. The plan must address the following: (3-20-20)T

 - a.** Evacuation of the home, including: (3-20-20)T

 - i.** A floor plan of the home depicting at least two (2) routes of escape from each room; (3-20-20)T
 - ii.** A designated meeting area indicated on the floor plan where all members of the household will congregate upon evacuation of the home; and (3-20-20)T
 - iii.** The person responsible to take a head-count at the designated meeting area and relay information to firefighters regarding the probable whereabouts in the home of missing individuals. (3-20-20)T
 - b.** Emergency situations in which people are confined to the home for a period of at least seventy-two (72) hours and considering adequate food, water, and medications during that time; (3-20-20)T
 - c.** Emergency situations in which people are ordered evacuated from the home, including pre-arranged plans to shelter within the local community and in a town outside the local community, and considering the necessary supplies that will be kept in a state of preparedness for quick evacuation; and (3-20-20)T
 - d.** Procedures for any situation in which the provider is incapacitated and unable to provide services. (3-20-20)T
- 05. Fire Drills.** The provider must conduct and document fire drills at least quarterly. (3-20-20)T

 - a.** The provider must demonstrate the ability to evacuate all persons from the home to a point of safety outside the home within three (3) minutes. (3-20-20)T
 - b.** Residents who are medically unable to exit unassisted are exempt from physical participation in the drill if the provider has an effective evacuation plan for such residents and discusses the plan with the resident at the time of the drill. (3-20-20)T
 - c.** Documentation, which may consist of video recordings or written logs, must include the following: (3-20-20)T

 - i.** The date and time of the drill; (3-20-20)T

- ii. The length of time for all persons able to participate in the drill to evacuate from the home; (3-20-20)T
- iii. The name or likeness of each caregiver who participated in the drill; and (3-20-20)T
- iv. The name or likeness of each resident and whether the resident participated in the drill. (3-20-20)T

06. Report of Fire. A report on each fire incident occurring within the home must be submitted to the Department as described in Section 210 of these rules. (3-20-20)T

07. Maintenance of Equipment. The provider must assure that all equipment is properly maintained. (3-20-20)T

a. Smoke and carbon monoxide alarms must be tested at least monthly and a written record of the test results maintained on file. (3-20-20)T

b. If the smoke or carbon monoxide alarm has replaceable batteries, replacement of the batteries must occur at least every six (6) months or as indicated by a low battery, whichever occurs first. (3-20-20)T

c. A smoke or carbon monoxide alarm must be replaced at the end of its useful life as indicated by the manufacturer. (3-20-20)T

d. Portable fire extinguishers must be serviced every twelve (12) months by an outside servicing agency or when the quarterly examination reveals issues with the extinguisher as described under Subsection 600.07.e. of this rule, whichever occurs first. Fire extinguishers purchased in the last twelve (12) months must be serviced within twelve (12) months from the dated receipt on file. (3-20-20)T

e. All portable fire extinguishers must be examined at least quarterly by the provider or a knowledgeable member of the household, as indicated by their initials and date on a log, to determine that: (3-20-20)T

- i. The extinguisher is in its designated location; (3-20-20)T
- ii. Seals or tamper indicators are not broken and the safety pin is in place; (3-20-20)T
- iii. The extinguisher has not been physically damaged; (3-20-20)T
- iv. The extinguisher does not have any obvious defects, such as leaks; (3-20-20)T
- v. The nozzle is unobstructed; and (3-20-20)T
- vi. Chemicals are prevented from settling and clumping by repeatedly tipping the extinguisher upside down and right-side up. (3-20-20)T

f. Fuel-fired heating systems must be inspected for safe operation, serviced if necessary, and approved at least annually by person(s) in the business of servicing these systems. The inspection records must be maintained on file in the home. (3-20-20)T

601. -- 699. (RESERVED)

700. HOME CONSTRUCTION AND PHYSICAL HOME STANDARDS.

01. General Requirements. Any residence used as a certified family home must be suitable for that use. Certified family homes must only be located in buildings intended for residential use. (3-20-20)T

a. Remodeling or additions to the home must be consistent with residential use of the property and must conform to local building standards including obtaining building permits as required by the local jurisdiction.

- (3-20-20)T
- b.** All homes are subject to Department approval. (3-20-20)T
- 02. Walls and Floors.** Walls and floors must withstand frequent cleaning. Walls in sleeping rooms must extend from floor to ceiling. (3-20-20)T
- 03. Telephone.** There must either be a telephone or an enhanced 911-compliant cell phone available to the resident. (3-20-20)T
- a.** If the home provides a cell phone for the resident's use, the provider must obtain documentation from the service carrier that the cell phone is enhanced 911-compliant. (3-20-20)T
- b.** The telephone or cell phone must: (3-20-20)T
- i.** Be immediately available in case of an emergency; (3-20-20)T
- ii.** Be functional and operational at all times, including having dependable service; (3-20-20)T
- iii.** Be programmed with general emergency phone numbers and the emergency contacts for the resident, or alternatively, such numbers must be posted near the telephone; and (3-20-20)T
- iv.** Be accessible to the resident throughout the day, including night hours, with unlimited usage and adequate privacy. (3-20-20)T
- 04. Toilet Facilities and Bathrooms.** The home must contain: (3-20-20)T
- a.** At least one (1) flush toilet, one (1) tub or shower, and one (1) sink with a mirror; (3-20-20)T
- b.** Toilet and shower or bathing facilities must be separated from all rooms by solid walls or partitions; (3-20-20)T
- c.** Each room containing a toilet, shower, or bath must have either a window that is easily opened to the outside, or forced ventilation to the outside; (3-20-20)T
- d.** Tubs, showers, and sinks must be connected to hot and cold running water; and (3-20-20)T
- e.** Access to toilet facilities and bathrooms designated for the resident's use must not require them to pass through another person's sleeping room. (3-20-20)T
- 05. Accessibility for Residents with Physical and Sensory Impairments.** A provider choosing to provide services to a resident who has difficulty with mobility or who has sensory impairments must assure the physical environment meets the needs of the resident and maximizes independent mobility and use of appliances, bathroom facilities, and living areas. The home must provide necessary accommodations that meet the "American With Disabilities Act Accessibility Guidelines--Standards for Accessible Design (SFAD)," as incorporated by reference in Section 004 of these rules and as described below according to the individual resident's needs: (3-20-20)T
- a.** A ramp that complies with Section 405 of the SFAD. Elevators or lifts that comply with Sections 409 and 410, respectively, may be utilized in place of a ramp; (3-20-20)T
- b.** Doorways large enough to allow easy passage of a wheelchair and that comply with Subsection 404.2.3 of the SFAD; (3-20-20)T
- c.** Toilet and bathing facilities that comply with Sections 603 and 604 of the SFAD; (3-20-20)T
- d.** Sinks that comply with Section 606 of the SFAD; (3-20-20)T

- e. Grab bars in resident toilet facilities and bathrooms that comply with Section 609 of the SFAD; (3-20-20)T
- f. Bathtubs or shower stalls that comply with Sections 607 and 608 of the SFAD, respectively; (3-20-20)T
- g. Non-retractable faucet handles that comply with Subsection 309.4 of the SFAD. Self-closing valves are not allowed; (3-20-20)T
- h. Suitable handrails on both sides of all stairways leading into and out of the home that comply with Section 505 of the SFAD; and (3-20-20)T
- i. Smoke and carbon monoxide alarms that comply with Section 702 of the SFAD. (3-20-20)T
- 06. Storage Areas.** Adequate storage must be provided in addition to the required storage in resident sleeping rooms. (3-20-20)T
- 07. Lighting.** Adequate lighting must be provided in all resident sleeping rooms and any other rooms accessed by the resident. (3-20-20)T
- 08. Ventilation.** The home must be well ventilated and the provider must take precautions to prevent offensive odors. (3-20-20)T
- 09. Heating and Cooling.** The temperature in the home must be maintained between sixty-five degrees Fahrenheit (65°F) and eighty degrees Fahrenheit (80°F) when residents or adult hourly care participants are at home. The thermostat for the primary source of heat must be located away from the wood stove, if applicable. (3-20-20)T
- 10. Plumbing.** All plumbing in the home must be in good working order and comply with local and state codes. All plumbing fixtures must be easily cleanable and maintained in good repair. (3-20-20)T
- 11. Resident Sleeping Rooms.** (3-20-20)T
 - a. The sleeping room must not be in an attic, stairway, hall, or any room commonly used for other than bedroom purposes. (3-20-20)T
 - b. The sleeping room may be in a below-ground basement or a room located on the second story or higher only if the following conditions are met: (3-20-20)T
 - i. The resident is able to independently recognize an emergency and self-evacuate from their sleeping room without physical assistance or verbal cueing as assessed and indicated in their plan of service; or (3-20-20)T
 - ii. The provider's sleeping room or the sleeping room of another responsible and able-bodied individual living in the home is located on the same level with the resident's sleeping room; and (3-20-20)T
 - iii. The level of the home on which the resident's sleeping room is located has floors, ceilings, and walls that are finished to the same degree as the rest of the home. (3-20-20)T
 - c. Walls must run from floor to ceiling and doors must be solid. (3-20-20)T
 - d. The resident must not occupy the same bedroom as the provider. The resident must not occupy the same bedroom as a relative of the provider unless the relative is a sibling of the resident. (3-20-20)T
 - e. The ceiling height in the sleeping room must be at least seven feet, six inches (7'6"). (3-20-20)T
 - f. The sleeping room must have a closet that must be equipped with a door if the resident so chooses. (3-20-20)T

- i. Closet space shared by two (2) residents must have a substantial divider separating each resident's space. (3-20-20)T
- ii. Free-standing closet space must be deducted from the square footage in the sleeping room. (3-20-20)T
- g. The sleeping room must have at least one hundred (100) square feet of floor space in a one (1) person sleeping room and at least one hundred and sixty (160) square feet of floor space in a two (2) person sleeping room. (3-20-20)T

701. MANUFACTURED HOMES AND MODULAR BUILDINGS.

01. Use of Manufactured Homes and Modular Buildings. Idaho Division of Building Safety (DBS) approved modular buildings or U.S. Department of Housing and Urban Development (HUD) approved buildings may be approved for use as a certified family home when the home meets the following requirements: (3-20-20)T

a. The manufactured or modular home meets the requirements of HUD or DBS requirements in accordance with state and federal regulations as of the date of manufacture. (3-20-20)T

b. The manufactured or modular home meets the adopted standards and requirements of the local jurisdiction in which the home is located. (3-20-20)T

c. Recreational vehicles, commercial coaches, unregulated or unapproved modifications or additions to approved manufactured housing or modular buildings will not be approved by the Department. (3-20-20)T

d. Manufactured housing constructed prior to June 15, 1976, is prohibited for use as a certified family home without assessment and approval by the Department. (3-20-20)T

02. Previously Certified. A manufactured home approved for use as a certified family home before July 1, 2001, may continue to be certified when evaluated on a case-by-case basis. (3-20-20)T

702. -- 709. (RESERVED)

710. SITE REQUIREMENTS FOR CERTIFIED FAMILY HOMES.

In addition to the requirements of Section 700 of these rules, the home must comply with the following site requirements: (3-20-20)T

01. Fire District. The home must be in a lawfully constituted fire district. (3-20-20)T

02. Accessible Road. The home must be served by an all-weather road kept open to motor vehicles at all times of the year. (3-20-20)T

03. Emergency Medical Services. The home must be accessible to emergency medical services. (3-20-20)T

04. Accessible to Services. The home must be accessible to necessary social, medical, and rehabilitation services. (3-20-20)T

05. House Number. The house number must be prominently displayed and plainly visible from the street. (3-20-20)T

711. -- 899. (RESERVED)

900. EMERGENCY POWERS OF THE DIRECTOR.

In the event of an emergency endangering the life or safety of a resident, the Director may summarily suspend or revoke any certified family home certificate. As soon thereafter as practical, the Director will provide an opportunity

for a hearing in accordance with the provisions of IDAPA 16.05.03, “Contested Case Proceedings and Declaratory Rulings.” (3-20-20)T

901. ENFORCEMENT PROCESS.

If the Department finds that the provider does not meet, or did not meet, a rule governing certified family homes, it may impose a remedy, independently or in conjunction with others, subject to the provisions of these rules for notice and appeal. (3-20-20)T

01. Recommendation of Remedy. In determining which remedy to recommend, the Department will consider the provider’s compliance history, complaints, and the number, scope, and severity of the deficiencies. Subject to these considerations, the Department may impose any of the following remedies: (3-20-20)T

- a. Ban on all admissions in accordance with Section 910 of these rules; (3-20-20)T
- b. Ban on admissions of residents with certain diagnosis in accordance with Section 911 of these rules; (3-20-20)T
- c. Summarily suspend the certificate and transfer residents in accordance with Section 912 of these rules; (3-20-20)T
- d. Issue a provisional certificate in accordance with Section 909 of these rules; and (3-20-20)T
- e. Revoke the home’s certificate in accordance with Section 913 of these rules. (3-20-20)T

02. Notice of Enforcement Remedy. The Department will give the provider written notice of an enforcement remedy by certified mail or by personal service upon its decision. The notice will include the decision, the reason for the Department’s decision, and how to appeal the decision subject to the hearing provisions in IDAPA 16.05.03, “Contested Case Proceedings and Declaratory Rulings.” (3-20-20)T

902. FAILURE TO COMPLY.

The Department may revoke the provider’s certificate when it determines any of the following conditions exist: (3-20-20)T

01. Out of Compliance. The provider has not complied with any part of these rules within thirty (30) days of the date the home is found out of compliance with that requirement. (3-20-20)T

02. Lack of Progress. The provider has made little or no progress in correcting deficiencies within thirty (30) days from the date the Department accepted the provider’s plan of correction. (3-20-20)T

903. REPEATED NONCOMPLIANCE.

When the Department determines that a provider has repeated noncompliance with any of these rules, it may impose any of the enforcement remedies listed in Sections 909 through 913 of these rules. (3-20-20)T

904. -- 908. (RESERVED)

909. ENFORCEMENT REMEDY OF PROVISIONAL CERTIFICATION.

When the Department finds that the provider is unable to meet a standard required under these rules because of conditions that are not anticipated to continue beyond six (6) months and do not jeopardize the health or safety of the residents, the Department may grant a provisional certificate to the provider as described under Section 110 of these rules. (3-20-20)T

01. Conditions of Provisional Certification. The Department, at its discretion, may impose conditions upon the provider, which will be included with the notice of provisional certification, if so imposed. Conditions are imposed to ensure the provider achieves compliance with the requirements of these rules and to aid the Department in monitoring the provider’s performance during the provisional certification period. (3-20-20)T

02. Failure to Meet Conditions of Provisional Certification. Failure by the provider to meet the

conditions of a provisional certificate is cause for the Department to revoke the provider's certificate. (3-20-20)T

03. Certification or Revocation. The Department, upon review of the provider's performance during the course of the provisional certification period, may either issue a certificate to the provider when the Department finds that the provider has achieved substantial compliance with these rules, or revoke the provider's certificate if the provider has failed to comply. (3-20-20)T

910. ENFORCEMENT REMEDY OF BAN ON ALL ADMISSIONS.

All admissions to the home are banned pending satisfactory correction of all deficiencies. Bans will remain in effect until the Department determines that the provider has achieved full compliance with all requirements of these rules, or until a substitute remedy is imposed. (3-20-20)T

911. ENFORCEMENT REMEDY OF BAN ON ADMISSIONS OF RESIDENT WITH SPECIFIC DIAGNOSIS.

The Department may ban admission into the home any resident with a specific diagnosis when the Department has determined the provider lacks the skill to provide adequate care to such a resident. A ban may be imposed for all prospective residents, both publicly and privately funded, and will prevent the home from admitting residents with a specific diagnosis for whom the provider has shown an inability to provide adequate care as described in Section 170 of these rules. (3-20-20)T

912. ENFORCEMENT REMEDY OF SUMMARY SUSPENSION AND TRANSFER OF RESIDENT.

The Department may summarily suspend the provider's certificate and transfer the resident when convinced by a preponderance of the evidence that the resident's health and safety are in immediate jeopardy. (3-20-20)T

913. ENFORCEMENT REMEDY OF REVOCATION OF CERTIFICATE.

01. Revocation of the Certificate. The Department may institute a revocation action when persuaded by a preponderance of the evidence that the provider is not in substantial compliance with these rules. (3-20-20)T

02. Causes for Revocation of the Certificate. The Department may revoke any certificate for any of the following causes: (3-20-20)T

- a.** The provider has willfully misrepresented or omitted any of the following: (3-20-20)T
 - i.** Information pertaining to their certification; or (3-20-20)T
 - ii.** Information obstructing an investigation. (3-20-20)T
- b.** The home is not in substantial compliance with these rules; (3-20-20)T
- c.** When persuaded by a preponderance of the evidence that such conditions exist which endanger the health or safety of any resident; (3-20-20)T
- d.** Any act adversely affecting the welfare of residents is being permitted, aided, performed, or abetted by the person or persons in charge of the home. Such acts may include, but are not limited to, neglect, physical abuse, mental abuse, emotional abuse, violation of civil rights, or exploitation; (3-20-20)T
- e.** The provider has demonstrated or exhibited a lack of sound judgment essential to the operation and management of a certified family home; (3-20-20)T
- f.** The provider has violated any of the conditions of a provisional certificate; (3-20-20)T
- g.** The provider has one (1) or more core issues; (3-20-20)T
- h.** An accumulation of minor violations that, when taken as a whole, constitute inadequate care; (3-20-20)T
- i.** Repeat violations of any requirement of these rules or of the Idaho Code; (3-20-20)T

j. The provider lacks the ability to properly care for the resident, as required by these rules, or as directed by the Department; (3-20-20)T

k. The provider is not in substantial compliance with the provisions for services, resident rights, or admissions; (3-20-20)T

l. The provider refuses to allow the certifying agent or other representative of the Department or protection and advocacy agencies full access to the home, records, or the residents; (3-20-20)T

m. The provider fails to pay the certification fee as specified in Section 109 of these rules. The certification fee is considered delinquent if not paid within thirty (30) days of due date on the invoice. (3-20-20)T

914. (RESERVED)

915. TRANSFER OF RESIDENT.

The Department may require transfer of a resident from a certified family home to an alternative placement on the following grounds: (3-20-20)T

01. Violation of Rules. As a result of a violation of a provision of these rules or standards, the provider is unable or unwilling to provide an adequate level of meals, lodging, personal assistance, or supervision of a resident. (3-20-20)T

02. Violation of Resident's Rights. A violation of a resident's rights provided in Section 39-3516, Idaho Code, or Section 200 of these rules. (3-20-20)T

03. Immediate Jeopardy. A violation of a provision of these rules, or applicable rules or standards, results in conditions that present an immediate jeopardy. (3-20-20)T

916. -- 949. (RESERVED)

950. RIGHT TO SELL.

Nothing contained in these rules limits the right of any home owner to sell, lease, mortgage, or close any certified family home in accordance with all applicable laws. (3-20-20)T

951. -- 999. (RESERVED)

16.03.22 – RESIDENTIAL CARE OR ASSISTED LIVING FACILITIES IN IDAHO

000. LEGAL AUTHORITY.

The Idaho Board of Health and Welfare is authorized under Section 39-3305, Idaho Code, to adopt and enforce rules to protect the health, safety, and the individual's rights for residents in residential care or assisted living facilities. (3-20-20)T

001. TITLE, SCOPE, AND RESPONSIBILITIES.

01. Title. These rules are titled IDAPA 16.03.22, “Residential Care or Assisted Living Facilities in Idaho.” (3-20-20)T

02. Scope. The purpose of a residential care or assisted living facility in Idaho is to provide choice, dignity and independence to residents while maintaining a safe, humane, and home-like living arrangement for individuals needing assistance with daily activities and personal care. These rules set standards for providing services that maintain a safe and healthy environment. (3-20-20)T

03. General Provider Responsibilities. The facility must assure quality services by providing choices, dignity and independence to residents. The facility must have an administrator and staff who have the knowledge and experience required to provide safe and appropriate services to all residents of the facility. The facility must be operated consistent with the rules and statutes as it conducts its work. (3-20-20)T

04. General Department Responsibilities. The Department is responsible for monitoring and enforcing the provisions of the statute and this chapter to protect residents in these facilities by providing information, education and evaluating providers to assure compliance with statute and these rules. This responsibility includes: licensing facilities and monitoring the condition of the facility. (3-20-20)T

05. Exemptions. The provisions of these rules do not apply to any of the following: (3-20-20)T

a. Health Facility. The provisions of these rules do not apply to hospitals, nursing facilities, intermediate care facilities for persons with intellectual disabilities, or any other health facility as defined by Title 39, Chapter 13, Idaho Code. (3-20-20)T

b. Alternate Living Arrangements. The provisions of these rules do not apply to any house, institution, hotel, congregate housing project, retirement home, or other similar place that is limited to providing one (1) or more of the following: housing, meals, transportation, housekeeping, or recreational and social activities, or that have residents independently accessing supportive services from an entity approved to provide such services in Idaho and holding no legal ownership interest in the entity operating the facility. (3-20-20)T

c. Relatives. The provisions of these rules do not apply to any arrangement for the receiving and care of persons by a relative, except when the caretaker is paid for the care through a state or federal program, in which case the caretaker relative and the care setting must meet all applicable requirements. (3-20-20)T

002. INCORPORATION BY REFERENCE.

The documents, referenced in Subsection 004.01 through 004.08 of these rules, are incorporated by reference as provided by Section 67-5229 (a), Idaho Code. These incorporated documents are available for public review upon request at the Department of Health and Welfare, 450 West State Street, Boise, Idaho 83702, or when available on line at the websites provided in these rules. (3-20-20)T

01. National Fire Protection Association (NFPA) Documents. The NFPA documents referenced in these regulations are available from the National Fire Protection Association, 11 Tracy Drive, Avon, MA 02322-9908; 1-800-344-3555; and online at <http://www.nfpa.org>. (3-20-20)T

02. Idaho Diet Manual. This manual is available from the Idaho Dietetic Association, Ninth Edition, 2005, online at <http://eatrightidaho.org>. (3-20-20)T

03. Idaho Food Code. IDAPA 16.02.19, “Food Safety and Sanitation Standards for Food Establishments.” These rules are available online at <http://adminrules.idaho.gov/rules/current/16/160219.pdf>. (3-20-20)T

04. Americans with Disabilities Act Accessibility Guidelines. 28 CFR Part 36, Appendix A. This code is available online at <http://www.ada.gov/publicat.htm>. Contact phone number is 1-800-514-0301. (3-20-20)T

05. Idaho Board of Nursing Rules. IDAPA 23.01.01, “Rules of the Idaho Board of Nursing.” These rules are available online at <http://adminrules.idaho.gov/rules/current/23/>. (3-20-20)T

06. Idaho Board of Pharmacy Rules. IDAPA 27.01.01, “Rules of the Idaho Board of Pharmacy.” These rules are available online at <http://adminrules.idaho.gov/rules/current/27/>. (3-20-20)T

07. International Building Code. Edition 2003. This code is available from the International Code Council, 4051 West Flossmoor Rd., Country Club Hills, IL 60478-5795, phone: 888-422-7233 and online at <http://www.iccsafe.org>. (3-20-20)T

08. Idaho Medical Assistance Program Rules. IDAPA 16.03.09, “Medicaid Basic Plan Benefits,” Section 665. These rules may be found online at <http://adminrules.idaho.gov/rules/current/16/160309.pdf>. (3-20-20)T

003. -- 008. (RESERVED)

009. CRIMINAL HISTORY AND BACKGROUND CHECK REQUIREMENTS.

01. Criminal History and Background Check. A residential care or assisted living facility must complete a criminal history and background check on employees and contractors hired or contracted with after October 1, 2007, who have direct patient access to residents in the residential care or assisted living facility. The Department check conducted under IDAPA 16.05.06, “Criminal History and Background Checks,” satisfies this requirement. Other criminal history and background checks may be acceptable provided they meet the criteria in Subsection 009.02 of this rule and the entity conducting the check issues written findings. The entity must provide a copy of these written findings to both the facility and the employee. (3-20-20)T

02. Scope of a Criminal History and Background Check. The criminal history and background check must, at a minimum, be fingerprint-based and include a search of the following record sources: (3-20-20)T

- a.** Federal Bureau of Investigation (FBI); (3-20-20)T
- b.** Idaho State Police Bureau of Criminal Identification; (3-20-20)T
- c.** Sexual Offender Registry; (3-20-20)T
- d.** Office of Inspector General List of Excluded Individuals and Entities; and (3-20-20)T
- e.** Nurse Aide Registry. (3-20-20)T

03. Availability to Work. Any direct patient access individual hired or contracted with on or after October 1, 2007, must self-disclose all arrests and convictions before having access to residents. (3-20-20)T

a. The individual is allowed to only work under supervision until the criminal history and background check is completed, unless: (3-20-20)T

i. The individual has completed an alternative criminal history and background check that includes a search of the record sources listed in Subsections 009.02.b. through 009.02.e. of this rule; and (3-20-20)T

ii. The facility determines there is no potential danger to residents. (3-20-20)T

b. This alternative criminal history and background check is only in effect until the Department has issued a clearance or denial based on the Department’s completed fingerprint based background check. (3-20-20)T

c. If a disqualifying crime as described in IDAPA 16.05.06, “Criminal History and Background Checks,” is disclosed, the individual cannot have access to any resident. (3-20-20)T

04. Submission of Fingerprints. The individual’s fingerprints must be submitted to the entity conducting the criminal history and background check within twenty-one (21) days of his date of hire. (3-20-20)T

05. New Criminal History and Background Check. An individual must have a criminal history and background check when: (3-20-20)T

a. Accepting employment with a new employer; and (3-20-20)T

b. His last criminal history and background check was completed more than three (3) years prior to his date of hire. (3-20-20)T

06. Use of Previous Criminal History and Background Check. Any employer may use a previous criminal history and background check obtained under these rules if: (3-20-20)T

a. The individual has received a criminal history and background check within three (3) years of his date of hire; (3-20-20)T

b. The employer has documentation of the criminal history and background check findings; (3-20-20)T

c. The employer completes a state-only background check of the individual through the Idaho State Police Bureau of Criminal Identification; and (3-20-20)T

d. No disqualifying crimes are found. (3-20-20)T

07. Employer Discretion. The new employer, at its discretion, may require an individual to complete a criminal history and background check at any time, even if the individual has received a criminal history and background check within three (3) years of his date of hire. (3-20-20)T

010. DEFINITIONS AND ABBREVIATIONS A THROUGH E.

01. Abuse. The non-accidental act of sexual, physical or mental mistreatment, or injury of a resident through the action or inaction of another individual. (3-20-20)T

02. Accident. An unexpected, unintended event that can cause a resident injury. (3-20-20)T

03. Activities. All organized and directed social and rehabilitative services a facility provides, arranges, or cooperates with. (3-20-20)T

04. 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 bathing, washing, dressing, toileting, grooming, eating, communicating, continence, and mobility. (3-20-20)T

05. Administrator. An individual, properly licensed by the Bureau of Occupational Licensing, who is responsible for day to day operation of a residential care or assisted living facility. (3-20-20)T

06. Administrator's Designee. An administrator's designee is a person authorized to act in the absence of the administrator and who is knowledgeable of facility operations, the residents and their needs, emergency procedures, the location and operation of emergency equipment and how the administrator can be reached in the event of an emergency. (3-20-20)T

07. Adult. A person who has attained the age of eighteen (18) years. (3-20-20)T

08. Advance 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. (3-20-20)T

09. 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. (3-20-20)T

- 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. (3-20-20)T
- 11. Assessment.** The conclusion reached using uniform criteria which identifies resident strengths, weaknesses, risks and needs, to include functional, medical and behavioral needs. (3-20-20)T
- 12. Authentication.** Proof of authorship. (3-20-20)T
- 13. Authorized Provider.** An individual who is a nurse practitioner or clinical nurse specialist or physician assistant. (3-20-20)T
- 14. Basement.** That portion of a building that is partly or completely below grade plane. A basement will be considered as a story above grade plane where the finished surface of the floor above the basement is: (1) More than six (6) feet (1829 mm) above grade plane; (2) More than six (6) feet (1829 mm) above the finished ground level for more than fifty percent (50%) of the total building perimeter; or (3) More than twelve (12) feet (3658 mm) above the finished ground level at any point. International Building Code-2003. (3-20-20)T
- 15. Behavioral Plan.** A written plan which decreases the frequency or intensity of maladaptive behaviors and increases the frequency of adaptive behaviors and introduces new skills. (3-20-20)T
- 16. Call System.** A signaling system whereby a resident can contact staff directly from their sleeping room, toilet room, and bathing area. The system may be voice communication; an audible or visual signal; and, may include wireless technology. The call system cannot be configured in such a way as to breach a resident's right to privacy at the facility, including but not limited to, the resident's living quarters, common areas, medical treatment and other services, written and telephonic communications, or in visits with family, friends, advocates, and resident groups. (3-20-20)T
- 17. Chemical Restraint.** A medication used to control behavior or to restrict freedom of movement and is not a standard treatment for the resident's condition. (3-20-20)T
- 18. Client of the Department.** Any person who receives financial aid, or services, or both from an organized program of the Department. (3-20-20)T
- 19. Complaint.** A formal expression of dissatisfaction, discontent, or unhappiness by or on behalf of a resident concerning the care or conditions at the facility. This expression could be oral, in writing, or by alternative means of communication. (3-20-20)T
- 20. Complaint Investigation.** A survey to investigate the validity of allegations of noncompliance with applicable state requirements. (3-20-20)T
- 21. Core Issue.** A core issue is any one (1) of the following: abuse; neglect; exploitation; inadequate care; a situation in which the facility has operated for more than thirty (30) days without a licensed administrator designated the responsibility for the day to day operations of the facility; inoperable fire detection or extinguishing systems with no fire watch in place pending the correction of the system; or surveyors denied access to records, residents or facilities. (3-20-20)T
- 22. 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. (3-20-20)T
- 23. Deficiency.** A determination of non-compliance with a specific rule or part of a rule. (3-20-20)T
- 24. Dementia.** A chronic deterioration of intellectual function and other cognitive skills severe enough to interfere with the ability to perform activities of daily living and instrumental activities of daily living. (3-20-20)T
- 25. Department.** The Idaho Department of Health and Welfare. (3-20-20)T

26. 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: (3-20-20)T

a. Is attributable to an impairment, such as an intellectual disability, 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 (3-20-20)T

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 (3-20-20)T

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. (3-20-20)T

27. Director. The Director of the Idaho Department of Health and Welfare or his designee. (3-20-20)T

28. Electronic Signature, E-Signature. The system for signing electronic documents by entering a unique code or password that verifies the identity of the person signing and creates an individual “signature” on the record. (3-20-20)T

29. Exit Conference. A meeting with the facility administrator or designee to: (1) provide review, discussion and written documentation of non-core issues (Punch List), and (2) to provide preliminary findings of core issues. (3-20-20)T

30. Exploitation. The misuse of a resident's funds, property, resources, identity or person for profit or advantage, for example: (3-20-20)T

a. Charging a resident for services or supplies not provided; or (3-20-20)T

b. Charging a resident for services or supplies not disclosed in the written admission agreement between the resident and the facility. (3-20-20)T

011. DEFINITIONS AND ABBREVIATIONS F THROUGH M.

01. Follow-Up Survey. A survey conducted to confirm that the facility is in compliance and has the ability to remain in compliance. (3-20-20)T

02. Functional Abilities Assessment. An assessment of the resident's degree of independence with which the resident performs activities of daily living and instrumental activities of daily living. (3-20-20)T

03. Governmental Unit. The state, any county, municipality, or other political subdivision or any Department, division, board, or other agency thereof. (3-20-20)T

04. Grade Plane. A reference plane representing the average of finished ground level adjoining the building at exterior walls. Where the finished ground level slopes away from the exterior walls, the reference plane will be established by the lowest points within the area between the building and the lot line or, where the lot line is more than six (6) feet (1829 mm) from the building, between the building and a point six (6) feet (1829 mm) from the building. International Building Code - 2003. (3-20-20)T

05. Hands On. Physical assistance to the resident beyond verbal prompting. (3-20-20)T

06. 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. (3-20-20)T

07. Immediate Danger. Any resident is subject to an imminent or substantial danger. (3-20-20)T

- 08. Inadequate Care.** When a facility fails to provide the services required to meet the terms of the Negotiated Service Agreement, or provide for room, board, activities of daily living, supervision, first aid, assistance and monitoring of medications, emergency intervention, coordination of outside services, a safe living environment, or engages in violations of resident rights or takes residents who have been admitted in violation of the provisions of Section 39-3307, Idaho Code. (3-20-20)T
- 09. Incident.** An event that can cause a resident injury. (3-20-20)T
- 10. Incident, Reportable.** A situation when a facility is required to report information to the Licensing and Certification Unit. (3-20-20)T
- a.** Resident injuries of unknown origin. This includes any injury, the source of which was not observed by any person or the source of the injury could not be explained by the resident; or the injury includes severe bruising on the head, neck, or trunk, fingerprint bruises anywhere on the body, laceration, sprains, or fractured bones. Minor bruising and skin tears on the extremities need not be reported. (3-20-20)T
- b.** Resident injury resulting from accidents involving facility-sponsored transportation. Examples: falling from the facility's van lift, wheel chair belt coming loose during transport, or an accident with another vehicle. (3-20-20)T
- c.** Resident elopement of any duration. Elopement is when a resident who is unable to make sound decisions physically leaves the facility premises without the facility's knowledge. (3-20-20)T
- d.** An injury due to resident-to-resident incident. (3-20-20)T
- e.** An incident that results in the resident's need for hospitalization, treatment in a hospital emergency room, fractured bones, IV treatment, dialysis, or death. (3-20-20)T
- 11. 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. (3-20-20)T
- 12. Instrumental Activities of Daily Living.** The performance of secondary level of activities that enables a person to live independently in the community, including preparing meals, access to transportation, shopping, laundry, money management, housework, and medication management. (3-20-20)T
- 13. Legal Guardian or 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. (3-20-20)T
- 14. License.** A permit to operate a facility. (3-20-20)T
- 15. Licensing and Certification Unit.** The Department's Division of Licensing and Certification is responsible for licensing and surveying residential care or assisted living facilities. In this chapter of rules, "Licensing and Certification Unit" and "Licensing and Survey Agency" are synonymous. (3-20-20)T
- 16. 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. (3-20-20)T
- 17. Medication Administration.** It is a process where a prescribed medication is given to a resident by one (1) of several routes by licensed nurses. (3-20-20)T
- 18. Medication Assistance.** The process whereby a non-licensed care provider is delegated tasks by a licensed nurse to aid a person who cannot independently self-administer medications. IDAPA 23.01.01. "Rules of the Idaho State Board of Nursing," Section 010. (3-20-20)T
- 19. Medication Dispensing.** The act of filling, labeling and providing a prescribed medication to a resident. (3-20-20)T

20. Medication, Self-Administration. 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 authorized provider. (3-20-20)T

21. Mental Disorders. Health conditions that are characterized by alterations in thinking, mood or behavior (or some combination thereof), that are all mediated by the brain and associated with distress and or impaired functioning. (3-20-20)T

22. Mental Illness. Refers collectively to all diagnosable mental disorders. (3-20-20)T

23. Monitoring Visit. A visit by a representative of the Licensing and Certification Unit for the purpose of assuring residents are not in immediate danger. (3-20-20)T

24. Neglect. Failure to provide food, clothing, shelter, or medical care necessary to sustain the life and health of a resident. (3-20-20)T

25. Negotiated Service Agreement. The plan reached by the resident and/or their representative and the facility based on the assessment, physician or authorized provider's orders, admission records, and desires of the resident, and which outlines services to be provided and the obligations of the facility and the resident. (3-20-20)T

26. Non-Core Issue. Any finding of deficiency that is not a core issue. (3-20-20)T

012. DEFINITIONS AND ABBREVIATIONS O THROUGH Z.

01. Owner. Any person or entity, having legal ownership of the facility as an operating business, regardless of who owns the real property. (3-20-20)T

02. Personal Assistance. The provision by the staff of the facility of one (1) or more of the following services as outlined in the Negotiated Service Agreement: (3-20-20)T

a. Assisting the resident with activities of daily living and instrumental activities of daily living. (3-20-20)T

b. Arranging for supportive services. (3-20-20)T

c. Being aware of the resident's general whereabouts and supervision. (3-20-20)T

d. Monitoring the activities of the resident while on the premises of the facility to assure the resident's health, safety, and well-being. (3-20-20)T

e. Assisting residents with self-administration of medication. (3-20-20)T

03. Personnel. Paid individuals assigned the responsibility of providing care and supervision and services to the facility and its residents. (3-20-20)T

04. 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 except for treatment of a medical condition. (3-20-20)T

05. Portable Heating Device. Any device designed to provide heat on a temporary basis; is not designed as part of a building's heating system; is not permanently affixed to the building; and, if electrical, is not hardwired to the building's electrical service. This does not include the therapeutic devices of heating pads, heated mattress pads and electric blankets which require a physician or authorized provider's order. (3-20-20)T

06. PRN. Indicates that a medication or treatment prescribed by a medical professional to an individual may be given as needed. (3-20-20)T

- 07. Pressure Ulcer.** Any lesion caused by unrelieved pressure that results in damage to the underlying tissue(s). Although friction and shear are not primary causes of pressure ulcers, friction and shear are important contributing factors to the development of pressure ulcers. (3-20-20)T
- 08. Provisional License.** A license which may be issued to a facility not in compliance with the rules pending the satisfactory correction of all deficiencies. (3-20-20)T
- 09. Psychosocial History.** A combined summary of psychological and social histories of an individual designed to inform a care giver of a person's abilities and limitations which will assist in identifying appropriate resources. (3-20-20)T
- 10. Publicly Funded Programs.** Any program funded in whole or in part by an appropriation of the U.S. Congress, the Idaho Legislature, or other governmental body. (3-20-20)T
- 11. Punishment.** Any action 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. (3-20-20)T
- 12. Relative.** A person related by birth, adoption, or marriage to the first degree and grandparent and grandchild. (3-20-20)T
- 13. Repeat Deficiency.** A deficiency found on a resurvey, complaint investigation, or follow-up survey that was also found on the previous survey or visit. (3-20-20)T
- 14. Resident.** An adult, other than the owner, administrator, their immediate families, or employees, who lives in a residential care or assisted living facility. (3-20-20)T
- 15. Residential Care or Assisted Living Facility.** A facility or residence, however named, operated on either a profit or nonprofit basis for the purpose of providing necessary supervision, personal assistance, meals, and lodging to three (3) or more adults not related to the owner. In this chapter, Residential Care or Assisted Living Facilities are referred to as "facility." Distinct segments of a facility may be licensed separately, provided each segment functions independently and meets all applicable rules. (3-20-20)T
- 16. Room and Board.** Lodging, meals, and utilities. (3-20-20)T
- 17. Scope.** The frequency or extent of the occurrence of a deficiency in a facility. (3-20-20)T
- 18. Self-Evacuating Resident.** A resident who is able to leave the building without one-on-one (1 on 1) or hands-on assistance and can remain at a designated location. (3-20-20)T
- 19. Self Preservation.** The ability of a person to independently avoid situations and circumstances in which he might be easily taken advantage of, and to protect themselves and property. (3-20-20)T
- 20. Short Term.** A treatment window designed to allow a resident to receive treatment for a short term acute episode, usually fourteen (14) days or less, as determined by a licensed registered nurse. (3-20-20)T
- 21. Story.** That portion of a building included between the upper surface of a floor and the upper surface of the floor or roof next above. It is measured as the vertical distance from top to top of two (2) successive tiers of beams or finished floor surfaces and, for the topmost story, from the top of the floor finish to the top of the ceiling joists or, where there is not a ceiling, to the top of the roof rafters. (3-20-20)T
- 22. Story Above Grade Plane.** Any story having its finished floor surface entirely above grade plane, except that a basement will be considered as a story above grade plane where the finished surface of the floor above the basement is: (1) more than six (6) feet (1829 mm) above grade plane, (2) more than six (6) feet (1829 mm) above the finished ground level for more than fifty percent (50%) of the total building perimeter; or (3) more than twelve (12) feet (3658 mm) above the finished ground level at any point. (3-20-20)T

- 23. Substantial Compliance.** A facility is in substantial compliance with these rules when no core issues have been cited as a deficiency during any survey. (3-20-20)T
- 24. Substantial Evening Meal.** An offering of three (3) or more menu items at one-time, one (1) of which includes a high-quality protein such as meat, fish, eggs, or cheeses. The meal should represent no less than twenty percent (20%) of the day's total nutritional requirements. (3-20-20)T
- 25. Supervision.** A critical watching and directing activity which provides protection, guidance, knowledge of the resident's general whereabouts, and assistance with activities of daily living. The administrator is responsible for providing appropriate supervision based on each resident's Negotiated Service Agreement or other legal requirements. (3-20-20)T
- 26. Supportive Services.** Services provided to the resident in the community. (3-20-20)T
- 27. Survey.** A review conducted by a surveyor to determine compliance with statutes and rules. There are two (2) components to a survey, health care and fire life safety and sanitation. (3-20-20)T
- 28. Surveyor.** A person authorized by the Department to conduct surveys or complaint investigations to determine compliance with statutes and rules. (3-20-20)T
- 29. Syringe -- Oral Feeding.** Use of a syringe to deliver liquid or pureed nourishment directly into the mouth. (3-20-20)T
- 30. Therapeutic Diet.** A diet ordered by a physician or authorized provider as part of treatment for a clinical condition or disease, or to eliminate or decrease specific nutrients in the diet, (e.g. sodium) or to increase specific nutrients in the diet (e.g. potassium) or to provide food the resident is able to eat (e.g. mechanically altered diet). (3-20-20)T
- 31. Traumatic Brain Injury (TBI).** An acquired injury to the brain caused by an external physical force, resulting in total or partial functional disability or psychosocial impairment, or both. The term applies to open or closed head injuries resulting in impairments in one (1) or more areas, such as cognition; language; memory; attention; reasoning; abstract thinking; judgment; problem-solving; sensory, perceptual, and motor abilities; psychosocial behavior; physical functions; information processing; and speech. (3-20-20)T
- 32. Trust Account.** An account maintained by the facility separate from its own accounts, to deposit, hold, or disburse monies belonging to a resident. The facility is the trustee of such accounts and the residents are the beneficiaries. (3-20-20)T
- 33. Uniform Assessment Instrument (UAI).** A set of standardized criteria to assess functional and cognitive abilities of the resident. (3-20-20)T
- 34. Unlicensed Assistive Personnel (UAP).** Unlicensed assistive personnel (UAP) employed to perform nursing care services under the direction and supervision of licensed nurses. UAP also includes licensed or credentialed health care workers whose job responsibilities extend to health care services beyond their usual and customary roles and which activities are provided under the direction and supervision of licensed nurses. (3-20-20)T
- 35. Variance.** Permission by the Department to do something contrary to rule. (3-20-20)T
- 36. Waiver Services.** Home and Community Based (HCBS) Services. (3-20-20)T
- 37. Waivered Level Three Small Facility.** An existing facility, licensed prior to July 1, 1992, that: (3-20-20)T
- a.** Serves residents who require extensive assistance with mobility; (3-20-20)T
 - b.** Houses nine (9) or fewer residents on the first story only; and (3-20-20)T

c. Complies with the requirements of Chapter 21, Residential Board and Care Section for Prompt Evacuation Capability, of the National Fire Protection Association (NFPA), Life Safety Code, 1988 Edition. (3-20-20)T

013. -- 049. (RESERVED)

050. VARIANCES.

The Licensing and Survey Agency may grant a variance provided the following criteria in Subsection 050.01 of these rules are met. (3-20-20)T

01. Written Request. A written request for a variance must be sent to the Licensing and Survey Agency. The request must include the following: (3-20-20)T

a. Reference to the section of the rules for which the variance is requested; (3-20-20)T

b. Reasons that show good cause why the variance should be granted, the extenuating circumstances which caused the need for the variance, any compensating factors or conditions that may have bearing on the variance such as additional floor space or additional staffing; and (3-20-20)T

c. Written documentation that assures residents' health and safety will not be jeopardized if a variance is granted. (3-20-20)T

02. Temporary Variance. A temporary variance may be granted for a specific resident or situation. The variance expires when the resident no longer lives at the facility or when the situation no longer exists. (3-20-20)T

03. Continuing Temporary Variance. The Licensing and Survey Agency reviews the appropriateness of continuing a variance during the survey process. If the facility administrator wishes to continue the variance, an annual request must be submitted to the Licensing and Survey Agency in writing. (3-20-20)T

04. Permanent Variance. A permanent variance may be granted provided the provisions of Subsections 050.01.a. through 050.01.c. of these rules are met. (3-20-20)T

05. Decision to Grant a Variance. The decision to grant a variance will not be considered as a precedent or be given any force or effect in any other proceeding. (3-20-20)T

06. Revocation of Variance. The Licensing and Survey Agency may revoke a variance if circumstances identify a risk to resident health and safety. (3-20-20)T

051. -- 099. (RESERVED)

100. REQUIREMENTS FOR A LICENSE.

01. Current License. No person, firm, partnership, association, corporation, or governmental unit can operate, establish, manage, conduct, or maintain a residential care or assisted living facility in Idaho without a license issued by the Department. (3-20-20)T

02. Issuance of License. Upon completion of the application process requirements the Department will issue: (3-20-20)T

a. A residential care or assisted living license, in the name of the licensee applying for the license and to the address of the facility stated in the application; (3-20-20)T

b. The residential care or assisted living license will specify the maximum allowable number of beds. All occupants other than the owner, administrator, immediate family, or employees will be included in the licensed bed capacity of the facility. (3-20-20)T

03. Distinctive Business Name. Every facility must use a distinctive name, which is registered with the Secretary of State of Idaho. If a facility decides to change its name, it will only be changed upon written notification to the Licensing and Survey Agency confirming the registration of the name change with the Secretary of State of Idaho. This notification needs to be received by the Licensing and Survey Agency at least thirty (30) calendar days prior to the date the proposed name change is to be effective. (3-20-20)T

04. Licensed Administrator. Each facility must have an administrator, licensed by the Bureau of Occupational Licensing, who is responsible for the day-to-day operation of the facility. (3-20-20)T

05. Display of Facility License. The current facility license must be posted in the facility and clearly visible to the general public. (3-20-20)T

06. Change in Corporate Shares. When there is a significant change in shares held by a corporate licensee of a residential care or assisted living facility, which does not alter the overall ownership or operation of the business, that change must be communicated to the Licensing and Survey Agency within (60) days of the effective date of change. (3-20-20)T

07. Licensee Responsibility. The licensee of the facility is responsible for the operation of the residential care or assisted living facility, even when a separate administrator is employed. (3-20-20)T

101. -- 104. (RESERVED)

105. CHANGE OF OWNERSHIP.

01. Non-Transfer of Facility License. A facility license is not transferable from one (1) individual to another, from one (1) business entity to another, or from one (1) location to another. When a change of licensee, ownership, lease or location occurs, the facility must be re-licensed. The new licensee must follow the application procedures, and obtain a license, before commencing operation as a facility. (3-20-20)T

02. Application for Change of Ownership. The application for a change of ownership must be submitted to the Licensing and Survey Agency at least ninety (90) days prior to the proposed date of change. (3-20-20)T

03. Change of Ownership for a Facility In Litigation. An application for change of ownership of a facility from a person who is in litigation for failure to meet licensure standards, or who has had a license revoked, must include evidence that there is a bona fide, arms-length agreement and relationship between the two (2) parties. An entity purchasing a facility with an enforcement action acquires the enforcement action. (3-20-20)T

106. -- 109. (RESERVED)

110. FACILITY LICENSE APPLICATION.

01. Facility License. License application forms are available upon written request or online at the Licensing and Survey Agency's website at <http://www.assistedliving.dhw.idaho.gov/>. The applicant must provide the following information: (3-20-20)T

a. A written statement that the applicant has thoroughly read and reviewed the statute, Title 39, Chapter 33, Idaho Code, and IDAPA 16.03.22, "Rules for Residential Care or Assisted Living Facilities in Idaho," and is prepared to comply with both; (3-20-20)T

b. The applicant must provide a written statement and documentation that demonstrate no license revocation or other enforcement action has been taken or is in the process of being taken, against a license held or previously held by the applicant in Idaho or any other state or jurisdiction; (3-20-20)T

c. When the applicant is a firm, association, organization, partnership, business trust, corporation, government entity, or company, the administrator and other members of the organization who directly influence the

facility's operation must provide the information contained in Subsections 110.01.a. and 110.01.b. of these rules. (3-20-20)T

d. Each shareholder or investor holding ten percent (10%) or more interest in the business must be listed on the application; (3-20-20)T

e. A copy of the Certificate of Assumed Business Name from Secretary of State of Idaho; (3-20-20)T

f. 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; (3-20-20)T

g. A statement from a licensed electrician or the local or state electrical inspector that all wiring in the facility complies with current electrical codes; (3-20-20)T

h. When the facility does not use an approved municipal water or sewage treatment system, a statement from a local environmental health specialist with the public health district indicating that the water supply and sewage disposal system meet the Department's requirements and standards; (3-20-20)T

i. A complete set of printed operational policies and procedures as described in Sections 150 through 162 of these rules. (3-20-20)T

j. A detailed floor plan of the facility, including measurements of all rooms, or a copy of architectural drawings must be submitted for evaluation by the Licensing and Survey Agency. See Sections 250-260, 400-410, and 430 of these rules. (3-20-20)T

k. A copy of the Purchase Agreement, Lease Agreement, or Deed. (3-20-20)T

l. For facilities with nine (9) beds or more, signatures must be obtained from the following: (3-20-20)T

i. The local zoning official documenting that the facility meets local zoning codes for occupancy; (3-20-20)T

and ii. The local building official documenting that the facility meets local building codes for occupancy; (3-20-20)T

iii. The local fire official documenting that the facility meets local fire codes for occupancy. (3-20-20)T

02. Written Request for Building Evaluation. The applicant must request in writing to the Licensing and Survey Agency for a building evaluation of existing buildings. The request must include the physical address of the building that is to be evaluated; the name, address, and telephone number of the person who is to receive the building evaluation report. (3-20-20)T

03. Building Evaluation Fee. This application and request must be accompanied by a five hundred dollar (\$500) initial building evaluation fee. (3-20-20)T

04. Identification of the Licensed Administrator. The applicant must provide the following information for the licensed administrator: (3-20-20)T

a. A copy of the administrator license; (3-20-20)T

b. A current primary residence of the administrator. (3-20-20)T

05. Failure to Complete Application Process. Failure of the applicant to complete the Licensing and Survey Agency's application process within six (6) months, of the original date of application, may result in a denial of the application. If the application is denied the applicant is required to initiate a second licensing process.

(3-20-20)T

111. -- 114. (RESERVED)

115. EXPIRATION AND RENEWAL OF LICENSE.

01. Application for License Renewal. The facility must submit a Licensing and Survey Agency application for renewal of a license at least thirty (30) days prior to the expiration of the existing license. (3-20-20)T

02. Existing License. The existing license, unless suspended, surrendered, or revoked, remains in force and effect until the Licensing and Survey Agency has acted upon the application renewal, when such application for renewal has been filed. (3-20-20)T

116. -- 119. (RESERVED)

120. FACILITY OPERATING WITHOUT A LICENSE.

01. Facility Without a License. An operation is 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 or assisted living facility, is not licensed and is not exempt from licensure. (3-20-20)T

02. Residents in Facility Without a License. Upon discovery of a facility operating without a license, the Department will refer residents to an appropriate placement or adult protective services agency if either of the following conditions exist: (3-20-20)T

a. There is an immediate threat to the resident's health and safety; or (3-20-20)T

b. The unlicensed facility does not cooperate with the Department to apply for a license and meet licensing standards requirements. (3-20-20)T

03. Operator of a Facility Operating Without a License. A person found to be operating a facility without a license is 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 (\$5000), according to Section 39-3352(4), Idaho Code. (3-20-20)T

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. (3-20-20)T

121. -- 125. (RESERVED)

126. EFFECT OF ENFORCEMENT ACTION AGAINST A LICENSE.

The Department will not review an application of an applicant who has an action, either current or in process, against a license held by the applicant either in Idaho or any other state or jurisdiction. (3-20-20)T

127. -- 129. (RESERVED)

130. LICENSURE SURVEYS.

01. Surveys of Facilities. The Licensing and Survey Agency will assure that surveys are conducted at specified intervals in order to determine compliance with this chapter and applicable rules and statutes. The intervals of surveys will be: (3-20-20)T

a. Within ninety (90) days from initial licensure followed by a survey within fifteen (15) months. Facilities receiving no core issue deficiencies during both the initial and the subsequent survey will then enter the three (3) year survey cycle. (3-20-20)T

b. Once every twelve (12) months, or more frequently at the discretion of the Licensing and Survey Agency for those facilities receiving core issue deficiencies during any survey. Surveys will be conducted until the facility attains two (2) consecutive surveys, excluding follow-up surveys, without a core issue deficiency. (3-20-20)T

c. At least every thirty-six (36) months, for those facilities having attained no core issue deficiencies for two (2) or more consecutive surveys, regardless of survey type. (3-20-20)T

d. Complaint investigation survey based on the potential severity of the complaint. (3-20-20)T

02. Unannounced Surveys. Surveys are made unannounced and without prior notice at the discretion of the Department. (3-20-20)T

03. Inspection or Survey Services. The Department may use the services of any qualified person or organization, either public or private, to examine, survey or inspect any entity requesting or holding a facility license. (3-20-20)T

04. Access and Authority to Entire Facility. A surveyor must have full access and has the authority to examine: 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 statute, rules, and standards. (3-20-20)T

05. Interview Authority. A surveyor has the authority to interview any individual associated with the facility or the provision of care, including the license holder, administrator, staff, residents, residents' families, service providers, authorized provider or physician or other legally responsible person. Interviews are confidential and conducted privately unless otherwise specified by the interviewee. (3-20-20)T

06. Access to Staff Living Quarters. The surveyor has full authority to inspect the 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 compliance with these rules. (3-20-20)T

07. Written Report of Deficiencies. The Licensing and Survey Agency will provide a written report to support any deficiencies found. (3-20-20)T

a. Core Issue Deficiency. The Licensing and Survey Agency will provide, within ten (10) business days from the exit conference or from the last day of receipt of additional material, a written Statement of Deficiencies and Plan of Correction form to the facility when core deficiencies are identified during the survey. (3-20-20)T

b. Non-Core Issue Deficiency. The Licensing and Survey Agency will provide the facility a written report specifying the non-core issue deficiencies at the time of the exit conference. (3-20-20)T

08. Plan of Correction for Core Issue Deficiencies. The facility must develop a plan of correction and return an acceptable plan of correction to the Licensing and Survey Agency, for all core-issue deficiencies, within ten (10) calendar days of receipt of the Statement of Deficiencies and Plan of Correction form. An acceptable plan of correction must include: (3-20-20)T

a. A plan to assure correction of each deficient practice and to assure ongoing compliance; (3-20-20)T

b. Describe how and the frequency that the corrective actions will be monitored to assure that each deficient practice is corrected and will not recur, such as what program will be put into place to monitor the continued effectiveness of the systemic change; (3-20-20)T

c. State the completion date for correcting each deficiency, except in unusual circumstances, and only

with the written approval of the Licensing and Survey Agency. No correction date may be more than sixty (60) days from the inspection exit date as printed on the “Statement of Deficiencies and Plan of Correction” form; and (3-20-20)T

- d. The administrator's signature and the date submitted. (3-20-20)T

09. Evidence of Resolution for Non-Core Deficiencies. The facility must provide evidence of resolution of non-core issues to the Licensing and Survey Agency, within thirty (30) calendar days of the exit conference. The facility may show evidence of resolution by providing receipts, pictures, and completed policies, training, schedules, and other records. If there are non-core issues that the facility is unable to resolve due to extenuating circumstances, a written request for the delay must be submitted for Licensing and Survey Agency approval within thirty (30) days of the exit conference. The request must contain the following information: (3-20-20)T

- a. The reason for the delay; (3-20-20)T
- b. A plan for resolution; (3-20-20)T
- c. The date of the expected resolution, which may not exceed six (6) months; and (3-20-20)T
- d. A plan for assuring the safety of the residents until resolution. (3-20-20)T

10. Follow-Up Survey. The Licensing and Survey Agency will conduct follow-up surveys to ascertain corrections to core issue and non-core issue deficiencies are made according to time frames established in the plan of correction and evidence of resolution. (3-20-20)T

131. -- 139. (RESERVED)

140. COMPLAINTS AND INVESTIGATIONS.

01. Filing a Complaint. Any person who believes that the facility has failed to meet any provision of the rules or statute may file a complaint with the Department. All complaints must have a basis in rule or statutory requirements. In the event that it does not, the complainant will be referred to the appropriate entity or agency. (3-20-20)T

02. Investigation Survey. The Licensing and Survey Agency will investigate, or cause to be investigated the following: (3-20-20)T

- a. Any complaint alleging a violation of the rules or statute; and (3-20-20)T
- b. Any reportable incident which indicates there was a violation of the rules or statute. (3-20-20)T

03. Disclosure of Complaint Information. The Department will not disclose the name or identifying characteristics of a complainant unless: (3-20-20)T

- a. The complainant consents in writing to the disclosure; (3-20-20)T
- b. The investigation results in a judicial proceeding and disclosure is ordered by the court; or (3-20-20)T
- c. The disclosure is essential to prosecution of a violation. The complainant is given the opportunity to withdraw the complaint before disclosure. (3-20-20)T

04. Method of Investigation. The nature of the complaint will determine the method used to investigate the complaint. (3-20-20)T

- 05. Notification to Complainant.** The Licensing and Survey Agency will inform the complainant of

the results of the investigation survey when the complainant has provided a name and address. (3-20-20)T

141. -- 149. (RESERVED)

150. POLICIES AND PROCEDURES.

Each facility must develop a written set of policies and procedures which are available to all staff at all times and include the facility policies described in Sections 151 through 162 of these rules. (3-20-20)T

151. ACTIVITY POLICIES.

01. Policy and Plan. Each facility must develop a written activity policy that assists, encourages and promotes residents to maintain and develop their highest potential for independent living through their participation in planned recreational and other activities. (3-20-20)T

02. Activity Opportunities. The policy must include opportunities from the following activities: (3-20-20)T

a. Socialization through group discussion, conversation, recreation, visiting, arts and crafts, music; (3-20-20)T

b. Daily living activities to foster and maintain independent functioning; (3-20-20)T

c. Physical activities such as games, sports, and exercises which develop and maintain strength, coordination, and range of motion; (3-20-20)T

d. Education through special classes or activities; and (3-20-20)T

e. Leisure time so residents may engage in activities of their own choosing. (3-20-20)T

03. Community Resources for Activities. The facility will utilize community resources to promote resident participation in integrated activities of their choice both in and away from the facility. (3-20-20)T

152. ADMISSION POLICIES.

01. Admissions. Each facility must develop written admission policies and procedures. The written admission policy must include; (3-20-20)T

a. The purpose, quantity and characteristics of available services; (3-20-20)T

b. Any restrictions or conditions imposed because of religious or philosophical reasons. (3-20-20)T

c. Limitations concerning delivery of routine personal care by persons of the opposite gender. (3-20-20)T

d. Notification of any residents who are on the sexual offender registry and who live in the facility. The registry may be accessed online at http://isp.idaho.gov/sor_id/search.html. (3-20-20)T

e. Appropriateness of placement to meet the needs of the resident, when there are non resident adults or children residing in the facility. (3-20-20)T

02. Fee Description. A written description of how fees will be handled by the facility. (3-20-20)T

03. Resident Funds Policies. When a resident's funds are deposited with the facility or administrator, the facility must manage the residents' funds as provided in Sections 39-3316 (1), (5) & (6), Idaho Code, and Section 505 and Subsections 550.05 and 550.06 of these rules. Each facility must develop written policies and procedures outlining how residents' funds will be handled. (3-20-20)T

- a. A statement if the facility does not manage resident funds. (3-20-20)T
- b. If the facility manages resident funds, how funds are handled and safeguarded. (3-20-20)T
- 04. Resident Admission, Discharge, and Transfer.** The facility must have policies addressing admission, discharge, and transfer of residents to, from, or within the facility. (3-20-20)T
- 05. Policies of Acceptable Admissions.** Written descriptions of the conditions for admitting residents to the facility must include: (3-20-20)T
- a. A resident will be admitted or retained only when the facility has the capability, capacity, and services to provide appropriate care, or the resident does not require a 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 knowledge and skills to provide such services; (3-20-20)T
- b. No resident will be admitted or retained who requires ongoing skilled nursing or care not within the legally licensed authority of the facility. Such residents include: (3-20-20)T
- i. A resident who has a gastrostomy tube, arterial-venous (AV) shunts, or supra-pubic catheter inserted within the previous twenty-one (21) days; (3-20-20)T
- ii. A resident who is receiving continuous total parenteral nutrition (TPN) or intravenous (IV) therapy; (3-20-20)T
- iii. A resident who requires physical restraints, including bed rails, an exception is a chair with locking wheels or chair in which the resident cannot get out of; (3-20-20)T
- iv. A resident who is comatose, except for a resident who has been assessed by a physician or authorized provider who has determined that death is likely to occur within fourteen (14) to thirty (30) days; (3-20-20)T
- v. A resident who is on a mechanically supported breathing system, except for residents who use positive airway pressure devices only for sleep apnea, such as CPAP or BiPAP; (3-20-20)T
- vi. A resident who has a tracheotomy who is unable to care for the tracheotomy independently; (3-20-20)T
- vii. A resident who is fed by a syringe; (3-20-20)T
- viii. A resident with open, draining wounds for which the drainage cannot be contained; (3-20-20)T
- ix. A resident with a Stage III or IV pressure ulcer; (3-20-20)T
- x. A resident with any type of pressure ulcer or open wound that is not improving bi-weekly; (3-20-20)T
- c. For any resident who has needs requiring a nurse, the facility must assure a licensed nurse is available to meet the needs of the resident. (3-20-20)T
- d. A resident will not be admitted or retained who has physical, emotional, or social needs that are not compatible with the other residents in the facility; (3-20-20)T
- e. A resident that is violent or a danger to himself or others; (3-20-20)T
- f. Any resident requiring assistance in ambulation must reside on the first story unless the facility complies with Sections 401 through 404 of these rules; (3-20-20)T

g. Residents who are not capable of self evacuation must not be admitted or retained by a facility which does not comply with the NFPA Standard #101, “Life Safety Code, 2000 Edition, Chapter 33, Existing Residential Board and Care Impracticable Evacuation Capability;” and (3-20-20)T

153. ADDITIONAL POLICIES REQUIRED.

01. Response of Staff to Abuse, Neglect or Exploitation of Residents. The facility must develop policies and procedures to assure that allegations of abuse, neglect and exploitation are identified, reported, investigated, followed up with interventions to prevent reoccurrence and assure protection, and documented. (3-20-20)T

02. Response of Staff to Emergencies. How staff are to respond to emergency situations: (3-20-20)T

a. Medical and psychiatric emergencies; (3-20-20)T

b. Resident absence; (3-20-20)T

c. Criminal situations; and (3-20-20)T

d. Presence of law enforcement officials at the facility. (3-20-20)T

03. Notification of Changes to Resident Health or Mental Status. Who and how staff are to notify of any changes in residents’ health or mental status. (3-20-20)T

04. Provided Care and Services by Staff. How staff are to provide care and services to residents in the following areas: (3-20-20)T

a. Activities of daily living; (3-20-20)T

b. Dietary and eating, including when a resident refuses to eat or follow a prescribed diet; (3-20-20)T

c. Dignity; (3-20-20)T

d. Assuring each individual’s rights; (3-20-20)T

e. Medication assistance; (3-20-20)T

f. Provision of privacy; (3-20-20)T

g. Social activities; (3-20-20)T

h. Supervision; (3-20-20)T

i. Supporting resident independence; and (3-20-20)T

j. Telephone access. (3-20-20)T

05. Resident Property Identified and Safe. Identification of resident property and assuring that personal items are kept safe and used only by the resident. (3-20-20)T

06. Intervention Procedures to Assure Safety of Residents and Staff. How to intervene to assure resident and staff safety in unsafe situations-physical or behaviorally caused. (3-20-20)T

07. Behavior Management for Residents. The facility must have policies and procedures to assure timely assessment, plan development which implements the least restrictive intervention to address the behavior and document the effect of interventions. (3-20-20)T

08. Staff Procedures for Accidents, Incidents, and Complaints. The facility must develop policies and procedures to assure that accidents and incidents are identified, reported, investigated, and followed up with interventions to prevent reoccurrence and assure protection, and documented. (3-20-20)T

09. Facility Operations, Inspections, Maintenance, and Testing. Plans and procedures for the operation, periodic inspection, and testing of the physical plant, which includes utilities, fire safety and plant maintenance for all areas of the facility's campus. (3-20-20)T

10. Hazardous Materials. Policies and procedures for handling of hazardous materials. (3-20-20)T

11. Mechanical Equipment. Policies and procedures for handling potentially dangerous mechanical equipment. (3-20-20)T

154. EMERGENCY PREPAREDNESS POLICIES.

01. Emergency Preparedness Plan. Each facility must develop and implement an emergency preparedness plan to follow in the event of fire, explosion, flood, earthquake, high wind, or other emergency. (3-20-20)T

02. Written Procedures. The facility must have written procedures outlining steps to be taken in the event of an emergency including: (3-20-20)T

a. Who is to respond; (3-20-20)T

b. Each person's responsibilities; (3-20-20)T

c. Where and how residents are to be evacuated; and (3-20-20)T

d. Notification of emergency agencies. (3-20-20)T

155. HOURLY ADULT CARE POLICIES.

Facilities offering hourly adult care must develop written policies and procedures which include the following: (3-20-20)T

01. Services Offered for Hourly Adult Care. A description of services offered, including: transportation services if offered, meals, activities, and supervision. (3-20-20)T

02. Acceptable Hourly Care Individuals. Types of individuals who may or may not be accepted for hourly care. (3-20-20)T

03. Cost of Program. Cost of program to individual. (3-20-20)T

04. Health and Other Individual Needs. Health and other pertinent information regarding the individual's needs. (3-20-20)T

05. Emergency Information. Emergency telephone numbers of family members and physician or authorized provider, and other identification information. (3-20-20)T

06. Hours for Care. Time periods of program not to exceed fourteen (14) consecutive hours in a twenty-four (24) hour period. (3-20-20)T

156. INFECTION CONTROL POLICIES.

Each facility must develop policies and procedures consistent with recognized standards which control and prevent infections for both staff and residents. (3-20-20)T

157. MEDICATION POLICIES.

- 01. Medication.** Each facility must develop written medication policies and procedures that detail the following: (3-20-20)T
- a.** Receiving of medications; (3-20-20)T
 - b.** Storage of medications; (3-20-20)T
 - c.** Medication distribution system to be used; (3-20-20)T
 - d.** How staff are to respond if: (3-20-20)T
 - i.** A resident refuses a medication; (3-20-20)T
 - ii.** A resident misses a medication and the reason; (3-20-20)T
 - iii.** A resident medication is not available; (3-20-20)T
 - iv.** Medications are missing; (3-20-20)T
 - v.** A resident receives an incorrect medication; (3-20-20)T
 - e.** The process for determining who can self-administer medication; (3-20-20)T
 - f.** Unused medications: (3-20-20)T
 - i.** Destruction; (3-20-20)T
 - ii.** Return of medications to the pharmacy; (3-20-20)T
 - g.** Documentation requirements: (3-20-20)T
 - i.** Taken; (3-20-20)T
 - ii.** Refused; (3-20-20)T
 - iii.** Missed; (3-20-20)T
 - iv.** Not available; and (3-20-20)T
 - v.** For residents self-medicating. (3-20-20)T
- 02. Nurse Delegation.** The process the nurse will use to delegate assistance with medication and how it will be documented. (3-20-20)T

158. FOOD AND NUTRITIONAL CARE POLICIES.

Each facility must develop written policies and procedures for providing proper nutritional care for each resident which includes procedures to follow if the resident refuses food or to follow the prescribed diet. (3-20-20)T

159. RECORDS POLICIES.

01. Complete and Accurate Records. Each facility must develop written policies and procedures to assure complete, accurate, and authenticated records. (3-20-20)T

02. Electronic Records. Facilities that implement an electronic record or signature must have written policies in place to assure the following: (3-20-20)T

- a.** Proper security measures to protect the use of an electronic signature by anyone other than the

- person to which the electronic signature belongs; (3-20-20)T
- b. The privacy and integrity of the record; (3-20-20)T
 - c. Includes which records will be maintained and signed electronically; (3-20-20)T
 - d. How an e-signature code is assigned and the code and associated staff identities are protected; (3-20-20)T
 - e. How passwords are assigned and the frequency for which they are changed; (3-20-20)T
 - f. Allows resident access to his records within one (1) business day of the request; and (3-20-20)T
 - g. Allows immediate access to records by surveyors, and others who are authorized by law; (3-20-20)T

160. RESIDENT RIGHTS POLICIES.

Each facility must develop written policies and procedures which assure that resident rights will be promoted and protected in the facility. (3-20-20)T

161. SMOKING POLICIES.

01. Policy on Smoking. The facility must develop written rules governing smoking. These rules must be made known to all facility personnel, residents, and the visiting public. (3-20-20)T

02. Smoking Prohibited. Nothing in this section requires that smoking be permitted in a facility whose admission policies prohibit smoking. (3-20-20)T

03. Policy Content. The policy must include: (3-20-20)T

- a. Prohibiting smoking in any area where flammable liquids, gases, or oxidizers are in use or stored; (3-20-20)T
- b. Prohibiting smoking in bed by anyone; (3-20-20)T
- c. Prohibiting unsupervised smoking by residents classified as not mentally or physically responsible, and residents affected by medication; (3-20-20)T
- d. Prohibiting smoking in areas where combustible supplies or materials are stored; and (3-20-20)T
- e. Designating areas where smoking is permitted. (3-20-20)T

162. STAFFING POLICIES.

The facility must develop written staffing policies and procedures based on the numbers of residents, resident needs, and configuration of the facility. (3-20-20)T

163. -- 209. (RESERVED)

210. REQUIREMENTS FOR ACTIVITIES.

The facility must provide an ongoing program of activities that is consistent with the facility's policies and procedures as described in Section 151 of these rules. (3-20-20)T

211. -- 214. (RESERVED)

215. REQUIREMENTS FOR A FACILITY ADMINISTRATOR.

Each facility must be organized and administered under one (1) licensed administrator assigned as the person responsible for the operation of the facility. Multiple facilities under one (1) administrator may be allowed by the

Department based on an approved plan of operation described in Section 216 of these rules. (3-20-20)T

01. Administrator Responsibility. The administrator is responsible for assuring that policies and procedures required in Title 39, Chapter 33, Idaho Code and IDAPA 16.03.22, “Residential Care or Assisted Living Facilities in Idaho” are implemented. (3-20-20)T

02. Availability of Administrator. The facility's administrator must be on site sufficiently to provide for safe and adequate care of the residents to meet the terms in the Negotiated Service Agreement. The facility's administrator or his designee must be available to be on-site at the facility within two (2) hours. (3-20-20)T

03. Thirty Day Operation Limit. The facility may not operate for more than thirty (30) days without a licensed administrator. (3-20-20)T

04. Representation of Residents. The owner or administrator, their relatives, or employees cannot act as or seek to become the legal guardian of, or have power of attorney for any resident. Specific limited powers of attorney to address emergency procedures where competent consent cannot otherwise be obtained are permitted. (3-20-20)T

05. Responsibility for Acceptable Admissions. The administrator must assure that no resident is knowingly admitted or retained who requires care as defined in Section 39-3307, Idaho Code, and Subsection 152.05 of these rules. (3-20-20)T

06. Sexual Offender. The administrator must assure that a non-resident on the sexual offender registry is not allowed to live or work in the facility. The registry may be accessed online at http://isp.idaho.gov/sor_id/search.html. (3-20-20)T

07. Notification of Adult Protection and Law Enforcement. The administrator must assure that adult protection and law enforcement are notified in accordance with Section 39-5310, Idaho Code. (3-20-20)T

08. Procedures for Investigations. The administrator must assure the facility procedures for investigation of incidents, accidents, and allegations of abuse, neglect, or exploitation are implemented to assure resident safety. (3-20-20)T

09. Identify and Monitor Patterns of Incidents and Accidents. The administrator must identify and monitor patterns related to incidents and accidents and develop interventions to prevent recurrences. (3-20-20)T

10. Notification of Reportable Incidents. The administrator must assure notification to the Licensing and Certification Unit of reportable incidents. (3-20-20)T

11. Administrator's Designee. A person authorized in writing to act in the absence of the administrator. An administrator's designee may act in the absence of the administrator for no longer than thirty (30) consecutive days when the administrator: (3-20-20)T

a. Is on vacation; (3-20-20)T

b. Has days off; (3-20-20)T

c. Is ill; or (3-20-20)T

d. Is away for training or meetings. (3-20-20)T

12. Ability to Reach Administrator or Designee. The administrator or his designee must be reachable and available at all times. (3-20-20)T

13. Minimum Age of Personnel. The administrator will assure that no personnel providing hands-on care or supervision services will be under eighteen (18) years of age unless they have completed a certified nursing assistant (CNA) certification course. (3-20-20)T

14. Notification to Licensing and Certification Unit. The facility must notify the Licensing and Certification Unit, in writing, within three (3) business days of a change of administrator. (3-20-20)T

216. REQUIREMENTS FOR A MULTIPLE FACILITY ADMINISTRATOR.

Each facility must have a Department approved plan of operation to have one (1) administrator assigned as the person responsible for the operation of multiple facilities. (3-20-20)T

01. Approved Plan of Operation. Under Section 39-3321, Idaho Code, multiple facilities under one (1) administrator may be approved when the following is provided in the plan of operation: (3-20-20)T

a. The multiple facility administrator must provide proof of a current license in Idaho with no actions or pending actions taken against licensee; (3-20-20)T

b. The plan must provide for full-time on-site supervision by trained and experienced staff, including: (3-20-20)T

i. Who is responsible for on-site management of each facility when administrator is not on-site; and (3-20-20)T

ii. How each individual responsible for on-site management of each facility is qualified to perform those duties. (3-20-20)T

02. Facility Change To An Approved Plan of Operation. A new plan of operation must be submitted to the Department and approved before any facility in the plan is changed. (3-20-20)T

03. Number of Facilities or Beds Allowed Under One Administrator. Based on an approved plan of operation, the Department will allow one (1) licensed administrator to oversee: (3-20-20)T

a. Up to three (3) facilities when each of the facilities has sixteen (16) beds or fewer; (3-20-20)T

b. Two (2) facilities when either of the facilities has more than sixteen (16) beds but less than fifty (50) beds, and the combined number of beds for both facilities cannot exceed eighty (80) beds; or (3-20-20)T

c. One (1) facility with fifty (50) beds or more. A plan of operation for a multiple facility administrator will not be approved for a facility with fifty (50) beds or more. (3-20-20)T

04. No Unresolved Core Issues. None of the multiple facilities operated under one (1) administrator can have any unresolved core issue deficiencies described in Section 010 of these rules. The administrator approved to oversee more than one (1) facility must have an established record of compliance, which includes: (3-20-20)T

a. No repeat deficiencies; (3-20-20)T

b. No enforcement actions; (3-20-20)T

c. A history of submitting acceptable plans of corrections within the time frame established in Subsection 130.08 of these rules; (3-20-20)T

d. A history of submitting acceptable evidence of resolution of deficiencies within the time frame established in Subsection 130.09 of these rules; and (3-20-20)T

e. The administrator's record must show that he has two (2) years or more of experience working as a licensed residential care administrator in Idaho. (3-20-20)T

05. Administrator Hours On-site in Each Facility. The administrator must be on-site at each facility for at least: (3-20-20)T

- a. Ten (10) hours per week in facilities with fewer than sixteen (16) beds; (3-20-20)T
- b. Fifteen (15) hours per week in facilities with more than (16) beds; and (3-20-20)T
- c. Each facility's record must include documentation of the number of hours per week the administrator is on-site. For each week the Administrator is not on-site, the documentation must include the reasons for his absence such as illness, vacation, or training. (3-20-20)T

06. Administrator Response Time for Each Facility. A multiple facility administrator must not have a primary residence more than seventy-five (75) miles from any of the facilities. Each facility with a multiple facility administrator must be within two (2) hours driving distance from each other. (3-20-20)T

07. On-Site Supervision in Each Facility. The plan of operation must include full-time on-site supervision by trained and experienced staff. (3-20-20)T

08. Dually Licensed Administrator. A skilled nursing facility and an assisted living facility with less than fifty (50) beds may have a multiple facility administrator with an approved plan of operation. A dually licensed administrator, who is licensed in Idaho as both a Nursing Home Administrator and a Residential Care Facility Administrator, may be approved as a multiple facility administrator only when the two (2) facilities are on the same property or campus. (3-20-20)T

217. RESCIND APPROVAL FOR MULTIPLE FACILITY ADMINISTRATOR.

01. Rescind Plan of Operation Approval. When the conditions in the approved plan of operation are not met, the ability to have one (1) administrator for multiple facilities will be rescinded by the Department. (3-20-20)T

02. Reasons for Rescission or Denial of a Multiple Facility Administrator. Any and all facilities with a multiple facility administrator included in its approved plan of operation that receives repeat deficiencies, enforcement actions, or fails to submit acceptable plans of correction and evidence of resolution within the time frames established in Subsections 130.08 and 130.09 of these rules, may have its multiple facility administrator approval rescinded. (3-20-20)T

03. Rescission Review of Department Action. When the facility disagrees with the reasons for the rescission of the ability to have a multiple facility administrator, the administrator can request a rescission review. This request does not stay the rescission. The request must: (3-20-20)T

- a. Be in writing; (3-20-20)T
- b. Be received within fourteen (14) days of the date the Department's rescission letter was issued; and (3-20-20)T
- c. State the specific reasons for disagreement with the Department's rescission action. (3-20-20)T

04. Review Decision. Within thirty (30) days from the date the review request is received, the Department will review and issue a decision. This decision is not appealable. (3-20-20)T

218. (RESERVED)

219. REQUIREMENTS FOR ADMISSION AGREEMENTS FOR DEPARTMENT CLIENTS.

01. Initial Resident Assessment. Prior to or on the day of admission each resident must be assessed by the facility to ensure the resident is appropriate for placement in a residential care or assisted living facility. (3-20-20)T

02. Interim Care Plan. The facility must develop an interim care plan to guide services until the Department's assessment outlined in Section 660 of these rules is complete. The Department will complete a resident

assessment within twelve (12) business days of receiving notification that the participant is financially eligible for waiver services. The result of the assessment will determine the need for specific services and supports and establish the reimbursement rate for those services. (3-20-20)T

03. Written Agreement. The admission agreement may be integrated within the Negotiated Service Agreement, provided that all requirements for the Negotiated Service Agreement in Section 320 of these rules are met. (3-20-20)T

220. REQUIREMENTS FOR ADMISSION AGREEMENTS FOR PRIVATE-PAY RESIDENTS.

01. Initial Resident Assessment and Care Plan. Prior to or on the day of admission, each private-pay resident must be assessed by the facility to ensure the resident is appropriate for placement in their residential care or assisted living facility. The facility must develop an interim care plan to guide services until the facility can complete the resident assessment process outlined in Section 650 of these rules. The result of the assessment will determine the need for specific services and supports. (3-20-20)T

02. Written Agreement. Prior to or on the day of admission, the facility and each resident or the resident's legal guardian or conservator must enter into a written admission agreement that is transparent, understandable, and is translated into a language the resident or his representative understands. The admission agreement will provide a complete reflection of the facility's charges, commitments agreed to by each party, and the actual practices that will occur in the facility. The agreement must be signed by all involved parties, and a complete copy provided to the resident and the resident's legal guardian or conservator prior to or on the day of admission. The admission agreement may be integrated within the Negotiated Service Agreement, provided that all requirements for the Negotiated Service Agreement in Section 320 of these rules and the admission agreement are met. Admission agreements must include all items described under Subsections 220.03 through 220.18 of this rule. (3-20-20)T

03. Services, Supports, and Rates. The facility must identify the following services, supports, and applicable rates: (3-20-20)T

a. Unless otherwise negotiated with the resident, the resident's legal guardian or conservator, basic services must, at a minimum, include: (3-20-20)T

- i. Rent; (3-20-20)T
- ii. Utilities; (3-20-20)T
- iii. Food; (3-20-20)T
- iv. Activities of daily living services; (3-20-20)T
- v. Supervision; (3-20-20)T
- vi. First aid; (3-20-20)T
- vii. Assistance with and monitoring of medications; (3-20-20)T
- viii. Laundering of linens owned by the facility; (3-20-20)T
- ix. Emergency interventions and coordination of outside services; (3-20-20)T
- x. Routine housekeeping and maintenance of common areas; and (3-20-20)T
- xi. Access to basic television in common areas. (3-20-20)T

b. The resident's monthly charges must be specific and describe the services that are included in the basic services rate and the charged rate. (3-20-20)T

- c.** The facility must disclose all prices, formulas, and calculations used to determine the resident's basic services rate including: (3-20-20)T
- i. Service packages; (3-20-20)T
 - ii. Fee-for-service rates; (3-20-20)T
 - iii. Assessment forms; (3-20-20)T
 - iv. Price per assessment point; (3-20-20)T
 - v. Charges for levels of care determined with an assessment; and (3-20-20)T
 - vi. Move-in fees or other similar charges. (3-20-20)T
- d.** Services or amenities that are not contained in the description of basic services are considered additional services. The facility must describe the services and rates charged for additional or optional services, supplies, or amenities that are available through the facility or arranged for by the facility for which the resident will be charged additional fees. (3-20-20)T
- e.** Services or rates that are impacted by an updated assessment of the resident must be identified, as well as the assessment tool, the assessor, and the frequency of the assessment, when the facility uses this assessment to determine rate changes. (3-20-20)T
- f.** The facility may charge residents for the use of personal furnishings, equipment, and supplies provided by the facility for private-pay residents. The facility must provide a detailed itemization of furnishings, equipment, supplies, and the rate for those items the resident will be charged. (3-20-20)T
- 04. Staffing.** The facility must identify staffing patterns and qualification of staff on duty during a normal day. (3-20-20)T
- 05. Notification of Liability Insurance Coverage.** The administrator of a residential care or assisted living facility must disclose in writing at the time of admission or before a resident's admission if the facility does not carry professional liability insurance. If the facility cancels the professional liability insurance all residents must be notified of the change in writing. (3-20-20)T
- 06. Medication Responsibilities.** The facility's and resident's roles and responsibilities relating to assistance with medications including the reporting of missed doses or those taken on a PRN basis. (3-20-20)T
- 07. Resident Personal Fund Responsibilities.** Who is responsible for the resident's personal funds. (3-20-20)T
- 08. Resident Belongings Responsibility.** The agreement must identify responsibility for protection and disposition of all valuables belonging to the resident and provision for the return of resident's valuables if the resident leaves the facility. (3-20-20)T
- 09. Emergency Transfers.** The agreement must identify conditions under which emergency transfers will be made as provided in Section 152 of these rules. (3-20-20)T
- 10. Billing Practices, Notices, and Procedures for Payments and Refunds.** The facility must provide a description of the facility's billing practices, notices, and procedures for payments and refunds. The following procedures must be included: (3-20-20)T
- a. Arrangement for payments; (3-20-20)T
 - b. Under what circumstances and time frame a partial month's resident fees are to be refunded when a resident no longer resides in the facility; (3-20-20)T

c. Written notice to vacate the facility must be given thirty (30) calendar days prior to transfer or discharge on the part of either party except in the case of the resident's emergency discharge or death the facility may charge up to fifteen (15) days prorated rent from the date of the resident's emergency discharge or death. (3-20-20)T

11. Resident Permission to Transfer Information. The agreement must clarify permission to transfer information from the resident's records to any facility to which the resident transfers. (3-20-20)T

12. Resident Responsibilities. Resident responsibilities, as appropriate. (3-20-20)T

13. Restrictions on Choice of Care or Service Providers. Any restriction on choice of care or service providers, such as pharmacy, home health agency, hospice agency, physician or authorized provider. (3-20-20)T

14. Advance Directive. The agreement must identify written documentation of the resident's preference regarding the formulation of an Advance Directive in accordance with Idaho state law. When a resident has an Advanced Directive, a copy must be immediately available for staff and emergency personnel. (3-20-20)T

15. Notification of Payee Requirements. Notification if the facility requires as a condition of admission that the administrator or an employee of the facility be named as payee. (3-20-20)T

16. Contested Charges. The facility must provide the methods by which a resident may contest charges or rate increases that include contacting the Ombudsman for the Elderly. The facility must respond as provided under Section 711.02 of these rules. (3-20-20)T

17. Transition to Publicly-Funded Program. The facility must disclose the conditions under which the resident can remain in the facility, if payment for the resident shifts to a publicly-funded program. (3-20-20)T

18. Other Information. The agreement must identify other information that the facility may deem appropriate. (3-20-20)T

221. REQUIREMENTS FOR TERMINATION OF ADMISSION AGREEMENT.

01. Conditions for Termination of the Admission Agreement. The admission agreement cannot be terminated, except under the following conditions: (3-20-20)T

a. Giving the other party thirty (30) calendar days written notice for any reason; (3-20-20)T

b. The resident's death; (3-20-20)T

c. Emergency conditions that requires the resident to be transferred to protect the resident or other residents in the facility from harm; (3-20-20)T

d. The resident's mental or medical condition deteriorates to a level requiring care as described in Section 33-3307, Idaho Code, and Subsection 152.05 of these rules; (3-20-20)T

e. Nonpayment of the resident's fees; (3-20-20)T

f. When the facility cannot meet resident needs due to changes in services, in house or contracted, or inability to provide the services; or (3-20-20)T

g. Other written conditions as may be mutually established between the resident, the resident's legal guardian or conservator and the administrator of the facility at the time of admission. (3-20-20)T

02. Facility Responsibility During Resident Discharge. The facility is responsible to assist the resident with transfer by providing a list of skilled nursing facilities, other residential care or assisted living facilities, and certified family homes that may meet the needs of the resident. (3-20-20)T

03. Resident's Appeal of Involuntary Discharge. A resident may appeal all discharges with the exception of an involuntary discharge in the case of non-payment, emergency conditions that require the resident to be transferred to protect the resident or other residents in the facility from harm. (3-20-20)T

a. Before a facility discharges a resident, the facility must notify the resident, and if known, a family member, or his legal representative of the discharge and the reasons for the discharge. (3-20-20)T

b. This notice must be in writing and in a language and manner the resident or his representative can understand. (3-20-20)T

04. Written Notice of Discharge. The written notice of discharge must include the following: (3-20-20)T

a. The reason for the discharge; (3-20-20)T

b. Effective date of the discharge; (3-20-20)T

c. A statement that the resident has the right to appeal the discharge to the Department within thirty (30) calendar days of receipt of written notice of discharge; (3-20-20)T

d. The name and address of where the appeal must be submitted; (3-20-20)T

e. The name, address, and telephone number of the local ombudsman, for residents sixty (60) years of age or older; and (3-20-20)T

f. The name, address and telephone number of Disability Rights Idaho, for residents with developmental disabilities or mental illness. (3-20-20)T

g. If the resident fails to pay fees to the facility, as agreed to in the admission agreement, during the discharge appeal process, the resident's appeal of the involuntary discharge becomes null and void and the discharge notice applies. (3-20-20)T

h. When the notice does not contain all the above required information, the notice is void and must be reissued. (3-20-20)T

05. Receipt of Appeal. Request for an appeal must be received by the Department within thirty (30) calendar days of the resident's or resident's representative's receipt of written notice of discharge to stop the discharge before it occurs. (3-20-20)T

222. -- 224. (RESERVED)

225. REQUIREMENTS FOR BEHAVIOR MANAGEMENT.

The facility must identify and evaluate behavioral symptoms that are distressing to the resident or infringe on other residents' rights. (3-20-20)T

01. Evaluation for Behavior Management. The facility evaluation must include the following; (3-20-20)T

a. Identification if the resident behavior is transitory or permanent; (3-20-20)T

b. Review of the resident's previous behaviors and activities; (3-20-20)T

c. Review of baseline data including intensity, duration and frequency of the resident behavior; (3-20-20)T

d. Identification of recent changes in the resident's life, such as death in the family, change in resident's daily routine, or changes in the Resident's Negotiated Service Agreement; (3-20-20)T

- e. Identification of environmental causes that could contribute to the resident’s behavior such as excessive heat, noise, overcrowding, hunger, staffing; (3-20-20)T
- f. Rule out possible medical causes such as pain, constipation, fever, infection, or medication side effects; and (3-20-20)T
- g. Identification of events that trigger behavioral symptoms. (3-20-20)T
- 02. Intervention.** The facility must develop an intervention for each behavioral symptom. (3-20-20)T
 - a. All staff must be aware of and consistently implement each behavioral symptom intervention; (3-20-20)T
 - b. The intervention needs to be the least restrictive; and (3-20-20)T
 - c. Each intervention needs to be reviewed within seventy-two (72) hours of implementation, and from then on as appropriate, to evaluate the continued need for the intervention. (3-20-20)T
- 03. Prescribing Provider.** The resident’s medication regime must be evaluated every six (6) months to assure that medications used to treat behavioral symptoms are necessary and at the lowest possible dose. (3-20-20)T

226. -- 249. (RESERVED)

250. REQUIREMENTS FOR BUILDING CONSTRUCTION AND PHYSICAL STANDARDS.

- 01. Building Character.** All buildings utilized as residential care or assisted living facilities must be of such character as to be suitable for such use. Facilities must be of such character as to enhance normalization and integration of residents into the community. (3-20-20)T
- 02. Plans and Specifications.** Plans and specifications for any proposed new facility construction, any addition or remodeling are governed by the following: (3-20-20)T
 - a. Plans must be prepared by an architect or engineer licensed in the state of Idaho. A variance of this requirement may be granted by the Licensing and Survey Agency when the size of the project does not necessitate involvement of an architect or engineer; (3-20-20)T
 - b. Plans and specifications must be submitted to the Licensing and Survey Agency to assure compliance with applicable construction standards, codes, and regulations; (3-20-20)T
 - c. Newly constructed or converted buildings housing seventeen (17) or more residents must submit professionally prepared drawings or plans of the kitchen and a listing of all kitchen equipment for review and approval prior to construction. (3-20-20)T
- 03. Remodeling or Additions.** Remodeling of or additions to a facility will be consistent with all applicable fire and life safety requirements. (3-20-20)T
- 04. Approval.** All buildings, additions and remodeling are subject to approval by the Licensing and Survey Agency and must meet applicable requirements. (3-20-20)T
- 05. Walls and Floor Surfaces.** Walls and floors must be of such character to permit cleaning. Walls and ceilings in kitchens, bathrooms, and utility rooms must have washable surfaces. (3-20-20)T
- 06. Toilet and Bathrooms.** Each facility must provide: (3-20-20)T
 - 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; (3-20-20)T

- b.** Solid walls or partitions to separate each toilet and bathroom from all adjoining rooms; (3-20-20)T
- c.** Mechanical ventilation to the outside from all inside toilets and bathrooms not provided with an operable exterior window; (3-20-20)T
- d.** Each tub, shower, and lavatory with hot and cold running water; (3-20-20)T
- e.** At least one (1) flush toilet for every six (6) residents; (3-20-20)T
- f.** At least one (1) tub or shower for every eight (8) residents; (3-20-20)T
- g.** At least one (1) lavatory with a mirror for each toilet; and (3-20-20)T
- 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. (3-20-20)T

07. Accessibility for Persons With Mobility and Sensory Impairments. For residents with mobility or sensory impairments, the facility must 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 must comply, to the maximum extent feasible, with 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 must provide as required, the necessary accommodations: (3-20-20)T

- a.** Ramps for residents who require assistance with ambulation shall comply with the requirements of the ADAAG 4.8; (3-20-20)T
- b.** Bathrooms and doors large enough to allow the easy passage of a wheelchair as provided for in the ADAAG 4.13; (3-20-20)T
- c.** Grab bars in resident toilet and bathrooms in compliance with ADAAG 4.26; (3-20-20)T
- d.** Toilet facilities in compliance with ADAAG 4.16 and 4.23; (3-20-20)T
- e.** Non-retractable faucet handles in compliance with ADAAG 4.19, with the exception of self-closing valves under 4.19.5, and 4.27; and (3-20-20)T
- f.** Suitable hand railing must 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. (3-20-20)T

08. Lighting. The facility must provide adequate lighting in all resident sleeping rooms, dining rooms, living rooms, recreation rooms, and hallways. (3-20-20)T

09. Ventilation. The facility must be ventilated, and precautions shall be taken to prevent offensive odors. (3-20-20)T

10. Plumbing. All plumbing in the facility must comply with local and state codes. All plumbing fixtures must be easily cleanable and maintained in good repair. The temperature of hot water at plumbing fixtures used by residents must be between one hundred five degrees (105°F) Fahrenheit and one hundred twenty degrees (120°F) Fahrenheit. (3-20-20)T

11. Heating. A heating system must be provided for the facility that is capable of maintaining a minimum temperature of seventy degrees (70°F) Fahrenheit during the day and a minimum of sixty-two degrees (62°F) Fahrenheit during the night. Wood stoves are not be permitted as the sole source of heat and the thermostat for the primary source of heat must be remotely located away from any wood stove. (3-20-20)T

12. Dining, Recreation, Shower, Bathing and Living Space. The total area set aside for these purposes must be no less than thirty (30) square feet per licensed bed. A hall or entry cannot be included as living or recreation space. (3-20-20)T

13. Resident Sleeping Rooms. The facility must assure that: (3-20-20)T

a. Resident sleeping rooms are not in attics, stairs, halls, or any other room commonly used for other than bedroom purposes; (3-20-20)T

b. A room with a window that opens into an exterior window well cannot be used for a resident sleeping room; (3-20-20)T

c. Not more than four (4) residents can be housed in any multi-bed sleeping room in facilities licensed prior to July 1, 1991. New facilities or building converted to a licensed facility after July 1, 1992, cannot have more than two (2) residents in any multi-bed sleeping room. When there is any change in ownership of the facility, the maximum number of residents allowed in any room is two (2); (3-20-20)T

d. Square footage requirements for resident sleeping rooms must provide 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; (3-20-20)T

e. Each resident's sleeping room must be provided with an operable exterior window. An operable window is not required where there is a door directly to the outside from the sleeping room; (3-20-20)T

f. The operable window sill height must not exceed thirty-six (36) inches above the floor in new construction, additions, or remodeling; (3-20-20)T

g. The operable window sill height must not exceed forty-four (44) inches above the floor in existing buildings being converted to a facility; (3-20-20)T

h. Each resident sleeping room must provide a total window space that equals at least eight percent (8%) of the room's total square footage; (3-20-20)T

i. Window screens must be provided on operable windows; (3-20-20)T

j. Resident sleeping rooms must have walls that run from floor to ceiling; have doors that will limit the passage of smoke; and provide the resident(s) with privacy; (3-20-20)T

k. Ceiling heights in sleeping rooms must be at least seven (7) feet, six (6) inches; and (3-20-20)T

l. Closet space in each resident sleeping room must provide at least four (4) usable square feet per resident. Common closets used by two (2) or more residents must have substantial dividers for separation of each resident's clothing. All closets must be equipped with doors. Free-standing closets are deducted from the square footage of the sleeping room. (3-20-20)T

14. Secure Environment. If the facility accepts and retains residents who have cognitive impairment, the facility must provide an interior environment and exterior yard which is secure and safe. (3-20-20)T

15. Call System. The facility must have a call system available for each resident to call for assistance and still be assured a resident's right to privacy at the facility, including but not limited to, the resident's living quarters, common areas, medical treatment and other services, written and telephonic communications, or in visits with family, friends, advocates, and resident groups. The call system cannot be a substitute for supervision. For facilities licensed prior to January 1, 2006, when the current system is no longer operational or repairable the facility must install a call system as defined in Section 010 of these rules. (3-20-20)T

16. Dietary Standards. Each facility must have a full service kitchen to meet the needs of the residents. Any satellite kitchen must meet all applicable requirements. (3-20-20)T

251. -- 254. (RESERVED)

255. REQUIREMENTS FOR ADDITIONAL PHYSICAL STANDARDS.

- 01. Fire District.** The facility site must be in a lawfully constituted fire district. (3-20-20)T
- 02. Roads.** The facility must be served by an all-weather road and kept open to motor vehicles at all times of the year. (3-20-20)T
- 03. Medical Accessibility.** The facility site must be accessible to authorized providers, or emergency medical services within thirty (30) minutes driving time. (3-20-20)T
- 04. Service Accessibility.** The facility site must be accessible within thirty (30) minutes driving time to necessary social, medical, and rehabilitation services. (3-20-20)T

256. -- 259. (RESERVED)

260. REQUIREMENTS FOR ENVIRONMENTAL SANITATION.

- 01. Water Supply.** The facility must have an adequate water supply that is safe and of a sanitary quality. It must be from: (3-20-20)T
- a.** An approved private, public, or municipal water supply; (3-20-20)T
 - b.** Water from a private supply, must have water samples submitted annually to either a private accredited laboratory or to the Public Health District Laboratory for bacteriological examination. The Department may require more frequent examinations if warranted; and (3-20-20)T
 - c.** There must be a sufficient amount of water under adequate pressure to meet sanitary and fire sprinkler system requirements of the facility at all times. (3-20-20)T
- 02. Sewage Disposal.** All sewage and liquid waste must be discharged, into a municipal sewage system where such a system is available. If a municipal sewage system is not available sewage and liquid waste must be collected, treated, and disposed of in a manner approved by the Department. (3-20-20)T
- 03. Garbage and Refuse Disposal.** All garbage and refuse disposal must be provided by the facility. (3-20-20)T
- a.** The premises and all buildings must be kept free from accumulation of weeds, trash and rubbish. (3-20-20)T
 - b.** Material not directly related to the maintenance and operation of the facility must not be stored on the premises. (3-20-20)T
 - c.** All containers used for storage of garbage and refuse must be constructed of durable, nonabsorbent material and must not leak or absorb liquids. Containers must be provided with tight fitting lids unless stored in a vermin-proof room(s) or enclosures. (3-20-20)T
 - d.** Garbage containers must be maintained in a sanitary manner. Sufficient containers must be afforded to hold all garbage and refuse which accumulates between periods of removal from the facility. Storage areas must be clean and sanitary. (3-20-20)T
- 04. Insect and Rodent Control.** A pest control program must be in effect at all times. This program must effectively prevent insects, rodents and other pests from entrance to, or infestation of the facility. (3-20-20)T
- a.** All toxic chemicals must be properly labeled and stored under lock and key; and (3-20-20)T

b. No toxic chemicals must be stored in resident areas, where drugs are stored, or in any area where food is stored, prepared or served. (3-20-20)T

05. Linen and Laundry Facilities and Services. (3-20-20)T

a. The facility must have available at all times a quantity of linen essential to the proper care and comfort of residents; (3-20-20)T

b. Linen must be of good quality, not thread-bare, torn or badly stained; (3-20-20)T

c. Linens must be handled, processed and stored in a appropriate manner that prevents contamination; (3-20-20)T

d. Adequate facilities must be provided for the proper and sanitary washing and drying of linen and other washable goods laundered in the facility; (3-20-20)T

e. The laundry must be situated in an area separate and apart from where food is stored, prepared or served; (3-20-20)T

f. The laundry must be well lighted and ventilated, adequate in size for the needs of the facility, maintained in a sanitary manner and kept in good repair; (3-20-20)T

g. When the facility sends linen and personal laundry out for laundry services, care must be taken that soiled linen and clothing are properly handled before sending out. Clean linen and clothing received from a laundry service must be stored in a proper manner; and (3-20-20)T

h. Residents' and personnel's personal laundry must be collected, transported, sorted, washed, and dried in a sanitary manner and cannot be washed with general linens (towels, sheets). (3-20-20)T

06. Housekeeping Services and Equipment. Housekeeping, maintenance personnel, and equipment must be provided to maintain the interior and exterior of the facility in a clean, safe, and orderly manner. Prior to occupancy of any sleeping room by a new resident, the room must be thoroughly cleaned including the bed, bedding, and furnishings. (3-20-20)T

261. -- 299. (RESERVED)

300. REQUIREMENTS FOR NURSING SERVICES.

Nursing services must be performed in accordance with IDAPA 23.01.01, "Rules of the Idaho Board of Nursing." The facility must have on staff or under contract the nursing personnel listed in Subsections 300.01 and 300.02 of these rules to provide nursing service requirements. (3-20-20)T

01. Licensed Registered Nurse (RN). A licensed registered nurse (RN) must visit the facility at least once every ninety (90) days or when there is a change in the resident's condition. The licensed registered nurse is responsible for delegation of all nursing functions, according to IDAPA 23.01.01, "Idaho Board of Nursing Rules." (3-20-20)T

02. Licensed Registered Nurse. The facility must assure that a licensed registered nurse is available to address changes in the resident's health or mental status and to review and implement new orders prescribed by the resident's health care provider. (3-20-20)T

301. -- 304. (RESERVED)

305. LICENSED REGISTERED NURSE RESPONSIBILITY REQUIREMENTS.

The licensed registered professional nurse must assess and document, including date and signature, for each resident as described in Subsections 305.01 through 305.08 of these rules. (3-20-20)T

01. Resident Response to Medications and Therapies. Conduct a nursing assessment of each resident's response to medications and prescribed therapies. (3-20-20)T

02. Current Medication Orders and Treatment Orders. Assure the residents' medication and treatment orders are current by verifying: (3-20-20)T

a. That the medication listed on the medication distribution container, including over-the-counter medications as appropriate, are consistent with physician or authorized provider orders: (3-20-20)T

b. That the physician or authorized provider orders related to therapeutic diets, treatments, and medications for each resident are followed; and (3-20-20)T

c. A copy of the actual written, signed and dated orders are present in each resident's care record. (3-20-20)T

03. Resident Health Status. Conduct a nursing assessment of the health status of each resident by identifying symptoms of illness, or any changes in mental or physical health status. (3-20-20)T

04. Recommendations. Make recommendations to the administrator regarding any medication needs, other health needs requiring follow up, or changes needed to the Negotiated Service Agreement. (3-20-20)T

05. Progress of Previous Recommendations. Conduct a review and follow-up of the progress on previous recommendations made to the administrator regarding any medication needs or other health needs that require follow up. Report to the attending physician or authorized provider and state agency if recommendations for care and services are not implemented that have affected or have the potential to affect the health and safety of residents. (3-20-20)T

06. Self-Administered Medication. Conduct an initial nursing assessment on each resident participating in a self-administered medication program as follows: (3-20-20)T

a. Before the resident can self-administer medication to assure resident safety; and (3-20-20)T

b. Evaluate the continued validity of the assessment to assure the resident is still capable to safely continue the self-administered medication for the next ninety (90) days. (3-20-20)T

07. Medication Interactions and Usage. Conduct a review of the resident's use of all prescribed and over-the-counter medications for side effects, interactions, abuse or a combination of these adverse effects. The nurse must notify the resident's physician or authorized provider of any identified concerns. (3-20-20)T

08. Resident and Facility Staff Education. Assess, document and recommend any health care related educational needs, for both the resident and facility staff, as the result of the assessment or at the direction of the resident's health care provider. (3-20-20)T

306. -- 309. (RESERVED)

310. REQUIREMENTS FOR MEDICATION.

01. Medication Distribution System. Each facility must use medi-sets or blister packs for prescription medications. The facility may use multi-dose medication distribution systems that are provided for resident's receiving medications from the Veterans Administration or Railroad benefits. The medication system must be filled by a pharmacist and appropriately labeled in accordance with pharmacy standards and physician or authorized provider instructions. A licensed nurse may fill medi-sets, blister packs, or other Licensing and Survey Agency approved system as provided in Section 39-3326, Idaho Code and Section 157 of these rules. (3-20-20)T

a. All medications will be kept in a locked area such as a locked box or room; (3-20-20)T

b. Poisons, toxic chemicals, and cleaning agents will be stored in separate locked areas apart from

medications, such as a locked medication cart, locked box or room; (3-20-20)T

c. Biologicals and other medications requiring cold storage will be refrigerated. A covered container in a home refrigerator will be considered to be satisfactory storage if the temperature is maintained at thirty-eight to forty-five degrees (38-45°F) Fahrenheit. The temperature will be monitored and documented on a daily basis; (3-20-20)T

d. Assistance with medication must comply with the Board of Nursing requirements; (3-20-20)T

e. Each prescription medication must be given to the resident directly from the medi-set, blister pack or medication container; and (3-20-20)T

f. Each resident must be observed taking the medication. (3-20-20)T

02. Unused Medication. Unused, discontinued, or outdated medications cannot accumulate at the facility for longer than thirty (30) days. The unused medication must be disposed of in a manner that assures it cannot be retrieved. The facility may enter into agreement with a pharmacy to return unused, unopened medications to the pharmacy for proper disposition and credit. See IDAPA 16.03.09, “Medicaid Basic Plan Benefits,” Sections 664 and 665, and IDAPA 27.01.01, “Rules of the Idaho Board of Pharmacy.” A written record of all drug disposals must be maintained in the facility and include: (3-20-20)T

a. A description of the drug, including the amount; (3-20-20)T

b. Name of resident for prescription medication; (3-20-20)T

c. The reason for disposal; (3-20-20)T

d. The method of disposal; (3-20-20)T

e. The date of disposal; and (3-20-20)T

f. Signatures of responsible facility personnel and witness. (3-20-20)T

03. Controlled Substances. The facility must track all controlled substances entering the facility in accordance with Title 37, Chapter 27, Idaho Code, and IDAPA 27.01.01, “Rules of the Idaho Board of Pharmacy,” Section 495, and IDAPA 23.01.01, “Rules of the Idaho Board of Nursing Rules,” Section 490. (3-20-20)T

04. Psychotropic or Behavior Modifying Medication. (3-20-20)T

a. Psychotropic or behavior modifying medication intervention must not be the first resort to address behaviors. The facility must attempt non-drug interventions to assist and redirect the resident’s behavior. (3-20-20)T

b. Psychotropic or behavior modifying medications must be prescribed by a physician or authorized provider. (3-20-20)T

c. The facility will monitor the resident to determine continued need for the medication based on the resident’s demonstrated behaviors. (3-20-20)T

d. The facility will monitor the resident for any side effects that could impact the resident’s health and safety. (3-20-20)T

e. The use of psychotropic or behavior modifying medications must be reviewed by the physician or authorized provider at least every six (6) months. The facility must provide behavior updates to the physician or authorized provider to help facilitate an informed decision on the continuing use of the psychotropic or behavior modifying medication. (3-20-20)T

311. -- 319. (RESERVED)

320. REQUIREMENTS FOR THE NEGOTIATED SERVICE AGREEMENT.

The Negotiated Service Agreement must be completed and signed no later than fourteen (14) calendar days from the date of admission. A written interim plan must be developed and used while the Negotiated Service Agreement is being completed. (3-20-20)T

01. Use of Negotiated Service Agreement. Each resident, regardless of the source of funding, must enter into a Negotiated Service Agreement. The Negotiated Service Agreement provides for coordination of services and instruction to the facility staff. Upon completion, the agreement must clearly identify the resident; describe services to be provided, the frequency of such services, and how such services are to be delivered. The Negotiated Service Agreement must be implemented. (3-20-20)T

02. Key Elements of the Negotiated Service Agreement. A resident's agreement must be based on the following: (3-20-20)T

- a. Resident's uniform assessment or assessment based on the uniform assessment criteria; (3-20-20)T
- b. Level of support in activities of daily living; (3-20-20)T
- c. Health services; (3-20-20)T
- d. Level of assistance for medications; (3-20-20)T
- e. Frequency of needed services; (3-20-20)T
- f. Scope of needed assistance; (3-20-20)T
- g. Habilitation needs, to specify the program being used if applicable; (3-20-20)T
- h. Training needs, to specify the program being used if applicable; (3-20-20)T
- i. Identification of specific behavioral symptoms, situations that trigger the behavior symptoms and the specific interventions for each behavioral symptom; (3-20-20)T
- j. Physician or authorized provider's signed and dated orders; (3-20-20)T
- k. Admission records; (3-20-20)T
- l. Community support systems; (3-20-20)T
- m. Resident's desires; (3-20-20)T
- n. Transfer plans; (3-20-20)T
- o. Discharge plans; (3-20-20)T
- p. Identification of individual services being provided by other providers and who is providing the service; and (3-20-20)T
- q. Other identified needs. (3-20-20)T

03. Signature, Date and Approval of Agreement. The administrator and resident, legal guardian, or conservator, must sign and date the service agreement upon its completion. (3-20-20)T

04. Review Date. The Negotiated Service Agreement must include the next scheduled date of review. (3-20-20)T

05. Development of the Service Agreement. The resident, and other relevant persons as identified by the resident, must be included in the development of the service agreement. Licensed and professional staff will be involved in the development of the service agreement as applicable. (3-20-20)T

06. Provision of Copy of Agreement. Signed copies of the agreement must be given to the resident, legal guardian, or conservator, and a copy placed in the resident's record file, no later than fourteen (14) calendar days from admission. (3-20-20)T

07. Resident Choice. A resident must 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. The resident's choice must not violate the provisions of Section 39-3307(1), Idaho Code. (3-20-20)T

08. Periodic Review. The Negotiated Service Agreement must be reviewed when there is a change in a diagnosis for the resident or other change in condition requiring different, additional, or replacement services or at least every twelve (12) months. (3-20-20)T

321. -- 329. (RESERVED)

330. REQUIREMENTS FOR RECORDS.

The facility administrator is responsible for assuring that record policies and procedures are implemented in the facility. (3-20-20)T

01. Individual Resident Care Record. An individual resident care record must be maintained for each admission with all entries kept current, dated and signed. All paper records must be recorded legibly in ink. (3-20-20)T

02. Resident Record Retention. Records must be preserved in a safe location protected from fire, theft, and water damage for a period of not less than three (3) years. (3-20-20)T

03. Resident Record Confidentiality. The facility must safeguard resident information against loss, destruction, and unauthorized use. (3-20-20)T

04. Staff Access. Resident care records of current residents must be available to direct care staff at all times. (3-20-20)T

05. Electronic Records. The facility must be able to print records maintained electronically in the facility. (3-20-20)T

06. Accessibility of Records to Survey Staff. Survey staff must have complete and immediate access to resident and facility records. (3-20-20)T

331. -- 334. (RESERVED)

335. REQUIREMENTS FOR INFECTION CONTROL.

The administrator is responsible for assuring that infection control policy and procedure are implemented. (3-20-20)T

01. Implementation of Policies. Staff must implement facility policy and procedure. (3-20-20)T

02. Staff With Infectious Disease. Staff with an infectious disease must not work until the infectious stage is corrected or must be reassigned to a work area where contact with others is not expected and likelihood of transmission of infection is absent. (3-20-20)T

03. Standard Precautions. Standard precautions must be used in the care of residents to prevent transmission of infectious disease according to the Centers for Disease Control and Prevention (CDC) guidelines. These guidelines may be accessed on the CDC website at <http://www.cdc.gov/hai/>. (3-20-20)T

04. Reporting of Individual With Infectious Disease. The name of any resident or facility personnel

with a reportable disease listed in IDAPA 16.02.10, “Idaho Reportable Diseases,” will be reported immediately to the local Health District authority and appropriate infection control procedures must be immediately implemented as directed by that local health authority. (3-20-20)T

336. -- 339. (RESERVED)

340. REQUIREMENTS FOR MENTAL HEALTH CONTRACT BEDS.

A facility may enter into an agreement with the Department to provide short-term care to certain residents designated by the mental health program of the Department. These residents are temporarily distressed and unable to fully meet their basic needs. They require strong support, supervision, and while nonviolent nor a danger to self or others, could regress without these supports. (3-20-20)T

01. License and Personnel. The facility must be on a full license and must be staffed with at least one (1) staff member up and awake at night to assure the safety of all residents. (3-20-20)T

02. Written Contract. The facility must have a written contract with the Department outlining the responsibilities of both parties and lists the names and telephone numbers of individuals who may be contacted if questions arise regarding the residents' care. (3-20-20)T

03. Resident Assessment. The facility must have on file the results of a Department assessment which clearly assures that the resident is not a danger to them self or others. (3-20-20)T

04. Personnel Orientation and Training. Personnel providing direct resident care, including contract staff must have documented evidence on file at the facility of appropriate orientation and training in providing care for residents with mental illness. (3-20-20)T

341. -- 344. (RESERVED)

345. REQUIREMENTS FOR HOURLY ADULT CARE.

If the facility provides hourly adult care, the administrator must assure that the facility’s policies and procedures are implemented. (3-20-20)T

01. Medication and Treatment Orders. All medications and treatments must be ordered by a physician or authorized provider. (3-20-20)T

02. Assistance With Medication. Assistance with medication by unlicensed assistive personnel in the facility must follow IDAPA 23.01.01, “Rules of the Idaho Board of Nursing.” (3-20-20)T

a. Each hourly adult care individual is responsible for bringing appropriately labeled medications for the stay; and (3-20-20)T

b. The facility is responsible for the safeguarding hourly adult care individual's medications while at the facility. (3-20-20)T

03. Restrictions for Hourly Adult Care. The facility must assure that the restrictions for hourly adult care in Subsections 345.03.a. through 345.03.f. of these rules are followed. (3-20-20)T

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; staffing must be based upon the needs of all residents in the facility to include full-time residents and hourly adult care individuals; (3-20-20)T

b. Provision of time appropriate accommodations will be made available for the individual, to include, napping furniture for day time hours, 6 a.m. through 10 p.m., such as lounge chairs, recliners, and couches; (3-20-20)T

c. The facility will have the ability to space napping furniture at least three (3) feet apart; (3-20-20)T

d. Beds and bedrooms will be available for the sleeping hours when needed by the hourly adult care individual. This bed will not be counted as a licensed bed if the individual sleeps over; (3-20-20)T

e. Beds, and bedrooms of non-hourly residents will not be utilized by hourly adult care individuals; and (3-20-20)T

f. No individual will be admitted to the hourly adult care program that requires skilled nursing or for whom the facility cannot adequately provide services and supervision. (3-20-20)T

346. -- 349. (RESERVED)

350. REQUIREMENTS FOR HANDLING ACCIDENTS, INCIDENTS, OR COMPLAINTS.

The administrator must assure that the facilities policies and procedures are implemented. (3-20-20)T

01. Notification of Accidents, Incidents, and Complaints. The administrator or person designated by the administrator must be notified of all accidents, incidents, reportable, or complaints according to the facility's policies and procedures. (3-20-20)T

02. Administrator or Designee Investigation Within Thirty Days. The administrator or designee must complete an investigation and written report of the finding within thirty (30) calendar days for each accident, incident, complaint, or allegation of abuse, neglect or exploitation. (3-20-20)T

03. Resident Protection. Any resident involved must be protected during the course of the investigation. (3-20-20)T

04. Written Response to Complaint Within Thirty Days. The person making the complaint must receive a written response from the facility of the action taken to resolve the matter or reason why no action was taken within thirty (30) days of the complaint. (3-20-20)T

05. Facility Notification to Appropriate Agencies. The facility must notify the Idaho Commission on Aging or its Area Agencies on Aging, and law enforcement in accordance with Section 39-5303, Idaho Code. (3-20-20)T

06. Corrective Action for Known Allegations. When an allegation of abuse, neglect or exploitation is known by the facility, corrective action must be immediately taken and monitored to assure the problem does not recur. (3-20-20)T

07. Notification of Licensing and Survey Agency Within Twenty-Four Hours. When a reportable incident occurs, the administrator or designee must notify the Licensing and Survey Agency within twenty-four (24) hours of the incident. (3-20-20)T

08. Identify and Monitor Patterns. The administrator or person designated by the administrator must identify and monitor patterns of accidents, incidents, or complaints to assure the facility's policies and procedures protect the safety of the residents. (3-20-20)T

351. -- 399. (RESERVED)

400. REQUIREMENTS FOR FIRE AND LIFE SAFETY STANDARDS.

A facility's buildings must meet all requirements of the local and state codes that are applicable to residential care or assisted living facilities for fire and life safety standards. (3-20-20)T

401. FIRE AND LIFE SAFETY STANDARDS FOR BUILDINGS HOUSING THREE THROUGH SIXTEEN RESIDENTS.

A newly constructed facility or a building converted to a residential care or assisted living facility after January 1, 2006, housing three (3) through sixteen (16) residents on the first story only must comply with one (1) of the following: (3-20-20)T

01. NFPA, Standard #101. NFPA, Standard #101, Life Safety Code, 2000 Edition, Chapter 32, New Residential Board and Care Occupancies, Small Facilities, Impractical Evacuation Capability. Exceptions: (3-20-20)T

a. The minimum water supply for a residential sprinkler system can be equal to the water demand rate times ten (10) minutes, and (3-20-20)T

b. Section 32.7, Operational Features do not apply. (3-20-20)T

02. NFPA, Standard 101A. NFPA Standard 101A, 2001 Edition, Fire Safety Evaluation System for Board and Care Occupancies, Chapter 7, Impractical Evacuation Capability. (3-20-20)T

402. FIRE AND LIFE SAFETY STANDARDS FOR BUILDINGS HOUSING SEVENTEEN OR MORE RESIDENTS AND MULTI-STORY BUILDINGS.

A newly constructed facility or a building converted to a residential care or assisted living facility after January 1, 2006, housing seventeen (17) residents or more, or any building housing residents on stories other than the first story must comply with requirements of NFPA, Standard #101, Life Safety Code, 2000 Edition, Chapter 18, New Health Care/Limited Care Occupancies. (3-20-20)T

403. FIRE AND LIFE SAFETY STANDARDS FOR EXISTING BUILDINGS LICENSED FOR THREE THROUGH SIXTEEN RESIDENTS PRIOR TO JANUARY 1, 2006.

01. Existing Buildings Housing Three Through Nine Residents. Existing facilities licensed prior to January 1, 2006, and housing three (3) through nine (9) residents on the first story only, can continue to comply with the requirements of the NFPA, Standard #101, Life Safety Code, 1988 Edition, Chapter 21, Residential Board and Care Occupancies, Small Facilities, Prompt Evacuation Capability. With the exception, of the requirement for a door closure on the sleeping room door, which will not apply. (3-20-20)T

02. Existing Buildings Housing Ten Through Sixteen Residents for Facilities. Existing facilities licensed prior to January 1, 2006, and housing ten (10) through sixteen (16) residents on the first story only, can continue to comply with the requirements of the NFPA, Standard #101, Life Safety Code, 1988 Edition, Chapter 21, Residential Board and Care Occupancies, Small Facilities, Impractical Evacuation Capability. With the exception, of the requirement for a door closure on the sleeping room door, which will not apply. (3-20-20)T

03. Any Change in Ownership of Facility. When there is any change in ownership, existing buildings housing three (3) through sixteen (16) beds will be required to comply with NFPA Standard #101, Life Safety Code, 2000 Edition, Chapter 33, Existing Residential Board and Care Occupancies, Impractical Evacuation Capability. (3-20-20)T

404. FIRE AND LIFE SAFETY STANDARDS FOR EXISTING BUILDINGS LICENSED FOR SEVENTEEN OR MORE RESIDENTS AND MULTI-STORY BUILDINGS PRIOR TO JANUARY 1, 2006.

01. Existing Buildings Housing Seventeen or More Residents and Multi-Story Buildings. Existing facilities with buildings housing seventeen (17) or more residents or any building housing residents on stories other than the first story licensed prior to January 1, 2006, can continue to comply with NFPA, Standard #101, Life Safety Code, 1988 Edition, Chapter 13, Existing Health Care/Limited Care Occupancies. (3-20-20)T

02. Any Change in Ownership of Facility. When there is any change in ownership, existing buildings housing seventeen (17) residents or more or any building housing residents on stories other than the first story will be required to comply with NFPA, Standard #101, Life Safety Code, 2000 Edition, Chapter 19, Existing Health Care/Limited Care Occupancies. (3-20-20)T

405. ADDITIONAL FIRE AND LIFE SAFETY STANDARDS FOR BUILDINGS AND FACILITIES.

01. Electrical Installations and Equipment. Electrical installations and equipment must comply with applicable local or state electrical requirements to include the following: (3-20-20)T

- a. Equipment designed to be grounded must be maintained in a grounded condition; and (3-20-20)T
- b. Extension cords and multiple electrical adapters are prohibited, with the exception of approved grounded multiple electrical adapters with a built-in breaker. (3-20-20)T
- 02. Fire Alarm Smoke Detection System.** An electrically-supervised, manually-operated fire alarm smoke detection system must be installed throughout each building housing residents. The system must have a control panel, manual pull stations, smoke detectors, sounding devices, power backup and any sprinkler flow or alarm devices. The system, including devices, their location, and installation must be approved by the Licensing and Survey Agency prior to installation. (3-20-20)T
- 03. Medical Gases.** Handling, use and storage of medical gas must be according to NFPA Standard 99, Standard for Health Care Facilities, 2003 Edition. (3-20-20)T
- 04. Solid Fuel Heating Devices.** Solid fuel heating devices must be installed according to standards in NFPA Standard #211, Standard for Chimneys, Fireplaces, Vents, and Solid Burning Appliances, 2000 Edition. (3-20-20)T
- 05. Structure, Maintenance, Equipment to Assure Safety.** The facility must be structurally sound, maintained, and equipped to assure the safety of residents, personnel, and the public including: (3-20-20)T
- a. Furnishings, decorations, or other objects cannot be placed so as to obstruct exit access or exits; (3-20-20)T
- b. All ramps, open porches, sidewalks, and open stairs must be maintained free of snow and ice buildup; (3-20-20)T
- c. Wood stoves must have railings or other protection designed to prevent residents from coming into contact with the stove surfaces; (3-20-20)T
- d. All fireplaces must have heat tempered glass fireplace enclosures or its equivalent; (3-20-20)T
- e. Boilers, hot water heaters, and unfired pressure vessels must be equipped with automatic pressure relief valves; (3-20-20)T
- f. Portable heating devices of any kind are prohibited; Portable electric space heaters and moveable fuel-fired heaters are considered portable comfort heating devices. Exceptions: Heated mattress pads, electric blankets and heating pads when ordered by an authorized provider, physician; (3-20-20)T
- g. Flammable and highly combustible materials deemed hazardous by the Licensing and Survey Agency cannot be stored in the facility unless the building is protected throughout by an approved automatic fire extinguishing system. (3-20-20)T
- 06. Natural or Man-Made Hazards.** When natural or man-made hazards are present on the facility property or border the facility property, suitable fences, guards, railing, or a combination must be installed to provide protection for the residents. (3-20-20)T
- 07. Exit Door Locks.** Any locks on exit doors must be single action and easily operable from the inside without the use of keys or any special knowledge. Special locking arrangements as permitted in Chapter 7 of the NFPA, Standard 101, Life Safety Code, 2000 Edition, can be used. (3-20-20)T
- 08. Portable Fire Extinguishers.** Portable fire extinguishers must be installed throughout each building used as a facility. Each extinguisher must be installed according to the standards in NFPA Standard #10, Standard for Portable Fire Extinguishers, 2002 Edition. (3-20-20)T
- 09. Resident Placement.** Any resident requiring assistance in ambulation must reside on the first story, unless the facility complies with Sections 401 through 404 of these rules. (3-20-20)T

10. Telephone. The facility must have a telephone on the premises available for staff use in the event of an emergency. Emergency telephone numbers must be posted near the telephone. (3-20-20)T

11. Weeds and Trash. The premises and all buildings used as a facility must be maintained free from the accumulation of weeds and trash. (3-20-20)T

406. -- 409. (RESERVED)

410. REQUIREMENTS FOR EMERGENCY PREPAREDNESS.

Each facility must implement its emergency preparedness plan in the event of fire, explosion, flood, earthquake, high wind, or other emergency. (3-20-20)T

01. Written Agreement for Relocation. The facility must have a written agreement developed between the facility and the location to which residents would be relocated in the event the building cannot be reoccupied. (3-20-20)T

02. Fire Drills. All personnel and residents must participate in a minimum of one (1) fire drill per shift per quarter. Fire drills must be unannounced. (3-20-20)T

03. Report of Fire. A separate report on each fire incident occurring within the facility must be submitted to the Licensing and Survey Agency within thirty (30) days of the occurrence. The reporting form, "Facility Fire Incident Report," issued by the Licensing and Survey Agency is used to secure specific data concerning date, origin, extent of damage, method of extinguishment, and injuries, if any. A fire incident is considered any activation of the building's fire alarm system other than a false alarm, during testing of the fire alarm system, or during a fire drill. (3-20-20)T

411. -- 414. (RESERVED)

415. MAINTENANCE OF EQUIPMENT AND SYSTEMS FOR FIRE AND LIFE SAFETY.

01. Maintenance of Equipment and Systems. The facility must assure that all equipment and systems are properly maintained to assure the safety of the residents. (3-20-20)T

02. Fuel-Fired Heating. Fuel-fired heating devices and systems, including wood stoves, must be inspected/serviced/cleaned at least annually by a person professionally engaged in the business of servicing these devices or systems. (3-20-20)T

03. Portable Fire Extinguisher Service and Testing. Portable fire extinguishers must be serviced in accordance with NFPA Standard #10, Standard for Portable Fire Extinguishers, 2002 Edition. In addition, portable fire extinguishers must be examined at least monthly by a designated person in the facility to determine that: (3-20-20)T

a. Each extinguisher is in its designated location; (3-20-20)T

b. Each extinguisher seal or tamper indicator is not broken; (3-20-20)T

c. Each extinguisher has not been physically damaged; (3-20-20)T

d. Each extinguisher gauge, if provided, shows a charged condition; and (3-20-20)T

e. The inspection tag attached to the extinguisher shall show at least the initials of the person making the monthly examination and the date of the examination. (3-20-20)T

04. Fire Alarm Smoke Detection System Service and Testing. (3-20-20)T

a. The facility's fire alarm smoke detection system must be inspected, tested, and serviced at least

annually by a person or business professionally engaged in the servicing of such systems; and (3-20-20)T

b. The fire alarm smoke detection system must be inspected and tested at least monthly by a designated facility employee. (3-20-20)T

05. Automatic Fire Extinguishing System Service and Testing. All automatic fire extinguishing systems must be inspected, tested, and serviced at least annually by a sprinkler system contractor licensed by the Idaho State Fire Marshal's office. (3-20-20)T

06. Fire Watch. The facility must institute a fire watch during any time the fire alarm, smoke detection, or sprinkler system is inoperable for greater than four (4) hours. (3-20-20)T

416. -- 419. (RESERVED)

420. 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 International 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 International Building Code requirements can be considered for use as residential care or assisted living facilities. (3-20-20)T

421. -- 429. (RESERVED)

430. REQUIREMENTS FOR FURNISHINGS, EQUIPMENT, SUPPLIES, AND BASIC SERVICES. Each facility must provide to the resident: (3-20-20)T

01. Common Shared Furnishings. Appropriately designed and constructed furnishings to meet the needs of each resident, including reading lamps, tables, and comfortable chairs or sofas. All items must be in good repair, clean, safe, and provided at no additional cost to the resident. (3-20-20)T

02. Resident Sleeping Room Furnishings. Comfortable furnishings and individual storage, such as a dresser, for personal items for each resident in each sleeping room. All items must be in good repair, clean, and safe. (3-20-20)T

03. Resident Bed. Each resident must be provided his own bed, which will be at least thirty-six (36) inches wide, substantially constructed, clean, and in good repair. Roll-away beds, cots, futons, folding beds, or double bunks are prohibited. Bed springs must be in good repair, clean, and comfortable. Bed mattresses must be standard for the bed, clean, and odor free. A pillow must be provided. (3-20-20)T

04. Resident Telephone Privacy. The facility must have at least one (1) telephone that is accessible to all residents, and provide local calls at no additional cost. The telephone must be placed in such a manner as to provide the resident privacy while using the telephone. (3-20-20)T

05. Basic Services. The following are basic services to be provided to the resident by the facility within the basic services rate: (3-20-20)T

- a.** Rent; (3-20-20)T
- b.** Utilities; (3-20-20)T
- c.** Food; (3-20-20)T
- d.** Activities of daily living services; (3-20-20)T
- e.** Supervision; (3-20-20)T
- f.** First aid; (3-20-20)T

- g.** Assistance with and monitoring of medications; (3-20-20)T
- h.** Laundering of linens owned by the facility; (3-20-20)T
- i.** Emergency interventions and coordination of outside services; (3-20-20)T
- j.** Routine housekeeping and maintenance of common areas; and (3-20-20)T
- k.** Access to basic television in common areas. (3-20-20)T

06. Basic Supplies. The following are to be supplied by the facility at no additional cost to the resident: linens, towels, wash cloths, liquid hand soap, non-sterile exam gloves, toilet paper, and first aid supplies, unless the resident chooses to provide his own. (3-20-20)T

07. Personal Supplies. Soap, shampoo, hair brush, comb, electric razor or other means of shaving, toothbrush, toothpaste, sanitary napkins, and incontinent supplies must be provided by the facility unless the resident chooses to provide his or her own. The facility may charge the resident for personal supplies the facility provides and must itemize each item being charged to the resident. (3-20-20)T

08. Resident Supplies and Furnishings. If a resident chooses to provide his or her own supplies or furnishings, the facility must assure that the resident's supplies or furnishings meet the minimum standards as identified in Subsections 430.01 through 430.06 of this rule. (3-20-20)T

431. -- 449. (RESERVED)

450. REQUIREMENTS FOR FOOD AND NUTRITIONAL CARE SERVICES.

The facility must meet the standards in the Idaho Food Code, IDAPA 16.02.19, "Food Safety and Sanitation Standards for Food Establishments," as incorporated in Section 004 of these rules. The facility must also implement the operational policies as described in Section 158 of these rules. (3-20-20)T

451. MENU AND DIET PLANNING.

The facility must provide each resident with at least the minimum food and nutritional needs in accordance with the Recommended Dietary Allowances established by the Food and Nutrition Board of the National Academy of Sciences. These recommendations are found in the Idaho Diet Manual incorporated by reference in Section 004 of these rules. The menu must be adjusted for age, sex, and activity as approved by a registered dietitian. (3-20-20)T

01. Menu. The facility must have a menu planned or approved, signed and dated by a registered dietitian prior to being served to the resident. The planned menu must meet nutritional standards. (3-20-20)T

a. Menus will provide a sufficient variety of foods in adequate amounts at each meal. (3-20-20)T

b. Food selections must include foods that are served in the community, in season, as well as residents' preferences, food habits, and physical abilities. (3-20-20)T

c. The menus must be prepared in advance and available to residents on request. (3-20-20)T

d. The facility must serve the planned menu and if substitutions are made the menu must be corrected to reflect the substitutions. (3-20-20)T

02. Snacks. Snacks must be available and offered to residents between meals and at bedtime. (3-20-20)T

03. Therapeutic Diets. The facility must have a therapeutic diet menu planned or approved, signed and dated by a registered dietitian prior to being served to a resident. (3-20-20)T

a. The therapeutic diet planned menu, to the extent it is possible, must meet nutritional standards;

- (3-20-20)T
- b. The therapeutic diet menu must be planned as close to a regular diet as possible; and (3-20-20)T
 - c. The facility must have for each resident on a therapeutic diet, an order from a physician or authorized provider. (3-20-20)T
- 04. Facilities Licensed for Sixteen Beds or Less.** In facilities licensed for sixteen (16) beds or less, menus must be planned in writing at least one week in advance. (3-20-20)T
- 05. Facilities Licensed for Seventeen Beds or More.** Facilities licensed for seventeen (17) beds or more must:
- a. Develop and implement a cycle menu which covers a minimum of two (2) seasons and is four (4) to five (5) weeks in length; (3-20-20)T
 - b. Follow standardized recipes; and (3-20-20)T
 - c. Have available in the kitchen a current diet manual approved by the Licensing and Survey Agency. (3-20-20)T
- 452. -- 454. (RESERVED)**
- 455. FOOD SUPPLY.**
The facility must maintain a seven (7) day supply of nonperishable foods and a two (2) day supply of perishable foods. The facility's kitchen must have the types and amounts of food to be served readily available to meet the planned menu. (3-20-20)T
- 456. -- 459. (RESERVED)**
- 460. FOOD PREPARATION AND SERVICE.**
- 01. Food Preparation.** Foods must be prepared by methods that conserve nutritional value, flavor, and appearance. (3-20-20)T
 - 02. Frequency of Meals.** (3-20-20)T
 - a. The facility must provide residents at least three (3) meals daily, at regular times comparable to normal mealtimes in the community; (3-20-20)T
 - b. There must not be more than fourteen (14) hours between a substantial evening meal and breakfast; (3-20-20)T
 - c. The facility must assure that residents who are not in the facility for the noon meal are offered a substantial evening meal; and (3-20-20)T
 - d. The facility must offer evening snacks. (3-20-20)T
 - 03. Food Preparation Area.** (3-20-20)T
 - a. No live animals or fowl will be kept or maintained in the food service preparation or service area. (3-20-20)T
 - b. Neither food preparation nor food service areas will be used as living quarters for staff. (3-20-20)T
 - 04. Disposable Items.** The facility will not use single use items except in unusual circumstances for a short period of time or for outdoor outings. (3-20-20)T

461. -- 499. (RESERVED)

500. REQUIREMENTS FOR NOTICE OF MONTHLY FEE INCREASE.

The resident or resident's legal guardian, or conservator must be notified in writing of an increase in the facility monthly rates at least thirty (30) calendar days prior to such a raise taking effect. (3-20-20)T

501. -- 504. (RESERVED)

505. REQUIREMENTS FOR HANDLING OF RESIDENT FUNDS.

01. Separate Trust Account Established. If a facility agrees to handle resident funds, a separate trust account must be established for each resident and an accounting record maintained. There can be no commingling of resident funds with facility funds. Borrowing between resident accounts is prohibited. (3-20-20)T

a. The facility cannot require a resident to purchase goods or services from the facility for other than those designated in the admission policies, or the admission agreement, or both; (3-20-20)T

b. Each transaction must be documented at the time of the transaction, with facility personnel and resident signatures for the transaction; and (3-20-20)T

c. The facility must assure that the resident has access to his personal funds during reasonable hours. (3-20-20)T

02. Resident's Funds Upon Permanent Discharge. When the facility manages the resident's funds and the resident permanently leaves the facility, the facility can only retain room and board funds prorated to the last day of the thirty (30) day notice, except in situations described in Subsections 220.07.c.i. and 220.07.c.ii. of these rules. All remaining funds are the property of the resident. In the event of the resident's death, the resident's facility's fees cease accruing fifteen (15) days after death. (3-20-20)T

506. -- 509. (RESERVED)

510. REQUIREMENTS TO PROTECT RESIDENTS FROM ABUSE.

The administrator must assure that policies and procedures are implemented to assure that all residents are free from abuse. (3-20-20)T

511. -- 514. (RESERVED)

515. REQUIREMENTS TO PROTECT RESIDENTS FROM EXPLOITATION.

The administrator must assure that policies and procedures are implemented to assure that all residents are free from exploitation. (3-20-20)T

516. -- 519. (RESERVED)

520. REQUIREMENTS TO PROTECT RESIDENTS FROM INADEQUATE CARE.

The administrator must assure that policies and procedures are implemented to assure that all residents are free from inadequate care. (3-20-20)T

521. -- 524. (RESERVED)

525. REQUIREMENTS TO PROTECT RESIDENTS FROM NEGLECT.

The administrator must assure that policies and procedures are implemented to assure that all residents are free from neglect. (3-20-20)T

526. -- 549. (RESERVED)

550. REQUIREMENTS FOR RESIDENTS' RIGHTS.

The administrator must assure that policies and procedures are implemented to assure that residents' rights are observed and protected. (3-20-20)T

01. Resident Records. The facility must maintain and keep current a record of the specific information on each resident. Upon request a resident must be provided access to information in his record. (3-20-20)T

a. A copy of the resident's current Negotiated Service Agreement and physician or authorized provider's order; (3-20-20)T

b. Written acknowledgement that the resident has received copies of the rights; (3-20-20)T

c. A record of all personal property and funds that the resident has entrusted to the facility, including copies of receipts for the property; (3-20-20)T

d. Information about any specific health problems of the resident that may be useful in a medical emergency; (3-20-20)T

e. The name, address, and telephone number of an individual identified by the resident who should be contacted in the event of an emergency or death of the resident; (3-20-20)T

f. Any other health-related, emergency, or pertinent information which the resident requests the facility to keep on record; and (3-20-20)T

g. The current admission agreement between the resident and the facility. (3-20-20)T

02. Privacy. Each resident must be assured the right to privacy with regard to accommodations, medical and other treatment, written and telephone communications, visits, and meetings of family and resident groups. (3-20-20)T

03. Humane Care and Environment. (3-20-20)T

a. Each resident has the right to humane care and a humane environment, including the following: (3-20-20)T

i. The right to a diet that is consistent with any religious or health-related restrictions; (3-20-20)T

ii. The right to refuse a restricted diet; and (3-20-20)T

iii. The right to a safe and sanitary living environment. (3-20-20)T

b. Each resident has the right to be treated with dignity and respect, including: (3-20-20)T

i. The right to be treated in a courteous manner by staff; (3-20-20)T

ii. The right to receive a response from the facility to any request of the resident within a reasonable time; and (3-20-20)T

iii. The right to be communicated with, orally or in writing, in a language they understand. If the resident's knowledge of English or the predominant language of the facility is inadequate for comprehension, a means to communicate in a language familiar to the resident must be available and implemented. There are many possible methods such as bilingual staff, electronic communication devices, family and friends to translate. The method implemented must assure the resident's right of confidentiality, if the resident desires. (3-20-20)T

04. Personal Possessions. Each resident has the right to: (3-20-20)T

a. Wear his own clothing; (3-20-20)T

- b.** Determine his own dress or hair style; (3-20-20)T
- c.** Retain and use his own personal property in his own living area so as to maintain individuality and personal dignity; and (3-20-20)T
- d.** Be provided a separate storage area in his own living area and at least one (1) locked cabinet or drawer for keeping personal property. (3-20-20)T
- 05. Personal Funds.** Residents whose board and care is paid for by public assistance will retain, for their personal use, the difference between their total income and the applicable board and care allowance established by Department rules. (3-20-20)T

 - a.** A facility must not require a resident to deposit his personal funds with the facility; and (3-20-20)T
 - b.** Once the facility accepts the written authorization of the resident, it must hold, safeguard, and account for such personal funds under a system established and maintained by the facility in accordance with this paragraph. (3-20-20)T
- 06. Management of Personal Funds.** Upon a facility's acceptance of written authorization of a resident, the facility must manage and account for the personal funds of the resident deposited with the facility as follows: (3-20-20)T

 - a.** The facility must deposit any amount of a resident's personal funds in excess of five (5) times the personal needs allowance in an interest bearing account (or accounts) that is separate from any of the facility's operating accounts and credit all interest earned on such separate account to such account. The facility must maintain any other personal funds in a non-interest bearing account or petty cash fund; (3-20-20)T
 - b.** The facility must assure a full and complete separate 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 a legal representative of the resident) reasonable access to such record; and (3-20-20)T
 - c.** Upon the death of a resident with such an account, the facility must promptly convey the resident's personal funds (and a final accounting of such funds) to the individual administering the resident's estate. For clients of the Department, the remaining balance of funds must be refunded to the Department. (3-20-20)T
- 07. Access and Visitation Rights.** Each facility must permit: (3-20-20)T

 - a.** Immediate access to any resident by any representative of the Department, by the state ombudsman for the elderly or his designees, or by the resident's individual physician; (3-20-20)T
 - 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; (3-20-20)T
 - 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 (3-20-20)T
 - 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. (3-20-20)T
- 08. Employment.** Each resident must 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 must be consistent with state and federal law. (3-20-20)T
- 09. Confidentiality.** Each resident must have the right to confidentiality of personal and clinical records. (3-20-20)T

10. Freedom from Abuse, Neglect, and Restraints. Each resident must have the right to be free from physical, mental or sexual abuse, neglect, corporal punishment, involuntary seclusion, and any physical or chemical restraints. (3-20-20)T

11. Freedom of Religion. Each resident must have the right to practice the religion of his choice or to abstain from religious practice. Residents must also be free from the imposition of the religious practices of others. (3-20-20)T

12. Control and Receipt of Health-Related Services. Each resident must have the right to control his receipt of health related services, including: (3-20-20)T

a. The right to retain the services of his own personal physician, dentist, and other health care professionals; (3-20-20)T

b. The right to select the pharmacy or pharmacist of his choice so long as it meets the statute and rules governing residential care or assisted living and the policies and procedures of the residential care or assisted living facility; (3-20-20)T

c. The right to confidentiality and privacy concerning his medical or dental condition and treatment; and (3-20-20)T

d. The right to refuse medical services based on informed decision making. Refusal of treatment does not relieve the facility of its obligations under this chapter. (3-20-20)T

i. The facility must document the resident and his legal guardian have been informed of the consequences of the refusal; and (3-20-20)T

ii. The facility must document that the resident's physician or authorized provider has been notified of the resident's refusal. (3-20-20)T

13. Grievances. Each resident must have the right to voice grievances with respect to treatment or care that is (or fails to be) furnished, without discrimination or reprisal for voicing the grievances 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. (3-20-20)T

14. Participation in Resident and Family Groups. Each resident must 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. (3-20-20)T

15. Participation in Other Activities. Each resident must have the right to participate in social, religious, and community activities that do not interfere with the rights of other residents in the facility. (3-20-20)T

16. Examination of Survey Results. Each resident must have the right to examine, upon reasonable request, the results of the most recent survey of the facility conducted by the Licensing and Certification Unit with respect to the facility and any plan of correction in effect with respect to the facility. (3-20-20)T

17. Access by Advocates and Representatives. A residential care or assisted living facility must permit advocates and representatives of community legal services programs, whose purposes include rendering assistance without charge to residents, to have access to the facility at reasonable times in order to: (3-20-20)T

a. Visit, talk with, and make personal, social, and legal services available to all residents; (3-20-20)T

b. Inform residents of their rights and entitlements, and their corresponding obligations, under state, federal and local laws by distribution of educational materials and discussion in groups and with individuals; (3-20-20)T

c. Assist residents in asserting their legal rights regarding claims for public assistance, medical assistance and social security benefits, and in all other matters in which residents are aggrieved, that may be provided individually, or in a group basis, and may include organizational activity, counseling and litigation; (3-20-20)T

d. Engage in all other methods of assisting, advising, and representing residents so as to extend to them the full enjoyment of their rights; (3-20-20)T

e. Communicate privately and without restrictions with any resident who consents to the communication; and (3-20-20)T

f. Observe all common areas of the facility. (3-20-20)T

18. Access by Protection and Advocacy System. A residential care or assisted living facility must permit advocates and representatives of the protection and advocacy system designated by the governor under 42 U.S.C. Section 15043 and 42 U.S.C. Section 10801 et seq., access to residents, facilities, and records in accordance with applicable federal statutes and regulations. (3-20-20)T

19. Access by the Long Term Care Ombudsman. A residential care or assisted living facility must permit advocates and representatives of the long term care ombudsman program pursuant to 42 U.S.C. Section 3058, Section 67 5009, Idaho Code, and IDAPA 15.01.03, "Rules Governing the Ombudsman for the Elderly Program," access to residents, facilities and records in accordance with applicable federal and state law, rules, and regulations. (3-20-20)T

20. Transfer or Discharge. Each resident must 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. In non-emergency conditions, the resident must be given at least thirty (30) calendar days notice of discharge. A resident has the right to appeal any involuntary discharge. (3-20-20)T

21. Citizenship Rights. Each resident has a right to be encouraged and assisted to exercise rights as a citizen, including the right to be informed and to vote. (3-20-20)T

22. Advanced Directives. Each resident has the right to be informed, in writing, regarding the formulation of an advanced directive as provided under Section 39-4510, Idaho Code. (3-20-20)T

23. Fee Changes. Each resident has the right to written notice of any fee change not less than thirty (30) days prior to the proposed effective date of the fee change, except: (3-20-20)T

a. When a resident needs additional care, services, or supplies, the facility must provide to the resident, the resident's legal guardian, or conservator written notice within five (5) days of any fee change taking place; and (3-20-20)T

b. The resident, the resident's legal guardian, or conservator must be given the opportunity to agree to an amended negotiated service agreement. If the two parties do not reach an agreement on the proposed fee change, the facility is entitled to charge the changed rate after five (5) days have elapsed from the date of the facility's written notice. (3-20-20)T

551. -- 559. (RESERVED)

560. NOTICE OF RESIDENTS' RIGHTS. Each facility must; (3-20-20)T

01. Inform Residents Orally and in Writing. Inform each resident, orally and in writing at the time of admission to the facility, of his legal rights during the stay at the facility. (3-20-20)T

02. Written Statements. Make available to each resident, upon reasonable request, a written statement of such rights and when the rights change the resident is notified. (3-20-20)T

03. Written Description of Rights. Assure the written description of legal rights under Section 560 must include a description of the protection of personal funds and a statement that a resident may file a complaint with the Department respecting resident abuse and neglect and misappropriation of resident property in the facility. (3-20-20)T

04. Posting of Resident Rights. Conspicuously post the residents' rights in the facility at all times. (3-20-20)T

561. -- 599. (RESERVED)

600. REQUIREMENTS FOR STAFFING STANDARDS.

01. On-Duty Staff During Residents' Sleeping Hours for Facilities of Fifteen Beds or Less. For facilities licensed for fifteen (15) beds or less, there must be at least one (1), or more qualified and trained staff, up, awake, and immediately available in the facility during resident sleeping hours. (3-20-20)T

02. On-Duty Staff Up and Awake During Residents' Sleeping Hours for Facilities Licensed for Sixteen Beds or More. For facilities licensed for sixteen (16) beds or more, qualified and trained staff must be up and awake and immediately available, in the facility during resident sleeping hours. (3-20-20)T

03. Detached Buildings or Units. Facilities with residents housed in detached buildings or units, must have at least one (1) staff present, and available in each building or unit when residents are present in the building or unit. The facility must also assure that each building or unit complies with the requirements for on-duty staff during resident sleeping hours to be up, awake, and immediately available in accordance with the facility's licensed bed capacity as provided in Subsections 600.01 and 600.02 of these rules. The Licensing and Survey Agency will consider a variance based on the facility's written submitted plan of operation. (3-20-20)T

04. Mental Health Bed Contract Facility. Facilities that have entered into a Mental Health Bed contract with the Department must be staffed with at least one (1) staff up and awake at night to assure the safety of all residents. (3-20-20)T

05. Supervision. The administrator must provide supervision for all personnel to include contract personnel. Staff who have not completed the orientation training requirements must work under the supervision of a staff who has completed the orientation training. (3-20-20)T

06. Sufficient Personnel. The facility will employ and the administrator will schedule sufficient personnel to: (3-20-20)T

a. Provide care, during all hours, required in each resident's Negotiated Service Agreement, to assure residents' health, safety, comfort, and supervision, and to assure the interior and exterior of the facility is maintained in a safe and clean manner; and (3-20-20)T

b. To provide for at least one (1) direct care staff with certification in first aid and cardio-pulmonary resuscitation (CPR) in the facility at all times. Facilities with multiple buildings or units will have at least one (1) direct care staff with certification in first aid and CPR in each building or each unit at all times. (3-20-20)T

601. -- 619. (RESERVED)

620. REQUIREMENTS FOR TRAINING OF FACILITY PERSONNEL.

The facility must follow structured written training programs designed to meet the training needs of personnel in relation to responsibilities, as specified in the written job description, to provide for quality of care and compliance with these rules. Signed evidence of personnel training, indicating hours and topic, must be retained at the facility. (3-20-20)T

621. -- 624. (RESERVED)

625. ORIENTATION TRAINING REQUIREMENTS.

01. Number of Hours of Training. A minimum of sixteen (16) hours of job-related orientation training must be provided to all new personnel before they are allowed to provide unsupervised personal assistance to residents. The means and methods of training are at the facility's discretion. (3-20-20)T

02. Timeline for Completion of Training. All orientation training must be completed within thirty (30) days of hire. (3-20-20)T

03. Content for Training. Orientation training must include the following: (3-20-20)T

a. The philosophy of residential care or assisted living and how it guides care giving; (3-20-20)T

b. Resident Rights; (3-20-20)T

c. Cultural awareness; (3-20-20)T

d. Providing assistance with activities of daily living and instrumental activities of daily living; (3-20-20)T

e. How to respond to emergencies; (3-20-20)T

f. Documentation associated with resident care needs and the provision of care to meet those needs; (3-20-20)T

g. Identifying and reporting changes in residents' health and mental condition or both; (3-20-20)T

h. Documenting and reporting adverse outcomes (such as resident falls, elopement, lost items); (3-20-20)T

i. Advance Directives and do not resuscitate (DNR) orders; (3-20-20)T

j. Relevant policies and procedures; (3-20-20)T

k. The role of the Negotiated Service Agreement; and (3-20-20)T

l. All staff employed by the facility, including housekeeping personnel, or contract personnel, or both, who may come into contact with potentially infectious material, must be trained in infection control procedures for universal precautions. (3-20-20)T

626. -- 629. (RESERVED)

630. TRAINING REQUIREMENTS FOR FACILITIES ADMITTING RESIDENTS WITH DIAGNOSIS OF DEMENTIA, MENTAL ILLNESS, DEVELOPMENTAL DISABILITY, OR TRAUMATIC BRAIN INJURY.

A facility admitting and retaining residents with diagnosis of dementia, mental illness, developmental disability, or traumatic brain injury must train staff to meet the specialized needs of these residents. Staff must receive specialized training within thirty (30) days of hire or of admission of a resident with one (1) of these conditions. The means and methods of training are at the facility's discretion. The training should address the following areas: (3-20-20)T

01. Dementia: (3-20-20)T

a. Overview of dementia; (3-20-20)T

b. Symptoms and behaviors of people with memory impairment; (3-20-20)T

c. Communication with people with memory impairment; (3-20-20)T

- d. Resident's adjustment to the new living environment; (3-20-20)T
- e. Behavior management; (3-20-20)T
- f. Activities of daily living; and (3-20-20)T
- g. Stress reduction for facility personnel and resident. (3-20-20)T
- 02. Mental Illness:** (3-20-20)T
- a. Overview of mental illnesses; (3-20-20)T
- b. Symptoms and behaviors specific to mental illness; (3-20-20)T
- c. Resident's adjustment to the new living environment; (3-20-20)T
- d. Behavior management; (3-20-20)T
- e. Communication; (3-20-20)T
- f. Activities of daily living; (3-20-20)T
- g. Integration with rehabilitation services; and (3-20-20)T
- h. Stress reduction for facility personnel and resident. (3-20-20)T
- 03. Developmental Disability:** (3-20-20)T
- a. Overview of developmental disabilities; (3-20-20)T
- b. Interaction and acceptance; (3-20-20)T
- c. Promotion of independence; (3-20-20)T
- d. Communication; (3-20-20)T
- e. Behavior management; (3-20-20)T
- f. Assistance with adaptive equipment; (3-20-20)T
- g. Integration with rehabilitation services; (3-20-20)T
- h. Activities of daily living; and (3-20-20)T
- i. Community integration. (3-20-20)T
- 04. Traumatic Brain Injury:** (3-20-20)T
- a. Overview of traumatic brain injuries; (3-20-20)T
- b. Symptoms and behaviors specific to traumatic brain injury; (3-20-20)T
- c. Adjustment to the new living environment; (3-20-20)T
- d. Behavior management; (3-20-20)T
- e. Communication; (3-20-20)T

- f. Integration with rehabilitation services; (3-20-20)T
- g. Activities of daily living; (3-20-20)T
- h. Assistance with adaptive equipment; and (3-20-20)T
- i. Stress reduction for facility personnel and resident. (3-20-20)T

631. -- 639. (RESERVED)

640. CONTINUING TRAINING REQUIREMENTS.

Each employee must receive a minimum of eight (8) hours of job-related continuing training per year. (3-20-20)T

641. ADDITIONAL TRAINING RELATED TO CHANGES.

When policies or procedures are added, modified, or deleted, staff must receive additional training relating to the changes. (3-20-20)T

642. -- 644. (RESERVED)

645. ASSISTANCE WITH MEDICATION CERTIFICATION REQUIREMENT.

Before staff can begin assisting residents with medications, the staff must have successfully completed a Board of Nursing approved medication assistance course. This training is not included as part of the minimum of sixteen (16) hours of orientation training or minimum of eight (8) hours of continuing training requirement per year. (3-20-20)T

646. -- 649. (RESERVED)

650. REQUIREMENTS FOR UNIFORM ASSESSMENT CRITERIA FOR PRIVATE PAY RESIDENTS.

01. Facility Responsibility For Assessing Private-Pay Residents. The facility must develop, identify, assess, or direct a uniform assessment for private-pay residents who seek admission to the residential care or assisted living facility. The Department's uniform assessment tool may be used as the facility's identified uniform assessment. (3-20-20)T

02. Information Included in a Uniform Assessment. The uniform assessment used by the facility will include, but not be limited to identification/background information, medical diagnosis, medical and health problems, prescription and over the counter medications, behavior patterns, cognitive function, and functional status. (3-20-20)T

03. Qualifications of Person Making Uniform Assessment. The uniform assessment can only be conducted by persons who are trained and knowledgeable in administering the facility's identified uniform assessment. (3-20-20)T

04. Time Frames for Completing the Uniform Assessment. The assessment must be completed no later than fourteen (14) calendar days after admission. The assessment will be reviewed when there is a change in the resident's medical condition or mental status or every twelve (12) months, whichever comes first. (3-20-20)T

05. Use of Uniform Assessment for Determining the Ability of Facility to Meet Private-Pay Resident Needs. The results of the assessment must be used to evaluate the ability of an administrator and facility to meet the identified residents' needs. The results of the assessment must also be used to determine the need for special training in caring for certain residents. (3-20-20)T

651. -- 654. (RESERVED)

655. USE OF THE UNIFORM ASSESSMENT CRITERIA IN DETERMINING FACILITY STAFFING.

A facility will have sufficient numbers and types of personnel to provide care and supervision to all residents within the facility's care in accordance with each resident's Negotiated Service Agreement based on the uniform assessment

and in accordance with all rules and statutes governing the facility. The facility must include both private-pay and residents who are clients of the Department in the total number when determining staffing requirements. (3-20-20)T

656. -- 659. (RESERVED)

660. REQUIREMENTS FOR UNIFORM ASSESSMENT CRITERIA FOR DEPARTMENT CLIENTS.
Department clients will be assessed by the Department in compliance with IDAPA 16.03.23, “Rules Governing Uniform Assessments for State-Funded Clients.” (3-20-20)T

661. -- 699. (RESERVED)

700. RECORDS.
The administrator must assure that facility policies and procedures for record keeping are implemented and followed as described in Sections 700 through 750 of these rules. (3-20-20)T

01. Records Information. Entries must include date, time, name, and title of the person making the entry. Staff must sign each entry made by him during his shift. (3-20-20)T

02. Availability of Records. Resident care records must be available at all times to caregivers when on duty. (3-20-20)T

03. Electronic Records. Electronic records must be able to be printed in the facility at the request of the resident, legal guardian, payer, or survey agency. (3-20-20)T

701. -- 704. (RESERVED)

705. RESIDENT BUSINESS RECORDS.
Resident business records must contain the records described in Subsection 705.01 through 705.07 of these rules. (3-20-20)T

01. Individual Responsible for Payment. Name, address, and telephone number of the individual responsible for payment. (3-20-20)T

02. Written Admissions Agreement. Written admission agreement that is signed and dated by the administrator, the resident, or his legal guardian or conservator. (3-20-20)T

03. Payment Schedule. A copy of the payment schedule and fee structure signed and dated by the resident, or his legal guardian or conservator, if such is separate from the admission agreement. (3-20-20)T

04. Resident Rights. A signed copy of the resident's rights as identified in Section 550 of these rules or a signed and dated statement that the resident or his legal guardian or conservator has read and understands his rights as a resident of the facility. (3-20-20)T

05. Completion of Admissions Process. Name, title of the facility representative who completed the admission process with the resident, legal guardian, or conservator. (3-20-20)T

06. Agreement to Handle Resident's Funds. If the facility handles resident funds, there must be a signed and dated written agreement between the facility and the resident or the resident's legal guardian or conservator setting the terms. Documentation of each financial transaction at the time the transaction occurs with signatures by the administrator or his designee and the resident. (3-20-20)T

07. Emergency Condition Advisory. Documentation indicating that the resident has been advised of actions required under emergency conditions. (3-20-20)T

706. -- 709. (RESERVED)

710. RESIDENT CARE RECORDS.

The administrator must assure that the facility's policies and procedures for resident care records are implemented and meet the requirements described in Subsections 710.01 through 710.08 of these rules. (3-20-20)T

- 01. Resident Demographics.** Records required for admission to the facility must include: (3-20-20)T
 - a. Name; (3-20-20)T
 - b. Permanent address, if other than the facility; (3-20-20)T
 - c. Marital Status; (3-20-20)T
 - d. Gender; (3-20-20)T
 - e. Date and Place of Birth; (3-20-20)T
 - f. Name and address of emergency contact(s); and (3-20-20)T
 - g. Admission date and where admitted from. (3-20-20)T
 - 02. Providers of Choice.** Providers of choice including address and telephone numbers; (3-20-20)T
 - a. Physician or authorized provider; (3-20-20)T
 - b. Dentist; (3-20-20)T
 - c. Pharmacy; and (3-20-20)T
 - d. Others; such as outside service providers, e.g., home health, hospice, psychosocial services rehabilitation specialist, case manager. (3-20-20)T
 - 03. Religious Affiliation.** Religious affiliation, if the resident chooses to state. (3-20-20)T
 - 04. Prior History and Physical.** Results of a history and physical examination performed by a physician or authorized provider within six (6) months prior to admission. (3-20-20)T
 - 05. Prescribed Medication and Treatment List.** A list of medications, diet, treatments, and any limitations, prescribed for the resident that is signed and dated by a physician or authorized provider giving the order. (3-20-20)T
 - 06. Social Information.** Social information, obtained by the facility through interviews with the resident, family, legal guardian, conservator or outside service provider. The information must include the resident's social history, hobbies, and interests. (3-20-20)T
 - 07. Initial Uniform Assessment.** The resident's initial uniform assessment. (3-20-20)T
 - 08. Initial Interim Plan and Negotiated Service Agreement.** The resident's initial signed and dated interim plan and Negotiated Service Agreement. (3-20-20)T
- 711. ONGOING RESIDENT CARE RECORDS.**
The administrator must assure that the facility's policies and procedures for ongoing resident care records are implemented and meet the requirements described in Subsections 711.01 through 711.14 of these rules. (3-20-20)T
- 01. Behavior Management Records.** The facility must have behavior management records for residents when applicable. These records must document requirements in Section 225 and Subsection 320.02 of these rules. The records must also include the following: (3-20-20)T
 - a. The date and time a specific behavior was observed; (3-20-20)T

- b. What interventions were used; and (3-20-20)T
- c. The effectiveness of the intervention. (3-20-20)T
- 02. Complaints.** The facility must assure that the individual resident's record documents complaints and grievances, the date received, the investigation, outcome, and the response to the individual who made the complaint or grievance. (3-20-20)T
- 03. Involuntary Discharge.** The facility's records must maintain documentation of: (3-20-20)T

 - a. The facility's efforts to resolve the situation; and (3-20-20)T
 - b. A copy of the signed and dated notice of discharge. (3-20-20)T
- 04. Refusal of Care Consequences.** Documented evidence that if the resident refuses care or services, the resident has been informed of the consequences of the refusal and the notification of the resident's physician or authorized provider being notified. (3-20-20)T
- 05. Assessments.** The resident's uniform assessment, including the admission assessment, and all assessments for the prior eighteen (18) months after the admission to the facility. (3-20-20)T
- 06. Negotiated Services Agreement.** Signed and dated negotiated services agreements, including the admission Negotiated Service Agreement, and any modification and new agreements for the prior eighteen (18) months. (3-20-20)T
- 07. Care Plans.** Signed and dated copies of all care plans prepared by outside service agencies, if appropriate, to include who is responsible for the integration of care and services. (3-20-20)T
- 08. Care Notes.** Care notes that are signed and dated by the person providing the care and services must include: (3-20-20)T

 - a. When the Negotiated Service Agreement is not followed, such as resident refusal, and the facility's response; (3-20-20)T
 - b. Delegated nursing tasks, such as treatments, wound care, and assistance with medications; (3-20-20)T
 - c. Unusual events such as incidents, reportable incidents, accidents, altercations and the facility's response; (3-20-20)T
 - d. Calls to the physician or authorized provider, reason for the call, and the outcome of the call; (3-20-20)T
 - e. Notification of the licensed registered nurse of a change in the resident's physical or mental condition; and (3-20-20)T
 - f. Notes of care and services provided by outside contract entities, such as nurses, home health, hospice, case managers, psychosocial rehabilitation specialists, or service coordinator. (3-20-20)T
- 09. Current List of Medications, Diet and Treatments.** A current list of medications, diet, treatments prescribed for the resident which is signed and dated by a physician or authorized provider giving the order. (3-20-20)T
- 10. Six Month Review of Medications.** Written documentation, signed and dated by the physician or authorized provider documenting their every six (6) month review, for possible dose reduction, of the resident's use of psychotropic or behavioral modifying medications. (3-20-20)T

11. Medications Not Taken. 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. (3-20-20)T

12. PRN Medication. Documentation of all PRN medication with the reason for taking the medication. (3-20-20)T

13. Nursing Assessments. Nursing assessments, signed and dated, from the licensed registered nurse documenting the requirements in Section 305 of these rules. (3-20-20)T

14. Discharge Information. Date of discharge, location to where the resident was discharged, and disposition of the resident's belongings. (3-20-20)T

712. -- 714. (RESERVED)

715. MENTAL HEALTH CONTRACT BED RECORDS.

The administrator must assure that the facility's records for mental health contract beds are maintained as described in Subsections 715.01 and 715.02, of these rules. (3-20-20)T

01. Contract with Department. The facility must maintain on file a written contract with the Department outlining the responsibilities of both parties and lists the names and telephone numbers of individuals who may be contacted if questions arise regarding the resident's care. (3-20-20)T

02. Department Assessment. Results of the Department assessment for each mental health contract resident, which clearly assures that the resident is not a danger to himself or others must be in the resident's care record. (3-20-20)T

716. -- 719. (RESERVED)

720. ADULT HOURLY CARE RECORDS.

The administrator must assure that the facility's hourly adult care records are maintained as described in Subsections 720.01 and 720.02 of these rules. (3-20-20)T

01. Required Records for Each Hourly Adult Care Individual. The facility must maintain a record for each hourly adult care individual which includes: (3-20-20)T

a. Admission identification information including responsible party and emergency telephone numbers of family members and the physician or authorized provider; (3-20-20)T

b. Pertinent health and social information relevant to the supervision of the individual; and (3-20-20)T

c. Care and services provided to the individual including medication assistance. (3-20-20)T

02. Length of Time Records Kept for Adult Hourly Care. The records for each adult hourly care individual must be maintained for three (3) years. (3-20-20)T

721. -- 724. (RESERVED)

725. FACILITY ADMINISTRATIVE RECORDS FOR ADMISSIONS AND DISCHARGE REGISTER.

The administrator must assure that the facility's administrative records for admission and discharge are maintained as described in Subsections 725.01 through 725.02 of these rules. (3-20-20)T

01. Admission and Discharge Register. Each facility must maintain an admission and discharge register listing the name of each resident, date admitted, date discharged. The admissions and discharge register must be produced as a separate document, apart from the individual resident records, and must be kept current. (3-20-20)T

02. Hourly Adult Care Log. A log of hourly adult care individuals, including the dates of service, must be maintained and kept for three (3) years. (3-20-20)T

726. -- 729. (RESERVED)

730. FACILITY ADMINISTRATIVE RECORDS FOR PERSONNEL AND STAFFING.

The administrator must assure that the facility's personnel and staffing records are maintained as described in Subsections 730.01 through 730.03 of these rules. (3-20-20)T

01. Personnel. A record for each employee must be maintained and available which includes the following: (3-20-20)T

a. Name, address, phone number, and date of hire; (3-20-20)T

b. Job description that includes purpose, responsibilities, duties, and authority; (3-20-20)T

c. Evidence that on or prior to hire, staff were notified in writing that the facility does not carry professional liability insurance. If the facility cancels the professional liability insurance, all staff must be notified of the change in writing; (3-20-20)T

d. A copy of a current license for all nursing staff and verification from the Board of Nursing that the license is in good standing or identification of restrictions; (3-20-20)T

e. Signed evidence of training; (3-20-20)T

f. CPR, first aid, and assistance with medication certification; (3-20-20)T

g. Criminal history clearance as required by Section 56-1004A, Idaho Code, and IDAPA 16.05.06, "Criminal History and Background Checks," and Section 009 of these rules; (3-20-20)T

h. Documentation by the licensed registered nurse of delegation to unlicensed staff to assist residents with medications and other nursing tasks; (3-20-20)T

i. A signed document authorizing by position title of, the individual responsible for acting on behalf of the administrator in his absence. (3-20-20)T

02. Work Records. Work records must be maintained in writing for the previous three (3) years which reflect: (3-20-20)T

a. Personnel on duty, at any given time; and (3-20-20)T

b. The first and last names, of each employee, and their position. (3-20-20)T

03. Contract Records. Copies of contracts with outside service providers and contract staff. (3-20-20)T

731. -- 734. (RESERVED)

735. FACILITY ADMINISTRATIVE RECORDS FOR HANDLING OF MEDICATIONS AND CONTROLLED SUBSTANCES.

The administrator must assure that the facility's records for handling of medications and controlled substances are maintained as described in Subsections 735.01 through 735.04 of these rules. (3-20-20)T

01. Documentation of Cold Storage Temperature. Daily monitoring documentation of the refrigerated temperature where biologicals and other medications requiring cold storage are stored to assure the temperature is maintained at thirty-eight to forty-five degrees (38-45 F) Fahrenheit for the previous twelve (12) months. (3-20-20)T

02. Return Medication Agreement. If appropriate, the written agreement between the facility and the pharmacy to return unused, unopened medications to the pharmacy for proper disposition and credit. See IDAPA 16.03.09. “Medicaid Basic Plan Benefits,” Sections 664 and 665, and IDAPA 27.01.01, “Rules of the Idaho Board of Pharmacy.” (3-20-20)T

03. Documentation of Medication Disposal. A written record of all drug disposals must be maintained in the facility and include: (3-20-20)T

- a. A description of the drug, including the amount; (3-20-20)T
- b. Name of resident for prescription medication; (3-20-20)T
- c. The reason for disposal; (3-20-20)T
- d. The method of disposal; (3-20-20)T
- e. The date of disposal; and (3-20-20)T
- f. Signatures of responsible facility personnel and witness. (3-20-20)T

04. Tracking Controlled Substances Documentation. The facility must maintain a written record tracking all controlled substances entering the facility in accordance with Title 37, Chapter 27, Idaho Code, IDAPA 27.01.01 “Rules of the Idaho Board of Pharmacy,” Section 495, and IDAPA 23.01.01, “Rules of the Idaho Board of Nursing,” Section 490. (3-20-20)T

736. -- 739. (RESERVED)

740. FACILITY ADMINISTRATIVE RECORDS FOR DIETARY.

The administrator must assure that the facility’s records for dietary are maintained as described in Subsections 740.01 and 740.02 of these rules. (3-20-20)T

01. Menu Plan Documentation. The facility must maintain copies of menus, including therapeutic menus planned, approved, signed, and dated by a dietitian in the facility. (3-20-20)T

02. Length of Time Documentation Kept for Menu Plans. The facility must maintain three (3) months of as served menus, including therapeutic menus, corrected to reflect substitutions. (3-20-20)T

741. -- 744. (RESERVED)

745. FACILITY ADMINISTRATIVE RECORDS FOR WATER SUPPLY.

The administrator must assure that the facility’s records for water supply are maintained. Copies of the laboratory reports documenting the bacteriological examination of testing private water supply must be kept on file in the facility. (3-20-20)T

746. -- 749. (RESERVED)

750. FACILITY ADMINISTRATIVE RECORDS FOR FIRE AND LIFE SAFETY.

The administrator must assure that the facility’s records for fire and life safety are maintained as described in Subsections 750.01 through 750.06 of these rules. (3-20-20)T

01. Fire Drill Documentation. Written documentation of each fire drill, one (1) per shift per quarter, must be maintained on file at the facility and must 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. (3-20-20)T

02. Report of Fire Documentation. A copy of the reporting form, “Facility Fire Incident Report,” must be completed and submitted to the Licensing and Survey Agency, The specific data must include, date of

incident, origin, extent of damage, method of extinguishment, and injuries if any. (3-20-20)T

03. Fuel-Fired Heating Inspection Documentation. The facility will maintain a copy of the annual results of the inspection in the facility. (3-20-20)T

04. Portable Fire Extinguisher Examination Documentation. The facility must maintain records of the monthly examination of the Portable Fire Extinguishers documenting the following: (3-20-20)T

a. Each extinguisher is in its designated location; (3-20-20)T

b. Each extinguisher seal or tamper indicator is not broken; (3-20-20)T

c. Each extinguisher has not been physically damaged; (3-20-20)T

d. Each extinguisher gauge, if provided, shows a charged condition; and (3-20-20)T

e. The inspection tag attached to the extinguisher shall show at least the initials of the person making the monthly examination and the date of the examination. (3-20-20)T

05. Fire Alarm Smoke Detection System Service and Testing. The facility must maintain on file in the facility the following reports: (3-20-20)T

a. The results of the annual inspection and test, by a person or business professionally engaged in the servicing of such systems; and (3-20-20)T

b. The results of the monthly inspection and testing of the fire alarm, smoke detection system designated facility employee. (3-20-20)T

06. Automatic Fire Extinguishing System Service and Testing. The facility must maintain on file in the facility the results of the annual inspection, testing and service, by a person or business professionally engaged in servicing of such systems. (3-20-20)T

751. -- 899. (RESERVED)

900. ENFORCEMENT ACTIONS.

The Department will consider the facility's compliance history, change of ownership, the number of deficiencies, and scope and severity of the deficiencies when determining an enforcement action. The Department can impose any of the enforcement actions, independently or in conjunction with others, as described in Sections 900 through 940 of these rules. (3-20-20)T

01. Immediate Danger to Residents. When the Department finds that the facility's deficiency(s) immediately places the health or safety of its residents in danger, the Director of the Department or his designee may impose one (1) or more of the following: (3-20-20)T

a. Appoint temporary management; or (3-20-20)T

b. Summarily suspend the facility's license and transfer residents (3-20-20)T

02. Not an Immediate Danger to Residents. When the Department finds that the facility's deficiency does not immediately place the residents' health or safety in danger, the Department will initiate one (1) of the Enforcement Actions "A" through "C" described in Subsections 900.03 through 900.05 of these rules, or "Enforcement Remedy of Revocation of License" described in Section 940 of these rules. (3-20-20)T

03. Enforcement Action "A." (3-20-20)T

a. The facility has forty-five (45) days from the date the facility was found out of compliance with core issue requirements to comply; (3-20-20)T

- b.** An acceptable Plan of Correction is required as described in Section 130.08 of these rules; and (3-20-20)T
- c.** When an acceptable Plan of Correction is not submitted within thirty (30) days from the date the facility was found out of compliance with core issue requirements, the Department may take Enforcement Action “B.” (3-20-20)T
- d.** A follow-up survey for Enforcement Action “A” will be conducted after forty-five (45) days from the date the facility was found out of compliance with core issue requirements. During this survey, if the deficiency still exists or a new core issue deficiency is issued, Enforcement Action “B” will be taken. (3-20-20)T
- 04. Enforcement Action “B.”** (3-20-20)T
- a.** The facility has forty-five (45) days, from the date of the follow-up survey for Enforcement Action “A” in which the facility was found out of compliance with core issue requirements, to comply; (3-20-20)T
- b.** An acceptable Plan of Correction for core issues is required as described in Section 130.08 of these rules; (3-20-20)T
- c.** When an acceptable Plan of Correction is not submitted within thirty (30) days from the date the facility was found out of compliance with core issue requirements, the Department may take Enforcement Action “C.” (3-20-20)T
- d.** In addition the Department may impose the following enforcement actions: (3-20-20)T
- i.** A provisional license may be issued; (3-20-20)T
- ii.** Admissions to the facility may be limited; or (3-20-20)T
- iii.** The facility may be required to hire a consultant who submits periodic reports to the Licensing and Survey Agency. (3-20-20)T
- e.** A follow-up survey for Enforcement Action “B” will be conducted after forty-five (45) days from the date the facility was found out of compliance with core issue requirements. During this survey, if the deficiency still exists or a new core issue deficiency is issued, Enforcement Action “C” will be taken. (3-20-20)T
- 05. Enforcement Action “C.”** (3-20-20)T
- a.** The facility has forty-five (45) days, from the date of the follow-up survey for Enforcement Action “B” in which the facility was found out of compliance with core issue requirements to comply; (3-20-20)T
- b.** An acceptable Plan of Correction for core issues is required as described in Section 130.08 of these rules; (3-20-20)T
- c.** When an acceptable Plan of Correction is not submitted within thirty (30) days from the date the facility was found out of compliance with core issue requirements, the Department may initiate the remedy of revocation of license as described in Section 940 of these rules; (3-20-20)T
- d.** In addition the Department may impose the following enforcement actions: (3-20-20)T
- i.** The provisional license will be continued; (3-20-20)T
- ii.** Limit on admissions; (3-20-20)T
- iii.** Temporary management; (3-20-20)T

- iv. Civil monetary penalties as described in Section 925 of these rules; (3-20-20)T
- e. A follow-up survey for Enforcement Action “C” will be conducted after forty-five (45) days from the date the facility was found out of compliance with core issue requirements; and (3-20-20)T
- f. When the facility fails to comply with this enforcement action, the Department may initiate an enforcement remedy of revocation of license as described in Section 940 of these rules. (3-20-20)T

901. -- 904. (RESERVED)

905. CORE ISSUES DEFICIENCY.

The Licensing and Survey Agency will issue a deficiency and appropriate agencies will be notified when core issue deficiencies are found during a survey. When the Department finds that the facility's deficiency does not immediately place the residents' health or safety in danger, the Department will initiate one (1) of the Enforcement Actions “A” through “C” described in Subsections 900.03 through 900.05 of these rules, or “Enforcement Remedy of Revocation of License” described in Section 940 of these rules. (3-20-20)T

906. -- 909. (RESERVED)

910. NON-CORE ISSUES DEFICIENCY.

The Licensing and Survey Agency will issue a deficiency for non-core issues that are found during a survey. (3-20-20)T

01. Evidence of Resolution. Acceptable evidence of resolution as described in Subsection 130.09 of these rules, must be submitted by the facility to the Licensing and Survey Agency. If acceptable evidence of resolution is not submitted within sixty (60) days from when the facility was found to be out of compliance, the Department may impose enforcement actions as described in Subsection 910.02.a. through 910.02.c. of these rules. (3-20-20)T

02. First Follow-Up Survey. When the Licensing and Survey Agency finds on the first follow-up survey that repeat non-core deficiencies exist, the Department may initiate any of the following enforcement actions: (3-20-20)T

- a. A provisional license may be issued; (3-20-20)T
- b. Admissions to the facility may be limited; or (3-20-20)T
- c. The facility may be required to hire a consultant who submits periodic reports to the Licensing and Survey Agency. (3-20-20)T

03. Second Follow-Up Survey. When the Licensing and Survey Agency finds on the second follow-up survey that repeat non-core deficiencies still exist, the Department may initiate the “Enforcement Remedy of Civil Monetary Penalties,” as described in Section 925 of these rules. (3-20-20)T

911. -- 919. (RESERVED)

920. ENFORCEMENT REMEDY OF LIMIT ON ADMISSIONS.

01. Notification of Limit on Admissions. The Department will notify the facility limiting admissions or limiting admissions of residents with specific diagnosis to the facility pending correction of deficiencies. Limits of admissions to the facility remain in effect until the Department determines the facility has achieved full compliance with requirements or have received written evidence and statements from the outside consultant that the facility is in compliance. (3-20-20)T

02. Reasons for Limit on Admissions. The Department may limit admissions for the following reasons: (3-20-20)T

- a. The facility is inadequately staffed or the staff is inadequately trained to handle more residents. (3-20-20)T
- b. The facility otherwise lacks the resources necessary to support the needs of more residents. (3-20-20)T
- c. Enforcement Action “B” or “C” is taken as described in Sections 900.04 and 900.05, of these rules. (3-20-20)T
- d. Enforcement Remedy for Revocation of License as described in Section 940 of these rules. (3-20-20)T

921. -- 924. (RESERVED)

925. ENFORCEMENT REMEDY OF CIVIL MONETARY PENALTIES.

01. Civil Monetary Penalties. Civil monetary penalties are based upon one (1) or more deficiencies of noncompliance. Nothing will prevent the Department from imposing this remedy for deficiencies which existed prior to the survey or complaint investigation through which they are identified. Actual harm to a resident or residents does not need to be shown. A single act, omission or incident will not give rise to imposition of multiple penalties, even though such act, omission or incident may violate more than one (1) rule. (3-20-20)T

02. Assessment Amount for Civil Monetary Penalty. When civil monetary penalties are imposed, such penalties are assessed for each day the facility is or was out of compliance. The amounts below are multiplied by the total number of occupied licensed beds according to the records of the Department at the time non-compliance is established. (3-20-20)T

- a. Initial deficiency is eight dollars (\$8). Example below:

Number of Occupied Beds in Facility	Initial Deficiency	Times Number of Days Out of Compliance	Amount of Penalty
11	\$8.00	45 days	\$3960

(3-20-20)T

- b. Repeat deficiency is ten dollars (\$10). Example below:

Number of Occupied Beds in Facility	Repeat Deficiency	Times Number of Days Out of Compliance	Amount of Penalty
11	\$10.00	30 days	\$3300

(3-20-20)T

- c. In any ninety (90) day period, the penalty amounts may not exceed the limits shown in the following table:

Limits on Accruing Civil Monetary Amount.		
Number of Occupied Beds in Facility	Initial Deficiency	Repeat Deficiency
3-4 Beds	\$1440	\$2880
5-50 Beds	\$3200	\$6400

Limits on Accruing Civil Monetary Amount.		
Number of Occupied Beds in Facility	Initial Deficiency	Repeat Deficiency
51-100 Beds	\$5400	\$10,800
101-150 Beds	\$8800	\$17,600
151 or More Beds	\$14,600	\$29,200

(3-20-20)T

03. Notice of Civil Monetary Penalties and Appeal Rights. The Department will give written notice informing the facility of the amount of the penalty, the basis for its assessment and the facility's appeal rights.

(3-20-20)T

04. Payment of Penalties. The facility must pay the full amount of the penalty within thirty (30) calendar days from the date the notice is received, unless the facility requests an administrative review of the decision to assess the penalty. The amount of a civil monetary penalty determined through administrative review must be paid within thirty (30) calendar days of the facility's receipt of the administrative review decision unless the facility requests an administrative hearing. The amount of the civil monetary penalty determined through an administrative hearing must be paid within thirty (30) calendar days of the facility's receipt of the administrative hearing decision unless the facility files a petition for judicial review. Interest accrues on all unpaid penalties at the legal rate of interest for judgments. Such interest accrual will begin one (1) calendar day after the date of the initial assessment of the penalty;

(3-20-20)T

05. Failure to Pay. Failure of a facility to pay the entire penalty, together with any interest, is cause for revocation of the license or the amount will be withheld from Medicaid payments to the facility.

(3-20-20)T

926. -- 929. (RESERVED)

930. ENFORCEMENT REMEDY OF TEMPORARY MANAGEMENT.

01. Need for Temporary Management. The Department may impose the remedy of temporary management in situations where there is a need to oversee operation of the facility and to assure the health and safety of the facility's residents:

(3-20-20)T

a. During an orderly transfer of residents of the facility to other facilities; or (3-20-20)T

b. Pending improvements to bring the facility into compliance with program requirements. (3-20-20)T

02. Notice of Temporary Management. The Department will give written notice to the facility of the imposition of temporary management. (3-20-20)T

03. Who May Serve as a Temporary Manager. The Department may appoint any person or organization that meets the following qualifications: (3-20-20)T

a. The temporary manager must not have any pecuniary interest in or preexisting fiduciary duty to the facility to be managed; (3-20-20)T

b. The temporary manager must not be related, within the first degree of kinship, to the facility's owner, manager, administrator, or other management principal; (3-20-20)T

c. The temporary manager must possess sufficient training, expertise and experience in the operation of a facility as would be necessary to achieve the objectives of temporary management. If the temporary manager is to serve in a facility, the manager must possess an Idaho Residential Care Administrator's license; and (3-20-20)T

d. The temporary manager must not be an existing competitor of the facility who would gain an unfair competitive advantage by being appointed as temporary manager of the facility. (3-20-20)T

04. Powers and Duties of the Temporary Manager. The temporary manager has the authority to direct and oversee the management, hiring and discharge of any consultant or personnel, including the administrator of the facility. The temporary manager has the authority to direct the expenditure of the revenues of the facility in a reasonable and prudent manner, to oversee the continuation of the business and the care of the residents, to oversee and direct those acts necessary to accomplish the goals of the program requirements and to direct and oversee regular accounting. When the facility fails or refuses to carry out the directions of the temporary manager, the Department will revoke the facility's license. (3-20-20)T

a. The temporary manager must observe the confidentiality of the operating policies, procedures, employment practices, financial information, and all similar business information of the facility, except that the temporary manager must make reports to the Department; (3-20-20)T

b. The temporary manager may be liable for gross, willful or wanton negligence, intentional acts of omissions, unexplained shortfalls in the facility's fund, and breaches of fiduciary duty; (3-20-20)T

c. The temporary manager does not have authority to cause or direct the facility, its owner, or administrator to incur debt, unless to bring the facility into compliance with these rules, or to enter into any contract with a duration beyond the term of the temporary management of the facility; (3-20-20)T

d. The temporary manager does not have authority to incur, without the permission of the owner, administrator or the Department, capital expenditures in excess of two thousand dollars (\$2,000), unless the capital expenditures are directly related to correcting the identified deficiencies; (3-20-20)T

e. The temporary manager does not have authority to cause or direct the facility to encumber its assets or receivables; (3-20-20)T

f. The temporary manager does not have authority to cause or direct a facility, which holds liability or casualty insurance coverage, to cancel or reduce its liability or casualty insurance coverage; and (3-20-20)T

g. The temporary manager does not have authority to cause or direct the sale of the facility, its assets or the premises on which it is located. (3-20-20)T

05. Responsibility for Payment of the Temporary Manager. All compensation and per diem costs of the temporary manager must be paid by the licensee. (3-20-20)T

06. Termination of Temporary Management. A temporary manager may be replaced under the following conditions: (3-20-20)T

a. The Department may require replacement of any temporary manager whose performance is deemed unsatisfactory by the Department. No formal procedure is required for such removal or replacement, but written notice of any action will be given to the facility. (3-20-20)T

b. A facility subject to temporary management may petition the Department for replacement of a temporary manager whose performance it considers unsatisfactory. The petition must include why the replacement of a temporary manager is necessary or appropriate. (3-20-20)T

931. -- 934. (RESERVED)

935. ENFORCEMENT REMEDY OF PROVISIONAL LICENSE.

A provisional license may be issued when a facility is cited with one (1) or more core issue deficiencies, or when non-core issues have not been corrected or become repeat deficiencies. The provisional license will state the conditions the facility must follow to continue to operate. See Subsections 900.04, 900.05 and 910.02 of these rules. (3-20-20)T

936. -- 939. (RESERVED)

940. ENFORCEMENT REMEDY OF REVOCATION OF FACILITY LICENSE.

01. Revocation of Facility's License. The Department may revoke a license when the facility endangers the health or safety of residents, or when the facility is not in substantial compliance with the provisions of Title 39, Chapter 33, Idaho Code, or this chapter of rules. (3-20-20)T

02. Reasons for Revocation or Denial of a Facility License. The Department may revoke or deny any facility license for any of the following reasons: (3-20-20)T

a. The licensee has willfully misrepresented or omitted information on the application or other documents pertinent to obtaining a license; (3-20-20)T

b. When persuaded by a preponderance of the evidence that such conditions exist which endanger the health or safety of any resident; (3-20-20)T

c. Any act adversely affecting the welfare of residents is being permitted, aided, performed, or abetted by the person or persons in charge of the facility. Such acts may include, but are not limited to, neglect, physical abuse, mental abuse, emotional abuse, violation of civil rights, criminal activity, or exploitation; (3-20-20)T

d. The licensee has demonstrated or exhibited a lack of sound judgment essential to the operation and management of a facility; (3-20-20)T

e. The licensee has violated any of the conditions of a provisional license; (3-20-20)T

f. The facility lacks adequate personnel, as required by these rules or as directed by the Department, to properly care for the number and type of residents residing at the facility; (3-20-20)T

g. Licensee refuses to allow the Department or the Protection and Advocacy agencies full access to the facility environment, facility records, and the residents as described in Subsections 130.04 through 130.06, and 550.18 through 550.19 of these rules; (3-20-20)T

h. The licensee has been guilty of fraud, gross negligence, abuse, assault, battery, or exploitation with respect to the operation of a health facility or residential care or assisted living facility or certified family home; (3-20-20)T

i. The licensee is actively affected in his performance by alcohol or the use of drugs classified as controlled substances; (3-20-20)T

j. The licensee has been convicted of a criminal offense other than a minor traffic violation within the past five (5) years; (3-20-20)T

k. The licensee is of poor moral and responsible character or has been convicted of a felony or defrauding the government; (3-20-20)T

l. The licensee has been denied, or the licensee's wrong doing, has caused the revocation of any license or certificate of any health facility, residential care or assisted living facility, or certified family home; (3-20-20)T

m. The licensee has previously operated any health facility or residential care or assisted living facility without a license or certified family home without a certificate; (3-20-20)T

n. The licensee is directly under the control or influence of any person who has been the subject of proceedings as described in Subsection 940.02.m. of these rules; (3-20-20)T

o. The licensee 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; (3-20-20)T

p. The licensee 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; (3-20-20)T

q. The licensee fails to pay civil monetary penalties imposed by the Department as described in Section 925 of these rules; (3-20-20)T

r. The licensee fails to take sufficient corrective action as described in Sections 900, 905 and 910 of these rules; or (3-20-20)T

s. The number of residents currently in the facility exceeds the number of residents the facility is licensed to serve. (3-20-20)T

941. -- 999. (RESERVED)

16.05.06 – CRIMINAL HISTORY AND BACKGROUND CHECKS

000. LEGAL AUTHORITY.

The Idaho Legislature has authorized the Department of Health and Welfare to promulgate rules to conduct criminal history and background checks under Sections 56-202(b), 56-203(2), 56-204A, 56-1004A, 56-1007, 39-1105, 39-1107, 39-1111, 39-1210(10), 39-1211(4), 39-3520, 39-5604, 39-9109, 66-404(7), 15-5-308(4), 15-5-311(5), and 15-5-316(5), Idaho Code. Under 42 USC Section 9858f, the Department is required to check certain records for federal child care programs. (3-20-20)T

001. TITLE, SCOPE AND POLICY.

01. Title. These rules are titled IDAPA 16.05.06, “Criminal History and Background Checks.” (3-20-20)T

02. Scope. These rules assist the Department in the protection of children and vulnerable adults by providing requirements to conduct criminal history and background checks of individuals licensed or certified by the Department, or who provide care or services to children or vulnerable adults. Individuals requiring a criminal history check are identified in Department rules. (3-20-20)T

03. Policy. It is the Department’s policy to conduct fingerprint-based criminal history and background checks on individuals who have completed a criminal history application. The criminal history applicant is required to disclose any pertinent information regarding crimes or findings that would disqualify the individual from providing care or services to children or vulnerable adults. The Department may obtain information for these criminal history and background checks from the following sources: (3-20-20)T

- a. Federal Bureau of Investigation; (3-20-20)T
- b. National Crime Information Center; (3-20-20)T
- c. Idaho State Police Bureau of Criminal Identification; (3-20-20)T
- d. Any state or federal Child Protection Registry; (3-20-20)T
- e. Any state or federal Adult Protection Registry; (3-20-20)T
- f. Any state or federal Sexual Offender Registry; (3-20-20)T
- g. Office of Inspector General List of Excluded Individuals and Entities; (3-20-20)T
- h. Idaho Department of Transportation Driving Records; (3-20-20)T
- i. Nurse Aide Registry; (3-20-20)T
- j. Other states and jurisdictions records and findings. (3-20-20)T

002. -- 009. (RESERVED)

010. DEFINITIONS AND ABBREVIATIONS.

For the purposes of this chapter of rules, the following terms apply: (3-20-20)T

01. Agency. An administrative subdivision of government or an establishment engaged in doing business for another entity. This term is synonymous with the term employer. (3-20-20)T

02. Application. An individual’s request for a criminal history and background check in which the individual discloses any convictions, pending charges, or child or adult protection findings, and authorizes the Department to obtain information from available databases and sources relating to the individual. (3-20-20)T

03. Clearance. A clearance is a document designated by the Department as the official result of a completed criminal history and background check with no disqualifying crimes or relevant records found. (3-20-20)T

04. Conviction. An individual is considered to have been convicted of a criminal offense as defined in Subsections 010.03.a. through 010.03.d. of this rule: (3-20-20)T

- a.** When a judgment of conviction, or an adjudication, has been entered against the individual by any federal, state, military, or local court; (3-20-20)T
- b.** When there has been a finding of guilt against the individual by any federal, state, military, or local court; (3-20-20)T
- c.** When a plea of guilty or nolo contendere by the individual has been accepted by any federal, state, military, or local court; (3-20-20)T
- d.** When the individual has entered into or participated in first offender, deferred adjudication, or other arrangement or program where judgment of conviction has been withheld. This includes: (3-20-20)T
- i.** When the individual has entered into participation in a drug court; or (3-20-20)T
- ii.** When the individual has entered into participation in a mental health court. (3-20-20)T
- 05. Criminal History and Background Check.** A criminal history and background check is a fingerprint-based check of an individual's criminal record and other relevant records. (3-20-20)T
- 06. Criminal History Unit.** The Department's Unit responsible for processing fingerprint-based criminal history and background checks, conducting exemption reviews, and issuing clearances or denials according to these rules. (3-20-20)T
- 07. Denial.** A denial is issued by the Department when an individual has a relevant record or disqualifying crime. There are two (2) types of denials: (3-20-20)T
- a.** Conditional Denial. A denial of an applicant because of a relevant record found in Section 230 of these rules. (3-20-20)T
- b.** Unconditional Denial. A denial of an applicant because of a conviction for a disqualifying crime or a relevant record found in Sections 200 and 210 of these rules. (3-20-20)T
- 08. Department.** The Idaho Department of Health and Welfare or its designee. (3-20-20)T
- 09. Disqualifying Crime.** A disqualifying crime is a designated crime listed in Section 210 of these rules that results in the unconditional denial of an applicant. (3-20-20)T
- 10. Employer.** An entity that hires people to work in exchange for compensation. This term is synonymous with the term agency. (3-20-20)T
- 11. Enhanced Clearance.** An enhanced clearance is a clearance issued by the Department that includes a search of child protection registries in states or jurisdictions in which an applicant has resided during the preceding five (5) years. See Section 126 of these rules. (3-20-20)T
- 12. Exemption Review.** A review by the Department at the request of the applicant when a conditional denial has been issued. (3-20-20)T
- 13. Federal Bureau of Investigation (FBI).** The federal agency where fingerprint-based criminal history and background checks are processed. (3-20-20)T
- 14. Good Cause.** Substantial reason, one that affords a legal excuse. (3-20-20)T
- 15. Idaho State Police Bureau of Criminal Identification.** The state agency where fingerprint-based criminal history and background checks are processed. (3-20-20)T
- 16. Relevant Record.** A relevant record is a record that is found in a search of criminal records or registries checked by the Department as provided in Section 56-1004A, Idaho Code. (3-20-20)T

011. -- 049. (RESERVED)

050. FEES AND COSTS FOR CRIMINAL HISTORY AND BACKGROUND CHECKS.

The fee for a Department fingerprint-based criminal history and background check is up to seventy dollars (\$70) for an individual. The applicant is responsible for the cost of the criminal history and background check except where otherwise provided by Department rules. An applicant is responsible for any additional costs incurred by the Department paid to agencies, judicial, or law enforcement jurisdictions in other states. The Department will collect the additional funds to cover its costs. (3-20-20)T

051. -- 059. (RESERVED)

060. EMPLOYER REGISTRATION.

01. Initial Registration. Employers required to have Department criminal history and background checks on their employees, contractors, or staff must register with the Department and receive an employer identification number before criminal history and background check applications can be processed or accessed. (3-20-20)T

02. Change in Name or Ownership. When an agency or facility: (3-20-20)T

a. Is acquired by another entity, the new ownership must register as a new employer and provide contact information to obtain a new employer identification number and website access within thirty (30) calendar days of acquisition. (3-20-20)T

b. Changes its name or location, the employer must provide the new name, location, and contact information to the Department within thirty (30) calendar days of the change. (3-20-20)T

061. EMPLOYER RESPONSIBILITIES.

The criminal history and background check clearance is not a determination of suitability for employment. The Department's criminal history and background check clearance means that an individual was found to have no disqualifying crime or relevant record. Employers are responsible for determining the individual's suitability for employment as described in Subsections 061.01 through 061.03 of these rules. (3-20-20)T

01. Screen Applicants. The employer should screen applicants prior to initiating a criminal history and background check in determining the suitability of the applicant for employment. If an applicant discloses a disqualifying crime or offense, or discloses other information that would indicate a risk to the health and safety of children and vulnerable adults, a determination of suitability for employment should be made during the initial application screening. (3-20-20)T

02. Maintain Printed Copy of Application. The employer must maintain a copy of the printed, signed, and notarized criminal history and background check application for all individuals required to obtain a criminal history and background check. This copy must be readily available for inspection to verify compliance with this requirement. An employer who chooses to use a criminal history and background check obtained for a previous employer must comply with Section 300 of these rules and maintain copies of the records. (3-20-20)T

03. Ensure Time Frames Are Met. The employer is responsible to ensure that the required time frames are met for completion and submission of the application and fingerprints to the Department as required in Section 150 of these rules. (3-20-20)T

04. Employment Determination. The employer is responsible for reviewing the results of the criminal history and background check even if a clearance that resulted in no disqualifying crimes or offenses found is issued by the Department. The employer must then make a determination as to the ability or risk of the individual to provide care or services to children or vulnerable adults. (3-20-20)T

062. -- 069. (RESERVED)

070. NON-COMPLIANCE WITH THESE RULES.

The Department will report an individual's or an employer's non-compliance with these rules to the applicable licensing or certification unit. (3-20-20)T

071. -- 099. (RESERVED)

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

Individuals subject to a Department criminal history and background check are those persons or classes of individuals who are required by statute, or Department rules to complete a criminal history and background check. (3-20-20)T

Required Classes	Idaho Code and IDAPA Chapter(s)
01. Adoptive Parent Applicants	IDAPA 16.06.01, "Child and Family Services" IDAPA 16.06.02, "Child Care Licensing"
02. Behavioral Health Programs	IDAPA 16.07.17, "Substance Use Disorders Services" IDAPA 16.07.33, "Adult Mental Health Services" IDAPA 16.07.37, "Children's Mental Health Services." IDAPA 16.07.39, "Appointment of Designated Examiners and Dispositioners."
03. Certified Family Homes	Section 39-3520, Idaho Code IDAPA 16.03.19, "Certified Family Homes" IDAPA 16.03.10, "Medicaid Enhanced Plan Benefits"
04. Children's Agency Facility Staff	IDAPA 16.06.02, "Child Care Licensing"
05. Children's Residential Care Facilities	Section 39-1210, Idaho Code IDAPA 16.06.02, "Child Care Licensing"
06. Children's Therapeutic Outdoor Programs	Section 39-1208, Idaho Code IDAPA 16.06.02, "Child Care Licensing"
07. Citizen Review Panel Members	Public health district volunteers who must comply with Section 16-1647, Idaho Code, "Citizen Review Panels - Child Protection Legislative Review Panel"
08. Contracted Non-Emergency Medical Transportation Providers	IDAPA 16.03.09, "Medicaid Basic Plan Benefits"
09. Court Appointed Guardians and Conservators	Title 15, Chapter 5, Idaho Code, & Title 66, Chapter 4, Idaho Code. Court required guardian and conservator criminal history and background checks are not provided Department clearances described in Section 180.01 of these rules
10. Designated Examiners and Dispositioners	IDAPA 16.07.39, "Appointment of Designated Examiners and Dispositioners"
11. Developmental Disabilities Agencies	IDAPA 16.03.21, "Developmental Disabilities Agencies" (DDA) IDAPA 16.03.10, "Medicaid Enhanced Plan Benefits"
12. Emergency Medical Services (EMS)	IDAPA 16.01.05, "Emergency Medical Services (EMS) -- Education, Instructor, and Examination Requirements" IDAPA 16.01.07, "Emergency Medical Services (EMS) -- Personnel Licensing Requirements"
13. High Risk Providers of Medicaid	IDAPA 16.03.09, "Medicaid Basic Plan Benefits" The Medicaid Provider Handbook

Required Classes	Idaho Code and IDAPA Chapter(s)
14. Home and Community-Based Services (HCBS)	IDAPA 16.03.10, "Medicaid Enhanced Plan Benefits" IDAPA 16.04.17, "Residential Habilitation Agencies"
15. Home Health Agencies	IDAPA 16.03.07, "Home Health Agencies"
16. Idaho Behavioral Health Plan (IBHP)	IDAPA 16.03.09, "Medicaid Basic Plan Benefits"
17. Idaho Child Care Program (ICCP)	IDAPA 16.06.12, "Idaho Child Care Program"
18. Intermediate Care Facilities for Individuals with Intellectual Disabilities (ICF/IID)	IDAPA 16.03.11, "Intermediate Care Facilities for Individuals with Intellectual Disabilities (ICF/IID)"
19. Licensed Foster Care	Section 39-1211, Idaho Code IDAPA 16.06.02, "Child Care Licensing"
20. Licensed Day Care	Sections 39-1105, 39-1113, and 39-1114, Idaho Code IDAPA 16.06.02, "Child Care Licensing"
21. Mental Health Services	IDAPA 16.07.33, "Adult Mental Health Services" IDAPA 16.07.37, "Children's Mental Health Services"
22. Personal Assistance Agencies	IDAPA 16.03.10, "Medicaid Enhanced Plan Benefits"
23. Personal Care Service Providers	Section 39-5604, Idaho Code IDAPA 16.03.10, "Medicaid Enhanced Plan Benefits"
24. Residential Assisted Living Facilities	IDAPA 16.03.22, "Residential Assisted Living Facilities"
25. Service Coordinators and Paraprofessional Providers	IDAPA 16.03.10, "Medicaid Enhanced Plan Benefits"
26. Skilled Nursing Facilities	IDAPA 16.03.02, "Skilled Nursing Facilities"
27. Substance Use Disorders Services	IDAPA 16.07.17, "Substance Use Disorders Services"
28. Support Brokers and Community Support Workers	IDAPA 16.03.13, "Consumer-Directed Services"

(3-20-20)T

101. DEPARTMENT INDIVIDUALS SUBJECT TO A CRIMINAL HISTORY AND BACKGROUND CHECK.

The following Department employees, contractors, and volunteers are subject to criminal history and background checks. (3-20-20)T

01. Employees, Contractors, and Volunteers. Employees, contractors, and volunteers, providing direct care services or who have access to children or vulnerable adults as defined in Section 39-5302(10), Idaho Code. (3-20-20)T

02. Employees of Bureau of Audits and Investigations. (3-20-20)T

a. Fraud Investigators; (3-20-20)T

b. Utilization Review Analysts; and (3-20-20)T

c. Criminal History Staff. (3-20-20)T

03. Employees at State Institutions. All employees of the following state funded institutions; (3-20-20)T

a. Southwest Idaho Treatment Center, Nampa, Idaho; (3-20-20)T

- b. State Hospital North, Orofino, Idaho; and (3-20-20)T
- c. State Hospital South, Blackfoot, Idaho. (3-20-20)T
- 04. Emergency Medical Services (EMS) Employees.** EMS communication specialists and managers. (3-20-20)T
- 05. Other Employees.** Other Department employees as determined by the Director. (3-20-20)T

102. -- 119. (RESERVED)

120. APPLICATION FOR A CRIMINAL HISTORY AND BACKGROUND CHECK.

Individuals who are subject to a criminal history and background check must complete an application and have it notarized. The application must include disclosure of any disqualifying crimes, offenses, or relevant records. (3-20-20)T

01. Application Form. The applicant must request a criminal history and background check by completing the Department's application form and submitting it on-line or by mail. The individual's application authorizes the Department to obtain information and release it as required in accordance with applicable state and federal law. The following information is required to complete the application: (3-20-20)T

- a. Name, current and former names, or aliases; (3-20-20)T
- b. Current and former addresses as requested in the application; (3-20-20)T
- c. Date of birth, that appears on a valid identification document issued by a governmental entity; (3-20-20)T
- d. State and country of birth; and (3-20-20)T
- e. Driver's license number, if licensed, state where licensed, and whether a license has ever been revoked or suspended. (3-20-20)T
- f. Other identifying information, including gender, race, height, weight, eye color, and hair color; (3-20-20)T
- g. Employer information; (3-20-20)T
- h. Any criminal record or criminal offense information; (3-20-20)T
- i. Any pending charges or outstanding warrants; (3-20-20)T
- j. Any child or adult protection involvement; (3-20-20)T
- k. Any Medicare or Medicaid Provider Exclusion; and (3-20-20)T
- l. Any other information requested on the application. (3-20-20)T

02. Disclosures. The individual must disclose any conviction, pending charges or indictment for crimes, and furnish a description of the crime and the particulars on the application. The individual must also disclose any notice by a state or local agency of substantiated child or substantiated vulnerable adult abuse, neglect, exploitation, or abandonment complaint, and any other information as required. (3-20-20)T

03. Failure to Disclose Information. (3-20-20)T

- a. An applicant who falsifies or fails to disclose information on the application, may be subject to a

conditional denial under Section 230.01 and prosecution under Sections 18-3203, 18-5401, and 56-227A, Idaho Code. (3-20-20)T

b. An applicant required to obtain a criminal history and background check under Section 126 of these rules that knowingly makes a materially false statement in connection to their background check will receive an unconditional denial as provided in Section 200 of these rules. (3-20-20)T

121. -- 124. (RESERVED)

125. IDAHO CHILD PROTECTION CENTRAL REGISTRY CHECKS.

The Department will provide the results of a check of the Idaho Child Protection Central Registry to any agency that requires it to comply with the provisions of applicable federal or state law. The Department will process those requests as described in this rule. (3-20-20)T

01. Request for an Idaho Child Protection Central Registry Check. A request for an Idaho Child Protection Central Registry check must be submitted by mail, facsimile transmission, or e-mail attachment on state or agency letterhead with the requesting authority contact information, and must include the following: (3-20-20)T

- a.** Name of the subject of the check, and any aliases; (3-20-20)T
- b.** Date of birth and Social Security Number of the subject of the check; and (3-20-20)T
- c.** A notarized signature of the subject of the check authorizing the request. (3-20-20)T

02. Fee Amount. The fee for an Idaho Child Protection Central Registry check is twenty dollars (\$20) for each subject checked. (3-20-20)T

03. Department Response. A response will be returned to the agency initiating the request for the check within fourteen (14) days of receipt of the request. The Department's contact information will be included along with the result of the check. (3-20-20)T

126. APPLICANTS RECEIVING A DEPARTMENT ENHANCED CLEARANCE.

The following classes of individuals are required to provide their previous residence information for the preceding five (5) years in their application for a criminal history and background check as described in Section 100 of these rules. (3-20-20)T

- 01. Adoptive Parent Applicants.** (3-20-20)T
- 02. Behavioral Health Programs.** (3-20-20)T
- 03. Children's Agency Facility Staff.** (3-20-20)T
- 04. Children's Residential Care Facilities.** (3-20-20)T
- 05. Children's Therapeutic Outdoor Programs.** (3-20-20)T
- 06. Citizen Review Panel Members.** (3-20-20)T
- 07. Idaho Child Care Program (ICCP).** (3-20-20)T
- 08. Licensed Foster Care.** (3-20-20)T
- 09. Licensed Day Care.** (3-20-20)T
- 10. Mental Health Services.** (3-20-20)T
- 11. Substance Use Disorders Services.** (3-20-20)T

127. -- 129. (RESERVED)

130. SUBMISSION OF APPLICATION.

An application for a criminal history and background check must be initiated, submitted, and received on the Department's website before a criminal history and background check can be processed. The application is pending until the Department issues a clearance or denial, or the individual withdraws the application. (3-20-20)T

131. -- 139. (RESERVED)

140. SUBMISSION OF FINGERPRINTS.

The Department's criminal history and background check is a fingerprint-based check. Ten (10) rolled fingerprints must be collected from the individual and submitted to the Department within the time frame for submitting applications as provided in Section 150 of these rules in order for a criminal history and background check request to be processed. The Department obtains fingerprints electronically at each of its fingerprint locations, or the Department's fingerprint card must be used. A Department fingerprint card can be obtained by contacting the Criminal History Unit, described in Section 005 of these rules. (3-20-20)T

01. Department Fingerprinting Locations. A fingerprint appointment is scheduled at designated Department locations where the Department will collect the individual's fingerprints. Locations for the closest Department fingerprint collection office where an individual may submit fingerprints are listed on the Department's website. The applicant may contact the Criminal History Unit as described in Section 005 of these rules for additional guidance. (3-20-20)T

02. Submitting Fingerprints by Mail. When an individual elects to have fingerprints collected by a local law enforcement agency or by the applicant's employer, the Department's fingerprint card must be used. The fingerprint card must be completed in accordance with the instructions provided, signed, and mailed along with the completed notarized application and applicable fee to the address indicated on the Department's website. The notarized application and fees must be received by the Department in the time frame required in Section 150 of these rules. (3-20-20)T

03. Submission of Reprints. In the event that an individual's submitted fingerprints are deemed unreadable by the Department, Idaho State Police, or the FBI, the applicant must comply with a request for reprints from the Department within fifteen (15) calendar days from the date of the notice. Failure to comply with the Department's reprint request will result in the applicant being unavailable to provide services. (3-20-20)T

141. -- 149. (RESERVED)

150. TIME FRAME FOR SUBMITTING APPLICATION AND FINGERPRINTS.

The completed notarized application and fingerprints must be received by the Department within twenty-one (21) days from the date of notarization whether submitted by mail or at a Department fingerprinting location. (3-20-20)T

01. Availability to Provide Services. The applicant: (3-20-20)T

a. Is available to provide services on the day the application is signed and notarized, as long as the applicant has not disclosed any disqualifying crimes or relevant records. The applicant must provide the Department a copy of the signed and notarized application to validate the date of applicant's availability to provide services. (3-20-20)T

b. Becomes unavailable to provide services or be licensed or certified when the notarized application is not received or the fingerprints have not been collected within this time frame. (3-20-20)T

c. Who submits a complete application and fingerprints by mail, and the application is deemed inadequate or incomplete for processing by the Department, is unavailable to provide services until the application is received by the Department completed and corrected. (3-20-20)T

02. Incomplete Application. The criminal history and background check is incomplete and will not be processed by the Department if this time frame is not met. (3-20-20)T

03. No Extension of Time Frame. The Department will not extend the twenty-one (21) day time frame, unless the applicant or employer provides just cause. An applicant for employment or employer can not submit a new application for the same purpose, or repeatedly re-sign and re-notarize the original application. (3-20-20)T

151. -- 159. (RESERVED)

160. WITHDRAWAL OF APPLICATION.

An individual may withdraw their application for a criminal history and background check at any time. An individual who withdraws their application cannot provide services, or receive licensure or certification. Fees paid for the cost of the criminal history and background check are non-refundable once the fingerprints have been submitted by the Department to the Idaho State Police. (3-20-20)T

161. -- 169. (RESERVED)

170. AVAILABILITY TO PROVIDE SERVICES PENDING COMPLETION OF THE CRIMINAL HISTORY AND BACKGROUND CHECK.

An individual is available to provide services pending completion of the criminal history and background check as described in Subsections 170.01 and 170.02 of this rule. The individual must have submitted a signed notarized application and fingerprints in the time frame required in Section 150 of these rules, in order to provide services. (3-20-20)T

01. Employees of Providers, Contractors, Emergency Medical Services (EMS), or the Department. An individual is available to provide services on a provisional basis at the discretion of the employer or EMS Bureau as long as no disqualifying crimes or relevant records are disclosed on the application. The employer must review the application for any disqualifying crimes listed in Section 210 of these rules or other relevant records listed in Sections 230 and 240 of these rules. The employer must determine whether the applicant poses a health or safety risk to vulnerable clients before allowing the individual to provide services until a clearance or denial is issued by the Department. (3-20-20)T

02. Individuals Licensed or Certified by the Department. Individuals applying for licensure or certification by the Department are not available to provide services or receive licensure or certification until the criminal history and background check is complete and a clearance is issued by the Department. The following are individuals required to have a clearance prior to providing services: (3-20-20)T

- a.** Adoption or foster care applicants and adults in the home; (3-20-20)T
- b.** Certification or licensure applicants; (3-20-20)T
 - i.** Certified family homes; (3-20-20)T
 - ii.** Licensed child care providers; (3-20-20)T

171. -- 179. (RESERVED)

180. CRIMINAL HISTORY AND BACKGROUND CHECK RESULTS.

The Department will issue a clearance or denial once the criminal history and background check is completed. (3-20-20)T

01. Results of Criminal History and Background Checks. The results may be accessed by the individual on the Department's website. The employer may access the information that is provided by the applicant and information obtained from the state, county, or through registries. (3-20-20)T

02. Findings for Court Required Criminal History and Background Checks. As required in Section 56-1004A(2)(b), Idaho Code, the Department will provide findings of a court ordered criminal history and background check to individuals appointed by the court according to Title 15, Chapter 5, or Title 66, Chapter 4, Idaho Code. (3-20-20)T

181. APPLICATION STATUS.

An individual and their employer may check on the criminal history and background check status and the individual's availability to work on the Department website at <https://chu.dhw.idaho.gov/>. (3-20-20)T

182. -- 189. (RESERVED)

190. CRIMINAL HISTORY AND BACKGROUND CHECK CLEARANCE.

01. Clearance. A criminal history and background check clearance is issued by the Department once all relevant records and findings have been reviewed and the Department has cleared the applicant. The clearance will be published on the Department's website and the individual may print copies of the clearance. The employer must print the clearance within fourteen (14) calendar days of the clearance being accessible on the Department's website, and maintain a copy readily available for inspection for a period consistent with the employer's own personnel documentation retention schedule. (3-20-20)T

02. Clearance Types. An applicant required to pass a criminal history and background must receive a clearance as provided below: (3-20-20)T

a. A clearance for an applicant who is not seeking an enhanced clearance for employment in classes listed in Section 126 of these rules, may receive a clearance for a criminal history and background check when a relevant record identified on any child protection registry is disclosed, but the applicant has no conviction of any crimes listed in Subsections 210.01 or 210.02 of these rules. (3-20-20)T

b. An applicant who receives an enhanced clearance has met the criteria to have obtained a clearance as provided in Subsection 190.02.a. of this rule. An enhanced clearance is required for each of the classes listed in Section 126 of these rules and requires searches from states and jurisdictions where the applicant has resided in the previous five (5) years. A relevant record on any child protection registry will result in a denial under Subsection 200.01 of these rules and no clearance will be issued. An applicant who applies to work in any of these classes must receive or have an enhanced clearance. (3-20-20)T

03. Revocation of Clearance. An individual's previously issued clearance may be revoked for the following: (3-20-20)T

a. The individual fails to comply with the Department's request to submit to a new criminal history and background check according to Subsection 300.04 of these rules. (3-20-20)T

b. The individual completes a new criminal history and background check and is found to have a criminal or relevant record that results in an inability to proceed action or in a denial as described in Sections 190 or 200 of these rules. (3-20-20)T

c. The criminal history and background check fees are not paid, or are insufficient to cover the costs of the background check. (3-20-20)T

191. -- 199. (RESERVED)

200. UNCONDITIONAL DENIAL.

An individual who receives an unconditional denial is not available to provide services, have access, or to be licensed or certified by the Department. (3-20-20)T

01. Reasons for an Unconditional Denial. Unconditional denials are issued for: (3-20-20)T

a. Disqualifying crimes described in Section 210 of these rules; (3-20-20)T

b. A relevant record on any Child Protection Registry for the classes of individuals listed in Section 126 of these rules; (3-20-20)T

- c.** A relevant record on the Idaho Child Protection Central Registry with a Level one (1) or Level two (2) designation for all other applicants covered by these rules; (3-20-20)T
- d.** A relevant record on the Nurse Aide Registry; (3-20-20)T
- e.** A relevant record on either the state or federal sex offender registries; (3-20-20)T
- f.** A relevant record on the state or federal Medicaid Exclusion List, described in Section 240 of these rules; or (3-20-20)T
- g.** A materially false statement made knowingly in connection to the Department's criminal history and background check application for the classes of individuals listed in Section 126 of these rules will result in a five-year disqualification period for the applicant. (3-20-20)T

02. Issuance of an Unconditional Denial. The Department will issue an unconditional denial within fourteen (14) days of completion of a criminal history and background check. (3-20-20)T

03. Challenge of Department's Unconditional Denial. An individual has twenty-eight (28) days from the date the unconditional denial is issued to challenge the Department's unconditional denial. The individual must submit the challenge in writing and provide court records or other information which demonstrates the Department's unconditional denial is incorrect. These documents must be filed with the Criminal History Unit described in Section 005 of these rules. (3-20-20)T

a. If the individual challenges the Department's unconditional denial, the Department will review the court records, documents and other information filed by the individual. The Department will issue a decision within thirty (30) days of the receipt of the challenge. The Department's decision will be a final order under IDAPA 16.05.03, "Contested Case Proceedings and Declaratory Rulings," Section 152. (3-20-20)T

b. If the individual does not challenge the Department's unconditional denial within thirty (30) days, it becomes a final order of the Department under IDAPA 16.05.03, "Contested Case Proceedings and Declaratory Rulings," Section 152. (3-20-20)T

04. No Exemption Review. No exemption review, as described in Section 250 of these rules, is allowed for an unconditional denial. (3-20-20)T

05. Appeal of an Unconditional Denial. Following a challenge of the Department's unconditional denial, an individual may appeal the Department's decision under the provisions in IDAPA 16.05.03, "Contested Case Proceedings and Declaratory Rulings." The request to appeal an unconditional denial does not stay the action of the Department. (3-20-20)T

201. -- 209. (RESERVED)

210. DISQUALIFYING CRIMES RESULTING IN AN UNCONDITIONAL DENIAL.

An individual is not available to provide direct care or services when the individual discloses or the criminal history and background check reveals a conviction for a disqualifying crime on his record as described in Subsections 210.01 and 210.02 of this rule. (3-20-20)T

01. Disqualifying Crimes. The disqualifying crimes, described in Subsections 210.01.a. through 210.01.cc. of this rule, or any substantially conforming foreign criminal violation, will result in an unconditional denial being issued. (3-20-20)T

- a.** Crimes against vulnerable adults: (3-20-20)T

 - i.** Abuse, neglect, or exploitation of a vulnerable adult, as defined in Section 18-1505, Idaho Code; (3-20-20)T
 - ii.** Abandoning a vulnerable adult, as defined in Section 18-1505A, Idaho Code; (3-20-20)T

- iii. Sexual abuse and exploitation of a vulnerable adult, as defined in Section 18-1505B, Idaho Code. (3-20-20)T
- b. Aggravated, first-degree and second-degree arson, as defined in Sections 18-801 through 18-803, and 18-805, Idaho Code; (3-20-20)T
- c. Crimes against nature, as defined in Section 18-6605, Idaho Code; (3-20-20)T
- d. Forcible sexual penetration by use of a foreign object, as defined in Section 18-6608, Idaho Code; (3-20-20)T
- e. Hiring, employing, or using a minor to engage in certain acts, as defined in Section 18-1517A, Idaho Code; (3-20-20)T
- f. Human trafficking, as defined in Sections 18-8602 and 18-8603, Idaho Code; (3-20-20)T
- g. Incest, as defined in Section 18-6602, Idaho Code; (3-20-20)T
- h. Injury to a child, felony or misdemeanor, as defined in Section 18-1501, Idaho Code; (3-20-20)T
- i. Kidnapping, as defined in Sections 18-4501 through 18-4503, Idaho Code; (3-20-20)T
- j. Lewd conduct with a minor, as defined in Section 18-1508, Idaho Code; (3-20-20)T
- k. Mayhem, as defined in Section 18-5001, Idaho Code; (3-20-20)T
- l. Manslaughter: (3-20-20)T
 - i. Voluntary manslaughter, as defined in Section 18-4006(1) Idaho Code; (3-20-20)T
 - ii. Involuntary manslaughter, as defined in Section 18-4006(2), Idaho Code; (3-20-20)T
 - iii. Felony vehicular manslaughter, as defined in Section 18-4006(3)(a) and (b), Idaho Code; (3-20-20)T
- m. Murder in any degree or assault with intent to commit murder, as defined in Sections 18-4001, 18-4003, and 18-4015, Idaho Code; (3-20-20)T
- n. Poisoning, as defined in Sections 18-4014 and 18-5501, Idaho Code; (3-20-20)T
- o. Rape, as defined in Section 18-6101, Idaho Code; (3-20-20)T
- p. Robbery, as defined in Section 18-6501, Idaho Code; (3-20-20)T
- q. Felony stalking, as defined in Section 18-7905, Idaho Code; (3-20-20)T
- r. Sale or barter of a child, as defined in Section 18-1511, Idaho Code; (3-20-20)T
- s. Ritualized abuse of a child, as defined in Section 18-1506A, Idaho Code; (3-20-20)T
- t. Sexual abuse or exploitation of a child, as defined in Sections 18-1506, Idaho Code; (3-20-20)T
- u. Felony sexual exploitation of a child, as defined in Section 18-1507, Idaho Code; (3-20-20)T
- v. Sexual battery of a minor child under sixteen (16) or seventeen (17) years of age, as defined in Section 18-1508A, Idaho Code; (3-20-20)T

- w. Video voyeurism, as defined in Section 18-6609, Idaho Code; (3-20-20)T
 - x. Enticing of children, as defined in Sections 18-1509 and 18-1509A, Idaho Code; (3-20-20)T
 - y. Inducing individuals under eighteen (18) years of age into prostitution or patronizing a prostitute, as defined in Sections 18-5609 and 18-5611, Idaho Code; (3-20-20)T
 - z. Any felony punishable by death or life imprisonment; (3-20-20)T
 - aa. Attempted strangulation, as defined in Section 18-923, Idaho Code; (3-20-20)T
 - bb. Felony domestic violence, as defined in Section 18-918, Idaho; or (3-20-20)T
 - cc. Attempt, conspiracy, accessory after the fact, or aiding and abetting, as defined in Sections 18-205, 18-306, 18-1701, and 19-1430, Idaho Code, to commit any of the disqualifying designated crimes. (3-20-20)T
- 02. Disqualifying Five-Year Crimes.** The Department will issue an unconditional denial for an individual who has been convicted of the following described crimes for five (5) years from the date of the conviction for the crimes listed in Subsections 210.02.a. through 210.02.n. of this rule, or any substantially conforming foreign criminal violation: (3-20-20)T
- a. Any felony not described in Subsection 210.01, of this rule; (3-20-20)T
 - b. Misdemeanor domestic violence, as defined in Section 18-918, Idaho Code; (3-20-20)T
 - c. Failure to report abuse, abandonment or neglect of a child, as defined in Section 16-1605, Idaho Code; (3-20-20)T
 - d. Misdemeanor forgery of and fraudulent use of a financial transaction card, as defined in Sections 18-3123 through 18-3128, Idaho Code; (3-20-20)T
 - e. Misdemeanor forgery and counterfeiting, as defined in Sections 18-3601 through 18-3620, Idaho Code; (3-20-20)T
 - f. Misdemeanor identity theft, as defined in Section 18-3126, Idaho Code; (3-20-20)T
 - g. Misdemeanor insurance fraud, as defined in Sections 41-293 and 41-294, Idaho Code; (3-20-20)T
 - h. Public assistance fraud, as defined in Sections 56-227, 56-227A, 56-227D, 56-227E and 56-227F, Idaho Code; (3-20-20)T
 - i. Sexual exploitation of a child by electronic means, felony or misdemeanor, as defined in Section 18-1507A, Idaho Code; (3-20-20)T
 - j. Stalking in the second degree, as defined in Section 18-7906, Idaho Code; (3-20-20)T
 - k. Misdemeanor vehicular manslaughter, as defined in Section 18-4006(3)(c), Idaho Code; (3-20-20)T
 - l. Sexual exploitation by a medical care provider, as defined in Section 18-919, Idaho Code; (3-20-20)T
 - m. Operating a certified family home without certification, as defined in Section 39-3528, Idaho Code; (3-20-20)T
 - n. Attempt, conspiracy, accessory after the fact, or aiding and abetting, as defined in Sections 18-205,

18-306, 18-1701, and 19-1430, Idaho Code, to commit any of the disqualifying five (5) year crimes. (3-20-20)T

03. Underlying Facts and Circumstances. The Department may consider the underlying facts and circumstances of felony or misdemeanor conduct including a guilty plea or admission in determining whether or not to issue a clearance, regardless of whether or not the individual received one (1) of the following: (3-20-20)T

- a. A withheld judgment; (3-20-20)T
- b. A dismissal, suspension, deferral, commutation, or a plea agreement where probation or restitution was or was not required; (3-20-20)T
- c. An order according to Section 19-2604, Idaho Code, or other equivalent state law; or (3-20-20)T
- d. A sealed record. (3-20-20)T

211. -- 219. (RESERVED)

220. CONDITIONAL DENIAL.

The Department may issue a conditional denial within fourteen (14) days of the completion of a criminal history and background check. An individual who receives a conditional denial is not available to provide services or be licensed or certified by the Department. (3-20-20)T

01. Reasons for a Conditional Denial Issuance. A conditional denial is issued when the criminal history and background check reveals a relevant record as described in Section 230 of these rules. (3-20-20)T

02. Effective Date of a Conditional Denial. A conditional denial is effective immediately. An applicant may not reapply for a criminal history and background check for three (3) years from the date of the conditional denial. (3-20-20)T

03. Request an Exemption Review. An individual may request an exemption review as described in Section 250 of these rules when a conditional denial has been issued. (3-20-20)T

221. -- 229. (RESERVED)

230. RELEVANT RECORDS RESULTING IN A CONDITIONAL DENIAL.

An individual is not available to provide direct care or services when the individual discloses or the criminal history and background check reveals a relevant record on their record as described Subsections 230.01 and 230.02 of this rule. (3-20-20)T

01. Individuals Licensed or Certified by the Department or a Department Employee. A conditional denial may be issued when an individual who is licensed or certified by the Department, or who is a Department employee discloses, or the criminal history and background check reveals, a relevant record as defined in Subsections 230.01.a. through 230.01.d. of this rule: (3-20-20)T

- a. A substantiated child protection complaint or a substantiated adult protection complaint; (3-20-20)T
- b. The Department determines there is a potential health and safety risk to vulnerable adults or children; (3-20-20)T
- c. The individual has falsified or omitted information on the application form; or (3-20-20)T
- d. The Department determines additional information is required. (3-20-20)T

02. Employees of Providers or Contractors. A conditional denial may be issued when an individual who is employed by a provider or contractor discloses, or the criminal history and background check reveals, a relevant record as defined in Subsections 230.02.a. through 230.02.b. of this rule. (3-20-20)T

a. A substantiated child protection complaint or a substantiated adult protection complaint; or (3-20-20)T

b. The Department determines additional information is required. (3-20-20)T

03. Underlying Facts and Circumstances. The Department may consider the underlying facts and circumstances of felony or misdemeanor conduct including a guilty plea or admission in determining whether or not to issue a clearance, regardless of whether or not the individual received one (1) of the following: (3-20-20)T

a. A withheld judgment; (3-20-20)T

b. A dismissal, suspension, deferral, commutation, or a plea agreement where probation or restitution was or was not required; (3-20-20)T

c. An order according to Section 19-2604, Idaho Code, or other equivalent state law; or (3-20-20)T

d. A sealed record. (3-20-20)T

231. -- 239. (RESERVED)

240. MEDICAID EXCLUSION.

Individuals subject to these rules, who are excluded by the Office of the Inspector General, Department of Health and Human Services; or, are listed in the State of Idaho Medicaid Exclusion list, cannot provide Department funded services within the scope of these rules. At the expiration of the exclusion, the individual may reapply for a criminal history and background check. (3-20-20)T

241. -- 249. (RESERVED)

250. EXEMPTION REVIEWS.

An individual cannot request an exemption review for an unconditional denial. An individual may request an exemption review within fourteen (14) days from the date of the issuance of a conditional denial by the Department, unless good cause is shown for a delay. Once the Department receives the request for an exemption review, the Department will initiate a review for crimes or actions not designated in Section 210 of these rules. The review may consist of examining documents and supplemental information provided by the individual, a telephone interview, an in-person interview, or any other review the Department determines is necessary. Exemption reviews are governed and conducted as provided in Subsections 250.01 through 250.05 of this rule. (3-20-20)T

01. Scheduling an Exemption Review. Upon receipt of a request for an exemption review, the Department will determine the type of review and conduct the review within thirty (30) days from the date of the request. Where an in-person review is appropriate, the Department will provide the individual at least seven (7) days notice of the review date unless the time is waived by the individual. When an in-person review is scheduled, the individual is notified by the Department that they are able to bring witnesses and present evidence during the review. (3-20-20)T

02. Factors Considered at the Exemption Review. The Department will consider the following factors or evidence during the exemption review: (3-20-20)T

a. The severity or nature of the crime or other findings; (3-20-20)T

b. The period of time since the incident under review occurred; (3-20-20)T

c. The number and pattern of incidents; (3-20-20)T

d. Circumstances surrounding the incident that would help determine the risk of repetition; (3-20-20)T

- e. Relationship of the incident to the care of children or vulnerable adults; (3-20-20)T
- f. Activities since the incident, such as continuous employment, education, participation in treatment, payment of restitution, or any other factors that may be evidence of rehabilitation; (3-20-20)T
- g. Granting of a pardon by the Governor or the President; and (3-20-20)T
- h. The falsification or omission of information on the application form and other supplemental forms submitted. (3-20-20)T

03. Exemption Review Determination. The Department determines the individual's suitability based upon the information provided during the exemption review. The Department will issue a notice of decision within fifteen (15) business days of the close of the review. (3-20-20)T

04. Exemption Review Decision Effective Dates. The Department's exemption review decision is effective for three (3) years from the date of the notice of decision. (3-20-20)T

05. Exemption Review Appeal. Exemption reviews conducted under this section of rule may be appealed under IDAPA 16.05.03, "Contested Cases Proceedings and Declaratory Rulings." The filing of a notice of appeal does not stay the action of the Department. The individual who files an appeal must establish that the Department's denial was arbitrary and capricious. (3-20-20)T

251. -- 259. (RESERVED)

260. PREVIOUS EXEMPTION REVIEW DENIALS.

The individual's current request for a criminal history and background check for any Department program when there has been a denial from an exemption review within the last three (3) years will automatically be denied. (3-20-20)T

261. -- 269. (RESERVED)

270. CRIMINAL OR RELEVANT RECORD - ACTION PENDING.

01. Notice of Inability to Proceed. When the applicant is identified as having a pending criminal action for a crime or relevant record that may disqualify them from receiving a clearance for the criminal history and background check, the Department may issue a notice of inability to proceed. (3-20-20)T

02. Availability to Provide Services. The applicant is not available to provide service when a notice of inability to proceed or denial is issued by the Department. Any previous clearance issued by the Department will be revoked as described in Section 190 of these rules. (3-20-20)T

03. Reconsideration of Action Pending. In the case of an inability to proceed status, the applicant can submit documentation that the matter has been resolved to the Department for reconsideration within one hundred and twenty (120) calendar days from the date of notice. When the Department receives this documentation, the Department will notify the applicant of the reconsideration and issue a clearance or denial. When the Department's reconsideration results in a clearance after review, any previously revoked clearance will be restored as described in Section 190 of these rules. (3-20-20)T

271. -- 299. (RESERVED)

300. UPDATING CRIMINAL HISTORY AND BACKGROUND CHECKS.

The employer is responsible for confirming that the applicant has completed a criminal history and background check as provided in Section 190 of these rules. Once a clearance is issued by the Department, verifiable continuous employment of the applicant with the same employer eliminates the requirement for a new background check. The provisions stipulated on Subsections 300.03 and 300.04 of this rule still apply. (3-20-20)T

01. New Criminal History and Background Check. Any individual required to have a criminal history and background check under these rules must complete a new application, including fingerprints when: (3-20-20)T

- a. Accepting employment with a new employer; or (3-20-20)T
- b. Applying for licensure or certification with the Department; and (3-20-20)T
- c. His last Department criminal history and background check was completed more than three (3) years prior to his employment date or licensure application date. (3-20-20)T

02. Use of Criminal History Check Within Three Years of Completion. Any employer may use a Department criminal history and background check clearance obtained under these rules if: (3-20-20)T

a. The individual has received a Department's criminal history and background check clearance within three (3) years from the date of employment; (3-20-20)T

b. Prior to allowing the individual to provide services, the employer must obtain access to the individual's background check results and clearance through the Department's website by having the employer's identification number added to the individual's background check results, and (3-20-20)T

c. The employer completes a state-only background check of the individual through the Idaho State Police Bureau of Criminal Identification, and no disqualifying crimes are found. (3-20-20)T

i. The action must be initiated by the employer within thirty (30) calendar days of obtaining access to the individual's criminal history and background check clearance issued by the Department; and (3-20-20)T

ii. The employer must be able to provide proof of this action by maintaining a copy of the records required in Subsections 300.02.a. and 300.02.c. of this rule for a period consistent with the employer's own personnel documentation retention schedule. (3-20-20)T

d. An employer not listed in Section 126 of these rules, may use an individual's Department clearance or enhanced clearance that was obtained within three (3) years from date of employment. (3-20-20)T

e. An individual with a current clearance that is within three (3) years from date of employment, who applies to a new agency or employer identified in Section 126 of these rules, must submit an application for a new criminal history and background check to obtain an enhanced clearance. (3-20-20)T

03. Employer Discretion. Any agency or employer, at its discretion, may require an individual to complete a Department criminal history and background check at any time, even if the individual has received a criminal history and background check clearance within three (3) years. (3-20-20)T

04. Department Discretion. The Department may, at its discretion or as provided in program rules, require a criminal history and background check of any individual covered under these rules at any time during the individual's employment, internship, or while volunteering. Any individual required to complete a criminal history and background check under Sections 100 and 101 of these rules, must be fingerprinted within fourteen (14) days from the date of notification by the Department that a new criminal history and background check is required. (3-20-20)T

301. -- 349. (RESERVED)

350. CRIMINAL HISTORY AND BACKGROUND CHECK RECORDS.

Criminal history and background checks done under this chapter become the property of the Department and are held confidential. (3-20-20)T

01. Release of Criminal History and Background Check Records. A copy of the criminal history and background check as defined in Section 010 of these rules will be released: (3-20-20)T

a. To the individual who has requested the criminal history and background check and upon receipt of a written request to the Department, provided the individual releases the state from all liability; (3-20-20)T

- b.** In response to a subpoena issued by a court of competent jurisdiction; or (3-20-20)T
 - c.** As otherwise required by law. (3-20-20)T
 - 02. Retention of Records.** (3-20-20)T

 - a.** If an exemption is granted, the criminal history and background record, supplemental documentation received, notes from the review, and the decision will be retained by the Department for a period of at least five (5) years after the criminal history and background check is completed. (3-20-20)T
 - b.** If an exemption is denied, the Department retains all records and electronic recordings pertaining to the review for five (5) years after the criminal history and background check is completed. (3-20-20)T
 - 03. Use and Dissemination Restrictions for FBI Criminal Identification Records.** According to the provisions under 28 CFR 50.12, the Department will: (3-20-20)T

 - a.** Notify the individual fingerprinted that the fingerprints will be used to check the criminal history records of the FBI; (3-20-20)T
 - b.** In determining the suitability for licensing or employment, provide the individual the opportunity to complete or challenge the accuracy of the information contained in the FBI identification record; (3-20-20)T
 - c.** Notify the individual that they have fifteen (15) days to correct or complete the FBI identification record or to decline to do so; and (3-20-20)T
 - d.** Advise the individual who wishes to correct the FBI identification record that procedures for changing, correcting, or updating are provided in 28 CFR 16.34. (3-20-20)T
- 351. -- 999. (RESERVED)**

IDAPA 18 – IDAHO DEPARTMENT OF INSURANCE

18.08.01 – ADOPTION OF THE INTERNATIONAL FIRE CODE

DOCKET NO. 18-0801-2001

NOTICE OF INTENT TO PROMULGATE RULES – NEGOTIATED RULEMAKING

AUTHORITY: In compliance with Sections 67-5220(1) and 67-5220(2), Idaho Code, notice is hereby given that this agency intends to promulgate rules and desires public comment prior to initiating formal rulemaking procedures. This negotiated rulemaking action is authorized pursuant to Section 41-254, Idaho Code.

MEETING SCHEDULE: A public meeting on the negotiated rulemaking will be held as follows:

PUBLIC (LIVE) MEETING
Wednesday, June 17, 2020 - 3:30 p.m.
Idaho Department of Insurance 700 W. State Street – 3rd Floor Boise, ID 83720
Or via Zoom:

Register in advance for this meeting:

<https://us02web.zoom.us/meeting/register/tZ0of-CurD0sE9HYAnrOIaHp4ehYakpbtvSo>

After registering, you will receive a confirmation email containing information about joining the meeting.

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

METHOD OF PARTICIPATION: Persons wishing to participate in the negotiated rulemaking must respond to this notice by contacting the agency either in writing (paper or email) or by calling the phone number listed below, and/or by attending the public meeting.

Upon conclusion of the negotiated rulemaking, any unresolved issues, all key issues considered, and conclusion reached during the negotiated rulemaking will be addressed in a written summary. The summary will be made available to interested persons who contact the agency or, if the agency chooses, the summary may be posted on the agency website.

DESCRIPTIVE SUMMARY AND STATEMENT OF PURPOSE: The following is a statement in nontechnical language of the substance and purpose of the intended negotiated rulemaking and the principal issues involved:

The State Fire Marshal adopts the International Fire Code (IFC) then adjusts, via negotiated rulemaking, provisions of the IFC that we wish to exempt Idaho from enforcing at least at the state level. Under the 2018 fire code (IFC) that will go into effect on January 1, 2021, there was a new section added regulating food trucks. Two sub sections require additional inconveniences on the part of the food truck owner and additional money to the entrepreneur. Section 319.2 states that permits shall be required as set forth in section 105.6. This rulemaking seeks to change the language so that permits be required “if required by the local jurisdiction.” The SFM is unaware of any company that provides this inspection and certification in Idaho. This rulemaking will leave it to the individual jurisdictions to determine inspection and enforcement feasibility.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS, OBTAINING DRAFT COPIES: For assistance on technical questions concerning this negotiated rulemaking or to obtain a preliminary draft copy of the rule text, contact Knute Sandahl at knute.sandahl@doi.idaho.gov or (208) 334-4377.

Materials pertaining to the negotiated rulemaking, including any available preliminary rule drafts, can be found on the Idaho Department of Insurance web site at the following web address: <https://doi.idaho.gov/>.

Anyone may submit written comments regarding this negotiated rulemaking. All written comments must be directed to the undersigned and must be delivered on or before June 24, 2020.

Dated this 1st day of May, 2020.

Dean L. Cameron, Director
Idaho Department of Insurance
700 W. State Street, 3rd Floor
P.O. Box 83720, Boise, ID 83702-0043
Phone: (208) 334-4250 / Fax: (208) 334-4398

IDAPA 24 – DIVISION OF OCCUPATIONAL AND PROFESSIONAL LICENSES

24.03.01 – RULES OF THE STATE BOARD OF CHIROPRACTIC PHYSICIANS

DOCKET NO. 24-0301-2001 (NEW CHAPTER)

NOTICE OF INTENT TO PROMULGATE RULES – NEGOTIATED RULEMAKING

AUTHORITY: In compliance with Sections 67-5220(1) and 67-5220(2), Idaho Code, notice is hereby given that this agency intends to promulgate rules and desires public comment prior to initiating formal rulemaking procedures. This negotiated rulemaking action is authorized pursuant to Section 54-707, Idaho Code.

MEETING SCHEDULE: A public meeting on the negotiated rulemaking will be held as follows:

Persons interested in participating via telephone or web conference should contact Rob McQuade at (208) 334-3233 or chi@ibol.idaho.gov for the participation information.

PUBLIC MEETING

Friday, July 17, 2020 at 2:00 p.m. (MDT)

**Division of Occupational & Professional Licenses
700 W. State Street
First Floor
Boise, Idaho 83702**

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

METHOD OF PARTICIPATION: Persons wishing to participate in the negotiated rulemaking must do the following: The Board will receive written comments prior to and at the meeting and public comments may be provided via telephone at the meeting. Written comments received by July 13, 2020 will be included in the Board's documents for review at the meeting. Comments may be sent to Rob McQuade, Legal Counsel for the Division of Occupational and Professional Licenses, at chi@ibol.idaho.gov.

Upon conclusion of the negotiated rulemaking, any unresolved issues, all key issues considered, and conclusion reached during the negotiated rulemaking will be addressed in a written summary. The summary will be made available to interested persons who contact the agency or, if the agency chooses, the summary may be posted on the agency website.

DESCRIPTIVE SUMMARY AND STATEMENT OF PURPOSE: The following is a statement in nontechnical language of the substance and purpose of the intended negotiated rulemaking and the principal issues involved:

This rulemaking will implement the changes of S 1331, which amended where a chiropractic physician certified in clinical nutrition may obtain prescription drug products. Additionally, the Board will address reinstating the fee for the original certification in clinical nutrition.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS, OBTAINING DRAFT COPIES: For assistance on technical questions concerning this negotiated rulemaking contact Rob McQuade at (208) 334-3233. Materials pertaining to the negotiated rulemaking, including any available preliminary rule drafts, can be found on the Idaho Board of Chiropractic Physicians web site at the following web address: www.ibol.idaho.gov, by clicking on the "Chiropractors" tab, and the "proposed laws and rules" tab.

Anyone may submit written comments regarding this negotiated rulemaking. All written comments must be directed to the undersigned and must be delivered on or before the meeting date.

Dated this 15th day of May, 2020.

Susan Buxton
Interim Division Administrator
Division of Occupational and Professional Licenses
700 W. State Street
P.O. Box 83720
Boise, ID 83720
Phone: (208) 334-3233
Fax: (208) 334-3945

IDAPA 39 – IDAHO TRANSPORTATION DEPARTMENT

39.02.60 – RULES GOVERNING LICENSE PLATE PROVISIONS

DOCKET NO. 39-0260-2001 (NEW CHAPTER)

NOTICE OF INTENT TO PROMULGATE RULES – NEGOTIATED RULEMAKING

AUTHORITY: In compliance with Sections 67-5220(1) and 67-5220(2), Idaho Code, notice is hereby given that this agency intends to promulgate rules and desires public comment prior to initiating formal rulemaking procedures. This negotiated rulemaking action is authorized pursuant to Sections 40-312, 49-201 & 49-402D, Idaho Code.

MEETING SCHEDULE: A public meeting on the negotiated rulemaking will be held as follows.:

PUBLIC (LIVE) MEETING
Thursday, June 18, 2020 - 2:30 p.m. - 6:30 p.m. (MT)
ITD Headquarters 3311 W. State St. Boise, ID 83703
TELECONFERENCE CALL-IN
Toll Free: 1-844-740-1264
WebEx Information:
Event number (access code): 286 360 168 Event Password: 12345 Event Address for Attendees:

<https://itd.gov.webex.com/itdgov/j.php?MTID=mca6411ebe9432190fe749f91187c8add>

Upon conclusion of the negotiated rulemaking, any unresolved issues, all key issues considered, and conclusions reached during the negotiated rulemaking will be addressed in a written summary. The summary will be made available to interested persons who contact the agency or, if the agency chooses, the summary may be posted on the agency website.

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

DESCRIPTIVE SUMMARY AND STATEMENT OF PURPOSE: The following is a statement in nontechnical language of the substance and purpose of the intended negotiated rulemaking and the principal issues involved:

The changes being proposed to this rule are based on the passage of [HB1349aaS-2020](#). The rule changes will address the modifications made by the Idaho Legislature to the Specialty License Plate Program. This rulemaking will ensure consistency between Idaho Code and the Idaho Administrative Procedures Act.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS, OBTAINING DRAFT COPIES: For assistance on technical questions concerning this negotiated rulemaking or to obtain a preliminary draft copy of the rule text (if available), please contact Chris Fisher, DMV Program Specialist, at (208) 334-8167. Materials pertaining to the negotiated rulemaking, including any available preliminary rule drafts, can be found on the Idaho Transportation Department’s website at the following web address: <https://itd.idaho.gov/rulemaking/>.

Anyone may submit written comments regarding this negotiated rulemaking. All written comments must be directed to the undersigned and must be delivered on or before Wednesday, June 24, 2020.

Dated this 5th day of May, 2020.

Ramón S. Hobdey-Sánchez, J.D.
Office of Governmental Affairs
Idaho Transportation Department
3311 W. State Street
P.O. Box 7129
Boise, ID 83707-1129
ramon.hobdey-sanchez@itd.idaho.gov
Phone: (208) 334-8810

IDAPA 39 – IDAHO TRANSPORTATION DEPARTMENT

39.02.71 – RULES GOVERNING DRIVER’S LICENSE VIOLATION POINT SYSTEM

DOCKET NO. 39-0271-2001

NOTICE OF INTENT TO PROMULGATE RULES – NEGOTIATED RULEMAKING

AUTHORITY: In compliance with Sections 67-5220(1) and 67-5220(2), Idaho Code, notice is hereby given that this agency intends to promulgate rules and desires public comment prior to initiating formal rulemaking procedures. This negotiated rulemaking action is authorized pursuant to Sections 40-312, 49-201 & 49-326, Idaho Code.

MEETING SCHEDULE: A public meeting on the negotiated rulemaking will be held as follows.:

PUBLIC (LIVE) MEETING
Thursday, June 18, 2020 - 2:30 p.m. - 6:30 p.m. (MT)
ITD Headquarters 3311 W. State St. Boise, ID 83703
TELECONFERENCE CALL-IN
Toll Free: 1-844-740-1264
WebEx Information:
Event number (access code): 286 360 168 Event Password: 12345 Event Address for Attendees:

<https://itd.gov.webex.com/itd.gov/j.php?MTID=mca6411ebe9432190fe749f91187c8add>

Upon conclusion of the negotiated rulemaking, any unresolved issues, all key issues considered, and conclusions reached during the negotiated rulemaking will be addressed in a written summary. The summary will be made available to interested persons who contact the agency or, if the agency chooses, the summary may be posted on the agency website.

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

DESCRIPTIVE SUMMARY AND STATEMENT OF PURPOSE: The following is a statement in nontechnical language of the substance and purpose of the intended negotiated rulemaking and the principal issues involved:

The changes being proposed to this rule are based on the passage of [HB614-2020](#). The rule change will add a new violation for distracted driving and update the points table for motor vehicle moving violations and driver license assessed points. This rulemaking will ensure consistency between Idaho Code and the Idaho Administrative Procedures Act.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS, OBTAINING DRAFT COPIES: For assistance on technical questions concerning this negotiated rulemaking or to obtain a preliminary draft copy of the rule text (if available), please contact Brendan Floyd, DMV Program Specialist, at (208) 334-8474. Materials pertaining to the negotiated rulemaking, including any available preliminary rule drafts, can be found on the Idaho Transportation Department’s website at the following web address: <https://itd.idaho.gov/rulemaking/>.

Anyone may submit written comments regarding this negotiated rulemaking. All written comments must be directed to the undersigned and must be delivered on or before Wednesday, June 24, 2020.

Dated this 5th day of May, 2020.

Ramón S. Hobdey-Sánchez, J.D.
Office of Governmental Affairs
Idaho Transportation Department
3311 W. State Street
P.O. Box 7129
Boise, ID 83707-1129
ramon.hobdey-sanchez@itd.idaho.gov
Phone: (208) 334-8810

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*Office of the Administrative Rules Coordinator
Division of Financial Management
Office of the Governor*

July 1, 1993 – Present

CUMULATIVE RULEMAKING INDEX OF IDAHO ADMINISTRATIVE RULES

This index provides a history of all agency rulemakings beginning with the first Administrative Bulletin in July 1993 to the most recent Bulletin publication. It tracks all rulemaking activities on each chapter of rules by the rulemaking docket numbers and includes negotiated, temporary, proposed, pending and final rules, public hearing notices, vacated rulemaking notices, notice of legislative actions taken on rules, and executive orders of the Governor.

ABRIDGED RULEMAKING INDEX OF IDAHO ADMINISTRATIVE RULES

(Index of Current and Active Rulemakings)

*Office of the Administrative Rules Coordinator
Division of Financial Management*

March 20, 2020 – June 3, 2020

(PLR 2021) – Final Effective Date Is Pending Legislative Review in 2021

(eff. date)L – Denotes Adoption by Legislative Action

(eff. date)T – Temporary Rule Effective Date

SCR # – denotes the number of a Senate Concurrent Resolution (Legislative Action)

HCR # – denotes the number of a House Concurrent Resolution (Legislative Action)

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01-0101-2000F *Idaho Accountancy Rules* – Notice of Omnibus Rulemaking – Adoption of Temporary (Fee) Rule – Reauthorizes Title 01, Chapter 01 – Bulletin Vol. 20-4SE (eff. 3-20-20)T

IDAPA 02 – IDAHO DEPARTMENT OF AGRICULTURE

02-0000-2000F *Rules of the Idaho Department of Agriculture* – Notice of Omnibus Rulemaking – Adoption of Temporary (Fee) Rule – Reauthorizes **Title 01**, Chapters 04, 05; **Title 02**, Chapters 07, 11-15; **Title 03**, Chapter 03; **Title 04**, Chapters 03, 05, 19, 26, 32; **Title 06**, Chapters 01, 02, 04-06, 09, 10, 33 – Bulletin Vol. 20-4SE (eff. 3-20-20)T

02-0701-2000F *Rules of the Idaho Hop Growers Commission* – Notice of Omnibus Rulemaking – Adoption of Temporary (Fee) Rule – Reauthorizes **Title 07**, Chapter 01 – Bulletin Vol. 20-4SE (eff. 3-20-20)T

02-0801-2000F *Rules of the Idaho Sheep and Goat Health Board* – Notice of Omnibus Rulemaking – Adoption of Temporary (Fee) Rule – Reauthorizes **Title 08**, Chapter 01 – Bulletin Vol. 20-4SE (eff. 3-20-20)T

02.01.06, Rules Governing the Labeling of Hemp Receptacles

02-0106-2001 *Adoption of Temporary Rule (New Chapter), Bulletin Vol. 20-1 (eff. 11-26-19)T (Expired)*

02-0106-2002 *Adoption of Temporary Rule (New Chapter), Bulletin Vol. 20-4 (eff. 3-20-20)T*

02.02.14, Rules for Weights and Measures

02-0214-2001 *Notice of Intent to Promulgate a Rule (New Chapter) – Negotiated Rulemaking, Bulletin Vol. 20-6*

02.03.03, Rules Governing Pesticide and Chemigation Use and Application

02-0303-2001 *Notice of Intent to Promulgate a Rule (New Chapter) – Negotiated Rulemaking, Bulletin Vol. 20-6*

02.04.14, Rules Governing Dairy Byproduct

02-0414-2002 *Notice of Intent to Promulgate a Rule (New Chapter) – Negotiated Rulemaking, Bulletin Vol. 20-6*

02-0414-2001 *Adoption of Temporary Rule, Bulletin Vol. 20-4 (eff. 3-20-20)T*

02.07.01, Rules of the Idaho Hop Growers' Commission

02-0701-2000F *Rules of the Idaho Hop Growers Commission* – Notice of Omnibus Rulemaking – Adoption of Temporary (Fee) Rule – Reauthorizes **Title 07**, Chapter 01 – Bulletin Vol. 20-4SE (eff. 3-20-20)T

02.08.01, Sheep and Goat Rules of the Idaho Board of Sheep Commissioners

02-0801-2000F *Rules of the Idaho Sheep and Goat Health Board* – Notice of Omnibus Rulemaking – Adoption of Temporary (Fee) Rule – Reauthorizes **Title 08**, Chapter 01 – Bulletin Vol. 20-4SE (eff. 3-20-20)T

IDAPA 07 – DIVISION OF BUILDING SAFETY

07-0000-2000F *Rules of the Division of Building Safety* – Notice of Omnibus Rulemaking – Adoption of Temporary (Fee) Rule – Reauthorizes Title 01, Chapter 01; Title 02, Chapter 02; Title 03, Chapters 01, 03, 11-12; Title 04, Chapter 02; Title 05, Chapter 01; Title 07, Chapter 01; Title 10, Chapter 01 – Bulletin Vol. 20-4SE (eff. 3-20-20)T

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AND STATE DEPARTMENT OF EDUCATION***

08-0000-2000F *Rules of the State Board of Education and the Department of Education* – Notice of Omnibus Rulemaking – Adoption of Temporary (Fee) Rule – Reauthorizes Title 01, Chapter 11, Sections 200 and 300 only; Title 02, Chapter 02, Sections 066 and 075 only; Title 02, Chapter 03, Section 128 only – Bulletin Vol. 20-4SE (eff. 3-20-20)T

08.02.02, Rules Governing Uniformity

08-0202-2001 Notice of Adoption of Temporary Rule, Bulletin Vol. 20-5 (eff. 4-1-20)T

08-0000-2000F *Rules of the State Board of Education and the Department of Education* – Notice of Omnibus Rulemaking – Adoption of Temporary (Fee) Rule – Reauthorizes Title 02, Chapter 02, Sections 066 and 075 only – Bulletin Vol. 20-4SE (eff. 3-20-20)T

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11-0000-2000F *Rules of the Idaho State Police* – Notice of Omnibus Rulemaking – Adoption of Temporary (Fee) Rule – Reauthorizes Title 05, Chapter 01; Title 10, Chapter 02 – Bulletin Vol. 20-4SE (eff. 3-20-20)T

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11-0201-2000F *Rules of the Idaho State Brand Board* – Notice of Omnibus Rulemaking – Adoption of Temporary (Fee) Rule – Reauthorizes Title 02, Chapter 01 – Bulletin Vol. 20-4SE (eff. 3-20-20)T

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11-0400-2000F *Rules of the Idaho State Racing Commission* – Notice of Omnibus Rulemaking – Adoption of Temporary (Fee) Rule – Reauthorizes Title 04, Chapters 02, 03, 05, 07, 11, 15 – Bulletin Vol. 20-4SE (eff. 3-20-20)T

11.08.01, Rules Governing Hemp Transportation

11-0801-2002 Adoption of Temporary Rule (New Chapter), Bulletin Vol. 20-4 (eff. 3-20-20)T

11-0801-2001 *Adoption of Temporary Rule (New Chapter), Bulletin Vol. 20-1 (eff. 11-19-19)T (Expired 3-20-20)*

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11-1001-2000F *Idaho Public Safety and Public Information Systems* – Notice of Omnibus Rulemaking – Adoption of Temporary (Fee) Rule – Reauthorizes Title 10, Chapter 01 – Bulletin Vol. 20-4SE (eff. 3-20-20)T

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11.11.01, Rules of the Idaho Peace Officer Standards and Training Council

11-1101-2000F *Rules of the Peace Officer Standards and Training Council* – Notice of Omnibus Rulemaking – Adoption of Temporary (Fee) Rule – Reauthorizes Title 11, Chapter 01 – Bulletin Vol. 20-4SE (eff. 3-20-20)T

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13-0000-2000F *Rules of the Idaho Fish and Game Commission* – Notice of Omnibus Rulemaking – Adoption of Temporary (Fee) Rule – Reauthorizes Title 01, Chapter 02, Sections 200 and 201 only; Title 01, Chapter 04, Section 601 only; Title 01, Chapter 08, Section 263 only; Title 01, Chapter 10, Section 410 only; Title 01, Chapter 19, Section 102 only – Bulletin Vol. 20-4SE (eff. 3-20-20)T

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13-0104-2001 *Notice of Rulemaking – Rescission of Temporary Rule, Bulletin Vol. 20-6*

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13.01.08, Rules Governing the Taking of Big Game Animals

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13-0108-1902AAAP* Notice of Amended Proclamation of Rulemaking, Bulletin Vol. 20-4 (*3rd Amendment)

13-0108-1902AAP* Notice of Amended Proclamation of Rulemaking, Bulletin Vol. 20-2 (*2nd Amendment)

13-0108-1902AP* Notice of Amended Proclamation of Rulemaking, Bulletin Vol. 19-6 (*1st Amendment)

13-0108-1902P Notice of Proclamation of Rulemaking, Bulletin Vol. 19-4

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13-0109-2002 Notice of Intent to Promulgate a Rule – Negotiated Rulemaking, Bulletin Vol. 20-6

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- 15-0401-2001** Adoption of Temporary Rule, Bulletin Vol. 20-4 (eff. 3-25-20)T

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- 15-0600-2000F** *Rules of the Idaho Military Division* – Notice of Omnibus Rulemaking – Adoption of Temporary (Fee) Rule – Reauthorizes Title 06, Chapter 03 – Bulletin Vol. 20-4SE (eff. 3-20-20)T

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- 15-1000-2000F** *Rules of the Idaho State Liquor Division* – Notice of Omnibus Rulemaking – Adoption of Temporary (Fee) Rule – Reauthorizes Title 10, Chapter 01 – Bulletin Vol. 20-4SE (eff. 3-20-20)T

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16-0000-2000F *Rules of the Department of Health and Welfare* – Notice of Omnibus Rulemaking – Adoption of Temporary (Fee) Rule – Reauthorizes Title 01, Chapter 07; Title 02, Chapters 01, 08, 13, 14, 25-27; Title 03, Chapters 03, 18, 19, 22; Title 04, Chapter 07; Title 05, Chapter 06; Title 06, Chapters 01, 02; Title 07, Chapter 01 – Bulletin Vol. 20-4SE (eff. 3-20-20)T

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24-0301-2000F *Rules of the State Board of Chiropractic Physicians* – Notice of Omnibus Rulemaking – Adoption of Temporary (Fee) Rule – Reauthorizes Title 03, Chapter 01 – Bulletin Vol. 20-4SE (eff. 3-20-20)T

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24-0501-2000F *Rules of the Board of Drinking Water and Wastewater Professionals* – Notice of Omnibus Rulemaking – Adoption of Temporary (Fee) Rule – Reauthorizes Title 05, Chapter 01 – Bulletin Vol. 20-4SE (eff. 3-20-20)T

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24-0801-2000F *Rules of the State Board of Morticians* – Notice of Omnibus Rulemaking – Adoption of Temporary (Fee) Rule – Reauthorizes Title 08, Chapter 01 – Bulletin Vol. 20-4SE (eff. 3-20-20)T

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24-1401-2000F *Rules of the State Board of Social Work Examiners* – Notice of Omnibus Rulemaking – Adoption of Temporary (Fee) Rule – Reauthorizes Title 14, Chapter 01 – Bulletin Vol. 20-4SE (eff. 3-20-20)T

24-1501-2000F *Rules of the Idaho Licensing Board of Professional Counselors and Marriage and Family Therapists* – Notice of Omnibus Rulemaking – Adoption of Temporary (Fee) Rule – Reauthorizes Title 15, Chapter 01 – Bulletin Vol. 20-4SE (eff. 3-20-20)T

24-1601-2000F *Rules of the State Board of Dentistry* – Notice of Omnibus Rulemaking – Adoption of Temporary (Fee) Rule – Reauthorizes Title 16, Chapter 01 – Bulletin Vol. 20-4SE (eff. 3-20-20)T

24-1701-2000F *Rules of the State Board of Acupuncture* – Notice of Omnibus Rulemaking – Adoption of Temporary (Fee) Rule – Reauthorizes Title 17, Chapter 01 – Bulletin Vol. 20-4SE (eff. 3-20-20)T

- 24-1801-2000F** *Rules of the Real Estate Appraiser Board* – Notice of Omnibus Rulemaking – Adoption of Temporary (Fee) Rule – Reauthorizes Title 18, Chapter 01 – Bulletin Vol. 20-4SE (eff. 3-20-20)T
- 24-1901-2000F** *Rules of the Board of Examiners of Residential Care Facility Administrators* – Notice of Omnibus Rulemaking – Adoption of Temporary (Fee) Rule – Reauthorizes Title 19, Chapter 01 – Bulletin Vol. 20-4SE (eff. 3-20-20)T
- 24-2101-2000F** *Rules of the Idaho State Contractors Board* – Notice of Omnibus Rulemaking – Adoption of Temporary (Fee) Rule – Reauthorizes Title 21, Chapter 01 – Bulletin Vol. 20-4SE (eff. 3-20-20)T
- 24-2201-2000F** *Rules of the Idaho State Liquefied Petroleum Gas Safety Board* – Notice of Omnibus Rulemaking – Adoption of Temporary (Fee) Rule – Reauthorizes Title 22, Chapter 01 – Bulletin Vol. 20-4SE (eff. 3-20-20)T
- 24-2301-2000F** *Rules of the Speech, Hearing and Communication Services Licensure Board* – Notice of Omnibus Rulemaking – Adoption of Temporary (Fee) Rule – Reauthorizes Title 23, Chapter 01 – Bulletin Vol. 20-4SE (eff. 3-20-20)T
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- 24-2501-2000F** *Rules of the Idaho Driving Businesses Licensure Board* – Notice of Omnibus Rulemaking – Adoption of Temporary (Fee) Rule – Reauthorizes Title 25, Chapter 01 – Bulletin Vol. 20-4SE (eff. 3-20-20)T
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(***Rulemaking changes chapter name to: “Rules for Administration of Wastewater and Drinking Water Loan Funds”*)

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LEGAL NOTICE

Summary of Proposed Rulemakings

PUBLIC NOTICE OF INTENT TO PROPOSE OR PROMULGATE NEW OR CHANGED AGENCY RULES

*THERE ARE NO PROPOSED RULES PUBLISHED
IN THE JUNE 3, 2020, IDAHO ADMINISTRATIVE BULLETIN, VOL. 20-6.*

Please refer to the Idaho Administrative Bulletin [June 3, 2020, Volume 20-6](#), for the notices and text of all rulemakings, proclamations, negotiated rulemaking and public hearing information and schedules, executive orders of the Governor, and contact information.

Issues of the Idaho Administrative Bulletin can be viewed at www.adminrules.idaho.gov/

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