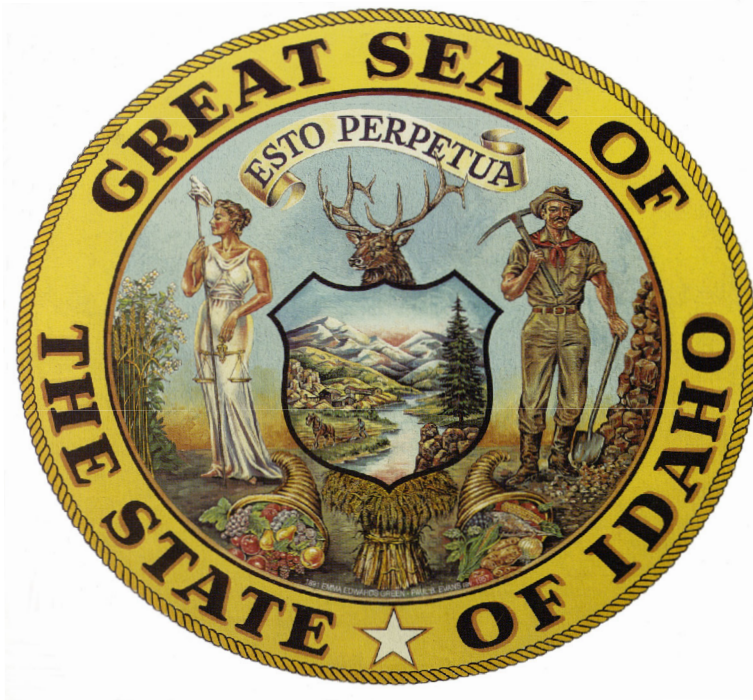


IDAHO ADMINISTRATIVE BULLETIN

July 5, 2023 – Vol. 23-7

Office of the Governor
Division of Financial Management
Office of the Administrative Rules Coordinator



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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PREFACE

The Idaho Administrative Bulletin is an electronic-only, online monthly publication of the Office of the Administrative Rules Coordinator, Division of Financial Management, 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 **19-1** refers to the first Bulletin issued in calendar year **2019**; Bulletin **20-1** refers to the first Bulletin issued in calendar year **2020**. Volume numbers, which proceed from 1 to 12 in a given year, correspond to the months of publication, i.e.; Volume No. **19-1** refers to January 2019; Volume No. **20-2** refers to February 2020; and so forth. Example: The Bulletin published in January 2019 is cited as Volume **19-1**. The December 2019 Bulletin is cited as Volume **19-12**.

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 Bulletin publication. 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 sections 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.

“**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. 38-0501-1901”

“**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**).

“**1901**” 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 2019**. A subsequent rulemaking on this same rule chapter in calendar year 2019 would be designated as “**1902**”. The docket number in this scenario would be 38-0501-**1902**.

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)

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Vol. No.	Monthly Issue of Bulletin	ARRF Due to DFM	Closing Date for Agency Filing	Bulletin Publication Date	21-day Comment Period End Date
23-2	February 2023	December 23, 2023	January 6, 2023	February 1, 2023	February 22, 2023
23-3	March 2023	January 27, 2023	February 10, 2023	March 1, 2023	March 22, 2023
23-4	April 2023	February 24, 2023	March 10, 2023	April 5, 2023	April 26, 2023
23-5	May 2023	March 24, 2023	April 7, 2023	May 3, 2023	May 24, 2023
23-6	June 2023	April 21, 2023	May 5, 2023	June 7, 2023	June 28, 2023
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23-11	November 2023	September 22, 2023	October 6, 2023	November 1, 2023	November 22, 2023
23-12	December 2023	October 27, 2023	November 9, 2023	December 6, 2023	December 27, 2023
24-1	January 2024	November 13, 2023	**November 27, 2023	January 3, 2024	January 24, 2024

BULLETIN PUBLICATION SCHEDULE FOR YEAR 2024

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24-8	August 2024	June 21, 2024	July 5, 2024	August 7, 2024	August 28, 2024
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24-12	December 2024	October 25, 2024	November 8, 2024	December 4, 2024	December 25, 2024
25-1	January 2025	November 15, 2024	**November 29, 2024	January 1, 2025	January 22, 2025

***Last day to submit a proposed rule for the rulemaking to remain on course for review by the upcoming legislature.**

****Last day to submit a pending rule to be reviewed by the upcoming legislature.**

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IDAPA 02 – DEPARTMENT OF AGRICULTURE

02.06.01 – RULES GOVERNING THE PRODUCTION AND DISTRIBUTION OF SEED

DOCKET NO. 02-0601-2301

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 22-2006, Idaho Code.

MEETING SCHEDULE: Public meetings on the negotiated rulemaking will be held as follows:

Tuesday, July 25, 2023 – 9 a.m. to 11 a.m (MT)	Tuesday, August 1, 2023 – 9 a.m. to 11 a.m. (MT)
<p>Idaho State Department of Agriculture 2270 Old Penitentiary Road Boise, ID 83712</p> <p>(Virtual meeting links will be posted at: townhall.idaho.gov)</p>	

The meeting site(s) 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:

Meeting materials, including drafts, minutes, and submitted comments, will be posted at the agency website at <https://agri.idaho.gov/main/i-need-to/see-lawsrules/rulemaking/isda-rulemaking-2023-2024/>. Meeting details, including links to participate virtually, will be found at townhall.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 on the agency website at <https://agri.idaho.gov/main/i-need-to/see-lawsrules/rulemaking/isda-rulemaking-2023-2024/>.

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 Idaho Eastern Oregon Seed Association (IEOSA) has petitioned the agency to open rulemaking regarding the service fee schedule for the State Seed Lab, which is operated by the agency. The petition expresses the concern that the current fee structure is “incompatible” with fee structures in surrounding state seed labs and private sector seed labs. The petition further states that the State Seed Lab fee structure is much lower than private sector and surrounding state seed labs.

The department will facilitate negotiated rulemaking to allow the petitioner to identify acceptable fee levels to address their concerns.

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, contact Lloyd Knight, Deputy Director. Materials pertaining to the negotiated rulemaking, including any available preliminary rule drafts, can be found on the Idaho State Department of Agriculture web site at the following web address: <https://agri.idaho.gov/main/i-need-to/see-lawsrules/rulemaking/isda-rulemaking-2023-2024/>.

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 Friday, August 4, 2023.

DATED this 5th day of July, 2023.

Lloyd B. Knight, Deputy Director
Idaho State Department of Agriculture
2270 Old Penitentiary Road
P.O. Box 7249
Boise, Idaho 83707
Phone: (208)332-8615
Email: lloyd.knight@isda.idaho.gov

IDAPA 04 – OFFICE OF THE ATTORNEY GENERAL

04.11.01 – IDAHO RULES OF ADMINISTRATIVE PROCEDURE OF THE ATTORNEY GENERAL

DOCKET NO. 04-1101-2300

NOTICE OF REVOCATION OF FINAL RULE

AUTHORITY: In compliance with Sections 67-5201(2) and 67-5202(2), Idaho Code, notice is hereby given that the Office of Administrative Rules Coordinator has taken action to revise Idaho’s Administrative Code to remove certain rules that lack express statutory authority to exist in the Code and be enforced as a final rule.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for publishing this notice:

Agencies must be authorized by law to promulgate rules. All validly authorized and promulgated rules published in the Idaho’s Administrative Code carry the force and effect of law. Prior to July 1, 2023, Sections 67-5206(2) and 67-5206(3), Idaho Code, granted the necessary statutory authority to the Office of the Attorney General to promulgate rules and regulations of procedure for use by agencies as well as rules implementing Sections 67-5220 through 67-5232, Idaho Code. During the 2023 Legislative session, the Legislature passed House Bill 206 which, in part, removed that rulemaking authority. Thus, the statutory authority for the entirety of Subchapter C of IDAPA 04.11.01 no longer exists and its removal from Idaho’s Administrative Code does not alter the effect of such rules. Accordingly, the Office of Administrative Rules Coordinator is giving official notice of revocation and removal of IDAPA 04.11.01, “Idaho Rules of Administrative Procedure of the Attorney General,” *Subchapter C – Rulemaking*, Sections 800 through 860, only, from Idaho’s Official Administrative Code.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning the revocation of this final rule, contact Josh Scholer at 208-854-3097.

DATED this 1st day of July, 2023.

Brad Hunt
Administrative Rules Coordinator
Office of the Administrative Rules Coordinator
Division of Financial Management
P.O. Box 83720, Boise, ID 83720-0032
Phone: (208) 854-3096
adminrules@dfm.idaho.gov

IDAPA 08 – STATE BOARD OF EDUCATION
08.01.13 – RULES GOVERNING THE OPPORTUNITY SCHOLARSHIP PROGRAM
DOCKET NO. 08-0113-2301
NOTICE OF RULEMAKING – ADOPTION OF TEMPORARY RULE

EFFECTIVE DATE: The effective date of the temporary rule is July 1, 2023.

AUTHORITY: In compliance with Sections 67-5226, Idaho Code, notice is hereby given this agency has adopted a temporary rule. The action is authorized pursuant Article IX, Section 2, Idaho Constitution and under Sections 33-105, 33-4303, and 33-4304, Idaho Code.

DESCRIPTIVE SUMMARY: The following is the required finding and concise statement of its supporting reasons for adopting a temporary rule:

The temporary rule would allow for the award timeline of the Opportunity Scholarship to change from July 1 to December 31, 2023. Therefore, initial award information for both the Opportunity Scholarship and Launch grant programs will be made at the same time. The Opportunity Scholarship is awarded to applicants based on academic merit and verification of financial need through FAFSA. Currently, federal revision of the FAFSA is underway which will delay the Board’s ability to verify financial need of applicants for the 2024-2025 academic year awards until after December 31, 2023. This temporary rule will allow the administrative team to calculate the monetary value and notice the estimated award by December 31, 2023, thereby aligning the award notice dates with the Launch grant program. It will also allow the Board to adjust the final award and payment after verification of financial need can be completed.

TEMPORARY RULE JUSTIFICATION: Pursuant to Section 67-5226(1)(c), Idaho Code, the Governor has found that temporary adoption of the rule is appropriate for the following reasons.

If the rule is not promulgated, the Opportunity Scholarship and Launch Grant Program initial awards will not be aligned, as the Opportunity Scholarship initial award date will remain July 1. This factor will result in a negative impact on awardees.

FEE SUMMARY: Pursuant to Section 67-5226(2), the Governor has found that the fee or charge being imposed or increased is justified and necessary to avoid immediate danger and the fee is described herein: N/A

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year resulting from this rulemaking: None

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning the temporary rule, contact Nicholas Wagner at (208) 488-7586 or Nicholas.Wagner@osbe.idaho.gov.

DATED this 26th day of May, 2023.

Nicholas Wagner
Administrative Rules Coordinator
Idaho State Board of Education
650 W State St.
PO Box 83720
Boise, Idaho 83720-0037
Phone: (208)488-7586
fax: (208)334-2632

THE FOLLOWING IS THE TEXT OF THE TEMPORARY RULE FOR DOCKET NO. 08-0113-2301
(Only Those Sections With Amendments Are Shown.)

101. ELIGIBILITY.

Applicants must meet all of the eligibility requirements to be considered for the scholarship award. (4-6-23)

01. Academic Eligibility. To be eligible for an opportunity scholarship, an applicant must meet minimum academic eligibility criteria, as follows: (4-6-23)

a. A student who has not yet graduated from an eligible secondary school or its equivalent in the state of Idaho must have an un-weighted minimum cumulative grade point of average of two point seven (2.7) or better on a scale of four point zero (4.0) to be eligible to apply for an opportunity scholarship. Cumulative grade point averages of more than one (1) decimal place shall be rounded to one (1) place. Home schooled students must provide a transcript of subjects taught and grades received signed by the parent or guardian of the student; or (4-6-23)

b. A student who has obtained a general equivalency diploma must have taken the ACT assessment and received a minimum composite score of twenty (20) or better, or the equivalent SAT assessment and received a one thousand ten (1,010) or better, to be academically eligible to apply for an opportunity scholarship; or (4-6-23)

c. A student currently enrolled in an eligible Idaho postsecondary educational institution must have a minimum cumulative grade point average of two point seven (2.7) or better on a scale of four point zero (4.0) at such institution in order to be academically eligible to apply for an opportunity scholarship. Cumulative grade point averages of more than one (1) decimal place shall be rounded to one (1) place. (4-6-23)

d. An Adult Learner must have a minimum cumulative grade point average of two point five (2.5) or higher on a scale of four point zero (4.0). Cumulative grade point averages of more than one (1) decimal place shall be rounded to one (1) decimal place. (4-6-23)

02. Financial Eligibility. The financial need of an applicant for an opportunity scholarship will be based upon the ~~verified expected family contribution~~ Student Aid Index (SAI), as identified by the free application for federal student aid (FAFSA) Student Aid report Submission Summary. ~~The Student Aid report used to calculate financial need will be the report generated on the scholarship application deadline.~~ (4-6-23)(7-1-23)T

03. Additional Eligibility Requirements. (4-6-23)

a. A student must not be in default on a student educational loan, or owe a repayment on a federal grant, and must be in good financial standing with the opportunity scholarship program. (4-6-23)

b. If a student has attempted or completed more than one hundred and twenty (120) postsecondary credits, then such student must identify a major, the required number of credits necessary for graduation in such major, and shall submit an academic transcript that contains all courses taken and all postsecondary credit received to the Board office. A student shall not be eligible for an opportunity scholarship if: (4-6-23)

i. The student has completed more than one hundred fifty percent (150%) of the courses and academic credit necessary to graduate in such major; or (4-6-23)

ii. Upon review of the student's academic transcript(s), the student cannot complete a degree/certificate in the major identified within two (2) semesters based on normal academic course load unless a determination by the executive director or designee has been made that there are extenuating circumstances and the student has a plan approved by the executive director or designee outlining the courses that will be taken and the completion date of the degree or certificate. (4-6-23)

102. -- 201. (RESERVED)

202. APPLICATION PROCESS.

01. Applications. An eligible student must complete and submit the opportunity scholarship program application to the Board electronically on or before the ~~date specified in the application, but not later than the~~ deadline set by the executive director each year. Adult Learner applications will be processed and awarded on a monthly basis up to the application deadline. An applicant without electronic capabilities may request a waiver of this requirement and, if granted, submit an application on the form established by the Board through the United States Postal Service that must be postmarked not later than the applicable application deadline. The FAFSA must be completed on or prior to the application deadline except for any applications for the 2024-2025 academic year. (4-6-23)(7-1-23)T

02. Announcement of Award. For the 2024-2025 academic year, Announcement of the award of initial scholarships will be made no later than ~~June +December 31, 2023 of each year,~~ with awards to be effective at the beginning of the first full term following July 1 of that year of the next fiscal year. Announcements must clearly state the award is part of the state's scholarship program and is funded through state appropriated funds. Additional award announcement may be made after this date based on the availability of funds ~~and the acceptance rate of the initial awards.~~ (4-6-23)(7-1-23)T

03. Communication with State Officials. Applicants must respond by the date specified to any communication from officials of the opportunity scholarship program. Failure to respond within the time period specified will result in cancellation of the scholarship unless extenuating circumstances are involved and approved by the executive director or designee. (4-6-23)

203. -- 299. (RESERVED)

300. SELECTION OF SCHOLARSHIP RECIPIENTS.

01. Selection Process. Scholarship awards will be based on the availability of scholarship program funds. Opportunity scholarships will be awarded to applicants, based on ranking and priority, in accordance with the following criteria: (4-6-23)

a. Eligible students shall be selected based on ranking criteria that assigns seventy percent (70%) to financial eligibility, and thirty percent (30%) to academic eligibility. In the event that this weighted score results in a tie, an eligible student who submitted an application to the Board earlier in time will be assigned a higher rank. (4-6-23)

b. Notwithstanding Subsection 300.01.a. of these rules, the priority for the selection of recipients of opportunity scholarship awards shall be to scholarship recipients who received an opportunity scholarship award during the previous fiscal year, and have met all of the continuing eligibility requirements provided in these rules. (4-6-23)

02. Monetary Value of the Opportunity Scholarship. (4-6-23)

a. The monetary value of the opportunity scholarship award to a student shall be based on the educational costs for attending an eligible Idaho postsecondary educational institution, less the following: (4-6-23)

i. The amount of the assigned student responsibility, established by the Board annually; (4-6-23)

ii. The amount of federal grant aid, as identified by ~~the Student Aid Report (SAR) that is the FAFSA~~ Submission Summary if known at the time of award determination; (4-6-23)(7-1-23)T

iii. The amount of other financial aid awarded the student, from private or other sources that is known at the time of award determination. (4-6-23)

iv. The eligible maximum award amount for Adult Learners enrolled in less than twenty-four (24) credit hours or its equivalent in an academic year attending an eligible four-year postsecondary institution, ~~or less~~

~~than eighteen (18) credit hours or its equivalent in an academic year attending an eligible two-year institution,~~ will be prorated as follows: ~~(4-6-23)(7-1-23)T~~

- (1) Enrolled in six (6) to eight (8) credits or its equivalent per term - fifty percent (50%) of the maximum; (4-6-23)
- (2) Enrolled in nine (9) to eleven (11) credits or its equivalent per term - seventy-five percent (75%) of the maximum; and (4-6-23)
- (3) Enrolled in twelve (12) or more credits or its equivalent per term - one hundred percent (100%) of the maximum. (4-6-23)

b. The amount of an opportunity scholarship award to an individual student shall not exceed the actual cost of tuition and fees at the institution the student attends or will attend, or if the student attends or will attend an Idaho private postsecondary educational institution, the average tuition at Idaho's public four (4) year postsecondary educational institutions. (4-6-23)

c. Due to federal delays in FAFSA applications for the 2024-25 academic year, the Board may determine monetary value of the scholarship without the FAFSA Submission Summary and may adjust the final award and payment upon receipt of the FAFSA Submission Summary. (7-1-23)T

301. OPPORTUNITY SCHOLARSHIP AWARD.

01. Payment. Payment of opportunity scholarship awards will be made in the name of the recipient and will be sent to a designated official at the eligible Idaho postsecondary educational institution in which the recipient is enrolled. The official must transmit the payment to the recipient within a reasonable time following receipt of the payment. (4-6-23)

02. Duration. Scholarships will be awarded on an annual basis and payments will correspond to academic terms, semesters, quarters, or equivalent units. In no instance will the entire amount of a scholarship be paid in advance to, or on behalf of, a scholarship recipient. The scholarship may cover up to four (4) educational years, or eight (8) semesters or equivalent for attendance at an eligible Idaho postsecondary educational institution. Awards are contingent on annual appropriations by the legislature and continued eligibility of the student. (4-6-23)

03. Eligibility. If a student receives an opportunity scholarship payment and it is later determined that the student did not meet all of the Opportunity Scholarship Program eligibility requirements, then the student is considered in overpayment status, and must return program funds in accordance with the eligible Idaho postsecondary educational institution's refund policy. (4-6-23)

04. New Scholarships for Community College. The Board may not award any new scholarship, excluding renewals, to any student attending community college on or after July 1, 2023. (7-1-23)T

302. CONTINUING ELIGIBILITY.

To remain eligible for renewal of an opportunity scholarship, the recipient must comply with all of the provisions of the Opportunity Scholarship Program. (4-6-23)

01. Credit Hours. To remain eligible for renewal of an opportunity scholarship, the scholarship recipient attending a four (4) year eligible postsecondary institution must have completed a minimum of twenty-four (24) credit hours or its equivalent each academic year that the student received an opportunity scholarship award. ~~A scholarship recipient attending a two (2) year eligible postsecondary institution must have completed a minimum of eighteen (18) credit hours or its equivalent each academic year that the student received an opportunity scholarship award.~~ Notwithstanding these provisions, a scholarship recipient who has received the Opportunity Scholarship as an Adult Learner may retain eligibility by completing twelve (12) or more credit hours or its equivalent each academic year the student received the Opportunity Scholarship award. All students may use the summer term to meet the annual credit accumulation requirements. (4-6-23)(7-1-23)T

02. Academic Progress. To remain eligible for renewal of an opportunity scholarship, the scholarship

recipient must have maintained a minimum cumulative grade point average of two point seven (2.7) on a scale of four point zero (4.0), and must be maintaining satisfactory academic progress toward their identified postsecondary credential as determined by the institution they are enrolled in. Students receiving an Opportunity Scholarship award as an Adult Learner must make satisfactory progress on their graduation plan established with the eligible institution at the time of admission. (4-6-23)

03. Eligibility Following Interruption of Continuous Enrollment. A scholarship recipient whose continuous enrollment is interrupted for more than four (4) months but less than two (2) years for any reason but who intends to re-enroll in an eligible Idaho postsecondary educational institution must file a letter of intent to withdraw no later than thirty (30) days prior to the first day of the academic term of the discontinued attendance to the Office of the State Board of Education. Failure to do so may result in forfeiture of the scholarship. The Board's Executive Director or designee will review each request for interruption and notify the individual of approval or denial of the request. In addition, the individual must file a statement with the Board declaring intent to re-enroll as a full-time undergraduate student in an academic or career technical program in an eligible Idaho postsecondary educational institution for the succeeding academic year no later than thirty (30) days prior to the first day of the academic term in which the individual intends to re-enroll within two (2) years of the approval of the request to withdraw. Failure to do so will result in forfeiture of the scholarship unless an extension has been granted. An extension of interruption of continuous enrollment period may be granted for eligible students due to military service in the United States armed forces, medical circumstances, or other circumstances approved by the executive director. All requests for extension must be made thirty (30) days prior to the start of the succeeding academic year. (4-6-23)

IDAPA 08 – STATE BOARD OF EDUCATION

08.01.13 – RULES GOVERNING THE OPPORTUNITY SCHOLARSHIP PROGRAM

DOCKET NO. 08-0113-2302

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 Article IX, Section 2, Idaho Constitution and under Sections 33-105, 33-4303, and 33-4304, Idaho Code.

MEETING SCHEDULE: A public meeting(s) on the negotiated rulemaking will be held no later than August 4, 2023.

Specific meeting dates, times, and locations of scheduled meetings, details are forthcoming and will be provided on the agency website and on Townhall.Idaho.gov.

The meeting site(s) will be accessible to persons with disabilities, if needed. Requests for accommodation must be made at least one (1) day prior to the meeting to the agency address below.

METHOD OF PARTICIPATION: Persons wishing to participate in the negotiated rulemaking must do the following:

Interested persons wishing to participate in the negotiated rulemaking may do so by contacting the undersigned either in writing, by email, or by calling the phone number listed below. Responses must be received by August 4, 2023.

Should a sufficient number of persons respond to this notice, negotiated meetings will be scheduled. All scheduled meetings shall be posted and made accessible on the agency website at the address listed below and via Townhall.Idaho.gov at least 48 hours before the meeting.

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 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:

Amendments would move the deadline for initial awards from July 1 to December 31 each year. This will ensure that applicants will be informed of the Opportunity Scholarship and Launch Grant Program at the same time. The proposed rule would also allow the Board to make awards pending financial need verification should student access to the Free Application for Federal Student aid (FAFSA) be delayed in a future year.

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 Nicholas Wagner at rules@osbe.idaho.gov or (208)-488-7586. Materials pertaining to the negotiated rulemaking, including any available preliminary rule drafts, can be found on the Idaho State Board of Education website at the following web address: <https://boardofed.idaho.gov/board-policies-rules/board-rules/education-rules/>.

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 August 4, 2023.

DATED this 6th day of June, 2023.

Nicholas Wagner
Administrative Rules Coordinator
Idaho State Board of Education
650 W State St.
PO Box 83720
Boise, Idaho 83720-0037
Phone: (208)488-7586
fax: (208)334-2632

**IDAPA 11 – IDAHO STATE POLICE
STATE BRAND BOARD**

11.02.01 – RULES OF THE IDAHO STATE BRAND BOARD

DOCKET NO. 11-0201-2301

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 25-1102, 25-1110, 25-1160, and 25-1161 Idaho Code.

MEETING SCHEDULE: A public meeting on the negotiated rulemaking will be held as follows:

<p>Tuesday, July 18, 2023 1:00 p.m. MT</p>
<p>In Person: Idaho State Police Headquarters 700 S Stratford Dr. Meridian, ID 83642 (Meeting to be held in Building 9 Conference Room)</p> <p>Join by meeting link</p> <p>Join by meeting number Meeting ID (access code): 256 622 583 606 Passcode: svMtQP</p> <p>Join by phone +1 872-215-6990,,773928478# United States, Chicago Phone Conference ID: 773 928 478#</p>

Additional meetings will be held if deemed necessary or at request as determined by the Idaho State Brand Board. If additional meetings are scheduled, they will be announced at a later date on Townhall Idaho at <https://townhall.idaho.gov/> and on the Idaho Brand Board website at <https://isp.idaho.gov/brands/>.

The meeting site(s) 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:

Interested members of the public who wish to participate must submit written comments, questions, recommendations, or ideas addressed to the Idaho State Brand Board, State Brand Inspector, Cody D. Burlile, by mail at P.O. Box 1177 Meridian, ID 83680-1177, or in person at 700 S. Stratford Dr., Meridian, Idaho 83642, or by email to Cody.Burlile@isp.idaho.gov. Individuals are also encouraged to attend scheduled meetings in person on the above date(s) during which the Idaho State Brand Board will allow oral comments and discussion. All oral comments or presentations must also be submitted in writing for the record.

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 Idaho State Brand Board received a cooperative request from the Livestock Industries on July 18, 2022, asking for the formulation of a Brand Fee Working Group to study the need for fee adjustments, the potential to improve efficiencies and reduce costs within administration and operation of the brand inspector's office, and to develop recommendations for a long-range plan to address anticipated budget shortfalls within the Idaho Brand Board. Since that time, the formulated stakeholder group has held multiple meetings to evaluate the foregoing. This negotiated rulemaking will address the collective result of the stakeholder group in negotiating a fee increase within the cattle brand inspection fee and any alternative as brought forth through the negotiated rulemaking process. The Brand Board has not imposed an increase in the cattle brand inspection fee since FY2017.

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 State Brand Inspector, Cody Burlile at (208) 884-7070 or by email at Cody.Burlile@isp.idaho.gov. Materials pertaining to the negotiated rulemaking, including any available preliminary rule drafts, can be found on the Idaho Brand Board web site at the following web address: <https://isp.idaho.gov/brands/>.

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 August 4, 2023.

DATED this 15th day of June, 2023.

Cody D. Burlile
State Brand Inspector
Idaho State Brand Board
700 S. Stratford Dr.
P.O. Box 1177
Meridian, ID 83680-1177
(208) 884-7070 phone, (208) 884-7097 fax

IDAPA 11 – IDAHO STATE POLICE
11.05.01 – RULES GOVERNING ALCOHOL BEVERAGE CONTROL
DOCKET NO. 11-0501-2301
NOTICE OF RULEMAKING – ADOPTION OF TEMPORARY RULE

EFFECTIVE DATE: The effective date of the temporary rule is July 1, 2023.

AUTHORITY: In compliance with Sections 67-5226, Idaho Code, notice is hereby given this agency has adopted a temporary rule. The action is authorized pursuant to Sections 23-616, 23-932, 23-946(b), 23-1330, and 23-1408.

DESCRIPTIVE SUMMARY: The following is the required finding and concise statement of its supporting reasons for adopting a temporary rule:

The temporary rule provides clarification to recently enacted Senate Bill 1120, which will serve Idaho’s liquor licensee’s and industry in navigating Title 23 and providing the ability to make informative business decisions when selling or transferring a liquor license in the future.

TEMPORARY RULE JUSTIFICATION: Pursuant to Section 67-5226(1)(b), Idaho Code, the Governor has found that temporary adoption of the rule is appropriate for the following reasons:

Pursuant to Section 67-5226(1)(b), Idaho Code, the Governor has found that temporary adoption of the rule is appropriate and necessary for the Alcohol Beverage Control Section to continue operation and to continue serving the Idaho businesses they support and serve.

FEE SUMMARY: Pursuant to Section 67-5226(2), the Governor has found that the fee or charge being imposed or increased is justified and necessary to avoid immediate danger and the fee is described herein:

There are no changes to the fees associated with this rule.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning the temporary rule, contact Captain Rocky Gripton, Idaho State Police, (208) 884-7062, rocky.gripton@isp.idaho.gov.

DATED this 14th day of June, 2023.

Lt Colonel Bill Gardiner
Chief of Staff
Idaho State Police
700 S Stratford Drive
Meridian Idaho 83642
(208) 884-7004
Bill.gardiner@isp.idaho.gov

THE FOLLOWING IS THE TEXT OF THE TEMPORARY RULE FOR DOCKET NO. 11-0501-2301
(Only Those Sections With Amendments Are Shown.)

010. DEFINITIONS.

01. Actual Use. Actual use constitutes when a liquor license is issued to a licensee and legitimate sales of liquor by the drink are being made on a weekly basis. (7-1-23)T

02. Associated. A license is associated with a business or entity if such license is owned or leased by the business pursuant to Section 23-903(16)(c), or an incorporated municipal liquor license operated by a person

whether owned or through a lease entered into prior to July 1, 2023. (7-1-23)T

03. Business or Entity. Is defined the same as a Person in Section 23-902(13), Idaho Code, for the purposes of Section 23-903(16)(c), Idaho Code. (7-1-23)T

04. Business. Business means any operation to carry out the normal day to day activities to exercise the privilege of holding a liquor license and operating a premises, as defined in Section 23-902(15), Idaho Code, for the purposes of Section 23-903(16)(d), Idaho Code. (7-1-23)T

~~**04.5. Licensed Premises.** Any premises for which a license has been issued under any of the provisions of Title 23, Chapters 9, 10 or 13, Idaho Code. All areas included on the floor plan submitted to the Director with the licensee's application for a license constitute the licensed premises. In the event of loss or move of the physical licensed premises, the licensee has ninety (90) days to secure and occupy a new premises in which to display the license. All licenses must be prominently displayed in a suitable premises and remain in actual use by the licensee and available for legitimate sales of alcoholic beverages by the drink. An additional sixty (60) days may be granted by the Director, upon petition by the license holder.~~ (3-23-22)(7-1-23)T

~~**02. New Licenses.** For purposes of Section 23-908(4), Idaho Code, a "new license" is one that has become available as an additional license within a city's limits under the quota system after July 1, 1980. The requirement of Section 23-908(4), Idaho Code, that a new license be placed into actual use by the licensee and remain in use for at least six (6) consecutive months is satisfied if the licensee makes actual sales of liquor by the drink during at least eight (8) hours per day, no fewer than six (6) days per week.~~ (3-23-22)

~~**03.6. Multipurpose Arena.**~~ (3-23-22)

~~**a.** For purposes of Section 23-944(3), Idaho Code, a Multipurpose Arena is a:~~ (3-23-22)

~~**i.** Publicly or privately owned or operated arena, coliseum, stadium, or other facility where sporting events, concerts, live entertainment, community events, and other functions are presented for a ticketed price of admission or one whose premises are leased for private events such as receptions;~~ (3-23-22)

~~**ii.** Facility that is licensed to sell liquor by the drink at retail for consumption upon the premises; and~~ (3-23-22)

~~**iii.** Facility that has been endorsed by the director.~~ (3-23-22)

~~**b.** A Multipurpose Arena facility must apply annually for an endorsement on its alcohol beverage license.~~ (3-23-22)

~~**c.** To receive a Multipurpose Arena endorsement under this Section will require the facility to have food available including, but not limited to, hamburgers, sandwiches, salads, or other snack food. The director may also restrict the type of events at a Multipurpose Arena facility at which beer, wine, and liquor by the drink may be served. The director will also consider the seating accommodations, eating facilities, and circulation patterns in such a facility, and other amenities available at a Multipurpose Arena facility before the director will endorse the license.~~ (3-23-22)

~~**d.** A licensee that applies for a Multipurpose Arena endorsement must submit with the application an operating/security plan to the director and the local law enforcement agency for review and approval. Once approved, the plan remains in effect until the licensee requests a change or the director determines that a change is necessary due to demonstrated problems or conditions not previously considered or adequately addressed in the original plan. The plan must be submitted in a format designated by the director and contain all of the following elements:~~ (3-23-22)

~~**i.** How the Multipurpose Arena facility will prevent the sale and service of alcohol to persons under twenty-one (21) years of age and those who appear to be intoxicated;~~ (3-23-22)

~~**ii.** The ratio of alcohol service staff and security staff to the size of the audiences at events where alcohol is being served;~~ (3-23-22)

- iii. Training provided to staff who serve, regulate, or supervise the service of alcohol; (3-23-22)
- iv. The facility's policy on the number of alcoholic beverages that will be served to an individual patron during one (1) transaction; (3-23-22)
- v. A list of event type/categories to be held in the facility at which alcohol service is planned, along with a request for the level of alcohol service at each event; and (3-23-22)
- vi. Diagrams and designation of alcohol service areas for each type of event category with identified restrictions of minors. (3-23-22)

e. Prior to the first of each month, the licensee must provide a schedule of events for the upcoming month to the director and local law enforcement office showing the date and time of each event during which alcohol service is planned. The licensee must notify the director and local law enforcement at least twenty-four (24) hours in advance of any events where alcohol service is planned that were not included in the monthly schedule. (3-23-22)

f. To prevent persons who are under twenty-one (21) years of age or who appear intoxicated from gaining access to alcohol, the director may require that an operating plan include additional mandatory requirements if it is determined that the plan does not effectively prevent violations of liquor laws and regulations, particularly those that prevent persons under twenty-one (21) years of age or who are apparently intoxicated from obtaining alcohol. (3-23-22)

g. If premises, licensed as a Multipurpose Arena, subsequently ceases to meet the qualifications of a Multipurpose Arena, the restrictions contained in Section 23-943, Idaho Code, apply and the posting of signs as provided for in Section 23-945, Idaho Code, is required. The licensee shall advise the director, by mail, that his premises no longer constitute a Multipurpose Arena, so that the license may be modified accordingly. (3-23-22)

047. Partition. A partition, as used in Section 23-944 Idaho Code, is defined as a structure separating the place from the remainder of the premises. Access through the structure to the place will be controlled to prevent minors from entering the place. The structure must be: (3-23-22)

- a.** Permanently fixed from the premises ceiling to the premises floor. (3-23-22)
- b.** Made or constructed of solid material such as glass, wood, metal or a combination of those products. (3-23-22)
- c.** Designed to prevent an alcoholic beverage from being passed over, under or through the structure. (3-23-22)
- d.** All partitions must be approved by the Director. (3-23-22)

058. Place. For the purposes of Section 23-943, Idaho Code, "Place" as defined by Section 23-942(b), for a one (1) room restaurant without a barrier or partition, refers to the immediate bar area wherein there is seating alongside a counter or barrier that encloses bar supplies and equipment that are kept, and where alcoholic beverages are mixed, poured, drawn or served for consumption. (3-23-22)

069. Restaurant. The term Restaurant, as defined by Section 23-942(c), Idaho Code, is further defined as an establishment maintained, advertised and held out to the public as primarily a food eating establishment, where individually priced meals are prepared and regularly served to the public, primarily for on-premises consumption. The establishment must also have a dining room or rooms, kitchen and cooking facilities for the preparation of food, and the number, and type of employees normally used in the preparing, cooking and serving of meals. Primarily as defined for the purposes of Section 010, also includes that the licensee must show to the director the following: (3-23-22)

- a.** An established menu identifying the individually priced meals for consumption; (3-23-22)

- b. Food service and preparation occurs on the premises by establishment employees; (3-23-22)
- c. Stoves, ovens, refrigeration equipment or such other equipment usually and normally found in restaurants are located on the premises of the establishment; (3-23-22)
- d. The licensee must demonstrate to the satisfaction of the Director, through appropriate business records, that the establishment is advertised and held out to the public as primarily a food eating establishment, or that at least forty percent (40%) of the establishment's consumable purchases are derived from purchases of food and non-alcoholic beverages. (3-23-22)

0710. Stock Transfer. For the purposes of Section 23-908, Idaho Code, the sale or exchange of stock in a closely held corporation holding a license is deemed a transfer of the license. However, the sale or exchange of shares in a family corporation among family members, is not a transfer. (3-23-22)

11. Transfer. Any change to a person as defined in Section 23-902(13), Idaho Code, who owns, operates, or leases an alcohol beverage license as a privilege granted by ABC except the transfer conditions set forth in Section 23-903(16)(c), Idaho Code. (7-1-23)T

011. GENERAL PROVISIONS.

01. Delegation of Authority to License Alcoholic Beverages. The Director hereby delegates his authority for the licensing of establishments which sell alcoholic beverages, as contained in Title 23, Chapters 9, 10, and 13, Idaho Code, to the, Alcohol Beverage Control Bureau, Idaho State Police. All applications and inquiries concerning alcoholic beverage licenses must be directed to the Alcohol Beverage Control Bureau. The Alcohol Beverage Control Bureau provides forms for all applications and inquiries. Nothing contained herein interferes with the Director's supervisory authority for alcoholic beverage licensing. (Section 67-2901(4), Idaho Code). (3-23-22)

02. Authority to Stagger the Renewal of Licenses to Sell Alcohol. For the purposes of Sections 23-908, 23-1010 and 23-1316, Idaho Code, the Director may adjust the renewal month to accommodate population increases. Renewal months vary by county and are available on the Alcohol Beverage Control website. (3-23-22)

03. Premises Loss, License Display, and Actual Use Requirement. (7-1-23)T

a. In the event of loss or move of the physical licensed premises, the licensee has one hundred eighty (180) days to secure and occupy a new premises in which to display the license. An additional sixty (60) days may be granted by ABC, upon petition by the license holder. (7-1-23)T

b. All licenses must be prominently displayed in suitable premises and remain in Actual Use. (7-1-23)T

012. TRANSFER OF ALCOHOLIC BEVERAGE LICENSES.

01. Transfer of License Subject to Sanctions. The Director of the Idaho State Police may deny the transfer of an alcoholic beverage license which is subject to possible disqualification, revocation or suspension under the provisions of Title 23, Chapters 9, 10, and 13, Idaho Code, or these rules, when an action has been filed to such effect before the Idaho State Police pursuant to Sections 23-933, 23-1037 or 23-1331, Idaho Code. (3-23-22)

~~**02. Death or Incapacity of Licensee.** In the event of the incapacity, death, receivership, bankruptcy, or assignment for the benefit of creditors of a licensee, his guardian, executor, administrator, receiver, trustee in bankruptcy, or assignee for benefit of creditors may, upon written authorization from the Alcohol Beverage Control Bureau, continue the business of the licensee on the licensed premises for the duration of the license or until the business is terminated. Any person operating the licensed premises under this regulation must submit a signed agreement that he will assume all of the responsibilities of the licensee for operation of the premises in accordance with law. A person operating licensed premises under the regulation must demonstrate to the satisfaction of the Alcohol Beverage Control Bureau that he is qualified to hold an alcoholic beverage license. A guardian, executor, administrator, receiver, trustee in bankruptcy, or assignee for benefit of creditors may renew or transfer a license so held, in the same manner as other licensees, subject to the approval of the Alcohol Beverage Control Bureau.~~

~~(Sections 23-908(1), 23-1005A, and 23-1317, Idaho Code).~~

~~(3-23-22)~~

02. Events Not Implicating the One Transfer Law Restriction.

~~(7-1-23)T~~

a. ~~In addition to Section 23-903(16) Idaho Code, any transfer of a license pursuant to Section 23-908(5)(a),(b),(d), and (e), Idaho Code, or the transfer of a license pursuant to Section 23-950, Idaho Code, or any other governmental entity acting under its authority to transfer a license.~~

~~(7-1-23)T~~

b. ~~When any of the events occur pursuant to Sections 23-908(5)(a),(b), (d), and (e) and 23-903(16)(a) and (b), Idaho Code, a person must apply with ABC pursuant to Section 23-905, Idaho Code.~~

~~(7-1-23)T~~

03. Authorization to Transfer and Assignment of Privilege to Renew. Any person applying to renew a liquor license who was not the licensee at the applicable premises for the preceding year, must submit with the application to renew, a written Authorization to Transfer and Assignment of Privilege to Renew signed by the current licensee. (3-23-22)

04. Temporary Permits. When application for transfer of an alcoholic beverage license has been made, the Alcohol Beverage Control Bureau, in its discretion, may authorize issuance of a temporary permit during the review of the application, during which time the applicant for transfer may conduct business as a temporary permit holder. The permit holder, in accepting the temporary permit, is responsible for complying with all statutes and rules pertinent to the sale of alcoholic beverages. Sanctions against such permit holder, whether civil, administrative, or criminal lies with the permittee, and acceptance of the permit constitutes a waiver of any defenses by permit holder based upon the fact that the permit holder is not, technically, a licensee. The Alcohol Beverage Control Bureau may withdraw a temporary permit it has issued pursuant to this rule at any time without hearing or notice. (3-23-22)

05. Product Replacement and Credit. Any beer or wine products removed from the licensed retailer's premises by a wholesaler/distributor for quality control or public health are not considered to be a violation of Section 23-1033 or 23-1325, Idaho Code, which prohibit aid to the retailer or of Sections 23-1031 or 23-1326, Idaho Code, which prohibit extension of credit to a retailer, if: (3-23-22)

a. The packages or kegs are replaced with identical product and quantity; or (3-23-22)

b. In the instance of replacement of a partial keg of beer or wine, a credit to be redeemed on subsequent alcoholic beverage purchases by the retailer is given for the value of the unused portion; or (3-23-22)

c. In the instance of removal of product for which the identical product or quantity thereof is not immediately available to the wholesaler/distributor at the time of removal of the product, a credit is given. The credit shall be redeemed on subsequent alcoholic beverage purchases by the retailer; or (3-23-22)

d. In the case of a licensed establishment which is in operation no less than two (2) months and no more than nine (9) months of each year, prior to its period of closure, it is apparent that product will become outdated or spoiled before the date of re-opening, a wholesaler/distributor may remove product from the retailer's premises and may give a credit to the retailer. Such credit shall be redeemed on subsequent alcoholic beverage purchases by the same retailer. (3-23-22)

e. Credit is given to a retailer for the amount paid by the retailer at the time of purchase of the product being removed by the wholesaler/distributor. (3-23-22)

06. Expiration of Licenses. When a county or city has, pursuant to Sections 23-927 and/or 23-1012, Idaho Code, passed an ordinance extending the hours of sale of liquor and/or beer to two o'clock a.m. (2:00 a.m.), all liquor and/or beer licenses in that county expire at two a.m. (2 a.m.), on the first of the renewal month of the year following their issuance. (Section 23-908(1), Idaho Code). (3-23-22)

07. Maintenance of Keg Receipts. Licensees shall retain a copy of all completed keg receipts required by Section 23-1018, Idaho Code, for a period of six (6) months. (3-23-22)

08. Application of 23-905(7). ~~Transfers made under Section 23-905(7), Idaho Code, are subject to the~~

conditions set forth in Section 23-903(16)(c), Idaho Code. (7-1-23)T

09. Application of 23-908(4). Transfers made under Section 23-908(4), Idaho Code, are subject to the conditions set forth in Section 23-903(16)(c), Idaho Code. (7-1-23)T

10. Continuous Operation Facilities Licenses. An existing license issued under Section 23-903(8), Idaho Code, before July 1, 2028, may be renewed annually and may be transferable through sale or lease. (7-1-23)T

IDAPA 11 – IDAHO STATE POLICE

11.07.01 – RULES GOVERNING MOTOR VEHICLES – GENERAL RULES

DOCKET NO. 11-0701-2301

**NOTICE OF INTENT TO PROMULGATE RULES –
ZERO-BASED REGULATION (ZBR) 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 67-2907, and 49-901 Idaho Code.

MEETING SCHEDULE: Public meetings on the negotiated rulemaking will be held as follows:

Monday, July 17, 2023 – 10 a.m. (MT)	Thursday, July 20, 2023 – 10 a.m. (MT)
<p style="text-align: center;">ISP Headquarters, HR Conference Room 700 S. Stratford Drive Meridian, ID 83642</p> <p style="text-align: center;">Meeting Link: Motor Vehicle Rules Meeting ID: 233 133 326 123 Passcode: 2ylzvy</p>	

The meeting site(s) will be accessible to persons with disabilities, if needed. Requests for accommodation must be made no 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:

Interested persons wishing to participate in the negotiated rulemaking may do so by contacting the undersigned either in writing, by email, or by calling the phone number listed below. Responses must be received by July 26, 2023.

All scheduled meetings shall be posted and made accessible on the agency website at the address listed below and via <https://townhall.idaho.gov/> at least 48 hours before the 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:

Under [Executive Order 2020-01: Zero-Based Regulation](#), ISP is working to remove costly, ineffective, or outdated regulations and reduce regulatory burden.

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 Captain Matt Smith, Idaho State Police, (208) 884-7022, matt.smith@isp.idaho.gov. Materials pertaining to the negotiated rulemaking, including any available preliminary rule drafts, can be found on the Idaho State Police web site at the following web address: www.isp.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 July 26, 2023.

DATED this 12th day of June, 2023.

Lt. Colonel Bill Gardiner, Chief of Staff
Idaho State Police
700 S Stratford Drive
Meridian ID 83642
(208) 884-7004
Bill.gardiner@isp.idaho.gov

IDAPA 11 – IDAHO STATE POLICE

11.07.03 – RULES GOVERNING EMERGENCY VEHICLES/AUTHORIZED EMERGENCY VEHICLES

DOCKET NO. 11-0703-2301

**NOTICE OF INTENT TO PROMULGATE RULES –
ZERO-BASED REGULATION (ZBR) 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(s) 67-2907, Idaho Code.

MEETING SCHEDULE: Public meetings on the negotiated rulemaking will be held as follows:

Monday, July 17, 2023 – 10 a.m. (MT)	Thursday, July 20, 2023 – 10 a.m. (MT)
<p style="text-align: center;">ISP Headquarters, HR Conference Room 700 S. Stratford Drive Meridian, ID 83642</p> <p style="text-align: center;">Meeting Link: Emergency Vehicle Rules Meeting ID: 233 133 362 123 Meting Passcode: 2yLzvy</p>	

The meeting site(s) will be accessible to persons with disabilities, if needed. Requests for accommodation must be made no 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:

Interested persons wishing to participate in the negotiated rulemaking may do so by contacting the undersigned either in writing, by email, or by calling the phone number listed below. Responses must be received by July 26, 2023.

All scheduled meetings shall be posted and made accessible on the agency website at the address listed below and via <https://townhall.idaho.gov/> at least 48 hours before the 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:

Under [Executive Order 2020-01: Zero-Based Regulation](#), ISP is working to remove costly, ineffective, or outdated regulations and reduce regulatory burden.

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 Captain Matt Smith, Idaho State Police, (208) 884-7022, matt.smith@isp.idaho.gov. Materials pertaining to the negotiated rulemaking, including any available preliminary rule drafts, can be found on the Idaho State Police web site at the following web address: www.isp.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 July 26, 2023.

DATED this 12th day of June, 2023.

Lt. Colonel Bill Gardiner, Chief of Staff
Idaho State Police
700 S Stratford Drive
Meridian ID 83642
(208) 884-7004
Bill.gardiner@isp.idaho.gov

IDAPA 11 – IDAHO STATE POLICE

11.13.01 – THE MOTOR CARRIER RULES

DOCKET NO. 11-1301-2301

**NOTICE OF INTENT TO PROMULGATE RULES –
ZERO-BASED REGULATION (ZBR) 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(s) 67-2901A, Idaho Code.

MEETING SCHEDULE: Public meetings on the negotiated rulemaking will be held as follows:

Wednesday, July 12, 2023 – 10 a.m. (MT)	Thursday, July 13, 2023 – 10 a.m. (MT)
<p style="text-align: center;">ISP Headquarters, HR Conference Room 700 S. Stratford Drive Meridian, ID 83642</p> <p style="text-align: center;">Meeting Link: Motor Carrier Rules Meeting ID: 233 832 121 859 Meeting Password: ykFRJ4</p>	

The meeting site(s) will be accessible to persons with disabilities, if needed. Requests for accommodation must be made no later than five (5) days prior to the meeting to the agency address below. In-person meeting space is limited to the first ten participants.

METHOD OF PARTICIPATION: Persons wishing to participate in the negotiated rulemaking must do the following:

Interested persons wishing to participate in the negotiated rulemaking may do so by contacting the undersigned either in writing, by email, or by calling the phone number listed below. Responses must be received by July 26, 2023. Please submit comments in writing for the record at least (5) days in advance of the meeting date to be included in meeting materials and placed on the agenda.

All scheduled meetings shall be posted and made accessible on the agency website at the address listed below and via <https://townhall.idaho.gov/> at least 48 hours before the 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:

Under [Executive Order 2020-01: Zero-Based Regulation](#), ISP is working to remove costly, ineffective, or outdated regulations and reduce regulatory burden.

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 Captain Shawn Staley, Idaho State Police, (208) 884-7222, shawn.staley@isp.idaho.gov. Materials pertaining to the negotiated rulemaking, including any available preliminary rule drafts, can be found on the Idaho State Police web site at the following web address: www.isp.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 July 26, 2023.

DATED this 12th day of June, 2023.

Lt. Colonel Bill Gardiner, Chief of Staff
Idaho State Police
700 S Stratford Drive
Meridian ID 83642
(208) 884-7004
Bill.gardiner@isp.idaho.gov

IDAPA 13 – IDAHO FISH AND GAME COMMISSION
ESTABLISHING SEASONS AND LIMITS FOR HUNTING, FISHING, AND TRAPPING IN IDAHO
DOCKET NO. 13-0000-2300P6
NOTICE OF ADOPTED / AMENDED PROCLAMATIONS FOR CALENDAR YEAR 2023

AUTHORITY: As authorized by Section 36-104, Idaho Code, and in compliance with Sections 36-105(3), Idaho Code, the Commission adopts proclamations establishing seasons and limits for hunting, fishing, and trapping in Idaho.

AVAILABILITY OF OFFICIAL PROCLAMATIONS: Hunters, anglers, and trappers are advised to consult the text of the Commission’s official proclamation before hunting, fishing, or trapping. All proclamations are available on-line at <https://idfg.idaho.gov/rules>, with print versions available at Idaho Department of Fish and Game offices and license vendors.

DESCRIPTIVE SUMMARY AND PUBLIC MEETING SCHEDULE: The Commission meeting schedule and meeting agendas are available on-line at [Commission Meeting Schedule](#), with opportunities for public comment generally scheduled at its January, March, May, July, and November meetings.

Information for Commission proclamations for calendar year 2023 was initially published in the January 4, 2023, Idaho Administrative Bulletin, [Volume 23-1, pages 64-65](#).

At a meeting on June 13, 2023, the Commission took the following proclamation action:

1. Adopted a proclamation for 2023 summer Chinook Salmon fishing seasons (Lochsa, South Fork Salmon and upper Salmon Rivers).

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

IDAPA 16 – DEPARTMENT OF HEALTH AND WELFARE

16.02.25 – STATE LABORATORY FEES

DOCKET NO. 16-0225-2301 (FEE RULE)

NOTICE OF RULEMAKING – PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Sections 56-1003 and 56-1007, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearings concerning this rulemaking will be held as follows:

VIRTUAL TELECONFERENCES Via WebEx
<p>Wednesday, July 12, 2023 9:00 a.m. - 11:00 a.m. (MT)</p>
<p>Join from the meeting link https://idhw.webex.com/idhw/j.php?MTID=m0cbfbb28f4e4cd018af8fbcadd8dc59</p> <p>Join by meeting number Meeting number (access code): 2761 965 6543 Meeting password: PMfYXvKg355 (76399854 from phones and video systems)</p> <p>Join by phone +1-415-527-5035 United States Toll +1-303-498-7536 United States Toll (Denver)</p>
<p>Wednesday, July 19, 2023 2:00 p.m. - 4:00 p.m. (MT)</p>
<p>Join from the meeting link https://idhw.webex.com/idhw/j.php?MTID=m5253cfb0ab7c5956de6bcef0b049c0dc</p> <p>Join by meeting number Meeting number (access code): 2764 823 7694 Meeting password: G83gUA8SuU4 (48348287 from phones and video systems)</p> <p>Join by phone +1-415-527-5035 United States Toll +1-303-498-7536 United States Toll (Denver)</p>

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below. Each meeting will conclude after 30 minutes if no participants sign in or wish to comment in the meeting.

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

This rulemaking is being done to correct errors in the fees for total coliform testing procedures under Section 200 and align the fees to reflect negotiations held with stakeholders prior to the chapter rewrite approved by the 2022 legislature. Further, this assures that the state will not be in competition with commercial laboratories for these procedures.

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

The fees in Subsection 200.02 for Total Coliform/E. coli, Presence/Absence are being revised from the pre-2022 price of \$18 to the negotiated price of \$21. Similarly, Total Coliform/E. coli, Quantitative are being revised from \$20 to \$33.

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

This rulemaking is not anticipated to have any fiscal impact on the State General Fund, however, it will be an increase in dedicated funds for the State Laboratory. The proposed revisions will be within the laboratory's appropriation for receipts so it should not result in a substantive budget impact. This increase will help offset higher operating costs associated with this testing. Based upon the 2022 testing volume for the laboratory, these fee revisions will result in approximately a \$12,100 increase in receipts.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(2)(b), Idaho Code, negotiated rulemaking was not conducted as it was deemed not feasible. This rulemaking is being done simply to correct laboratory fees as negotiated with stakeholders prior to the chapter rewrite approved by the 2022 legislature.

INCORPORATION BY REFERENCE: Pursuant to Section 67-5229(2)(a), Idaho Code, the following is a brief synopsis of why the materials cited are being incorporated by reference into this rule:

There are no documents incorporated by reference under this chapter of rules.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Chris Ball at (208) 334-0568.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before July 26, 2023.

DATED this 8th day of June, 2023.

Trinette Middlebrook and Frank Powell
DHW - Administrative Rules Unit
450 W. State Street - 10th Floor
P.O. Box 83720
Boise, ID 83720-0036
(208) 334-5500 phone;
(208) 334-6558 fax
dhwrules@dhw.idaho.gov email

**THE FOLLOWING IS THE PROPOSED TEXT OF FEE DOCKET NO. 16-0225-2301
(Only Those Sections With Amendments Are Shown.)**

200. FEES FOR LABORATORY TESTS.

01. Laboratory Test, Air -- Table.

Fees for Laboratory Tests -- Air	
Air Test Name	Fee
PM 2.5 Filter	\$20.00

(3-15-22)

02. Laboratory Tests, Microbiology -- Table.

Fees for Laboratory Tests -- Microbiology	
Microbiology Test Name	Fee
Enzyme-Linked Immunoassay (EIA)	\$146.00
Heterotrophic Plate Count	\$28.00
Bacterial Isolate Identification	\$80.00
Legionella pneumophila in Water, Quantitative	\$29.00
Legionella spp. Culture and Identification	\$154.00
Pathogen Screen by Polymerase Chain Reaction (PCR)	\$131.00
Pseudomonas aeruginosa, in Water, Quantitative	\$50.00
Total Coliform/E. coli, Presence/Absence	\$48 21.00
Total Coliform/E. coli, Quantitative	\$20 33.00

(3-15-22)()

03. Laboratory Tests, Inorganic Chemistry -- Table.

Fees for Laboratory Tests -- Inorganic Chemistry	
Inorganic Chemistry Test Name	Fee
Alkalinity (CaCO ₃),	\$18.00
Ammonia as N,	\$22.00
Arsenic	\$23.00
Bromate	\$100.00
Bromide	\$32.00
Chlorate	\$100.00
Chloride	\$20.00
Chlorite	\$150.00

Fees for Laboratory Tests -- Inorganic Chemistry	
Inorganic Chemistry Test Name	Fee
Chlorophyll A and Pheophytin A	\$75.00
Conductivity	\$11.00
Cyanide	\$50.00
Direct Mercury Analysis	\$50.00
Fluoride	\$20.00
Hardness	\$28.00
Lead	\$23.00
Mercury	\$40.00
Metals Digestion	\$21.00
Metals each (Aluminum, Antimony, Barium, Beryllium, Boron, Cadmium, Calcium, Chromium, Cobalt, Copper, Iron, Lithium, Magnesium, Manganese, Molybdenum, Nickel, Potassium, Selenium, Silicon, Silver, Sodium, Strontium, Thallium, Tin, Vanadium, Zinc)	\$13.00
Metals Speciation	\$50.00
Nitrate + Nitrite as N	\$20.00
Nitrate as N	\$20.00
Nitrite as N	\$20.00
Orthophosphate as P	\$20.00
pH	\$10.00
Sulfate	\$20.00
Total Dissolved Solids	\$16.00
Total Kjeldahl Nitrogen	\$40.00
Total Phosphorus	\$28.00
Total Suspended Sediment	\$16.00
Total Suspended Solids	\$16.00
Turbidity	\$15.00
Uranium	\$23.00

(3-15-22)

04. Laboratory Tests, Organic Chemistry -- Table.

Fees for Laboratory Tests -- Organic Chemistry	
Organic Chemistry Test Name	Fee
1,2-dibromo-3-chloropropane/ethylene dibromide (DBCP/EDB/TCP)	\$125.00
Carbamates	\$175.00

Fees for Laboratory Tests -- Organic Chemistry	
Organic Chemistry Test Name	Fee
Chlorinated Herbicides	\$175.00
Diquat	\$175.00
ELISA	\$12.00
Endothall	\$175.00
Glyphosate	\$150.00
Haloacetic Acids	\$150.00
Oil and Grease	\$75.00
Organochlorine Pesticides / PCBs	\$175.00
Semi-volatile Compounds	\$225.00
Semi-volatile, GC-MS Screen (Qualitative Results)	\$150.00
Total Trihalomethanes (TTHMs)	\$110.00
Unknown Identification	\$100.00
Volatile Organic Compounds (VOC)	\$190.00

(3-15-22)

IDAPA 16 – DEPARTMENT OF HEALTH AND WELFARE

16.03.09 – MEDICAID BASIC PLAN BENEFITS

DOCKET NO. 16-0309-2301

NOTICE OF RULEMAKING – TEMPORARY AND PROPOSED RULE

EFFECTIVE DATE: The effective date of the temporary rule is July 1, 2023.

AUTHORITY: In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a temporary rule, and proposed rulemaking procedures have been initiated. The action is authorized pursuant to Sections 56-202(b), 56-264, and 56-1610, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearings concerning this rulemaking will be held as follows:

VIRTUAL TELECONFERENCES Via WebEx
<p>Thursday, July 13, 2023 4:00 p.m. - 5:00 p.m. (MT)</p>
<p>Join from the meeting link https://idhw.webex.com/idhw/j.php?MTID=m52baf11a0fdb1fe4179f5791a82980b4</p> <p>Join by meeting number Meeting number (access code): 2760 060 4198 Meeting password: PytTUgg5y53 (79888445 from phones and video systems)</p> <p>Join by phone +1-415-527-5035 United States Toll +1-303-498-7536 United States Toll (Denver)</p>
<p>Monday, July 17, 2023 10:00 a.m. -11:00 a.m. (MT)</p>
<p>Join from the meeting link https://idhw.webex.com/idhw/j.php?MTID=me93b96b1ea479828068a79d89916478c</p> <p>Join by meeting number Meeting number (access code): 2764 933 3016 Meeting password: Aty6k6iMQf4 (28965646 from phones and video systems)</p> <p>Join by phone +1-415-527-5035 United States Toll +1-303-498-7536 United States Toll (Denver)</p>

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below. Each meeting will conclude after 30 minutes if no participants sign into the meeting.

DESCRIPTIVE SUMMARY: The following is the required finding and concise statement of its supporting reasons for adopting a temporary rule and a nontechnical explanation of the substance and purpose of the proposed rulemaking:

These rule changes will decrease regulatory burdens, make technical corrections, implement operations for the end of the public health emergency, update rules to comply with the latest changes to Idaho statutes (H0153, H0223, H0374, and S1094 from the 2023 legislative session), IDAPA 16.05.06, “Criminal History and Background Checks,” and make changes to the Idaho State Plan for behavioral health services appropriated by the legislature.

TEMPORARY RULE JUSTIFICATION: Pursuant to Sections 67-5226(1)(b) and (c), Idaho Code, the Governor has found that temporary adoption of the rule of the rule is appropriate for the following reasons:

This rulemaking aligns these rules with laws passed by the 2023 legislature (H0153, H0223, H0374, and S1094), and confers benefits to participants and reduces administrative burdens on providers.

These changes are to comply with deadlines in amendments to governing law or federal programs, and to confer a benefit.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased: There are no fees in this chapter of rule.

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

There is no impact to the state general fund, grant funds, or any other funds as funding has already been appropriated for the changes to services.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(2)(b), Idaho Code, negotiated rulemaking was not conducted because this rulemaking was deemed to be not feasible as it aligns with statutes passed by the 2023 Legislative session.

INCORPORATION BY REFERENCE: Pursuant to Section 67-5229(2)(a), Idaho Code, the following is a brief synopsis of why the materials cited are being incorporated by reference into this rule:

The rulemaking changes in the Incorporation By Reference Section include:

- American Psychiatric Association: Diagnostic and Statistical Manual of Mental Disorders (DSM-5-TR, 2022); and
- Updated title for Travel Policies and Procedures by the Idaho Office of the State Controller.

INCORPORATION BY REFERENCE: Pursuant to Section 67-5229(2)(a), Idaho Code, the following is a brief synopsis of why the materials cited are being incorporated by reference into this rule: The rulemaking changes in the Incorporation By Reference Section includes updated title for Travel Policies and Procedures by the Idaho Office of the State Controller.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary and proposed rule, contact William Deseron, 208-859-0046.

Anyone may submit written comments regarding the proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before July 26, 2023.

DATED this 26th day of May, 2023.

Trinette Middlebrook and Frank Powell
DHW - Administrative Rules Unit
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**THE FOLLOWING IS THE TEMPORARY RULE AND THE PROPOSED TEXT
OF DOCKET NO. 16-0309-2301
(Only Those Sections With Amendments Are Shown.)**

004. INCORPORATION BY REFERENCE.

The following are incorporated by reference in this chapter of rules: (3-17-22)

01. American Speech-Language-Hearing Association (ASHA): Medicaid Guidance for Speech-Language Pathology Services. The American Speech-Language-Hearing Association (2004) Medicaid Guidance for Speech-Language Pathology Services: Addressing the “Under the Direction of” Rule technical report is available on the internet at: <https://www.asha.org/>. The report may also be obtained at the ASHA National Office, 2200 Research Boulevard, Rockville, MD 20850-3289, telephone (301) 296-5700. (3-17-22)

02. DSM-5-TR. American Psychiatric Association: Diagnostic and Statistical Manual of Mental Disorders, Fifth Edition, ~~Text Revision~~ (DSM-5-TR) Arlington, VA, American Psychiatric Association, 2013-22. A copy of the manual is available for public review at the Department of Health and Welfare, 450 West State Street, Boise, Idaho, 83702. (3-17-22)(7-1-23)T

03. Estimated Useful Lives of Depreciable Hospital Assets, 2004 Revised Edition, Guidelines Lives. This document may be obtained from American Hospital Publishing, Inc., 211 East Chicago Avenue, Chicago, IL, 60611. (3-17-22)

04. Medicare Durable Medical Equipment Medicare Administrative Contractor Jurisdiction D Supplier Manual 2016, As Amended (CMS/Medicare DME Coverage Manual). Since the supplier manual is amended on a quarterly basis by CMS, the current year's manual is being incorporated by reference, as amended, to allow for the incorporation of the most recent amendments to the manual. The full text of the CMS/Medicare DME Coverage Manual is available via the Internet at <https://med.noridianmedicare.com/web/jddme/education/supplier-manual>. (3-17-22)

05. Provider Reimbursement Manual (PRM). The Provider Reimbursement Manual (PRM), Part I and Part II (CMS Publication 15-1 and 15-2), is available on the CMS website at <https://www.cms.gov/Regulations-and-Guidance/Guidance/Manuals/Paper-Based-Manuals.html>. (3-17-22)

06. Travel Policies and Procedures of the Idaho State Board of Examiners. The text of “~~Idaho State Travel Policies and Procedures of the Idaho State Board of Examiners,~~” Appendices A and B, ~~June 13, 2000~~ January 17, 2023, is available at the Office of the State Controller, 700 W. State St., 5th Fl., Box 83720, Boise, Idaho 83720-0011 or ~~on the Internet at~~ <http://www.sco.idaho.gov> <https://www.sco.idaho.gov/LivePages/state-travel-policy-and-procedures.aspx>. (3-17-22)(7-1-23)T

005. -- 007. (RESERVED)

008. AUDIT, INVESTIGATION, AND ENFORCEMENT.

~~In addition to any actions specified in these rules,~~ The Department may audit, investigate, and take enforcement action under ~~the provisions of~~ IDAPA 16.05.07, “~~The~~ Investigation and Enforcement of Fraud, Abuse, and

Misconduct.”

(3-17-22)(7-1-23)T

009. ~~CRIMINAL HISTORY AND~~ BACKGROUND CHECK REQUIREMENTS.

01. Compliance With ~~Department Criminal History~~ Background Checks. Criminal history ~~Background~~ checks are required for certain types of providers under these rules. Providers who are required to have a ~~criminal history background~~ check must comply with IDAPA 16.05.06, “Criminal History and Background Checks.” ~~Except, through the duration of the declared COVID-19 public health emergency, if the individuals working in the area listed in this rule are unable to complete a criminal background check in accordance with the timeframes set forth in IDAPA 16.05.06, then agencies may allow newly hired direct care staff to begin rendering services prior to completion of the criminal background check in accordance with the requirements specified by the Department in a COVID-19 information release posted on the Department’s website at <https://healthandwelfare.idaho.gov/providers/idaho-medicaid-providers/information-medicaid-providers>.~~

(3-17-22)(7-1-23)T

02. Department-Issued Variances to Requirements for a ~~Criminal History Check~~ Clearance.

(3-17-22)(7-1-23)T

a. Notwithstanding those provider types required to obtain a ~~criminal history check~~ clearance or ~~Department~~ enhanced clearance under these rules or under IDAPA 16.05.06, “Criminal History and Background Checks,” the Department ~~at its discretion~~ may allow variances to clearance requirements under certain circumstances. Providers who are subject to a ~~criminal history and~~ background check must still complete and notarize an application for a ~~criminal history and~~ background check.

(3-17-22)(7-1-23)T

b. In cases where the application process results in a denial rather than a clearance, and the denial is due to the applicant’s prior convictions for disqualifying drug and alcohol-related offenses, the applicant may, with prior written approval of the Department, deliver covered Medicaid Peer Support and Recovery Coaching services.

(3-17-22)

c. A variance may be granted on a case-by-case basis upon review by the Department ~~or its designee~~ of any underlying facts and circumstances in each individual case. The Department will establish the process for the administrative review which will be conducted separate from the ~~criminal history background check~~ unit. During the Department’s review, the following factors may be considered:

(3-17-22)(7-1-23)T

- i. The severity or nature of the crimes or other findings; (3-17-22)
 - ii. The period of time since the incidents occurred; (3-17-22)
 - iii. The number and pattern of incidents being reviewed; (3-17-22)
 - iv. Circumstances surrounding the incidents that would help determine the risk of repetition; (3-17-22)
 - v. The relationship between the incidents and the position sought; (3-17-22)
 - vi. Activities since the incidents, such as continuous employment, education, participation in treatment, completion of a problem-solving court or other formal offender rehabilitation, payment of restitution, or any other factors that may be evidence of rehabilitation; (3-17-22)
 - vii. A pardon ~~that was~~ granted by a state governor or the President of the United States; (3-17-22)(7-1-23)T
 - viii. The falsification or omission of information on the self-declaration form and other supplemental forms submitted; and (3-17-22)
 - ix. Any other factor deemed relevant to the review. (3-17-22)
- d.** A variance granted under these rules is not a criminal history and background check clearance and

does not set a precedent for subsequent application for variance. The Department may revoke a variance when it identifies a risk to participants' health and safety. Providers who have been granted a variance must still meet all other Department requirements for Medicaid coverage and reimbursement of Peer Support and Recovery Coaching services, and are prohibited from delivering any other covered Medicaid service without the required clearance or Department enhanced clearance. (3-17-22)

03. Availability to Work or Provide Service. (3-17-22)

a. The employer, ~~at its discretion,~~ may allow an individual to provide care or services on a provisional basis once the application for a ~~criminal history and~~ background check is completed and notarized, and the employer has reviewed the application for any disqualifying crimes or relevant records. The employer determines whether the individual could pose a health and safety risk to the vulnerable participants it serves. The individual is not allowed to provide care or services when the employer determines the individual has disclosed a disqualifying crime or relevant records. (3-17-22)(7-1-23)T

b. Those individuals licensed or certified by the Department are not available to provide services or receive licensure or certification until the ~~criminal history and~~ background check is completed and a clearance issued by the Department. (3-17-22)(7-1-23)T

04. Additional Criminal Convictions. Once an individual has received a ~~criminal history~~ clearance, any additional criminal convictions must be reported by the agency to the Department when the agency learns of the conviction. (3-17-22)(7-1-23)T

05. Providers Subject to ~~Criminal History~~ Background Check Requirements. The following providers must receive a ~~criminal history~~ clearance: (3-17-22)(7-1-23)T

a. Contracted Non-Emergency Medical Transportation Providers. All staff of transportation providers having contact with participants ~~must comply with IDAPA 16.05.06, "Criminal History and Background Checks," with the exception of~~ ~~except for~~ individuals ~~contracted as~~ transportation providers defined in Subsection 870.02 of these rules. (3-17-22)(7-1-23)T

b. Provider types deemed by the Department to be at high risk for fraud, waste, and abuse under Subsection 200.02 of these rules ~~must consent to comply with criminal background checks, including fingerprinting, in accordance with~~ ~~and~~ 42 CFR 455.434. (3-17-22)(7-1-23)T

(BREAK IN CONTINUITY OF SECTIONS)

011. DEFINITIONS: I THROUGH O.

~~For the purposes of these rules, the following terms are used as defined below:~~ (3-17-22)

01. Intermediate Care Facility for Individuals with Intellectual Disabilities (ICF/IID). An ~~ICF/IID~~ ~~is an~~ entity licensed as an ICF/IID and federally certified to provide care to Medicaid and Medicare participants with developmental disabilities. (3-17-22)(7-1-23)T

02. Idaho Behavioral Health Plan (IBHP). ~~The Idaho Behavioral Health Plan is a~~ ~~A~~ prepaid ambulatory health plan (PAHP) that provides outpatient behavioral health coverage for Medicaid-eligible children and adults. Outpatient behavioral health services include mental health and substance use disorder treatment ~~as well as~~ ~~and~~ case management services. The coordination and provision of behavioral health services as authorized through the IBHP contract are provided to qualified, enrolled participants by a statewide network of professionally licensed and certified behavioral health providers. (3-17-22)(7-1-23)T

03. Idaho Infant Toddler Program (ITP). ~~The Idaho Infant Toddler Program~~ ~~s~~ Serves children from birth through the end of their 36th month of age; who meet the requirements and provisions of the Individuals with Disabilities Education Act (IDEA), Part C. (3-17-22)(7-1-23)T

- 04. In-Patient Hospital Services.** Services that are ordinarily furnished in a hospital for the care and treatment of an in-patient under the direction of a physician or dentist except for those services provided in mental hospitals. (3-17-22)
- 05. Intermediary.** Any organization that administers Title XIX or Title XXI; in this case the Department of Health and Welfare. (3-17-22)
- 06. Intermediate Care Facility Services.** ~~Those s~~Services furnished in an intermediate care facility as defined in 42 CFR 440.150, but excluding services provided in a Christian Science Sanatorium. ~~(3-17-22)~~(7-1-23)T
- 07. Legal Representative.** A parent with custody of a minor child, one who holds a legally-executed and effective power of attorney for health decisions, or a court-appointed guardian whose powers include the power to make health care decisions. (3-17-22)
- 08. Legend Drug.** A drug that requires, by federal regulation or state rule, the order of a licensed medical practitioner before dispensing or administration to the patient. (3-17-22)
- 09. Level of Care.** The classification in which a participant is placed, based on severity of need for institutional care. (3-17-22)
- 10. Licensed, Qualified Professionals.** Individuals licensed, registered, or certified by national certification standards in their respective discipline, or otherwise qualified within the state of Idaho. (3-17-22)
- 11. Licensed Practitioner of the Healing Arts.** The term ~~licensed practitioner of the healing arts~~ ~~comprises~~ ~~includes~~ the following practitioner types: certified registered nurse anesthetists (CRNA), nurse practitioners (NP), nurse midwives (NM), clinical nurse specialists (CNS), and physician assistants (PA), as defined in these rules. ~~(3-17-22)~~(7-1-23)T
- 12. Lock-In Program.** An administrative sanction, required of a participant found to have misused the services provided by the Medical Assistance Program. The participant is required to select one (1) provider in the identified area(s) of misuse to serve as the primary provider. (3-17-22)
- 13. Locum Tenens/Reciprocal Billing.** The practice of a physician to retain a substitute physician when the regular physician is absent for reasons such as illness, pregnancy, vacation, or continuing medical education. The substitute physician is called the “Locum Tenens” physician. Reimbursement to a Locum Tenens physician will be limited to a period of ninety (90) continuous days. Reciprocal billing occurs when a substitute physician covers the regular physician during an absence or on an on-call basis a period of fourteen (14) continuous days or less. (3-17-22)
- 14. Medical Assistance.** Payments for part or all of the cost of services funded by Titles XIX or XXI of the federal Social Security Act, ~~as amended.~~ ~~(3-17-22)~~(7-1-23)T
- 15. Medicaid.** Idaho's Medical Assistance Program. (3-17-22)
- 16. Medicaid-Related Ancillary Costs.** ~~For the purpose of these rules, those s~~Services considered to be ancillary by Medicare cost reporting principles. Medicaid-related ancillary costs will be determined by apportioning direct and indirect costs associated with each ancillary service to Medicaid participants by dividing Medicaid charges into total charges for that service. The resulting percentage, when multiplied by the ancillary service cost, will be considered Medicaid-related ancillaries. ~~(3-17-22)~~(7-1-23)T
- 17. Medical Necessity (Medically Necessary).** A service is medically necessary if: (3-17-22)
- a.** It is reasonably calculated to prevent, diagnose, or treat conditions in the participant that endanger life, cause pain, or cause functionally significant deformity or malfunction; and (3-17-22)
- b.** There is no other equally effective course of treatment available or suitable for the participant requesting the service that is more conservative or substantially less costly. (3-17-22)

- c. Medical services must be: (3-17-22)
- i. Of a quality that meets professionally-recognized standards of health care; and (3-17-22)
- ii. Substantiated by records including evidence of such medical necessity and quality. Those records must be made available to the Department upon request. (3-17-22)

18. Medical Supplies. Healthcare-related items that are consumable, disposable, or cannot withstand repeated use by more than one (1) individual, are suitable for use in any setting in which normal life activities take place, and are reasonable and medically necessary for the treatment of a disability, illness, or injury for a Medicaid participant. (3-17-22)

19. Medicare Durable Medical Equipment Medicare Administrative Contractor Jurisdiction D Supplier Manual (CMS/Medicare DME Coverage Manual). A publication ~~that is~~ incorporated ~~by reference~~ in Section 004 of these rules ~~and that~~ contains information on DME supplier enrollment, documentation, claim submission, coverage, appeals, and overpayments. (3-17-22)(7-1-23)T

20. Nurse Midwife (NM). An advanced practice registered nurse who meets all the applicable requirements to practice as a nurse midwife according to ~~the state~~ regulations ~~in the state~~ where the services are provided. (3-17-22)(7-1-23)T

21. Nominal Charges. A public provider's charges are nominal where aggregate charges amount to less than one-half (1/2) of the reasonable cost of the services provided. (3-17-22)

22. Non-Legend Drug. Any drug the distribution of which is not subject to the ordering, dispensing, or administering by a licensed medical practitioner. (3-17-22)

23. Non-Physician Practitioner (NPP). A non-physician practitioner, previously referred to as a midlevel practitioner, comprises the following practitioner types: certified registered nurse anesthetists (CRNA), nurse practitioners (NP), nurse midwives (NM), clinical nurse specialists (CNS), pharmacist (RPh), and physician assistants (PA), as defined in these rules. (3-17-22)

24. Nurse Practitioner (NP). A ~~registered nurse or licensed professional nurse (RN)~~ ~~person~~ who meets all the applicable requirements to practice as a nurse practitioner according to ~~the state~~ regulations ~~in the state~~ where the services are provided. (3-17-22)(7-1-23)T

25. Nursing Facility (NF). An institution, or distinct part of an institution, that is primarily engaged in providing skilled nursing care and related services for participants. It is an entity licensed as a nursing facility and federally certified to provide care to Medicaid and Medicare participants. Participants must require medical or nursing care, or rehabilitation services for injuries, disabilities, or sickness. (3-17-22)

26. Ordering, Rendering, Prescribing Providers. Providers who order services, refer for services or prescribe services, products, or prescription drugs for Medicaid participants. (3-17-22)

27. Orthotic. Pertaining to or promoting the support of an impaired joint or limb. (3-17-22)

28. Outpatient Hospital Services. Preventive, diagnostic, therapeutic, rehabilitative, or palliative items or services furnished by or under the direction of a physician or dentist to a patient not in need of inpatient hospital care. (3-17-22)

29. Out-of-State Care. Medical service that is not provided in Idaho or bordering counties is considered out-of-state. Bordering counties outside Idaho are considered out-of-state for the purpose of authorizing long term care. (3-17-22)

012. DEFINITIONS: P THROUGH Z.
~~For the purposes of these rules, the following terms are used as defined below:~~ (3-17-22)

- 01. Participant.** A person eligible for and enrolled in the Idaho Medical Assistance Program. (3-17-22)
- 02. Patient.** The person undergoing treatment or receiving services from a provider. (3-17-22)
- 03. Pharmacist.** A person who meets all the applicable requirements to practice as a licensed pharmacist according to ~~the state~~ regulations ~~in the state~~ where the services are provided. ~~(3-17-22)~~(7-1-23)T
- 04. Physician.** A person possessing a Doctor of Medicine (**MD**) degree or a Doctor of Osteopathy (**DO**) degree, and within the State or United States territory services are provided is either licensed to practice medicine, ~~or~~ is a resident enrolled in a postgraduate medical training program, is a licensed international medical graduate, or is a licensed bridge year physician. ~~(3-17-22)~~(7-1-23)T
- 05. Physician Assistant (PA).** A person who meets all the applicable requirements to practice as a licensed ~~physician assistant~~ **PA** according to ~~the state~~ regulations ~~in the state~~ where the services are provided. ~~(3-17-22)~~(7-1-23)T
- 06. Plan of Care.** A written description of medical, remedial, habilitative, or rehabilitative services to be provided to a participant, developed by or under the direction and written approval of a physician. Medications, services, and treatments are identified specifically as to amount, type, and duration of service. ~~(3-17-22)~~(7-1-23)T
- 07. Prepaid Ambulatory Health Plan (PAHP).** ~~As defined in~~ Under 42 CFR 438.2, ~~a PAHP is~~ an entity that provides medical services to enrollees under contract with the Department on the basis of prepaid capitation payments, or other arrangements that do not use State Plan payment rates. The PAHP does not provide or arrange for, and is not responsible for the provision of any inpatient hospital or institutional services for its enrollees, and does not have a comprehensive risk contract. ~~(3-17-22)~~(7-1-23)T
- 08. Private Rate.** Rate most frequently charged to private patients for a service or item. (3-17-22)
- 09. Prosthetic Device.** Replacement, corrective, or supportive devices prescribed by a physician or other licensed practitioner of the healing arts profession within the scope of their practice as defined by state law to:
(3-17-22)
- a. Artificially replace a missing portion of the body; or (3-17-22)
 - b. Prevent or correct physical deformities or malfunctions; or (3-17-22)
 - c. Support a weak or deformed portion of the body. (3-17-22)
 - d. Computerized communication devices are not included in this definition of a prosthetic device. (3-17-22)
- 10. Provider.** Any individual, partnership, association, corporation, or organization, public or private, that furnishes medical goods or services in compliance with these rules and who has applied for and received a Medicaid provider number and who has entered into a written provider agreement with the Department ~~in accordance with~~ under Section 205 of these rules. ~~(3-17-22)~~(7-1-23)T
- 11. Provider Agreement.** A written agreement between the provider and the Department, entered into ~~in accordance with~~ under Section 205 of these rules. ~~(3-17-22)~~(7-1-23)T
- 12. Provider Reimbursement Manual (PRM).** A federal publication that specifies accounting treatments and standards for the Medicare program, CMS Publications 15-1 and 15-2, that are incorporated ~~by~~ reference in Section 004 of these rules. ~~(3-17-22)~~(7-1-23)T
- 13. Prudent Layperson.** ~~A person who possesses an average knowledge of health and medicine.~~
(3-17-22)

143. Psychologist, Licensed. A person licensed to practice psychology according to ~~the state~~ regulations ~~in the state~~ where the services are provided. (3-17-22)(7-1-23)T

154. Psychologist Extender. A person who practices psychology under the supervision of a licensed psychologist who meets ~~the state~~ regulations ~~in the state~~ where the services are provided. (3-17-22)(7-1-23)T

165. Public Provider. A public provider is one operated by a federal, state, county, city, or other local government agency or instrumentality. (3-17-22)

176. Qualified Interpreter. A ~~qualified interpreter~~ person who meets the definition of qualified interpreter ~~consistent with~~ under 28 CFR 35.104. (3-17-22)(7-1-23)T

187. Quality Improvement Organization (QIO). An organization that performs utilization and quality control review of health care furnished to Medicare and Medicaid participants. A QIO is formerly known as a Peer Review Organization (PRO). (3-17-22)

198. Related Entity. An organization with which the provider is associated or affiliated to a significant extent, or has control of, or is controlled by, that furnishes the services, facilities, or supplies for the provider. (3-17-22)

2019. Registered Nurse (RN). A person who meets all the applicable requirements and is licensed to practice as ~~an Licensed Registered Nurse~~ RN according to ~~the state~~ regulations ~~in the state~~ where the services are provided. (3-17-22)(7-1-23)T

240. Rural Health Clinic (RHC). An outpatient entity that meets the requirements of 42 USC Section 1395x(aa)(2). It is primarily engaged in furnishing physicians and other medical and health services in rural, federally-defined, medically underserved areas, or designated health professional shortage areas. (3-17-22)(7-1-23)T

221. Rural Hospital-Based Nursing Facilities. Hospital-based nursing facilities not located within a metropolitan statistical area (MSA) as defined by the United States Bureau of Census. (3-17-22)

232. Social Security Act. 42 USC 101 et seq., authorizing, in part, federal grants to the states for medical assistance to low-income persons who meet certain criteria. (3-17-22)

243. State Plan. The contract between the state and federal government under 42 USC Section 1396a(a). (3-17-22)

254. Supervision. Procedural guidance by a qualified person and initial direction and periodic inspection of the actual act, at the site of service delivery. (3-17-22)

265. Title XVIII. Title XVIII of the Social Security Act, known as Medicare, for aged, blind, and disabled individuals administered by the federal government. (3-17-22)

276. Title XIX. Title XIX of the Social Security Act, known as Medicaid, is a medical benefits program jointly financed by the federal and state governments and administered by the states. This program pays for medical assistance for certain individuals and families with low income and limited resources. (3-17-22)

287. Title XXI. Title XXI of the Social Security Act, known as the State Children's Health Insurance Program (SCHIP). This is a program that primarily pays for medical assistance for low-income children. (3-17-22)

298. Third Party. Includes a person, institution, corporation, or public or private agency that is liable to pay all or part of the medical cost of injury, disease, or disability of a medical assistance participant. (3-17-22)(7-1-23)T

3029. Transportation. The physical movement of a participant to and from a medical appointment or service by the participant, another person, taxi, or common carrier. (3-17-22)(7-1-23)T

013. MEDICAL CARE ADVISORY COMMITTEE (MCAC).

The Director of the Department will appoint a ~~Medical Care Advisory Committee~~ **MCAC** to advise ~~and counsel~~ on ~~all aspects of~~ health and medical services. (3-17-22)(7-1-23)T

01. Membership. The ~~Medical Care Advisory Committee~~ **MCAC** will include, ~~but not be limited to,~~ the following: (3-17-22)(7-1-23)T

a. Licensed physicians and other ~~representatives of the~~ health professionals ~~who are~~ familiar with the medical needs of low-income ~~population groups~~ **individuals** and ~~with~~ the resources available and required for their care; and (3-17-22)(7-1-23)T

b. Members of ~~consumer groups, including medical assistance~~ **stakeholder organizations and Medicaid** participants ~~and consumer organizations.~~ (3-17-22)(7-1-23)T

02. Organization. The ~~Medical Care Advisory Committee~~ **MCAC** will: (3-17-22)(7-1-23)T

a. Consist of not more than twenty-two (22) members; ~~and~~ (3-17-22)(7-1-23)T

b. Be appointed by the Director to the ~~Medical Care Advisory Committee~~ **MCAC** to serve three (3) year terms, whose terms are to overlap; ~~and~~ (3-17-22)(7-1-23)T

c. Elect a chairman and a vice-chairman to serve a two (2) year term; ~~and~~ (3-17-22)(7-1-23)T

d. Meet at least quarterly; and (3-17-22)

e. Submit ~~an activity~~ report ~~of its activities~~ and recommendations to the Director at least ~~once each year~~ **annually**. (3-17-22)(7-1-23)T

03. Policy Function. The ~~Medical Care Advisory Committee~~ **MCAC** must be given opportunity to participate in medical assistance policy development and program administration. (3-17-22)(7-1-23)T

04. Staff Assistance. The ~~Medical Care Advisory Committee~~ **MCAC** must be provided staff assistance from within the Department and independent technical assistance as needed to enable them to make effective recommendations, and will be provided with travel and per diem costs, where necessary. (3-17-22)(7-1-23)T

014. -- 099. (RESERVED)

GENERAL PARTICIPANT PROVISIONS
(Sections 100-199)

100. ELIGIBILITY FOR MEDICAL ASSISTANCE.

~~Idaho Department of Health and Welfare Rules, IDAPA 16.03.01, "Eligibility for Health Care Assistance for Families and Children," and Idaho Department of Health and Welfare Rules, IDAPA 16.03.05, "Eligibility for Aid to the Aged, Blind, and Disabled (AABD)," are applicable in determining eligibility for medical assistance.~~ (3-17-22)(7-1-23)T

(BREAK IN CONTINUITY OF SECTIONS)

210. CONDITIONS FOR PAYMENT.

01. Participant Eligibility. The Department will reimburse providers for medical care and services, regardless of the current eligibility status of the medical assistance participant in the month of payment, provided a complete and properly submitted claim for payment has been received and each of the following conditions are met: (3-17-22)

a. The participant was found eligible for medical assistance for the month, day, and year during which the medical care and services were rendered; (3-17-22)

b. The participant received such medical care and services no earlier than the third month before the month in which application was made on such participant's behalf; ~~and~~ (3-17-22)(7-1-23)T

c. The provider verified the participant's eligibility on the date the service was rendered and can provide proof of the eligibility verification; ~~and~~ (3-17-22)(7-1-23)T

d. Not more than twelve (12) months have elapsed since the month of the latest participant services for which such payment is being made. Medicare cross-over claims are excluded from the twelve (12) month submittal limitation. (3-17-22)

02. Time Limits. The time limit set forth in Subsection 210.01.d. of this rule does not apply with respect to retroactive eligibility adjustment. When participant eligibility is determined retroactively, the Department will reimburse providers for services within the period of retroactive eligibility if a claim for those services is submitted within twelve (12) months of the date of the participant's eligibility determination. (3-17-22)

03. Acceptance of State Payment. By participating in the Medical Assistance Program, providers agree to accept, as payment in full, the amounts paid by the Department for services to Medicaid participants. Providers also agree to provide all materials and services without unlawfully discriminating on the grounds of race, age, sex, creed, color, national origin, or physical or intellectual disability. (3-17-22)

04. Payment in Full. If a provider accepts Medicaid payment for a covered service, the Medicaid payment must be accepted as full payment for that service, and the participant cannot be billed for the difference between the billed amount and the Medicaid allowed amount. (3-17-22)

05. Medical Care Provided Outside the State of Idaho. Out-of-state medical care is subject to the same utilization review and other Medicaid coverage requirements and restrictions as medical care received within the state of Idaho. (3-17-22)

06. Ordering, Prescribing, and Referring Providers. Any service or supply ordered, prescribed, or referred by a physician or other qualified professional who is not an enrolled Medicaid provider will not be reimbursed by the Department. (3-17-22)

07. Referral From Participant's Assigned Primary Care Provider. Medicaid services may require a referral from the participant's assigned primary care provider. Services requiring a referral are listed in the Idaho Medicaid Provider Handbook. Services provided without a referral, when one is required, are not covered and are subject to sanctions, recoupment, or both. The Department may change the services that require a referral after appropriate notification of Medicaid-eligible individuals and providers as specified in Section 563 of these rules. (3-17-22)

08. Follow-up Communication with Assigned Primary Care Provider. Medicaid services may require timely follow-up communication with the participant's assigned primary care provider. Services requiring post-service communication with the primary care provider and time frames for that communication are listed in the Idaho Medicaid Provider Handbook. Services provided without timely communication of care outcomes, when communication is required, are not covered and are subject to sanctions, recoupment, or both. The Department may change the services that require communication of care outcomes after appropriate notification of Medicaid-eligible individuals and providers as specified in Section 563 of these rules. (3-17-22)(7-1-23)T

09. ~~Services Delivered Via Telehealth~~ Virtual Care. Services delivered via ~~telehealth~~ virtual care as defined ~~in~~ under Title 54, Chapter 57, Idaho Code, must be identified as such ~~in accordance with~~ under billing requirements published in the Idaho Medicaid Provider Handbook. ~~Telehealth~~ Virtual care services billed without being identified as such are not covered. ~~Virtual care~~ Sservices delivered via telehealth may be reimbursed within limitations defined by the Department in the Idaho Medicaid Provider Handbook. Fee-for-service reimbursement is not available for ~~an electronic mail message (e-mail), or facsimile transmission (fax)~~ asynchronous services except remote monitoring. (3-17-22)(7-1-23)T

10. Services Subject to Electronic Visit Verification (EVV). Services requiring EVV compliance are subject to quality review. Services billed without the minimum essential EVV elements, ~~as defined by~~ under Section 1903(1)(2) of the Social Security Act, may be denied, delayed, or subject to sanctions or recoupment, or both, ~~in accordance with~~ under IDAPA 16.05.07, "The Investigation and Enforcement of Fraud, Abuse, and Misconduct." (3-17-22)(7-1-23)T

(BREAK IN CONTINUITY OF SECTIONS)

230. GENERAL PAYMENT PROCEDURES.

01. Provided Services. (3-17-22)

a. Each participant may consult a participating physician or provider of their choice for care and receive covered services by presenting their identification card to the provider, subject to restrictions imposed by participation in Healthy Connections or enrollment in a ~~Prepaid Ambulatory Health Plan (PAHP).~~ (3-17-22)(7-1-23)T

b. The provider must obtain the required information by using the Medicaid number on the identification card from the Electronic Verification System (~~EVS~~) and transfer the required information onto the appropriate claim form. Where the ~~Electronic Verification System (EVS)~~ indicates that a participant is enrolled in Healthy Connections, the provider must comply with referral or follow-up communication requirements ~~defined in~~ under Section 210 of these rules. (3-17-22)(7-1-23)T

c. Upon providing the care and services to a participant, the provider or their agent must submit a properly completed claim to the Department. (3-17-22)

d. The Department is to process each claim received and make payment directly to the provider. (3-17-22)

e. The Department will not supply claim forms. Forms needed to comply with the Department's unique billing requirements are included in ~~Appendix D of~~ the Idaho Medicaid Provider Handbook. (3-17-22)(7-1-23)T

02. Individual Provider Reimbursement. The Department will not pay the individual provider more than the lowest of: (3-17-22)

a. The provider's actual charge for service; or (3-17-22)

b. The maximum allowable charge for the service as established by the Department on its pricing file, if the service or item does not have a specific price on file, the provider must submit documentation to the Department and reimbursement will be based on the documentation; or (3-17-22)

c. The Medicaid-allowed amount minus the Medicare payment or the Medicare co-insurance and deductible amounts added together when a participant has both Medicare and Medicaid. (3-17-22)

03. Services Normally Billed Directly to the Patient. If a provider delivers services and it is customary for the provider to bill patients directly for such services, the provider must complete the appropriate claim form and submit it to the Department. (3-17-22)

04. Reimbursement for Other Noninstitutional Services. The Department will reimburse for all noninstitutional services that are not included in other ~~Idaho Department of Health and Welfare Rules~~, but allowed under Idaho's Medical Assistance Program ~~according to the provisions of~~ under 42 CFR Section 447.325. (3-17-22)(7-1-23)T

- 05. Review of Records.** (3-17-22)
- a.** The Department, ~~or its duly authorized agent,~~ the U.S. Department of Health and Human Services, and the Bureau of Compliance have the right to review ~~pertinent~~ records of providers receiving Medicaid reimbursement for covered services. ~~(3-17-22)~~(7-1-23)T
- b.** The review of participants' medical and financial records must be conducted for the purposes of determining: (3-17-22)
- i. The necessity for the care; or (3-17-22)
- ii. That treatment was rendered ~~in accordance with~~under accepted medical standards of practice; or ~~(3-17-22)~~(7-1-23)T
- iii. That charges were not in excess of the provider's usual and customary rates; or (3-17-22)
- iv. That fraudulent or abusive treatment and billing practices are not taking place. (3-17-22)
- c.** Refusal of a provider to permit the Department to review records pertinent to medical assistance will constitute grounds for: (3-17-22)
- i. Withholding payments to the provider until access to the requested information is granted; or (3-17-22)
- ii. Suspending the provider's number. (3-17-22)
- 06. Lower of Cost or Charges.** Payment to providers, other than public providers furnishing such services free of charge or at nominal charges to the public, is the lesser of the reasonable cost of such services or the customary charges with respect to such services. Public providers that furnish services free of charge, or at a nominal charge, are reimbursed fair compensation that is the same as reasonable cost. (3-17-22)
- 07. Procedures for Medicare Cross-Over Claims.** (3-17-22)
- a.** If a medical assistance participant is eligible for Medicare, the provider must first bill Medicare for the services rendered to the participant. (3-17-22)
- b.** If a provider accepts a Medicare assignment, the Department will pay the provider for the services, up to the Medicaid allowable amount minus the Medicare payment, and forward the payment to the provider automatically based upon the Medicare Summary Notice (MSN) information ~~on the computer tape~~ that is received from the Medicare Part B Carrier on a weekly basis. ~~(3-17-22)~~(7-1-23)T
- c.** If a provider does not accept a Medicare assignment, an MSN must be attached to the appropriate claim form and submitted to the Department. The Department will pay the provider for the services, up to the Medicaid allowable amount minus the Medicare payment. (3-17-22)
- d.** For all other services, an MSN must be attached to the appropriate claim form and submitted to the Department. The Department will pay the provider for the services up to the Medicaid allowable amount minus the Medicare payment. (3-17-22)
- 08. Services Reimbursable After the Appeals Process.** Reimbursement for services originally identified by the Department as not medically necessary will be made if such decision is reversed by the appeals process required in IDAPA 16.05.03, "Contested Case Proceedings and Declaratory Rulings." (3-17-22)

(BREAK IN CONTINUITY OF SECTIONS)

235. PATIENT “ADVANCE DIRECTIVES.”

01. Provider Participation. Hospitals, nursing facilities, providers of home health care services (home health agencies, federally qualified health clinics, rural health clinics), hospice providers, and personal care RN supervisors must: (3-17-22)(7-1-23)T

a. Provide all adults receiving medical care written and oral information (the information provided must contain all material found in the Department's approved ~~advance directive form “Your Rights As A Patient To Make Medical Treatment Decisions”~~ Advance Directive Registration Form) which defines their rights under state law to make decisions concerning their medical care. (3-17-22)(7-1-23)T

i. The provider must explain that the participant has the right to make decisions regarding their medical care which includes the right to accept or refuse treatment. If the participant has any questions regarding treatment, the facility or agency will notify the physician of those concerns. Their physician can answer any questions they may have about the treatment. (3-17-22)

ii. The provider will inform the participant of their rights to formulate advance directives, such as “Living Will” or “Durable Power of Attorney For HealthCare,” or both. (3-17-22)(7-1-23)T

iii. The provider must comply with Subsection 235.02 of this rule. (3-17-22)

b. Provide all adults receiving medical care written information on the providers' policies concerning the implementation of the participant's rights regarding “Durable Power of Attorney for HealthCare,” “Living Will,” and the participant's right to accept or refuse medical and surgical treatment. (3-17-22)(7-1-23)T

c. Document in the participant's medical record whether the participant has executed an advance directive (“Living Will” or “Durable Power of Attorney for HealthCare,” or both), or have a copy of the Department's approved ~~Advance Directive Registration Form (“Your Rights as a Patient to Make Medical Treatment Decisions”)~~ attached to the patient's medical record which has been completed acknowledging whether the patient/resident has executed an advance directive (“Living Will” or “Durable Power of Attorney for HealthCare,” or both). (3-17-22)(7-1-23)T

d. The provider cannot condition the provision of care or otherwise discriminate against an individual based on whether that participant has executed an ~~“Advance Directive.”~~ (3-17-22)(7-1-23)T

e. If the provider cannot comply with the patient's “Living Will” or “Durable Power of Attorney for HealthCare,” or both, as a matter of conscience, the provider will assist the participant in transferring to a facility or agency that can comply. (3-17-22)(7-1-23)T

f. Provide education to their staff and the community on issues concerning advance directives. (3-17-22)

02. When “Advance Directives” Must Be Given. Hospitals, nursing facilities, providers of home health care (home health agencies, federally qualified health centers, rural health clinics), hospice agencies, and personal care RN supervisors, must give information concerning ~~“Advance Directives”~~ to adult participants in the following situations: (3-17-22)(7-1-23)T

a. Hospitals must give the information at the time of the participant's admission as an inpatient unless Subsection 235.03 of this rule applies. (3-17-22)

b. Nursing facilities must give the information at the time of the participant's admission as a resident. (3-17-22)

c. Home health providers must give the information to the participant in advance of the participant coming under the care of the provider. (3-17-22)

d. The personal care RN supervisors will inform the participant when the RN completes the RN

Assessment and Care Plan. The RN supervisor will inform the Qualified Intellectual Disabilities Professional (QIDP) and the personal care attendant of the participants decision regarding “~~A~~advance ~~D~~irectives.” (3-17-22)(7-1-23)T

e. A hospice provider must give information at the time of initial receipt of hospice care by the participant. (3-17-22)

03. Information Concerning “Advance Directives” at the Time an Incapacitated Individual Is Admitted. An individual may be admitted to a facility in a comatose or otherwise incapacitated state and be unable to receive information or articulate whether they have executed an advance directive. In this case, to the extent that a facility issues materials about policies and procedures to the families or to the surrogates or other concerned persons of the incapacitated patient ~~in accordance with~~under state law, it must also include the information concerning advance directives. This does not relieve the facility from its obligation to provide this information to the patient once they are no longer incapacitated. (3-17-22)(7-1-23)T

04. Provider Agreement. A “Memorandum of Understanding Regarding Advance Directives” is incorporated within the provider agreement. By signing the Medicaid provider agreement, the provider is not excused from its obligation regarding advance directives ~~to the general public per~~under Section 1902(a) of the Social Security Act, as amended by Section 4751 of OBRA 1990. (3-17-22)(7-1-23)T

(BREAK IN CONTINUITY OF SECTIONS)

455. AMBULATORY SURGICAL CENTER SERVICES: PROVIDER REIMBURSEMENT.

01. Payment Methodology. ASC services reimbursement is designed to pay for use of facilities and supplies necessary to safely care for the patient. Such services are reimbursed as follows: (3-17-22)

a. ASC service payments represent reimbursement for the costs of goods and services recognized by the Medicare program ~~as described in~~under 42 CFR, Part 416. Payment ~~levels~~ will be determined by the Department. Any surgical procedure covered by the Department, but which is not covered by Medicare will have a reimbursement rate established by the Department. (3-17-22)(7-1-23)T

b. ASC services include the following: (3-17-22)

i. Nursing, technician, and related services; (3-17-22)

ii. Use of ASC facilities; (3-17-22)

iii. Drugs, biologicals, surgical dressings, supplies, splints, casts, and appliances and equipment directly related to the provision of surgical procedures; (3-17-22)

iv. Diagnostic or therapeutic services or items directly related to the provision of a surgical procedure; (3-17-22)

v. Administration, record-keeping, and housekeeping items and services; and (3-17-22)(7-1-23)T

vi. Materials for anesthesia. (3-17-22)

c. ASC services do not include the following services: (3-17-22)

i. Physician services; (3-17-22)

ii. Laboratory services, x-ray or diagnostic procedures (other than those directly related to the performance of the surgical procedure); (3-17-22)

- iii. Prosthetic and orthotic devices; (3-17-22)
 - iv. Ambulance services; (3-17-22)
 - v. ~~Durable medical equipment~~**DME** typically used in the participant's place of residence, but may be suitable for use in any setting in which normal life activities take place, other than a hospital, nursing facility, or ICF/ IID; and ~~(3-17-22)~~**(7-1-23)T**
 - vi. Any other service not specified in Subsection 455.01.b. of this rule. (3-17-22)
- 02. Payment for Ambulatory Surgical Center Services.** Payment is made at a rate established ~~in~~ **accordance with** ~~under~~ Section 230 of these rules. ~~(3-17-22)~~**(7-1-23)T**

(BREAK IN CONTINUITY OF SECTIONS)

511. ABORTION PROCEDURES: PARTICIPANT ELIGIBILITY.

The Department will fund abortions ~~under the Medical Assistance Program only~~ under circumstances where the abortion is necessary to save the life of the woman, or in cases of rape or incest as determined by the courts, or, where no court determination has been made, if reported to a law enforcement agency **or child protective services.** ~~(3-17-22)~~**(7-1-23)T**

512. -- 513. (RESERVED)

514. ABORTION PROCEDURES: PROVIDER QUALIFICATIONS AND DUTIES.

01. Required Documentation in the Case of Rape or Incest. In the case of rape or incest, the following documentation must be provided to the Department: (3-17-22)

- a. A copy of the court determination of rape or incest; or (3-17-22)
- b. Where no court determination has been made, documentation that the rape or incest was reported to a law enforcement agency ~~or child protective services; or~~ ~~(3-17-22)~~**(7-1-23)T**
- c. Where the rape or incest was not reported to a law enforcement agency **or child protective services,** a ~~licensed~~ physician must certify in writing ~~that, in the physician's~~**their** professional opinion, ~~that~~ the woman was unable, ~~for reasons related~~**due** to her health, to ~~file a report the rape or incest to a law enforcement agency.~~ ~~(3-17-22)~~**(7-1-23)T** The certification must contain the name and address of the woman.

02. Required Documentation in the Case ~~Where the Abortion is Necessary~~ to Save ~~the~~a Woman's Life of the Woman.** In the case where the abortion is necessary to save the life of the woman, a licensed physician must certify in writing that the woman may die if the fetus is carried to term. The certification must contain the name and address of the woman. ~~(3-17-22)~~**(7-1-23)T****

(BREAK IN CONTINUITY OF SECTIONS)

524. NON-PHYSICIAN PRACTITIONER SERVICES: PROVIDER QUALIFICATIONS AND DUTIES.

01. Identification of Services. The required services must be covered under the legal scope of practice as identified by the appropriate State rules of the NPP. (3-17-22)

02. Deliverance of Services. The services must be delivered under physician supervision, if required by ~~Idaho Statute~~**state regulations where the service is provided.** ~~(3-17-22)~~**(7-1-23)T**

(BREAK IN CONTINUITY OF SECTIONS)

549. LM SERVICES: COVERAGE AND LIMITATIONS.

01. **Maternity and Newborn - Coverage.** Antepartem, intrapartum, and up to six (6) weeks of postpartum maternity and newborn care are covered. (3-17-22)

02. **Maternity and Newborn - Limitations.** Maternal or newborn services provided after the sixth postpartum week are not covered ~~when provided by a CPM.~~ (3-17-22)(7-1-23)T

03. **Medication - Coverage and Limitations.** LM providers may administer medication and bill Medicaid if the medication is a Medicaid-covered service, and is also listed in the LM formulary ~~in~~ under IDAPA 24.26.01, "Rules of the Idaho Board of Midwifery." (3-17-22)(7-1-23)T

(BREAK IN CONTINUITY OF SECTIONS)

573. CHIS: COVERAGE AND LIMITATIONS.

01. **Excluded for Medicaid Payment.** ~~The following are excluded for Medicaid payment:~~ (3-17-22)(7-1-23)T

- i. Vocational services; (3-17-22)
- ii. Educational services; and (3-17-22)
- iii. Recreational services. (3-17-22)

02. **Service Delivery.** The CHIS allowed under the Medicaid ~~s~~State ~~p~~Plan authority include evaluations, diagnostic and therapeutic treatment services provided on an outpatient basis. These services help improve individualized functional skills, develop replacement behaviors, and promote self-sufficiency of the participant. CHIS may be delivered in the community, the participant's home, or in a DDA ~~in accordance with~~ under the requirements of ~~this chapter~~ these rules. Duplication of services is not reimbursable. (3-17-22)(7-1-23)T

03. **Required Recommendation.** CHIS must be recommended by a physician or other licensed practitioner of the healing arts within ~~his or her~~ their scope of practice, under state law. (3-17-22)

a. The CHIS provider may not seek reimbursement for services provided more than thirty (30) calendar days prior to the signed and dated recommendation. (3-17-22)

b. The recommendation is only required to be completed once and must be received prior to submitting the initial prior authorization request. If the participant has not accessed CHIS for more than three hundred sixty-five (365) calendar days, then ~~and~~ new recommendation must be received. (3-17-22)(7-1-23)T

04. **Required Screening.** Needs are determined through the current version of the Vineland Adaptive Behavior Scales or other Department-approved screening tools that are conducted by the family's chosen CHIS provider, ~~and~~ the Department, ~~or its designee,~~ and are administered ~~in accordance with~~ under the protocol of the tool. The screening tool is only required to be completed once and must be completed prior to submitting the initial prior authorization request. The following apply: (3-17-22)(7-1-23)T

a. If a screening tool has been completed by the Department, ~~or its designee,~~ a new screening is not required. (3-17-22)(7-1-23)T

b. If the participant has been determined eligible by the Department, a new screening tool is not required. (3-17-22)

c. If the participant has not accessed CHIS for more than three hundred sixty-five (365) calendar days, a new screening must be completed. (3-17-22)

d. The screening cannot be billed more than once unless an additional screening is required ~~in accordance with~~under guidelines as outlined in the Medicaid Provider Handbook. (3-17-22)(7-1-23)T

05. Services. All CHIS recommended on a participant's assessment and clinical treatment plan must be prior authorized by the Department, ~~or its contractor~~. The following CHIS are available for eligible participants and are reimbursable services when provided ~~in accordance with~~under these rules: (3-17-22)(7-1-23)T

a. **Habilitative Skill Building.** This direct intervention service includes techniques used to develop, improve, and maintain, to the maximum extent possible, the developmentally appropriate functional abilities and daily living skills needed by a participant. This service may include teaching and coordinating methods of training with family members or others who regularly participate in caring for the eligible participant. Services include individual or group interventions. (3-17-22)

i. Group services must be provided by one (1) qualified staff providing direct services for ~~up to six (6) two (2) or three (3)~~ participants. (3-17-22)(7-1-23)T

ii. As the number and needs of the participants increase, the participant ratio in the group must be adjusted ~~accordingly~~from three (3) to two (2). (3-17-22)(7-1-23)T

iii. Group services will only be reimbursed when the participant's objectives relate to benefiting from group interaction. (3-17-22)

b. **Behavioral Intervention.** This service utilizes direct intervention techniques used to produce positive meaningful changes in behavior that incorporate functional replacement behaviors and reinforcement-based strategies while also addressing any identified habilitative skill building needs. These services are provided to participants who exhibit interfering behaviors that impact the independence or abilities of the participant, such as impaired social skills and communication or destructive behaviors. Intervention services may include teaching and coordinating methods of training with family members or others who regularly participate in caring for the eligible participant. Evidence-based or evidence-informed practices are used to promote positive behaviors and learning while reducing interfering behaviors and developing behavioral self-regulation. Services include individual or group interventions. (3-17-22)

i. Group services must be provided by one (1) qualified staff providing direct services for ~~up to six (6) two (2) or three (3)~~ participants. (3-17-22)(7-1-23)T

ii. As the number and severity of the participants with behavioral issues increase, the participant ratio in the group must be adjusted ~~accordingly~~from three (3) to two (2). (3-17-22)(7-1-23)T

iii. Group services should only be delivered when the participant's objectives relate to benefiting from group interaction. (3-17-22)

c. **Interdisciplinary Training.** This is a companion service to behavioral intervention and habilitative skill building and is used to assist with implementing a participant's health and medication monitoring, positioning and physical transferring, use of assistive equipment, and intervention techniques in a manner that meets the participant's needs. This service is to be utilized for collaboration, with the participant present, during the provision of services between the intervention specialist or professional and a Speech Language and Hearing Professional (SLP), Physical Therapist (PT), Occupational Therapist (OT), medical professional, behavioral or mental health professional. (3-17-22)

d. **Crisis Intervention.** This service may include providing training to staff directly involved with the participant, delivering intervention directly with the eligible participant, and developing a crisis plan that directly addresses the behavior occurring and the necessary intervention strategies to minimize the behavior and future occurrences. Crisis intervention is provided in the home or community on a short-term basis typically not to exceed thirty (30) days. Positive behavior interventions must be used prior to, and in conjunction with, the implementation of

any restrictive intervention. Crisis intervention is available for participants who have an unanticipated event, circumstance, or life situation that places a participant at risk of at least one (1) of the following: (3-17-22)

- i. Hospitalization; (3-17-22)
- ii. Out_of_home placement; ~~(3-17-22)~~(7-1-23)T
- iii. Incarceration; or (3-17-22)
- iv. Physical harm to self or others, including a family altercation or psychiatric relapse. (3-17-22)

e. Assessment and Clinical Treatment Plan (ACTP). The ACTP is a comprehensive assessment that guides the formation of the implementation plan(s) that include developmentally appropriate objectives and strategies related to identified needs. The qualified provider conducts an assessment to evaluate the participant's strengths, needs, and functional abilities across environments. This process guides the development of intervention strategies and recommendations for services related to the participant's identified needs. The ACTP must be monitored and adjusted to reflect the current needs of the participant. The CHIS provider must document that a copy of the ACTP was offered to the participant's parent or legal guardian. The ACTP must be completed on a Department-approved form as referenced in the Medicaid Provider Handbook and contain the following minimum standards: ~~(3-17-22)~~(7-1-23)T

- i. Clinical interview(s) must be completed with the parent or legal guardian; (3-17-22)
- ii. Administer or obtain an objective and validated comprehensive skills or developmental assessment approved by the Department. The most current version of the assessment must be used and the assessment must have been completed within the last three-hundred and sixty-five (365) days; (3-17-22)
- iii. Review of assessments, reports, and relevant history; (3-17-22)
- iv. Observations in at least one (1) environment; (3-17-22)
- v. A reinforcement inventory or preference assessment; (3-17-22)
- vi. A transition plan; and (3-17-22)
- vii. Be signed by the individual completing the assessment and the parent or legal guardian. (3-17-22)

(BREAK IN CONTINUITY OF SECTIONS)

602. SCREENING MAMMOGRAPHIES: COVERAGE AND LIMITATIONS.

01. **Screening Mammographies.** ~~Screening mammographies are limited to one (1) per year for women who are forty (40) or more years of age~~Align with the "A" and "B" recommendations of the United States Preventative Services Taskforce. ~~(3-17-22)~~(7-1-23)T

02. **Diagnostic Mammographies.** ~~Diagnostic mammographies a~~re not subject to the limitations of screening mammographies. Diagnostic mammographies are covered when a physician or licensed practitioner of the healing arts orders the procedure for a participant of any age. ~~(3-17-22)~~(7-1-23)T

(BREAK IN CONTINUITY OF SECTIONS)

640. DIABETES EDUCATION AND TRAINING SERVICES: DEFINITIONS.

~~For purposes of these rules, a~~ Certified Diabetes Educator is a state-licensed health professional who is certified by

the Certification Board for Diabetes Care and Education or the Association of Diabetes Care and Education Specialists (ADCES). ~~(3-17-22)~~(7-1-23)T

641. DIABETES EDUCATION AND TRAINING SERVICES: PARTICIPANT ELIGIBILITY.

The medical necessity for diabetes education and training are evidenced by the following: (3-17-22)

01. ~~Recent Diagnosis~~Participants with Diabetes. Are eligible for a Diabetes Management Program when: ~~(3-17-22)~~(7-1-23)T

a. A recent diagnosis of diabetes within ninety (90) days of enrollment with no history of prior diabetes education; or ~~(3-17-22)~~(7-1-23)T

~~02b. Uncontrolled Diabetes.~~ Uncontrolled diabetes manifested by two (2) or more fasting blood sugar of greater than one hundred forty milligrams per decaliter (140 mg/dL), hemoglobin A1c greater than eight percent (8%), or random blood sugar greater than one hundred eighty milligrams per decaliter (180 mg/dL), in addition to the manifestations; or ~~(3-17-22)~~(7-1-23)T

~~03c. Recent Manifestations.~~ Recent manifestations ~~resulting~~ from poor diabetes control including neuropathy, retinopathy, recurrent hypoglycemia, repeated infections, or nonhealing wounds. ~~(3-17-22)~~(7-1-23)T

02. Participants with Pre-Diabetes. Are eligible for the National Diabetes Prevention Program when they meet the program's guidance. ~~(3-17-22)~~(7-1-23)T

642. DIABETES EDUCATION AND TRAINING SERVICES: COVERAGE AND LIMITATIONS.

01. Concurrent Diagnosis. Only training and education services that are reasonable and necessary ~~for treatment of a current injury or illness~~ will be covered. Covered professional and educational services will address each participant's medical needs through scheduled outpatient group or individual training or counseling concerning diet and nutrition, exercise, medications, home glucose monitoring, insulin administration, foot care, or the effects of other current illnesses and complications. ~~(3-17-22)~~(7-1-23)T

02. No Substitutions. The physician may not use the formally structured program, or a Certified Diabetes Educator, as a substitute for basic diabetic care and instruction the physician must furnish to the participant, which includes the disease process and pathophysiology of diabetes mellitus, and dosage administration of oral hypoglycemic agents. (3-17-22)

03. Services Limited. Diabetes education and training services will be limited to twenty-four (24) hours of group sessions and twelve (12) hours of individual counseling every five (5) calendar years. (3-17-22)

(BREAK IN CONTINUITY OF SECTIONS)

644. DIABETES EDUCATION AND TRAINING SERVICES: PROVIDER QUALIFICATIONS AND DUTIES.

Outpatient diabetes education and training services will be covered under one (1) of the following conditions: ~~(3-17-22)~~(7-1-23)T

01. ~~Meets Program Standards~~Diabetes Management Program. The education and training services are provided through a diabetes management program recognized as meeting the program standards of the American Diabetes Association or ~~the National Diabetes Prevention Program~~Association of Diabetes Care and Education Specialists by a certified diabetic educator. ~~(3-17-22)~~(7-1-23)T

02. ~~Conducted by a Certified Diabetic Educator~~The National Diabetes Prevention Program. The ~~education and training services are provided by a Certified Diabetic Educator through a formal~~provider meets the requirements for the program. ~~(3-17-22)~~(7-1-23)T

(BREAK IN CONTINUITY OF SECTIONS)

709. OUTPATIENT BEHAVIORAL HEALTH SERVICES: COVERAGE AND LIMITATIONS.

01. **Community-Based Outpatient Behavioral Health Services.** The Community-Based Outpatient Behavioral Health Services included in the Idaho Behavioral Health Plan (IBHP) or the Idaho State Plan are ~~medically necessary rehabilitation~~ covered services that evaluate the need for and provide therapeutic and rehabilitative treatment to minimize symptoms of mental illness and substance use disorders and restore independent functioning. ~~These services include:~~ (3-17-22)(7-1-23)T

- ~~a.~~ Assessments and Planning; (3-17-22)
- ~~b.~~ Psychological and Neurological Testing; (3-17-22)
- ~~c.~~ Psychotherapy (Individual, Group, and Family); (3-17-22)
- ~~d.~~ Pharmacologic Management; (3-17-22)
- ~~e.~~ Partial Care Treatment; (3-17-22)
- ~~f.~~ Behavioral Health Nursing; (3-17-22)
- ~~g.~~ Drug Screening; (3-17-22)
- ~~h.~~ Community-Based Rehabilitation; (3-17-22)
- ~~i.~~ Substance Use Disorder Treatment Services; and (3-17-22)
- ~~j.~~ Case Management. (3-17-22)

02. **Prior Authorization.** Some behavioral health services may require prior authorization from the IBHP contractor. (3-17-22)

(BREAK IN CONTINUITY OF SECTIONS)

723. HOME HEALTH SERVICES: PROCEDURAL REQUIREMENTS.

01. **Orders.** (3-17-22)

a. Home health services must be ordered by a physician, or a licensed practitioner of the healing arts. Orders must include ~~at a minimum,~~ the provider's National Provider Identifier (NPI), the services or items to be provided, the frequency, and, where applicable, the expected duration of time for which the home health services will be needed. Orders for medical supplies, equipment, and appliances are detailed in Section 753 of these rules. (3-17-22)(7-1-23)T

b. Home health services required for extended periods must be reordered at least every sixty (60) days for services and annually for medical supplies, equipment, and appliances. (3-17-22)

02. **Face-to-Face Encounter for Home Health Services, Medical Supplies, Equipment, and Appliances.** (3-17-22)

a. To initiate home health services, medical supplies, equipment, and appliances, the participant's physician, or a licensed practitioner of the healing arts ~~as authorized in this rule,~~ must document a face-to-face encounter related to the primary reason the patient requires home health services. Documentation must indicate the practitioner who conducted the encounter, and the date of the encounter as described in the CMS/Medicare DME

coverage manual.

~~(3-17-22)~~(7-1-23)T

i. For home health services, the face-to-face encounter must have occurred no more than ninety (90) days before, or thirty (30) days after, the start of the home health services. (3-17-22)

ii. For home health medical supplies, equipment, and appliances, the face-to-face encounter must have occurred no more than six (6) months before the start of services. (3-17-22)

b. The face-to-face encounter may occur ~~via telehealth, as defined in~~ virtually under Subsection 210.09 of these rules. ~~(3-17-22)~~(7-1-23)T

c. The face-to-face encounter may be performed by participant's physician, including an attending acute or post-acute physician, or licensed practitioner of the healing arts. (3-17-22)

03. Home Health Plan of Care. (3-17-22)

a. All home health services must be provided under a home health plan of care that is established prior to beginning treatment and must be signed by the licensed, qualified professional who established the plan. (3-17-22)

b. All home health plans of care must be reviewed by the ordering provider at least every sixty (60) days for services, and annually for medical supplies, equipment, and appliances. (3-17-22)

(BREAK IN CONTINUITY OF SECTIONS)

732. THERAPY SERVICES: COVERAGE AND LIMITATIONS.

Therapy services are covered under these rules when delivered by a therapy professional and provided by one (1) of the following providers: outpatient hospitals, outpatient rehabilitation facilities, comprehensive outpatient rehabilitative facilities, nursing facilities, school-based services, independent practitioners, and home health agencies. Therapy services provided by a home health agency under a home health plan of care must meet the requirements ~~found in~~ under Sections 730 through 739 of these rules, and the requirements ~~found in~~ under Sections 720 through 729 of these rules. ~~(3-17-22)~~(7-1-23)T

01. Service Description: Occupational Therapy and Physical Therapy. Modalities, therapeutic procedures, tests, and measurements as described in the Idaho Medicaid Provider Handbook are covered with the following limitations: (3-17-22)

a. Any evaluation or re-evaluation may only be performed by the therapist. Any changes in the participant's condition not consistent with planned progress or treatment goals necessitate a documented re-evaluation by the therapist before further treatment is carried out. (3-17-22)

b. Any CPT procedure code that falls under the heading of either, "Active Wound Care Management," or "Tests and Measurements," requires the therapist to have direct, one-to-one (1:1) patient contact. (3-17-22)

c. The therapist may be reimbursed for the technical component of muscle testing, joint range of motion, electromyography, or nerve velocity determinations as described in the CPT Manual when ordered by a physician, nurse practitioner, or ~~physician assistant~~ PA. ~~(3-17-22)~~(7-1-23)T

d. Any assessment provided under the heading "Orthotic Management and Prosthetic Management" must be completed by the therapist. (3-17-22)

e. The services of occupational or physical therapy assistants used when providing covered therapy benefits are included as part of the covered service. These services are billed by the supervising therapist. Therapy assistants may not provide evaluation services, or take responsibility for the service. The therapist has full responsibility for the service provided. (3-17-22)

02. Service Description: Speech-Language Pathology. Speech-language pathology services must be provided as defined in Section 730 of these rules. Services provided by speech-language pathology aides and assistants are considered unskilled services, and will be denied as not medically necessary if they are billed as speech-language pathology services. (3-17-22)

03. Non-Covered Services: Occupational Therapy, Physical Therapy, and Speech-Language Pathology. (3-17-22)

a. Continuing services for participants who do not exhibit the capability to achieve measurable improvement and who do not meet the criteria for a maintenance program. (3-17-22)

b. Services that address developmentally acceptable error patterns. (3-17-22)

c. Services that do not require the skills of a therapy professional. (3-17-22)

d. Massage, work hardening, and conditioning. (3-17-22)

e. Services ~~that are~~ not medically necessary, ~~as defined in~~ under Section 011 of these rules. ~~(3-17-22)~~ (7-1-23)T

f. Duplicate services, ~~as defined~~ under Section 730 of these rules. ~~(3-17-22)~~ (7-1-23)T

g. Acupuncture (with or without electrical stimulation). (3-17-22)

h. Biofeedback, unless provided to treat urinary incontinence. (3-17-22)

i. Services that are ~~considered to be~~ experimental or investigational. ~~(3-17-22)~~ (7-1-23)T

j. Vocational Program. (3-17-22)

04. Service Limitations. (3-17-22)

a. Physical therapy (PT) and speech-language pathology (SLP) services are limited to a combined annual dollar amount for all PT and SLP services. The Department will set the total amount based on the annual Medicare caps. The Department may allow additional therapy services, when the services are determined to be medically necessary and supporting documentation is provided upon request of the Department. (3-17-22)

b. Occupational therapy services are limited to an annual dollar amount set by the Department based on the annual Medicare caps. The Department may allow additional therapy services, when the services are determined to be medically necessary and supporting documentation is provided upon request of the Department. (3-17-22)

c. Exceptions to service limitations. (3-17-22)

i. Therapy provided by home health agencies is subject to the limitations on home health services ~~contained in~~ under Section 722 of these rules. ~~(3-17-22)~~ (7-1-23)T

ii. Therapy provided through school-based services or the Idaho Infant Toddler Program is not included in the service limitations under Subsection 732.04 of this rule. (3-17-22)

iii. Therapy provided to EPSDT participants under the age of twenty-one (21) ~~in accordance with~~ under the EPSDT requirements ~~contained in~~ Sections 881 through 883 of these rules, and ~~in~~ Section 1905(r) of the Social Security Act, will be authorized by the Department when additional therapy services are medically necessary. ~~(3-17-22)~~ (7-1-23)T

d. Feeding therapy services are covered for children with a diagnosed feeding disorder that results in a

clinically significant deviation from normal childhood development. The provider of feeding therapy is an occupational therapist or speech therapist with training specific to feeding therapy. (3-17-22)

e. Maintenance therapy is covered when an individualized assessment of the participant's condition demonstrates that skilled care is required to carry out a safe and effective maintenance program. (3-17-22)

f. ~~Telehealth~~Virtual care modalities are covered to the extent they are allowed under the rules of the applicable board of licensing. The Department will define limitations on ~~telehealth~~virtual care in the provider handbook to promote quality services and program integrity. ~~(3-17-22)~~(7-1-23)T

733. THERAPY SERVICES: PROCEDURAL REQUIREMENTS.

The Department will pay for therapy services rendered by a therapy professional if such services are ordered by a physician, nurse practitioner, or ~~physician assistant~~PA as part of a plan of care. ~~(3-17-22)~~(7-1-23)T

01. Orders. (3-17-22)

a. All therapy must be ordered by a physician, nurse practitioner, or ~~physician assistant~~PA. ~~(3-17-22)~~(7-1-23)T

b. ~~In the event that~~If services are required for extended periods, ~~these services~~they must be reordered as necessary, but at least every ninety (90) days for all participants with the following exceptions:~~(3-17-22)~~(7-1-23)T

i. Therapy provided by home health agencies must be included in the home health plan of care and be reordered at least every sixty (60) days. (3-17-22)

ii. Therapy for individuals with long-term medical conditions, as documented by physician, nurse practitioner, or ~~physician assistant~~PA, must be reordered at least every three hundred sixty-five (365) days. ~~(3-17-22)~~(7-1-23)T

c. Therapy services provided under a home health plan of care must comply with the order requirements in Section 723 of these rules. (3-17-22)

02. Level of Supervision. Supervision of physical therapist assistants and occupational therapist assistants by the physical therapist or occupational therapist must be done ~~according to the~~under rules of the applicable licensure board. ~~(3-17-22)~~(7-1-23)T

03. Face-to-Face Encounter for Home Health Therapy Services. Therapy services provided under a home health plan of care must comply with ~~the face to face encounter~~ requirements in Subsection 723.02 of these rules. ~~(3-17-22)~~(7-1-23)T

04. Therapy Plan of Care. All therapy services must be provided under a therapy plan of care that is based on an evaluation and is established prior to beginning treatment. (3-17-22)

a. The plan of care must be signed by the person who established the plan, and sent to the ordering provider within thirty (30) days of the evaluation to continue therapy services. ~~(3-17-22)~~(7-1-23)T

b. The plan of care must be consistent with the therapy evaluation and ~~must contain, at a minimum:~~ ~~(3-17-22)~~(7-1-23)T

i. Diagnoses; (3-17-22)

ii. Treatment goals that are measurable and pertain to the identified functional impairment(s); and (3-17-22)

iii. Type, frequency, and duration of therapy services. (3-17-22)

c. Therapy services provided under a home health plan of care must comply with the home health plan of care requirements in Section 723 of these rules. (3-17-22)

(BREAK IN CONTINUITY OF SECTIONS)

753. DURABLE MEDICAL EQUIPMENT AND SUPPLIES: PROCEDURAL REQUIREMENTS.

01. Orders. (3-17-22)

a. All medical supplies, equipment, and appliances must be ordered by a physician or non-physician practitioner acting within the scope of their licensure. Such orders must meet the requirements described in the CMS/Medicare DME coverage manual. (3-17-22)(7-1-23)T

b. ~~In the event that~~ If medical equipment and supplies are required for extended periods, these must be reordered as necessary, but at least annually, for all participants. (3-17-22)(7-1-23)T

c. The following information to support the medical necessity of the item(s) must be included in the order and accompany all requests for prior authorization, or be kept on file with the DME provider for items that do not require prior authorization: (3-17-22)

i. The participant's medical diagnosis, including current information on the medical condition that requires the use of the supplies or medical equipment, or both; (3-17-22)

ii. An estimate of the time period that the medical equipment or supply item will be necessary and frequency of use. As needed (PRN) orders must include the conditions for use and the expected frequency; (3-17-22)

iii. For medical equipment, a full description of the equipment needed. All modifications or attachments to the basic equipment must be supported; (3-17-22)

iv. For medical supplies, the type and quantity of supplies necessary must be identified; and (3-17-22)

v. Documentation of the participant's medical necessity for the item, that meets coverage criteria. (3-17-22)

vi. Additional information may be requested by the Department for specific equipment or supplies. (3-17-22)

02. Face-to-Face Encounter for Home Health Medical Supplies, Equipment, and Appliances. Medical supplies, equipment, and appliances provided under a home health plan of care must comply with ~~the face-to-face encounter~~ requirements in Subsection 723.02 of these rules. (3-17-22)(7-1-23)T

03. Plan of Care Requirements for Home Health Medical Supplies, Equipment, and Appliances. Medical supplies, equipment, and appliances provided under a home health plan of care must comply with ~~the home health plan of care~~ requirements in Subsection 723.03 of these rules. (3-17-22)(7-1-23)T

04. Prior Authorizations. (3-17-22)

a. Prior authorization means a written, faxed, or electronic approval from the Department that permits payment or coverage of a medical item or service that is covered only by such authorization. (3-17-22)

i. Medicaid payment will be denied for the medical item or service or portions thereof that were provided prior to the submission of a valid prior authorization request. An exception may be allowed on a case-by-case basis, when events beyond the provider's control prevented the request's submission. (3-17-22)(7-1-23)T

ii. The provider may not bill the Medicaid participant for services not reimbursed by Medicaid solely

because the authorization was not requested or obtained in a timely manner. ~~An exception may be allowed on a case-by-case basis where, despite diligent efforts on the part of the provider to submit a request, or events beyond the provider's control prevented it.~~ (3-17-22)(7-1-23)T

b. An item or service will be deemed prior approved where the individual to whom the service was provided was not eligible for Medicaid ~~at the time when~~ the service was provided, but was subsequently found eligible under IDAPA 16.03.05, "Eligibility for Aid to the Aged, Blind, and Disabled," or IDAPA 16.03.01, "Eligibility for Health Care Assistance for Families and Children," and the medical item or service provided is approved by the Department by the same guidance that applies to other prior authorization requests. (3-17-22)(7-1-23)T

c. A valid prior authorization request is a written, faxed, or electronic request from a provider ~~of Medicaid~~ for services that contains all information and documentation as required by these rules to justify the medical necessity, amount of and duration for the item or service. (3-17-22)(7-1-23)T

05. Notification of Changes to Prior Authorization Requirements. The Department will provide sixty (60) days notice of any substantive ~~and significant~~ changes to requirements for prior authorization in its provider handbook. The Department will provide a method to allow providers to provide input and comment on proposed changes. (3-17-22)(7-1-23)T

06. Equipment Rental -- Purchase Procedures. Unless specified by the Department, all equipment must be rented except when it would be more cost effective to purchase it. Rentals are subject to the following guidelines: (3-17-22)

a. Rental payments, including intermittent payments, are to be automatically applied to the purchase of the equipment. (3-17-22)

b. The Department may choose to continue to rent certain equipment without purchasing it. Such items include apnea monitors, ventilators, and other respiratory equipment. (3-17-22)

c. The total monthly rental cost of a DME item must not exceed one-tenth (1/10) of the total purchase price of the item. (3-17-22)

07. Notice of Decision. A Notice of Decision approving or denying a requested item will be issued to the participant by the Department. The participant has twenty-eight (28) days from the date of the denial to request a fair hearing on the decision. Hearings will be conducted ~~in accordance with~~ under IDAPA 16.05.03, "Contested Case Proceedings and Declaratory Rulings." (3-17-22)(7-1-23)T

(BREAK IN CONTINUITY OF SECTIONS)

850. SCHOOL-BASED SERVICE: DEFINITIONS.

01. Activities of Daily Living (ADL). The performance of basic self-care activities in meeting a participant's needs for sustaining ~~him~~ them in a daily living environment, including, but not limited to, bathing, washing, dressing, toileting, grooming, eating, communication, continence, mobility, and associated tasks. (3-17-22)(7-1-23)T

02. Children's Habilitation Intervention Services (CHIS). CHIS are medically necessary, evidence-informed or evidence-based therapeutic techniques based on applied behavior analysis principles used to result in positive outcomes. These intervention services are delivered directly to Medicaid-eligible students with identified developmental limitations that impact the student's functional skills and behaviors across an array of developmental domains. CHIS include habilitative skill building, behavioral intervention, behavioral consultation, crisis intervention, and interdisciplinary training services. (3-17-22)(7-1-23)T

03. Educational Services. Services that are provided in buildings, rooms, or areas designated or used

as a school or an educational setting, which are provided during the specific hours and time periods in which the educational instruction takes place in the school day and period of time for these students, which are included in the individual educational plan (IEP) for the student. (3-17-22)

04. Evidence-Based Interventions. Interventions that have been scientifically researched and reviewed in peer reviewed journals, replicated successfully by multiple independent investigators, have been shown to produce measurable and substantiated beneficial outcomes, and are delivered with fidelity by certified or credentialed individuals trained in the evidence-based model. (3-17-22)

05. Evidence-Informed Interventions. Interventions that use elements or components of evidence-based techniques and are delivered by a qualified individual who ~~are~~is not certified or credentialed in an evidence-based model. (3-17-22)(7-1-23)T

06. Human Services Field. A diverse field that is focused on improving the quality of life for participants. Areas of academic study include sociology, special education, counseling, and psychology, or other areas of academic study ~~as~~-referenced in the Medicaid Provider Handbook. (3-17-22)(7-1-23)T

07. School-Based Services. School-based services are health-related and rehabilitative services provided by Idaho public school districts and charter schools under the Individuals with Disabilities Education Act (IDEA). (3-17-22)

08. The Psychiatric Rehabilitation Association (PRA). An association that works to improve and promote the practice and outcomes of psychiatric rehabilitation and recovery. The PRA also maintains a certification program to promote the use of qualified staff to work ~~for~~with individuals with mental illness. <http://www.psychrehabassociation.org>. (3-17-22)(7-1-23)T

~~**09. PRA Credential.** Certificate or certification in psychiatric rehabilitation based upon the primary population with whom the individual works in accordance with the requirements set by the PRA. (3-17-22)~~

~~**109. Serious Mental Illness (SMI).** In accordance with~~Under 42 CFR 483.102(b)(1), a person with SMI: (3-17-22)(7-1-23)T

a. Currently or at any time during the year, must have had a diagnosable mental, behavioral, or emotional disorder of sufficient duration to meet the diagnostic criteria specified in the DSM-~~V~~5-TR; and (3-17-22)(7-1-23)T

b. Must have a functional impairment that substantially interferes with or limits one (1) or more major life activities. Functional impairment is defined as difficulties that substantially interfere with or limit role functioning with an individual's basic daily living skills, instrumental living skills, and functioning in social, family, vocational, or educational contexts. Instrumental living skills include maintaining a household, managing money, getting around the community, and taking prescribed medication. An adult who met the functional impairment criteria during the past year without the benefit of treatment or other support services is considered to have a serious mental illness. (3-17-22)(7-1-23)T

~~**140. Serious and Persistent Mental Illness (SPMI).** A participant must meet the criteria for SMI, have at least one (1) additional functional impairment, and have a diagnosis under DSM-~~V~~5-TR with one (1) of the following: Schizophrenia, Schizoaffective Disorder, Bipolar I Disorder, Bipolar II Disorder, Major Depressive Disorder Recurrent Severe, Delusional Disorder, or Borderline Personality Disorder. The only Not Otherwise Specified (NOS) diagnosis included is Psychotic Disorder NOS for a maximum of one hundred twenty (120) days without a conclusive diagnosis. (3-17-22)(7-1-23)T~~

(BREAK IN CONTINUITY OF SECTIONS)

853. SCHOOL-BASED SERVICE: COVERAGE AND LIMITATIONS.

The Department will pay school districts and charter schools for covered rehabilitative and health-related services.

Services include medical or remedial services provided by school districts or other cooperative service agencies, as defined in Section 33-317, Idaho Code. (3-17-22)

01. Excluded Services. The following services are excluded from Medicaid payments to school-based programs: (3-17-22)

a. Vocational Services. (3-17-22)

b. Educational Services. Educational services (other than health-related services) or education-based costs normally incurred to operate a school and provide an education. Evaluations completed for educational services only cannot be billed. ~~(3-17-22)~~(7-1-23)T

c. Recreational Services. (3-17-22)

d. Payment for school-related services will not be provided to students who are inpatients in nursing homes or hospitals. (3-17-22)

02. Evaluation and Diagnostic Services. Evaluations to determine eligibility or the need for health-related services may be reimbursed even if the student is not found eligible for health-related services. Evaluations completed for educational services only cannot be billed. Evaluations completed must: (3-17-22)

a. Be recommended or referred by a physician or other licensed practitioner of the healing arts. A school district or charter school may not seek reimbursement for services provided more than thirty (30) days prior to the signed and dated recommendation or referral; (3-17-22)

b. Be conducted by qualified professionals for the respective discipline as defined in Section 855 of these rules; (3-17-22)

c. Be directed toward a diagnosis; (3-17-22)

d. Include recommended interventions to address each need; and (3-17-22)

e. Include name, title, and signature of the person conducting the evaluation. (3-17-22)

03. Reimbursable Services. School districts and charter schools can bill for the following health-related services provided to eligible students when the services are provided under the recommendation of a physician or other ~~non-physician~~ practitioner of the healing arts for the Medicaid services for which the school district or charter school is seeking reimbursement. A school district or charter school may not seek reimbursement for services provided more than thirty (30) days prior to the signed and dated recommendation or referral. The recommendations or referrals are valid up to three hundred sixty-five (365) days. ~~(3-17-22)~~(7-1-23)T

a. Behavioral Intervention. Behavioral Intervention is a direct intervention used to promote positive, meaningful changes in behavior that incorporate functional replacement behaviors and reinforcement-based strategies, while also addressing any identified habilitative skill building needs and the student's ability to participate in educational services, as defined in Section 850 of these rules, through a consistent, assertive, and continuous intervention process to address behavior goals identified on the IEP. Behavioral intervention includes conducting a functional behavior assessment and developing a behavior implementation plan with the purpose of preventing or treating behavioral conditions. This service is provided to students who exhibit maladaptive behaviors. Services include individual or group behavioral interventions. (3-17-22)

i. Group services must be provided by one (1) qualified staff providing direct services for ~~up to six (6) two (2) or three (3)~~ students. ~~(3-17-22)~~(7-1-23)T

ii. As the number and severity of the students with behavioral issues increases, the student ratio in the group must be adjusted ~~accordingly from three (3) to two (2)~~. ~~(3-17-22)~~(7-1-23)T

iii. Group services should only be delivered when the student's goals relate to benefiting from group

interaction. (3-17-22)

b. Behavioral Consultation. Behavioral consultation assists other service professionals by consulting with the IEP team during the assessment process, performing advanced assessment, coordinating the implementation of the behavior implementation plan and providing ongoing training to the behavioral interventionist and other team members. (3-17-22)

i. Behavioral consultation cannot be provided as a direct intervention service. (3-17-22)

ii. Behavioral consultation must be limited to thirty-six (36) hours per student per year. (3-17-22)

c. Crisis Intervention. Crisis intervention services may include providing training to staff directly involved with the student, delivering intervention directly with the eligible student, and developing a crisis plan that directly addresses the behavior occurring and the necessary intervention strategies to minimize the behavior and future occurrences. This service is provided on a short-term basis, typically not ~~to~~ exceeding thirty (30) school days and is available for students who have an unanticipated event, circumstance, or life situation that places a student at risk of at least one (1) of the following: (3-17-22)(7-1-23)I

i. Hospitalization; (3-17-22)

ii. Out-of-home placement; (3-17-22)

iii. Incarceration; or (3-17-22)

iv. Physical harm to self or others, including a family altercation or psychiatric relapse. (3-17-22)

d. Habilitative Skill Building. Habilitative skill building is a direct intervention service that includes techniques used to develop, improve and maintain, to the maximum extent possible, the developmentally appropriate functional abilities and daily living skills needed by a student. This service may include teaching and coordinating methods of training with family members or others who regularly participate in caring for the eligible student. Services include individual or group interventions. (3-17-22)

i. Group services must be provided by one (1) qualified staff providing direct services for ~~up to six~~ ~~(6)~~ two (2) or three (3) students. (3-17-22)(7-1-23)I

ii. As the number and needs of the students increase, the student ratio in the group must be adjusted accordingly. (3-17-22)

iii. Group services should only be delivered when the student's goals relate to benefiting from group interaction. (3-17-22)

e. Interdisciplinary Training. Interdisciplinary training is a companion service to behavioral intervention and habilitative skill building and is used to assist with implementing a student's health and medication monitoring, positioning and physical transferring, use of assistive equipment, and intervention techniques in a manner that meets the student's needs. This service is to be utilized for collaboration, with the student present, during the provision of services between the intervention specialist or professional and a Speech Language and Hearing Professional (SLP), Physical Therapist (PT), Occupational Therapist (OT), medical professional, or behavioral or mental health professional. (3-17-22)

f. Medical Equipment and Supplies. Medical equipment and supplies that are covered by Medicaid must be medically necessary, ordered by a physician or non-physician practitioner, and prior authorized. Authorized items must be for use at the school where the service is provided. Equipment that is too large or unsanitary to transport from home to school and back may be covered, if prior authorized. The equipment and supplies must be for the student's exclusive use and must be transferred with the student if the student changes schools. All equipment purchased by Medicaid belongs to the student. (3-17-22)

g. Nursing Services. Skilled nursing services must be provided by a licensed nurse, within the scope

of ~~his or her~~their practice. Emergency, first aid, or non-routine medications not identified on the plan as a health-related service are not reimbursed. ~~(3-17-22)~~(7-1-23)T

h. Occupational Therapy and Evaluation. ~~Occupational therapy and evaluation~~These services for vocational assessment, training or vocational rehabilitation are not reimbursed. ~~(3-17-22)~~(7-1-23)T

i. Personal Care Services (PCS). School-based ~~personal care services~~PCS include medically oriented tasks having to do with the student's physical or functional requirements. ~~Personal care services~~PCS do not require a goal on the plan of service. The provider must deliver at least one (1) of the following services: ~~(3-17-22)~~(7-1-23)T

i. Basic personal care and grooming to include bathing, ~~care of the hair~~ care, assistance with clothing, and basic skin care; ~~(3-17-22)~~(7-1-23)T

ii. Assistance with bladder or bowel requirements that may include helping the student to and from the bathroom or assisting the student with bathroom routines; (3-17-22)

iii. Assistance with food, nutrition, and diet activities including preparation of meals if incidental to medical need; (3-17-22)

iv. Assisting the student with physician-ordered medications that are ordinarily self-administered, ~~in accordance with~~under IDAPA 24.34.01, "Rules of the Idaho Board of Nursing," Subsection 490.05; ~~(3-17-22)~~(7-1-23)T

v. Non-nasogastric gastrostomy tube feedings, if the task is not complex and can be safely performed in the given student care situation, and meet the requirements ~~are met in accordance with~~under IDAPA 16.03.10, "Medicaid Enhanced Plan Benefits," Subsection 303.01. ~~(3-17-22)~~(7-1-23)T

j. Physical Therapy and Evaluation. (3-17-22)

k. Psychological Evaluation. (3-17-22)

l. Psychotherapy. (3-17-22)

m. Skills Building/Community-Based Rehabilitation Services (CBRS). Skills Building/CBRS are interventions to reduce the student's disability by assisting in gaining and utilizing skills necessary to participate in school. They are designed to build competency and confidence while increasing mental health and/or decreasing behavioral symptoms. Skills Building/CBRS provides training in behavior control, social skills, communication skills, appropriate interpersonal behavior, symptom management, activities of daily living, and coping skills. These services are intended to prevent placement of the student into a more restrictive educational situation. ~~(3-17-22)~~(7-1-23)T

n. Speech/Audiological Therapy and Evaluation. (3-17-22)

o. Social History and Evaluation. (3-17-22)

p. Transportation Services. School districts and charter schools can receive reimbursement for mileage for transporting a student to and from home and school when: (3-17-22)

i. The student requires special transportation assistance, a wheelchair lift, an attendant, or both, when medically necessary for the health and safety of the student; (3-17-22)

ii. The transportation occurs in a vehicle specifically adapted to meet the needs of a student with a disability; (3-17-22)

iii. The student requires and receives another Medicaid-reimbursable service billed by the school-based services provider, other than transportation, on the day that transportation is being provided; ~~(3-17-22)~~(7-1-23)T

iv. Both the Medicaid-covered service and the need for the special transportation are included on the student's plan; and (3-17-22)

v. The mileage, as well as the services performed by the attendant, are documented. See Section 855 of these rules for documentation requirements. (3-17-22)

q. Interpretive Services. Interpretive services needed by a student who is deaf or does not adequately speak or understand English and requires an interpreter to communicate with the professional or paraprofessional providing the student with a health-related service may be billed with the following limitations: (3-17-22)

i. Payment for interpretive services is limited to the specific time that the student is receiving the health-related service; documentation for interpretive service must include the Medicaid-reimbursable health-related service being provided while the interpretive service is provided. ~~(3-17-22)~~(7-1-23)T

ii. Both the Medicaid-covered service and the need for interpretive services must be included on the student's plan; and (3-17-22)

iii. Interpretive services are not covered if the professional or paraprofessional providing services is able to communicate in the student's primary language. (3-17-22)

(BREAK IN CONTINUITY OF SECTIONS)

855. SCHOOL-BASED SERVICE: PROVIDER QUALIFICATIONS AND DUTIES.

Medicaid will only reimburse for services provided by qualified staff. The following are the minimum qualifications for providers of covered services: (3-17-22)

01. Behavioral Intervention. ~~Behavioral intervention m~~Must be provided by, or under the supervision of, an intervention specialist or professional. Individuals providing behavioral intervention must be one (1) of the following: ~~(3-17-22)~~(7-1-23)T

a. Intervention Paraprofessional. ~~Intervention paraprofessionals may p~~Provides direct services. The specialist or professional must observe and review the direct services performed by the paraprofessional monthly, or more often as necessary, to ensure the paraprofessional demonstrates the necessary skills to correctly provide the direct service. An intervention paraprofessional under the direction of a qualified intervention specialist or professional must: ~~(3-17-22)~~(7-1-23)T

i. Be at least eighteen (18) years of age; (3-17-22)

ii. Demonstrate the knowledge, have the skills needed to support the program to which they are assigned; and (3-17-22)

iii. Meet the paraprofessional requirements ~~as defined in~~under IDAPA 08.02.02, "Rules Governing Uniformity." ~~(3-17-22)~~(7-1-23)T

b. Intervention Technician. ~~Intervention technician is a~~provisional position intended to allow an individual to gain the necessary degree, competency, or experience needed to qualify as an intervention specialist or higher. Provisional status is limited to a single eighteen (18) successive month period. The specialist or professional must observe and review the direct services performed by the technician monthly, or more often as necessary, to ensure the technician demonstrates the necessary skills to correctly provide the direct service. An intervention technician under the direction of a qualified intervention specialist or professional, must: ~~(3-17-22)~~(7-1-23)T

i. Be an individual who is currently enrolled and is within twenty-four (24) semester credits, or equivalent, to complete their bachelor's degree or higher from an accredited institution in a human services field and working towards meeting the experience and competency requirements; or (3-17-22)

ii. Hold a bachelor's degree from an accredited institution in a human services field or ~~a~~ has a bachelor's degree and a minimum of twenty-four (24) semester credits, or equivalent, in a human services field and working towards meeting the experience and competency requirements. ~~(3-17-22)~~(7-1-23)T

c. Intervention Specialist. ~~Intervention specialists may p~~Provides direct services, completes assessments, and develops implementation plans. Intervention specialists who will complete assessments must have documented training and experience in completing assessments and designing and implementing comprehensive therapies for students with functional or behavioral needs, or both. The qualifications for this provider type can be met by one (1) of the following: ~~(3-17-22)~~(7-1-23)T

i. An individual who holds an Idaho Standard Instructional Certificate who meets qualifications for an endorsement specific to special education as defined in ~~IDAPA 08.02.02, "Rules Governing Uniformity," Sections 021-024~~in State Board of Education Policy Section IV.B; ~~or~~ ~~(3-17-22)~~(7-1-23)T

ii. An individual who holds a Habilitative Intervention Certificate of Completion in Idaho with an expiration date of July 1, 2019, or later, and does not have a gap of more than three (3) years of employment as an intervention specialist; ~~or~~ ~~(3-17-22)~~(7-1-23)T

iii. An individual who holds a bachelor's degree from an accredited institution in a human services field or has a bachelor's degree and a minimum of twenty-four (24) semester credits in a human services field, can demonstrate one thousand forty (1,040) hours of supervised experience working with children who demonstrate functional or behavioral needs, and meets the competency requirements by completing one (1) of the following:
(3-17-22)

(1) A Department-approved competency checklist referenced in the Medicaid Provider Handbook;
(3-17-22)

(2) A minimum of forty (40) hours of applied behavior analysis training delivered by an individual who is certified or credentialed to provide the training; or
(3-17-22)

(3) Other Department-approved competencies as defined in the Medicaid Provider Handbook.
(3-17-22)

d. Intervention Professional. ~~Intervention professionals may p~~Provides direct services, completes assessments, and develops implementation plans. Intervention professionals who will complete assessments must have documented training and experience in completing assessments and designing and implementing comprehensive therapies for students with functional or behavioral needs, or both. The qualifications for this provider type can be met by one (1) of the following: ~~(3-17-22)~~(7-1-23)T

i. An individual who holds a master's degree or higher from an accredited institution in psychology, education, applied behavior analysis, or have a related discipline with one thousand five hundred (1,500) hours of relevant coursework or training, or both, in principles of child development, learning theory, positive behavior support techniques, dual diagnosis psychology, education, or behavior analysis which may be documented within the individual's degree program, other coursework, or training; and
(3-17-22)

ii. Have one thousand two hundred (1,200) hours of relevant experience in completing and implementing comprehensive behavioral therapies for participants with functional or behavioral needs, which may be documented within the individual's degree program, other coursework, or training.
(3-17-22)

e. Evidence-Based Model (EBM) Intervention Paraprofessional. ~~EBM intervention paraprofessionals may p~~Provides direct services. ~~EBM intervention paraprofessionals and~~ must be supervised ~~in accordance with~~under the evidence-based model in which they are certified or credentialed. The EBM intervention specialist or professional must observe and review the direct services performed by the paraprofessional to ensure the paraprofessional demonstrates the necessary skills to correctly provide the direct service. An EBM intervention paraprofessional must: ~~(3-17-22)~~(7-1-23)T

- i. Hold a high school diploma; and (3-17-22)
- ii. Hold a para-level certification or credential in an evidence-based model approved by the Department. (3-17-22)
- f. Evidence-Based Model (EBM) Intervention Specialist. ~~EBM intervention specialists may provide~~ direct services, complete assessments, and develop implementation plans. ~~EBM intervention specialists and~~ must be supervised ~~in accordance with~~ under the evidence-based model in which they are certified or credentialed. The EBM intervention professional must observe and review the direct services performed by the specialist to ensure the specialist demonstrates the necessary skills to correctly provide the direct service. The specialist may supervise the EBM intervention paraprofessional working within the same evidence-based model. An EBM intervention specialist must: (3-17-22)(7-1-23)T
 - i. Hold a bachelor's degree from an accredited institution in accordance with their certification or credentialing requirements; and (3-17-22)
 - ii. Hold a bachelors-level certification or credential in an evidence-based model approved by the Department. (3-17-22)
 - g. Evidence-Based Model (EBM) Intervention Professional. ~~EBM intervention professionals may provide~~ direct services, complete assessments, ~~and~~ develop implementation plans. ~~EBM intervention professionals and~~ may supervise EBM intervention paraprofessionals or specialists working within the same evidence-based model in which they are certified or credentialed. An EBM intervention professional must: (3-17-22)(7-1-23)T
 - i. Hold a master's degree or higher from an accredited institution in accordance with their certification or credentialing requirements; and (3-17-22)
 - ii. Hold a masters-level certification or credential in an evidence-based model approved by the Department. (3-17-22)
- 02. Behavioral Consultation. ~~Behavioral consultation must~~ be provided by a professional who has a Doctoral or Master's degree in psychology, education, applied behavioral analysis, or has a related discipline with one thousand five hundred (1,500) hours of relevant coursework or training, or both, in principles of child development, learning theory, positive behavior support techniques, dual diagnosis psychology, education, or behavior analysis (may be included as part of degree program); ~~and~~ who meets one (1) of the following: (3-17-22)(7-1-23)T
 - a. An individual who holds an Idaho Standard Instructional Certificate who meets qualifications for an endorsement specific to special education as defined in ~~IDAPA 08.02.02, "Rules Governing Uniformity"~~ State Board of Education Policy Section IV.B; (3-17-22)(7-1-23)T
 - b. An individual with a Pupil Personnel Certificate who meets the qualifications defined under IDAPA 08.02.02, "Rules Governing Uniformity," excluding an ~~licensed registered nurse~~ RN or audiologist; (3-17-22)(7-1-23)T
 - c. An occupational therapist who is qualified and registered to practice in Idaho; (3-17-22)
 - d. An intervention professional, as defined in Subsection 855.01 of this rule; or (3-17-22)
 - e. An EBM intervention professional, as defined in Subsection 855.01 of this rule. (3-17-22)
- 03. Crisis Intervention. ~~Crisis intervention must~~ be provided by, or under the supervision of, an intervention specialist or professional. Individuals providing crisis intervention must be one (1) of the following: (3-17-22)(7-1-23)T
 - a. An intervention paraprofessional, ~~as defined in~~ under Subsection 855.01 of this rule;

- ~~(3-17-22)~~~~(7-1-23)~~T
- b. An intervention technician, ~~as defined in~~under Subsection 855.01 of this rule; ~~(3-17-22)~~~~(7-1-23)~~T
 - c. An intervention specialist, ~~as defined in~~under Subsection 855.01 of this rule; ~~(3-17-22)~~~~(7-1-23)~~T
 - d. An intervention professional, ~~as defined in~~under Subsection 855.01 of this rule;~~(3-17-22)~~~~(7-1-23)~~T
 - e. An EBM intervention paraprofessional, ~~as defined in~~under Subsection 855.01 of this rule;
~~(3-17-22)~~~~(7-1-23)~~T
 - f. An EBM intervention specialist, ~~as defined in~~under Subsection 855.01 of this rule;
~~(3-17-22)~~~~(7-1-23)~~T
 - g. An EBM intervention professional, ~~as defined in~~under Subsection 855.01 of this rule;
~~(3-17-22)~~~~(7-1-23)~~T
 - h. A licensed physician, licensed practitioner of the healing arts; (3-17-22)
 - i. An advanced practice registered nurse; (3-17-22)
 - j. A licensed psychologist; (3-17-22)
 - k. A licensed clinical professional counselor or professional counselor; (3-17-22)
 - l. A licensed marriage and family therapist; (3-17-22)
 - m. A licensed masters social worker, licensed clinical social worker, or licensed social worker;
(3-17-22)
 - n. A psychologist extender registered with the ~~Bureau~~Division of Occupational ~~and Professional~~
Licenses; ~~(3-17-22)~~~~(7-1-23)~~T
 - o. ~~An licensed registered nurse (RN);~~ ~~(3-17-22)~~~~(7-1-23)~~T
 - p. A licensed occupational therapist; or (3-17-22)
 - q. An endorsed or certified school psychologist. (3-17-22)
- 04. Habilitative Skill Building.** ~~Habilitative skill building in~~Must be provided by, or under the supervision of, an intervention specialist or professional. Individuals providing habilitative skill building must be one (1) of the following ~~under Subsection 855.01 of this rule;~~ ~~(3-17-22)~~~~(7-1-23)~~T
- a. An intervention paraprofessional, ~~as defined in Subsection 855.01 of this rule;~~ ~~(3-17-22)~~~~(7-1-23)~~T
 - b. An intervention technician, ~~as defined in Subsection 855.01 of this rule;~~ ~~(3-17-22)~~~~(7-1-23)~~T
 - c. An intervention specialist, ~~as defined in Subsection 855.01 of this rule;~~ ~~(3-17-22)~~~~(7-1-23)~~T
 - d. An intervention professional, ~~as defined in Subsection 855.01 of this rule;~~ ~~(3-17-22)~~~~(7-1-23)~~T
 - e. An EBM intervention paraprofessional, ~~as defined in Subsection 855.01 of this rule;~~
~~(3-17-22)~~~~(7-1-23)~~T
 - f. An EBM intervention specialist, ~~as defined in Subsection 855.01 of this rule;~~ or
~~(3-17-22)~~~~(7-1-23)~~T

- g. An EBM intervention professional, ~~as defined in Subsection 855.01 of this rule.~~ (3-17-22)(7-1-23)T
- 05. Interdisciplinary Training.** ~~Interdisciplinary Training m~~Must be provided by one (1) of the following ~~under Subsection 855.01 of this rule:~~ (3-17-22)(7-1-23)T
- a. An intervention specialist, ~~as defined in Subsection 855.01 of this rule;~~ (3-17-22)(7-1-23)T
- b. An intervention professional, ~~as defined in Subsection 855.01 of this rule;~~ (3-17-22)(7-1-23)T
- c. An EBM intervention specialist, ~~as defined in Subsection 855.01 of this rule;~~ (3-17-22)(7-1-23)T
- d. An EBM intervention professional, ~~as defined in Subsection 855.01 of this rule.~~ (3-17-22)(7-1-23)T
- 06. Medical Equipment and Supplies.** See Subsection 853.03 of these rules. (3-17-22)(7-1-23)T
- 07. Nursing Services.** ~~Nursing services m~~Must be provided by an ~~licensed registered nurse (RN)~~ or by a licensed practical nurse (LPN) licensed to practice in Idaho. (3-17-22)(7-1-23)T
- 08. Occupational Therapy and Evaluation.** For therapy-specific rules, refer to Sections 730 through 739 of these rules. (3-17-22)
- 09. Personal Care Services (PCS).** ~~Personal care services m~~Must be provided by or under the direction of ~~a registered nurse licensed by the State of Idaho~~ an RN. (3-17-22)(7-1-23)T
- a. Providers of PCS must have at least one (1) of the following qualifications: (3-17-22)
- i. Licensed Registered Nurse (RN). ~~A person currently licensed by the Idaho State Board of Nursing as a licensed registered nurse;~~ (3-17-22)(7-1-23)T
- ii. Licensed Practical Nurse (LPN). A person currently licensed by the Idaho State Board of Nursing as a licensed practical nurse; (3-17-22)
- iii. Certified Nursing Assistant (CNA). A person currently certified by the State of Idaho; or (3-17-22)
- iv. Personal Assistant. A person who meets the standards of Section 39-5603, Idaho Code, and receives training to ensure the quality of services. The assistant must be at least age eighteen (18) years of age. (3-17-22)
- b. The ~~licensed registered nurse (RN)~~ must review or complete, or both, the PCS assessment and develop or review, or both, the written plan of care annually. Oversight provided by the RN must include all of the following: (3-17-22)(7-1-23)T
- i. Development of the written PCS plan of care; (3-17-22)
- ii. Review of the treatment given by the personal assistant through a review of the student's PCS service detail reports as maintained by the provider; and (3-17-22)
- iii. Reevaluation of the plan of care as necessary, but at least annually. (3-17-22)
- c. The RN must conduct supervisory visits on a quarterly basis, or more frequently as determined by the IEP team and defined as part of the PCS plan of care. (3-17-22)
- 10. Physical Therapy and Evaluation.** For therapy-specific rules, refer to Sections 730 through 739 of these rules. (3-17-22)

11. **Psychological Evaluation.** ~~A psychological evaluation must~~ Must be provided by a: ~~(3-17-22)(7-1-23)T~~
- a. Licensed psychiatrist; (3-17-22)
 - b. Licensed physician; (3-17-22)
 - c. Licensed psychologist; (3-17-22)
 - d. Psychologist extender registered with the ~~Bureau~~ Division of Occupational and professional Licenses; or ~~(3-17-22)(7-1-23)T~~
 - e. Endorsed or certified school psychologist. (3-17-22)
12. **Psychotherapy.** Provision of psychotherapy services must have, ~~at a minimum,~~ one (1) or more of the following credentials: ~~(3-17-22)(7-1-23)T~~
- a. Psychiatrist, M.D.; ~~(3-17-22)(7-1-23)T~~
 - b. Physician, M.D.; ~~(3-17-22)(7-1-23)T~~
 - c. Licensed psychologist; (3-17-22)
 - d. Licensed clinical social worker; (3-17-22)
 - e. Licensed clinical professional counselor; (3-17-22)
 - f. Licensed marriage and family therapist; (3-17-22)
 - g. Certified psychiatric nurse (RN), ~~as described in~~ under Subsection 707.13 of these rules; ~~(3-17-22)(7-1-23)T~~
 - h. Licensed professional counselor whose provision of psychotherapy is supervised ~~in compliance~~ under with IDAPA 24.15.01, “Rules of the Idaho Licensing Board of Professional Counselors and Marriage and Family Therapists”; ~~(3-17-22)(7-1-23)T~~
 - i. Licensed masters social worker whose provision of psychotherapy is supervised ~~as described in~~ under IDAPA 24.14.01, “Rules of the State Board of Social Work Examiners”; ~~(3-17-22)(7-1-23)T~~
 - j. Licensed associate marriage and family therapist whose provision of psychotherapy is supervised ~~as described in~~ under IDAPA 24.15.01, “Rules of the Idaho Licensing Board of Professional Counselors and Marriage and Family Therapists”; or ~~(3-17-22)(7-1-23)T~~
 - k. Psychologist extender, registered with the ~~Bureau~~ Division of Occupational and Professional Licenses, whose provision of diagnostic services is supervised ~~in compliance with~~ under IDAPA 24.12.01, “Rules of the Idaho State Board of Psychologist Examiners.” ~~(3-17-22)(7-1-23)T~~
13. **Skills Building/Community-Based Rehabilitation Services (CBRS).** Skills Building/CBRS must be provided by one (1) of the following. Skills Building/Community-Based Rehabilitation Services (CBRS) provider who is not required to have a PRA credential or credential required for CBRS specialists must be one (1) of the following: ~~(3-17-22)(7-1-23)T~~
- a. Licensed physician, licensed practitioner of the healing arts; (3-17-22)
 - b. Advanced practice registered nurse; (3-17-22)
 - c. Licensed psychologist; (3-17-22)

- d. Licensed clinical professional counselor or professional counselor; (3-17-22)
- e. Licensed marriage and family therapist; (3-17-22)
- f. Licensed masters social worker, licensed clinical social worker, or licensed social worker; (3-17-22)
- g. Psychologist extender registered with the ~~Bureau~~ Division of Occupational and professional ~~(3-17-22)~~ (7-1-23)T
Licenses;
- h. Licensed registered nurse (RN); (3-17-22)
- i. Licensed occupational therapist; (3-17-22)
- j. Endorsed or certified school psychologist; (3-17-22)
- k. Skills Building/Community Based Rehabilitation Services specialist. ~~A Skills Building/CBRS~~ specialist who must: ~~(3-17-22)~~ (7-1-23)T
- i. Be an individual who has a bachelor’s degree and holds a current PRA credential; or (3-17-22)
- ii. Be an individual who has a bachelor’s degree or higher and is under the supervision of a licensed behavioral health professional, a physician, nurse, or an endorsed or certified school psychologist. The supervising practitioner is required to have regular one-to-one (1:1) supervision of the specialist to review treatment provided to student participants on an ongoing basis. The frequency of the one-to-one (1:1) supervision must occur at least monthly. Supervision can be conducted using ~~telehealth~~ synchronous virtual care when it is equally effective as direct on-site supervision; and ~~(3-17-22)~~ (7-1-23)T
- iii. Have a credential required for CBRS specialists. (3-17-22)
- 14. Speech/Audiological Therapy and Evaluation.** For therapy-specific rules, refer to Sections 730 through 739 of these rules. (3-17-22)
- 15. Social History and Evaluation.** ~~Social history and evaluation m~~ Must be provided by a ~~licensed registered nurse~~ (RN), psychologist, M.D, school psychologist, certified school social worker, or by a person who is licensed and qualified to provide social work in the state of Idaho. ~~(3-17-22)~~ (7-1-23)T
- 16. Transportation.** ~~Transportation m~~ Must be provided by an individual who has a current Idaho driver's license and is covered under vehicle liability insurance that covers passengers for business use. ~~(3-17-22)~~ (7-1-23)T
- 17. Therapy Paraprofessionals.** The schools may use paraprofessionals to provide occupational therapy, physical therapy, and speech therapy if they are under the supervision of the appropriate professional. The services provided by paraprofessionals must be delegated and supervised by a professional therapist ~~as defined by~~ under the appropriate licensure and certification rules. The portions of the treatment plan that can be delegated to the paraprofessional must be identified in the IEP or transitional IFSP. ~~(3-17-22)~~ (7-1-23)T
- a. Occupational Therapy (OT). Refer to IDAPA 24.06.01, “Rules for the Licensure of Occupational Therapists and Occupational Therapy Assistants,” for qualifications, supervision, and service requirements. (3-17-22)
- b. Physical Therapy (PT). Refer to IDAPA 24.13.01, “Rules Governing the Physical Therapy Licensure Board,” for qualifications, supervision, and service requirements. ~~(3-17-22)~~ (7-1-23)T
- c. Speech-Language Pathology (SLP). Refer to IDAPA 24.23.01, “Rules of the Speech, ~~and~~ and ~~Communication~~ and Communication Services Licensure Board,” and the American Speech-Language-Hearing Association (ASHA) guidelines for qualifications, supervision, and service requirements for speech-language pathology. ~~The guidelines~~

~~have been~~^{as} incorporated ~~by reference~~ in Section 004 of these rules.

~~(3-17-22)~~⁽⁷⁻¹⁻²³⁾T

i. Supervision must be provided by an SLP professional ~~as defined~~ in Section 734 ~~of this chapter~~ of ~~these~~ rules.

~~(3-17-22)~~⁽⁷⁻¹⁻²³⁾T

ii. The professional must observe and review the direct services performed by the paraprofessional monthly, or more often as necessary, to ensure the paraprofessional demonstrates the necessary skills to correctly provide the SLP service.

(3-17-22)

(BREAK IN CONTINUITY OF SECTIONS)

892. PREGNANCY-RELATED SERVICES: COVERAGE AND LIMITATIONS.

When ordered by the participant's attending physician or licensed practitioner of the healing arts, payment of the following services is available after confirmation of pregnancy and extending through the end of the month in which the sixtieth day following delivery occurs.

(3-17-22)

01. Individual and Family Social Services. Limited to two (2) visits during the covered period.

(3-17-22)

02. Maternity Nursing Visit. These services are only available to women unable to obtain a physician or licensed practitioner of the healing arts, to provide prenatal care. This service is to end immediately when a primary physician is found. A maximum of nine (9) visits can be authorized.

~~(3-17-22)~~⁽⁷⁻¹⁻²³⁾T

03. Nursing Services. Limited to two (2) visits during the covered period.

(3-17-22)

04. Nutrition Services. ~~Nutritional services are~~^{As} described in Sections 630 through 632 of these rules.

~~(3-17-22)~~⁽⁷⁻¹⁻²³⁾T

05. Qualified Provider Risk Assessment and Plan of Care. When prior authorized by the Department, payment is made for qualified provider services in completion of a standard risk assessment and plan of care for women unable to obtain a primary care physician, nurse practitioner, or nurse midwife for the provision of antepartum care.

(3-17-22)

06. Risk Reduction Follow-Up.

⁽⁷⁻¹⁻²³⁾T

(BREAK IN CONTINUITY OF SECTIONS)

894. PREGNANCY-RELATED SERVICES: PROVIDER QUALIFICATIONS AND DUTIES.

Services must be:

(3-17-22)

01. Risk Reduction Follow-Up. Provided by ~~a~~^a licensed social workers, ~~licensed registered nurses~~^{RN}, nurse midwife, physician, NP, or PA either in independent practice or as employees of entities that have current provider agreements with the Department.

~~(3-17-22)~~⁽⁷⁻¹⁻²³⁾T

02. Individual and Family Social Services. Provided by a licensed social worker qualified to provide individual counseling ~~in accordance with the provisions of IDAPA 24.14.01, "Rules of the State Board of Social Work Examiners."~~

~~(3-17-22)~~⁽⁷⁻¹⁻²³⁾T

IDAPA 16 – DEPARTMENT OF HEALTH AND WELFARE

16.03.22 – RESIDENTIAL ASSISTED LIVING FACILITIES

DOCKET NO. 16-0322-2301

NOTICE OF RULEMAKING – PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Sections 39-3305 and 39-3358, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than July 19, 2023.

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

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

Many facilities have communicated they are unable to admit residents based on their staffing levels which potentially leave residents without placement options. This rulemaking is being made by the Department of Health and Welfare (DHW) in collaboration with stakeholders such as the Idaho Health Care Association (IHCA). These changes are to assist and streamline the process for potential applicants for Residential Assisted Living Facilities (RALFs) while balancing the safety of residents. Changes include allows for widening of the labor pool for RALFs, and also gives the Department different options instead of only the revocation of a license.

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

There are no fee changes associated with this proposed rulemaking.

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

This rulemaking is not anticipated to have any fiscal impact on the State Funds, General Funds, or any other known funds.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(1), Idaho Code, negotiated rulemaking was conducted. The Notice of Intent to Promulgate Rules - Negotiated Rulemaking was published in the March 1, 2023, Idaho Administrative Bulletin, [Volume 23-3, pages 20 through 21](#).

INCORPORATION BY REFERENCE: Pursuant to Section 67-5229(2)(a), Idaho Code, the following is a brief synopsis of why the materials cited are being incorporated by reference into this rule:

There are no incorporation by reference changes included in this rulemaking.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Tom Moss, 208-830-6730.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before July 26, 2023.

DATED this 26th day of May, 2023.

Trinette Middlebrook and Frank Powell
DHW - Administrative Rules Unit
450 W. State Street - 10th Floor
P.O. Box 83720
Boise, ID 83720-0036
(208) 334-5500 phone; (208) 334-6558 fax
dhwrules@dhw.idaho.gov email

THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 16-0322-2301
(Only Those Sections With Amendments Are Shown.)

110. FACILITY LICENSE APPLICATION.

01. License Application. License application forms are available online at the Licensing Agency's website at <http://assistedliving.dhw.idaho.gov>. The applicant must provide the following information: (3-15-22)

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, "Residential Assisted Living Facilities," and is prepared to comply with both; (3-15-22)

b. 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; (3-15-22)()

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 this rule; (3-15-22)

d. Each shareholder or investor holding ~~ten~~ twenty percent (~~+20%~~) or more interest in the business must be listed on the application; (~~3-15-22~~)()

e. A copy of the Certificate of Assumed Business Name from the Idaho Secretary of State; (3-15-22)

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; (3-15-22)

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; (3-15-22)

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; (3-15-22)

i. A complete set of printed operational policies and procedures; (3-15-22)

j. A detailed floor plan of the facility, including measurements of all rooms, or a copy of architectural drawings. See Sections 250 through 260, and Sections 400 through 430 of these rules. (3-15-22)

k. A copy of the Purchase Agreement, Lease Agreement, or Deed; and (3-15-22)

l. For facilities with nine (9) beds or more, signatures must be obtained from the following: (3-15-22)

- i. The local zoning official documenting that the facility meets local zoning codes for occupancy; (3-15-22)
 - ii. The local building official documenting that the facility meets local building codes for occupancy; (3-15-22)
- and
- iii. The local fire official documenting that the facility meets local fire codes for occupancy. (3-15-22)

02. Written Request for Building Evaluation. The applicant must request in writing to the Licensing Agency for a building evaluation of existing buildings. The request must include the physical address of the building that is to be evaluated and the name, address, and telephone number of the person who is to receive the building evaluation report. (3-15-22)

03. Building Evaluation Fee. This application and request must be accompanied by a five hundred dollar (\$500) initial building evaluation fee. (3-15-22)

04. Identification of the Licensed Administrator. The applicant must provide a copy of the administrator's license and criminal history background check, and the current address for the primary residence of the administrator. (3-15-22)

05. Failure to Complete Application Process. Failure of the applicant to complete the Licensing 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 new licensing application process. (3-15-22)

(BREAK IN CONTINUITY OF SECTIONS)

215. REQUIREMENTS FOR A FACILITY ADMINISTRATOR.

Under Section 39-3321, Idaho Code, each facility must have one (1) licensed administrator assigned as the person responsible for the day-to-day operation of the facility. Multiple facilities under one (1) administrator may be allowed by the Department based on an approved plan of operation for up to three (3) buildings with a total of no more than fifty (50) beds, or up to two (2) buildings with a total of no more than eighty (80) beds. The criteria and procedure for requesting to have multiple facilities under one (1) administrator is posted on the Residential Assisted Living Facilities Program website. (3-15-22)

01. Administrator Responsibility. The administrator is responsible for ensuring that policies and procedures are developed and implemented to fulfill the requirements in Title 39, Chapter 33, Idaho Code, and IDAPA 16.03.22, "Residential Assisted Living Facilities." (3-15-22)

02. Availability of Administrator. The facility's administrator must be on-site sufficiently to ensure safe and adequate care of the residents. The facility's administrator or their designee must be available to be on-site at the facility within two (2) hours. The facility must continuously employ an administrator. (3-15-22)

03. Lapse of Administrator. If the facility operates for more than thirty (30) days without a licensed administrator, it will result in a core issue deficiency. (3-15-22)

04. Representation of Residents. The owner or administrator, their relatives, and 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. (3-15-22)

05. Responsibility for Acceptable Admissions. The administrator must ensure that no resident is knowingly admitted or retained who requires care as defined in Section 39-3307, Idaho Code, and Section 152 of these rules. (3-15-22)

06. Sexual Offender. The administrator must ensure that a nonresident on the sexual offender registry is not allowed to live or work in the facility. (3-15-22)

07. Notification to Adult Protection and Law Enforcement. The administrator must ensure that adult protection and law enforcement are notified in accordance with Sections 39-5303 and 39-5310, Idaho Code. (3-15-22)

08. Procedures for Investigations. The administrator must ensure the facility procedures for investigation of complaints, incidents, accidents, and allegations of abuse, neglect, or exploitation are implemented to ensure resident safety. Procedures must include: (3-15-22)

a. Administrator Notification. The administrator, or person designated by the administrator, must be notified of all incidents, accidents, allegations of abuse, neglect, or exploitation immediately, and notified of complaints within one (1) business day. (3-15-22)

b. Investigation within Thirty Days. The administrator or designee must complete an investigation and written report of the findings within thirty (30) calendar days for each accident, incident, complaint, or allegation of abuse, neglect, or exploitation. (3-15-22)

c. Resident Protection. Any resident involved must be protected during the course of the investigation. (3-15-22)

d. 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 the reason why no action was taken within thirty (30) days of the complaint. (3-15-22)

e. Corrective Action. When abuse, neglect, exploitation, incidents, and accidents occur, corrective action must be immediately taken and monitored to ensure the problem does not recur. (3-15-22)

f. Notification to Licensing Agency within One Business Day. When a reportable incident occurs, the administrator or designee must notify the Licensing Agency within one (1) business day of the incident. (3-15-22)

g. Identify and Monitor Patterns. The administrator or designee must identify and monitor patterns of accidents, incidents, or complaints and must develop interventions to prevent recurrences. (3-15-22)

09. 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 is on vacation, has days off, is ill, or is away for training or meetings. (3-15-22)

10. Ability to Reach Administrator or Designee. The administrator or their designee must be reachable and available at all times. (3-15-22)

11. Minimum Age of Personnel. The administrator will ensure that no personnel providing hands-on care or supervision services will be under ~~eighteen~~ ~~seventeen~~ (18~~7~~) years of age unless they have completed a certified nursing assistant (CNA) certification course. (3-15-22)()

12. Notification to Licensing Agency. The facility must notify the Licensing Agency, in writing, within three (3) business days of a change of administrator. (3-15-22)

(BREAK IN CONTINUITY OF SECTIONS)

930. ENFORCEMENT ACTION OF TEMPORARY MANAGEMENT.

01. Need for Temporary Management. The Department may impose the action of temporary management in situations where there is a need to oversee operation of the facility and to ensure the health and safety of the facility's residents: (3-15-22)

a. During an orderly transfer of residents of the facility to other facilities; or (3-15-22)

b. Pending improvements to bring the facility into compliance with program requirements. (3-15-22)

02. Notice of Temporary Management. The Department will give written notice to the facility of the imposition of temporary management. (3-15-22)

03. Who May Serve as a Temporary Manager. The Department may appoint any person or organization that meets the following qualifications: (3-15-22)

a. The temporary manager must not have any financial interest in the facility to be managed; (3-15-22)

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; (3-15-22)

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 Residential Assisted Living Administrator's license; and (3-15-22)

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. (3-15-22)

04. Powers and Duties of the Temporary Manager. The temporary manager has the authority to direct and oversee the management, and to hire and discharge 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~~ may revoke the facility's license. (3-15-22)()

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; (3-15-22)

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; (3-15-22)

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; (3-15-22)

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; (3-15-22)

e. The temporary manager does not have authority to cause or direct the facility to encumber its assets or receivables; (3-15-22)

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 (3-15-22)

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. (3-15-22)

05. Responsibility for Payment of the Temporary Manager. All compensation and per diem costs of the temporary manager must be paid by the licensee. (3-15-22)

06. Termination of Temporary Management. A temporary manager may be replaced under the following conditions: (3-15-22)

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. (3-15-22)

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. (3-15-22)

IDAPA 16 – DEPARTMENT OF HEALTH AND WELFARE

16.06.01 – CHILD AND FAMILY SERVICES

DOCKET NO. 16-0601-2301

NOTICE OF RULEMAKING – TEMPORARY AND PROPOSED RULE

EFFECTIVE DATE: The effective date of the temporary rule is August 1, 2023.

AUTHORITY: In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a temporary rule, and proposed regular rulemaking procedures have been initiated. The action is authorized pursuant to Sections 16-1629, 16-1623, 16-2102, 16-2406, 16-2423, and 16-2433, 39-1209 through 1211, 39-5603, 39-7501, 56-202(b), 56-204A, 56-803, 56-1003, 56-1004, 56-1004A, and 56-1007, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearings concerning this rulemaking will be held as follows:

VIRTUAL TELECONFERENCES Via WebEx
<p>Tuesday, July 18, 2023 6:00 p.m. - 7:00 p.m. (MT)</p>
<p>Join from the meeting link https://idhw.webex.com/idhw/j.php?MTID=mc7d53907650200da9d06e6be05c3454e</p> <p>Join by meeting number Meeting number (access code): 2760 984 7541 Meeting password: pyNdh2pBp33 (79634272 from phones and video systems)</p> <p>Join by phone +1-415-527-5035 United States Toll +1-303-498-7536 United States Toll (Denver)</p>
<p>Monday, July 24, 2023 12:00 p.m. - 1:00 p.m. (MT)</p>
<p>Join from the meeting link https://idhw.webex.com/idhw/j.php?MTID=m812a3317a64004e88b620790a38ceb4a</p> <p>Join by meeting number Meeting number (access code): 2761 427 2715 Meeting password: reSu3V35pYK (73783835 from phones and video systems)</p> <p>Join by phone +1-415-527-5035 United States Toll +1-303-498-7536 United States Toll (Denver)</p>

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below. Each meeting will conclude after 30 minutes if no participants sign into the meeting.

DESCRIPTIVE SUMMARY: The following is the required finding and concise statement of its supporting reasons for adopting a temporary rule and a nontechnical explanation of the substance and purpose of the proposed rulemaking:

Under the Adoption Section there is clear language that outlines that only social workers are responsible for assisting children in processing grief and loss as a result of their separation from their parents. Language specific to “social workers” needs to be modified to include family services workers, which includes licensed and non-licensed social workers and individuals with a human services degree. This change aligns with current staffing and practices and allows all Department staff who fall under the definition of “family services worker” (who maintains case planning and case management responsibilities) the authority to complete monthly contacts with children in foster care as required by the Social Security Act §422(b)(17) and §424(f).

TEMPORARY RULE JUSTIFICATION: Pursuant to Section(s) 67-5226(1) Section (c), Idaho Code, the Governor has found that temporary adoption of the rule is appropriate for the following reasons:

This change is necessary for the protection of the public health, safety, or welfare of citizens utilizing the services in family services and clarifies rule to align with current practice.

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

There are no associated fee changes due to the Temporary and Proposed rule changes in this rulemaking.

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

This rulemaking is not anticipated to have any fiscal impact on the State Funds, General Funds, or any other known funds.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not conducted because these changes are simple, align with current practices, and clarifies processes in rule.

INCORPORATION BY REFERENCE: Pursuant to Section 67-5229(2)(a), Idaho Code, the following is a brief synopsis of why the materials cited are being incorporated by reference into this rule:

There are no incorporation by reference changes included in this rulemaking.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary and proposed rule, contact Sabrina Brown, 208-850-5662.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before July 26, 2023.

DATED this 26th day of May, 2023.

Trinette Middlebrook and Frank Powell
DHW - Administrative Rules Unit
450 W. State Street - 10th Floor
P.O. Box 83720
Boise, ID 83720-0036
(208) 334-5500 phone
(208) 334-6558 fax
dhwrules@dhw.idaho.gov email

**THE FOLLOWING IS THE TEMPORARY RULE AND THE PROPOSED TEXT
OF DOCKET NO. 16-0601-2301
(Only Those Sections With Amendments Are Shown.)**

011. DEFINITIONS AND ABBREVIATIONS F THROUGH K.

For the purposes of these rules, the following terms are used: (3-15-22)

01. Family. Parent(s), legal guardian(s), related individuals including birth or adoptive immediate family members, extended family members and significant other individuals, who are included in the family plan. (3-15-22)

02. Family Assessment. An ongoing process based on information gained through a series of meetings with a family to gain mutual perception of strengths and resources that can support them in creating long-term solutions related to identified service needs and safety threats to family integrity, unity, or the ability to care for their members. (3-15-22)

03. Family Case Record. Electronic and hard copy compilation of all documentation relating to a family, including legal documents, identifying information, and evaluations. (3-15-22)

04. Family (Case) Plan. Also referred to as a family service plan. A written document that serves as the guide for provision of services. The plan, developed with the family, clearly identifies who does what, when, how, and why. The family plan incorporates any special plans made for individual family members. If the family includes an Indian child, or child's tribe, tribal elders or leaders should be consulted early in the plan development. (3-15-22)

05. Family Services Worker. ~~Any of the direct service~~ Case carrying personnel, ~~including social workers,~~ working in regional Child and Family Services Programs. (3-15-22)(8-1-23)T

06. Federally-Funded Guardianship Assistance for Relatives. Benefits described in Subsection 702.04 and Section 703 of these rules provided to a relative guardian for the support of a child who is fourteen (14) years of age or older, who, without guardianship assistance, would remain in the legal custody of the Department of Health and Welfare. (3-15-22)

07. Field Office. A Department of Health and Welfare service delivery site. (3-15-22)

08. Goal. A statement of the long-term outcome or plan for the child and family. (3-15-22)

09. Independent Living. Services provided to eligible foster or former foster youth, ages fourteen (14) to twenty-three (23), designed to support a successful transition to adulthood. (3-15-22)

10. Indian. Any person who is a member of an Indian tribe or who is an Alaska Native and a member of a Regional Corporation as defined in 43 U.S.C. 1606. (3-15-22)

11. Indian Child. Any unmarried person who is under the age of eighteen (18) who is: (3-15-22)

a. A member of an Indian tribe; or (3-15-22)

b. Eligible for membership in an Indian tribe, and who is the biological child of a member of an Indian tribe. (3-15-22)

12. Indian Child Welfare Act (ICWA). The Indian Child Welfare Act, 25 U.S.C. 1901, et seq. (3-15-22)

13. Indian Child's Tribe. (3-15-22)

- a. The Indian tribe in which an Indian child is a member or eligible for membership, or (3-15-22)
- b. In the case of an Indian child who is a member of or eligible for membership in more than one (1) tribe, the Indian tribe with which the Indian child has the more significant contacts. (3-15-22)

14. Indian Tribe. Any Indian Tribe, band, nation, or other organized group or community of Indians recognized as eligible for the services provided to Indians by the Secretary because of their status as Indians, including any Alaska Native village as defined in 43 U.S.C. 1602(c). (3-15-22)

15. Intercountry Adoption Act of 2000 (P.L. 106-279). Federal law designed to protect the rights of, and prevent abuses against children, birth families, and adoptive parents involved in adoptions (or prospective adoptions) subject to the Convention on Protection of Children and Cooperation in Respect of Intercountry Adoption, and to insure that such adoptions are in the children's best interests; and to improve the ability of the federal government to assist U.S. citizens seeking to adopt children from abroad and residents of other countries party to the Convention seeking to adopt children from the United States. (3-15-22)

16. Interethnic Adoption Provisions of 1996 (IEP). IEP prohibits delaying or denying the placement of a child for adoption or foster care on race, color or national origin of the adoptive or foster parent(s), or the child involved. (3-15-22)

17. Interstate Compact on the Placement of Children (ICPC). Interstate Compact on the Placement of Children (ICPC) in Title 16, Chapter 21, Idaho Code, ensures that the jurisdictional, administrative, and human rights obligations of interstate placement or transfers of children are protected. (3-15-22)

18. Kin. Non-relatives who have a significant, family-like relationship with a child. Kin may include godparents, close family friends, clergy, teachers, and members of a child's Indian tribe. Also known as fictive kin. (3-15-22)

012. DEFINITIONS AND ABBREVIATIONS L THROUGH R.

For the purposes of these rules, the following terms are used: (3-15-22)

01. Legal Guardianship. A judicially-created relationship, in accordance with Title 15, Chapter 5, Part 2, Idaho Code, including one made by a tribal court, between a child and a relative or non-relative. (3-15-22)

02. Licensed. Facilities or programs are licensed in accordance with the provisions of IDAPA 16.06.02, "Child Care Licensing." (3-15-22)

03. Licensing. See IDAPA 16.06.02, "Child Care Licensing," Section 100. (3-15-22)

04. Medicaid. See "Title XIX." (3-15-22)

05. Multiethnic Placement Act of 1994 (MEPA). MEPA prohibits states or public and private foster care and adoption agencies that receive federal funds from delaying or denying the placement of any child solely on the basis of race, color, or national origin. (3-15-22)

06. Parent. A person who, by birth or through adoption, is considered legally responsible for a child. The term "legal guardian" is not included in the definition of parent. (3-15-22)

07. Permanency Planning. A primary function of family services initiated in all cases to identify programs, services, and activities designed to establish permanent home and family relationships for children within a reasonable amount of time. (3-15-22)

08. Personal Care Services (PCS). Services to eligible Medicaid recipients that involve personal and medically-oriented tasks dealing with the physical or functional impairments of the individual. (3-15-22)

09. P.L. 96-272. Public Law 96-272, the federal "Adoption Assistance and Child Welfare Act of 1980."

(3-15-22)

10. P.L. 105-89. Public Law 105-89, the federal “Adoptions and Safe Families Act of 1997,” amends P.L. 96-272 and prohibits states from delaying or denying cross-jurisdictional adoptive placements with an approved family. (3-15-22)

11. Planning. An orderly rational process that results in identification of goals and formulation of timely strategies to fulfill such goals, within resource constraints. (3-15-22)

12. Qualified Expert Witness--ICWA. An individual who is an expert regarding tribal customs pertaining to family organization and child rearing practice, and is qualified to render an opinion as to whether continued custody of the child by the parent(s), or Indian custodian(s), is likely to result in serious emotional or physical damage to the child. (3-15-22)

13. Relative. Person related to a child by blood, marriage, or adoption. (3-15-22)

14. Relative Guardian. A relative who is appointed a child’s legal guardian in accordance with Title 15, Chapter 5, Part 2, Idaho Code, including a guardianship established by a tribal court. (3-15-22)

15. Reservation. A reservation is an area of land “reserved” by or for an Indian band, village, or tribe(s) to live on and use. Reservations were created by treaty, by congressional legislation, or by executive order. Since 1934, the Secretary of the Interior has had the responsibility of establishing new reservations or adding land to existing reservations. (3-15-22)

16. Respite Care. Time-limited care provided to children. Respite care is utilized in circumstances that require short term, temporary care of a child by a licensed or agency-approved caregiver different from their usual caregiver. The duration of an episode of respite care ranges from one (1) partial day up to fourteen (14) consecutive days. (3-15-22)

~~**17. Responsible Party.** A Department social worker, clinician, or service provider who maintains responsibility and authority for case planning and case management. (3-15-22)~~

(BREAK IN CONTINUITY OF SECTIONS)

405. ALTERNATE CARE CASE MANAGEMENT.

Case management must continue while the child is in alternate care and must ensure the following: (3-15-22)

01. Preparation for Placement. Preparing a child for placement in alternate care is the joint responsibility of the child’s family, the child (when appropriate), the family services worker, and the alternate care provider. (3-15-22)

02. Information for Alternate Care Provider. The Department and the family have informed the alternate care provider of their roles and responsibilities in meeting the needs of the child including: (3-15-22)

a. Any medical, health and dental needs of the child including the names and address of the child’s health and educational providers, a record of the child’s immunizations, the child’s current medications, the child’s known medical problems, and any other pertinent health information concerning the child; (3-15-22)

b. The name of the child’s doctor; (3-15-22)

c. The child’s current functioning and behaviors; (3-15-22)

d. A copy of the child's portion of the service plan including any visitation arrangements; (3-15-22)

e. The case history of the child, including the reason the child came into foster care, the child’s legal

status, and the permanency goal for the child; (3-15-22)

f. A history of the child's previous placements and reasons for placement changes, excluding information that identifies or reveals the location of any previous alternate care providers without their consent; (3-15-22)

g. The child's cultural and racial identity; (3-15-22)

h. Any educational, developmental, or special needs of the child; (3-15-22)

i. The child's interest and talents; (3-15-22)

j. The child's attachment to current caretakers; (3-15-22)

k. The individualized and unique needs of the child; (3-15-22)

l. Procedures to follow in case of emergency; and (3-15-22)

m. Any additional information, that may be required by the terms of the contract with the alternate care provider. (3-15-22)

03. Consent for Medical Care. Parent(s) or legal guardian(s) have signed a Departmental form of consent for medical care and keep the family services worker advised of where they can be reached in case of an emergency. Any refusal to give medical consent must be documented in the family case record. (3-15-22)

04. Financial Arrangements. The family services worker must assure that the alternate care provider understands the financial and payment arrangements and that necessary Department forms are completed and submitted. (3-15-22)

05. Contact with Child. The family, the family services worker, and the alternate care provider have established a schedule for frequent and regular visits with the child by the family and by the family services worker or designee. (3-15-22)

a. Face-to-face contact with a child by the ~~responsible party~~ **assigned family services worker** must occur at least monthly or more frequently depending on the needs of the child or the provider, or both, and the stability of the placement. Face-to-face contact may be made in settings other than where the child resides as long as contact between the ~~responsible party~~ **assigned family services worker** and the child occurs where the child resides a minimum of once every sixty (60) days. (3-15-22)(8-1-23)T

b. The Department will have strategies in place to detect abuse, neglect, or abandonment of children in alternate care. (3-15-22)

~~e. Face-to-face contact between the responsible party and a child placed in an in-state group or residential care facility, located a significant distance from the responsible party's office is required a minimum of once every ninety (90) days. Communication by phone between the responsible party and the child must occur at least monthly. (3-15-22)~~

~~d.c.~~ Frequent and regular contact between the child and parents and other family members will be encouraged and facilitated unless it is specifically determined not to be in the best interest of the child. Such contact will be face-to-face if possible, with this contact augmented by telephone calls, written correspondence, pictures, and the use of video and other technology as may be relevant and available. (3-15-22)

~~e. Children who are in out of state placements through the Interstate Compact on the Placement of Children (ICPC) must be contacted face-to-face no less frequently than every six (6) months, by either the responsible party in Idaho, by a representative of the state in which the child is placed, or by a private agency contracted by either. Idaho will request the state in which the child is placed to have face to face contact with the child on a monthly basis. If the policy of the state in which the child is placed allows only for face-to-face contact~~

~~every six (6) months, the responsible party in Idaho will contact the child and the child's caregiver each month by phone to confirm the child's safety and well being.~~ (3-15-22)

06. Discharge Planning. Planning for discharge from alternate care are developed with all concerned parties. Discharge planning will be initiated at the time of placement and completed prior to the child's return home or to the community. (3-15-22)

07. Transition Planning. Planning for discharge from alternate care into a permanent placement are developed with all concerned parties. Discharge planning will be initiated at the time of placement and completed prior to the child's return home or to the community. (3-15-22)

08. Financial and Support Services. As part of the discharge planning, Departmental resources are coordinated to expedite access to Department financial and medical assistance and community support services. (3-15-22)

(BREAK IN CONTINUITY OF SECTIONS)

701. SERVICES TO BE PROVIDED IN ADOPTIONS.

In addition to the core services provided under these rules, the Department must assure provision of the following: (3-15-22)

01. Response to Inquiries. Written or personal inquiries from prospective adoptive families must be answered within two (2) weeks. (3-15-22)

02. Pre-Placement Child/Family Assessment. An assessment of the child's family of origin history, needs as an individual and as part of a family, and completion of a life story book for each child preparing for adoptive placement. (3-15-22)

03. Compliance with Multi-Ethnic Placement Act and Interethnic Adoption Provisions. Selection of the most appropriate adoptive family consistent with the Multi-Ethnic Placement Act and Interethnic Adoption Provisions, if the child is not an Indian. (3-15-22)

04. (Pre-Placement) Home Study. An adoptive home study to ensure selection of an appropriate adoptive home. (3-15-22)

05. Preparation for Placement. Preparation of the child by an assigned ~~social worker~~ family services worker who will assist the child in addressing anticipated grief and loss due to separation from their parents and assisting the child with the transition into an adoptive home. ~~(3-15-22)~~ (8-1-23)T

06. Technical Assistance. Assistance in completing the legal adoption, including compliance with the Indian Child Welfare Act. (3-15-22)

07. Adoption Assistance. A determination of eligibility for adoption assistance must be made for each child placed for adoption through the Department prior to the finalization of their adoption. Eligibility for adoption assistance is determined solely on the child's need. No means test may be applied to the adoptive family's income or resources. Once eligibility is established, the Division will negotiate a written agreement with the adoptive family. The agreement must be fully executed by all parties prior to the finalization of the adoption in order to be valid. (3-15-22)

08. Period of Support Supervision. Once a child is placed with an adoptive family, a period of support and supervision by the Department lasting at least six (6) months must be completed prior to the finalization of the adoption. If the child has been a foster child placed with the family for a period of at least six (6) months, the family may submit a written request to the Department's Child and Family Services Program Manager to reduce the supervisory period to a minimum of three (3) months. (3-15-22)

09. Post Adoption Services. Services after an adoption is final are provided within available resources. Children with negotiated adoption assistance agreements, whether from Idaho or from another state, are eligible for any services available to Idaho children. International adoptees residing in Idaho are also eligible for any services available to Idaho children under the Inter-Country Adoption of 2000 (P.L.106-279). Children with either IV-E or state adoption assistance agreements are eligible for Medicaid in Idaho. A referral from an Interstate Compact on Adoption and Medical Assistance member state will serve as a formal application for services in Idaho. Applications for Medicaid are made through the Department in accordance with IDAPA 16.03.01, “Eligibility for Health Care Assistance for Families and Children.” (3-15-22)

IDAPA 24 – DIVISION OF OCCUPATIONAL AND PROFESSIONAL LICENSES

24.33.01 – RULES OF THE BOARD OF MEDICINE FOR THE LICENSURE TO PRACTICE MEDICINE AND OSTEOPATHIC MEDICINE IN IDAHO

DOCKET NO. 24-3301-2301

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 67-2604, Idaho Code, and Sections 6-1002, 54-1806, 54-1806A, 54-1807, 54-1812, 54-1813, 54-1814, 54-1841, 54-1867, 67-2614, 67-9406 and 67-9409, Idaho Code.

MEETING SCHEDULE: A public meeting on the negotiated rulemaking will be held as follows. Additional meetings may be scheduled and will be posted on the DOPL website <https://dopl.idaho.gov/calendar/> and <https://townhall.idaho.gov/>.

24.33.01 – Rules of the Board of Medicine for the Licensure to Practice Medicine and Osteopathic Medicine in Idaho

<p>Monday, July 24, 2023 – 3 p.m. (MT) Division of Occupational and Professional Licenses Chinden Campus Building 4 11341 W. Chinden Blvd., Bldg. #4 Boise, ID 83714</p>

Rulemaking meetings will be held in person and via web conferencing to provide a rulemaking platform that enables broad participation by stakeholders from across the state and minimizes travel for stakeholders. 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: Those interested in participating in the negotiated rulemaking process are encouraged to attend the scheduled meetings. The telephone and web conferencing information for a specific meeting will be posted at least two days prior to the meeting. 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. 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 negotiated rulemaking is being presented to address legislative changes made through House Bill 153 and Senate Bill 1094 during the 2023 legislative session. The legislative changes go into effect on July 1, 2023 and include the addition of a limited license for bridge year physicians and a temporary registration for certain experienced international medical graduates. The rulemaking will address the statutory changes and will set fees for the limited license and temporary registration.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS, OBTAINING DRAFT COPIES: For assistance on technical questions concerning this negotiated rulemaking, contact Yvonne Dunbar, General Counsel, at (208) 577-2519. Materials pertaining to the negotiated rulemaking, including any available preliminary rule drafts, can be found on the following DOPL website: <https://dopl.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 26, 2023.

DATED this 9th day of June, 2023.

Yvonne Dunbar
General Counsel
11341 W. Chinden Blvd., Bldg. #4
Boise, ID 83714
Phone: (208) 577-2519
Email: yvonne.dunbar@dopl.idaho.gov

IDAPA 24 – DIVISION OF OCCUPATIONAL AND PROFESSIONAL LICENSES

24.35.01 – RULES OF THE OUTFITTERS AND GUIDES LICENSING BOARD

DOCKET NO. 24-3501-2301

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 67-2604, Idaho Code, and Sections 36-2107, 36-2108, 36-2109, 36-2110, 67-2614, 67-9406 and 67-9409, Idaho Code.

MEETING SCHEDULE: A public meeting on the negotiated rulemaking will be held as follows. Additional meetings may be scheduled and will be posted on the DOPL website <https://dopl.idaho.gov/calendar/> and <https://townhall.idaho.gov/>.

<p>24.35.01 – Rules of the Outfitters and Guides Licensing Board</p>
<p>Wednesday, July 26, 2023 – 9 a.m. (MT) Division of Occupational and Professional Licenses Chinden Campus Building 4 11341 W. Chinden Blvd., Bldg. #4 Boise, ID 83714</p>

Rulemaking meetings will be held in person and via web conferencing to provide a rulemaking platform that enables broad participation by stakeholders from across the state and minimizes travel for stakeholders. 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: Those interested in participating in the negotiated rulemaking process are encouraged to attend the scheduled meetings. The telephone and web conferencing information for a specific meeting will be posted at least two days prior to the meeting. 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. 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 negotiated rulemaking is being presented to create better consistency between the statutes and rules. The rulemaking will clarify the impact of tag transfers and create better consistency with the tag allocations made by the Fish and Game Commission pursuant to Section 36-408(4), Idaho Code. The rulemaking will also address the competitive application process and the outfitter limitations on Idaho rivers, lakes and reservoirs.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS, OBTAINING DRAFT COPIES: For assistance on technical questions concerning this negotiated rulemaking, contact Yvonne Dunbar, General Counsel, at (208) 577-2519. Materials pertaining to the negotiated rulemaking, including any available preliminary rule drafts, can be found on the following DOPL website: <https://dopl.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 26, 2023.

DATED this 9th day of June, 2023.

Yvonne Dunbar
General Counsel
11341 W. Chinden Blvd., Bldg. #4
Boise, ID 83714
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Email: yvonne.dunbar@dopl.idaho.gov

IDAPA 24 – DIVISION OF OCCUPATIONAL AND PROFESSIONAL LICENSES

24.40.01 – RULES OF THE BOARD OF NATUROPATHIC HEALTH CARE

DOCKET NO. 24-4001-2301 (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 67-2604, Idaho Code, and Sections 54-5904, 54-5909, 67-2614, 67-9406 and 67-9409, Idaho Code.

MEETING SCHEDULE: Public meetings on the negotiated rulemaking will be held as follows. Additional meetings may be scheduled and will be posted on the DOPL website <https://dopl.idaho.gov/calendar/> and <https://townhall.idaho.gov/>.

24.40.01 – Rules of The Board of Naturopathic Health Care	
Tuesday, July 18, 2023 – 9 a.m. (MT)	Monday, July 24, 2023 – 1 p.m. (MT)
Division of Occupational and Professional Licenses Chinden Campus Building 4 11341 W. Chinden Blvd., Bldg. #4 Boise, ID 83714	

Rulemaking meetings will be held in person and via web conferencing to provide a rulemaking platform that enables broad participation by stakeholders from across the state and minimizes travel for stakeholders. 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: Those interested in participating in the negotiated rulemaking process are encouraged to attend the scheduled meetings. The telephone and web conferencing information for a specific meeting will be posted at least two days prior to the meeting. 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. 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 negotiated rulemaking is being presented to address legislative changes made through Senate Bill 1330 during the 2022 legislative session. The legislative changes, which went into effect on July 1, 2022, resulted in the creation of a new statutory chapter, Chapter 59, Title 54, Idaho Code. They also include the creation of a new licensure authority, the Naturopathic Health Care Board, new licensure and registration types, and authority for the board to promulgate rules related to the new naturopathic license and naturopathic registration.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS, OBTAINING DRAFT COPIES: For assistance on technical questions concerning this negotiated rulemaking, contact Yvonne Dunbar, General Counsel, at (208) 577-2519. Materials pertaining to the negotiated rulemaking, including any available preliminary rule drafts, can be found on the following DOPL website: <https://dopl.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 31, 2023.

DATED this 9th day of June, 2023.

Yvonne Dunbar
General Counsel
11341 W. Chinden Blvd., Bldg. #4
Boise, ID 83714
Phone: (208) 577-2519
Email: yvonne.dunbar@dopl.idaho.gov

IDAPA 39 – IDAHO TRANSPORTATION DEPARTMENT

39.02.76 – RULES GOVERNING DRIVER'S LICENSE AND IDENTIFICATION CARD RENEWAL-BY-MAIL AND ELECTRONIC RENEWAL AND REPLACEMENT PROCESSES

DOCKET NO. 39-0276-2301

NOTICE OF RULEMAKING – TEMPORARY AND PROPOSED RULE

EFFECTIVE DATE: The effective date of the temporary rule is July 1, 2023.

AUTHORITY: In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a temporary rule, and proposed rulemaking procedures have been initiated. The action is authorized pursuant to Sections 40-312 and 49-201, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than July 26, 2023.

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

DESCRIPTIVE SUMMARY: The following is the required finding and concise statement of its supporting reasons for adopting a temporary rule and a nontechnical explanation of the substance and purpose of the proposed rulemaking:

Proposed changes include allowing for commercial driver's license holders to renew their licenses online, the broadening of allowances to renew standard driver's license online, and eliminating unnecessary and overly-preceptive language.

TEMPORARY RULE JUSTIFICATION: Pursuant to Sections 67-5226(1)(b) and (c), Idaho Code, the Governor has found that temporary adoption of the rule is appropriate for the following reasons:

The Idaho legislature passed H009 during the 2023 legislative session. This bill modified Section 49-319(10), Idaho Code, allowing for commercial driver's license (CDL) holders to renew their licenses online. In order to reflect this allowance in IDAPA 39.02.76, there is a need to establish a temporary rule to mirror the legislation's effective date (July 1, 2023). The broadening of overall online driver's license and identification card renewals confers a benefit to many Idahoans, and the proposed elimination of unnecessary language is in line with the Governor's Red Tape Reduction Act.

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

Not applicable.

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

There is no fiscal impact associated with this rulemaking.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(1), Idaho Code, negotiated rulemaking was conducted. The Notice of Intent to Promulgate Rules - Negotiated Rulemaking was published in the May 3, 2023, Idaho Administrative Bulletin, [Volume 23-5, pages 172-173](#).

INCORPORATION BY REFERENCE: Pursuant to Section 67-5229(2)(a), Idaho Code, the following is a brief synopsis of why the materials cited are being incorporated by reference into this rule:

There are no documents being incorporated by reference.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary and proposed rule, contact Brendan Floyd – 208-334-8474.

Anyone may submit written comments regarding the proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before July 26, 2023.

DATED this 19th day of May, 2023.

Brendan Floyd
Policy Specialist
Idaho Transportation Department
11331 W. Chinden Blvd.
Boise, ID 83714
208-334-8474
Brendan.floyd@itd.idaho.gov

**THE FOLLOWING IS THE TEMPORARY RULE AND THE PROPOSED TEXT
OF DOCKET NO. 39-0276-2301
(Only Those Sections With Amendments Are Shown.)**

001. ~~TITLE AND SCOPE~~ PURPOSE.

01. ~~Title.~~ Title. This rule is titled ~~IDAPA 39.02.76, "Rules Governing Driver's License and Identification Card Renewal by Mail and Electronic Renewal and Replacement Processes"~~. (3-31-22)

02. ~~Scope.~~ Scope. ~~The purpose of this rule is to establish~~ standards by which driver's licenses and identification cards may be renewed or replaced by mail or electronically ~~for those individuals whose Idaho credentials are about to expire or requires replacement due to loss or mutilation. The renewal by mail and electronic systems are designed to reduce the length of waiting lines at county driver's license offices.~~ (3-31-22) (7-1-23)T

002. ~~WRITTEN INTERPRETATIONS.~~

~~There are no written interpretations for this chapter.~~ (3-31-22)

003. -- 009. (RESERVED)

010. ~~DEFINITIONS.~~

01. ~~CDL.~~ CDL. Commercial Driver's License. (3-31-22)

02. ~~Class D Driver's License.~~ Class D Driver's License. A license issued and valid for the operation of a motor vehicle that is not a commercial vehicle as defined in Section 49-123, Idaho Code. (3-31-22)

03. ~~Credential.~~ Credential. Any physical driver license or identification card issued by the department. (3-31-22)

04. ~~Expiration Date.~~ Expiration Date. The date a credential expires. (3-31-22)

05. ~~Identification Card.~~ Identification Card. A card issued in accordance with Section 49-2444, Idaho Code. (3-31-22)

06. ~~Photo License.~~ Photo License. A valid Idaho credential displaying a color photograph of the license holder. (3-31-22)

002. -- 010. (RESERVED)

011. ELIGIBILITY FOR RENEWAL AND REPLACEMENT.

01. Eligibility. ~~An applicant may renew a Class D driver's license or identification card by mail or electronically in lieu of renewing or replacing these credentials in person. Licenses or identification cards may be renewed by mail or electronically shall only be renewed once in an eight (8) year period, and have a four-year validity period; for four (4) or eight (8) years if an applicant meets the following criteria:~~ (3-31-22)(7-1-23)T

a. ~~The renewal expiration date does not exceed a period of sixteen (16) years from an applicant's most recent in-person renewal.~~ (7-1-23)T

b. ~~For driver's licenses only, the renewal expiration date does not extend beyond an applicant's seventieth (70th) birthday.~~ (7-1-23)T

02. License and Identification Card Renewal. Driver's licenses ~~and identification cards may not~~ be renewed by mail or electronically for persons who: (3-31-22)(7-1-23)T

~~**a.** Hold a driver's license with a "J" restriction (e.g. limited to a five (5) mile driving radius of residence, driving privileges limited to one (1) or two (2) counties, cannot drive without parent for a specified time period, etc.); (3-31-22)~~

~~**ba.** Hold a CDL hazardous materials endorsement, unless the person is able to pass a department-approved electronic version of the required knowledge test; (3-31-22)(7-1-23)T~~

~~**c.** Have changes in the information shown on their licenses, other than address changes; (3-31-22)~~

~~**d.** Have any changes in physical, mental, and/or emotional condition, including vision, which may impair the ability to safely operate a motor vehicle; (3-31-22)~~

~~**eb.** Have drivers' licenses or driving privileges which are suspended, revoked, canceled, denied, refused, or disqualified; (3-31-22)(7-1-23)T~~

~~**f.** Are operating on department or court restricted driving permits; (3-31-22)~~

~~**gc.** Are required Need to provide documentation proving lawful presence in the United States; (3-31-22)(7-1-23)T~~

~~**hd.** Are not lawfully present in the United States; (3-31-22)~~

~~**ie.** Have a driving record which has been marked for special handling (e.g., verification of identity or date of birth, possible fraud, etc.); (3-31-22)(7-1-23)T~~

~~**jf.** Already have an existing extension; (3-31-22)~~

~~**k.** Wish to add a motorcycle endorsement; (3-31-22)~~

~~**l.** Are under twenty-one (21) years of age for purposes of renewal; (3-31-22)~~

~~**m.** Are seventy (70) years of age or older for purposes of renewal; or (3-31-22)~~

~~**ng.** Have been expired more than ~~one (1) year~~ twenty-five (25) months. (3-31-22)(7-1-23)T~~

~~**03. Identification Card Renewal.** Identification cards may not be renewed by mail or electronically for persons who: (3-31-22)~~

~~**a.** Have changes in the information shown on their identification cards, other than address changes; (3-31-22)~~

~~**b.** Have not been expired more than one (1) year; (3-31-22)~~

- ~~c.~~ Are required to provide documentation proving lawful presence in the United States; (3-31-22)
- ~~d.~~ Are not lawfully present in the United States; or (3-31-22)
- ~~e.~~ Have a canceled or surrendered status. (3-31-22)

04. License and Identification Card Replacement. Any driver's license, ~~including a CDL,~~ or identification card may be replaced by mail or electronically as long as the credential is not expired, ~~and there are no information changes other than address changes~~ and the status is otherwise valid. (3-31-22)(7-1-23)T

~~012. RENEWAL OR REPLACEMENT ELECTRONICALLY OR BY MAIL PROCEDURES.~~

~~**01. Application Submission.** Credential renewal by mail or electronic renewal or replacement applications will be processed when received by mail or electronically. Eligible persons may mail or electronically submit their renewal or replacement application to the department or the driver's license office in their county of residence, or deliver their application in person together with the renewal fee for the same class of credential, pursuant to Sections 49-306, and 49-2444, Idaho Code. (3-31-22)~~

~~**02. Updating Individual Records.** The county driver's license office or the department will update individual records to reflect the new expiration year, if renewed, and the issue date of the new credential, within three (3) business days after receipt of the completed application form. (3-31-22)~~

~~**03. If Lost or Destroyed in Mail.** If an individual's credential is lost or destroyed in the mail, a written statement detailing the loss or destruction may be mailed or hand-delivered to the applicant's county of residence or completed electronically. Upon receipt of the letter, the county or the department can issue a no-charge replacement credential to the applicant. (3-31-22)~~

~~**04. Temporarily Residing Out of State.** Individuals temporarily residing out of state may apply for a renewal by mail, electronic renewal, or an extension, but not both, in an eight (8) year period. (3-31-22)~~

~~0132.~~ -- 999. (RESERVED)

IDAPA 39 – IDAHO TRANSPORTATION DEPARTMENT

**39.02.22, 39.03.01, 39.03.02, 39.03.03, 39.03.04, 39.03.05, 39.03.06, 39.03.07
COMMERCIAL VEHICLE PERMITS AND PERMIT FEES**

DOCKET NO. 39-ZBRR-2303 (ZBR CHAPTER REWRITES)

**OMNIBUS NOTICE OF INTENT TO PROMULGATE RULES –
ZERO-BASED REGULATION (ZBR) 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 and 67-5229 Idaho Code.

MEETING SCHEDULE: A public meeting on the negotiated rulemaking will be held as follows:

<p>Wednesday, July 12, 2023 1:00 p.m. to 4:00 p.m. (MT)</p>
<p><i>In-person participation is available at:</i> ITD Headquarters 11331 W Chinden Blvd., Boise, ID 83714 - Building 8 American Falls Room</p> <p><i>Join on your computer, mobile app, or room device</i> Click here to join the meeting Meeting ID: 229 230 683 21 Passcode: ADugys Download Teams Join on the web</p> <p><i>Join with a video conferencing device</i> itd.gov@m.webex.com Video Conference ID: 113 599 383 8 Alternate VTC instructions</p> <p><i>Or call in (audio only)</i> +1 208-473-7075,,191645887# United States, Boise Phone Conference ID: 831 957 479# Find a local number Reset PIN</p>

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:

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.

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 will be the department's third negotiated rulemaking meeting of the year. The purpose of this meeting will be to discuss combining a portion of rule 39.02.22 and rules 39.03.01 through 39.03.07 into one rule. Each of these rule chapters covers commercial vehicle permits. The department believes that consolidating these provisions into one chapter will result in a more accessible source of permit information for customers. Additionally, in support of the Governor's Red Tape Reduction Initiative and in accordance with the [Zero-Based Regulation E. O. 2020-01](#) and the [Department's 5-year review schedule](#), the goal of these rulemakings is to make changes and modifications that remove obsolete language, eliminate unnecessary restrictions and provide overall clarity.

The following IDAPA rule chapters are germane to this negotiated rulemaking notice:

- *39.02.22 Rules Governing Registration and Permit Fee Administration;*
- *39.03.01 Rules Governing Definitions Regarding Special Permits;*
- *39.03.02 Rules Governing Movement of Disabled Vehicles;*
- *39.03.03 Rules Governing Special Permits – General Conditions and Requirements;*
- *39.03.04 Rules Governing Special Permits – Overweight Non-Reducible;*
- *39.03.05 Rules Governing Special Permits – Oversize Non-Reducible;*
- *39.03.06 Rules Governing Special Permits for Extra-Length/Excess Weight, Up to 129,000 Pound Vehicle Combinations;*
- *39.03.07 Rules Governing Special Permits for Reducible Loads.*

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 please contact Brendan Floyd, Policy 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, July 26, 2023.

DATED this 5th Day of July, 2023.

Brendan Floyd
Office of Governmental Affairs
Idaho Transportation Department
11331 W. Chinden Blvd.
Boise, ID 83714
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brendan.floyd@itd.idaho.gov

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LEGAL NOTICE

Summary of Proposed Rulemakings

PUBLIC NOTICE OF INTENT TO PROPOSE OR PROMULGATE NEW OR CHANGED AGENCY RULES

The following agencies of the state of Idaho have published the complete text and all required information concerning their intent to change or make new the following rules in the latest publication of the state Administrative Bulletin.

*The proposed rule public hearing request deadline is July 19, 2023, unless otherwise posted.
The proposed rule written comment submission deadline is July 26, 2023, unless otherwise posted.
(Temp & Prop) indicates the rulemaking is both Temporary and Proposed.
(*PH) indicates that a public hearing has been scheduled.*

IDAPA 16 – DEPARTMENT OF HEALTH AND WELFARE PO Box 83720, Boise, ID 83720-0036

***16-0225-2301, State Laboratory Fees.** (*PH) Corrects errors and aligns with stakeholder negotiations for total coliform testing procedures fees.

***16-0309-2301, Medicaid Basic Plan Benefits.** (*PH) (Temp & Prop) Proposed revisions: comport with 2023 statutory amendments; modify the Idaho State Plan for behavioral health services; execute operations for end of the public health emergency; and decrease overall regulatory burden.

16-0322-2301, Residential Assisted Living Facilities. Rule changes: streamline the RALF license application process; widen the labor pool for eligible personnel; and provide the department flexibility when determining an enforcement action on license revocation.

***16-0601-2301, Child and Family Services.** (*PH) (Temp & Prop) Allows all department staff who fall under the definition of “family services worker” the authority to complete monthly contacts with foster care children.

IDAPA 39 – IDAHO TRANSPORTATION DEPARTMENT 11331 W Chinden Blvd, Boise, ID 83714

39-0276-2301, Rules Governing Driver's License and Identification Card Renewal-By-Mail and Electronic Renewal and Replacement Processes. (Temp & Prop) Revised language allows online renewal of both commercial and standard driver’s licenses and identification cards.

NOTICE OF ADOPTED / AMENDED PROCLAMATION(S)

IDAPA 13 – IDAHO FISH AND GAME COMMISSION

13-0000-2300P6, Establishing Seasons and Limits for Hunting, Fishing, and Trapping in Idaho

NOTICES OF ADOPTION OF TEMPORARY RULE ONLY

IDAPA 08 – STATE BOARD OF EDUCATION

08-0113-2301, Rules Governing the Opportunity Scholarship Program

IDAPA 11 – IDAHO STATE POLICE

11-0501-2301, Rules Governing Alcohol Beverage Control

NOTICES OF INTENT TO PROMULGATE RULES – NEGOTIATED RULEMAKING

(Please see the Administrative Bulletin for dates and times of meetings and other participant information)

IDAPA 02 – DEPARTMENT OF AGRICULTURE

02-0601-2301, Rules Governing the Production and Distribution of Seed

IDAPA 08 – STATE BOARD OF EDUCATION

08-0113-2302, Rules Governing the Opportunity Scholarship Program

IDAPA 11 – IDAHO STATE POLICE

11-0201-2301, Rules of the Idaho State Brand Board

11-0701-2301, Rules Governing Motor Vehicles – General Rules

11-0703-2301, Rules Governing Emergency Vehicles/Authorized Emergency Vehicles

11-1301-2301, The Motor Carrier Rules

IDAPA 24 – DIVISION OF OCCUPATIONAL AND PROFESSIONAL LICENSES

24-3301-2301, Rules of the Board of Medicine for the Licensure to Practice Medicine and Osteopathic Medicine in Idaho

24-3501-2301, Rules of the Outfitters and Guides Licensing Board

24-4001-2301, Rules of the Board of Naturopathic Health Care

IDAPA 39 – IDAHO TRANSPORTATION DEPARTMENT

39-ZBRR-2303, Agency Omnibus ZBR Negotiated Rulemaking promulgates Title 02, Chapter 22; and Title 03, Chapters 01-07

Please refer to the Idaho Administrative Bulletin **July 5, 2023, Volume 23-7**, for the notices and text of all rulemakings, proclamations, negotiated rulemaking and public hearing information and schedules, executive orders of the Governor, and agency contact information.

Electronic issues of the Idaho Administrative Bulletin can be viewed at www.adminrules.idaho.gov/

Office of the Administrative Rules Coordinator, Division of Financial Management
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Phone: 208-334-3900; Email: adminrules@dfm.idaho.gov

CUMULATIVE RULEMAKING INDEX OF IDAHO ADMINISTRATIVE RULES

*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*

April 6, 2023 – July 5, 2023

(PLR 2024) – Final Effective Date Is Pending Legislative Review in 2024

(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)

(This Abridged Index includes all active rulemakings.)

IDAPA 02 – IDAHO DEPARTMENT OF AGRICULTURE

02-ZBRR-2301 *Rules of the Idaho Department of Agriculture* – Omnibus Notice of Intent to Promulgate Rules – Zero-Based Regulation (ZBR) Negotiated Rulemaking – Negotiates Title 02, Chapters 13, 15; Title 03, Chapter 03; Title 04, Chapters 14, 23, 30, 32; and Title 06, Chapters 04, 09, 10, 16 – Bulletin Vol. 23-5

02.02.13, Commodity Dealers’ Rules

02-ZBRR-2301 *Rules of the Idaho Department of Agriculture* – Omnibus Notice of Intent to Promulgate Rules – Zero-Based Regulation (ZBR) Negotiated Rulemaking – Negotiates Title 02, Chapter 13 – Bulletin Vol. 23-5

02.02.15, Rules Governing the Seed Indemnity Fund

02-ZBRR-2301 *Rules of the Idaho Department of Agriculture* – Omnibus Notice of Intent to Promulgate Rules – Zero-Based Regulation (ZBR) Negotiated Rulemaking – Negotiates Title 02, Chapter 15 – Bulletin Vol. 23-5

02.03.03, Rules Governing Pesticide and Chemigation Use and Application

02-ZBRR-2301 *Rules of the Idaho Department of Agriculture* – Omnibus Notice of Intent to Promulgate Rules – Zero-Based Regulation (ZBR) Negotiated Rulemaking – Negotiates Title 03, Chapter 3 – Bulletin Vol. 23-5

02.04.14, Rules Governing Dairy Byproduct

02-ZBRR-2301 *Rules of the Idaho Department of Agriculture* – Omnibus Notice of Intent to Promulgate Rules – Zero-Based Regulation (ZBR) Negotiated Rulemaking – Negotiates Title 04, Chapter 14 – Bulletin Vol. 23-5

02.04.23, Rules Governing Commercial Livestock Truck Washing Facilities

02-ZBRR-2301 *Rules of the Idaho Department of Agriculture* – Omnibus Notice of Intent to Promulgate Rules – Zero-Based Regulation (ZBR) Negotiated Rulemaking – Negotiates Title 04, Chapter 23 – Bulletin Vol. 23-5

02.04.30, Rules Governing Environmental and Nutrient Management

02-ZBRR-2301 *Rules of the Idaho Department of Agriculture* – Omnibus Notice of Intent to Promulgate Rules – Zero-Based Regulation (ZBR) Negotiated Rulemaking – Negotiates Title 04, Chapter 30 – Bulletin Vol. 23-5

02.04.32, Rules Governing Poultry Operations

02-ZBRR-2301 *Rules of the Idaho Department of Agriculture* – Omnibus Notice of Intent to Promulgate Rules – Zero-Based Regulation (ZBR) Negotiated Rulemaking – Negotiates Title 04, Chapter 32 – Bulletin Vol. 23-5

02.06.01, Rules Governing the Production and Distribution of Seed

02-0601-2301 Notice of Intent to Promulgate Rules – Negotiated Rulemaking, Bulletin Vol. 23-7

02.06.04, Rules Governing Plant Exports

02-ZBRR-2301 *Rules of the Idaho Department of Agriculture* – Omnibus Notice of Intent to Promulgate Rules – Zero-Based Regulation (ZBR) Negotiated Rulemaking – Negotiates Title 06, Chapter 04 – Bulletin Vol. 23-5

02.06.09, Rules Governing Invasive Species and Noxious Weeds

02-ZBRR-2301 *Rules of the Idaho Department of Agriculture* – Omnibus Notice of Intent to Promulgate Rules – Zero-Based Regulation (ZBR) Negotiated Rulemaking – Negotiates Title 06, Chapter 09 – Bulletin Vol. 23-5

02.06.10, Rules Governing the Growing of Potatoes

02-ZBRR-2301 *Rules of the Idaho Department of Agriculture* – Omnibus Notice of Intent to Promulgate Rules – Zero-Based Regulation (ZBR) Negotiated Rulemaking – Negotiates Title 06, Chapter 10 – Bulletin Vol. 23-5

02.06.16, Rules Governing Honey Standards

02-ZBRR-2301 *Rules of the Idaho Department of Agriculture* – Omnibus Notice of Intent to Promulgate Rules – Zero-Based Regulation (ZBR) Negotiated Rulemaking – Negotiates Title 06, Chapter 16 – Bulletin Vol. 23-5

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04-1101-2300 Notice of Revocation of Final Rule, Bulletin Vol. 23-7

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05.01.02, Rules and Standards for Secure Juvenile Detention Centers

05-0102-2301 Notice of Intent to Promulgate Rules – Zero-Based Regulation (ZBR) Negotiated Rulemaking, Bulletin Vol. 23-6

05.01.04, Uniform Standards for Juvenile Probation Services

05-0104-2301 Notice of Intent to Promulgate Rules – Zero-Based Regulation (ZBR) Negotiated Rulemaking, Bulletin Vol. 23-4

05.02.01, Rules for Residential Treatment Providers

05-0201-2301 Notice of Intent to Promulgate Rules – Zero-Based Regulation (ZBR) Negotiated Rulemaking, Bulletin Vol. 23-6

***IDAPA 08 – IDAHO STATE BOARD OF EDUCATION
AND STATE DEPARTMENT OF EDUCATION***

08.01.02, Rules Governing the Postsecondary Credit Scholarship Program

08-0102-2301 Notice of Intent to Promulgate Rules – Negotiated Rulemaking, Bulletin Vol. 23-6

08.01.13, Rules Governing the Opportunity Scholarship Program

08-0113-2302 Notice of Intent to Promulgate Rules – Negotiated Rulemaking, Bulletin Vol. 23-7

08-0113-2301 Adoption of Temporary Rule, Bulletin Vol. 23-7 (eff. 7-1-23)T

08.02.01, Rules Governing Administration

08-0201-2301 Adoption of Temporary Rule, Bulletin Vol. 23-6 (eff. 4-6-23)T

08.02.03, Rules Governing Thoroughness

08-0203-2301 Notice of Intent to Promulgate Rules – Negotiated Rulemaking, Bulletin Vol. 23-6

08.04.01, Rules of the Idaho Digital Learning Academy

08-0401-2301 Notice of Intent to Promulgate Rules – Zero-Based Regulation (ZBR) Negotiated Rulemaking, Bulletin Vol. 23-6

IDAPA 11 – IDAHO STATE POLICE

Idaho State Brand Board

11.02.01, Rules of the Idaho State Brand Board

11-0201-2301 Notice of Intent to Promulgate Rules – Negotiated Rulemaking, Bulletin Vol. 23-7

Idaho State Racing Commission

11.04.01, Rules Governing the Idaho State Racing Commission

11-0401-2301 Notice of Temporary and Proposed Rule (New Chapter, Fee Rule), Bulletin Vol. 23-5 (eff. 4-6-23)T

Alcohol Beverage Control Bureau

11.05.01, Rules Governing Alcohol Beverage Control

11-0501-2301 Adoption of Temporary Rule, Bulletin Vol. 23-7 (eff. 7-1-23)T

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11.07.01, Rules Governing Motor Vehicles – General Rules

11-0701-2301 Notice of Intent to Promulgate Rules – Zero-Based Regulation (ZBR) Negotiated Rulemaking, Bulletin Vol. 23-7

11.07.02, Rules Governing Safety Glazing Material

11-0702-2201 OARC Omnibus Notice of Legislative Action – Approval of Pending Rule, Bulletin Vol. 23-6 (eff. 7-1-23)

11-0702-2201 Adoption of Pending Rule (Chapter Repeal), Bulletin Vol. 23-1 (PLR 2023)

11-0702-2201 Notice of Proposed Rulemaking (Chapter Repeal), Bulletin Vol. 22-9

11.07.03, Rules Governing Emergency Vehicles/Authorized Emergency Vehicles

11-0703-2301 Notice of Intent to Promulgate Rules – Zero-Based Regulation (ZBR) Negotiated Rulemaking, Bulletin Vol. 23-7

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13-0000-2300P5 Notice of Adopted / Amended Proclamations for Calendar Year 2023, Bulletin Vol. 23-6

13-0000-2300P4 Notice of Adopted / Amended Proclamations for Calendar Year 2023, Bulletin Vol. 23-5

13-0000-2300P3 Notice of Adopted / Amended Proclamations for Calendar Year 2023, Bulletin Vol. 23-4

13-0000-2300P2 Notice of Adopted / Amended Proclamations for Calendar Year 2023, Bulletin Vol. 23-3

13-0000-2300P1 Notice of Adoption of Proclamation for Calendar Year 2023, Bulletin Vol. 23-1

13.01.06, Rules Governing Classification and Protection of Wildlife

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13.01.08, Rules Governing Taking of Big Game Animals

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16-0103-2301 Notice of Intent to Promulgate Rules – Zero-Based Regulation (ZBR) Negotiated Rulemaking, Bulletin Vol. 23-4

16.02.02, Idaho Emergency Medical Services (EMS) Physician Commission

16-0202-2301 Notice of Intent to Promulgate Rules – Zero-Based Regulation (ZBR) Negotiated Rulemaking, Bulletin Vol. 23-5

16.02.06, Quality Assurance for Idaho Clinical Laboratories

16-0206-2301 (Second) Notice of Intent to Promulgate Rules – Zero-Based Regulation (ZBR) Negotiated Rulemaking, Bulletin Vol. 23-4

16-0206-2301 Notice of Intent to Promulgate Rules – Zero-Based Regulation (ZBR) Negotiated Rulemaking, Bulletin Vol. 23-3

16.02.24, Clandestine Drug Laboratory Cleanup

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16.02.25, State Laboratory Fees

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16.03.01, Eligibility for Health Care Assistance for Families and Children

16-0301-2301 Notice of Intent to Promulgate Rules – Zero-Based Regulation (ZBR) Negotiated Rulemaking, Bulletin Vol. 23-4

16.03.02, Skilled Nursing Facilities

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16.03.05, Eligibility for Aid to the Aged, Blind, and Disabled (AABD)

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16.03.09, Medicaid Basic Plan Benefits

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16.03.10, Medicaid Enhanced Plan Benefits

16-0310-2101 Notice of Intent to Promulgate Rules – Negotiated Rulemaking, Bulletin Vol. 21-11

16.03.13, Consumer-Directed Services

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16.03.18, Medicaid Cost-Sharing

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16.03.22, Residential Assisted Living Facilities

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16.04.18, Children’s Agencies and Residential Licensing

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16.05.03, Contested Cases Proceedings and Declaratory Rulings

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16.07.33, Adult Mental Health Services

- 16-0733-2201** OARC Omnibus Notice of Legislative Action – Approval of Pending Rule, Bulletin Vol. 23-6 (eff. 4-6-23)
- 16-0733-2201** Adoption of Pending Rule (ZBR Chapter Rewrite), Bulletin Vol. 22-12 (PLR 2023)
- 16-0733-2201** Notice of Proposed Rulemaking (ZBR Chapter Rewrite), Bulletin Vol. 22-9
- 16-0733-2201** Notice of Intent to Promulgate Rules – Zero-Based Regulation Negotiated Rulemaking, Bulletin Vol. 22-2

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17.10.01, Administrative Rules Under the Crime Victims Compensation Act

- 17-1001-2301** (Second) Notice of Intent to Promulgate Rules – Zero-Based Regulation (ZBR) Negotiated Rulemaking, Bulletin Vol. 23-6
- 17-1001-2301** Notice of Intent to Promulgate Rules – Zero-Based Regulation (ZBR) Negotiated Rulemaking, Bulletin Vol. 23-5

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- 18-ZBRR-2301** *Rules of the Idaho Department of Insurance* – Omnibus Notice of Intent to Promulgate Rules – Zero-Based Regulation (ZBR) Negotiated Rulemaking – Negotiates Title 01, Chapter 02; Title 04, Chapters 04, 08; Title 06, Chapters 01-03; Title 07, Chapters 06, 10; and Title 08, Chapter 01 – Bulletin Vol. 23-6

18.01.02, Schedule of Fees, Licenses, and Miscellaneous Charges

- 18-ZBRR-2301** *Rules of the Idaho Department of Insurance* – Omnibus Notice of Intent to Promulgate Rules – Zero-Based Regulation (ZBR) Negotiated Rulemaking – Negotiates Title 01, Chapter 02 – Bulletin Vol. 23-6

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- 18-ZBRR-2301** *Rules of the Idaho Department of Insurance* – Omnibus Notice of Intent to Promulgate Rules – Zero-Based Regulation (ZBR) Negotiated Rulemaking – Negotiates Title 04, Chapter 04 – Bulletin Vol. 23-6

18.04.08, Individual Disability and Group Supplemental Disability Insurance Minimum Standards Rule

- 18-ZBRR-2301** *Rules of the Idaho Department of Insurance* – Omnibus Notice of Intent to Promulgate Rules – Zero-Based Regulation (ZBR) Negotiated Rulemaking – Negotiates Title 04, Chapter 08 – Bulletin Vol. 23-6

18.06.01, Rules Pertaining to Bail Agents

- 18-ZBRR-2301** *Rules of the Idaho Department of Insurance* – Omnibus Notice of Intent to Promulgate Rules – Zero-Based Regulation (ZBR) Negotiated Rulemaking – Negotiates Title 06, Chapter 01 – Bulletin Vol. 23-6

18.06.02, Producers Handling of Fiduciary Funds

- 18-ZBRR-2301** *Rules of the Idaho Department of Insurance* – Omnibus Notice of Intent to Promulgate Rules – Zero-Based Regulation (ZBR) Negotiated Rulemaking – Negotiates Title 06, Chapter 02 – Bulletin Vol. 23-6

18.06.03, Rules Governing Disclosure Requirements for Insurance Producers When Charging Fees

- 18-ZBRR-2301** *Rules of the Idaho Department of Insurance* – Omnibus Notice of Intent to Promulgate Rules – Zero-Based Regulation (ZBR) Negotiated Rulemaking – Negotiates Title 06, Chapter 03 – Bulletin Vol. 23-6

18.07.06, Rules Governing Life and Health Reinsurance Agreements

- 18-ZBRR-2301** *Rules of the Idaho Department of Insurance* – Omnibus Notice of Intent to Promulgate Rules – Zero-Based Regulation (ZBR) Negotiated Rulemaking – Negotiates Title 07, Chapter 06 – Bulletin Vol. 23-6

18.07.10, Corporate Governance Annual Disclosure

- 18-ZBRR-2301** *Rules of the Idaho Department of Insurance* – Omnibus Notice of Intent to Promulgate Rules – Zero-Based Regulation (ZBR) Negotiated Rulemaking – Negotiates Title 07, Chapter 10 – Bulletin Vol. 23-6

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20.03.01, Rules Governing Dredge and Placer Mining Operations in Idaho

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20.03.03, Rules Governing Administration of the Reclamation Fund

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20.03.05, Riverbed Mineral Leasing in Idaho

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20-0501-2301 Notice of Intent to Promulgate Rules (New Chapter) – Negotiated Rulemaking, Bulletin Vol. 23-6

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21-0104-2301 Notice of Temporary and Proposed Rule, Bulletin Vol. 23-3 (eff. 3-1-23)T

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24-ZBRR-2301 *Rules of the Division of Occupational and Professional Licenses* – (Second) Omnibus Notice of Intent to Promulgate Rules – Zero-Based Regulation (ZBR) Negotiated Rulemaking – Negotiates Title 01, Chapter 01; Title 05, Chapter 01; Title 06, Chapter 01; Title 07, Chapter 01; Title 11, Chapter 01; Title 13, Chapter 01; Title 14, Chapter 01; Title 15, Chapter 01; Title 16, Chapter 01; Title 18, Chapter 01; Title 27, Chapter 01; Title 28, Chapter 01; Title 31, Chapter 01; Title 38, Chapter 01; and Title 39, Chapters 30, 31, 50 – Bulletin Vol. 23-6

24-ZBRR-2301 *Rules of the Division of Occupational and Professional Licenses* – Omnibus Notice of Intent to Promulgate Rules – Zero-Based Regulation (ZBR) Negotiated Rulemaking – Negotiates Title 01, Chapter 01; Title 05, Chapter 01; Title 06, Chapter 01; Title 07, Chapter 01; Title 11, Chapter 01; Title 13, Chapter 01; Title 14, Chapter 01; Title 15, Chapter 01; Title 16, Chapter 01; Title 18, Chapter 01; Title 27, Chapter 01; Title 28, Chapter 01; Title 31, Chapter 01; Title 38, Chapter 01; and Title 39, Chapters 30, 31, 50 – Bulletin Vol. 23-4

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24-ZBRR-2301 *Rules of the Division of Occupational and Professional Licenses* – (Second) Omnibus Notice of Intent to Promulgate Rules – Zero-Based Regulation (ZBR) Negotiated Rulemaking – Negotiates Title 01, Chapter 01 – Bulletin Vol. 23-6

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24-ZBRR-2301 *Rules of the Division of Occupational and Professional Licenses* – Omnibus Notice of Intent to Promulgate Rules – Zero-Based Regulation (ZBR) Negotiated Rulemaking – Negotiates Title 01, Chapter 07 – Bulletin Vol. 23-4

24.11.01, Rules of the State Board of Podiatry

24-ZBRR-2301 *Rules of the Division of Occupational and Professional Licenses* – (Second) Omnibus Notice of Intent to Promulgate Rules – Zero-Based Regulation (ZBR) Negotiated Rulemaking – Negotiates Title 11, Chapter 01 – Bulletin Vol. 23-6

24-ZBRR-2301 *Rules of the Division of Occupational and Professional Licenses* – Omnibus Notice of Intent to Promulgate Rules – Zero-Based Regulation (ZBR) Negotiated Rulemaking – Negotiates Title 11, Chapter 01 – Bulletin Vol. 23-4

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24-ZBRR-2301 *Rules of the Division of Occupational and Professional Licenses* – Omnibus Notice of Intent to Promulgate Rules – Zero-Based Regulation (ZBR) Negotiated Rulemaking – Negotiates Title 13, Chapter 01 – Bulletin Vol. 23-4

24.14.01, Rules of the State Board of Social Work Examiners

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