

IDAPA 16 – IDAHO DEPARTMENT OF HEALTH AND WELFARE

Division of Behavioral Health

16.07.39 – Designated Examiners and Dispositioners

Who does this rule apply to?

For those seeking appointment as designated examiners or designated dispositioners in Idaho.

What is the purpose of this rule?

This chapter of rules sets forth the qualifications, appointment requirements, appointment process, duration of appointment, revocation of appointment, and requirements for reappointment for designated examiners and designated dispositioners in Idaho. It is their role to determine if an individual is mentally ill and if the individual is either likely to injure himself or others or is gravely disabled due to mental illness.

What is the legal authority for the agency to promulgate this rule?

This rule implements the following statutes passed by the Idaho Legislature:

Public Assistance and Welfare - Department of Health and Welfare:

- [Section 56-1003, Idaho Code](#) – Powers and Duties of the Director
- [Section 56-1004, Idaho Code](#) – Director – Additional Powers and Duties

Juvenile Proceedings - Children's Mental Health Services:

- [Section 16-2403\(4\), Idaho Code](#) – Definitions

State Charitable Institutions - Hospitalization of Mentally Ill:

- [Section 66-317\(5\), Idaho Code](#) – Definitions

Where can I find information on Administrative Appeals?

Administrative appeals and contested cases are governed by the provisions of IDAPA 16.05.03, "Contested Case Proceedings and Declaratory Rulings."

How do I request public records?

Unless exempted, all public records are subject to disclosure by the Department that will comply with Title 74, Chapter 1, Idaho Code, upon requests. Confidential information may be restricted by state or federal law, federal regulation, and IDAPA 16.05.01, "Use and Disclosure of Department Records."

Who do I contact for more information on this rule?

Idaho Department of Health and Welfare

Division of Behavioral Health – Designated Examiners and Dispositioners

P.O. Box 83720, 3rd Floor

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Boise, ID 83702

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Email: DBHPolicy@dhw.idaho.gov

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16.07.39 – DESIGNATED EXAMINERS AND DISPOSITIONERS

000. LEGAL AUTHORITY.

Sections 16-2403 and 66-317, Idaho Code, authorize the Department to promulgate rules appointing designated examiners and designated dispositioners. Sections 56-1003 and 56-1004, Idaho Code, authorize the Director to adopt rules to administer a mental health program. (3-17-22)

001. SCOPE.

These rules set forth the qualifications, appointment requirements, appointment process, duration of appointment, revocation of appointment, and requirements for reappointment for designated examiners and designated dispositioners in Idaho. (3-17-22)

002. INCORPORATION BY REFERENCE.

American Psychiatric Association: Diagnostic and Statistical Manual of Mental Disorders, Fifth Edition, (DSM-5) Washington, DC, American Psychiatric Association, 2013, is hereby incorporated by reference under this chapter of rules. Copies of the manual are available from the American Psychiatric Association, 1000 Wilson Boulevard, Suite 1825, Arlington, VA 22209-3901. A copy of the manual is also available for public review at the Department of Health and Welfare, 450 West State Street, Boise, Idaho, 83702. (3-17-22)

003. -- 008. (RESERVED)

009. CRIMINAL HISTORY AND BACKGROUND CHECK REQUIREMENTS.

Each individual who is seeking appointment as a designated examiner or designated dispositioner, or both, must comply with the provisions in IDAPA 16.05.06, "Criminal History and Background Checks." An individual who is seeking appointment is available to practice as a designated examiner or designated dispositioner on a provisional basis at the discretion of the Department once the individual has completed the following: (3-17-22)

01. Submission Of Criminal History Check Application. An individual has submitted their criminal history and background check application; (3-17-22)

02. Application Review. The completed application has been reviewed by the Regional Behavioral Health Program Manager or the State Hospital Administrative Director of the region where the applicant intends to practice, and no disqualifying crimes or relevant records are disclosed on the application. (3-17-22)

010. DEFINITIONS.

For the purposes of these rules, the following terms apply: (3-17-22)

01. Advanced Practice Registered Nurse. An individual licensed as an Advanced Practice Registered Nurse under Title 54, Chapter 14, Idaho Code. (3-17-22)

02. Clinical Professional Counselor (LCPC). An individual licensed as a Clinical Professional Counselor under Title 54, Chapter 34, Idaho Code. (3-17-22)

03. Clinical Social Worker (LCSW). An individual licensed as a Clinical Social Worker under Title 54, Chapter 32, Idaho Code. (3-17-22)

04. Department. The Idaho Department of Health and Welfare. (3-17-22)

05. Designated Dispositioner. A designated dispositioner is a designated examiner employed under contract with the Department and designated by the Director. (3-17-22)

06. Designated Examination. An evaluation by an appointed mental health professional to determine if an individual is mentally ill and if the individual is either likely to injure themselves or others or is gravely disabled due to mental illness. (3-17-22)

07. Designated Examiner. A designated examiner is a psychiatrist, psychologist, psychiatric nurse, social worker, or such other mental health professional as may be designated under these rules. (3-17-22)

08. Director. The Director of the Idaho Department of Health and Welfare or their designee. (3-17-22)

09. Division. The Department's Division of Behavioral Health. (3-17-22)

10. Marriage and Family Therapist (LMFT). An individual licensed as a Marriage and Family

Therapist under Title 54, Chapter 34, Idaho Code. (3-17-22)

11. Masters of Social Work (LMSW). An individual licensed as a Masters of Social Work under Title 54, Chapter 32, Idaho Code. (3-17-22)

12. Physician. An individual licensed as a Physician to practice medicine under Title 54, Chapter 18, Idaho Code. (3-17-22)

13. Physician Assistant. An individual licensed as a Physician Assistant under Title 54, Chapter 18, Idaho Code. (3-17-22)

14. Professional Counselor (LPC). An individual licensed as a Professional Counselor under Title 54, Chapter 34, Idaho Code. (3-17-22)

15. Psychologist. An individual licensed to practice psychology in Idaho under Title 54, Chapter 23, Idaho Code. (3-17-22)

011. -- 199. (RESERVED)

200. MINIMUM QUALIFICATIONS AND REQUIREMENTS FOR APPOINTMENT AS A DESIGNATED EXAMINER.

To be appointed and practice as a designated examiner in Idaho, an applicant must meet the following minimum qualifications and requirements: (3-17-22)

01. Required License. Each applicant maintains their professional licensure for the duration of their appointment and be one (1) of the following: (3-17-22)

- a. Physician; (3-17-22)
- b. Psychologist; (3-17-22)
- c. Advanced Practice Registered Nurse; (3-17-22)
- d. Clinical Professional Counselor; (3-17-22)
- e. Professional Counselor; (3-17-22)
- f. Clinical Social Worker; (3-17-22)
- g. Masters Social Worker; (3-17-22)
- h. Marriage and Family Therapist. (3-17-22)
- i. Physician Assistant. (3-17-22)

02. Required Experience and Abilities. Each applicant meets the minimum requirements and qualifications listed below: (3-17-22)

- a. At least two (2) years of post-master's degree experience in a clinical mental health setting which includes: (3-17-22)
 - i. Assessment of the likelihood of danger to self or others, grave disability, capacity to give informed consent, and capacity to understand legal proceedings; (3-17-22)
 - ii. Use of DSM-5 diagnostic criteria; (3-17-22)
 - iii. Treatment of mental health disorders including knowledge of treatment modalities and experience

applying treatment modalities in a clinical setting; and (3-17-22)

iv. An understanding of the differences between behavior due to mental illness which poses a substantial likelihood of serious harm to self or others or which may result in grave disability from behavior which does not represent such a threat or risk. (3-17-22)

b. Knowledge of and experience applying Idaho mental health law based on the required training outlined under Subsection 200.03 of this rule including: (3-17-22)

i. Experience that demonstrates understanding of the judicial process, including the conduct of commitment hearings. (3-17-22)

ii. Experience preparing reports for the court and testifying before a court of law. Experience includes demonstrating an ability to provide the court with a thorough and complete oral and written evaluation that addresses the standards and questions set forth in the law; and (3-17-22)

iii. Knowledge of a client's legal rights. (3-17-22)

03. Required Training. Completion of: (3-17-22)

a. A minimum of six (6) hours of training, provided by a Department-approved trainer, on the role of designated examiners and the processes used in fulfilling the responsibilities of designated examiners. (3-17-22)

b. A minimum of four (4) additional hours observing a designated examiner conducting a designated examination. (3-17-22)

201. -- 299. (RESERVED)

300. MINIMUM QUALIFICATIONS AND REQUIREMENTS FOR APPOINTMENT AS A DESIGNATED DISPOSITIONER.

To be appointed as a designated dispositioner in Idaho, an applicant must meet the following minimum qualifications and requirements. (3-17-22)

01. Appointment as a Designated Examiner. Applicants for designated dispositioner are also appointed as a designated examiner by the Director. (3-17-22)

02. Required Experience and Abilities. Each applicant has received training on the available treatment alternatives, types of treatment available for appropriate placement, and level of care requirements all within Idaho. (3-17-22)

301. -- 399. (RESERVED)

400. APPOINTMENT OR REAPPOINTMENT AS A DESIGNATED EXAMINER OR DESIGNATED DISPOSITIONER.

Each applicant seeking an appointment or reappointment as a designated examiner or designated dispositioner, must submit the following information to the Regional Behavioral Health Program Manager of the region where they intend to practice or the State Hospital Administrative Director of the hospital at which they intend to practice. (3-17-22)

01. Complete an Application. Each applicant completes and signs an application using forms approved by the Department. (3-17-22)

02. Provide Verification of Credentials. Each applicant provides the Department with the following: (3-17-22)

a. A current resume that documents: (3-17-22)

- i. The applicant's degree, the date the degree was awarded, and the school from which the degree was received; and (3-17-22)
 - ii. How the applicant meets the requirements under Subsection 200.02 of these rules. (3-17-22)
 - b. A copy of the applicant's license. If the applicant is an LMSW, they must also provide a copy of the supervision plan approved by the Board of Social Work Examiners; (3-17-22)
 - c. Evidence of completion of the required ten (10) hours of training within sixty (60) days prior to the date of application under Subsection 200.03 of these rules showing the date(s), place(s), number of hours of training, and the qualifications of the person(s) providing the training; (3-17-22)
 - d. Documentation of a criminal history and background check clearance completed within ninety (90) days of the date of the application. Department employees who have had continuous employment with the Department may use a previous background check clearance received through their employment with the Department. (3-17-22)
- 03. Regional or Hospital Recommendation.** (3-17-22)
- a. To be eligible for consideration and appointment or reappointment as a designated examiner or designated dispositioner, each applicant must receive a favorable recommendation from a Regional Behavioral Health Program Manager or State Hospital Administrative Director. (3-17-22)
 - b. Within thirty (30) days of the receipt of a completed and signed application, the Regional Behavioral Health Program Manager or the State Hospital Administrative Director of the region where they intend to practice will review the applicant's qualifications and, if satisfied, sign the application and forward it to the Division along with all the information provided by the applicant as required under Subsection 400.02 of this rule. (3-17-22)
 - c. Each Regional Program Manager and State Hospital Administrative Director agrees to honor recommendations for appointments made by another Regional Behavioral Health Program Manager or State Hospital Administrative Director. (3-17-22)
- 04. Final Decision on Appointment.** (3-17-22)
- a. Upon receiving a favorable recommendation under Subsection 400.03 of these rules, the Division will review each application for completeness and compliance with these rules. (3-17-22)
 - b. Upon completion of this review, the Division will make recommendations to the Director regarding appointments as designated examiner or designated dispositioner. (3-17-22)
 - c. The Director has the authority to appoint applicants for designated examiner or designated dispositioner who meet the requirements under these rules. (3-17-22)
 - d. The Division will notify each applicant in writing of the Department's decision within sixty (60) days of the date the application was received by the Division. (3-17-22)
- 05. Appointment.** An appointed designated examiner or designated dispositioner may practice in any region of the state or at any state hospital at the discretion of the Regional Program Manager or State Hospital Administrative Director. (3-17-22)
- 06. Reappointment.** (3-17-22)
- a. The request for reappointment must be received by the Division at least sixty (60) days prior to the expiration date of the previous appointment of the designated examiner or designated dispositioner. (3-17-22)
 - b. If a designated examiner or designated dispositioner allows their appointment to expire, the applicant must follow appointment requirements under Section 400 of this rule. Department employees who have had

continuous employment with the Department may have the reapplication process waived. (3-17-22)

401. -- 499. (RESERVED)

500. DURATION OF APPOINTMENT AS DESIGNATED EXAMINER OR DESIGNATED DISPOSITIONER.

01. Appointment. Appointment expires one (1) year from the date of appointment, unless the designated examiner or designated dispositioner applies for, and is granted, a reappointment. (3-17-22)

02. Reappointment. Reappointment expires two (2) years from the date of such appointment. (3-17-22)

03. Expiration of Appointment Upon Leaving Department Employment. When an individual serving as a designated dispositioner leaves the employ of the Department, their designation of dispositioner is suspended, until such time that the appointment expires, or the individual is under contract with the Department as a designated dispositioner. (3-17-22)

501. -- 699. (RESERVED)

700. REVOCATION OF APPOINTMENT AS DESIGNATED EXAMINER OR DESIGNATED DISPOSITIONER.

The Department may deny, suspend, or revoke the appointment or reappointment of designated examiners and designated dispositioners, or both, under the following procedures: (3-17-22)

01. Emergency Denial, Suspension, Revocation of Appointment or Reappointment. The Department will deny, suspend, or revoke appointment or reappointment, without prior notice, when conditions exist that endanger the health or safety of any client. (3-17-22)

02. Written Request for Denial, Suspension, or Revocation of Appointment or Reappointment. In the absence of an emergency, a written request from the Regional Behavioral Health Program Manager or State Hospital Administrative Director will be made to the Division stating the reason(s) for the requested denial, suspension, or revocation of an appointment or reappointment. (3-17-22)

03. Grounds for Revocation of Appointment or Reappointment. The Department may deny, suspend, or revoke an appointment or reappointment for any of the following reasons: (3-17-22)

a. Failure to comply with these rules. (3-17-22)

b. Failure to furnish data, information, or records as requested by the Department. (3-17-22)

c. Revocation or suspension of the applicant's professional license. (3-17-22)

d. Refusal to participate in a quality assurance process as requested by the Department. (3-17-22)

e. Inadequate knowledge or performance as demonstrated by repeated substandard peer or quality assurance reviews. (3-17-22)

f. Misrepresentation by the applicant in their application, or in documents required by the Department, or by an appointee in which there is a criminal, civil, or administrative determination that they have misrepresented the facts or the law to the court or administrative agency. (3-17-22)

g. Conflict of interest in which an appointee exploits their position as a designated examiner or designated dispositioner for personal benefit. (3-17-22)

h. A criminal, civil, or administrative determination that an appointee has committed fraud or gross negligence in their capacity as a designated examiner or designated dispositioner. (3-17-22)

- i. Substantiated disposition of a child protection referral or adult protection referral. (3-17-22)
- j. Failure to correct within thirty (30) days of written notice, any unacceptable conduct, practice, or condition as determined by the Department to be detrimental to public health or safety. (3-17-22)

04. Appeal of Department Decision. Applicants may appeal a Department decision to deny, suspend, or revoke an appointment under IDAPA 16.05.03, “Contested Case Proceedings and Declaratory Rulings.” (3-17-22)

05. Reapplication for Appointment. Following denial, suspension, or revocation of appointment or reappointment, the same appointee may not reapply for appointment for a period of one (1) year after the effective date of the action. (3-17-22)

701. -- 999. (RESERVED)