

PENDING FEE RULES

COMMITTEE RULES

REVIEW BOOK

Submitted for Review Before
House Health & Welfare Committee
63rd Idaho Legislature
Second Regular Session



Prepared by:

*Office of the Administrative Rules Coordinator
Department of Administration*

January 2016

HOUSE HEALTH & WELFARE COMMITTEE

ADMINISTRATIVE RULES REVIEW

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IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE

16.02.01 - RULES OF THE IDAHO TIME SENSITIVE EMERGENCY SYSTEM COUNCIL

DOCKET NO. 16-0201-1401 (NEW CHAPTER)

NOTICE OF RULEMAKING - ADOPTION OF PENDING FEE RULE

EFFECTIVE DATE: The effective date of the amendment to the temporary rule is January 1, 2016. This pending fee rule has been adopted by the agency and is now pending review by the 2016 Idaho State Legislature for final approval. Pursuant to Section 67-5224(5)(c), Idaho Code, this pending fee rule will not become final and effective until it has been approved by concurrent resolution of the legislature because of the fee being imposed or increased through this rulemaking. The pending fee rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution unless the rule is rejected.

AUTHORITY: In compliance with Sections 67-5224 and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a pending fee rule and amended a temporary rule. The action is authorized pursuant to Sections 56-1024 through 56-1030, Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending fee rule with an amendment to the temporary rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change:

The text of the pending rule has been amended in accordance with Section 67-5227, Idaho Code. The TSE Council has adopted a new edition of the "Time Sensitive Emergency System Standards Manual," Edition 2016-1, that is incorporated by reference. Rather than keep the temporary rule in place while the pending rule awaits legislative approval, the TSE Council amended the temporary rule with the same revisions which have been made to the pending rule. Only sections that have changes that differ from the proposed text are printed in this bulletin. The original text of the proposed rule was published in the July 1, 2015, Idaho Administrative Bulletin, [Vol. 15-7, pages 40 through 54](#).

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. This fee or charge is being imposed pursuant to Section 56-1007, Idaho Code. The following is a specific description of the fee or charge imposed or increased:

Fees are charged on a voluntary basis for hospitals that choose to become designated as trauma, stroke, or heart attack centers. Fees are charged on a 3-year cycle per designation level and type of center and payable on an annual basis. Fees may also be charged for on-site surveys that are required for certain designation levels.

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 as a result of this rulemaking:

The fiscal impact to the state general fund as appropriated by the Legislature for SFY 2015 is \$225,800.

INCORPORATION BY REFERENCE: Pursuant to Section 67-5229(2)(a), Idaho Code, a document is incorporated by reference into these rules to give it the force and effect of law. The document is not being reprinted in this chapter of rules due to its length, format, and the cost for republication. The document incorporated by reference is the "Time Sensitive Emergency System Standards Manual," Edition 2016-1 with an effective date of January 1, 2016.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning the pending fee rule and amendment to the temporary rule, contact Christian Surjan at (208) 334-6564.

DATED this 30th day of October, 2015.

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**THE FOLLOWING NOTICE WAS PUBLISHED WITH
THE TEMPORARY AND PROPOSED RULE**

EFFECTIVE DATE: The effective date of the amendments to the temporary rule is July 1, 2015.

AUTHORITY: In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has amended a temporary rule, and proposed rulemaking procedures have been initiated. The action is authorized pursuant to Sections 56-1024 through 56-1030, 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 15, 2015.

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 amending a temporary rule and a nontechnical explanation of the substance and purpose of the proposed rulemaking:

The 2014 Legislature authorized the Idaho Time Sensitive Emergency (TSE) System of Care, a TSE Council, and Regional TSE Committees. Temporary rules were adopted to set standards, regions, regional committees, fees, and other requirements for the time sensitive emergencies related to trauma. The current temporary rules are being published as proposed with amendments being made to the temporary rule. Negotiations have been ongoing to determine the criteria and standards for designation related to Stroke and Heart Attack Centers based on nationally accepted practices. The proposed new chapter of rule includes:

1. Regions based on community input, the TSE Council, and regional TSE committees;
2. Standards and requirements for a statewide emergency system for trauma, stroke, and heart attack designations that have been negotiated based on nationally accepted practices;
3. Criteria of designation levels, fees, application processes, on-site survey and inspections, waiver policy, enforcement remedies for probation, suspension, revocation, and appeals of Department actions;
4. Required sections to meet the requirements of the APA and the rules of the Office of the Administrative Rules Coordinator; and
5. Amendments to the temporary rules based on legislative intent.

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

This new chapter of rules for the TSE Council was adopted as a temporary rule with an effective date of January 1, 2015, to protect the public health, safety, or welfare. Statutes establishing the Idaho Time Sensitive Emergency System were effective on July 1, 2014. The Governor has found that the fees being charged in this rule are necessary to avoid immediate danger and are justified as a temporary rule.

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:

Fees are being charged on a voluntary basis for hospitals that choose to become designated as trauma, stroke, or heart attack centers. Fees are being charged on a 3-year cycle per designation level and type of center that is payable on an annual basis. Fees may also be charged for on-site surveys that are required for certain designation levels.

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

The fiscal impact to the state general fund as appropriated by the Legislature for SFY 2015 is \$225,800.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(1), Idaho Code, negotiated rulemaking was conducted as provided in the September 3, 2014, [Idaho Administrative Bulletin, Vol. 14-9, page 187](#).

INCORPORATION BY REFERENCE: Pursuant to Section 67-5229(2)(a), Idaho Code, a document is being incorporated by reference into these rules to give it the force and effect of law. The document is not being reprinted in this chapter of rules due to its length, format, and the cost for republication. The document being incorporated by reference is the Time Sensitive Emergency System Standards Manual, Edition 2015-2.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary and proposed rule, contact Christian Surjan at (208) 334-6564.

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 22, 2015.

DATED this 5th Day of June, 2015.

LSO Rules Analysis Memo

Italicized red text is new text that has been added to the pending fee rule.

THE FOLLOWING IS THE TEXT OF FEE DOCKET NO. 16-0201-1401

IDAPA 16
TITLE 02
CHAPTER 01

16.02.01 - RULES OF THE IDAHO TIME SENSITIVE EMERGENCY SYSTEM COUNCIL

000. LEGAL AUTHORITY.

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

Department is authorized to charge and collect fees established by rule under Section 56-1007, Idaho Code, and to establish and collect data for a Time Sensitive Emergency (TSE) Registry under Section 57-2003, Idaho Code. ()

001. TITLE, SCOPE, AND INTENT.

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

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

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

002. WRITTEN INTERPRETATIONS.

In accordance with Section 67-5201(19)(b)(iv), Idaho Code, the Department may have written statements that pertain to the interpretation of this chapter, or to the documentation of compliance with these rules. ()

003. ADMINISTRATIVE APPEALS.

Administrative appeals and contested cases are governed by the provisions of IDAPA 16.05.03, “Rules Governing Contested Case Proceedings and Declaratory Rulings.” ()

004. INCORPORATION BY REFERENCE.

The Time Sensitive Emergency System Standards Manual, Edition *2016-1*, is incorporated by reference in this chapter of rules. Copies of the manual may be obtained online at www.tse.idaho.gov or from the Bureau of Emergency Medical Services and Preparedness located at 2224 East Old Penitentiary Road, Boise, ID 83712-8249. ()

005. OFFICE -- OFFICE HOURS -- MAILING ADDRESS -- STREET ADDRESS -- TELEPHONE NUMBER -- INTERNET WEBSITE.

01. Office Hours. Office hours are 8 a.m. to 5 p.m., Mountain Time, Monday through Friday, except holidays designated by the State of Idaho. ()

02. Mailing Address. ()

a. Idaho Department of Health and Welfare, P.O. Box 83720, Boise, Idaho 83720-0036. ()

b. Idaho Time Sensitive Emergency System Council, 2224 E. Old Penitentiary Road, Boise, Idaho 83712-8249. ()

03. Street Address. ()

a. The Idaho Department of Health and Welfare is located at 450 West State Street, Boise, Idaho 83702. ()

b. The Bureau of Emergency Medical Services and Preparedness is located at 2224 E. Old Penitentiary Road, Boise, Idaho 83712. ()

04. Telephone. ()

- a. The Idaho Department of Health and Welfare number is (208) 334-5500. ()
- b. The Bureau of Emergency Medical Services and Preparedness number is (208) 334-4000. The toll-free phone number is 1 (877) 554-3367. ()
- 05. Internet Websites.** ()
 - a. The Department internet website is found at <http://www.healthandwelfare.idaho.gov>. ()
 - b. The Time Sensitive Emergency System Council internet website is found at <http://www.tse.idaho.gov>. ()
 - c. The Bureau of Emergency Medical Services and Preparedness internet website is found at <http://www.idahoems.org>. ()

006. CONFIDENTIALITY OF RECORDS AND PUBLIC RECORDS ACT COMPLIANCE AND REQUESTS.

01. Confidentiality of Records. Any disclosure of confidential information used or disclosed in the course of the TSE Council’s business is subject to the restrictions in state or federal law, and must comply with IDAPA 16.05.01, “Use and Disclosure of Department Records.” ()

02. Public Records Act. The Department will comply with Title 74 Chapter 1, Idaho Code, when requests for the examination and copying of public records are made. Unless otherwise exempted, all public records in the custody of the Department are subject to disclosure. ()

03. Public Availability of Preliminary Investigations, Site Reviews, and Survey Reports. Preliminary investigations and related documents are confidential until a notice of action is issued for survey reports and findings of complaint investigations relating to a designated center. Documents that are available for public review may be found at <http://www.tse.idaho.gov>. ()

007. -- 009. (RESERVED)

010. DEFINITIONS.

For the purposes of this chapter, the following terms and definitions apply. ()

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

02. Department. The Idaho Department of Health and Welfare. ()

03. Director. The Director of the Idaho Department of Health and Welfare or his designee. ()

04. Division. The Division of Public Health, Idaho Department of Health and Welfare. ()

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

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

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

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

- b.** Freestanding emergency department: ()

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

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

14. Time Sensitive Emergency (TSE). Time sensitive emergencies specifically for this chapter of rules are trauma, stroke, and heart attack. ()

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

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

a. Level I Trauma Center; ()

b. Level II Trauma Center; ()

c. Level III Trauma Center; ()

d. Level IV Trauma Center; ()

e. Level V Trauma Center; ()

f. Pediatric Level I Trauma Center; ()

g. Pediatric Level II Trauma Center; ()

h. Level I Stroke Center (Comprehensive); ()

i. Level II Stroke Center (Primary); ()

j. Level III Stroke Center (Acute Stroke Ready); ()

k. Level I STEMI Center (Heart Attack Receiving); or ()

l. Level II STEMI Center (Heart Attack Referring). ()

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

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

011. -- 074. (RESERVED)

075. TSE COUNCIL.

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

076. TSE COUNCIL -- RESPONSIBILITIES AND DUTIES.

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

077. -- 079. (RESERVED)

080. TSE REGIONS.

Under Section 56-1028, Idaho Code, the TSE Council is required to establish TSE regions that provide more effective access to the Idaho TSE system through education, but not for the purpose of promoting competition, restricting, or

directing patient referrals within the region. The TSE Council has established six (6) regions in Idaho described in the Time Sensitive Emergency System Standards Manual incorporated under Section 004 of these rules. ()

081. TSE REGIONS -- REALIGNMENT OF REGION.

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

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

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

02. Copies of Request for Realignment. The entity requesting the TSE Council for realignment must provide copies of the correspondence to all affected regional TSE committees, county and local governments, licensed health care facilities, and EMS agencies in the requesting entity's county. ()

03. TSE Decision for Realignment. The TSE Council will evaluate the request based on the impact to patient care and will notify all parties of the council's decision. ()

082. REGIONAL TSE COMMITTEES -- ORGANIZATION AND RESPONSIBILITIES.

The regional TSE committees' organization and responsibilities are described under Section 56-1030, Idaho Code. ()

083. -- 099. (RESERVED)

100. DESIGNATION OF TSE CENTERS -- CRITERIA.

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

101. -- 104. (RESERVED)

105. TRAUMA DESIGNATION CENTERS.

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

106. -- 109. (RESERVED)

110. STROKE DESIGNATION CENTERS.

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

111. -- 114. (RESERVED)

115. STEMI (HEART ATTACK) DESIGNATION CENTERS.

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

116. -- 119. (RESERVED)

120. DESIGNATION OF CENTERS -- GENERAL REQUIREMENTS.

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

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

121. -- 189. (RESERVED)

190. TSE DESIGNATION -- LENGTH OF DESIGNATION.

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

191. RENEWAL OF TSE DESIGNATION.

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

192. -- 194. (RESERVED)

195. NOTIFICATION OF LOSS OF CERTIFICATION OR LICENSURE.

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

196. -- 199. (RESERVED)

200. DESIGNATION AND TSE ON-SITE SURVEY FEES.

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

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

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

TRAUMA DESIGNATIONS 200.03	DESIGNATION FEE 3-year / Annual (Not to exceed)	TSE ON-SITE SURVEY FEE (Not to exceed)
LEVEL I	\$45,000 / \$15,000	\$3,000 / Not applicable with ACS verification
LEVEL II	\$36,000 / \$12,000	\$3,000 / Not applicable with ACS verification
LEVEL III	\$24,000 / \$8,000	\$3,000 / Not applicable with ACS verification
LEVEL IV	\$12,000 / \$4,000	\$1,500 / Not applicable with ACS verification
LEVEL V	\$3,000 / \$1,000	\$1,500
PEDIATRIC LEVEL I and LEVEL II	\$36,000 / \$12,000	\$3000 / Not applicable with ACS verification

()

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

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

()

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

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

()

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

designation and confirmation of the designation period. Annual designation fees for those facilities paying yearly are due to the Department within thirty (30) days of the date of the invoice in order to maintain designation. ()

201. -- 249. (RESERVED)

250. TSE ON-SITE SURVEY.

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

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

The TSE on-site survey will consist of and consider each facility's application and compliance with the standards published for state designation and incorporated under Section 004 of these rules for the specific type of designation being requested. The general requirements in Subsections 251.01 through 251.06 of this rule apply: ()

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

a. A physician surveyor must: ()

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

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

iii. Be currently active in trauma, stroke, or emergency cardiac care at a center that is at or above the level being reviewed; ()

iv. Have no conflict of interest with the facility under review; ()

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

vi. Be from outside the region of the center being verified. ()

b. A nurse surveyor or program manager must: ()

i. Be currently active in trauma, stroke, or emergency cardiac care at a center that is at or above the level being reviewed; and ()

ii. Have no conflict of interest with the facility under review; ()

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

iv. Be from outside the region of the center being verified. ()

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

03. Survey Team Member Notification of Potential Conflict of Interest. Upon being assigned to an on-site survey team, a potential team member must notify the TSE Council of any potential conflict of interest regarding any financial, professional, or personal bias that may affect the survey of the applicant's facility. ()

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

the scheduled survey. ()

05. Facility Notification to TSE Council of Potential Conflict of Interest. If the applicant believes that a potential surveyor has a financial, professional, or personal bias that may affect the survey, the applicant must notify the TSE Council in writing no later than seven (7) calendar days after the applicant receives the TSE Council's notification of the proposed survey team. ()

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

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

The TSE Council will select an on-site survey team based on the applicant's designation application and specifications provided in these rules and the standards published in the Time Sensitive Emergency System Standards Manual incorporated under Section 004 of these rules. ()

253. ON-SITE SURVEY -- ADDITIONAL SURVEYS.

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

254. -- 259. (RESERVED)

260. DESIGNATION DECISION.

01. Summary Report. The survey team will present a verbal summary of the survey results to the applicant. The survey team will submit in writing to the TSE Council its recommendation on the center's designation at the completion of the site survey. ()

02. Written Report. The TSE Council will consider all evidence and notify the applicant in writing of its decision within thirty (30) calendar days of receiving the survey team's recommendation. ()

03. Final Determination. The TSE Council's final determination regarding each application will be based upon consideration of: ()

a. The application; ()

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

c. The best interests of patients; and ()

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

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

a. Resolve the deficiencies within the time period specified by the TSE Council; ()

b. Submit documentation that the deficiency has been resolved; and ()

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

05. Denial. If the TSE Council denies an applicant a designation, the provisions of IDAPA 16.05.03, "Rules Governing Contested Case Proceedings and Declaratory Rulings," will apply. ()

261. -- 269. (RESERVED)

270. WAIVERS.

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

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

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

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

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

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

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

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

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

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

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

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

- a. That continuation of the waiver jeopardizes the health, safety, or welfare of the patients; ()

- b. The applicant has provided false or misleading information in the waiver application; ()
- c. The applicant has failed to comply with conditions of the waiver; or ()
- d. That a change in federal or state law prohibits continuation of the waiver. ()

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

271. -- 279. (RESERVED)

280. DENIAL AND MODIFICATION.

01. Denial. The TSE Council may deny an initial or renewal application for a center's designation when a center: ()

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

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

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

281. -- 284. (RESERVED)

285. REVOCATION AND SUSPENSION.

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

- a. Fails or refuses to comply with the provisions of these rules; ()
- b. Makes a false statement of material fact about the center's capabilities or other pertinent circumstances in any record or matter under investigation for any purposes connected with these rules; ()
- c. Prevents, interferes with, or attempts to impede in any way, the work of a representative of the TSE Council in implementing or enforcing these rules; ()
- d. Falsely advertises, or in any way misrepresents the facility's ability to care for patients based on its designation status; ()

- e. Is substantially out of compliance with these rules and has not rectified such noncompliance; ()
- f. Fails to provide reports required by the TSE registry or the Department in a timely and complete fashion; or ()
- g. Fails to comply with or complete a plan of correction in the time or manner specified. ()

02. Suspension. The TSE Council may suspend a center’s designation or waiver when it finds, after investigation, that the center has engaged in a deliberate and willful violation of these rules, or that the public’s health, safety, or welfare is endangered. ()

03. Notification and Appeal. When the TSE Council revokes or suspends a center’s designation or waiver, it must provide the center with a written notification of the action and the basis for the action. The notice will inform the center of the right to appeal and the procedure to appeal the action under the provisions in IDAPA 16.05.03, “Rules Governing Contested Case Proceedings and Declaratory Rulings.” ()

286. -- 289. (RESERVED)

290. DESIGNATION AT A LESSER LEVEL.

01. Inability to Meet Criteria. The TSE Council may opt to redesignate a center at a lesser level due to the center’s inability to meet current designation criteria, without regard to any waiver previously granted. ()

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

291. -- 999. (RESERVED)

IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE

16.03.19 - RULES GOVERNING CERTIFIED FAMILY HOMES

DOCKET NO. 16-0319-1502

NOTICE OF RULEMAKING - ADOPTION OF PENDING FEE RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2016 Idaho State Legislature for final approval. Pursuant to Section 67-5224(5)(c), Idaho Code, this pending rule will not be final and effective until it has been approved by concurrent resolution of the legislature because of the fee being imposed or increased through this rulemaking. Pursuant to Section 67-5224(5)(b), Idaho Code, as provided herein the pending fee rule becomes final and effective on July 1, 2016.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending fee rule. The action is authorized pursuant to Sections 39-3505, and 56-1005, Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending fee rule and a statement of any change between the text of the proposed rule and the text of the pending fee rule with an explanation of the reasons for the change:

The CFH program is a self-sustaining licensing and certification program. These rules were adopted to update and increase fees to cover the cost of administering the certified family homes program. The updates include:

1. The one-time application fee to become a CFH provider is being increased by \$25;
2. The monthly certification fee for the CFH providers is being increased by \$5 per month; and
3. A "Basic Medication Awareness" training course provided by the Department is being added for \$60.

Changes are being made to the pending fee rule to move the Basic Medication Awareness Course Fee into a three numbered section on its own in Section 403. The complete text of the proposed rule was published in the September 2, 2015, Idaho Administrative Bulletin, [Vol. 15-9, pages 138 and 139](#).

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased. This fee or charge is being imposed pursuant to Sections 56-264 and 56-1007, Idaho Code.

Fee increases are being made in this rulemaking in order to maintain this self-sustaining program for Certified Family Homes. The one-time application fee is being increased to \$175, the monthly certification fee is being increased to \$30, and a medication assistance training provided by the Department is being added for \$60.

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 as a result of this rulemaking:

The CFH program is meant to be a self-sustaining program. The increase to the fees is to cover costs of certification for CFH providers. The annual certification cost is increasing from \$300 to \$360 per year for an approximate total of \$828,000 for SFY 2017. New CFH applications which include a site survey inspection fee is increased to \$175 per application for an approximate total of \$39,900. Medication Awareness training is being offered for \$60 per new CFH providers for an approximate total of \$13,680.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending fee rule, contact Karen Vasterling at (208) 239-6263.

DATED this 25th Day of November, 2015.

Tamara Prisock
DHW - Administrative Rules Unit
450 W. State Street - 10th Floor
P.O. Box 83720
Boise, ID 83720-0036
Phone: (208) 334-5500 / Fax: (208) 334-6558
E-mail: dhwrules@dhw.idaho.gov

THE FOLLOWING NOTICE WAS PUBLISHED WITH THE 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 39-3505, and 56-1005, 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 September 16, 2015.

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

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

The CFH program is a self-sustaining licensing and certification program. These rules are being amended to update and increase fees to cover the cost of administering the certified family homes program. The updates include:

- 4) The one-time application fee to become a CFH provider is being increased by \$25;
- 5) The monthly certification fee for the CFH providers is being increased by \$5 per month; and
- 6) A “Basic Medication Awareness” training course provided by the Department is being added for \$60.

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

Fee increases are being made in this rulemaking in order to maintain this self-sustaining program for Certified Family Homes. The one-time application fee is being increased to \$175, the monthly certification fee is being increased to \$30, and a medication assistance training provided by the Department is being added for \$60.

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:

The CFH program is meant to be a self-sustaining program. The increases to the fees is to cover costs of certification for CFH providers. The annual certification cost is increasing from \$300 to \$360 per year for an approximate total of \$828,000 for SFY 2017. New CFH applicants which includes site survey inspection fee is increased to \$175 per application for an approximate total of \$39,900. Medication Awareness training is being offered for \$60 per new CFH providers for an approximate total of \$13,680.

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 6, 2015, Idaho Administrative Bulletin, [Volume 15-5, page 59](#).

INCORPORATION BY REFERENCE: No materials are being incorporated by reference into these rules.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Karen Vasterling at (208) 239-6263.

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 September 23, 2015.

DATED this 17th Day of August, 2015.

LSO Rules Analysis Memo

Italicized red text that is double underscored is new text that has been added to the pending fee rule.

THE FOLLOWING IS THE TEXT OF FEE DOCKET NO. 16-0319-1502

109. APPLICATION AND CERTIFICATION FEES FOR CERTIFIED FAMILY HOMES.

01. **Application Fee Amount.** An applicant to become a certified family home provider is required to pay to the Department at the time of application a one-time non-refundable application fee of one hundred ~~fifty~~ seventy-five (~~\$150~~75) dollars. (3-21-12)()

02. **Certification Fees.** A certified family home provider is required to pay to the Department a certification fee of ~~twenty-five~~ thirty (~~\$25~~30) dollars per month. This amount will be billed to the provider quarterly, and is due and payable within thirty (30) days of date of the invoice. Failure of the provider to pay certification fees when due may cause the Department to take enforcement action described in Section 913 of these rules. (3-21-12)()

(BREAK IN CONTINUITY OF SECTIONS)

[Proposed Subsection 109.03 has been moved and renumbered to Section 403]

401. -- ~~499~~02. (RESERVED)

403. BASIC MEDICATION AWARENESS COURSE FEE.

A "Basic Medication Awareness for Certified Family Homes" course is provided by the Department at a cost of sixty dollars (\$60). This course is approved to meet the medication assistance requirement in Sections 100 and 400 of these rules. A certified family home provider may elect to take the Department's course, in place of the "Assistance with Medications" course available through the Idaho Professional Technical Education Program. The fee for the Department's "Basic Medication Awareness for Certified Family Homes" course must be paid at the time the provider or substitute caregiver takes the course. ()

404. -- 499. (RESERVED)

IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE

16.07.15 - BEHAVIORAL HEALTH PROGRAMS

DOCKET NO. 16-0715-1501 (NEW CHAPTER)

NOTICE OF RULEMAKING - ADOPTION OF PENDING FEE RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2016 Idaho State Legislature for final approval. Pursuant to Section 67-5224(5)(c), Idaho Code, this pending rule will not be final and effective until it has been approved by concurrent resolution of the legislature because of the fee being imposed or increased through this rulemaking. Pursuant to Section 67-5224(5)(b), Idaho Code, as provided herein the pending fee rule becomes final and effective on July 1, 2016.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending fee rule. This action is authorized pursuant to Title 39, Chapter 3, and Chapter 31, and Sections 56-1003, 56-1004, 56-1004A, 56-1007, and 56-1009, Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending fee rule and a statement of any change between the text of the proposed rule and the text of the pending fee rule with an explanation of the reasons for the change:

This new chapter of rule is to meet the needs of developing and implementing a behavioral health system of care. The text of the pending rule has been amended in accordance with Section 67-5227, Idaho Code. Only those sections that have changes that differ from the proposed text are printed in this bulletin. The changes were based on comments received for clarification and grammar. The original text of the proposed rule was published in the September 2, 2015, Idaho Administrative Bulletin, **Vol. 15-9, pages 157 through 177**.

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

These rules have a flat fee structure of \$100 per each behavioral health program location. This fee replaces fees that are currently being charged under IDAPA 16.07.20, "Alcohol and Substance Use Disorders Treatment and Recovery Support Services Facilities and Programs," which is being repealed in this same Bulletin under Docket 16-0720-1501.

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 as a result of this rulemaking:

The fiscal impact for this rule change is anticipated to be cost-neutral for state general funds and all other funds. Currently, the Department collects a fee from alcohol and substance use disorders treatment and recovery support facilities that is \$100 per facility for treatment and \$50 per facility for recovery support services. The new fee structure will be a flat fee of \$100 for each behavioral health program location.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning the pending fee rule, contact Treena Clark at (208) 334-6611.

DATED this 25th Day of November, 2015.

Tamara Prisock
DHW - Administrative Rules Unit
450 W. State Street - 10th Floor
P.O. Box 83720
Boise, ID 83720-0036
Phone: (208) 334-5500 / Fax: (208) 334-6558
E-mail: dhwrules@dhw.idaho.gov

THE FOLLOWING NOTICE WAS PUBLISHED WITH THE 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 Title 39, Chapter 3, Idaho Code.

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

ORIGINATING LOCATION -- LIVE MEETING
Thursday, September 17, 2015
10:00 a.m. (MDT) / 9:00 a.m. (PDT) and
2:00 p.m. (MDT) / 1:00 p.m. (PDT)

Idaho Department of Health & Welfare -- Central Office
Conf. Room 3A (3rd Floor)
450 West State Street
Boise, ID 83702

VIDEO CONFERENCING

Region I Office – Coeur d’Alene Main Conference Room 2195 Ironwood Court Coeur d’Alene, ID 83814	Region II Office - Lewiston 1st Floor Conference Room 1118 “F” Street Lewiston, ID 83501	Region III Office - Caldwell Owyhee Conference Room (Rm 226) 3402 Franklin Road Caldwell, ID 83605
Region IV Office - Boise Room 131 1720 Westgate Drive, Suite A Boise, ID 83704	Region V Office - Twin Falls Room 116 823 Harrison Twin Falls, ID 83301	Region VI Office - Pocatello Room 225 421 Memorial Drive Pocatello, ID 83201
Region VII Office - Idaho Falls Conference Room 240 150 Shoup Ave. Idaho Falls, ID 83402	State Hospital South - Blackfoot Admin. Bldg., Classroom A09 700 E. Alice Street Blackfoot, ID 83221	State Hospital North Administration Conf. Rm. 234 300 Hospital Drive Orofino, ID 83544

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:

This is a new chapter of rule being written to meet the needs of the Department in developing a behavioral health system of care.

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

These rules have a flat fee structure of \$100 per each behavioral health program location. This fee replaces fees that are currently being charged under IDAPA 16.07.20, “Alcohol and Substance Use Disorders Treatment and Recovery Support Services Facilities and Programs,” which is being repealed in this same Bulletin under Docket 16-0720-1501.

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 as a result of this rulemaking:

The fiscal impact for this rule change is anticipated to be cost-neutral for state general funds and all other funds. Currently, the Department collects a fee from alcohol and substance use disorders treatment and recovery support facilities that is \$100 per facility for treatment and \$50 per facility for recovery support services. The new fee structure will be a flat fee of \$100 for each behavioral health program location.

It is difficult to estimate the number of providers who will choose to voluntarily be approved by the state. It is anticipated that the expected increase in fee receipts for those seeking approval of behavioral health programs will offset any cost increases for the administration of these programs.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was conducted under the current chapter that this new chapter will replace.

INCORPORATION BY REFERENCE: No materials are being incorporated by reference into these rules.

CONTACT INFORMATION, WEB ADDRESS, ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Trenea Clark at (208) 334-6611.

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 September 23, 2015.

DATED this 12th Day of August, 2015.

LSO Rules Analysis Memo

Italicized red text is new text that has been added to the pending rule.

THE FOLLOWING IS THE TEXT OF FEE DOCKET NO. 16-0715-1501

IDAPA 16
TITLE 07
CHAPTER 15

16.07.15 - BEHAVIORAL HEALTH PROGRAMS

000. LEGAL AUTHORITY.

The Idaho Legislature has delegated to the Department of Health and Welfare, as the State Behavioral Health Authority, the oversight of the state of Idaho's behavioral health services. Under Title 39, Chapter 31, Idaho Code, the Department is authorized to promulgate and enforce rules to carry out the purposes and intent of the Regional Behavioral Health Services Act. Under Sections 56-1003, 56-1004, 56-1004A, 56-1007, and 56-1009 Idaho Code, the Director of the Department is authorized to adopt and enforce rules to supervise and administer a mental health program and services dealing with the problems of alcoholism including the care and rehabilitation of persons suffering from alcoholism. Under Title 39, Chapter 3, Idaho Code, the Board of Health and Welfare is authorized to adopt and enforce rules that set standards for the approval of substance use disorders agencies in the state of Idaho.

()

001. TITLE, SCOPE, AND PURPOSE.

- 01. Title.** The title of these rules is IDAPA 16.07.15, “Behavioral Health Programs.” ()
- 02. Scope.** These rules set minimum standards for approved behavioral health programs in Idaho. ()
- 03. Purpose.** The purpose of these rules is to: ()
- a.** Establish requirements for the approval, denial, suspension, or revocation of certificates of approval for approved behavioral health programs in Idaho; ()
- b.** Set fees for the Department’s approval process of applications and on-site reviews for behavioral health programs in Idaho; and ()
- c.** Establish requirements for the health, safety, and environment of care for behavioral health programs in Idaho. ()

002. WRITTEN INTERPRETATIONS.

In accordance with Section 67-5201(19)(b)(iv), Idaho Code, this agency may have written statements that pertain to the interpretations of these rules, or to the documentation of compliance with these rules. These documents are available for public inspection as described in Sections 005 and 006 of these rules. ()

003. ADMINISTRATIVE APPEALS.

Administrative appeals are governed by provisions of IDAPA 16.05.03, “Rules Governing Contested Case Proceedings and Declaratory Rulings.” ()

004. INCORPORATION BY REFERENCE.

No documents are incorporated by reference as provided by Section 67-5229(a), Idaho Code. ()

005. OFFICE -- OFFICE HOURS -- MAILING ADDRESS -- STREET ADDRESS -- TELEPHONE -- INTERNET WEBSITE.

- 01. Office Hours.** Office hours are 8 a.m. to 5 p.m., Mountain Time, Monday through Friday, except holidays designated by the state of Idaho. ()
- 02. Mailing Address.** The mailing address for the business office is Idaho Department of Health and Welfare, P.O. Box 83720, Boise, Idaho 83720-0036. ()
- 03. Street Address.** The business office of the Idaho Department of Health and Welfare is located at 450 West State St., Boise, Idaho 83702. ()
- 04. Telephone.** The telephone number for the Idaho Department of Health and Welfare is (208) 334-5500. ()
- 05. Internet Website.** The Department's internet website is <http://www.healthandwelfare.idaho.gov>. ()
- 06. Substance Use Disorders Services Website.** The Substance Use Disorders Services internet website is <http://www.substanceabuse.idaho.gov>. ()
- 07. Mental Health Services Website.** The Mental Health Services internet website is <http://www.mentalhealth.idaho.gov>. ()

006. CONFIDENTIALITY OF RECORDS AND PUBLIC RECORDS REQUEST.

- 01. Public Records.** The use or disclosure of Department records must comply with IDAPA 16.05.01,

“Use and Disclosure of Department Records.” Unless otherwise exempted by state or federal law, all public records in the custody of the Department are subject to disclosure. ()

02. Public Availability of Licensure or Deficiencies. In compliance with Section 74-106(9), Idaho Code, and IDAPA 16.05.01.100.02, “Use and Disclosure of Department Records,” records relating to behavioral health programs will be released to the public upon written request if they are part of an inquiry into an individual’s or organization’s fitness to be granted or retain a license, certificate, permit, privilege, commission, or position. These records will otherwise be provided in redacted form as required by law or rule. ()

007. -- 008. (RESERVED)

009. CRIMINAL HISTORY AND BACKGROUND CHECK REQUIREMENTS.

01. Criminal History and Background Check. All owners, operators, employees, transfers, reinstated former employees, student interns, contractors, and volunteers who provide direct care or services, or whose position requires regular contact with participants, must comply with the provisions of IDAPA 16.05.06, “Criminal History and Background Checks.” ()

02. Availability to Work. An individual, listed in Subsection 009.01 of this rule, is available to work on a provisional basis at the discretion of the employer or agency once the individual has submitted his criminal history and background check application, it has been signed and notarized, reviewed by the employer or agency, and no disqualifying crimes or relevant records are disclosed on the application. An individual must be fingerprinted within twenty-one (21) days of submitting his criminal history and background check application. ()

a. An individual is allowed to work or have access to participants only under supervision until the criminal history and background check is completed. ()

b. An individual, who does not receive a criminal history and background check clearance or a waiver granted under the provisions in these rules, may not provide direct care or services, or serve in a position that requires regular contact with participants. ()

03. Waiver of Criminal History and Background Check Denial. An individual who receives an unconditional denial or a denial after an exemption review by the Department’s Criminal History Unit, may apply for a waiver to provide direct care or services, or serve in a position that requires regular contact with participants. A waiver may be granted on a case-by-case basis upon administrative review by the Department of any underlying facts and circumstances in each individual case. A waiver will not be granted for crimes listed in Subsection 009.04 of this rule. ()

04. No Waiver for Certain Designated Crimes. No waiver will be granted by the Department for any of the following designated crimes or substantially conforming foreign criminal violations: ()

- a.** Forcible sexual penetration by use of a foreign object, as defined in Section 18-6608, Idaho Code; ()
- b.** Incest, as defined in Section 18-6602, Idaho Code; ()
- c.** Lewd conduct with a minor, as defined in Section 18-1508, Idaho Code; ()
- d.** Murder in any degree or assault with intent to commit murder, as defined in Sections 18-4001, 18-4003, and 18-4015, Idaho Code; ()
- e.** Possession of sexually exploitative material, as defined in Section 18-1507A, Idaho Code; ()
- f.** Rape, as defined in Section 18-6101, Idaho Code; ()
- g.** Sale or barter of a child, as defined in Section 18-1511, Idaho Code; ()

- h.** Sexual abuse or exploitation of a child, as defined in Sections 18-1506 and 18-1507, Idaho Code; ()
- i.** Enticing of children, as defined in Sections 18-1509 and 18-1509A, Idaho Code; ()
- j.** Inducing individuals under eighteen (18) years of age into prostitution or patronizing a prostitute, as defined in Sections 18-5609 and 18-5611, Idaho Code; ()
- k.** Any felony punishable by death or life imprisonment; or ()
- l.** Attempt, conspiracy, accessory after the fact, or aiding and abetting, as defined in Sections 18-205, 18-306, 18-1701, and 19-1430, Idaho Code, to commit any of the disqualifying designated crimes. ()

05. Administrative Review. An administrative review for a waiver may consist of a review of documents and supplemental information provided by the individual, a telephone interview, an in-person interview, or any other review deemed necessary by the Department. The Department may appoint a subcommittee to conduct administrative reviews for waivers of CHC denials described in Subsections 009.03 and 009.04 of this rule. ()

06. Written Request for Administrative Review and Waiver. A written request for a waiver must be sent to the Administrative Procedures Section, 450 W. State Street, P.O. Box 83720, Boise, Idaho 83720-0026 within thirty (30) calendar days from the date of the issuance of a denial from the Department's Criminal History Unit. The thirty (30) day period for submitting a request for a waiver may be extended by the Department for good cause. ()

07. Scheduling of Administrative Review. Upon receipt of a written request for a waiver, the Department will determine the type of administrative review to be held, and conduct the review within thirty (30) business days from the date of receipt. When an in-person review is appropriate, the Department will provide the individual at least seven (7) days notice of the review date. ()

08. Factors Considered During Administrative Review. During the administrative review, the following factors may be considered: ()

- a.** The severity or nature of the crimes or other findings; ()
- b.** The period of time since the incidents occurred; ()
- c.** The number and pattern of incidents being reviewed; ()
- d.** Circumstances surrounding the incidents that would help determine the risk of repetition; ()
- e.** The relationship between the incidents and the position sought; ()
- f.** 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. ()
- g.** A pardon that was granted by the Governor or the President; ()
- h.** The falsification or omission of information on the self-declaration form and other supplemental forms submitted; and ()
- i.** Any other factor deemed relevant to the review. ()

09. Administrative Review Decision. A notice of decision will be issued by the Department within fifteen (15) business days of completion of the administrative review. ()

10. Decision to Grant Waiver. The Department's decision to grant a waiver does not set a precedent

for subsequent requests by an individual for a waiver. A waiver granted under these rules is not a criminal history and background check clearance. A waiver is only applicable to the specified individual on the waiver and for behavioral health services and programs governed under these rules. The waiver does not apply to other Department programs that require a clearance for a Department criminal history and background check. ()

11. Revocation of Waiver. At any time, the Department may revoke a waiver at its discretion for circumstances that it identifies as a risk to participants' health and safety. ()

12. Waiver Decisions Are Not Subject to Review or Appeal. The decision or actions of the Department concerning a waiver are not subject to review or appeal, administratively, or otherwise. ()

13. Employer Responsibilities. A waiver granted by the Department is not a determination of suitability for employment. The employer is responsible for reviewing the results of a criminal history and background check even when a clearance is issued or a waiver is granted. Making a determination as to the ability or risk of the individual to provide direct care services or to serve in a position that requires regular contact with children and vulnerable adults is the responsibility of the employer. ()

010. DEFINITIONS.

For the purposes of these rules, the following terms are used. ()

01. Behavioral Health Program. A behavioral health program refers to an organization offering mental health or substance use disorders treatment services which includes the organization's facilities, management, staffing patterns, treatment, and related activities. ()

02. Certificate of Approval. A certificate issued by the Department to a behavioral health program which the Department deems to be in compliance with these rules. ()

03. Critical Incident. An event that caused, or could have caused physical or emotional distress to staff, visitors, or the participants of the program. ()

04. Department. The Idaho Department of Health and Welfare, or its designee. ()

05. Director. The Director of the Department of Health and Welfare, or designee. ()

06. Good Cause. A valid and sufficient reason for not complying with the time frame set for submitting a written request for a waiver by an individual who does not receive a criminal history and background check clearance. ()

07. Participant. An individual seeking or receiving behavioral health program treatment services. The term "participant" is synonymous with the terms "patient," "resident," "consumer," "client," or "recipient of treatment." ()

08. Variance. The means of complying with the intent and purpose of a behavioral health program rule in a manner acceptable to the Department other than that specifically prescribed in the rule. ()

09. Waiver. The means to allow an individual who is unable to pass a Department criminal history background check to provide services in an approved behavioral health program. Waivers are only for a specified individual for the sole purpose of providing behavioral health services. ()

011. -- 049. (RESERVED)

050. VARIANCE FOR BEHAVIORAL HEALTH PROGRAM.

The Department may grant a variance from compliance with a specific behavioral health program requirement when the variance will not violate an existing state or federal law or jeopardize health, safety, or welfare of individuals. ()

01. Written Request. A behavioral health program must submit a written request to the Department

for a variance. The request must include the following: ()

a. Reference the section of the rules for which the variance is requested; and ()

b. Good cause for such a variance and how the health, welfare, or safety of participants will not be jeopardized if a variance is granted. ()

02. Decision to Grant a Variance. The decision by the Department to grant a variance does not set a precedent for subsequent behavioral health program requests nor will it be given any effect in any other proceeding. ()

03. Revocation of Variance. The Department may revoke a variance at any time when circumstances identify a risk to participants' health or safety. ()

051. -- 074. (RESERVED)

075. SUBSTANCE USE DISORDERS SERVICES.

An approved behavioral health program providing substance use disorder services must comply with all requirements in IDAPA 16.07.17, "Substance Use Disorders Services," and the requirements and minimum standards required in these rules. ()

076. -- 099. (RESERVED)

100. CERTIFICATE OF APPROVAL.

Under the standards and requirements in these rules, the Department may approve behavioral health programs that provide outpatient mental health services or programs that provide substance use disorders services, or both. Each approved behavioral health program must meet the standards and requirements of these rules in order to obtain and maintain a Department certificate of approval. ()

01. List of Approved Behavioral Health Programs. The Department will maintain a list of approved behavioral health programs. The issuance of a certificate of approval from the Department does not guarantee adequacy of individual care, treatment, personal safety, fire safety, or the well-being of any participant, employee, contractor, volunteer, or occupant of the program. The provider of a behavioral health program with a certificate of approval is responsible to ensure the adequacy and quality of care being provided to its participants. ()

02. Approved Behavioral Health Programs with Multiple Locations. A behavioral health program may have more than one (1) location in which it provides services. ()

a. Each location of the behavioral health program must comply with the requirements and minimum standards in these rules in order to operate, manage, conduct, or maintain, directly or indirectly, an approved behavioral health program. ()

b. When a behavioral health program applies for certificates of approval for multiple locations, denial of a certificate of approval at a specific location will not affect the other behavioral health program's location applications that have not been denied. ()

101. -- 109. (RESERVED)

110. INITIAL APPLICATION FOR CERTIFICATE OF APPROVAL.

Each behavioral health program must apply to the Department for a certificate of approval. ()

01. Obtain and Complete Application. Initial application forms for a behavioral health program may be obtained upon written request or online at the Department of Health and Welfare as identified in Section 005 of these rules. The applicant must provide a completed application to the Department prior to receiving a certificate of approval for a behavioral health program. ()

02. Signed Application. Each applicant must sign and provide a completed application and site form

for each location. ()

03. Application Fee. A non-refundable application fee of one hundred dollars (\$100) for each behavioral health program location must be included with the application. ()

04. Certificate of Assumed Business Name. A copy of the “Certificate of Assumed Business Name” obtained from the Idaho Secretary of State must be included with the behavioral health program’s application. ()

05. Certificates or Permits. A copy of each current and valid certificate or permit must be included as appropriate: ()

a. Certificate of Occupancy from the local building authority for each location; ()

b. Certificate of fire inspection conducted by the State fire marshal or local authority for each location; and ()

06. Proof of Insurance. Each behavioral health program must maintain minimum insurance policy to cover both professional liability and commercial general liability. Behavioral Health Programs are responsible for maintaining additional insurance coverage as appropriate for the various services, funding sources, interventions, and populations served. ()

07. Agreement for Site Inspection. A signed agreement for each behavioral health program site inspection location as determined by the Department. ()

08. Other Information Requested. Other information that may be requested by the Department for the proper administration and enforcement of these rules. ()

111. -- 119. (RESERVED)

120. RENEWAL OF CERTIFICATE OF APPROVAL.

Each approved behavioral health program must apply for renewal of the program to the Department at least ninety (90) calendar days prior to the expiration date on the current certificate of approval. ()

01. Obtain and Complete Renewal Application Form. A completed and signed renewal application form must be submitted to the Department. Application for renewal forms are available upon written request or online at the Department of Health and Welfare as identified in Section 005 of these rules. ()

02. Renewal Application Fee. A non-refundable renewal application fee of one hundred dollars (\$100) for each behavioral health program location being renewed must be included with each renewal application. ()

03. Proof of Insurance. Each behavioral health program must maintain minimum insurance policy to cover both professional liability and commercial general liability. Behavioral Health Programs are responsible for maintaining additional insurance coverage as appropriate for the various services, funding sources, interventions, and populations served. ()

04. Changes to Behavioral Health Programs. The behavioral health program must disclose any changes to the program that have occurred during the current certification period. ()

05. Other Information Requested. Other information that may be requested by the Department for the proper administration and enforcement of these rules. ()

121. -- 129. (RESERVED)

130. FAILURE TO COMPLETE APPLICATION PROCESS.

Failure of the applicant to cooperate with the Department or complete the application process within six (6) months of the original date of application will result in a denial of the application. If the application is denied, the applicant is

barred from submitting, seeking, or obtaining another application for a certificate of approval for a period of one (1) year from the date of the original application. ()

131. -- 139. (RESERVED)

140. BEHAVIORAL HEALTH PROGRAM -- DEEMING.

01. National Accreditation. The Department will deem a nationally accredited behavioral health program to be in compliance with the minimum standards and rule requirements in these rules. ()

02. Tribal Programs. The Department will deem Indian Health Services programs and may deem other tribal facilities that provide behavioral health services as a state approved behavioral health program. ()

03. Proof of Accreditation. The applicant must submit a copy of accreditation results and reports regarding accreditation from the accrediting agency with their application. ()

04. Additional and Supplemental Information. To address requirements for a state-approved behavioral health program, the Department may require an applicant to provide additional or supplemental information not covered under the national accreditation or certification requirements. Additional documents may include: ()

a. An organizational chart with verification that staff meet minimum certification standards; ()

b. Satisfactory evidence that a criminal history and background check clearance, or waiver, has been issued by the Department for each individual required in Section 009 of these rules to have a criminal history check or whose position requires regular contact with participants. ()

141. -- 149. (RESERVED)

150. DEPARTMENT REVIEW OF APPLICATION FOR APPROVAL OR RENEWAL.

A behavioral health program must submit a completed application and supporting documentation as required by the Department in Sections 110 and 120 of these rules. Upon receipt of the completed application for approval or renewal of a behavioral health program, the Department will review the application to determine if the program meets the minimum standards and requirements of these rules to be an approved behavioral health program. ()

151. TYPE OF APPROVALS ISSUED.

Each behavioral health program and location application will be reviewed by the Department and notification of the results will be provided to the applicant in writing, sixty (60) business days after the Department's receipt of a completed application. Results of application reviews are provided in Subsection 151.01 through 151.03 of this rule. ()

01. Approved Program. When the Department determines that the program meets the requirements of these rules, the behavioral health program is issued a certificate of approval. ()

02. Provisionally Approved Program. When the Department determines that the program may meet the requirements of these rules, the program may be given: ()

a. A provisional approval for a certain period of time to correct any issue; or ()

b. An on-site review may be scheduled for final determination. The Department will make reasonable efforts to schedule an on-site inspection within thirty (30) business days of its initial determination. ()

03. Denial of Program. When the Department determines that the program does not meet the requirements of these rules, the applicant will be notified of the denial, and the application returned with written recommendations for correction and completion of the recommendations. ()

152. ON-SITE REVIEW.

Each behavioral health program must be in compliance with these rules and is subject to on-site review by the Department to obtain and maintain an approved behavioral health program. ()

01. Department Inspection. The applicant or behavioral health program must allow the Department to inspect the program or locations at: ()

a. Any reasonable time necessary to determine compliance with these rules; and ()

b. Prior notice to the applicant or behavioral health program is not required, when the Department receives or has concerns regarding complaints, non-compliance, or health and safety issues. ()

02. Compliance with Confidentiality Requirements. The applicant or behavioral health program must be in compliance with federal and state confidentiality requirements, and provide for review of the following: ()

a. Program policies and procedures; ()

b. Personnel records; ()

c. Clinical records; ()

d. Facility accessibility; ()

e. The program's internal quality assurance plan and process that demonstrates how the program evaluates program effectiveness and individual participant satisfaction; and ()

f. Any other documents required by the Department in order to make an appropriate determination, including any information that may have changed since the time the application or renewal was submitted. ()

153. CERTIFICATE OF APPROVAL DURATION.

A behavioral health program certificate of approval is effective for three (3) years from the date the Department issues the Certificate of Approval. The behavioral health program and each of its locations' Certificate of Approval are subject to the program maintaining compliance with these rules. ()

154. CHANGE IN LOCATION.

A behavioral health program must notify the Department in writing a minimum of thirty (30) calendar days prior to any change in location and must submit required documentation for approval of the new location. The new location is subject to an on-site review as determined by the Department. ()

155. CHANGE OF PROGRAM NAME.

A behavioral health program must notify the Department in writing a minimum of thirty (30) calendar days prior to a change in name of program or business. A copy of the "Certificate of Assumed Business Name," must be included. ()

156. -- 199. (RESERVED)

200. DENIAL OF CERTIFICATE OF APPROVAL OR RENEWAL.

The Department may deny a Certificate of Approval or Renewal application when the Department determines that a behavioral health program is out of compliance with these rules for any of the following reasons. ()

01. Reasons for Denial. The owner, applicant, or administrator; ()

a. Has violated any conditions of a certificate of approval; ()

b. Has been found guilty of fraud, deceit, misrepresentation, or dishonesty associated with the operation of a program, regardless of the population the program serves or the services the agency provides; ()

c. Has willfully misrepresented or omitted material information on the application or other documents pertaining to obtaining or renewing any certificate of approval. ()

02. Act or Omission Adversely Affecting the Welfare of Any Participant, Employee, Contractor, or Volunteer. Any act or omission adversely affecting the welfare of any participant, employee, contractor, or volunteer that is being permitted, aided, performed, or abetted by the facility, applicant, owner, administrator. Such acts or omissions may include: neglect, physical abuse, mental abuse, emotional abuse, violation of civil rights, or exploitation of children or vulnerable adults. ()

201. REVOCATION OR SUSPENSION OF CERTIFICATE OF APPROVAL.

01. Immediate Suspension or Revocation. The Department may, without prior notice, suspend or revoke a certificate of approval when the Department determines conditions exist that endanger the health or safety of any participant, employee, contractor, or volunteer. ()

02. Suspension or Revocation With Notice. The Department may suspend or revoke a certificate of approval by giving written notice fifteen (15) business days prior to the effective date when the Department determines: ()

a. The program is not in compliance with these rules and minimum standards; ()

b. The owner, applicant, or administrator: ()

i. Without good cause, fails to furnish any data, statistics, records, or information requested by the Department, or files fraudulent returns thereof; ()

ii. Has been found guilty of fraud, deceit, misrepresentation, or dishonesty associated with the operation of a program, regardless of the population the program serves or the services the agency provides; ()

iii. Has willfully misrepresented or omitted information on the application or other documents pertinent to obtaining a program approval; or ()

c. Any act adversely affecting the welfare of participants is being permitted, aided, performed, or abetted such as: neglect, physical abuse, mental abuse, emotional abuse, violation of civil rights, criminal activity, or exploitation. ()

202. WRITTEN NOTICE OF DENIAL, SUSPENSION, OR REVOCATION.

01. Written Notice of Denial, Suspension, or Revocation. With the exception of endangerment to an individual's health or safety under Section 201, the Department will, within fifteen (15) business days of making its decision, notify the applicant or the owner's designated representative, in writing, by certified mail, return receipt requested, of its determination, in the event an application or certificate of approval is denied, suspended, or revoked. The written notice must include the following: ()

a. The applicant's or owner's name and identifying information; ()

b. A statement of the decision; ()

c. A concise statement of the reasons for the decision; and ()

d. The process for pursuing an administrative appeal. ()

02. Effect of Previous Denial or Revocation. ()

a. The Department will not accept or consider an application for a certificate of approval from any applicant, owner, administrator, related person, or entity who has had a certificate of approval denied until after two (2) years have elapsed from the date of the denial. ()

b. The Department will not accept or consider an application for a certificate of approval from any applicant, owner, administrator, related person, or entity who has had a certificate of approval revoked until after five (5) years have elapsed from the date of the revocation. ()

203. CUMULATIVE ENFORCEMENT POWERS.

When the Department determines that a behavioral health program does not meet these rules and minimum standards, it may take any of the enforcement actions described in these rules or impose any remedy, independently or in conjunction, with any others authorized by law or these rules. ()

204. -- 299. (RESERVED)

300. PROGRAM ADMINISTRATION REQUIREMENTS.

01. Ownership. Each behavioral health program must maintain documentation of the program's governing body, including a description of membership and authorities, and documentation of the programs: ()

a. Articles, certificate of incorporation, and bylaws, when the owner is a corporation; ()

b. Partnership agreement when the owner is a partnership; or ()

c. Sole proprietorship if one (1) person is the owner. ()

02. Organizational Chart. Each behavioral health program must maintain a current organizational chart that clearly delineates staff positions, lines of authority, and supervision. ()

03. Administrator. Each behavioral health program must have provisions for an administrator who is responsible for the day-to-day operation of the program. ()

04. Authority and Responsibilities of the Administrator. Each behavioral health program's administrative policies must state the administrator's responsibilities in assisting with the overall operation of the program. Responsibilities of the administrator include the following: ()

a. Ensure administrative, personnel, and clinical policies and procedures are adhered to and kept current to be in compliance with these rules; ()

b. Ensure all persons providing clinical services are licensed, credentialed, or certified for their scope of practice; ()

c. Overall direction and responsibility for the individuals, program, facility, and fiscal management; ()

d. Overall direction and responsibility for supervision of staff; ()

e. The selection and training of a capable staff member who can assume responsibility for management of the program in the administrator's absence; and ()

f. Comply with or maintain a management information system that allows for the efficient retrieval of data needed to measure the program's performance. ()

05. Notification of Change in Ownership. A certificate of approval is not automatically transferable when ownership or control is changed. The administrator must inform the Department in writing within ten (10) business days of any such change. The Department may continue the certificate of approval provisionally until it can determine the status of the program under the new ownership or control. ()

06. Notification of Program Closure. ()

a. A program must notify the Department in writing within thirty (30) business days prior to an anticipated closure of any of its program locations. ()

b. The notification of closure must include: ()

i. Location of closure; ()

ii. Location(s) of where participants records will be maintained; ()

iii. Explanation of the closure; and ()

iv. Procedures for participant transition and continuation of care. ()

301. -- 309. (RESERVED)

310. DESCRIPTION OF SERVICES.

Each behavioral health program must prepare a written description of services that meets the requirements of this rule. ()

01. Content of Description of Services. The written description must contain: ()

a. Description of services provided; ()

b. Participant population served; ()

c. Hours and days of operation; and ()

d. Summary of assessment, intake, and admission process. ()

02. Distribution of Descriptions of Services. The written description of services must be made known and available to all program staff and to the administrator. ()

311. -- 319. (RESERVED)

320. ADMISSION POLICIES AND PROCEDURES.

Each behavioral health program must have written policies and procedures governing the program's admission process. These polices must be available to participants, their families, and to the general public. ()

01. Participant Admission. Each program's admissions policies must: ()

a. Align with the program's scope of care and make reasonable accommodations to provide participants with appropriate access. ()

b. At the time of initial contact with a participant, pre-screening for admissions must be completed. This includes identification of potential barriers to entrance of care and removal of those barriers when possible. ()

c. Notify and inform participants of the reasons for ineligibility, provide referrals or other information necessary to help link participants to a program that can meet the needs identified in the participant's pre-screening. ()

d. Provide the appeal process available and documented to address situations in which a participant does not agree with the admission determination made by the program. The process may include internal or external reviews, and involve a neutral party. ()

02. Entrance to Care. Each program must have documented protocols for entrance to care that include: ()

- a. Protocols for the screening process that: ()
 - i. Ensure that each participant is engaged in care as soon as possible following initial contact and screening; ()
 - ii. Ensure the screening instrument is designed to identify emergent needs, crisis situations, and dangerous substance abuse with protocols in place for staff members to respond according to each situation revealed during a screening; ()
 - iii. Ensure screening documentation protocol includes basic demographic information about the prospective participant, participant's strengths, needs, preferences, goals, eligibility decision, and basis for the decision and include referrals, if provided; and ()
 - iv. Ensure policies are in place that require staff members administering the screening instrument to be appropriately trained. ()
- b. Protocols for the implementation of a waiting list that: ()
 - i. Ensure prospective participants are screened and evaluated for appropriateness to services offered prior to placement on a waiting list; and ()
 - ii. Offer a referral process for an individual pre-screened and ineligible, and facilitate referrals when needed. ()
- 03. Orientation.** Each program must have procedures that: ()
 - a. Provide orientation to each participant as soon as possible upon beginning care, considering the participant's presenting state and what services are being accessed. ()
 - b. Document attendance of each participant to orientation. ()
 - c. Educate each participant on: participants' rights and responsibilities, grievance and appeal procedures, how participant may provide feedback, confidentiality, consent to treatment, expectations of participants, discharge criteria, handling of potential risk to participant, after-hours services accessibility, follow-up procedures, financial obligations and funding sources available, health and safety policies, facility layout, assessment, process of treatment, and names of staff members. ()
 - d. Ensure that both written and verbal information provided during orientation is delivered in such a way that is understandable by each participant. ()

321. -- 329. (RESERVED)

330. QUALITY ASSURANCE.

Each behavioral health program must have an internal quality assurance plan and written process to evaluate and improve administrative practices and clinical services. ()

- 01. Quality Assurance Plan.** Each program must have a quality assurance plan that: ()
 - a. Addresses clinical supervision and training of staff. ()
 - b. Monitors compliance with these rules. ()
 - c. Establishes a process for reviewing and updating written policies and procedures. ()
 - d. Continuously improves the quality of care in the following: ()

- i. Cultural Competency; ()
- ii. Use of evidence-based and promising practices; and ()
- iii. Response to critical incident, complaints, and grievances. ()

02. Method of Evaluation. Each program's written process must describe how administrative practices and clinical services will be evaluated. ()

03. Review Schedule. Each program's written process must include the frequency that administrative practices and clinical services will be evaluated. ()

04. Procedure to Address Deficiencies. Each program's written process must describe how deficiencies in administrative practices or clinical services, identified during an evaluation process, will be improved to meet the program's standards of quality. ()

331. -- 339. (RESERVED)

340. ASSESSMENT.

Each behavioral health program must have a written procedure for an assessment process that determines the individual participant needs. ()

01. Assessment Required. A qualified behavioral health professional must develop a written assessment for each participant. ()

02. Content of Assessment. The assessment must evaluate the participant's current and past behavioral, social, medical, and treatment needs as well as the participant's strengths, needs, abilities, preferences, and goals. ()

341. INDIVIDUALIZED SERVICE PLANS.

01. Individualized Service Plan Required. Each participant must have an individualized service plan. The development of the service plan must be a collaborative process involving the participant and other support and service systems. ()

02. Service Plan Based on Assessment. The service plan must be based on the findings of the participant's assessment. ()

03. Development and Implementation of the Service Plan. The responsibility for the development and implementation of the service plan will be assigned to a qualified behavioral health professional. ()

04. Content of the Service Plan. Each participant's individualized service plan must include the following: ()

- a. Services deemed clinically necessary to meet the participant's behavioral health needs; ()
- b. Referrals for needed services not provided by the program; ()
- c. Goals that are based on the participant's unique strengths, abilities, preferences, and needs; ()
- d. Specific objectives that relate to the goals written in simple, measurable, attainable, realistic terms with expected achievement dates; ()
- e. Identified level of care or interventions that describe the kinds of services and service frequency; ()
- f. Criteria to be met for discharge from service; ()

g. A plan for services to be provided after discharge; and ()

h. Documentation of who participated in the development of the individualized service plan. ()

342. -- 349. (RESERVED)

350. CRISIS INTERVENTION AND RESPONSE.

01. Requirement for Written Procedures. Each behavioral health program must have written procedures that address interventions and responses to behavioral health crisis situations. ()

02. Content of Written Procedures. The written procedures must include: ()

a. Guidance for staff members on how to effectively intervene and respond to a wide range of crisis situations; ()

b. Program definition of “crisis” as it applies to the services provided and population served; ()

c. Program scope as it relates to the ability to intervene or respond to crises; ()

d. Actions to be taken if the program is not prepared or qualified to handle certain crisis situations; and ()

e. Protocol for managing crises during and outside of business hours. ()

351. -- 359. (RESERVED)

360. PARTICIPANT RECORDS.

01. Participant Record Required. Each behavioral health program must maintain a participant record on each participant. All entries into the participant’s record must be signed and dated. ()

02. Content of Participant Record. The participant record must describe the participant’s situation at the time of admission and include the services provided, all progress notes, and the participant’s status at the time of discharge. At a minimum the record must contain: ()

a. The participant’s name, address, contact information, date of birth, gender, marital status, race or ethnic origin, next of kin or person to contact, educational level, type and place of employment, date of initial contact or admission to the program, source of any referral, legal status including relevant legal documents, name of personal physician, record of any known drug reactions or allergies, and other identifying data as indicated; ()

b. Any staffing notes pertaining to the participant; ()

c. Any medical records obtained regarding the participant; ()

d. Any assessments; and ()

e. The initial and updated service plans. ()

03. Maintenance of Participant Records. Each program must develop written policies and procedures governing the maintenance, compilation, storage, dissemination, and accessibility of participant records. ()

04. Retention and Destruction of Participant Records. Each program must develop written policies and procedures governing the retention and destruction of participant records. ()

361. -- 369. (RESERVED)

370. PARTICIPANT RIGHTS.

Each behavioral health program must have a written statement of individual participant rights. The program must ensure and protect the fundamental human, civil, constitutional, and statutory rights of each participant. ()

01. Content of Participant's Rights. The written participant rights statement must, at a minimum, address the following rights: ()

a. The right to impartial access to treatment and services, regardless of race, creed, color, religion, gender, national origin, age, or disability. ()

b. The right to a humane treatment environment that ensures protection from harm, and provides privacy to as great a degree as possible with regard to personal needs, and promotes respect and dignity for each individual. ()

c. The right to communication in a language and format understandable to the participant. ()

d. The right to be free from mental, physical, sexual and verbal abuse, neglect, and exploitation. ()

e. The right to receive services within the least restrictive environment possible. ()

f. The right to an individualized service plan, based on assessment of current needs. ()

g. The right to actively participate in planning for treatment and recovery support services. ()

h. The right to have access to information contained in one's record, unless access to particular identified items of information is specifically restricted for that individual participant for clear treatment reasons in the participant's treatment plan. ()

i. The right to confidentiality of records and the right to be informed of the conditions under which information can be disclosed without the individual's consent. ()

j. The right to refuse to take medication unless a court of law has determined the participant lacks capacity to make decisions about medications and is an imminent danger to self or others. ()

k. The right to be free from restraint or seclusion unless there is imminent risk of physical harm to self or others. ()

l. The right to refuse to participate in any research project without compromising access to program services. ()

m. The right to exercise rights without reprisal in any form, including the ability to continue services with uncompromised access. ()

n. The right to have the opportunity to consult with independent specialists or legal counsel, at one's own expense. ()

o. The right to be informed in advance of the reason for discontinuance of service provision, and to be involved in planning for the consequences of that event. ()

p. The right to receive an explanation of the reasons for denial of service. ()

02. Participant Understands Rights and Expectations. Each program's policies must ensure that: ()

a. Materials describing a participant's rights and expectations are presented to each participant in a manner that he can understand; ()

b. Information is provided in a manner that is understandable to each participant who has challenges with vision, speech, hearing, or cognition. ()

c. There is a protocol for facilitating situations when a participant is not able to give informed consent for treatment services. Facilitation may include assisting the participant to access family members, attorneys, or other supports. ()

03. Participant Grievances and Complaints. Each program's grievance and complaint policies must: ()

a. Establish practices to respond to a participant grievances, complaints, or appeals. Practices must include an established response process, levels of review, and expectations for written notification of actions to address the concerns; ()

b. Ensure a participant who registers a grievance, complaint, or appeal is not subjected to retaliation; ()

c. Respond to participant grievances, complaints, or appeal in a timely manner, and ensure the participant is informed as to the process time frames and expected date for decisions; ()

d. Provide each participant with information as to the grievance process and with access to any grievance or complaint forms. The program is responsible for ensuring that each participant understands the forms and procedures for registering a grievance, complaint, or appeal; and ()

e. Retain documentation on formal grievances, complaints, or appeals. Information from these procedures is used to inform practice and improve services. ()

371. -- 379. (RESERVED)

380. ADMINISTRATION OF MEDICATIONS.

01. Behavioral Health Program That Administers Medications. Each behavioral health program that administers medications must have policies and procedures that include the following: ()

a. Receiving of medications; ()

b. Storage of medications; and ()

c. Medications administration system to be used. ()

02. Registration With the Idaho Board of Pharmacy. Each program that dispenses medication must have appropriate registration with the Idaho Board of Pharmacy in accordance with IDAPA 27.01.01, "Rules of the Idaho State Board of Pharmacy," and maintain current documentation of such registration. ()

381. -- 389. (RESERVED)

390. PERSONNEL POLICIES AND PROCEDURES.

Each behavioral health program must have and adhere to personnel policies and procedures that meet the minimum requirements in this rule. ()

01. Required Personnel Policies and Procedures. Personnel policies and procedures must be developed, implemented, and maintained to promote the objectives of the program and provide for a sufficient number of qualified clinical and support staff to render the services of the program and provide quality care during all hours of operation. ()

a. The personnel policies and procedures must establish the requirement for CPR training and basic first aid training. A minimum of one (1) CPR and First Aid trained staff must be on-site during business hours. ()

b. The personnel policies must include procedures for orientation to the program and training on all program policies and procedures for staff, trainees, student interns, volunteers, and contractors, if applicable. ()

02. Hiring Practices. Hiring practices must be specified in the written policies and procedures and must be consistent with the needs of the program and its services. ()

03. Equal Employment Opportunity. No behavioral health program approved under these rules will discriminate on the basis of race, creed, color, religion, age, gender, national origin, veteran status, or disability, except in those instances where bona fide occupational qualifications exist. ()

04. Content of Personnel Record for Each Staff Member. A personnel record must be kept on each staff member and must contain the following items: ()

a. Application for employment including a record of the employee's education or training and work experience. This may be supplemented by a resume; ()

b. *Verification* of qualifications; ()

c. Performance appraisals or contract compliance evaluation; ()

d. Disciplinary actions; and ()

e. Verification of a Department criminal history and background check clearance, or a waiver issued by the Department as described in Section 009 of these rules. ()

05. Volunteers. In programs where volunteers are utilized the objectives, scope, training, and orientation of the volunteer services must be clearly stated in writing. ()

06. Trainees and Student Interns. In programs where trainees or student interns, or both, are utilized the supervision, scope, training, and orientation of trainees and student interns must be clearly stated in writing. ()

391. STAFFING AND SUPERVISION.

01. Ensuring Adequate Staff. Each behavioral health program must ensure that there are an adequate number of staff to: ()

a. Meet service needs of program participants; ()

b. Meet professional staff-to-participant ratios at a level that meets best practice standards for each service being provided; ()

c. Address the safety needs of program staff and participants; and ()

d. Meet organizational performance expectations and needs. ()

02. Staff Supervision. Each program must ensure that: ()

a. Staff have access to regularly scheduled supervision with program supervisors: *and* ()

b. *Staff* members practice only within the scope of their credentials. ()

03. Clinical Supervision. Each program must provide for regular and ongoing supervision of clinical

activities. The program must establish a written supervisory protocol that addresses: ()

- a. Management and oversight of the provision of professional services offered by the program; and ()
- b. Supervision centered on the evaluation and improvement of clinician skills, knowledge, and attitudes. ()

392. -- 394. (RESERVED)

395. INFECTION CONTROL.

Each behavioral health program must have infection control policies and procedures consistent with recognized standards that control and prevent infections for both staff and participants. ()

01. Written Policies and Procedures for Infection Control. Each program must have written policies and procedures pertaining to the operation of an infection control program. ()

- a. Effective measures must be developed to prevent, identify, and control infections. ()
- b. A process for implementing procedures to control the spread or eliminate the cause(s) of the infection must be described in the policies and procedures. ()
- c. All new employees must be instructed in the importance of infection control and personal hygiene and in their responsibility in the infection control program. ()
- d. There must be documentation that on-going in-service education in infection prevention and control is provided to all employees. ()
- e. There must be documentation that the policies and procedures are reviewed at least annually and revised as necessary. ()

02. Universal Precautions. Universal precautions must be used in the care of participants to prevent transmission of infectious disease according to the “Centers for Disease Control and Prevention (CDC) guidelines.” ()

396. -- 399. (RESERVED)

400. ENVIRONMENT REQUIREMENTS.

Each behavioral health program location must have appropriate space, equipment, and fixtures to meet the needs of participants and ensure a safe environment for staff, participants, and visitors. ()

01. Fixtures and Equipment. Fixtures and equipment designated for each service must be constructed or modified in a manner that provides pleasant and functional areas that are accessible to all participants regardless of their disabilities. ()

02. Office Space. Private space must be provided for personal consultation and counseling as well as family and group counseling sessions. ()

03. Safety, Fire, Health, and Sanitation Requirements. Space, equipment, and facilities utilized by the program must meet federal, state, and local requirements for safety, fire prevention, health, and sanitation. ()

04. Procedure for Accessibility for Persons with Mobility and Sensory Impairments. The program must have a written policy and procedure for compliance with ADA requirements for participants with mobility or sensory impairments. ()

05. Smoking. Because smoking has been acknowledged to be a potential fire hazard, continuous efforts must be made to reduce such hazards in the facility. Written regulations governing the use of smoking

materials must be adopted, conspicuously posted, and made known to all program participants, staff members, and the public. Nothing in this section requires that smoking be permitted by programs whose admission policies prohibit smoking. ()

a. Designated areas must be assigned for participant, staff, and public smoking, when smoking is allowed. ()

b. Tobacco products must not be used by children, adolescents, staff, volunteers, or visitors in any building used to house children or adolescents, or in the presence of children or adolescents, or in vehicles used to transport children or adolescents. ()

401. -- 409. (RESERVED)

410. EMERGENCY PREPAREDNESS.

Each behavioral health program must establish and maintain an Emergency Preparedness plan designed to manage the consequence of natural disasters or other emergencies. ()

01. Emergency Preparedness Plan. Program staff must be provided with training on the emergency preparedness plan including; ()

a. Where and how participants are to be evacuated; and ()

b. Notification of emergency agencies. ()

02. Evacuation Drills. The program conducts evacuation drills on a regular basis. A record of drills must be maintained which includes the date and time of the drill, response of the personnel and participants, problems encountered, and recommendations for improvements. ()

411. MEDICAL EMERGENCY SERVICES.

01. Medical Emergency Services Plan. Each behavioral health program must have a written plan describing the manner in which medical emergency services will be accessed. ()

02. Safety Devices and Practices. ()

a. Locations that do not have emergency medical resources must have first aid kits. ()

b. All staff must be familiar with the locations, contents, and use of the first aid kits. ()

412. CRITICAL INCIDENT PREPAREDNESS.

Each behavioral health program must develop and implement policies and procedures that discuss prevention, reporting, documentation, and managing critical incidents. ()

413. -- 419. (RESERVED)

420. FACILITY REQUIREMENTS.

Each behavioral health program must ensure that each location is structurally sound, maintained, and equipped to ensure the safety of staff, participants, and visitors. ()

01. Buildings. Buildings on the premises of each behavioral health program location in which services are delivered must be in compliance with the requirements of the local, state, and federal codes concerning access, construction, and fire and life safety that are applicable. ()

02. Grounds. Each behavioral health program's grounds must be maintained in a manner that is designed to provide a safe environment for staff, participants, and visitors. ()

421. -- 999. (RESERVED)

IDAPA 24 - BUREAU OF OCCUPATIONAL LICENSES

24.12.01 - RULES OF THE IDAHO STATE BOARD OF PSYCHOLOGIST EXAMINERS

DOCKET NO. 24-1201-1501

NOTICE OF RULEMAKING - ADOPTION OF PENDING FEE RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2016 Idaho State Legislature for final approval. Pursuant to Section 67-5224(5)(c), Idaho Code, this pending fee rule will not become final and effective until it has been approved by concurrent resolution of the legislature because of the fee being imposed or increased through this rulemaking. The pending fee rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution unless the rule is rejected.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending fee rule. The action is authorized pursuant to Section 54-2305, Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending fee rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change:

There are no changes to the pending fee rule and it is being adopted as originally proposed. The complete text of the proposed rule was published in the October 7, 2015 Idaho Administrative Bulletin, [Vol. 15-10, pages 431 - 434](#).

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased. This fee or charge is being imposed pursuant to Sections 54-2307, 54-2312, and 54-2312A, Idaho Code.

Rule 150 is being amended to decrease the annual renewal fee from \$300 to \$250; the annual renewal fee for inactive license from \$150 to \$125; original application for licensure by exam from \$200 to \$150; original application for licensure by endorsement from \$300 to \$250; and to change the reinstatement fee from \$25 to be in accordance with Section 67-2614, Idaho Code.

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

This rulemaking is anticipated to reduce the amount of dedicated fund fees collected by the Board by approximately \$19,825.00.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending fee rule, contact Cherie Simpson at (208) 334-3233.

DATED this 3rd Day of November, 2015.

Tana Cory
Bureau Chief
Bureau of Occupational Licenses
700 W. State Street
P.O. Box 83720
Boise, ID 83702
(208) 334-3233 Ph. / (208) 334-3945 fax

THE FOLLOWING NOTICE WAS PUBLISHED WITH THE PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Section 54-2305, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 21, 2015.

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

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

The Idaho State Board of Psychologist Examiners is updating the incorporation by reference and is adopting the amendments to the Ethical Principle of Psychologists and Code of Conduct adopted by its national association. The Board is also decreasing fees. The reinstatement fee is being changed to establish that reinstatement is in accordance with Section 67-2614, Idaho Code, in response to the passage of House Bill 117 in 2015. The endorsement qualification is being changed to allow five years of experience to be within the last seven years which provides more flexibility in meeting this qualification. Finally, the continuing education required for reinstatement of an expired license is being clarified.

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

Rule 150 is being amended to decrease the annual renewal fee from \$300 to \$250; the annual renewal fee for inactive license from \$150 to \$125; original application for licensure by exam from \$200 to \$150; original application for licensure by endorsement from \$300 to \$250; and to change the reinstatement fee from \$25 to be in accordance with Section 67-2614, Idaho Code.

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 anticipated to reduce the amount of dedicated fund fees collected by the Board by approximately \$19,825.00.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not conducted because the proposed revision to the rules are simple in nature and the proposed fees confer a benefit to the licensees and applicants. This proposal was discussed during noticed, open meetings of the Board.

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 Idaho State Board of Psychologist Examiners is adopting the amendments to the Ethical Principle of Psychologists and Code of Conduct adopted by its national association.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Cherie Simpson at (208) 577-2584.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 28, 2015.

DATED this 4th Day of September, 2015.

LSO Rules Analysis Memo

THE FOLLOWING IS THE TEXT OF FEE DOCKET NO. 24-1201-1501

004. INCORPORATION BY REFERENCE (RULE 4).

The document titled "Ethical Principles of Psychologists and Code of Conduct," published by the American Psychological Association and dated June 1, 2003 with the 2010 amendments effective June 1, 2010, as referenced in Section 350, is herein incorporated by reference and is available from the Board's office and on the Board web site.

~~(3-20-04)~~()

(BREAK IN CONTINUITY OF SECTIONS)

150. FEES (RULE 150).

- 01. Annual Renewal Fee.** Annual renewal fee -- ~~three~~ two hundred fifty dollars (~~\$300~~ 250).
~~(3-19-07)~~()
- 02. Annual Renewal Fee for Inactive License.** Annual renewal fee - one hundred ~~fifty~~ twenty-five dollars (~~\$150~~ 125).
~~(3-29-10)~~()
- 03. Original Application Fee For Licensure by Exam.** Application fee - ~~two~~ one hundred fifty dollars (~~\$200~~ 150).
~~(3-29-10)~~()
- 04. Original Application Fee For Licensure by Endorsement/Senior Psychologist.** Original application fee for licensure by endorsement/senior psychologist fee - ~~three~~ two hundred fifty dollars (~~\$300~~ 250).
~~(3-29-10)~~()
- 05. Service Extender Application Fee.** Application fee - one hundred dollars (\$100). (3-19-07)
- 06. Service Extender Annual Renewal Fee.** Annual renewal fee - one hundred dollars (\$100).
(3-19-07)
- 07. Examination and Reexamination Fee.** Examination and reexamination fees are those charged by the national examining entity plus a processing fee of twenty-five dollars (\$25). (5-3-03)
- 08. Examination and Reexamination in Addition to Application Fee.** The examination or reexamination fee are in addition to the application fee and must accompany the application. (3-19-07)
- 09. Reinstatement Fee.** ~~Any license cancelled for failure to renew may be reinstated upon payment of twenty-five dollars (\$25), together with the renewal fee for each year thereafter up to the time of r~~ Reinstatement fee is as provided in Section 67-2614, Idaho Code.
~~(3-29-10)~~()
- 10. Fees are Non-Refundable.** All fees are non-refundable. (3-29-10)

(BREAK IN CONTINUITY OF SECTIONS)

250. ENDORSEMENT (RULE 250).

- 01. Eligibility for Endorsement.** An applicant who is in possession of a valid statutory license or statutory certificate from another state or Canada may apply for licensing under the endorsement section of this law. (3-15-02)
- 02. Requirements for Endorsement.** An applicant under the endorsement section shall have: (3-15-02)
- a.** A valid psychology license or certificate issued by the regulatory entity of another jurisdiction; and (3-15-02)
 - b.** A current certificate of professional qualification in Psychology as defined in these rules; or (3-15-02)
 - c.** A registration with the National Register of Health Service Providers in Psychology; or (3-29-10)
 - d.** A certification by American Board of Professional Psychology; or (3-29-10)
 - e.** Graduated from an accredited college or university with a doctoral degree in psychology and two (2) years of supervised experience acceptable to the Board, one (1) year of which may include a pre-doctoral practicum or internship and one (1) year of which must be post-doctoral; or (3-29-10)
 - f.** Graduated from an accredited college or university with a doctoral degree in a field related to psychology, provided experience and training are acceptable to the Board; and (3-29-10)
 - g.** A record of practicing Psychology at the independent level for the five (5) years ~~of the last seven (7) years~~ immediately prior to application; and ~~(3-29-10)~~ ()
 - h.** A history of no disciplinary action in any jurisdiction. (3-15-02)

(BREAK IN CONTINUITY OF SECTIONS)

401. CONTINUING EDUCATION REQUIREMENTS FOR RELICENSURE IN PSYCHOLOGY (RULE 401).

01. Number of Hours Required. All licensed psychologists, in order to renew their license, must have accumulated twenty (20) hours per year of continuing education credits. At the time of renewal of the psychologists' licenses, they will certify that they are aware of the requirements for continuing education and that they have met those requirements for the preceding year. At the time of reinstatement of a psychologist's license, they shall provide proof that they have met the requirements for continuing education for the preceding year. A minimum of four (4) hours credit in ethics, standards of care, and/or review of laws pertaining to the practice of psychology is required every three (3) years. Areas covered may include practice, consultation, research, teaching, and/or supervision. These units may be used as part of the continuing education credit required. ~~(5-8-09)~~ ()

02. Professional Level of Continuing Education -- Time Period Records Kept - Audit. This continuing education experience must be at an appropriate level for professional training in psychology. The licensees have responsibility for demonstrating the relevance and adequacy of the educational experience they select. The licensees are also responsible for keeping an accurate record of their own personal continuing education hours for a period of five (5) years. A random audit may be conducted to insure compliance. (7-1-93)

03. Newly Licensed Individuals. Newly licensed individuals will be considered to have satisfied the continuing education requirements for the remainder of the year in which their license is granted. (7-1-93)

04. Certificates of Satisfactory Attendance and Completion. Certificates of satisfactory attendance and completion, cancelled checks, participant lists, transcripts from universities, letters of certification on instructor's letterhead, and other reasonably convincing proof of the submitted activities may serve as documentation when

persons audited are required to submit proof of continuing education. (7-1-93)

05. Licensees Who Do Not Fulfill the Continuing Education Requirements. Licensees who do not fulfill the continuing education requirements may be subject to disciplinary action. (7-1-93)

06. Carryover of Continuing Education Hours. Continuing education courses not claimed for CE credit in the current renewal year, may be credited for the next renewal year. A maximum of twenty (20) hours may be carried forward from the immediately preceding year. (5-3-03)

07. Special Exemption. The Board has the authority to make exceptions for reasons of individual hardship including health, when certified by a medical doctor, or other good cause. The licensee must provide any information requested by the Board to assist in substantiating hardship cases. This exemption is granted at the sole discretion of the Board. Request for special exemption must be made prior to licensure renewal. (3-29-10)

IDAPA 24 - BUREAU OF OCCUPATIONAL LICENSES
24.24.01 - RULES OF THE GENETIC COUNSELORS LICENSING BOARD
DOCKET NO. 24-2401-1501 (NEW CHAPTER)
NOTICE OF RULEMAKING - ADOPTION OF PENDING FEE RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2016 Idaho State Legislature for final approval. Pursuant to Section 67-5224(5)(c), Idaho Code, this pending fee rule will not become final and effective until it has been approved by concurrent resolution of the legislature because of the fee being imposed or increased through this rulemaking. The pending fee rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution unless the rule is rejected.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending fee rule. The action is authorized pursuant to Section 54-5607, Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending fee rule and a statement of any change between the text of the proposed rule and the text of the pending fee rule with an explanation of the reasons for the change:

There are no changes to the pending fee rule and it is being adopted as originally proposed. The complete text of the proposed rule was published in the October 7, 2015 Idaho Administrative Bulletin, [Vol. 15-10, pages 448 - 456](#).

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased. This fee or charge is being imposed pursuant to Section 54-5613, Idaho Code.

The proposed rules establish the following fees: application fee of \$500; original license fee of \$500; annual renewal fee of \$500; provisional license fee of \$500; endorsement fee of \$500; and duplicate license fee of \$10.

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

The proposed rules establish fees which will be deposited in the Bureau of Occupational Licenses dedicated fund. The fees will be used by the Genetic Counselors Licensing board to administer the act. Since all self-governing boards are expected to be self-supporting, these fees are based on the estimated costs and the anticipated number of licensees.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending fee rule, contact Cherie Simpson at (208) 334-3233.

DATED this 3rd Day of November, 2015.

Tana Cory
Bureau Chief
Bureau of Occupational Licenses
700 W. State Street
P.O. Box 83720
Boise, ID 83702
(208) 334-3233 Ph. / (208) 334-3945 fax

THE FOLLOWING NOTICE WAS PUBLISHED WITH THE PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Section 54-5607, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 21, 2015.

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:

This proposed rulemaking is necessary to implement the newly enacted provisions of Title 54, Chapter 56, Idaho Code. The proposed rules provide contact information for the Board, definitions, and address changes. These rules set out the operations of the board; application process; fees, requirements for original licensure; requirements for existing genetic counselors; approved examinations; suitability for licensure; requirements for licensure by endorsement; requirements for provisional licensure; renewal of a license; continuing education, unprofessional conduct; unethical conduct; and discipline.

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

The proposed rules establish the following fees: application fee of \$500; original license fee of \$500; annual renewal fee of \$500; provisional license fee of \$500; endorsement fee of \$500; and duplicate license fee of \$10.

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:

The proposed rules establish fees which will be deposited in the Bureau of Occupational Licenses dedicated fund. The fees will be used by the Genetic Counselors Licensing board to administer the act. Since all self-governing boards are expected to be self-supporting, these fees are based on the estimated costs and the anticipated number of licensees.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not conducted because the 2015 legislature passed Senate Bill 1080 which created the Genetic Counselors Licensing Board. The proposed rules are necessary in order to implement the provisions of Title 54, Chapter 56, Idaho Code. The proposed rules were discussed during noticed, open meetings of the Board.

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 Board is adopting the National Society of Genetic Counselors Code of Ethics adopted January 1992 and revised December 2004 and January 2006.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Cherie Simpson at (208) 577-2584.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 28, 2015.

DATED this 4th Day of September, 2015.

LSO Rules Analysis Memo

THE FOLLOWING IS THE TEXT OF FEE DOCKET NO. 24-2401-1501

IDAPA 24
TITLE 24
CHAPTER 01

24.24.01 - RULES OF THE GENETIC COUNSELORS LICENSING BOARD

000. LEGAL AUTHORITY.

These rules are hereby prescribed and established pursuant to the authority vested in the Genetic Counselors Licensing Board by the provisions of Title 54, Chapter 56, Idaho Code. ()

001. TITLE AND SCOPE.

01. Title. The rules will be cited as IDAPA 24.24.01, “Rules of the Genetic Counselors Licensing Board.” ()

02. Scope. These rules implement the purposes and intent of Chapter 56, Title 54, Idaho Code, to regulate the profession of genetic counseling in the interest of the public health, safety, and welfare. ()

002. WRITTEN INTERPRETATIONS.

In accordance with Section 67-5201(19)(b)(iv), Idaho Code, the Board may have written statements that pertain to the interpretation of the rules of this chapter, or to the documentation of compliance with the rules of this chapter. Such interpretations, if any, are available for public inspection and copying at cost in the main office of the Bureau of Occupational Licenses. ()

003. ADMINISTRATIVE APPEAL.

Administrative appeals will be governed by the Administrative Procedure Act, Title 67, Chapter 52, Idaho Code and IDAPA 04.11.01, “Idaho Rules of Administrative Procedure of the Attorney General.” ()

004. INCORPORATION BY REFERENCE.

The document titled “National Society of Genetic Counselors Code of Ethics,” adopted January 1992 and revised December 2004 and January 2006, is incorporated by reference into this rule and is available at the Board’s office and on the Board’s web site. ()

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

01. Street Address. The office of the Genetic Counselors Licensing Board is located within the Bureau of Occupational Licenses, 700 W. State Street, Boise, Idaho 83702. ()

02. Office Hours. The office is open between the hours of 8:00 a.m. and 5:00 p.m. Mountain Time each day except Saturdays, Sundays and holidays. ()

03. Mailing Address. The mailing address of the Board is PO Box 83720, Boise, Idaho 83720-0063. ()

04. Telephone Number. The telephone number of the Board is (208) 334-3233. ()

05. **Email Address.** The Board's email address is gen@ibol.idaho.gov. ()
06. **Facsimile.** The Board's fax number is (208) 334-3945. ()
07. **Electronic Address.** The Board's official website can be found at <http://www.ibol.idaho.gov>. ()

006. PUBLIC RECORDS ACT COMPLIANCE.

The rules contained herein and the records associated with the Board are subject to the Idaho Public Records Act, Title 74, Chapter 1, Idaho Code. ()

007. OPEN MEETINGS.

This Board operates pursuant to the Idaho Open Meetings Law, Title 74, Chapter 2, Sections 40 through 47 inclusive, Idaho Code. ()

008. -- 009. (RESERVED)

010. DEFINITIONS.

01. **ABGC.** American Board of Genetic Counseling, Inc., its successor or equivalent. ()
02. **ABMG.** American Board of Medical Genetics, its successor or equivalent. ()
03. **ACGC.** Accreditation Council for Genetic Counseling, its successor or equivalent. ()
04. **ACS.** Active candidate status conferred by the American Board of Genetic Counseling to an individual who has met the requirements established by the ABGC to take the ABGC certification examination in genetic counseling. ()
05. **Board.** Genetic Counselors Licensing Board as created in Section 54-5606, Idaho Code. ()
06. **Bureau.** Idaho Bureau of Occupational Licenses as created in Section 67-2602, Idaho Code. ()
07. **Certification.** Voluntary process by which the ABGC, ABMG, or NSGC, nongovernmental agencies, grant recognition and use of a credential to individuals who have met predetermined and standardized criteria. ()
08. **Certification Examination.** Certification examination for genetic counselors administered by the ABGC, ABMG, or NSGC, certifying agencies approved by the Board. ()
09. **CEU.** Continuing education unit. A measurable amount of credit granted to licensees by the Board for participation in education programs with content targeted to genetic counselors and pre-approved by the National Society of Genetic Counselors (NSGC). ()
10. **Code of Ethics.** The National Society of Genetic Counselors Code of Ethics as approved by the Board as the code of ethics for Idaho and incorporated by reference in Section 004 of these rules. ()
11. **Genetic Counseling.** Performing acts of a genetic counselor as described in Section 54-5603, Idaho Code. ()
12. **Genetic Counselor.** An individual who is licensed under Title 54, Chapter 56 to engage in the practice of genetic counseling. ()
13. **Licensed Physician.** A person holding a license issued under Title 54, Chapter 18, Idaho Code. ()

14. **NSGC.** The National Society of Genetic Counselors, its successor or equivalent. ()

15. **Person.** An individual not an association of individuals or a legal entity. ()

16. **PAC.** Professional Activity Credit. A measurable amount of credit granted to licensees by the Board for participation in a variety of professional activities determined by the ABGC to promote genetic counselor educational development. ()

011. CHANGES IN NAME AND ADDRESS -- ADDRESS FOR NOTIFICATION PURPOSES.

01. **Change of Name.** Whenever a change of a licensee's name of record occurs, the licensee must immediately notify the Bureau in writing of the change. Official documentation confirming the change of name must be provided to the Bureau on request. ()

02. **Change of Address.** Whenever a change of the licensee's address of record occurs, the licensee must immediately notify the Bureau in writing of the change. ()

03. **Address for Notification Purposes.** The most recent mailing address on file with the Bureau will be used for purposes of all written communication with a licensee including, but not limited to, notification of renewal and notices related to disciplinary actions. It is the responsibility of each licensee to keep the Bureau informed of a current mailing address. ()

012. -- 099. (RESERVED)

100. ORGANIZATION AND OPERATIONS OF THE BOARD.

01. **Meetings.** The Board must meet at least annually and at other such times and places as designated by the Chairman or upon the written request to the Chairman of a majority of members of the Board. ()

a. A majority of Board members constitute a quorum and is required for the transaction of business. A majority vote of the quorum present at a meeting will be considered the action of the Board as a whole. ()

b. The Chairman is a voting member. ()

02. **Organization.** At the first meeting of each fiscal year, the Board will elect from its members a Chairman, who will assume the duties of the office at the direction of the Board. ()

a. The Chairman will, when present, preside at all meetings, appoint with the consent of the Board, all committees, and will otherwise perform all duties pertaining to the office of Chairman. ()

b. The Bureau will act as an agent of the Board and will be the official keeper of all records of the Board. The Bureau will provide such services as may be authorized by Chapter 26, Title 67, Idaho Code, and as defined under contract between the Bureau and the Board. ()

101. -- 199. (RESERVED)

200. APPLICATION.

01. **Filing an Application.** Applicants for licensure must submit a complete application, verified under oath, to the Board at its official address. The application must be on the forms approved by the Board and submitted together with the appropriate fee(s) and supporting documentation. ()

02. **Supporting Documents.** The applicant must provide or facilitate the provision of any supporting third party documents that may be required under the qualifications for the license being sought. ()

03. **Applications Must Be Complete.** Applications will not be considered complete until all required information, documents, and fees are received by the Board. ()

04. Lack of Activity. If an applicant fails to respond to a Board request or an application has lacked activity for twelve (12) consecutive months, the application on file with the Board will be deemed denied and will be terminated upon a thirty (30) day written notice, unless the applicant shows good cause to the Board. ()

201. -- 249. (RESERVED)

250. FEES.

Fees are established in accord with Section 54-5613, Idaho Code as follows: ()

01. Application Fee. Application fee is five hundred dollars (\$500). ()

02. Original License Fee. Initial full license fee is five hundred dollars (\$500). ()

03. Annual Renewal Fee. Annual renewal fee is five hundred dollars (\$500). ()

04. Provisional License Fee. Provisional license fee is five hundred dollars (\$500). ()

05. License by Endorsement Fee. License by endorsement fee is five hundred dollars (\$500). ()

06. Examination Fee. The fee for those examinations administered by a third party administrator is the fee determined by the administrator and must be paid by the applicant directly to the administrator. ()

07. Duplicate License Fee. Duplicate license fee is ten dollars (\$10). ()

08. Reinstatement Fee. Reinstatement fee is as provided in Section 67-2614, Idaho Code. ()

09. Refund of Fees. All fees are non-refundable except that, if a license fee is tendered but the Board does not issue a license, the respective license fee will be returned. ()

251. -- 299. (RESERVED)

300. REQUIREMENTS FOR ORIGINAL LICENSURE.

The Board may grant an applicant a license as a genetic counselor who completes an application as set forth in Section 200, pays the applicable license fee as set forth in section 250, and meets the following requirements: ()

01. General. ()

a. An applicant must certify that he has not been found guilty, convicted, received a withheld judgment, or suspended sentence for a felony or a lesser crime conviction. If the applicant has been found guilty, convicted, received a withheld judgment, or suspended sentence for such a crime, the applicant must submit a written statement of suitability for licensure as set forth in Section 306 of these rules. ()

b. An applicant must certify that he or his license has not been subject to any disciplinary action by a regulatory entity in another state, territory, or country including, but not limited to, having an application for licensure denied. If the applicant or his license has been subject to discipline, the applicant must submit to the Board a written statement of suitability for licensure as set forth in Section 306 of these rules. ()

02. Education. An applicant must hold a master's degree or higher in genetics from an ABGC, ABMG, ACGC, or NSGC accredited program or master's degree or higher in a related field of study as approved by the Board. ()

03. Examination. An applicant must pass an ABGC or ABMG administered genetic counselor certification exam. ()

04. Certification. An applicant must provide proof of current certification from the ABGC or ABMG. ()

301. REQUIREMENTS FOR EXISTING GENETIC COUNSELOR LICENSURE.

Until July 1, 2016, the Board may grant a genetic counselor license to an applicant for licensure who does not qualify for licensure under Section 300 of these rules, completes an application as set forth in Section 200, pays the applicable license fee as set forth in Section 250, and who meets the following requirements: ()

- 01. General.** Meets the requirements prescribed in Subsection 300.01 of these rules. ()
- 02. Education.** Meets the requirements prescribed in Subsection 300.02 of these rules. ()
- 03. Experience.** Has worked as a genetic counselor for a minimum of ten (10) years and at least five (5) hours per week on average during the five (5) years immediately prior to the date of application. ()
- 04. Training.** Provides documentation satisfactory to the Board that he has completed at least two hundred (200) hours of formal training in genetic counseling as determined by the Board. ()
- 05. Endorsement.** Submits three (3) letters of recommendation from persons with whom applicant has worked in an employment setting, including at least one (1) letter from a genetic counselor qualified for licensure under Chapter 56, Title 54, Idaho Code and one (1) letter from either a clinical geneticist certified by the ABMG or a medical geneticist certified by ABMG. ()

302. -- 304. (RESERVED)

305. APPROVED EXAMINATION.

Approved examinations will be the Genetic Counselor Certification Exam administered by the ABGC or ABMG. ()

- 01. Passing Score.** A passing score will be determined by the ABGC or ABMG. ()
- 02. Date of Exam.** The passage of the exam may have occurred prior to the effective date of these rules. ()

306. WRITTEN STATEMENT OF SUITABILITY FOR LICENSURE.

An applicant who in any state, territory or country has had a license revoked or suspended or has been otherwise disciplined by a Board, a government agency, or any other disciplinary body, or has been found guilty, convicted, received a withheld judgment or suspended sentence for a felony or a lesser crime conviction must submit with his application a written statement and any supplemental information establishing his current suitability for licensure. ()

- 01. Consideration of Factors and Evidence.** The Board will consider the following factors or evidence: ()
 - a.** The severity or nature of the crime or discipline; ()
 - b.** The period of time that has passed since the crime or discipline under review; ()
 - c.** The number or pattern of crimes or discipline or other similar incidents; ()
 - d.** The circumstances surrounding the crime or discipline that would help determine the risk of repetition; ()
 - e.** The relationship of the crime or discipline to the practice of genetic counseling; ()
 - f.** The applicant's activities since the crime or discipline under review, such as employment, education, participation in treatment, payment of restitution, or any other factors which may be evidence of current rehabilitation; and ()

g. Any other information regarding rehabilitation or mitigating circumstances. ()

02. Interview. The Board may, at its discretion, grant an interview of the applicant. ()

03. Applicant Bears the Burden. The applicant will bear the burden of establishing his current suitability for licensure. ()

307. -- 309. (RESERVED)

310. REQUIREMENTS FOR LICENSURE BY ENDORSEMENT.

The Board may grant a license to an applicant for licensure by endorsement who completes an application as set forth in Section 200 of these rules and meets the following requirements: ()

01. General. Meets the requirements prescribed in Subsection 300.01 of these rules; and ()

02. Holds a Current License. The applicant must be the holder of a current active license in the profession and at the level for which a license is being sought, issued by the authorized regulatory entity of another state, territory, or jurisdiction of the United States. The state, territory, or jurisdiction must have licensing requirements substantially equivalent to or higher than those required for new applicants in Idaho. The certification of licensure must be received by the Board from the issuing agency. ()

311. REQUIREMENTS FOR PROVISIONAL LICENSE.

The Board may issue a provisional license to allow a person who has been granted ACS to engage in the practice of genetic counseling. The holder of a provisional license may only practice under the general supervision of a person fully licensed under this chapter or a physician licensed in this state. ()

01. Application. An applicant must submit a completed application on a form approved by the Board together with the required fee. ()

02. Supervision. While the provisional licensee is providing genetic counseling services, the licensee's supervisor need not be physically present; however, the supervisor must be readily accessible to the provisional licensee by telephone or by electronic means for consultation and assistance. ()

03. Expiration and Renewal. A provisional license expires automatically upon issuance of a full initial license. It is valid for one (1) year from the date it is issued and the licensee may renew it with an application for extension signed by the licensee's supervisor, at the discretion of the Board, for one (1) year periods up to a maximum of four (4) renewals. ()

312. -- 399. (RESERVED)

400. RENEWAL AND REINSTATEMENT OF EXPIRED LICENSE.

A licensee must renew his license annually as set forth in Section 67-2614, Idaho Code, and may reinstate his license within five (5) years after expiration as provided in Section 67-2614, Idaho Code. ()

401. -- 499. (RESERVED)

500. CONTINUING EDUCATION.

All licensees must comply with the following continuing education requirements: ()

01. Requirement. Beginning with the second renewal of their license, a licensee will be required to complete a minimum of two (2) CEUs within the preceding twelve (12) months or one (1) CEU and one (1) PAC within the preceding twelve (12) months. ()

02. Documentation. Each licensee will maintain documentation verifying continuing education course attendance and curriculum, or completion of the educational activity for a period of five (5) years from the date of completion. This documentation will be subject to audit by the Board. ()

a. Documented evidence of meeting the continuing education course requirement must be in the form of a certificate or letter from the sponsoring entity that includes verification of attendance by the licensee, the title of the activity, the subject material covered, the dates and number of hours credited, and the presenter's full name and professional credentials. Documented evidence of completing a continuing education activity must be in such form as to document both completion and date of the activity. ()

b. A licensee must submit the verification documentation to the Board, if requested by the Board. If a licensee fails to provide the Board with acceptable documentation of the hours attested to on the renewal application, the licensee may be subject to disciplinary action. ()

03. Waiver. The Board may waive the requirements of this rule for reasons of individual hardship, including health or other good cause. The licensee should request the waiver in advance of renewal and must provide any information requested by the Board to assist in substantiating hardship cases. This waiver is granted at the sole discretion of the Board. ()

04. Carryover of Continuing Education Hours. CEUs and PACs not claimed in the current renewal year may be claimed in the next renewal year. A maximum of two (2) CEUs or one (1) PAC and one (1) CEU may be carried forward from the immediately preceding year, and may not be carried forward more than one renewal year. ()

05. Exemption. A licensee is exempt from the continuing education requirements under this section for the period between the initial issuance of the original license and the first expiration date of that license. ()

501. -- 699. (RESERVED)

700. UNPROFESSIONAL CONDUCT.

01. Examples. Unprofessional conduct includes any of the following: ()

a. Failure to follow the guidelines for genetic counseling contained within the National Society of Genetic Counselors Code of Ethics as referenced in Section 004 of these rules. ()

b. Failure of a genetic counselor to provide general supervision to a provisional genetic license holder as required by Subsection 311.02 of these rules when both are parties to a supervision contract. ()

701. -- 799. (RESERVED)

800. UNETHICAL CONDUCT.

Unethical conduct is conduct that does not conform to the guidelines for genetic counseling contained within the National Society of Genetic Counselors Code of Ethics, incorporated by reference into Section 004 of these rules and approved by the Board as the Idaho Code of Ethics. ()

801. -- 899. (RESERVED)

900. DISCIPLINE.

01. Disciplinary Action. If the Board determines that grounds for discipline exist for violations of Title 54, Chapter 56, Idaho Code, violations of these rules, or both, it may impose disciplinary sanctions against the licensee including, without limitation, any or all of the following: ()

a. Refuse to issue, renew, or reinstate a license; ()

b. Revoke or suspend the licensee's license; ()

c. Condition, restrict, or limit the licensee's practice, license, or both; ()

d. Impose an administrative fine not to exceed one thousand dollars (\$1,000) for each violation of the

Board's laws and rules; and ()

e. Order a licensee to pay the costs and fees incurred by the Board in the investigation, prosecution, or both, of the licensee for violation(s) of the Board's laws and rules. ()

901. -- 999. (RESERVED)

IDAPA 27 - BOARD OF PHARMACY

27.01.01 - RULES OF THE IDAHO STATE BOARD OF PHARMACY

DOCKET NO. 27-0101-1501

NOTICE OF RULEMAKING - ADOPTION OF PENDING FEE RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2016 Idaho State Legislature for final approval. Pursuant to Section 67-5224(5)(c), Idaho Code, this pending fee rule will not become final and effective until it has been approved by concurrent resolution of the legislature because of the fee being imposed or increased through this rulemaking. The pending fee rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution unless the rule is rejected.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending fee rule. The action is authorized pursuant to Section 54-1717, Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending fee rule and a statement of any change between the text of the proposed rule and the text of the pending fee rule with an explanation of the reasons for the change:

The changes clarify that prescribers must store their controlled substances in a securely locked, substantially constructed cabinet. This change is in alignment with federal law, and further protects controlled substances from theft or diversion. The changes also clean up text in alignment with the rule writer's guide (e.g., "shall" to "must").

The text of the pending fee rule has been amended in accordance with Section 67-5227, Idaho Code. Only those sections that have changes that differ from the proposed text are printed in this bulletin. The original text of the proposed rule was published in the October 7, 2015 Idaho Administrative Bulletin, [Vol. 15-10, pages 478 - 485](#).

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased. This fee or charge is being imposed pursuant to Section 54-1720, Idaho Code.

The rule change modifies the retail storage registration or annual renewal fee to a flat fee of \$35 regardless of the number of drug items in stock.

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: NA

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending fee rule, contact Alex Adams, Executive Director, at (208) 334-2356.

DATED this 3rd Day of November 2015.

Alex Adams
Executive Director
Board of Pharmacy
1199 W. Shoreline Ln., Ste. 303
P. O. Box 83720
Boise, ID 83720-0067
Phone: 334-2356
Fax: (208) 334-3536

THE FOLLOWING NOTICE WAS PUBLISHED WITH THE PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Section 54-1717, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 21, 2015.

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:

Currently, there are two different non-pharmacy registrations depending on how many over the counter products are sold. The changes streamline to one registration allowing the sale of over the counter products. Currently, there are different commercial lists, but the same fee. The changes simplify language to charge the same fee for all similar commercial lists. Currently, rules do not allow the cancellation of Certified Technician registration if a registrant does not maintain the required National Certification registration. The changes enable the cancelling of technician certification registration upon notification for the lapsing of National Certification. In addition, new language requires a set amount of hours required for a certified technician to be supervised in a remote dispensing location. Present language requires less experiential hours for a foreign pharmacist than it does for a U.S. citizen. New language equalizes experiential hours for both. Finally, the changes add language setting storage requirements for controlled substances to further prevent theft or diversion.

This rulemaking docket: 1) modifies the retail storage registration or annual renewal fee to a flat fee of \$35 regardless of the number of drug items in stock; 2) modifies licensure requirements for foreign pharmacy graduates to increase experiential hours to match those hours required of in state students; 3) modifies registration requirements for certified pharmacy technicians to replace Institute for Certification of Pharmacy Technicians (ICPT) with National Healthcare Association certification and sets forth that failure to maintain necessary certification may result in cancellation of registration; 4) clarifies the amount of experiential hours required by a certified pharmacy technician to work in a remote dispensing site; and 5) modifies the storage requirements for controlled substances to further prevent theft or diversion.

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

The rule change modifies the retail storage registration or annual renewal fee to a flat fee of \$35 regardless of the number of drug items in stock. Section 54-1720, Idaho Code, authorizes the imposition of this fee.

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.

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 July 1, 2015 Idaho Administrative Bulletin, [Vol. 15-7, page 71](#) and in the August 5, 2015 Idaho Administrative Bulletin, [Vol. 15-8, page 106](#).

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: NA

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Alex Adams, Executive Director, at (208) 334-2356.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 28, 2015.

DATED this 4th Day of September 2015.

LSO Rules Analysis Memo

Italicized red text that is *double underscored* is new text that has been added to the pending fee rule.

THE FOLLOWING IS THE TEXT OF FEE DOCKET NO. 27-0101-1501

021. FEE SCHEDULE.

- 01. Licenses -- Professionals.** (3-21-12)
 - a. Original pharmacist license: one hundred dollars (\$100). (3-21-12)
 - b. Licensure by reciprocity: two hundred fifty dollars (\$250). (3-21-12)
 - c. Pharmacist license annual renewal. (3-21-12)
 - i. Active: ninety dollars (\$90). (3-21-12)
 - ii. Inactive: fifty dollars (\$50). (3-21-12)
 - d. Late payment processing: fifty dollars (\$50). (3-21-12)
 - e. License reinstatement fee: seventy-five dollars (\$75). (3-21-12)
- 02. Certificates of Registration -- Professionals.** (3-21-12)
 - a. Pharmacist registration or annual renewal: two hundred fifty dollars (\$250). (7-1-13)
 - b. Pharmacist intern - registration or annual renewal: fifty dollars (\$50). (3-21-12)
 - c. Pharmacist extern registration and annual renewal: fifty dollars (\$50) due upon enrollment in an accredited school or college of pharmacy and renewed annually at no charge. (3-21-12)
 - d. Technician - registration or annual renewal: thirty-five dollars (\$35). (3-21-12)
 - e. Veterinary drug technician - registration or annual renewal: thirty-five dollars (\$35). (3-21-12)
 - f. Registration reinstatement: one-half (1/2) the amount of the annual fee. (3-21-12)
- 03. Certificates of Registration and Licensure - Facilities.** (3-21-12)
 - a. Retail pharmacy - registration or annual renewal: one hundred dollars (\$100). (3-21-12)
 - b. Institutional facility - registration or annual renewal. (3-21-12)

- i. Hospital pharmacy: one hundred dollars (\$100). (3-21-12)
- ii. Nursing home: thirty-five dollars (\$35). (3-21-12)
- c. Manufacturer (including a repackager that is a manufacturer's authorized distributor of record) - registration or annual renewal: one hundred dollars (\$100). (3-21-12)
- d. Wholesaler. (3-21-12)
 - i. License or annual renewal: one hundred thirty dollars (\$130); or (3-21-12)
 - ii. Registration or annual renewal: one hundred dollars (\$100). (3-21-12)
- e. Veterinary drug outlet - registration or annual renewal: one hundred dollars (\$100). (3-21-12)
- f. Nonresident central drug outlet. (7-1-13)
 - i. Initial license: five hundred dollars (\$500). (7-1-13)
 - ii. License annual renewal: two hundred fifty dollars (\$250). (7-1-13)
- g. Mail service pharmacy. (3-21-12)
 - i. Initial license: five hundred dollars (\$500). (3-21-12)
 - ii. License annual renewal: two hundred fifty dollars (\$250). (3-21-12)
- h. Limited service outlet - registration or annual renewal. (3-21-12)
 - i. Limited service outlet, if not listed: one hundred dollars (\$100). (3-21-12)
 - ii. Sterile product pharmacy: one hundred dollars (\$100). (4-4-13)
 - iii. Remote dispensing pharmacy: one hundred dollars (\$100). (3-21-12)
 - iv. Facility operating a narcotic treatment program: one hundred dollars (\$100). (3-21-12)
 - v. Durable medical equipment outlet: fifty dollars (\$50). (3-21-12)
 - vi. Prescriber drug outlet: thirty five dollars (\$35). (3-21-12)
 - vii. Outsourcing facilities: (4-6-15)
 - (1) Initial nonresident registration: five hundred dollars (\$500). (4-6-15)
 - (2) Initial resident registration: two hundred fifty dollars (\$250). (4-6-15)
 - (3) Registration annual renewal: two hundred fifty dollars (\$250). (4-6-15)
- i. Analytical or research lab -- registration or annual renewal: forty dollars (\$40). (3-21-12)
- j. Retail non-pharmacy outlets. ()
- i. - ~~*Retail store~~ registration or annual renewal: ~~thirty-five dollars (\$35).~~ (3-21-12)()
- i. ~~"A" (Stocks more than fifty (50) drug items): sixty dollars (\$60).~~ (3-21-12)

- ~~ii.~~ ~~“B” (Stocks fifty (50) or fewer drug items): twenty five dollars (\$25).~~ ~~(3-21-12)~~
- iii. “V” (Vending machines): ten dollars (\$10) per machine. (3-21-12)
- k. Supplemental facility registrations or annual renewals. (3-21-12)
- i. Laminar flow or other hood, biological safety cabinet, or barrier isolator -- single registration required for one (1) or more hoods: no charge. (3-21-12)
- ii. ADS system -- single registration required for one (1) or more systems: no charge. (3-21-12)
- l. Reinstatement: one-half (1/2) the amount of the annual fee. (3-21-12)
- 04. Controlled Substance Registration.** (3-21-12)
- a. Controlled substance - registration or annual renewal: sixty dollars (\$60). (3-21-12)
- b. Wholesaler or distributor-controlled substance - registration or annual renewal: one hundred dollars (\$100). (3-21-12)
- c. Controlled substance registration reinstatement: seventy-five dollars (\$75). (3-21-12)
- 05. Administrative Services and Publications.** (3-21-12)
- a. Experiential hours certification: twenty-five dollars (\$25). (3-21-12)
- b. Duplicate pharmacist certificate of licensure: thirty-five dollars (\$35). (3-21-12)
- c. Duplicate registration or license card: ten dollars (\$10). (3-21-12)
- d. Commercial lists. (3-21-12)
- i. Pharmacy list Except for Subparagraph 021.05.d.ii. below, any registrant or licensee lists: fifty dollars (\$50). ~~(3-21-12)~~()
- ~~ii.~~ ~~Pharmacist list: fifty dollars (\$50).~~ ~~(3-21-12)~~
- iii. Controlled Substances Act (“CSA”) registrant list: one hundred fifty dollars (\$150). (3-21-12)
- e. Official Idaho Register: fifteen dollars (\$15). (3-21-12)
- f. Idaho Pharmacy Laws and Rules book: thirty-five dollars (\$35). (3-21-12)
- g. Hearing transcript: five dollars (\$5) per page. (3-21-12)

(BREAK IN CONTINUITY OF SECTIONS)

031. PHARMACIST LICENSURE BY EXAMINATION: FOREIGN PHARMACY GRADUATES.

01. Licensure Submission Requirements. To be considered for licensure, a graduate of a school or college of pharmacy located outside of the United States must submit an application for licensure by examination, certification of completion of a minimum of ~~fifteen~~ seventeen hundred ~~forty~~ (150740) experiential hours, and; ~~(4-11-15)~~()

- a. Certification by the FPGEC; or (4-11-15)
- b. Certification of graduation from a doctorate of pharmacy program from an accredited school or college of pharmacy within the United States. (4-11-15)
- 02. Affidavit.** An Idaho State Board of Pharmacy Employer's Affidavit certifying the experiential hours of a foreign pharmacy graduate must be signed by a pharmacist licensed and practicing in the United States and submitted to the Board. The Board may also request verifiable business records to document the hours. (3-21-12)

(BREAK IN CONTINUITY OF SECTIONS)

040. CERTIFIED PHARMACY TECHNICIAN REGISTRATION.

To be approved for registration as a certified pharmacy technician, a person must satisfy the following requirements: (3-21-12)

- 01. Age.** Be at least eighteen (18) years of age unless a waiver is granted by the Board's executive director; (3-21-12)
- 02. Education.** Be a high school graduate or the recipient of a high school equivalency diploma unless a waiver is granted by the Board's executive director; (3-21-12)
- 03. Personal Characteristics.** Be of good moral character and temperate habits; and (3-21-12)
- 04. Certification.** Have obtained and maintained certified pharmacy technician (CPhT) status through the Pharmacy Technician Certification Board (PTCB), the *Institute for Certification of Pharmacy Technicians (ICPT)* [National Healthcare Association](#), or their successors unless qualified for a continuous employment exemption. (3-21-12) ()

05. Cancellation of Registration. Failure to maintain the certification requirements for certified pharmacy technician registration may result in cancellation of the registration. ()

(BREAK IN CONTINUITY OF SECTIONS)

210. CONTROLLED SUBSTANCE STORAGE.

Controlled substances must be stored as follows: ()

01. Schedule I. Controlled substances listed in Schedule I must be stored in a securely locked, substantially constructed cabinet. ()

02. Schedules II, III, IV and, V. Controlled substances listed in Schedules II, III, IV, and V must be stored in a securely locked, substantially constructed cabinet. However, pharmacies may disperse such substances, in whole or in part, throughout the stock of noncontrolled substances in such a manner as to obstruct the theft or diversion of the controlled substances. ()

~~210~~1. -- 219. (RESERVED)

(BREAK IN CONTINUITY OF SECTIONS)

710. RETAIL TELEPHARMACY WITH REMOTE DISPENSING SITES.

Pharmacies and pharmacists commencing retail telepharmacy operations with a remote dispensing site after August 23, 2011, must comply with the following requirements: (3-21-12)

01. Telepharmacy Practice Sites and Settings. Prior to engaging in the practice of telepharmacy with a remote dispensing site, the supervising pharmacy must demonstrate that there is limited access to pharmacy services in the community in which the remote site is located. (3-21-12)

a. Information justifying the need for the remote dispensing site must be submitted with the initial registration application. (3-21-12)

b. The Board will consider the availability of pharmacists in the community, the population of the community to be served by the remote dispensing site, and the need for the service. (3-21-12)

c. The remote dispensing site must be located in a medical care facility operating in areas otherwise unable to obtain pharmaceutical care services on a timely basis. (3-21-12)

d. The Board will not approve a remote dispensing site if a retail pharmacy that dispenses prescriptions to outpatients is located within the same community as the proposed remote dispensing site. (3-21-12)

02. Independent Entity Contract. Unless jointly owned, a supervising pharmacy and a remote dispensing site must enter into a written contract that outlines the services to be provided and the responsibilities and accountability of each party in fulfilling the terms of the contract. (3-21-12)

a. A copy of the contract must be submitted to the Board with the initial registration application and at any time there is a substantial change in a contract term. (3-21-12)

b. The contract must be retained by the supervising pharmacy. (3-21-12)

03. PIC Responsibility. Unless an alternative PIC from the supervising pharmacy is specifically designated in writing, the PIC of the supervising pharmacy is also considered the responsible PIC for the remote dispensing site. (3-21-12)

04. Remote Dispensing Site Limitations. The Board may limit the number of remote dispensing sites under the supervision and management of a single pharmacy. (3-21-12)

05. Technician Staffing. Unless staffed by a pharmacist, a remote dispensing site must be staffed by at least one (1) certified technician with at least two thousand (2,000) hours pharmacy technician experience in Idaho and under the supervision of a pharmacist at the supervising pharmacy at all times that the remote site is open. Supervision does not require the pharmacist to be physically present at the remote dispensing site, but the pharmacist must supervise telepharmacy operations electronically from the supervising pharmacy. (4-11-15)()

06. Common Electronic Recordkeeping System. The remote dispensing site and the supervising pharmacy must utilize a common electronic recordkeeping system that must be capable of the following: (3-21-12)

a. Electronic records must be available to, and accessible from, both the supervising pharmacy and the remote dispensing site; and (3-21-12)

b. Prescriptions dispensed at the remote dispensing site must be distinguishable from those dispensed from the supervising pharmacy. (3-21-12)

07. Records Maintenance. Controlled substance records must be maintained at the registered location unless specific approval is granted for central storage as permitted by, and in compliance with, federal law. (3-21-12)

08. Video and Audio Communication Systems. A supervising pharmacy of an ADS system used in a remote dispensing site must maintain a video and audio communication system that provides for effective communication between the supervising pharmacy and the remote dispensing site personnel and consumers. The system must provide an adequate number of views of the entire site, facilitate adequate pharmacist supervision and allow the appropriate exchanges of visual, verbal, and written communications for patient counseling and other matters involved in the lawful transaction or delivery of drugs. The remote dispensing site must retain a recording of

such video and audio surveillance for a minimum of ninety (90) days. (4-11-15)

a. Adequate supervision by the pharmacist in this setting is maintaining constant visual supervision and auditory communication with the site and full supervisory control of the automated system that must not be delegated to another person or entity. (3-21-12)

b. Video monitors used for the proper identification and communication with persons receiving prescription drugs must be a minimum of twelve inches (12") wide and provided at both the pharmacy and the remote location for direct visual contact between the pharmacist and the patient or the patient's agent. (3-21-12)

c. Each component of the communication system must be in good working order. Unless a pharmacist is present onsite, the remote dispensing site must be, or remain, closed if any component of the communication system is malfunctioning until system corrections or repairs are completed. (3-21-12)

09. Access and Operating Limitations. Unless a pharmacist is present, a remote dispensing site must not be open or its employees allowed access to it during times the supervising pharmacy is closed. The security system must allow for tracking of entries into the remote dispensing site, and the PIC must periodically review the record of entries. (3-21-12)

10. Delivery and Storage of Drugs. If controlled substances are maintained or dispensed from the remote dispensing site, transfers of controlled substances from the supervising pharmacy to the remote dispensing site must comply with applicable state and federal requirements. (3-21-12)

a. Drugs must only be delivered to the remote dispensing site in a sealed container with a list identifying the drugs, drug strength, and quantities included in the container. Drugs must not be delivered to the remote dispensing site unless a technician or pharmacist is present to accept delivery and verify that the drugs sent were actually received. The technician or pharmacist who receives and checks the order must verify receipt by signing and dating the list of drugs delivered. (3-21-12)

b. If performed by a technician, a pharmacist at the supervising pharmacy must ensure, through use of the electronic audio and video communications systems or bar code technology, that a technician has accurately and correctly restocked drugs into the ADS system or cabinet. (3-21-12)

c. Drugs at the remote dispensing site must be stored in a manner to protect their identity, safety, security, and integrity and comply with the drug product storage requirements of these rules. (3-21-12)

d. Drugs, including previously filled prescriptions, not contained within an ADS system must be stored in a locked cabinet within a secured area of a remote dispensing site and access must be limited to pharmacists from the supervising pharmacy and the technicians authorized in writing by the PIC. (3-21-12)

11. Wasting or Discarding of Drugs Prohibited. Wasting or discarding of drugs resulting from the use of an ADS system in a remote dispensing site is prohibited. (3-21-12)

12. Returns Prohibited. The technician at a remote dispensing site must not accept drugs returned by a patient or patient's agent. (3-21-12)

13. Security. A remote dispensing site must be equipped with adequate security. (4-11-15)

a. At least while closed, a remote dispensing site must utilize an alarm or other comparable monitoring system to protect its equipment, records, and supply of drugs, devices, and other restricted sale items from unauthorized access, acquisition, or use. The site must have a means of recording the time of entry and the identity of all persons who access the site, which must be retained for ninety (90) days. Two (2) factoring credentialing is required for entry, which must include two (2) of the following: (4-11-15)

i. Something known (a knowledge factor); (4-11-15)

ii. Something possessed (a hard token stored separately from the computer being accessed); and

- (4-11-15)
- iii. Something biometric (finger print, retinal scan, etc.); (4-11-15)
- b.** A remote dispensing site must be totally enclosed in a manner sufficient to provide adequate security for the pharmacy, as required by this rule and approved by the Board. All remote dispensing sites must meet the following security requirements: (4-11-15)
- i. Walls must extend to the roof or the pharmacy must be similarly secured from unauthorized entry. (4-11-15)
- ii. Solid core or metal doors are required. (4-11-15)
- iii. Doors and other access points must be constructed in a manner that the hinge hardware is tamper-proof when closed. (4-11-15)
- c.** Access to the area of the remote dispensing site where prescription drugs are prepared, distributed, dispensed or stored must be limited to technicians and pharmacists. Any other persons requiring access to the remote dispensing site for legitimate business reasons may only be present in the secured area with the permission and under the supervision of a pharmacist, which may be satisfied via audio/video communication. (4-11-15)
- d.** A remote dispensing site must be closed for business and secured during all times a pharmacist or technician is not present. (4-11-15)
- 14. Patient Counseling.** A remote dispensing site must include an appropriate area for patient counseling. (3-21-12)
- a.** The area must be readily accessible to patients and must be designed to maintain the confidentiality and privacy of a patient's conversation with the pharmacist. (3-21-12)
- b.** Unless onsite, a pharmacist must use the video and audio communication system to counsel each patient or the patient's caregiver on new medications. (3-21-12)
- 15. Remote Dispensing Site Sign.** A remote dispensing site must display a sign, easily visible to the public, that informs patients that: (3-21-12)
- a.** The location is a remote dispensing site providing telepharmacy services supervised by a pharmacist located in another pharmacy; (3-21-12)
- b.** Identifies the city or township where the supervising pharmacy is located; and (3-21-12)
- c.** Informs patients that a pharmacist is required to speak with the patient using audio and video communication systems each time a new medication is delivered or if counseling is accepted at a remote dispensing site. (3-21-12)
- 16. Pharmacist Inspection of Remote Dispensing Site.** A pharmacist must complete and document a monthly in-person inspection of a remote dispensing site and inspection reports must be retained. (3-21-12)
- 17. Continuous Quality Improvement Program.** The PIC of the remote dispensing site must develop and implement a continuous quality improvement program. (4-11-15)