

TEMPORARY RULES COMMITTEE RULES REVIEW BOOK

Submitted for Review Before
House Health & Welfare Committee
68th Idaho Legislature
Second Regular Session – 2025



Prepared by:

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

January 2025

HOUSE HEALTH & WELFARE COMMITTEE

ADMINISTRATIVE RULES REVIEW

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IDAPA 16 – DEPARTMENT OF HEALTH AND WELFARE

16.03.14 – HOSPITALS

DOCKET NO. 16-0314-2301

NOTICE OF RULEMAKING – ADOPTION OF TEMPORARY RULE

THE FOLLOWING NOTICE PUBLISHED WITH THE TEMPORARY RULE

EFFECTIVE DATE: The effective date of the temporary rule is November 14, 2023.

AUTHORITY: In compliance with Sections 67-5226, Idaho Code, notice is hereby given this agency has adopted a temporary rule. The action is authorized pursuant to Section 39-1307, Idaho Code.

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

Idaho Hospital Association (IHA) requested rule changes about recredentialing to align with CFR language and asked that changes be made before the scheduled ZBR Rewrite for 2025. The Department supports this change.

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

The changes in this rulemaking qualify for all the following purposes for a Temporary rulemaking:

1. Protection of the public health, safety, or welfare by removing barriers and allowing providers flexibility in providing care to their patients; and
2. Confers a benefit as requested by stakeholders.

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:

This chapter contains no fees or charges.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning the temporary rule, contact Laura Stute at 208-866-1775.

DATED this 9th day of November, 2023.

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FOLLOWING IS THE TEXT OF THE TEMPORARY RULE FOR DOCKET NO. 16-0314-2301

(If extended, this temporary rule will be replaced by the pending rule promulgated under docket number 16-0314-2401 on July 1, 2025.)

16.03.14 – HOSPITALS

200. GOVERNING BODY AND ADMINISTRATION.

There shall be an organized governing body, or equivalent, that has ultimate authority and responsibility for the operation of the hospital. (3-17-22)

01. Bylaws. The governing body shall adopt bylaws in accordance with Idaho Code, community responsibility, and identify the purposes of the hospital and that specify at least the following: (3-17-22)

a. Membership of Governing Body, that consists of: (3-17-22)

i. Basis of selecting members, term of office, and duties; and (3-17-22)

ii. Designation of officers, terms of office, and duties. (3-17-22)

b. Meetings: (3-17-22)

i. Specify frequency of meetings; (3-17-22)

ii. Meet at regular intervals, and there is an attendance requirement; (3-17-22)

iii. Minutes of all governing body meetings shall be maintained. (3-17-22)

c. Committees: (3-17-22)

i. The governing body officers shall appoint committees as appropriate for the size and scope of activities in the hospitals; (3-17-22)

ii. Minutes of all committee meetings shall be maintained, and reflect all pertinent business. (3-17-22)

d. Medical Staff Appointments and Reappointments: (3-17-22)

i. A formal written procedure shall be established for appointment to the medical staff; (3-17-22)

ii. Medical staff appointments shall include an application for privileges, signature of applicant to abide by hospital bylaws, rules, and regulations, and delineation of privileges as recommended by the medical staff. The same procedure shall apply to nonphysician practitioners who are granted clinical privileges; (3-17-22)

iii. The procedure for appointment and reappointment to the medical staff shall involve the administrator, medical staff, and the governing body. ~~Reappointments shall be made at least biannually;~~ (3-17-22)(11-14-23)T

iv. The governing body bylaws shall approve medical staff authority to evaluate the professional competence of applicants, appointments and reappointments, curtailment of privileges, and delineation of privileges; (3-17-22)

- v. Applicants for appointment, reappointment or applicants denied to the medical staff privileges shall be notified in writing; (3-17-22)
- vi. There shall be a formal appeal and hearing mechanism adopted by the governing body for medical staff applicants who are denied privileges, or whose privileges are reduced. (3-17-22)
- e. The bylaws shall provide a mechanism for adoption, and approval of the organization bylaws, rules and regulations of the medical staff. (3-17-22)
- f. The bylaws shall specify an appropriate and regular means of communication with the medical staff. (3-17-22)
- g. The bylaws shall specify departments to be established through the medical staff, if appropriate. (3-17-22)
- h. The bylaws shall specify that every patient be under the care of a physician licensed by the Idaho State Board of Medicine. (3-17-22)
- i. The bylaws shall specify that a physician be on duty or on call at all times. (3-17-22)
- j. The bylaws shall specify to whom responsibility for operations, maintenance, and hospital practices can be delegated and how accountability is established. (3-17-22)
- k. The governing body shall appoint a chief executive officer or administrator, and shall designate in writing who will be responsible for the operation of the hospital in the absence of the administrator. (3-17-22)
- l. Bylaws shall be dated and signed by the current governing body. (3-17-22)
- m. Patients being treated by nonphysician practitioners shall be under the general care of a physician. (3-17-22)
- 02. Administration.** The governing body, through the administrator, shall provide appropriate physical facilities and personnel required to meet the needs of the patients and the community. (3-17-22)
- 03. Chief Executive Officer or Administrator.** The governing body through the chief executive officer shall establish the following policies, procedures or plans: (3-17-22)
- a. The hospital shall adopt a written personnel policy concerning qualification, responsibility, and condition of employment for each category of personnel. The policy and/or procedures shall contain the following elements: (3-17-22)
- i. Documentation of orientation of all employees to policies, procedures and objectives of the hospital. (3-17-22)
- ii. Job descriptions for all categories of personnel. (3-17-22)
- iii. Documentation of continuing education (inservice) for all patient care personnel. (3-17-22)
- b. There shall be a personnel record for each employee that shall contain at least the following: (3-17-22)
- i. Current licensure and/or certification status. (3-17-22)
- ii. The results of a Tuberculin Skin Test that shall be determined either by history of a prior positive, or by the application of a skin test prior to or within thirty (30) days of employment. If the skin test is positive, either by history or by current test, a chest X-ray shall be taken, or a report of the result of a chest X-ray taken within three

(3) months preceding employment, shall be accepted. The Tuberculin Skin Test status shall be known and recorded and a chest X-ray alone is not a substitute. No subsequent annual chest X-ray or skin test is required for routine surveillance. (3-17-22)

c. There shall be regularly scheduled departmental and interdepartmental meetings, appropriate to the needs of the hospital, and documentation of such meetings shall be available. (3-17-22)

d. The chief executive officer shall serve as liaison between the governing body, medical staff and the nursing staff, and all other departments of the hospital. (3-17-22)

e. Written policies and procedures shall be reviewed as needed. (3-17-22)

04. Discharge Planning. Administration shall provide a procedure to screen each patient for discharge planning needs. If discharge planning is necessary, a qualified person shall be designated responsible for such planning. The hospital shall have a transfer agreement with a Medicare and/or Medicaid skilled nursing home. If there is a common governing board for a hospital and a skilled nursing home, a policy statement concerning transfers will be sufficient. (3-17-22)

05. Institutional Planning. The governing body through the chief executive officer shall provide for institutional planning by means of a committee composed of members of the governing body, administration, and medical staff. The plan shall include at least these elements: (3-17-22)

a. Annual budgeting; and (3-17-22)

b. A protocol for coordinating the hospital services with other health care facilities and community resources. (3-17-22)

06. Disclosure of Ownership. The governing body and administration of hospitals required to be licensed under these rules shall fully disclose to the licensing agency the names and addresses of all persons owning or controlling five percent (5%) interest in the hospital. (3-17-22)

07. Compliance with Laws and Regulations. The governing body through the chief executive officer will be responsible for meeting all applicable laws and regulations pertaining to hospitals, and acting promptly upon reports and reviews of regulatory and inspecting agencies. (3-17-22)

08. Use of Outside Resources. If a hospital does not employ a required professional person to render a specific service, there shall be a written agreement for such service to meet the requirements of these rules. The agreement shall specify the following: (3-17-22)

a. Responsibilities of both parties, with the hospital retaining responsibility for services rendered. (3-17-22)

b. All services to be performed by outside resources including reports, frequency of visits, and services rendered. (3-17-22)

09. Substantial Change in Services. Any hospital proposing to offer a new service or a new department under these rules or proposing to implement a substantial change in an existing service or department shall provide to the licensing agency evidence of a request for a determination of reviewability if a program providing prospective review of hospitals is in effect. (3-17-22)

10. Quality Assurance. Through administration and medical staff, the governing body shall ensure that there is an effective, hospital-wide quality assurance program to evaluate the provision of care. The hospital must take and document appropriate remedial action to address deficiencies found through the program. The hospital must document the outcome of the remedial action. (3-17-22)

(BREAK IN CONTINUITY OF SECTIONS)

250. MEDICAL STAFF.

The hospital must have an active medical staff organized under bylaws approved by the governing body and responsible to the governing body for the quality of all medical care provided the patients, and for the professional practices and ethical conduct of the members. (3-17-22)

01. Medical Staff Qualifications and Privileges. All medical staff members must be qualified legally and professionally for the privileges that they are granted. (3-17-22)

a. Privileges must be granted only on the basis of individual training, competence, and experience. (3-17-22)

b. The medical staff, with governing body approval, must develop and implement a written procedure for determining qualifications for medical staff appointment, and for determining privileges. (3-17-22)

c. The governing body must approve medical staff privileges within the limits of the hospital's capabilities for providing qualified support staff and equipment in specialized areas. (3-17-22)

02. Authority to Admit Patients. A hospital may grant to physicians, physician assistants, and advanced practice nurses the privilege to admit patients, provided that admitting privileges be granted only if the privileges are: (3-17-22)

a. Recommended by the medical staff at the hospital; (3-17-22)

b. Approved by the governing body of the hospital; and (3-17-22)

c. Within the scope of practice conferred by the license of the physician, physician assistant, or advanced practice nurse. (3-17-22)

d. A hospital must specify in its bylaws the process by which its governing body and medical staff oversee those practitioners granted admitting privileges. Such oversight must include credentialing and competency review. (3-17-22)

03. Medical Staff Appointments and Reappointments. Medical staff appointments and reappointments must be made by the governing body upon the recommendation of the active medical staff, or a committee of the active staff. (3-17-22)

a. Appointments to the medical staff must include a written delineation of all privileges including surgical procedures, and governing body approval must be documented. (3-17-22)

b. Reappointments to the medical staff must be made ~~at least every two (2) years~~ periodically with appropriate documentation indicating governing body approval. (3-17-22)(11-14-23)T

c. Reappointment procedures must include a means of increasing or decreasing privileges after consideration of the member's physical and mental capabilities. (3-17-22)

d. The medical staff and administration with approval of the governing body must develop a written procedure for temporary or emergency medical staff privileges. (3-17-22)

04. Required Hospital Functions. Each hospital must have a mechanism in place to perform the following functions: (3-17-22)

a. Coordinate all activities of the medical staff; (3-17-22)

b. Develop a hospital formulary and procedures for the choice and control of all drugs used in the hospital; (3-17-22)

- c. Establish procedures to prevent and control infections in the hospital; (3-17-22)
 - d. Develop and monitor standards of medical records contents; (3-17-22)
 - e. Maintain communications between medical staff and the governing body of the hospital; and (3-17-22)
 - f. Review clinical work of the medical staff. (3-17-22)
- 05. Documentary Evidence of Medical Staff Activities.** The medical staff or any committees of the staff must meet as often as necessary, but at least twice annually, to assure implementation of the required functions in Subsection 250.04 of this rule. Minutes of all meetings of the medical staff or any committees of the staff must be maintained. (3-17-22)
- 06. Medical Staff Bylaws, Rules, and Regulations.** These must specify at least the following: (3-17-22)
- a. A description of the medical staff organization that includes: (3-17-22)
 - i. Officers and their duties; (3-17-22)
 - ii. Staff committees and their responsibilities; (3-17-22)
 - iii. Frequency of staff and committee meetings; and (3-17-22)
 - iv. Agenda for all meetings and the type of records to be kept. (3-17-22)
 - b. A statement of the necessary qualifications for appointment to the staff, and the duties and privileges of each category of medical staff. (3-17-22)
 - c. A procedure for appointment, granting and withdrawal of privileges. (3-17-22)
 - d. A mechanism for hearings and appeals of decisions regarding medical staff membership and privileges. (3-17-22)
 - e. A statement regarding attendance at staff meetings. (3-17-22)
 - f. A statement of qualifications and a procedure for delineation of clinical privileges for all categories of nonphysician practitioners. (3-17-22)
 - g. A requirement for keeping accurate and complete medical records. (3-17-22)
 - h. A requirement that all tissue surgically removed will be delivered to a pathologist for a report on such specimens, unless the medical staff, in consultation with the pathologist, adopts uniform exceptions to sending tissue specimens to the laboratory for analysis. (3-17-22)
 - i. A statement requiring a medical history and physical examination be performed no more than seven (7) days before or within forty-eight (48) hours after admission. The findings from this history and physical examination, including a provisional diagnosis, must be included in the medical record prior to surgery, except in emergencies. (3-17-22)
 - j. A requirement that consultation is necessary with unusual cases, except in emergencies. Unusual cases must be defined by the hospital medical staff. (3-17-22)
- 07. Review of Policies and Procedures.** The medical staff must review and approve all policies and procedures directly related to medical care. (3-17-22)

08. Dentists and Podiatrists. If dentists and podiatrists are appointed to the medical staff, the bylaws must specifically refer to services performed by such professionals, and must specify at least the following:

(3-17-22)

a. Patients admitted for dental or podiatry service must be under the general care of a physician member of the active staff.

(3-17-22)

b. All medical staff requirements and procedure for privileges must be followed for dentists and podiatrists.

(3-17-22)

09. Dating of Bylaws. Bylaws must be dated and signed by the current officers of the medical staff or the committee of the whole.

(3-17-22)

10. Medical Orders. Written, verbal and telephone orders from persons authorized to give medical orders under Idaho law must be accepted by those health care practitioners empowered to do so under Idaho law and written hospital policies and procedures. Verbal and telephone orders must contain the name of the person giving the order, the first initial and last name and professional designation of the health care practitioners receiving the order. The order(s) must be promptly signed or otherwise authenticated by the prescribing practitioner in a timely manner in accordance with the hospital's policy.

(3-17-22)

IDAPA 16 – DEPARTMENT OF HEALTH AND WELFARE
16.04.18 – CHILDREN’S AGENCIES AND RESIDENTIAL LICENSING
DOCKET NO. 16-0418-2401
NOTICE OF RULEMAKING – ADOPTION OF TEMPORARY RULE

THE FOLLOWING NOTICE PUBLISHED WITH THE TEMPORARY RULE

EFFECTIVE DATE: The effective date of the temporary rule is July 1, 2024.

AUTHORITY: In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a temporary rule, and proposed regular rulemaking procedures have been initiated. This rule chapter is promulgated pursuant to Sections 39-1207, 39-1208, 39-1209, 39-1210, 39-1213, 56-1003, 56-1004A, and 56-1005(8), 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 17, 2024.

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

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

Because of the updates to 16.06.02, Foster Care Licensing, this rule makes corresponding changes to the children’s agencies requirements for foster homes.

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

OPE and the Child Protection Oversight Committee have highlighted significant challenges with the current child welfare system and these changes are necessary to protect public health, safety, and welfare and to increase the number and types of foster homes available to serve Idaho youth.

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

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

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not conducted because the shortage of foster homes is at a level in which urgent action is needed. Because the major substantive changes are part of a national model act developed in partnership with many organizations, the major changes have been vetted.

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: N/A

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary and proposed rule, contact Alex Adams, Director, 208-334-5500.

Anyone may submit written comments regarding the proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before July 24, 2024.

DATED this 6th day of June, 2024.

Alex J. Adams, PharmD, MPH
Director
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FOLLOWING IS THE TEXT OF THE TEMPORARY RULE FOR DOCKET NO. 16-0418-2401

(If extended, this temporary rule will be replaced by the pending rule promulgated under this same docket number on July 1, 2025.)

16.04.18 – CHILDREN'S AGENCIES AND RESIDENTIAL LICENSING

300. POLICIES.

A children's agency that licenses foster homes must have policies that comply with IDAPA 16.06.02, "~~Child Care and Foster Home Care~~ Licensing," ~~Sections 400 through 499~~, and may require that additional foster care rules be met if ~~(4-6-23)~~ (7-1-24)T the agency deems appropriate.

~~301. FOSTER FAMILY HOME STUDY.~~

~~The agency must conduct and maintain an appropriate home study based on IDAPA 16.06.02, "Child Care and Foster Home Licensing," Sections 400 through 499, to determine if the family meets required licensing standards to be issued a foster care license. (4-6-23)~~

~~302. TRAINING.~~

~~The agency must have and follow a training policy that includes completing the orientation and ongoing training requirements of IDAPA 16.06.02, "Child Care and Foster Home Licensing," Sections 400 through 499. All foster care training must be documented in the foster parent's case file record. (4-6-23)~~

~~303. EMERGENCY EVACUATION PLAN.~~

~~An agency must have a policy requiring foster homes to have an agency-approved written evacuation plan. (4-6-23)~~

~~301. – 303. (RESERVED)~~

(BREAK IN CONTINUITY OF SECTIONS)

306. COMPLAINT INVESTIGATION PROCESS.

01. Initiation of Complaint Investigation. When a complaint is received that relates to possible foster parent noncompliance with IDAPA 16.06.02, "~~Child Care and Foster Home Care~~ Licensing," ~~Sections 400 through 499~~, an agency must initiate a complaint investigation as soon as is indicated, based on seriousness of the allegation

received, and no later than seven (7) calendar days after receipt of the allegation.

~~(4-6-23)~~(7-1-24)T

02. Agency Report. Upon completion of the investigation, an agency must prepare a written report that includes: (4-6-23)

- a. The specific allegations; (4-6-23)
- b. Findings of fact, based on the investigation; (4-6-23)
- c. Conclusions regarding noncompliance with IDAPA 16.06.02, "Child Care and Foster Care Licensing," ~~Sections 400 through 499;~~ (4-6-23)(7-1-24)T
- d. Any changes in the agency's decision regarding placement specifications, based on the investigation's findings; and (4-6-23)
- e. Recommendations regarding licensing action and any required corrective action. (4-6-23)

(BREAK IN CONTINUITY OF SECTIONS)

362. FAMILY HOME STUDY, APPLICATION PROCESS, AND CONTENT.

An agency must complete or obtain a home study and application before approving the home for the placement of a child. (4-6-23)

01. Required Information. The home study must meet the requirements outlined in IDAPA 16.06.01 and include the following: ~~(4-6-23)~~(7-1-24)T

- a. When there is a change in persons residing in the home, the applicant must notify the agency of the change by the next working day, and the new adult member must complete a background check; (4-6-23)
- ~~b. Verification that the age of the applicant complies with Section 16-1502, Idaho Code; (4-6-23)~~
- ~~c. Names, including maiden or other names used; (4-6-23)~~
- ~~d. Social Security Number; (4-6-23)~~
- ~~e. Education; (4-6-23)~~
- ~~f. Verification of marriages and divorcees; (4-6-23)~~
- ~~g. Religious and cultural practices, including their willingness and ability to accommodate or provide care to a child of a different race, religion, or culture; (4-6-23)~~
- ~~h. A statement of income and financial resources and the family's management of these resources; (4-6-23)~~
- ~~i. Marital relationship, if applicable, including decision-making, communication, and roles within the family; (4-6-23)~~
- ~~j. Description of individuals and family dynamics with each member of the household; (4-6-23)~~
- ~~k. Documentation of any current or past family problems, including mental illness, substance abuse, addiction, and medical conditions; (4-6-23)~~
- ~~l. Previous criminal convictions of child abuse and neglect; (4-6-23)~~

- ~~m.~~ Family history, including childhood experiences and the applicant's parents' methods of discipline and problem solving; (4-6-23)
- ~~ne.~~ Special needs of the applicant's children and a description of how they will adjust to a new member of the household; (4-6-23)
- ~~o.~~ Interests and hobbies; (4-6-23)
- ~~p.~~ Adequacy of the house, property, and neighborhood as determined by onsite observations; (4-6-23)
- ~~q.~~ Child care and parenting skills; (4-6-23)
- ~~r.~~ Current methods of discipline; (4-6-23)
- ~~s.f.~~ Demonstrated understanding of the care that must be provided to the children served by the agency or express a willingness to learn how to provide that care; (4-6-23)
- ~~t.g.~~ The applicant has adequate time to provide care and supervision for children; (4-6-23)
- ~~u.h.~~ Demonstration of a home life that gives children the emotional stability they need. No marital or personal problems may exist within the family that would result in undue emotional strain in the home or be harmful to the interest of children placed in the home; (4-6-23)
- ~~v.~~ A medical statement for each applicant and members of the household, signed by a medical professional, within the twelve (12) month period prior to initial approval for adoption, indicating they are in such physical and mental health so as to not adversely affect either the health or quality of care for children placed in the home; (4-6-23)
- ~~w.~~ Three (3) satisfactory references, one (1) of which may be from a person related to the applicant(s); (4-6-23)
- ~~x.~~ Names of each member of the household; this includes any persons who reside at the applicant's address; (4-6-23)
- ~~y.~~ Each adoptive parent's reasons for applying to be an adoptive parent and prior efforts to adopt; (4-6-23)
- ~~z.~~ Understanding of the permanence of adoption; (4-6-23)
- ~~aa.~~ The family's prior and current experiences with adoption; (4-6-23)
- ~~bb.~~ The attitudes toward adoption by immediate and extended members of the family and other persons who reside in the home; (4-6-23)
- ~~cc.~~ Family's attitudes toward the adoptive child's birth family and willingness to allow them contact with the child after adoption; (4-6-23)
- ~~dd.i.~~ Applicant's experience with other support agencies or resources in their communities and their comfort level in seeking help from services outside the family; (4-6-23)
- ~~ee.j.~~ Applicant's awareness of the potential for the child to have identity issues and loss regarding separation from birth parents; (4-6-23)
- ~~ff.k.~~ Applicant's ability to accept a child's background and help the child cope with their past; (4-6-23)
- ~~gg.l.~~ Applicant's understanding that the child will have questions about birth parents and other relatives; (4-6-23)(7-1-24)I
- and

~~hh.~~ Specifications of children preferred by the family that include the number of children, and the age, gender, race, ethnic background, social, emotional, and educational characteristics; (4-6-23)

~~ii.~~ Information on the adoptive family's medical insurance coverage including insurance carrier, policy number, eligibility of new adoptive family member(s), limitations, and exclusions; and (4-6-23)

~~jjm.~~ How the household will fulfill their transportation needs. (4-6-23)

02. Pre-Adoptive Parent to Inform Agency of Changes. The pre-adoptive parent is responsible to keep the agency that completed the home study informed of changes in the family's circumstances, or of any subsequent decision against adoption. (4-6-23)

03. Adoptive Placement Agreement. A home study is valid for the purposes of new adoptive placement for a period of one (1) year following the date of completion. Upon completion of an adoptive placement agreement, a home study remains valid for a period of two (2) years from the home study date of completion for the purpose of finalizing the adoption of the child(ren) for whom the adoptive placement agreement was written. (4-6-23)

363. SAFETY REQUIREMENTS.

The property, structure, premises, and furnishings of an adoptive home must be constructed and maintained in good repair, in a clean condition, free from safety hazards and dangerous machinery and equipment. Areas and equipment that present a hazard to children must not be accessible by children. The safety requirements must be consistent with IDAPA 16.06.02, "Foster Care Licensing," and may require that additional safety rules be met if the agency deems appropriate. (4-6-23)(7-1-24)T

01. Pools, Hot Tubs, and Ponds. Homes must provide the following safeguards: (4-6-23)

~~a.~~ Around any body of water, children have appropriate adult supervision consistent with the child's age, physical ability, and developmental level; (4-6-23)

~~b.~~ The area surrounding access to a body of water for use by children will be secured by a fence and locked in a manner that prevents access by children, or have a secured protective covering that prevents access by a child; (4-6-23)

~~e.~~ Pool or hot tub covers be completely removed when in use; (4-6-23)

~~d.~~ When the pool or hot tub cover is in place, the cover is free from standing water; (4-6-23)

~~e.~~ Covers are always secured when the pool or hot tub is not in use; and (4-6-23)

~~f.~~ Exterior ladders on above-ground pools be removed when the pool is not in use. (4-6-23)

02. Access by Children Five Years Old and Under. Any home that has children five (5) years old or younger and chooses to prevent access to a body of water by fencing must provide the following: (4-6-23)

~~a.~~ The fence be at least four (4) feet high with no vertical opening more than four (4) inches wide, be designed so that a young child cannot climb or squeeze under or through the fence, and surround all sides of the pool or pond; (4-6-23)

~~b.~~ The gate be self-closing and have a self-latching mechanism in proper working order out of the reach of young children; (4-6-23)

~~e.~~ If the house forms one (1) side of the barrier for the pool, doors that provide unrestricted access to the pool have alarms that produce an audible sound when the doors are opened; and (4-6-23)

~~d.~~ Furniture or other large objects will not be left near the fence enabling a child to climb on the

furniture and gain access to the pool. (4-6-23)

~~03. Irrigation Canals or Similar Bodies of Water.~~ A home that has a child five (5) years old or younger or a child who is physically or developmentally vulnerable, whose property adjoins an irrigation canal or similar body of water, must have fencing that prevents access to the canal or similar body of water. (4-6-23)

364. FLAME AND HEAT PRODUCING EQUIPMENT.

A home that has a furnace, fireplace, wood burning stove, water heater, and other flame or heat producing equipment must ensure that said equipment is installed and maintained as recommended by the manufacturer, and fireplaces protected by screens or other means. (4-6-23)

365. SMOKE AND CARBON MONOXIDE DETECTORS.

Each home must meet the following: (4-6-23)

01. Smoke Detectors. There will be: (4-6-23)

a: At least one (1) single station smoke detector that is installed and maintained as recommended by the manufacturer; (4-6-23)

b: One (1) smoke detector on each floor of the home, including the basement; (4-6-23)

c: One (1) smoke detector in each bedroom; and (4-6-23)

d: One (1) smoke detector in areas of the home that contain flame or heat producing equipment other than domestic stoves and clothes dryers. (4-6-23)

02. Carbon Monoxide Detectors. There will be at least one (1) carbon monoxide detector installed and maintained as recommended by the manufacturer. A house that does not have equipment which produces carbon monoxide or does not have an attached garage is exempt from this requirement. (4-6-23)

366. EXITS.

There must be at least two (2) exits from each floor level used by a family member that are remote from each other, one (1) of which provides a direct, safe means of unobstructed travel to the outside at street or ground level. A window may be used as a second exit if in compliance with these rules. (4-6-23)

367. DANGEROUS AND HAZARDOUS MATERIALS.

Dangerous and hazardous materials, objects, or equipment that could present a risk to a child, including poisonous, explosive, or flammable substances must be stored securely and out of reach of a child for the child's age and functioning level. (4-6-23)

368. FIREARMS AND AMMUNITION.

Ammunition must be in a locked container and inaccessible to children. Firearms must be: (4-6-23)

01. Trigger Locks. Unloaded and equipped with a trigger lock; (4-6-23)

02. Unassembled and Inoperable. Unloaded, fully inoperable, and unassembled; (4-6-23)

03. Locked Cabinet or Container. Unloaded and locked in a cabinet or storage container that is inaccessible to children; or (4-6-23)

04. Gun Safe. Locked in a gun safe that is inaccessible to children. (4-6-23)

369. PETS AND DOMESTIC ANIMALS.

Any pet or domestic animal that is suspected or known to be dangerous must be kept in an area inaccessible to children. (4-6-23)

370. HEAT, LIGHT, AND VENTILATION.

~~A home must have adequate heat, light, and ventilation. (4-6-23)~~

~~**371. BATHROOMS, WATER SUPPLY, AND SEWAGE DISPOSAL.**~~

~~A home must meet the following: (4-6-23)~~

~~**01. Bathrooms.** A minimum of one (1) flush toilet, one (1) sink that has warm and cold running water, and one (1) bathtub or shower that has warm and cold running water, all in good working order. (4-6-23)~~

~~**02. Water Supply.** The water supply meets one (1) of the following requirements: (4-6-23)~~

~~**a.** It is water used for consumption that is bottled water from an acceptable source or water boiled for a period specified by the health authority under IDAPA 58.01.08, "Idaho Rules for Public Drinking Water Systems"; or (4-6-23)~~

~~**b.** Water used for consumption is from an acceptable source, bottled water from an acceptable source, or boiled for a period specified by the local health authority under IDAPA 58.01.08, "Idaho Rules for Public Drinking Water Systems." (4-6-23)~~

~~**03. Sewage Disposal.** Sewage will be disposed of through a public system, or in the absence of a public system, in a manner approved by the local health authority, under IDAPA 58.01.03 "Individual/Subsurface Sewage Disposal Rules." (4-6-23)~~

~~**364. – 371. (RESERVED)**~~

IDAPA 16 – DEPARTMENT OF HEALTH AND WELFARE

16.05.01 – USE AND DISCLOSURE OF DEPARTMENT RECORDS

DOCKET NO. 16-0501-2401

NOTICE OF RULEMAKING – ADOPTION OF TEMPORARY RULE

THE FOLLOWING NOTICE PUBLISHED WITH THE TEMPORARY RULE

EFFECTIVE DATE: The effective date of the temporary rule is August 6th, 2024.

AUTHORITY: In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a temporary rule, and proposed rulemaking procedures have been initiated. The action is authorized pursuant to Section 56-202, Idaho Code, as well as Sections 39-242, 56-221, 56-222, 56-1003, and 56-1004, 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 18th, 2024.

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

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

This rule adds language detailing that the Department will provide information to the maximum extent possible to protect children from abuse. This rule change also deletes unnecessary regulatory burden.

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

The health and safety of the children of the State of Idaho is central to the mission of the Department of Health and Welfare. This temporary rule is necessary to detail the Department's position of being as transparent as possible in providing information to protect Idaho's children from abuse and neglect and to facilitate child and family services.

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

Fees are not increased as a result of this rulemaking.

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

There will not be a negative fiscal impact exceeding \$10,000.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not conducted because of the immediate need to institute additional protections for Idaho's youth.

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: N/A

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary and proposed rule, contact Jared Larsen at 208-334-5500.

Anyone may submit written comments regarding the proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before September 25th, 2024.

DATED this 6th day of August, 2024.

Alex J. Adams, PharmD, MPH
Director
Idaho Department of Health & Welfare
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Boise, ID 83720-0036
(208) 334-5500 phone; (208) 334-6558 fax
Alex.Adams@dhw.idaho.gov

FOLLOWING IS THE TEXT OF THE TEMPORARY RULE FOR DOCKET NO. 16-0501-2401

(If extended, this temporary rule will be replaced by the pending rule promulgated under this same docket number on July 1, 2025.)

16.05.01 – USE AND DISCLOSURE OF DEPARTMENT RECORDS

000. LEGAL AUTHORITY.

~~The Idaho Department of Health and Welfare and the Board of Health and Welfare have authority to promulgate rules governing the use and disclosure of Department records, according to Sections 39-242, 56-221, 56-222, 56-1003, and 56-1004, Idaho Code.~~ (3-17-22)(8-6-24)T

001. ~~TITLE AND SCOPE.~~

~~**01. Title.** These rules are titled IDAPA 16.05.01, “Use and Disclosure of Department Records.”~~ (3-17-22)

~~**02. Scope.** These rules govern the use and disclosure of information maintained by the Department, in compliance with applicable state and federal laws, and federal regulations.~~ (3-17-22)(8-6-24)T

~~**a.** These rules apply to all Department employees, contractors, providers of services, and other individuals or entities who request or use that information.~~ (3-17-22)

~~**b.** These rules apply to all use and disclosure information, regardless of the form in which it is retained or disclosed.~~ (3-17-22)

~~**c.** All individuals and entities must comply with any standards in state or federal law or regulation that contain additional requirements, or are more restrictive than the requirements of these rules.~~ (3-17-22)

(BREAK IN CONTINUITY OF SECTIONS)

210. CHILD PROTECTION.

~~Unless allowed by these rules or other provision of law,~~ It shall be the policy of the Idaho Department of Health and Welfare to provide information to the maximum extent possible to carry out the department’s responsibility under law

~~to protect children from abuse and neglect and to facilitate child and family services. †~~The Department, ~~upon request~~ will disclose information from child protection records in its possession ~~upon a court order obtained in compliance with Subsection 075-02 of these rules pursuant to Section 74-105(7), Idaho Code.~~ Disclosure of Department records under the Child Protective Act is governed by Section 16-1629(6), Idaho Code, ~~and Idaho Court Administrative Rule 32.~~ Court records of Child Protective Act proceedings are governed by Section 16-1626, Idaho Code. Pertinent federal laws and regulations include 42 USC 5106a. ~~Information regarding child fatalities or near fatalities may be made public.~~ (3-17-22)(8-6-24)T

01. Child Fatalities. In accordance with 42 USC 5106a(b)(2)(B)(x), the Department will disclose non-identifying summary information to the Statewide Child Fatality Review Team, established by the Governor’s Task Force on Children at Risk, regarding child fatalities that were determined to be the result of abuse, neglect, or abandonment. (3-17-22)

02. Public Disclosure. The Department has the discretion to disclose child-specific information under this rule when the disclosure is not in conflict with the child’s best interests and one (1) or more of the following applies: (3-17-22)

- a.** Identifying information related to child-specific abuse, neglect, or abandonment has been previously published or broadcast through the media; (3-17-22)
- b.** All or part of the child-specific information has been publicly disclosed in a judicial proceeding; or (3-17-22)
- c.** The disclosure of information clarifies actions taken by the Department on a specific case. (3-17-22)

IDAPA 16 – DEPARTMENT OF HEALTH AND WELFARE

16.06.01 – CHILD AND FAMILY SERVICES

DOCKET NO. 16-0601-2402

NOTICE OF RULEMAKING – ADOPTION OF TEMPORARY RULE

THE FOLLOWING NOTICE PUBLISHED WITH THE TEMPORARY RULE

EFFECTIVE DATE: The effective date of the temporary rule is April 17, 2024.

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

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

VIRTUAL TELECONFERENCES Via WebEx
<p>Thursday, June 20, 2024 10:00 a.m. - 11:30 a.m. (MT)</p>
<p>Join from the meeting link https://idhw.webex.com/idhw/j.php?MTID=m40abe4a9edb65df9b3e2a801ecaac318</p> <p>Join by meeting number Meeting number (access code): 2822 664 4108 Meeting password: pmVWt6cYa54 (76898629 from phones and video systems)</p> <p>Join by phone +1-415-527-5035 United States Toll +1-303-498-7536 United States Toll (Denver)</p>
<p>Thursday, June 20, 2024 5:00 p.m. - 6:30 p.m. (MT)</p>
<p>Join from the meeting link https://idhw.webex.com/idhw/j.php?MTID=mb5d4396abf352e17dc0dcac7313acd09</p> <p>Join by meeting number Meeting number (access code): 2818 321 5678 Meeting password: 3MBqibzHE83 (36274294 from phones and video systems)</p> <p>Join by phone +1-415-527-5035 United States Toll +1-303-498-7536 United States Toll (Denver)</p>

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

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

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

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

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

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

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

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

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

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(1), Idaho Code, negotiated rulemaking related to the content of this docket was conducted under the rewrite docket for IDAPA 16.06.01, “Child and Family Services,” Docket No. 16-0601-2401. The Notice of Intent to Promulgate Rules - Negotiated Rulemaking was published in the April 3, 2024, Idaho Administrative Bulletin, [Vol. 24-4, pages 23-24](#).

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

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

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary and proposed rule, contact Andie Blackwood at (208) 334-5960.

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 June 26, 2024.

DATED this 23rd day of May, 2024.

Trinette Middlebrook and Frank Powell
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
email: dhwrules@dhw.idaho.gov

FOLLOWING IS THE TEXT OF THE TEMPORARY RULE FOR DOCKET NO. 16-0601-2402

(If extended, this temporary rule will be replaced by the pending rule promulgated under docket number 16-0601-2405 on July 1, 2025.)

16.06.01 – CHILD AND FAMILY SERVICES

484. ADDITIONAL PAYMENTS TO FAMILY ALTERNATE CARE PROVIDERS.

For those children who require additional care above room, board, shelter, daily supervision, school supplies, personal incidentals, the Department may pay the family alternate care provider an additional amount to the amount paid under Section 483 of these rules. This family alternate care rate is based upon a ongoing assessment of the child's circumstances that necessitate special rates as well as the care provider's ability, activities, and involvement in addressing those special needs. Additional payment will be made as follows: (3-15-22)

01. Lowest Level of Need. Ninety dollars (\$90) per month for a child requiring a mild degree of care for documented conditions including: (3-15-22)

- a. Chronic medical problems; (3-15-22)
- b. Frequent, time-consuming transportation needs; (3-15-22)
- c. Behaviors requiring extra supervision and control; and (3-15-22)
- d. Need for preparation for independent living. (3-15-22)

02. Moderate Level of Need. One hundred fifty dollars (\$150) per month for a child requiring a moderate degree of care for documented conditions including: (3-15-22)

- a. Ongoing major medical problems; (3-15-22)
- b. Behaviors that require immediate action or control; and (3-15-22)
- c. Alcohol or other substance use disorder. (3-15-22)

03. Highest Level of Need. Two hundred forty dollars (\$240) per month for a child requiring an extraordinary degree of care for documented conditions including: (3-15-22)

- a. Severe emotional or behavioral disturbance; (3-15-22)
- b. Severe developmental disability; and (3-15-22)
- c. Severe physical disability such as quadriplegia. (3-15-22)

04. Reportable Income. Additional payments for more than ten (10) qualified children received during any calendar year must be reported as income to the Internal Revenue Service. (3-15-22)

05. Crisis Level of Need. The director or designee may approve enhanced rates for foster parents when there are insufficient foster homes available to meet the needs of children needing placement including sibling groups. (4-17-24)T

(BREAK IN CONTINUITY OF SECTIONS)

564. NOTIFICATION OF A SUBSTANTIATED INCIDENT OF ABUSE, NEGLECT, OR ABANDONMENT, AND RELATED ADMINISTRATIVE REVIEW AND CONTESTED CASE APPEAL RIGHTS.

01. Notification of Substantiated Incident. Prior to placement on the Child Protection Central Registry, the Department will notify by certified mail, return receipt requested, each individual for whom an incident of abuse, neglect, or abandonment has been substantiated. The individual has twenty-eight (28) days from the date on the notification to file a request for an administrative review ~~under the requirements in IDAPA 16.05.03, "Contested Case Proceedings and Declaratory Rulings."~~ Failure to request a review will result in the individual's name being entered on the Child Protection Central Registry without further right for appeal. The Department's written notice will state: (3-15-22)(4-17-24)T

- a. The risk level assigned to the incident; (3-15-22)
- b. The basis for the Department's decision; (3-15-22)
- c. The individual's right to request an administrative review by the Department's Family and Community Services (FACS) Division Administrator of the Department's decision; and (3-15-22)
- d. The Department's contact information. (3-15-22)

~~**02. Administrative Review Not Requested.** If the individual does not request an administrative review by the FACS Division Administrator within twenty-eight (28) days from the date on the notification, their name will automatically be entered on the Child Protection Central Registry without further notice or right for appeal. (3-15-22)~~

032. Administrative Review Requested. If the individual requests an administrative review by the FACS Division Administrator within twenty-eight (28) days from the date on the notification, the appeal process will begin. The individual will receive redacted documents regarding the incident that is being appealed. The individual will have fourteen (14) days to submit additional documentation. At the end of the fourteen-day period, the incident will be reviewed by the FACS Division Administrator and a decision will be rendered to either affirm, reverse, or modify, the decision to substantiate the incident of abuse, neglect, or abandonment. The Department will notify the individual of the FACS Division Administrator's decision by mail. If the administrative review affirms or modifies the decision to substantiate, failure to timely request a contested case appeal will result in the individual's name being entered on the Child Protection Central Registry without further right for appeal. (3-15-22)(4-17-24)T

043. Reversal of Decision to Substantiate. When the FACS Division Administrator completes the administrative review and reverses the decision to substantiate the incident of abuse, neglect, or abandonment, and determines that the incident is not substantiated, then no further action is required by the individual. The individual's name will not be placed on the Child Protection Central Registry. (3-15-22)

054. Contested Case Appeal. When the FACS Division Administrator completes the administrative review and affirms the decision to substantiate the incident of abuse, neglect, or abandonment, the individual will be notified by mail that ~~their name has been placed on the Child Protection Central Registry and~~ the individual has twenty-eight (28) days to continue the appeal process and will be informed of: (3-15-22)(4-17-24)T

- a. The basis for the Department's decision; (3-15-22)
- b. The procedures for filing a contested case appeal ~~under IDAPA 16.05.03, "Contested Case Proceedings and Declaratory Rulings," Section 101;~~ (3-15-22)(4-17-24)T
- c. The procedures for filing a petition for removal from the Child Protection Central Registry after the applicable minimum time has passed under Section 566 of these rules; ~~and~~ (3-15-22)(4-17-24)T
- d. The Department's contact information: and (3-15-22)(4-17-24)T

e. That failure to respond at any point in the appeal process will end the appeal process and the individual's name will automatically be entered on the Child Protection Central Registry without further notice or right to appeal. (4-17-24)T

05. **Child Protection Central Registry.** Following a decision by the hearing officer to affirm the decision to substantiate, an individual's name will be placed on the Child Protection Central Registry. (4-17-24)T

565. ~~PETITION FOR REMOVAL OF AN INDIVIDUAL'S NAME ON THE CHILD PROTECTION CENTRAL REGISTRY PRIOR TO OCTOBER 1, 2007. (RESERVED)~~

~~After January 1, 2008, an individual whose name was placed on the Child Protection Central Registry prior to October 1, 2007, may file a petition to have their name removed from the registry in accordance with Subsection 566.01 of these rules. The petitioner will be assigned a child protection risk level in accordance with criteria under Section 563 of these rules and the case will be reviewed to determine if it meets the requirements for removal. (3-15-22)~~

566. PETITION FOR REMOVAL OF AN INDIVIDUAL'S NAME FROM THE CHILD PROTECTION CENTRAL REGISTRY.

Any individual whose name is on the Child Protection Central Registry and whose required minimum time on the registry has elapsed, may petition the Department to remove their name from the Registry. If not previously assigned a risk level, the petitioner will be assigned a child protection risk level in accordance with the criteria under Section 563 of these rules. An individual whose name appears with a Level One designation on the Child Protection Central Registry is not eligible to petition for removal. (3-15-22)(4-17-24)T

01. Petition for Removal From the Child Protection Central Registry. Any individual whose name appears on the Child Protection Central Registry with a designation of either Level Two or Level Three, may petition to have their name removed from the Child Protection Central Registry after the minimum period of time has elapsed for the applicable level. The petition must include a written statement from the petitioner to the Department's FACS Division Administrator requesting that the petitioner's name be removed from the Child Protection Central Registry. (3-15-22)

02. Criteria for Granting Petition for Removal From the Child Protection Central Registry. The petition for removal from the Child Protection Central Registry will be granted if: (3-15-22)

a. There are no additional substantiated reports on the Child Protection Central Registry or that of other states in which the petitioner has resided since the last substantiated report of abuse, neglect, or abandonment in Idaho; and (3-15-22)

b. There are no convictions, adjudications, or withheld judgments for any of the crimes listed under Subsection 566.03 of this rule: (3-15-22)

i. On Idaho's central repository of criminal history records as established and maintained by the Idaho State Police under Title 67, Chapter 30, Idaho Code; or (3-15-22)

ii. On the criminal history repository of other states in which the petitioner has resided since the last substantiated report of abuse, neglect, or abandonment in Idaho. (3-15-22)

03. Criminal History Checks. It is the responsibility of the petitioner to request, pay for, and obtain the criminal history checks and submit them to the Department. (3-15-22)

a. The Department will not remove a petitioner from the Child Protection Central Registry if a criminal history check reveals any of the following, within five (5) years of the receipt of the petition: (3-15-22)

i. Physical Assault; (3-15-22)

ii. Battery; or (3-15-22)

- iii. A drug-related offense. (3-15-22)
- b.** The Department will not remove a petitioner from the Child Protection Central Registry if a criminal history check reveals any of the following: (3-15-22)
 - i. Child abuse or neglect; (3-15-22)
 - ii. Spousal abuse; (3-15-22)
 - iii. A crime against children, including child pornography; or (3-15-22)
 - iv. A crime involving violence, including rape, sexual assault, or homicide, but not including other physical assault or battery. (3-15-22)
- 04. Granting or Denying Removal From the Child Protection Central Registry.** The Department will issue a letter granting or denying removal of the petitioner’s name from the Child Protection Central Registry within twenty-eight (28) days of receipt of the petition. (3-15-22)
- 05. Appeal of a Denial of Removal From the Child Protection Central Registry.** The individual may appeal the denial of removal of their name from the Child Protection Central Registry under IDAPA 16.05.03, “Contested Cases Proceedings and Declaratory Ruling,” Section 101. (3-15-22)

IDAPA 16 – DEPARTMENT OF HEALTH AND WELFARE

16.06.01 – CHILD AND FAMILY SERVICES

DOCKET NO. 16-0601-2403

NOTICE OF RULEMAKING – ADOPTION OF TEMPORARY RULE

THE FOLLOWING NOTICE PUBLISHED WITH THE TEMPORARY RULE

EFFECTIVE DATE: The effective date of the temporary rule is June 5, 2024.

AUTHORITY: In compliance with Sections 67-5226, Idaho Code, notice is hereby given this agency has adopted a temporary rule. This rule chapter is promulgated pursuant to Sections 16-1629, 16-1623, 16-2102, 16-2406, 16-2423, and 16-2433, 39-1209 through 1211, 39-5603, 39-7501, 56-202(b), 56-204A, 56-803, 56-1003, 56-1004, 56-1004A, and 56-1007, Idaho Code.

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

This temporary rule makes the following changes:

1. It eliminated the fee schedule for adoptions through the Department and clarifies that the foster parent home study qualifies for the adoption home study.
2. It defines as “kin” foster parents who have a significant relationship with the child for at least six months.

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

OPE and the Child Protection Oversight Committee have highlighted significant challenges with the current child welfare system and these changes are necessary to protect public health, safety, and welfare and to reduce a regulatory burden by eliminating the adoption fee schedule.

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:

This rule eliminates the fee schedule for adoptions through the Department, which is expected to have an annual fiscal impact of less than \$5,000, and the change is necessary to ensure all Idahoans can pursue adoption through the Department.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning the temporary rule, contact Alex Adams, Director, 208-334-5500.

DATED this 5th day of June, 2024.

Alex J. Adams, PharmD, MPH
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FOLLOWING IS THE TEXT OF THE TEMPORARY RULE FOR DOCKET NO. 16-0601-2403

(If extended, this temporary rule will be replaced by the pending rule promulgated under docket number 16-0601-2405 on July 1, 2025.)

16.06.01 – CHILD AND FAMILY SERVICES

011. DEFINITIONS AND ABBREVIATIONS F THROUGH K.

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

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

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

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

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

05. Family Services Worker. Any of the direct service personnel, including social workers, working in regional Child and Family Services Programs. (3-15-22)

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

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

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

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

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

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

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

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

- 121.** **Indian Child Welfare Act (ICWA).** The Indian Child Welfare Act, 25 U.S.C. 1901, et seq. (3-15-22)
- 132.** **Indian Child's Tribe.** (3-15-22)
- a.** The Indian tribe in which an Indian child is a member or eligible for membership, or (3-15-22)
- b.** In the case of an Indian child who is a member of or eligible for membership in more than one (1) tribe, the Indian tribe with which the Indian child has the more significant contacts. (3-15-22)
- 143.** **Indian Tribe.** Any Indian Tribe, band, nation, or other organized group or community of Indians recognized as eligible for the services provided to Indians by the Secretary because of their status as Indians, including any Alaska Native village as defined in 43 U.S.C. 1602(c). (3-15-22)
- 154.** **Intercountry Adoption Act of 2000 (P.L. 106-279).** Federal law designed to protect the rights of, and prevent abuses against children, birth families, and adoptive parents involved in adoptions (or prospective adoptions) subject to the Convention on Protection of Children and Cooperation in Respect of Intercountry Adoption, and to insure that such adoptions are in the children's best interests; and to improve the ability of the federal government to assist U.S. citizens seeking to adopt children from abroad and residents of other countries party to the Convention seeking to adopt children from the United States. (3-15-22)
- 165.** **Interethnic Adoption Provisions of 1996 (IEP).** IEP prohibits delaying or denying the placement of a child for adoption or foster care on race, color or national origin of the adoptive or foster parent(s), or the child involved. (3-15-22)
- 176.** **Interstate Compact on the Placement of Children (ICPC).** Interstate Compact on the Placement of Children (ICPC) in Title 16, Chapter 21, Idaho Code, ensures that the jurisdictional, administrative, and human rights obligations of interstate placement or transfers of children are protected. (3-15-22)
- 187.** **Kin.** Non-relatives who have a significant, family-like relationship with a child. Kin may include godparents, close family friends, clergy, teachers, ~~and~~ members of a child's Indian tribe, and foster parents who have a significant relationship with the child for at least six (6) months. Also known as fictive kin. ~~(3-15-22)~~(6-5-24)T

(BREAK IN CONTINUITY OF SECTIONS)

790. FOSTER PARENT ADOPTIONS.

The procedure and requirements are the same for all adoptive applicants. ~~This includes foster parents who want to be considered as adoptive parents for a child who has a plan of adoption.~~ Licensed foster parents with a current home study recommending them for both foster care and adoption do not need an adoption specific home study to adopt a child matching the characteristics of a child or children for whom they are approved or recommended for placement. They are eligible to be considered for adoption as part of the home study process completed to provide foster care. These requirements include compliance with the Indian Child Welfare Act, the Multi-Ethnic Placement Act of 1994 and the Interethnic Adoption Provisions of 1996. ~~(3-15-22)~~(6-5-24)T

(BREAK IN CONTINUITY OF SECTIONS)

801. -- ~~829~~32. (RESERVED)

830. ~~ADOPTION APPLICATION FEE.~~

~~The adoption application fee covers the costs of processing the adoption application and does not guarantee that the applicant family will receive a child for adoption. The application fee is non-refundable. Money collected through the Department's adoption program may be utilized to pay state adoption assistance payments for children with special~~

~~needs and pay the service fees, recruitment costs, and placement fees for private agencies serving children who have special needs.~~ (3-15-22)

~~**831. HOME STUDY, SUPERVISORY REPORTS, AND REPORTS OF THE COURT FEES.**~~

~~A family who cares for a child, or children, with special needs who is in the custody of the Department is not required to pay the costs of the Department adoption services identified in Section 832 of these rules for the adoption of that child, or children. A relative or kin family being considered by the Department for adoption of a child from foster care who is their relative or kin, is not required to pay the costs referenced in Section 832 of these rules. If a family who did not pay the fee uses that home study to pursue adoption of a child not in the Department's custody, the family must pay the Department for the full cost of the study and any other applicable fees identified in Section 832 of these rules.~~ (3-15-22)

~~**832. FEE SCHEDULE—ADOPTIONS THROUGH DEPARTMENT.**~~

TABLE 832	
Service	Fee
General Information/Adoption Inquiries	No Charge
Health and Welfare Application:-	
-Couple-	\$50
-Single Parent-	\$25
Second Placement or Reapplication	\$25
Pre-placement Home Study—Payment due at time of study or per-agreement	\$450
Report to Court under the Adoption Act	\$150
Second Placement	\$150
Placement Supervision Fee—Charged at the time of placement	\$300
Closed Adoption Home Study/Court Report Retrieval Fee	\$50
Report to the Court Under the Termination Act	\$40 per hour

(3-15-22)

(BREAK IN CONTINUITY OF SECTIONS)

~~**834. -- 849. (RESERVED)**~~

~~**850. INDEPENDENT, RELATIVE AND STEPPARENT ADOPTIONS.**~~

~~Independent adoptive placements are handled under Section 16-1506, Idaho Code.~~

(3-15-22)

~~**851.—859. (RESERVED)**~~

IDAPA 16 – DEPARTMENT OF HEALTH AND WELFARE

16.06.01 – CHILD AND FAMILY SERVICES

DOCKET NO. 16-0601-2404

NOTICE OF RULEMAKING – ADOPTION OF TEMPORARY RULE

THE FOLLOWING NOTICE PUBLISHED WITH THE TEMPORARY RULE

EFFECTIVE DATE: The effective date of the temporary rule is August 6, 2024.

AUTHORITY: In compliance with Sections 67-5226, Idaho Code, notice is hereby given this agency has adopted a temporary rule. The action is authorized pursuant to Section 56-202, Idaho Code, as well as Sections 16-1629, 16-1623, 16-2102, 16-2406, 16-2423, 16-2433, 39-1209, 39-1210, 39-1211, 39-5603, 39-7501, 56-204A, 56-803, 56-1003, 56-1004, 56-1004A, and 56-1007, Idaho Code.

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

This temporary rule adds protections for children visiting their biological parents who have been substantiated for crimes including sexual and physical abuse. These added protections put the best interest of the child first and foremost.

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

The health and safety of the children of the State of Idaho is central to the mission of the Department of Health and Welfare. This temporary rule is necessary to establish safeguards and restrictions around the interaction of children and their parents who have been substantiated for sexual and physical actions.

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 will not be increased as a result of this rule change.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning the temporary rule, contact Jared Larsen at 208-334-5500.

DATED this 6th day of August, 2024.

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FOLLOWING IS THE TEXT OF THE TEMPORARY RULE FOR DOCKET NO. 16-0601-2404

(If extended, this temporary rule will be replaced by the pending rule promulgated under docket number 16-0601-2405 on July 1, 2025.)

16.06.01 – CHILD AND FAMILY SERVICES

050. PROTECTIONS AND SAFEGUARDS FOR CHILDREN AND FAMILIES.

The federal and state laws that are the basis for these rules include a number of mandatory protections and safeguards intended to ensure timely permanency for children and to protect the rights of children, their families, and their tribes. (3-15-22)

01. Reasonable Efforts. Services offered or provided to a family intended to prevent or eliminate the need for removal of the child from the family, to reunify a child with their family, and to finalize a permanent plan. The following efforts must be made and specifically documented by the Department in reports to the court. The court will make the determination of whether or not the Department's efforts were reasonable. (3-15-22)

- a.** Efforts to prevent or eliminate the need for a child to be removed from their home; (3-15-22)
- b.** Efforts to return a child home are not required due to a judicial determination of aggravated circumstances; and (3-15-22)
- c.** Efforts to finalize a permanent plan, so that each child in the Department's care will have a family with whom the child can have a safe and permanent home. (3-15-22)

02. Active Efforts. The efforts required under ICWA to provide remedial services and rehabilitative programs designed to prevent the breakup of an Indian family, or to reunify an Indian family. Active efforts must include contacts and work with an Indian child's tribe. (3-15-22)

- 03. ICWA Placement Preferences.** (3-15-22)
- a.** When the Indian child's permanency goal is reunification, the preferences are described in Section 402 of these rules. (3-15-22)
 - b.** When the Indian child's permanency goal is adoption or guardianship, the preferences are described in Subsection 800.01 of these rules. (3-15-22)
 - c.** When the placement preferences are not followed, the court must determine that good cause exists for not following the preferences. (3-15-22)

04. Least Restrictive Setting. Efforts will be made to ensure that any child in the Department's care resides in the least restrictive, most family-like setting possible. Placement will be made in the least restrictive setting and in close proximity to the parent(s) or if not, written justification that the placement is in the best interest of the child. (3-15-22)

05. Legal Requirements for Indian Children. When there is reason to believe that a child is an Indian child, notice of the pending proceeding must be sent according to the notice provisions specified in Section 051 of these rules. Notice must also include notice of the tribe's right to intervene; their right to twenty (20) days additional time to prepare for the proceeding; the right to appointment of counsel if the parent(s) or Indian custodian(s) is indigent; and the right to examine all documents filed with the court upon which placement may be based. (3-15-22)

06. Visitation for Child's Parent(s) or Legal Guardian(s). ~~Visitation arrangements must be provided to the child's parent(s) or legal guardian(s) unless visitation is contrary to the child's safety. The Department should determine the scope, duration, and manner of visitation that best promotes the best interest of the child and ensures that visitation does not impair the physical or mental health of a child. In-person visitation arrangements between a child and a parent who has been substantiated at a Level One or Two by the Department for one (1) of the following: sexual abuse, sexual exploitation, or physical abuse will not be granted unless it is in the best interest of the child and the child's physical and/or mental health will not be impaired. If in-person visitation is granted, it will only occur under the following conditions:~~ (3-15-22)(8-6-24)T

a. ~~Approved by a program manager, after consultation with the child's guardian ad litem, where applicable, who concludes that in-person visitation is in the best interest of the child and that the child's physical and/or mental health will not be impaired;~~ (8-6-24)T

b. ~~Under conditions set forth by the program manager. Conditions of supervised visitation will include the following:~~ (8-6-24)T

i. ~~The parent will not be left alone with the child for any reason, including restroom breaks;~~ (8-6-24)T

ii. ~~For sexual abuse and exploitation cases, the parent will not allow the child to sit on his or her lap;~~ (8-6-24)T

iii. ~~The parent will not be allowed to engage in secret conversations or other communication that cannot be monitored in real time;~~ (8-6-24)T

c. ~~The best interest decision and visit conditions are documented and explained in writing.~~ (8-6-24)T

07. Notification of Change in Placement. Written notification must be made within seven (7) days of a change of placement of the foster child if a child is relocated to another foster care setting. Notification must be sent to the child's parent(s) or legal guardian(s). When the child is an Indian child, written notification must also be sent to the child's Indian custodian(s), if applicable, and to the child's tribe. (3-15-22)

08. Notification of Change in Visitation. Written notification to the child's parent(s) or legal guardian(s) if there is to be a change in their visitation schedule with their child or ward in foster care. (3-15-22)

09. Notification of Right to Participate and Appeal. Written notification to the child's parent(s) or legal guardian(s) must be made regarding their right to discuss any changes and the opportunity to appeal if they disagree with changes in placement or visitation. (3-15-22)

10. Qualified Expert Witness--ICWA. The testimony of an expert witness is required at the hearing in which a child is placed in state custody, typically the adjudicatory, and at the hearing for termination of parental rights. A person who is most likely to be a qualified expert witness in the placement of an Indian child is: (3-15-22)

a. A member of the Indian child's tribe who is recognized by the tribal community as knowledgeable in tribal customs pertaining to family organization and child rearing practices; (3-15-22)

b. An individual who is not a tribal member who has substantial experience in the delivery of child and family services to Indians and extensive knowledge of prevailing social and cultural standards and child rearing practices within the Indian child's tribe; or (3-15-22)

c. A professional person who has substantial education and experience in a pertinent specialty area and substantial knowledge of prevailing social and cultural standards and child rearing practices within the Indian community. (3-15-22)

11. Compliance with Requirements of the Multiethnic Placement Act of 1994 (MEPA) as Amended by the Interethnic Adoption Provisions (IEP) of 1996. (3-15-22)

a. The Department prohibits entities that are involved in foster care or adoption placements and that receive federal financial assistance under Title IV-E, Title IV-B, or any other federal program from delaying or denying a child's foster care or adoptive placement on the basis of the child's or the prospective foster or adoptive parent's race, color, or national origin. (3-15-22)

b. The Department prohibits entities that are involved in foster care or adoption placements and that receive federal financial assistance under Title IV-E, Title IV-B, or any other federal program, from denying to any individual the opportunity to become a foster or adoptive parent on the basis of the prospective foster or adoptive parent's or the child's race, color, or national origin; (3-15-22)

c. To remain eligible for federal assistance for their child welfare programs, the Department must diligently recruit foster and adoptive parents who reflect the racial and ethnic diversity of the children in the state who need foster and adoptive homes; (3-15-22)

d. A child's race, color, or national origin cannot be routinely considered as a relevant factor in assessing the child's best interests; (3-15-22)

e. Failure to comply with MEPA/IEP's prohibitions against discrimination is a violation of Title VI of the Civil Rights Act of 1964; and (3-15-22)

f. Nothing in MEPA/IEP is to be construed to affect the application of the Indian Child Welfare Act of 1978. (3-15-22)

12. Family Decision-Making and Plan Development. (3-15-22)

a. A family plan will be completed within thirty (30) days of the date the case was opened. (3-15-22)

b. Families will be given ample opportunity to participate in the identification of areas of concern, their strengths, and developing service goals and tasks. The family plan and any changes to it must be signed and dated by the family. If the family refuses to sign the plan, the reason for their refusal will be documented on the plan. (3-15-22)

c. Plans are to be reviewed with the family no less frequently than once every three (3) months. When there are major changes to the plan including a change in the long term goal, the family plan must be renegotiated by the Department and the family as well as signed by the family. A new plan must be negotiated at least annually. (3-15-22)

13. Compelling Reasons. Reasons why the parental rights of a parent of a child in the Department's care and custody should not be terminated when the child has been in the custody of the Department for fifteen (15) out of the most recent twenty-two (22) months. (3-15-22)

a. These reasons must be documented in the Alternate Care Plan, in a report to the court, and the court must make a determination if the reasons are sufficiently compelling. (3-15-22)

b. A compelling reason must be documented when a child's plan for permanency is not adoption, guardianship, or return home. (3-15-22)

c. When compelling reasons are not appropriate, the petition for termination of parental rights must be filed by the end of the child's fifteenth month in foster care. (3-15-22)

14. ASFA Placement Preferences. The following placement preferences will be considered in the order listed below when recommending and making permanency decisions: (3-15-22)

a. Return home if safe to do so; (3-15-22)

b. Adoption or legal guardianship by a relative or kin; (3-15-22)

- c.** Adoption or legal guardianship by non-relative; (3-15-22)
- d.** Another planned permanent living arrangement such as long-term foster care. (3-15-22)

IDAPA 16 – DEPARTMENT OF HEALTH AND WELFARE

16.06.02 – FOSTER CARE LICENSING

DOCKET NO. 16-0602-2401 (CHAPTER REPEAL)

NOTICE OF RULEMAKING – ADOPTION OF TEMPORARY RULE

THE FOLLOWING NOTICE PUBLISHED WITH THE TEMPORARY RULE

EFFECTIVE DATE: The effective date of the temporary rule is July 1, 2024.

AUTHORITY: In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a temporary rule, and proposed regular rulemaking procedures have been initiated. This rule chapter is promulgated pursuant to Sections 39-1211, 39-1213, 56-1003, 56-1004A, and 56-1005(8), 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 17, 2024.

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

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

The current chapter is being repealed and is replaced in Docket No. 16-0602-2402 which is also published in this bulletin.

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

OPE and the Child Protection Oversight Committee have highlighted significant challenges with the current child welfare system and these changes are necessary to protect public health, safety, and welfare and to increase the number and types of foster homes available to serve Idaho youth.

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

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

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not conducted because the shortage of foster homes is at a level in which urgent action is needed. Because the major substantive changes are part of a national model act developed in partnership with many organizations, the major changes have been vetted.

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: N/A

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary and proposed rule, contact Alex Adams, Director, 208-334-5500.

Anyone may submit written comments regarding the proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before July 24, 2024.

DATED this 6th day of June, 2024.

Alex J. Adams, PharmD, MPH
Director
Idaho Department of Health & Welfare
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Boise, ID 83720-0036
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FOLLOWING IS THE TEMPORARY RULE FOR DOCKET NO. 16-0602-2401

(If extended, this temporary rule will be replaced by the pending rule promulgated under this same docket number on July 1, 2025.)

IDAPA 16.06.02 IS BEING RPEALED IN ITS ENTIRETY

IDAPA 16 – DEPARTMENT OF HEALTH AND WELFARE

16.06.02 – FOSTER CARE LICENSING

DOCKET NO. 16-0602-2402 (CHAPTER REWRITE)

NOTICE OF RULEMAKING – ADOPTION OF TEMPORARY RULE

THE FOLLOWING NOTICE PUBLISHED WITH THE TEMPORARY RULE

EFFECTIVE DATE: The effective date of the temporary rule is July 1, 2024.

AUTHORITY: In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a temporary rule, and proposed regular rulemaking procedures have been initiated. This rule chapter is promulgated pursuant to Sections 39-1211, 39-1213, 56-1003, 56-1004A, and 56-1005(8), 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 17, 2024.

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

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

This rule makes three primary changes:

1. It expedites action on completed foster family applications from 30-days (current rule) to 1 business day.
2. It makes more evident that the Department will fund, within its appropriation, reasonable modifications necessary to meet home health and safety standards for foster homes to “license in” versus “licensing out.” For example, if a family does not have a required fire extinguisher, the Department may provide one to the family rather than excluding them from licensure.
3. It moves closer to kin-specific licensure standards by defaulting to the ACF national model where appropriate, and deferring to the foster parent where appropriate.

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

OPE and the Child Protection Oversight Committee have highlighted significant challenges with the current child welfare system and these changes are necessary to protect public health, safety, and welfare and to increase the number and types of foster homes available to serve Idaho youth.

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

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

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not conducted because the shortage of foster homes is at a level in which urgent action is needed. Because the major substantive changes are part of a national model act developed in partnership with many organizations, the major changes have been vetted.

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: N/A

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary and proposed rule, contact Alex Adams, Director, 208-334-5500.

Anyone may submit written comments regarding the proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before July 24, 2024.

DATED this 6th day of June, 2024.

Alex J. Adams, PharmD, MPH
Director
Idaho Department of Health & Welfare
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FOLLOWING IS THE TEXT OF THE TEMPORARY RULE FOR DOCKET NO. 16-0602-2402

(If extended, this temporary rule will be replaced by the pending rule promulgated under this same docket number on July 1, 2025.)

16.06.02 – FOSTER CARE LICENSING

000. LEGAL AUTHORITY.

Sections 39-1211, 39-1213, 56-1003, 56-1004A, and 56-1005(8) Idaho Code, authorize the Department and the Board to adopt and enforce rules for licensing foster homes. (7-1-24)T

001. -- 009. (RESERVED)

010. DEFINITIONS.

In addition to those terms used in Title 39, Chapter 12, the following apply: (7-1-24)T

01. Caregiver. A foster parent with whom a child in foster care has been placed or a designated official for a child care institution in which a child in foster care has been placed. (7-1-24)T

02. Child. Includes individuals age eighteen (18) to twenty-one (21) who are ordered into or voluntarily entered Extended Foster Care through the Department. (7-1-24)T

03. Department. The Idaho Department of Health and Welfare or its authorized representatives. (7-1-24)T

04. Foster Home. Includes both foster homes and relative foster homes as set forth in Idaho Code. (7-1-24)T

05. Foster Parent. A person(s) residing in a private home under their direct control to whom a foster

care license has been issued. (7-1-24)T

06. Household Member. Any person, other than a foster child, who resides in, or on the property of, a foster home. (7-1-24)T

07. Medical Professionals. Persons who have received a degree in nursing or medicine and are licensed as a registered nurse, nurse practitioner, physician's assistant, or medical doctor. (7-1-24)T

08. Noncompliance. Violation of, or inability to meet, the requirements of these rules or terms of licensure. (7-1-24)T

09. Plan of Correction. The detailed procedures and activities developed between the Department and caregiver required to bring a foster family into conformity with these rules. (7-1-24)T

10. Restraint. Physical interventions to control the range and motion of a child. (7-1-24)T

11. Supervision. Is defined as being within sight and normal hearing range of the child or children being cared for. (7-1-24)T

12. Variance. A temporary non-application of a foster care licensing rule that is resolved within six (6) months of approval. (7-1-24)T

13. Waiver. The permanent non-application of a foster care licensing rule, if in the Department's judgment, the health and safety of the child is not compromised. (7-1-24)T

011. -- 101. (RESERVED)

102. DISPOSITION OF APPLICATIONS.

The Department will expeditiously initiate action on each completed application within one (1) business day after receipt that addresses each requirement for the specific type of home. (7-1-24)T

01. Approval of Application. The Department will issue a license to any foster home complying with these rules. (7-1-24)T

02. Regular License. The Department will issue a regular license to any foster home complying with these rules and will specify the terms of licensure, such as: (7-1-24)T

a. The number of children who may receive care at any one (1) time; and (7-1-24)T

b. Age range and sex if there are conditions in the foster home making such limitations necessary; (7-1-24)T

c. The regular license for a foster home is in effect for one (1) year from the date of issuance unless suspended or revoked earlier; (7-1-24)T

d. If the license for a foster home is for a specific child, the name of that child will be shown on the foster home license. (7-1-24)T

03. Waiver or Variance. A regular license may be issued to the foster home who has received a waiver or variance of licensing rules provided: (7-1-24)T

a. The approval is considered on an individual case basis; (7-1-24)T

b. The approval will, in the judgement of the Department, maintain the safety of the child(ren); (7-1-24)T

c. All other licensing requirements have been met; (7-1-24)T

d. The Department will document a description of the reasons for issuing a waiver or variance, the rules involved, and assurance that the waiver or variance will not compromise the child's safety; and (7-1-24)T

e. The approved waiver or variance must be reviewed for continued need and approved annually. (7-1-24)T

04. Limited License. May be issued for the care of a specific child in a home which may not meet the requirements for a license, provided: (7-1-24)T

a. The child is already in the home and has formed strong emotional ties with the foster parents; and (7-1-24)T

b. It can be shown that the child's continued placement in the home would be more conducive to their welfare than removal to another home. (7-1-24)T

05. Denial of Application. If an application is denied, a signed letter will be sent directly to the applicant by registered or certified mail, advising the applicant of the denial and stating the basis for such denial. An applicant whose application has been denied may not reapply until one (1) year after the date on the denial of application. (7-1-24)T

06. Failure to Complete Application Process. Failure to complete the application process within six (6) months from the original date of application will result in vacation of the application. (7-1-24)T

07. Facilitating Applications. (7-1-24)T

a. The Department may, within its appropriation, cover reasonable expenses to ensure homes meet the requirements of these rules including the home health and safety requirements and sleeping arrangements. (7-1-24)T

b. The Department will establish procedures to fast-track applications from candidates who have a successful track record of serving as a foster home in other states. (7-1-24)T

103. RESTRICTIONS ON APPLICABILITY AND NONTRANSFER.

01. Department-Issued License. Applies only to the foster home or the person and premises designated. Each license is issued in the individual's name, and to the address specified on the application. A license issued in the name of a foster parent applies to the period and services specified in the license. Any change in address renders the license null and void, and the foster parent must immediately return the license to the Department. (7-1-24)T

02. Nontransferable. A license is nontransferable from one (1) individual to another or from one (1) location to another. (7-1-24)T

03. Change in Location. When there is a change in foster home location, the foster home parent must reapply for a license. (7-1-24)T

104. (RESERVED)

105. REVISIT AND RELICENSE.

Revisit and relicensure studies will document how the foster home continues to meet licensing standards. Consideration must be given to each standard, including a review of the previous study and original application to determine what changes have occurred. A renewal application must be made by the foster home on the Department-furnished form and filled out prior to the expiration date of the license in effect. The existing license will, unless officially revoked, remain effective until the Department has acted on the application for renewal. (7-1-24)T

106. COMPLAINTS.

01. Investigation. The Department will investigate complaints regarding foster homes. The investigation may include further contact with the complainant, scheduled or unannounced visits to the foster home, collateral contacts including interviews with the victim, parents or guardian, consultants, children in care, other persons who may have knowledge of the complaint, and inspections by fire or health officials. (7-1-24)T

02. Informed of Action. If an initial preliminary investigation indicates that a more complete investigation must be made, the foster parents will be informed of the investigation, and any action to be taken, including referral for civil or criminal action. (7-1-24)T

107. SUSPENSION FOR CIRCUMSTANCES BEYOND CONTROL OF FOSTER PARENT.

When circumstances occur over which the foster parent has no control including illness, epidemics, fire, flood, or contamination, which temporarily place the operation of the foster home out of compliance with these rules, the license must be suspended until the nonconformity is remedied. (7-1-24)T

108. (RESERVED)

109. ENFORCEMENT REMEDY OF SUMMARY SUSPENSION AND TRANSFER OF CHILDREN.

The Department may summarily suspend a foster home license. Children in a foster home require the program to transfer children when the Department has determined a child's health and safety are in immediate jeopardy. (7-1-24)T

110. ENFORCEMENT REMEDY REVOCATION OF LICENSE AND TRANSFER OF CHILDREN.

The Department may revoke the license of a foster home when the Department determines the home is not in compliance with these rules. Revocation and transfer of children may occur under the following circumstances: (7-1-24)T

01. Endangers Health or Safety. Any condition that endangers the health or safety of any child. (7-1-24)T

02. Not in Substantial Compliance. A foster home is not in substantial compliance with these rules. (7-1-24)T

03. No Progress to Meet Plan of Correction. A foster home has made little or no progress in correcting deficiencies within thirty (30) days from the date the Department accepted a plan of correction. (7-1-24)T

04. Repeat Violations. Repeat violations of these rules or of Title 39, Chapters 11 and 12, Idaho Code. (7-1-24)T

05. Misrepresented or Omitted Information. A foster home has knowingly misrepresented or omitted information on the application or other documents pertinent to obtaining a license. (7-1-24)T

06. Refusal to Allow Access. Refusal to allow Department representatives full access to the foster home and its grounds, facilities, and records. (7-1-24)T

07. Violation of Terms of Provisional License. A foster home, that has violated any of the terms of a provisional license. (7-1-24)T

111. EFFECT OF PREVIOUS REVOCATION OR DENIAL OF A LICENSE.

An organization cannot apply and the Department will not accept an application from any person, corporation, or partnership, including any owner with a ten percent (10%) or more interest, who has had a license denied or revoked, until five (5) years has elapsed from the date of denial, revocation, or conclusion of a final appeal, whichever occurred last. (7-1-24)T

112. -- 199. (RESERVED)

200. LICENSING PROVISIONS RELATED TO THE INDIAN CHILD WELFARE ACT.

These rules do not supersede the licensing authority of Indian tribes under the Indian Child Welfare Act, P.L. 95-608,

25 USC, Sections 1901 – 1963. (7-1-24)T

201. FOSTER PARENT QUALIFICATIONS AND SUITABILITY.

An applicant for licensure as a foster parent must meet the following: (7-1-24)T

01. Age. Be eighteen (18) years old or older. (7-1-24)T

02. Communication. Be able to communicate with the child, the children’s agency, and health care and other service providers. (7-1-24)T

03. Income and Resources. Have a defined and sufficient source of income and be capable of managing that income to meet the needs of the foster family without relying on the payment made for the care of a foster child. (7-1-24)T

04. Literacy. At least one (1) adult caretaker in the home must have functional literacy, such as the ability to read medication labels. (7-1-24)T

202. BACKGROUND CHECKS.

All applicants for a foster care license and other adult members of the household must comply with IDAPA 16.05.06, “Criminal History and Background Checks,” and the following: (7-1-24)T

01. Change in Household Membership. By the next working day after another adult begins residing in a foster home, a foster parent must notify the children's agency of the change in household membership and assure that the new adult household member will complete a background check within fifteen (15) days of residence in the foster home. (7-1-24)T

02. Foster Parent’s Child Turns Eighteen. A foster parent’s child who turns eighteen (18) and lives continuously in the home is not required to have a background check except as specified in this rule. (7-1-24)T

a. After turning eighteen (18) years old, if the foster parent’s adult child no longer lives in the foster parent’s home and subsequently resumes living in the foster home, they will be considered an adult household member and must complete a background check within fifteen (15) days from the date they became an adult household member. (7-1-24)T

b. If the adult child leaves the foster home for the purpose of higher education or military service, and periodically returns to the home for less than ninety (90) days, they are not considered to be an adult household member and are not required to complete a background check. While in the home, they cannot have any unsupervised direct care responsibilities for any foster children in the home. Should they remain in the foster home for more than ninety (90) days, they will immediately be considered an adult household member and must complete a background check within fifteen (15) days from the date they became an adult household member. (7-1-24)T

c. If the adult child continues to live in their parent’s foster home or on the same property, they must complete a background check within fifteen (15) days of turning twenty-one (21). This requirement is not necessary if the adult child has completed a background check between the ages of eighteen (18) and twenty-one (21). (7-1-24)T

03. Background Check at Any Time. The Department retains the authority to require a background check at any time on individuals who are residing in a foster home or on the foster parent’s property. (7-1-24)T

04. Emergency Placement of Children. An emergency occurs when a child enters or experiences an unplanned placement change in foster care. The Department may request that a criminal justice agency perform a Federal Interstate Identification Index name-based criminal history record check of each adult residing in the home. This refers to those limited instances when placing a child in the home of relatives or kin, as a result of a sudden unavailability of the child's parent or caretaker. (7-1-24)T

a. All adult household members will submit fingerprints to the Department's Background Check Unit within ten (10) calendar days and follow requirements outlined in IDAPA 16.05.06, “Criminal History and

Background Checks.” The Department forwards the fingerprints to the State Central Record Repository for submission to the FBI within fifteen (15) calendar days from the date the name search was conducted. The Department's background check unit will positively identify the individual that is being considered to receive the child in an emergency situation as their fingerprints are submitted. (7-1-24)T

b. When placement of a child in a home is denied as a result of the Department review of the name-based criminal history record check of any adult household member, all adults must still comply with Subsection 202.05.a. of this rule and IDAPA 16.05.06, “Criminal History and Background Checks.” (7-1-24)T

c. The child will be removed from the home immediately if any adult household member fails to provide written permission to perform a federal criminal history record check, submit fingerprints, or any adult household member is denied a Department background check clearance. (7-1-24)T

05. Exceptions to Background Checks. Background checks are optional for certain youth in foster care who reach the age of eighteen (18) but are less than twenty-one (21) years of age and continue to reside in the same licensed foster home. (7-1-24)T

203. INITIAL AND ONGOING EVALUATION.

An applicant must participate in the process and tasks to complete an initial evaluation for foster care licensure. (7-1-24)T

01. Applicant Participation. The applicant must do all the following: (7-1-24)T

a. Cooperate with and allow the children's agency to determine compliance with these rules to conduct an initial foster home study; (7-1-24)T

b. Inform the children's agency if the applicant is currently licensed or has been previously licensed as a foster parent or the applicant has been involved in the care and supervision of children or adults; (7-1-24)T

c. All household members must disclose current mental health and/or substance abuse issues. (7-1-24)T

d. All household members must provide information on their physical and mental health history, including any history of drug or alcohol abuse or treatment. (7-1-24)T

e. Provide two (2) satisfactory references, one (1) of which may be from a person related to the applicant(s). An applicant will provide additional references upon the request of the children's agency. (7-1-24)T

02. Disclosure of Information and Assurances. An applicant must provide the children's agency with the following or any additional information the children's agency deems necessary to complete the initial family home study: (7-1-24)T

a. Names, including maiden or other names used, and ages of the applicant(s); (7-1-24)T

b. Social Security Number; (7-1-24)T

c. Education; (7-1-24)T

d. Verification of marriages and divorces; (7-1-24)T

e. Religious and cultural practices of the applicant including their willingness and ability to accommodate or provide care to a foster child of a different race, religion, or culture; (7-1-24)T

f. Statement of income and financial resources and the family's management of these resources; (7-1-24)T

g. Reasons for applying to be a foster parent; (7-1-24)T

- h.** Report any prior arrest, investigation, or other official action regarding a sexual offense or impropriety. (7-1-24)T
- i.** Provide and abide by the following written assurances: (7-1-24)T
- i.** Applicants will not use corporal or degrading punishment. (7-1-24)T
- ii.** Applicants will not use any illegal substances, abuse alcohol by consuming it in excess amounts, or abuse legal prescription and/or nonprescription drugs by consuming them in excess amounts or using them contrary to as indicated. (7-1-24)T
- iii.** Applicants and their guests will not smoke in the foster family home, in any vehicle used to transport the child, or in the presence of the child in foster care. (7-1-24)T
- iv.** Applicants will adhere to the Department's reasonable and prudent parent standard. (7-1-24)T
- 03. Home Study.** The applicant must complete an agency home study, which is a written comprehensive family assessment to include the following elements: (7-1-24)T
- a.** At least one scheduled on-site visit to assess the home to ensure that it meets the standards set forth in these rules; (7-1-24)T
- b.** At least one scheduled in-home interview for each household member to observe family functioning and assess the family's capacity to meet the needs of a child or children in foster care; (7-1-24)T
- c.** The Department has discretion on whether to interview or observe each household member based on his or her age and development. (7-1-24)T
- 204. SUBSEQUENT EVALUATIONS.** A foster parent must comply with the following: (7-1-24)T
- 01. Reasonable Access.** A foster parent will allow the children's agency reasonable access to the foster home, including interviewing each foster parent, each foster child, and any household member to determine compliance with these rules, for child supervision purposes, and to conduct a relicensure study. (7-1-24)T
- 02. Update Information.** Provide all changes to the information in the initial evaluation and subsequent evaluations. (7-1-24)T
- 03. Family Functioning.** Provide information on changes in family functioning and inter-relationships. (7-1-24)T
- 04. Other Circumstances.** Provide the children's agency with any information regarding circumstances within the family that may adversely impact the foster child. (7-1-24)T
- 05. Plan of Correction.** Cooperate with the children's agency in developing and carrying out a written plan required to correct any rule noncompliance identified by any evaluation conducted by the children's agency. (7-1-24)T
- 205. FOSTER PARENT DUTIES.** A foster parent must do the following: (7-1-24)T
- 01. Case Plan Implementation.** Cooperate with, and assist the children's agency with implementation of the case plan for children and their families. (7-1-24)T
- 02. Reporting Progress and Problems.** Promptly and fully disclose to the children's agency information concerning a child's progress and problems. (7-1-24)T

03. Termination of Placement. Provide notification to the children's agency of the need for a child to be moved from the foster home not less than fourteen (14) days before the move, except when a delay would jeopardize the child's care or safety, or the safety of members of the foster family. (7-1-24)T

206. FOSTER PARENT TRAINING.

01. Reasonable and Prudent Parent Standard. Each caregiver will complete training on knowledge and skills relating to the reasonable and prudent parent standard for the participation of the child in age or developmentally appropriate activities. (7-1-24)T

02. Additional Training. The department will make available training on the following topics: rights, roles, responsibilities and expectations of foster parents; laws and regulations; the impact of childhood trauma; managing child behaviors; first aid and medication administration; and the importance of maintaining meaningful connections between the child and parents, including regular visitation. The department will also make available ongoing training to receive instruction to support their parental roles and ensure the parent is up to date with agency requirements. Further, this training may also include child-specific training and/or may address issues relevant to the general population of children in foster care. (7-1-24)T

207. -- 229. (RESERVED)

230. HOME HEALTH AND SAFETY REQUIREMENTS.

01. Living Space. The living space or structure of a foster home will be a house, mobile home (as defined under Title 39, Chapter 41, Idaho Code), housing unit, or apartment occupied by an individual or family. The home must have: (7-1-24)T

- a.** An adequate supply of safe drinking water. In cases of non-municipal water, the department may test for safety; (7-1-24)T
- b.** A properly operating kitchen with a sink, refrigerator, stove, and oven; (7-1-24)T
- c.** At least one toilet, sink and tub or shower in operating condition; (7-1-24)T
- d.** Heating and/or cooling as required by the geographic area, consistent with accepted community standards and in safe operating condition; and (7-1-24)T
- e.** A working phone or access to a working phone in close walking proximity. (7-1-24)T

02. Condition of the Home. The applicant's home, grounds, and all structures on the grounds of the property must be properly maintained in a clean, safe, and sanitary condition and in a reasonable state of repair within community standards. The interior and exterior must be free from dangerous objects and conditions, and from hazardous materials. The home must meet the following requirements: (7-1-24)T

- a.** Have adequate lighting, ventilation and proper trash and recycling disposal, if recycling is available; (7-1-24)T
- b.** Be free from rodents and insect infestation. (7-1-24)T
- c.** Proper water heater temperature; (7-1-24)T
- d.** Weapons and ammunition (separately) stored, locked, unloaded, and inaccessible to children; (7-1-24)T
- e.** Have conditions that prevent the child's access, as appropriate for his or her age and development, to all medications, poisonous materials, cleaning supplies, other hazardous materials, and alcoholic beverages; (7-1-24)T

f. Any pet or domestic animal that is suspected or known to be dangerous must be kept in an area inaccessible to children. Dogs must be vaccinated for rabies and comply with Section 25-2810, Idaho Code. (7-1-24)T

g. Swimming pools, hot tubs, and spas must meet the following to ensure they are safe and hazard free (and additionally must meet all state, tribal and/or local safety requirements): (7-1-24)T

i. Swimming pools must have a barrier on all sides. (7-1-24)T

ii. Swimming pools must have their methods of access through the barrier equipped with a safety device, such as a bolt lock. (7-1-24)T

iii. Swimming pools must be equipped with a life saving device, such as a ring buoy. (7-1-24)T

iv. If the swimming pool cannot be emptied after each use, the pool must have a working pump and filtering system. (7-1-24)T

v. Hot tubs and spas must have safety covers that are locked when not in use. (7-1-24)T

231. (RESERVED)

232. FIRE SAFETY, EMERGENCY PLANNING, AND EVACUATION PLAN.

Each foster home must meet the following: (7-1-24)T

01. Smoke Detectors. Have at least one smoke detector on each level of occupancy of the home and at least one near all sleeping areas. (7-1-24)T

02. Carbon Monoxide Detectors. Have at least one carbon monoxide detector on each level of occupancy of the home and at least one near all sleeping areas. Living space that does not have equipment that produces carbon monoxide or does not have an attached garage is exempt from this requirement. (7-1-24)T

03. Additional Fire Safety Requirements. To be within the structure of the home: (7-1-24)T

a. Have at least one (1) operable fire extinguisher that is readily accessible; (7-1-24)T

b. Be free of obvious fire hazards such as defective heating equipment or improperly stored flammable materials; (7-1-24)T

c. Have a written emergency evacuation plan posted in a prominent place in the home and reviewed with children placed for foster care; (7-1-24)T

d. Maintain a comprehensive list of emergency telephone numbers including poison control and posted in a prominent place in the home; and (7-1-24)T

e. Maintain first aid supplies. (7-1-24)T

233. SLEEPING ARRANGEMENTS.

Applicants must provide a safe sleeping space including sleeping supplies, such as a mattress and linens or appropriate cribs for each individual child, as appropriate for the child's needs and age and similar to other household members. Foster parents must not co-sleep or bed-share with infants. (7-1-24)T

234. -- 238. (RESERVED)

239. TRANSPORTATION.

Applicants must ensure that the family has reliable, legal and safe transportation. Reliable transportation includes a properly maintained vehicle or access to reliable public transportation; if a privately-owned vehicle owned by the

applicant's family or friends is used to transport the child in foster care, legal transportation includes having a valid driving license, insurance and registration; and safe transportation includes safety restraints as appropriate for the child. (7-1-24)T

240. -- 241. (RESERVED)

242. CHILD PLACEMENT REQUIREMENTS.

A foster family may mutually accept the placement of children into the home within the terms of the foster home license and the children's agency placement agreement. The following provisions will be considered for determining placement: (7-1-24)T

01. Determining Factors. The number and the age group of children placed in a foster home will be determined by the following: (7-1-24)T

- a.** The accessibility, accommodations, and the space in the home; (7-1-24)T
- b.** The interest of the foster family; and (7-1-24)T
- c.** The experience, training, or skill of the foster family. (7-1-24)T

02. Maximum Number of Children. Except as specified, the maximum number of children in care at any time, including the foster family's own children, or daycare children, will be limited to not more than six (6) children. (7-1-24)T

03. Children Under Two Years Old. Except as specified in Subsection 242.04 of this rule, the maximum number of children under two (2) years old, including those of the foster family, will be limited to two (2) children or less. (7-1-24)T

04. Special Circumstances Regarding Maximum Numbers of Children. The maximum number of children in care at any time may be based on the children's agency assessment and at a minimum one (1) of the following: (7-1-24)T

- a.** To allow siblings to remain together; (7-1-24)T
- b.** To allow a child who has an established, meaningful relationship with the family to remain with the family; (7-1-24)T
- c.** To allow a family with special training or skills to provide care for a child who has a severe disability; or (7-1-24)T
- d.** To allow a parenting youth in foster care to remain with the child of the parenting youth. (7-1-24)T

05. Continued Care. A foster child who reaches the age of eighteen (18) may continue in foster care placement until the age of twenty-one (21) if the safety, health, and well-being of other foster children residing in the home is not jeopardized. (7-1-24)T

243. INTERAGENCY PLACEMENT OF CHILDREN.

A foster family must only accept for placement children referred from the children's agency that licenses the foster home. A foster family may accept for placement a foster child from another children's agency only if that children's agency and the foster family have received prior approval for the placement of a child from the children's agency that licensed the home. (7-1-24)T

244. SUBSTITUTE CARE PLACEMENT AND CHILDREN'S AGENCY NOTIFICATION.

A foster parent must: (7-1-24)T

01. Substitute Care. Place a child in substitute care only with the prior knowledge and consent of the children's agency; and (7-1-24)T

02. Notification to Agency. Notify the children's agency before the beginning of any planned absence that requires substitute care of a child for a period of twenty-four (24) hours or more. (7-1-24)T

245. (RESERVED)

246. BEHAVIOR MANAGEMENT AND DISCIPLINE.

Methods of behavior management and discipline for children must be positive and consistent. These methods must be based on each child's needs, stage of development, and behavior. Discipline is to promote self-control, self-esteem, and independence. (7-1-24)T

- 01. Prohibitions.** The following types of punishment of a foster child are prohibited: (7-1-24)T
- a.** Physical force or any kind of punishment inflicted on the body, including spanking; (7-1-24)T
 - b.** Cruel and unusual physical exercise or forcing a child to take an uncomfortable position; (7-1-24)T
 - c.** Use of excessive physical labor with no benefit other than for punishment; (7-1-24)T
 - d.** Mechanical, medical, or chemical restraint; (7-1-24)T
 - e.** Locking a child in a room or area of the home; (7-1-24)T
 - f.** Denying necessary food, clothing, bedding, rest, toilet use, bathing facilities, or entrance to the foster home; (7-1-24)T
 - g.** Mental or emotional cruelty; (7-1-24)T
 - h.** Verbal abuse, ridicule, humiliation, profanity, threats, or other forms of degradation directed at a child or a child's family; (7-1-24)T
 - i.** Threats of removal from the foster home; (7-1-24)T
 - j.** Denial of visits or communication with a child's family unless authorized by a children's agency in its service plan for the child and family; and (7-1-24)T
 - k.** Denial of necessary educational, medical, counseling, or social services. (7-1-24)T

02. Restraint. A foster parent who has received specific training in the use of child restraint may use reasonable restraint methods, approved by the children's agency, to prevent a child from harming themselves, other persons or property, or to allow a child to gain control of themselves. (7-1-24)T

03. Authority. The authority for the discipline of a foster child must not be delegated by a foster parent to other members of the household. (7-1-24)T

04. Agency Consultation. A foster parent must consult with the children's agency prior to using any behavior management or discipline technique that exceeds the scope of these rules. (7-1-24)T

247. MEDICAL AND DENTAL CARE.

01. Health Care Services. A foster parent must follow and carry out the health or dental care plan for a child as directed by a medical professional. (7-1-24)T

02. Child Injury and Illness. Follow the children's agency approved policies for medical care of a child who is injured or ill. (7-1-24)T

03. Dispensing of Medications. Provide prescription medication as directed by a medical professional.

A foster parent must not discontinue or in any way change the medication provided to a child unless directed to do so by a medical professional. (7-1-24)T

248. -- 253. (RESERVED)

254. RELIGIOUS AND CULTURAL PRACTICES.

A foster parent must provide a child in care with opportunity for spiritual development and cultural practices according to the wishes of the child and the child's parent or tribe. (7-1-24)T

255. -- 256. (RESERVED)

257. REASONABLE AND PRUDENT PARENT STANDARD.

A caregiver must follow the reasonable and prudent parent standard. (7-1-24)T

01. Reasonable and Prudent Parent Standard Defined. "Age or developmentally appropriate" means the following: (7-1-24)T

a. Activities or items that are generally accepted as suitable for children of the same chronological age or level of maturity or that are determined to be developmentally appropriate for a child, based on the development of cognitive, emotional, physical, and behavioral capacities that are typical for an age or age group; and (7-1-24)T

b. In the case of a specific child, activities or items that are suitable for the child based on the developmental stages attained by the child with respect to the cognitive, emotional, physical, and behavioral capacities of the child. (7-1-24)T

c. The foster parents will seek approval from the children's agency before altering a child's physical appearance including haircuts, body piercing, and tattooing. (7-1-24)T

258. -- 269. (RESERVED)

270. RECORD MANAGEMENT AND REPORTING REQUIREMENTS.

A foster parent must maintain a record for each child in the home that will include all written material provided to the foster home by the children's agency and additional information gathered by the foster parent that includes the following: (7-1-24)T

01. Personal Data. The child's name, sex, date of birth, religion, race, and tribe, if applicable; (7-1-24)T

02. Any Known History of Abuse and Neglect of the Child. (7-1-24)T

03. Any Known Emotional and Psychological Needs of the Child. (7-1-24)T

04. Any Information Known about the Child's Health. (7-1-24)T

05. Any Known Behavioral Problems of the Child. (7-1-24)T

271. REPORTING FOSTER HOME CHANGES.

A foster parent must report to the children's agency any significant change in the foster home by the next working day from the time a foster parent becomes aware of a change, including the following: (7-1-24)T

01. Serious Illness Including Physical or Mental Health, Injury, or Death of a Foster Parent or Household Member. (7-1-24)T

02. Arrests, Citations, Withheld Judgments, or Criminal Convictions of a Foster Parent or Household Member. (7-1-24)T

03. Initiation of Court-Ordered Parole or Probation of a Foster Parent or Household Member.

(7-1-24)T

04. Admission or Release From Facilities. Admission to, or release from, a correctional facility, a hospital, or an institution for the treatment of an emotional, mental health, or substance abuse issue of a foster parent or household member. (7-1-24)T

05. Change of Employment Status of a Foster Parent. (7-1-24)T

06. Counseling, Treatment, or Therapy. Counseling or other methods of therapeutic treatment on an outpatient basis for an emotional, mental, or substance abuse issue of a foster parent or household member. (7-1-24)T

07. Change of Residence. A foster parent will inform the children's agency of any planned change in residence and apply for licensure at the new address not less than two (2) weeks prior to a change in residence. (7-1-24)T

08. Household Members. Inform the children's agency of changes in household members including minor children. (7-1-24)T

09. Additional Licensing Application. A foster parent will notify the children's agency within five (5) days after filing an application for a certified family home, daycare, or group daycare license. (7-1-24)T

272. CONFIDENTIALITY.

A foster parent must maintain the confidentiality of any information and records regarding a foster child and the child's parents and relatives. A foster parent will release information about the foster child only to persons authorized by the children's agency responsible for the foster child. Foster parents will follow the Department's policies for the use of social media and posting of pictures of children in foster care. (7-1-24)T

273. CRITICAL INCIDENT NOTIFICATION.

The foster parent must immediately notify the responsible children's agency of any of the following incidents:

(7-1-24)T

01. Death. Death or near death of a child in care. (7-1-24)T

02. Suicide. Suicidal ideation, threats, or attempts to commit suicide by the foster child. (7-1-24)T

03. Missing. When a foster child is missing from a foster home. (7-1-24)T

04. Illness. Any illness or injury that requires medical treatment of hospitalization of a foster child. (7-1-24)T

05. Law Enforcement Authorities. A foster child's detainment, arrest, or other involvement with law enforcement authorities. (7-1-24)T

06. Removal of Child. Attempted removal or removal of a foster child from the foster home by any person who is not authorized by the children's agency. (7-1-24)T

274. -- 999. (RESERVED)

IDAPA 16 – DEPARTMENT OF HEALTH AND WELFARE

16.06.02 – FOSTER CARE LICENSING

DOCKET NO. 16-0602-2403

NOTICE OF RULEMAKING – ADOPTION OF TEMPORARY RULE

THE FOLLOWING NOTICE PUBLISHED WITH THE TEMPORARY RULE

EFFECTIVE DATE: The effective date of the temporary rule is August 15th, 2024.

AUTHORITY: In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a temporary rule, and proposed regular rulemaking procedures have been initiated. This rule chapter is promulgated pursuant to Sections 39-1211, 39-1213, 56-1003, 56-1004A, and 56-1005(8), 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 18th, 2024.

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

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

This rule change allows individuals who have been a licensed foster parent in the last 12 months, but has let their license lapse, renew their foster license with a fast-tracked process so long as they were in good standing while licensed.

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

There has been a demonstrated need to increase the number of resource families in the foster system throughout the state. Achieving a higher ratio of eligible foster families to foster kids in need has become the top priority of the Department. This change is needed to help support that mission, and in doing so also reduces the regulatory burden imposed by the state.

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

Fees will not be increased as a result of this rulemaking.

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

There will not be a negative fiscal impact exceeding \$10,000.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not conducted because the shortage of foster homes is at a level in which urgent action is needed.

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: N/A

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary and proposed rule, contact Jared Larsen, 208-334-5500.

Anyone may submit written comments regarding the proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before September 25th, 2024.

DATED this 15th day of August, 2024.

Alex J. Adams, PharmD, MPH
Director
Idaho Department of Health & Welfare
450 W. State Street, 10th Floor
P.O. Box 83720 Boise, ID 83720-0036
(208) 334-5500 phone; (208) 334-6558 fax
Alex.Adams@dhw.idaho.gov

FOLLOWING IS THE TEXT OF THE TEMPORARY RULE FOR DOCKET NO. 16-0602-2403

(If extended, this temporary rule will be replaced by the pending rule promulgated under this same docket number on July 1, 2025.)

16.06.02 – FOSTER CARE LICENSING

102. DISPOSITION OF APPLICATIONS.

The Department will expeditiously initiate action on each completed application within one (1) business day after receipt that addresses each requirement for the specific type of home. (7-1-24)T

01. Approval of Application. The Department will issue a license to any foster home complying with these rules. (7-1-24)T

02. Regular License. The Department will issue a regular license to any foster home complying with these rules and will specify the terms of licensure, such as: (7-1-24)T

a. The number of children who may receive care at any one (1) time; and (7-1-24)T

b. Age range and sex if there are conditions in the foster home making such limitations necessary; (7-1-24)T

c. The regular license for a foster home is in effect for one (1) year from the date of issuance unless suspended or revoked earlier; (7-1-24)T

d. If the license for a foster home is for a specific child, the name of that child will be shown on the foster home license. (7-1-24)T

03. Waiver or Variance. A regular license may be issued to the foster home who has received a waiver or variance of licensing rules provided: (7-1-24)T

a. The approval is considered on an individual case basis; (7-1-24)T

b. The approval will, in the judgment of the Department, maintain the safety of the child(ren); (7-1-24)T

c. All other licensing requirements have been met; (7-1-24)T

d. The Department will document a description of the reasons for issuing a waiver or variance, the rules involved, and assurance that the waiver or variance will not compromise the child's safety; and (7-1-24)T

e. The approved waiver or variance must be reviewed for continued need and approved annually. (7-1-24)T

04. Limited License. May be issued for the care of a specific child in a home which may not meet the requirements for a license, provided: (7-1-24)T

a. The child is already in the home and has formed strong emotional ties with the foster parents; and (7-1-24)T

b. It can be shown that the child's continued placement in the home would be more conducive to their welfare than removal to another home. (7-1-24)T

05. Denial of Application. If an application is denied, a signed letter will be sent directly to the applicant by registered or certified mail, advising the applicant of the denial and stating the basis for such denial. An applicant whose application has been denied may not reapply until one (1) year after the date on the denial of application. (7-1-24)T

06. Failure to Complete Application Process. Failure to complete the application process within six (6) months from the original date of application will result in vacation of the application. (7-1-24)T

07. Facilitating Applications. (7-1-24)T

a. The Department may, within its appropriation, cover reasonable expenses to ensure homes meet the requirements of these rules including the home health and safety requirements and sleeping arrangements. (7-1-24)T

b. The Department will establish procedures to fast-track applications from candidates who have a successful track record of serving as a foster home in other states. (7-1-24)T

08. Reactivating an Idaho License. If less than twelve (12) months has elapsed from the last licensed foster home visit required by Section 39-1217, Idaho Code, the Department may fast-track reactivating the license if the prior licensee: (8-15-24)T

a. Relinquished the license in good standing; and (8-15-24)T

b. Attests to maintaining conformity with the standards established by the Department. (8-15-24)T

IDAPA 24 – DIVISION OF OCCUPATIONAL AND PROFESSIONAL LICENSES

24.26.01 – RULES OF THE IDAHO BOARD OF MIDWIFERY

DOCKET NO. 24-2601-2501

NOTICE OF RULEMAKING – ADOPTION OF TEMPORARY RULE

THE FOLLOWING NOTICE PUBLISHED WITH THE TEMPORARY RULE

EFFECTIVE DATE: The effective date of the temporary rule is January 1, 2025.

AUTHORITY: In compliance with Sections 67-5226, Idaho Code, notice is hereby given this agency has adopted a temporary rule. The action is authorized pursuant to Section 67-2604, Idaho Code, as well as Section 54-5503, Idaho Code.

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

This temporary rule is in response to intent language found in the Division of Occupational and Professional Licenses' FY2025 appropriation bill (Senate Bill 1442) directing the Division and Boards to address cash balances that are lower than thirty five percent (35%) and higher than one hundred and twenty five percent (125%) of the five-year rolling average of expenditures. The amendment to the fee table found in Rule 400 will allow the Board to quickly adjust fees downwards to address the currently high cash balance, while reducing the cost of licensure for licensees.

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

Decreasing licensing fees under the Midwifery Advisory Committee reduces a barrier to licensure specifically for midwives seeking to enter the workforce. Reducing the cost of obtaining and maintaining a license in Idaho will ensure constituents have options for midwife services throughout the state.

FEE SUMMARY: Pursuant to Section 67-5226(2), Idaho Code, 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 can be found in Rule 400 pursuant to Section 54-5503, Idaho Code. There are no newly imposed or increased fees in this temporary rule. Instead, the initial application, initial licensure, renewal and reinstatement fees were decreased and “not more than” language was added to all items on the fee table, capping fees at the reduced level while allowing the Board greater flexibility in reducing fees.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning the temporary rule, contact Krissy Veseth, Bureau Chief, at (208) 577-2491.

DATED this 29th day of November, 2024.

Krissy Veseth
Bureau Chief
11341 W. Chinden Blvd., Bldg. #4
Boise, ID 83714
Phone: (208) 577-2491
Email: krissy.veseth@dopl.idaho.gov

FOLLOWING IS THE TEXT OF THE TEMPORARY RULE FOR DOCKET NO. 24-2601-2501

24.26.01 – RULES OF THE IDAHO BOARD OF MIDWIFERY

400. FEES.

Unless otherwise provided for, all fees are non-refundable. fees are as follows:

APPLICATION	FEE (Not to Exceed)
Initial Application	\$200 Not more than \$90
Initial License	\$800 (amount will be refunded if license not issued) Not more than \$90
Renewal	\$850 (amount will be refunded if license not renewed) Not more than \$90
Reinstatement	\$50 Not more than \$35, in addition to renewal fees.

(3-28-23)(1-1-25)T

IDAPA 24 – DIVISION OF OCCUPATIONAL AND PROFESSIONAL LICENSES

24.31.01 – RULES OF THE IDAHO STATE BOARD OF DENTISTRY

DOCKET NO. 24-3101-2501

NOTICE OF RULEMAKING – ADOPTION OF TEMPORARY RULE

THE FOLLOWING NOTICE PUBLISHED WITH THE TEMPORARY RULE

EFFECTIVE DATE: The effective date of the temporary rule is January 1, 2025.

AUTHORITY: In compliance with Sections 67-5226, Idaho Code, notice is hereby given this agency has adopted a temporary rule. The action is authorized pursuant to Section 67-2604, Idaho Code, as well as Sections 54-916 and 54-920, Idaho Code.

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

This temporary rule is in response to intent language found in the Division of Occupational and Professional Licenses' FY2025 appropriation bill (Senate Bill 1442) directing the Division and Boards to address cash balances that are lower than thirty five percent (35%) and higher than one hundred and twenty five percent (125%) of the five-year rolling average of expenditures. The amendment to the fee table found in Rule 400 will allow the Board to quickly adjust fees downwards to address the currently high cash balance, while reducing the cost of licensure for licensees.

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

Decreasing license and permit fees for all licensees under the Board of Dentistry reduces a barrier to licensure specifically for new graduates seeking to enter the workforce. Reducing cost of obtaining and maintaining a license in Idaho will ensure Idaho patients have options for their oral health care throughout the state.

FEE SUMMARY: Pursuant to Section 67-5226(2), Idaho Code, 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 can be found in Rule 400 pursuant to Sections 54-916 and 54-920, Idaho Code. There are no newly imposed or increased fees in this temporary rule. Instead “Not more than” language was added to all items on the fee table, capping fees at their current level while allowing the Board greater flexibility in reducing fees.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning the temporary rule, contact Krissy Veseth, Bureau Chief, at (208) 577-2491.

DATED this 29th day of November, 2024.

Krissy Veseth
Bureau Chief
11341 W. Chinden Blvd., Bldg. #4
Boise, ID 83714
Phone: (208) 577-2491
Email: krissy.veseth@dopl.idaho.gov

FOLLOWING IS THE TEXT OF THE TEMPORARY RULE FOR DOCKET NO. 24-3101-2501

24.31.01 – RULES OF THE IDAHO STATE BOARD OF DENTISTRY

400. FEES.

01. Application and License Fees. Fees are as follows:

License/Permit Type	Application Fee	License/Permit Fee
Dentist/Dental Specialist	<u>Not more than</u> \$300	Active Status: <u>Not more than</u> \$375 Inactive Status: \$160
Dental Hygienist	<u>Not more than</u> \$150	Active Status: <u>Not more than</u> \$175 Inactive Status: \$85
Dental Therapist	<u>Not more than</u> \$200	Active Status: <u>Not more than</u> \$250 Inactive Status: \$125
Sedation Permit	<u>Not more than</u> \$300	\$300

~~(7-1-24)~~(1-1-25)T

IDAPA 24 – DIVISION OF OCCUPATIONAL AND PROFESSIONAL LICENSES

24.34.01 – RULES OF THE IDAHO BOARD OF NURSING

DOCKET NO. 24-3401-2501

NOTICE OF RULEMAKING – ADOPTION OF TEMPORARY RULE

THE FOLLOWING NOTICE PUBLISHED WITH THE TEMPORARY RULE

EFFECTIVE DATE: The effective date of the temporary rule is January 1, 2025.

AUTHORITY: In compliance with Sections 67-5226, Idaho Code, notice is hereby given this agency has adopted a temporary rule. The action is authorized pursuant to Section 67-2604, Idaho Code, as well as Sections 54-1406A, 54-1407, 54-1408, 54-1409, 54-1410, 54-1410A, and 54-1411, Idaho Code.

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

This temporary rule is in response to intent language found in the Division of Occupational and Professional Licenses' FY2025 appropriation bill (Senate Bill 1442) directing the Division and Boards to address cash balances that are lower than thirty five percent (35%) and higher than one hundred and twenty five percent (125%) of the five-year rolling average of expenditures. The amendment to the fee table found in Rule 400 will allow the Board to quickly adjust fees downwards to address the currently high cash balance, while reducing the cost of licensure for licensees.

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

Decreasing fees for all licensees under the Board of Nursing reduces a barrier to licensure specifically for health care workers seeking to enter the workforce. Reducing the cost of obtaining and maintaining a license in Idaho will ensure Idaho patients have options for their health care throughout the state.

FEE SUMMARY: Pursuant to Section 67-5226(2), Idaho Code, 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 can be found in Rule 400 pursuant to Sections 54-1406A, 54-1407, 54-1408, 54-1409, 54-1410, 54-1410A, and 54-1411, Idaho Code. There are no newly imposed or increased fees in this temporary rule. Instead “Not more than” language was added to all items on the fee table, capping fees at their current level while allowing the Board greater flexibility in reducing fees.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning the temporary rule, contact Krissy Veseth, Bureau Chief, at (208) 577-2491.

DATED this 29th day of November, 2024.

Krissy Veseth
Bureau Chief
11341 W. Chinden Blvd., Bldg. #4
Boise, ID 83714
Phone: (208) 577-2491
Email: krissy.veseth@dopl.idaho.gov

FOLLOWING IS THE TEXT OF THE TEMPORARY RULE FOR DOCKET NO. 24-3401-2501

24.34.01 – RULES OF THE IDAHO BOARD OF NURSING

400. INITIAL LICENSE, RENEWAL AND REINSTATEMENT FEES.

01. Assessed Fees. Fees will be assessed for issuance, renewal of licensure or for reinstatement of a lapsed, disciplined, limited, or emeritus license. Fees are due at the time of submission. Any person submitting the renewal application and fee dated later than August 31 is considered delinquent, and the license lapsed and therefore invalid:

Initial Licensure, Renewal & Reinstatement Fees				
	Registered Nurse	Practical Nurse	Advanced Practice Nurse	Medication Assistant - Certified
Temporary License Fee	<u>Not more than \$25</u>	<u>Not more than \$25</u>	<u>Not more than \$25</u>	
Initial Application Fee			<u>Not more than \$90</u>	
License by Exam Fee	<u>Not more than \$90</u>	<u>Not more than \$75</u>	<u>Not more than \$90</u>	
License by Endorsement	<u>Not more than \$110</u>	<u>Not more than \$110</u>		
License Renewal	<u>Not more than \$90</u>	<u>Not more than \$90</u>	<u>Not more than \$90</u>	<u>Not more than \$35</u>
Expiration Date	Aug 31-odd years	Aug 31-even years	Aug 31-odd years	Aug 31-even years

~~(3-28-23)~~(1-1-25)T

02. Reinstatement Fee. Nurses requesting reinstatement of a lapsed, disciplined, or restricted license, or reinstatement of an emeritus license to active status, will be assessed the ~~records verification and renewal fees~~ thirty-five dollar (\$35) reinstatement fee provided for in Section 67-2614(9), Idaho Code, in addition to renewal fees.

~~(3-28-23)~~(1-1-25)T

~~**03. Other Fees.**~~

Records Verification Fee	\$35
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~~(3-28-23)~~

IDAPA 24 – DIVISION OF OCCUPATIONAL AND PROFESSIONAL LICENSES

24.36.01 – RULES OF THE IDAHO STATE BOARD OF PHARMACY

DOCKET NO. 24-3601-2401

NOTICE OF RULEMAKING – ADOPTION OF TEMPORARY RULE

THE FOLLOWING NOTICE PUBLISHED WITH THE TEMPORARY RULE

EFFECTIVE DATE: The effective date of the temporary rule is July 1, 2024.

AUTHORITY: In compliance with Sections 67-5226, Idaho Code, notice is hereby given this agency has adopted a temporary rule. The action is authorized pursuant to Section 54-1717, Idaho Code.

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

This temporary rule implements provisions of [House Bill 527](#), with a concurrent effective date of July 1, 2024. Specifically, it removes the regulations eliminated in the bill, updates cross-references to Idaho Code given the changing numbering in the bill, and adds emergency medications as a carve out to regulatory requirements given their status under the bill.

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

House Bill 527 passed the 2024 Legislature. This bill eliminated several existing Board of Pharmacy rules and changed the numbering of various sections of Idaho Code, effective July 1, 2024. This temporary rule ensures conforming edits are made to the Board of Pharmacy rules simultaneously, and therefore have an effective date of July 1, 2024.

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

There is no fee added or changed as part of this rulemaking.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning the temporary rule, contact Nicole Chopski at 208-334-3233.

DATED this March 28, 2024.

Nicole L. Chopski
Executive Officer
Division of Occupational & Professional Licenses
11341 W. Chinden Blvd.
P.O. Box 83720
Boise, ID 83720-0063
208-334-3233

FOLLOWING IS THE TEXT OF THE TEMPORARY RULE FOR DOCKET NO. 24-3601-2401

(If extended, this temporary rule will be replaced by the pending rule promulgated under docket number 24-3601-2402 on July 1, 2025.)

24.36.01 – RULES OF THE IDAHO STATE BOARD OF PHARMACY

010. DEFINITIONS AND ABBREVIATIONS ~~(A–N)~~.

The definitions set forth in Sections 54-1705~~4~~ and 37-2701, Idaho Code, are applicable to these rules. In addition, the following terms have the meanings set forth below: ~~(3-28-23)~~ (7-1-24)T

- 01. ACCME.** Accreditation Council for Continuing Medical Education. (3-28-23)
- 02. ACPE.** Accreditation Council for Pharmacy Education. (3-28-23)
- 03. ADS – Automated Dispensing and Storage.** A mechanical system that performs operations or activities, other than compounding or administration, relative to the storage, packaging, dispensing, or distribution of drugs and that collects, controls, and maintains transaction information. (3-28-23)
- 04. Change of Ownership.** A change of majority ownership or controlling interest of a drug outlet licensed or registered by the Board. (3-28-23)
- 05. CME.** Continuing medical education. (3-28-23)
- 06. CPE.** Continuing pharmacy education. (3-28-23)
- 07. CPE Monitor.** An NABP service that allows pharmacists to electronically keep track of CPE credits from ACPE-accredited providers. (3-28-23)
- 08. DEA.** United States Drug Enforcement Administration. (3-28-23)
- 09. DME Outlet.** A registered outlet that may hold for sale at retail durable medical equipment (DME) and the following prescription drugs: pure oxygen for human application, nitrous oxide, sterile sodium chloride, and sterile water for injection. (3-28-23)
- 10. Drug Outlet.** Drug outlets include, but are not limited to, sterile product pharmacies, remote dispensing pharmacies, facilities operating narcotic treatment programs, DME outlets, prescriber drug outlets, outsourcing facilities, nuclear pharmacies, cognitive service pharmacies, correctional facilities, offsite ADSs for non-emergency dispensing, reverse distributors, mobile pharmacies, and analytical or research laboratories. (3-28-23)
- 11. FDA.** United States Food and Drug Administration. (3-28-23)
- 12. Flavoring Agent.** An additive in food or drugs in the minimum quantity necessary. (3-28-23)
- 13. Floor Stock.** Drugs or devices not labeled for a specific patient that are maintained at a nursing station or other department of an institutional facility, excluding the pharmacy, for the purpose of administering to patients of the facility. (3-28-23)
- 14. ~~FPGEC Certification.~~** ~~Foreign Pharmacy Graduate Examination Committee Certification.~~ ~~(3-28-23)~~

- ~~154.~~ **Hazardous Drug.** Any drug listed as such by the National Institute for Occupational Safety and Health or any drug identified by at least one (1) of the following criteria: carcinogenicity; teratogenicity or developmental toxicity; reproductive toxicity in humans; organ toxicity at low doses in humans or animals; genotoxicity; or new drugs that mimic existing hazardous drugs in structure or toxicity. (3-28-23)
- ~~165.~~ **HIPAA.** Health Insurance Portability and Accountability Act of 1996. (3-28-23)
- ~~176.~~ **NABP.** National Association of Boards of Pharmacy. (3-28-23)
- ~~18.~~ ~~**NAPLEX.** North American Pharmacists Licensure Examination.~~ (3-28-23)
- ~~197.~~ **NDC.** National Drug Code. (3-28-23)
- ~~18.~~ **Parenteral Admixture.** The preparation and labeling of sterile products intended for administration by injection. (7-1-24)T
- ~~19.~~ **Pharmaceutical Care Services.** A broad range of services for patients performed independently or in collaboration with other health care professionals. Pharmaceutical care services are not limited to, but may include one (1) or more of the following: (7-1-24)T
- ~~a.~~ Diagnosing the patient’s health status or condition; (7-1-24)T
- ~~b.~~ Reviewing or formulating a drug utilization plan; (7-1-24)T
- ~~c.~~ Monitoring and evaluating the patient’s response to drug therapy; (7-1-24)T
- ~~d.~~ Ordering and interpreting laboratory tests and imaging; (7-1-24)T
- ~~e.~~ Performing drug product selection, substitution, medication administration, prescription adaptation, or refill authorization as provided in these rules; and (7-1-24)T
- ~~f.~~ Prescribing drugs and devices as provided in these rules. (7-1-24)T
- ~~20.~~ **PDMP.** Prescription Drug Monitoring Program. (7-1-24)T
- ~~21.~~ **Prescriber.** An individual currently licensed, registered, or otherwise authorized to prescribe and administer drugs in the course of professional practice. (7-1-24)T
- ~~22.~~ **Purple Book.** The list of licensed biological products with reference product exclusivity and biosimilarity or interchangeability evaluations published by the FDA under the Public Health Service Act. (7-1-24)T
- ~~23.~~ **Readily Retrievable.** Records are considered readily retrievable if they are able to be completely and legibly produced upon request within seventy-two (72) hours. (7-1-24)T
- ~~24.~~ **Reconstitution.** The process of adding a diluent to a powdered medication to prepare a solution or suspension, according to the product’s labeling or the manufacturer’s instructions. (7-1-24)T
- ~~25.~~ **Restricted Drug Storage Area.** The area of a drug outlet where prescription drugs are prepared, compounded, distributed, dispensed, or stored. (7-1-24)T
- ~~26.~~ **Therapeutic Equivalent Drugs.** Products assigned an “A” code by the FDA in the Approved Drug Products with Therapeutic Equivalence Evaluations (Orange Book) and animal drug products published in the FDA Approved Animal Drug Products (Green Book). (7-1-24)T
- ~~27.~~ **USP-NF.** United State Pharmacopeia-National Formulary. (7-1-24)T
- ~~011.~~ **DEFINITIONS AND ABBREVIATIONS (O – Z).**

The definitions set forth in Sections 54-1705 and 37-2701, Idaho Code, are applicable to these rules. In addition, the following terms have the meanings set forth below: (3-28-23)

~~01. **Parenteral Admixture.** The preparation and labeling of sterile products intended for administration by injection. (3-28-23)~~

~~02. **Pharmaceutical Care Services.** A broad range of services, activities and responsibilities intended to optimize drug related therapeutic outcomes for patients consistent with Rule 100. Pharmaceutical care services may be performed independent of, or concurrently with, the dispensing or administration of a drug or device and also encompasses services provided by way of DTM under a collaborative practice agreement. Pharmaceutical care services are not limited to, but may include one (1) or more of the following: (3-28-23)~~

~~a. Performing or obtaining necessary assessments of the patient's health status, including the performance of health screening activities or testing; (3-28-23)~~

~~b. Reviewing, analyzing, evaluating, formulating or providing a drug utilization plan; (3-28-23)~~

~~c. Monitoring and evaluating the patient's response to drug therapy, including safety and effectiveness; (3-28-23)~~

~~d. Coordinating and integrating pharmaceutical care services within the broader health care management services being provided to the patient; (3-28-23)~~

~~e. Ordering and interpreting laboratory tests; (3-28-23)~~

~~f. Performing drug product selection, substitution, prescription adaptation, or refill authorization as provided in these rules; (SD2301)~~

~~g. Prescribing drugs and devices as provided in these rules; and (SD2301)~~

~~h. Delegating services and duties to appropriate support personnel. (SD2301)~~

~~03. **PDMP.** Prescription Drug Monitoring Program. (3-28-23)~~

~~04. **Prescriber.** An individual currently licensed, registered, or otherwise authorized to prescribe and administer drugs in the course of professional practice. (3-28-23)~~

~~05. **Purple Book.** The list of licensed biological products with reference product exclusivity and biosimilarity or interchangeability evaluations published by the FDA under the Public Health Service Act. (3-28-23)~~

~~06. **Readily Retrievable.** Records are considered readily retrievable if they are able to be completely and legibly produced upon request within seventy-two (72) hours. (3-28-23)~~

~~07. **Reconstitution.** The process of adding a diluent to a powdered medication to prepare a solution or suspension, according to the product's labeling or the manufacturer's instructions. (3-28-23)~~

~~08. **Restricted Drug Storage Area.** The area of a drug outlet where prescription drugs are prepared, compounded, distributed, dispensed, or stored. (3-28-23)~~

~~09. **Therapeutic Equivalent Drugs.** Products assigned an "A" code by the FDA in the Approved Drug Products with Therapeutic Equivalence Evaluations (Orange Book) and animal drug products published in the FDA Approved Animal Drug Products (Green Book). (3-28-23)~~

~~10. **USP-NF.** United State Pharmacopeia National Formulary. (3-28-23)~~

~~0121. – 099. (RESERVED)~~

SUBCHAPTER A – GENERAL PROVISIONS
(Rules 100 through 199)

~~100. – 101. PRACTICE OF PHARMACY: GENERAL APPROACH. (RESERVED)~~

~~To evaluate whether a specific act is within the scope of pharmacy practice in or into Idaho, or whether an act can be delegated to other individuals under their supervision, a licensee or registrant of the Board must independently determine whether:~~ (3-28-23)

- ~~**01. Express Prohibition.** The act is expressly prohibited by: (3-28-23)
 - ~~**a.** The Idaho Pharmacy Act, Title 54, Chapter 17, Idaho Code; (3-28-23)~~
 - ~~**b.** The Uniform Controlled Substances Act, Title 37, Chapter 27, Idaho Code; (3-28-23)~~
 - ~~**c.** The rules of the Idaho State Board of Pharmacy; or (3-28-23)~~
 - ~~**d.** Any other applicable state or federal laws or regulations. (3-28-23)~~~~
- ~~**02. Education, Training, and Experience.** The act is consistent with licensee or registrant's education, training, and experience. (3-28-23)~~
- ~~**03. Standard of Care.** Performance of the act is within the accepted standard of care that would be provided in a similar setting by a reasonable and prudent licensee or registrant with similar education, training and experience. (3-28-23)~~

~~101. PRESCRIBER PERFORMANCE OF PHARMACY FUNCTIONS.~~

~~For the purposes of this chapter, any function that a pharmacist may perform may similarly be performed by an Idaho prescriber or may be delegated by an Idaho prescriber to appropriate support personnel, in accordance with the prescriber's practice act. (3-28-23)~~

102. WAIVERS OR VARIANCES.

- ~~**01. Emergency Waiver.** In the event of an emergency declared by the President of the United States, the Governor of the State of Idaho, or by any other person with legal authority to declare an emergency, the division administrator may waive any requirement of these rules for the duration of the emergency. (3-28-23)(7-1-24)T~~

(BREAK IN CONTINUITY OF SECTIONS)

~~211. – 212. PHARMACIST LICENSURE BY EXAMINATION. (RESERVED)~~

~~To be considered for licensure, a person must satisfy the requirements of Section 54-1722(1)(a) through (e), Idaho Code, submit to the Board an application for licensure by examination, and meet the following: (3-28-23)~~

- ~~**01. Graduates of U.S. Pharmacy Schools.** Graduate from an ACPE-accredited school or college of pharmacy within the United States. (3-28-23)~~
- ~~**02. Graduates of Foreign Pharmacy Schools.** Graduate from a school or college of pharmacy located outside of the United States, submit certification by the FPGEC, and complete a minimum of seventeen hundred forty (1,740) experiential hours as verified on an employer's affidavit signed by a pharmacist licensed and practicing in the United States. The Board may request verifiable business records to document the hours. (3-28-23)~~
- ~~**03. Licensure Examinations.** Qualified applicants must pass the NAPLEX in accordance with NABP standards. A candidate who fails the NAPLEX three (3) times must complete at least thirty (30) hours of continuing education accredited by an ACPE-accredited provider prior to being eligible to sit for each subsequent reexamination. Candidates are limited to five (5) total NAPLEX attempts. (3-28-23)~~

~~04. **Score Transfer.** Score transfers into Idaho during the examination registration process are accepted for one (1) year. After taking the exam, score transfers into Idaho must be submitted within eighty-nine (89) days. (3-28-23)~~

~~**212. PHARMACIST LICENSURE BY RECIPROCITY.**~~

~~An applicant for pharmacist licensure by reciprocity must satisfy the requirements of Section 54-1723, Idaho Code, and submit a preliminary application for licensure transfer through NABP. An applicant whose pharmacist license is currently restricted by a licensing entity in another state must appear before the Board to petition for licensure by reciprocity. An applicant not actively engaged in the practice of pharmacy during the year preceding the date of application may have to complete intern hours for each year away from the practice of pharmacy. (3-28-23)~~

(BREAK IN CONTINUITY OF SECTIONS)

350. PHARMACIST PRESCRIBING: GENERAL REQUIREMENTS.

In accordance with Section 54-1705~~4~~, Idaho Code, a pharmacist may independently prescribe provided the following general requirements are met by the pharmacist: ~~(3-28-23)~~(7-1-24)T

01. Education. Only prescribe drugs or devices for conditions for which the pharmacist is educationally prepared and for which competence has been achieved and maintained. (3-28-23)

02. Patient-Prescriber Relationship. Only issue a prescription for a legitimate medical purpose arising from a patient-prescriber relationship as defined in Section 54-1733, Idaho Code. (3-28-23)

03. Patient Assessment. Obtain adequate information about the patient's health status to make appropriate decisions based on the applicable standard of care and the best available evidence. (3-28-23)

04. Collaboration with Other Health Care Professionals. Recognize the limits of the pharmacist's own knowledge and experience and consult with and refer to other health care professionals as appropriate. (3-28-23)

05. Documentation. Maintain documentation adequate to justify the care provided including, but not limited to, the information collected as part of the patient assessment, the prescription record, provider notification, and the follow-up care plan. (3-28-23)

06. Prescribing Exemption. The general requirements set forth in this section do not apply to ~~collaborative pharmacy practice agreements, the prescribing of devices, and nonprescription drugs.~~ prescribing under a collaborative pharmacy practice agreement, direct administration of a medication, or prescribing emergency drugs pursuant to Section 54-1735, Idaho Code. ~~(3-28-23)~~(7-1-24)T