

IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE

**16.01.12 - EMERGENCY MEDICAL SERVICES (EMS) -- COMPLAINTS,
INVESTIGATIONS, AND DISCIPLINARY ACTIONS**

DOCKET NO. 16-0112-1301

NOTICE OF RULEMAKING - PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Sections 56-1011 through 56-1023 (Board), and 56-1003 (Director), Idaho Code.

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

Thursday, August 22, 2013 6:00 p.m. - 7:00 p.m.	Monday, August 26, 2013 3:30 p.m. - 4:30 p.m.	Wednesday, August 28, 2013 6:00 p.m. - 7:00 p.m.
Coeur d'Alene Public Library Community Room 702 E. Front Ave. Coeur d'Alene, ID 83814	EMS Bureau Conference Room 650 W. State St. B-25 Boise, ID 83702	Fire Station #2 Training Room 1539 N Hayes Pocatello, ID 83204

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

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

Over the past several years, meetings have been held to negotiate and discuss the rewrite and update of the Emergency Medical Services chapters of rules. The changes being made to this chapter align these rules with new EMS chapters being implemented to update definitions for the ever-changing technology used by emergency medical services providers across the state. The amendments to this rule remove sections no longer needed and reference the new EMS Rule Definitions and EMS Agency Licensing chapters that have been published in this Bulletin under Docket No. 16-0102-1301 and Docket No. 16-0103-1301.

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

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

This rulemaking has no fiscal impact to the state general fund.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220, Idaho Code, negotiated rulemaking was conducted. In fact, thirteen (13) negotiated rule meetings have been held throughout the state. A task force committee, comprised of EMS representatives from around the state, has met to assist with finalizing these rule amendments. Notices for Negotiated Rulemaking published in the April 3, 2013, [Vol. 13-4, page 13 and 14](#), and May 1, 2013, [Vol. 13-5, page 75 and 76](#), Idaho Administrative Bulletins, under the current Emergency Medical Services chapter in Docket No. 16-0203-1301.

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

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Chris Stoker at (208) 334-4000.

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 August 28, 2013.

DATED this 1st day of July, 2013.

Tamara Prisock
DHW - Administrative Rules Unit
450 W. State Street - 10th Floor
P.O. Box 83720
Boise, ID 83720-0036
phone: (208) 334-5564; fax: (208) 334-6558
e-mail: dhwrules@dhw.idaho.gov

THE FOLLOWING IS THE TEXT OF THE PROPOSED RULE FOR DOCKET NO. 16-0112-1301

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

01. Office Hours. Office hours are 8 a.m. to 5 p.m., Mountain Time, Monday through Friday, except holidays designated by the state of Idaho. (3-29-12)

02. Mailing Address. The mailing address for the business office is Idaho Department of Health and Welfare, P.O. Box 83720, Boise, Idaho 83720-0036. (3-29-12)

03. Street Address. (3-29-12)

a. The business office of the Idaho Department of Health and Welfare is located at 450 West State Street, Boise, Idaho 83702. (3-29-12)

b. The ~~EMS~~ Bureau of Emergency Medical Services and Preparedness is located at 650 W. State Street, Suite B-17, Boise, Idaho 83702. (3-29-12)

04. Telephone. (3-29-12)

a. The telephone number for the Idaho Department of Health and Welfare is (208) 334-5500. (3-29-12)

b. The telephone number for the ~~EMS~~ Bureau of Emergency Medical Services and Preparedness is (208) 334-4000. The toll-free, phone number is 1-877-554-3367. (~~3-29-12~~)()

05. Internet Websites. (3-29-12)

a. The Department's internet website is found at <http://www.healthandwelfare.idaho.gov>. (3-29-12)

b. The Bureau of Emergency Medical Services ~~Bureau's~~ and Preparedness internet website is found at <http://www.idahoems.org>. (~~3-29-12~~)()

(BREAK IN CONTINUITY OF SECTIONS)

010. DEFINITIONS ~~AND ABBREVIATIONS.~~

For the purposes of this chapter, ~~of rules the following terms~~ the definitions in IDAPA 16.01.02, "Emergency Medical Services (EMS) - Rule Definitions" apply. ~~(3-29-12)~~ ()

- ~~01. **Affiliating EMS Agency.** The licensed EMS agency, or agencies, under which licensed personnel are authorized to provide patient care. (3-29-12)~~
- ~~02. **Board.** The Board of Health and Welfare. (3-29-12)~~
- ~~03. **Certified EMS Instructor.** An individual approved by the EMS Bureau, who has met the requirements in IDAPA 16.02.03, "Emergency Medical Services," to provide EMS education and training. (3-29-12)~~
- ~~04. **Department.** The Idaho Department of Health and Welfare. (3-29-12)~~
- ~~05. **Emergency Medical Services (EMS).** The system utilized in responding to a perceived individual need for immediate care in order to prevent loss of life or aggravation of physiological or psychological illness or injury. (3-29-12)~~
- ~~06. **EMS Agency.** An organization licensed by the EMS Bureau to provide air medical, ambulance, or non-transport services. (3-29-12)~~
- ~~07. **EMS Agency Medical Director.** A physician who supervises the medical activities of licensed personnel affiliated with an EMS agency. (3-29-12)~~
- ~~08. **EMS Bureau.** The Emergency Medical Services (EMS) Bureau of the Idaho Department of Health and Welfare. (3-29-12)~~
- ~~09. **EMS Physicians Commission (EMSPC).** The Idaho Emergency Medical Services Physician Commission as created under Section 56-1013A, Idaho Code, hereafter referred to as "the Commission." (3-29-12)~~
- ~~10. **Investigation.** Research of the facts concerning a complaint or issue of non-compliance which may include performing or obtaining interviews, inspections, document review, detailed subject history, phone calls, witness statements, other evidence and collaboration with other jurisdictions of authority. (3-29-12)~~
- ~~11. **National Registry of Emergency Medical Technicians (NREMT).** An independent, non-governmental, not for profit organization that prepares validated examinations for the state's use in evaluating candidates for licensure. (3-29-12)~~
- ~~12. **Personnel License or Certificate Holder.** Individuals who possess a valid license or certificate issued by the EMS Bureau. Includes individuals who are Emergency Medical Responders (EMR), Emergency Medical Technicians (EMT), Advanced Emergency Medical Technicians (AEMT), Paramedics, and Certified EMS Instructors. (3-29-12)~~
- ~~13. **Physician.** In accordance with Section 54-1803, Idaho Code, a person who holds a current active license issued by the State Board of Medicine to practice medicine and surgery, osteopathic medicine and surgery, or osteopathic medicine in Idaho and is in good standing with no restrictions upon, or actions taken against, his license. (3-29-12)~~

(BREAK IN CONTINUITY OF SECTIONS)

110. REPORTING SUSPECTED VIOLATION.

01. **Suspected Violations.** Any person ~~who~~ may report a suspected ~~violation~~ violation of any law or rule governing EMS, including: ()

- a. Sections 56-1011 through 56-1023, Idaho Code;
 - b. IDAPA 16.02.02, "Rules of the Idaho Emergency Medical Services (EMS) Physician Commission";
 - c. IDAPA 16.01.03, "Emergency Medical Services (EMS) -- Agency Licensing Requirements";
 - d. IDAPA 16.01.07, "Emergency Medical Services (EMS) -- Personnel Licensing Requirements"; or
 - e. IDAPA 16.02.03, "Emergency Medical Services;" *may report the violation to the EMS Bureau.* (3-29-12)
- 02. Report Violation.** To report a suspected violation, contact the EMS Bureau described in Section 005 of these rules.

(BREAK IN CONTINUITY OF SECTIONS)

200. EMS BUREAU INITIATES OFFICIAL INVESTIGATION.

An official investigation will be initiated when the any of the following occurs: (3-29-12)

- 01. Complaint with Allegations.** A complaint with an allegation that, if substantiated, would be in violation of any law or rule governing EMS, including:
 - a. Sections 56-1011 through 56-1023, Idaho Code;
 - b. IDAPA 16.01.03, "Emergency Medical Services (EMS) -- Agency Licensing Requirements";
 - c. IDAPA 16.01.07, "Emergency Medical Services (EMS) -- Personnel Licensing Requirements";
 - d. IDAPA 16.01.12, "Emergency Medical Services (EMS) -- Complaints, Investigations, and Disciplinary Actions";
 - e. IDAPA 16.02.02, "Rules of the Idaho Emergency Medical Services (EMS) Physician Commission"; or
 - f. IDAPA 16.02.03, "Emergency Medical Services." (3-29-12)
- 02. Discovery of Potential Violation of Statute or Administrative Rule.** EMS Bureau staff or other authorities discover a potential violation of any law or rule governing EMS, including:
 - a. Sections 56-1011 through 56-1023, Idaho Code;
 - b. IDAPA 16.01.03, "Emergency Medical Services (EMS) -- Agency Licensing Requirements";
 - c. IDAPA 16.01.07, "Emergency Medical Services (EMS) -- Personnel Licensing Requirements";
 - d. IDAPA 16.01.12, "Emergency Medical Services (EMS) -- Complaints, Investigations, and Disciplinary Actions";

e. IDAPA 16.02.02, "Rules of the Idaho Emergency Medical Services (EMS) Physician Commission"; or ()

f. IDAPA 16.02.03, "Emergency Medical Services." (3-29-12)()

201. -- 209. (RESERVED)

210. VIOLATIONS THAT MAY RESULT IN ADMINISTRATIVE ACTIONS.

The EMS Bureau may impose an administrative action, such as denial, revocation, suspension, under conditions that include, but are not limited to, those specified in these rules. Administrative actions may be imposed on any of the following: the holder of a license or certificate, or on an applicant or candidate for an EMS license or certificate. Administrative actions may be imposed on any of the previously mentioned for any action, conduct, or failure to act that is inconsistent with the professionalism, standards, or both, established by statute or rule. (3-29-12)

01. Violation of Statute or Administrative Rules. (3-29-12)

a. Sections 56-1011 through 56-1023, Idaho Code; (3-29-12)

b. IDAPA 16.01.03, "Emergency Medical Services (EMS) -- Agency Licensing Requirements": ()

b.c. IDAPA 16.01.07, "Emergency Medical Services (EMS) -- Personnel Licensing Requirements"; ()

d. IDAPA 16.01.12, "Emergency Medical Services (EMS) -- Complaints, Investigations, and Disciplinary Actions": ()

e. IDAPA 16.02.02, "Rules of the Idaho Emergency Medical Services (EMS) Physician Commission"; ()

f. IDAPA 16.02.03, "Emergency Medical Services," and this chapter of rules. (3-29-12)()

02. Unprofessional Conduct. Any act that violates professional standards required under IDAPA 16.01.07, "EMS -- Personnel Licensure Requirements." (3-29-12)

03. Failure to Maintain Standards of Knowledge, Proficiency, or Both. Failure to maintain standards of knowledge, or proficiency, or both, required under: ()

a. IDAPA 16.01.07, "Emergency Medical Services (EMS) -- Personnel Licensure Requirements"; and ()

b. IDAPA 16.02.02, "Rules of the Idaho Emergency Medical Services (EMS) Physician Commission." (3-29-12)()

04. Mental Incompetency. A lawful finding of mental incompetency by a court of competent jurisdiction. (3-29-12)

05. Impairment of Function. Performance of duties pursuant to an EMS personnel license while under the influence of alcohol, illegal substance, or legal drug or medication causing impairment of function. (3-29-12)

06. Denial of Criminal History Clearance. Any conduct, action, or conviction that does or would result in denial of a criminal history clearance under IDAPA 16.05.06, "Criminal History and Background Checks." (3-29-12)

07. Discipline, Restriction, Suspension, or Revocation. Discipline, restriction, suspension, or

revocation by any other jurisdiction. (3-29-12)

08. Danger or Threat to Persons or Property. Any conduct, condition, or circumstance determined by the EMS Bureau that constitutes a danger or threat to the health, safety, or well-being of persons or property. (3-29-12)

09. Performing Medical Procedure or Providing Medication that Exceeds the Scope of Practice of the Level of Licensure. Performing any medical procedure or providing medication that deviates from or exceeds the scope of practice for the corresponding level of licensure established under IDAPA 16.02.02, "Rules of the Idaho Emergency Medical Services (EMS) Physician Commission." (3-29-12)

10. Falsification of Applications or Reports. The submission of fraudulent or false information in any report, application, or documentation to the EMS Bureau. (3-29-12)

11. Attempting to Obtain a License by Means of Fraud. Misrepresentation in an application, or documentation, for licensure by means of concealment of a material fact. (3-29-12)

(BREAK IN CONTINUITY OF SECTIONS)

330. ADMINISTRATIVE ACTIONS IMPOSED FOR LICENSURE OR CERTIFICATION.
The EMS Bureau may impose the following administrative actions: (3-29-12)

01. Deny or Refuse to Renew EMS Personnel License or Certification. The EMS Bureau may deny an EMS personnel license or certification, or refuse to renew an EMS personnel license or certification: (3-29-12)

a. When the application for licensure or certification is not complete or the individual does not meet the eligibility requirements provided in Sections 56-1011 through 56-1023, Idaho Code, IDAPA 16.01.07, "Emergency Medical Services (EMS) -- Personnel Licensing Requirements," IDAPA 16.02.02, "Rules of the Idaho Emergency Medical Services (EMS) Physician Commission," IDAPA 16.02.03, "Emergency Medical Services"; or (3-29-12)

b. Pending final outcome of an EMS investigation or criminal proceeding when criminal charges or allegations indicate an imminent danger or threat to the health, safety, or well being of persons or property. (3-29-12)

c. For any reason that would justify an administrative action according to Section 210 of these rules. (3-29-12)

d. Decisions to deny or refuse to renew an EMS license will be reviewed by the Idaho EMS Physicians Commission at the Commission's next available meeting. (3-29-12)

02. Deny or Refuse to Renew EMS Agency License. The EMS Bureau may deny an EMS agency license or refuse to renew a EMS agency license: (3-29-12)

a. When the application for licensure is not complete or does not meet the eligibility requirements provided in Sections 56-1011 through 56-1023, Idaho Code, and IDAPA 16.02.03, "Emergency Medical Services (EMS) -- Agency Licensing Requirements"; or ~~(3-29-12)~~()

b. Pending final outcome of an EMS investigation or criminal proceeding when criminal charges or allegations indicate an imminent danger or threat to the health, safety, or well-being of persons or property. (3-29-12)

c. For any reason that would justify an administrative action according to Section 210 of these rules. (3-29-12)

03. Retain with Probationary Conditions for Personnel License or Certification. The EMS Bureau

may allow an EMS personnel license or certificate holder to retain a license or certificate as agreed to in a negotiated resolution, settlement, or with conditions imposed by the EMS Bureau. Decisions to retain an EMS personnel license with probationary conditions will be reviewed by the Idaho EMS Physician Commission at the Commission's next available meeting. (3-29-12)

04. Retain with Probationary Conditions for Agency License. The EMS Bureau may allow an EMS agency to retain a license as agreed to in a negotiated resolution, settlement, or with conditions imposed by the EMS Bureau. (3-29-12)

05. Suspend EMS Personnel License or Certificate. The EMS Bureau may suspend an EMS personnel license or certificate for: (3-29-12)

a. A period of time up to twelve (12) months, with or without conditions; or (3-29-12)

b. Pending final outcome of an EMS investigation or criminal proceeding when criminal charges or allegations indicate an imminent danger or threat to the health, safety, or well-being of persons or property. (3-29-12)

c. Decisions to suspend an EMS personnel license will be reviewed by the Idaho EMS Physician Commission at the Commission's next available meeting. (3-29-12)

06. Revoke EMS Personnel License or Certificate. The EMS Bureau may revoke an EMS personnel license or certificate when: (3-29-12)

a. A peer review team recommends license or certificate revocation; or (3-29-12)

b. The license holder is found to no longer be eligible for criminal history clearance per IDAPA 16.05.06, "Criminal History and Background Checks." (3-29-12)

c. Decisions to revoke an EMS personnel license will be reviewed by the Idaho EMS Physician Commission at the Commission's next available meeting. (3-29-12)

07. Revoke EMS Agency License. The EMS Bureau may revoke an EMS agency license when: (3-29-12)

a. A peer review team recommends license revocation; (3-29-12)

b. The EMS Bureau will notify the city, fire district, hospital district, ambulance district, dispatch center, and county in which the EMS agency provides emergency prehospital response that the EMS Bureau is considering license revocation. (3-29-12)

331. -- 339. (RESERVED)

340. VIOLATIONS THAT MAY RESULT IN FINES BEING IMPOSED ON EMS AGENCY.

In addition to administrative license actions provided in Section 56-1022, Idaho Code, and these rules, a fine may be imposed by the EMS Bureau upon recommendation of a peer review team on a licensed EMS agency as a consequence of agency violations. Fines may be imposed for the following violations: (3-29-12)

01. Operating An Unlicensed EMS Agency. Operating without a license required in IDAPA 16.021.03, "Emergency Medical Services ([EMS](#)) -- [Agency Licensing Requirements](#)," including: (~~3-29-12~~)()

a. Failure to obtain an initial license; (3-29-12)

b. Failure to obtain a license upon change in ownership; or (3-29-12)

c. Failure to renew a license and continues to operate as an EMS agency. (3-29-12)

02. Unlicensed Personnel Providing Patient Care. Allowing an unlicensed individual to provide

patient care without first obtaining an EMS personnel license required in IDAPA 16.01.07, "Emergency Medical Services (EMS) -- Personnel Licensing Requirements," at the appropriate level for the EMS agency. (3-29-12)

03. Failure to Respond. Failure of the EMS agency to respond to a 911 request for service within the agency primary response area in a typical manner of operations when dispatched to a medical illness or injury, under licensure requirements in IDAPA 16.021.03, "Emergency Medical Services (EMS) -- Agency Licensing Requirements," except when the responder reasonably determines that: (3-29-12)()

- a. There are disaster conditions; (3-29-12)
- b. Scene safety hazards are present or suspected; or (3-29-12)
- c. Law enforcement assistance is necessary to assure scene safety, but has not yet allowed entry to the scene. (3-29-12)

04. Unauthorized Response by EMS Agency. Responding to a request for service which deviates from or exceeds those authorized by the EMS agency license requirements in IDAPA 16.021.03, "Emergency Medical Services (EMS) -- Agency Licensing Requirements." (3-29-12)()

05. Failure to Allow Inspections. Failure to allow the EMS Bureau or its representative to inspect the agency facility, equipment, records, and other licensure requirements provided in IDAPA 16.02.03, "Emergency Medical Services." (3-29-12)

06. Failure To Correct Unacceptable Conditions. Failure of the EMS agency to correct unacceptable conditions within the time frame provided in a negotiated resolution settlement, or a warning letter issued by the EMS Bureau. Including the following: (3-29-12)

- a. Failure to maintain an EMS vehicle in a safe and sanitary condition; (3-29-12)
- b. Failure to have available minimum EMS Equipment; (3-29-12)
- c. Failure to correct patient or personnel safety hazards; or (3-29-12)
- d. Failure to retain an EMS agency medical director: (3-29-12)

07. Failure to Report Patient Care Data. Failure to submit patient care data as required in IDAPA 16.021.03, "Emergency Medical Services (EMS) -- Agency Licensing Requirements." (3-29-12)()

(BREAK IN CONTINUITY OF SECTIONS)

350. REINSTATEMENT OF EMS LICENSE FOLLOWING REVOCATION.

An application of any revoked EMS agency or personnel license may be filed with the EMS Bureau no earlier than one (1) year from the date of the license revocation. (3-29-12)

01. Peer Review for Reinstatement. The EMS Bureau will conduct a peer review to consider the reinstatement application. (3-29-12)

02. Recommendation of Peer Review Team. The peer review team will make a recommendation to the EMS Bureau to accept or reject the application for reinstatement. (3-29-12)

03. Reinstatement Determination. The EMS Bureau will accept or reject the reinstatement application based on the peer review team recommendation and other extenuating circumstances. (3-29-12)

- a. Reinstatement of a revoked EMS personnel license is subject to the lapsed license reinstatement

requirements in IDAPA 16.01.07, "Emergency Medical Services (EMS) -- Personnel Licensing Requirements."
(3-29-12)

b. Reinstatement of a revoked EMS agency license will be subject to an initial agency application requirements in IDAPA 16.021.03, "Emergency Medical Services (EMS) -- Agency Licensing Requirements."
(3-29-12)()