

COMMERCE & HUMAN RESOURCES COMMITTEE

ADMINISTRATIVE RULES REVIEW

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2010 Legislative Session

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IDAPA 18 - DEPARTMENT OF INSURANCE

18.01.05 - HEALTH CARRIER EXTERNAL REVIEW

DOCKET NO. 18-0105-0901 (NEW CHAPTER)

NOTICE OF RULEMAKING - ADOPTION OF TEMPORARY RULE

EFFECTIVE DATE: The effective date of the temporary rule is January 1, 2010.

AUTHORITY: In compliance with Section 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a temporary rule, and proposed rulemaking procedures have been initiated. The action is authorized pursuant to Sections 41-211, 41-5905, 41-5906, 41-5908, 41-5909, and 41-5911, 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 December 16, 2009.

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 rulemaking implements House Bill 192, the Idaho Health Carrier External Review Act, which is effective January 1, 2010. It sets forth requirements for notice of the right to an external review, the request for an external review, and the exhaustion of an internal grievance process; provides for standard external review, expedited external review, the binding nature of an external review decision, approval of independent review organizations and minimum qualifications for independent review organizations; holds harmless independent review organizations; and provides for external review reporting requirements, funding of external review, and disclosure requirements.

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

The rule is necessary to implement a change to the governing law effective January 1, 2010.

FEE SUMMARY: The following is a descriptive summary of the fee or charge being imposed or increased:

The rule does not impose or increase a fee.

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

There is no negative fiscal impact to the general fund

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220, Idaho Code, negotiated rulemaking was not conducted because the change is required by a change to the governing law. A draft of the rule was circulated to interested parties.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary and proposed rule, contact Shad Priest, 208-334-4214 or Shad.Priest@doi.idaho.gov.

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 December 23, 2009.

DATED this 29th day of October, 2009.

William W. Deal, Director
Idaho Department of Insurance
700 West State Street, 3rd Floor
Boise, Idaho 83720-0043
Phone: (208) 334-4250
Fax: (208) 334-4398

THE FOLLOWING IS THE TEXT OF THE TEMPORARY RULE

**IDAPA 18
TITLE 01
CHAPTER 5**

18.01.05 - HEALTH CARRIER EXTERNAL REVIEW

000. LEGAL AUTHORITY.

This rule is promulgated and adopted pursuant to the authority vested in the director under Title 41, Chapters 2 and 59, Idaho Code. (1-1-10)T

001. TITLE AND SCOPE.

01. Title. This rule shall be cited in full as Idaho Department of Insurance Rule IDAPA 18.01.05, "Health Carrier External Review." (1-1-10)T

02. Scope. This rule sets forth uniform requirements to be followed by health carriers and independent review organizations in implementing external review procedures in accordance with Title 41, Chapter 59, Idaho Code. (1-1-10)T

002. WRITTEN INTERPRETATIONS.

In accordance with Section 67-5201(19)(b)(iv), Idaho Code, this agency may have written statements that pertain to the interpretation of the rules of the chapter, or to the documentation of compliance with the rules of this chapter. These documents will be available for public inspection and copying at cost in the main office and each regional or district office of this agency. (1-1-10)T

003. ADMINISTRATIVE APPEALS.

All administrative appeals shall be governed by Title 41, Chapter 2, Idaho Code, and the Idaho Administrative Procedure Act, Title 67, Chapter 52, Idaho Code, and IDAPA 04.11.01, "Idaho Rules of Administrative Procedure of the Attorney General." (1-1-10)T

004. INCORPORATION BY REFERENCE.

No documents are incorporated by reference. (1-1-10)T

005. OFFICE -- OFFICE HOURS -- MAILING ADDRESS, STREET ADDRESS, AND WEB SITE.

01. Office Hours. The Department of Insurance is open from 8 a.m. to 5 p.m. except Saturday, Sunday and legal holidays. (1-1-10)T

02. Mailing Address. The department's mailing address is: Idaho Department of Insurance, P.O. Box 83720, Boise, ID 83720-0043. (1-1-10)T

03. Street Address. The principal place of business is 700 West State Street, 3rd Floor, Boise, Idaho 83720-0043. (1-1-10)T

04. Web Site Address. The department's web address is <http://www.doi.idaho.gov>. (1-1-10)T

006. PUBLIC RECORDS ACT COMPLIANCE.

Any records associated with these rules are subject to the provisions of the Idaho Public Records Act, Title 9, Chapter 3, Idaho Code. (1-1-10)T

007. -- 009. (RESERVED).

010. DEFINITIONS.

As used in this rule, the following terms shall have the following meanings. (1-1-10)T

01. Covered Person. A person as defined in Section 41-5903, Idaho Code. (1-1-10)T

02. Director. The director of the Idaho Department of Insurance. (1-1-10)T

03. Health Benefit Plan. A plan as defined in Section 41-5903, Idaho Code, and subject to Section 41-5904, Idaho Code. (1-1-10)T

04. Health Carrier. An entity as defined in Section 41-5903, Idaho Code. (1-1-10)T

05. URAC. The nationally recognized private health care accreditation organization based in Washington, D.C., that accredits independent review organizations. The web site for URAC is <http://www.urac.org>. (1-1-10)T

011. FONT SIZE FOR PRINTED MATERIALS.

Pertinent text of all printed materials required to be filed with the Director under Title 41, Chapter 59, Idaho Code, or required by this rule, including, but not limited to, notices, disclosure forms and contract forms, is required to be formatted using at least a ten (10) point font. (1-1-10)T

012. -- 019. (RESERVED).

020. NOTICE OF RIGHT TO EXTERNAL REVIEW.

01. Disclosure to Covered Persons. Each health carrier must provide a summary description of external review procedures in or attached to the policy, certificate, membership booklet, outline of coverage or other evidence of coverage the health carrier provides to covered persons. Health carriers must use the summary description in Appendix A. This form has been approved by the Director as meeting the requirements of Section 41-5916, Idaho Code, and this rule. Health carriers must submit summary description forms to the Director for review. (1-1-10)T

02. Notice to Covered Person. When a health carrier sends written notice to a covered person of a final adverse benefit determination for medical necessity or as investigational, the health carrier must send written notice at the same time of the covered person's right to request an external review. (1-1-10)T

a. The written notice of the covered person's right to request an external review must use the form set forth in Appendix B. The notice form in Appendix B has been approved by the Director as meeting the requirements of Section 41-5905, Idaho Code, and this rule. Health carriers must submit notice forms to the Director for review. (1-1-10)T

b. The written notice sent by the health carrier as required by this subsection must include an authorization form to disclose protected health information in compliance with the federal regulation 45 CFR section 164.508. The authorization form in Appendix C has been approved by the Director as meeting the requirements of Section 41-5905, Idaho Code, and this rule. Health carriers must submit authorization forms to the Director for review. (1-1-10)T

021. REQUEST FOR EXTERNAL REVIEW.

01. Request Form. The form for a covered person to request an external review will be available from the department and will be posted on the department's web site. (1-1-10)T

02. Authorization Form. The covered person's request for an external review must

include the authorization form to disclose protected health information required in Subsection 020.03. The department will not act on an external review request until the department receives this form completed by the covered person or the covered person's authorized representative.

(1-1-10)T

03. Appointment of an Authorized Representative. A covered person may name another person, including the treating health care provider, to act as the covered person's authorized representative for an external review request.

(1-1-10)T

022. HEALTH CARRIER NOTICE OF INITIAL DETERMINATION OF AN EXTERNAL REVIEW REQUEST.

Health carriers must use the form set forth in Appendix D for notice of initial determination by a health carrier for a standard external review required by Section 41-5908, Idaho Code, and for an expedited external review required by Section 41-5909, Idaho Code. Health carriers must submit notice forms to the Director for review.

(1-1-10)T

023. APPROVAL OF INDEPENDENT REVIEW ORGANIZATIONS.

01. Accreditation. An independent review organization must be accredited by a nationally recognized private accrediting entity in order for the independent review organization to be approved to perform reviews under Title 41, Chapter 59, Idaho Code, and this rule. As of the effective date of this rule, URAC is the only such entity. The Director may later designate other such entities that meet the department's standards set by law and this rule.

(1-1-10)T

02. Application Required for Registration. Independent review organizations must apply to the department and pay the applicable fees as set forth at IDAPA 18.01.44, "Schedule of Fees, Licenses and Miscellaneous Charges," to be registered to perform external reviews. The application for registration is posted on the department's web site. The application must include the independent review organization's schedule of costs and fees for performing external reviews.

(1-1-10)T

03. Comment Period on Applications. If the Director receives written comments during the forty-two (42) day comment period on an application or reapplication by an independent review organization, the Director may choose to provide those comments to the independent review organization in any approval or denial of the application or reapplication.

(1-1-10)T

04. Renewal. Registration as an independent review organization shall continue until two (2) years from the date of approval of the most recent registration except as provided in Subsections 023.05 and 023.06 below. Registration may be renewed by payment of the applicable renewal fee as set forth at IDAPA 18.01.44, "Schedule of Fees, Licenses and Miscellaneous Charges."

(1-1-10)T

05. Notice to Director.

(1-1-10)T

a. An independent review organization must notify the Director in writing within thirty (30) days of the date the independent review organization is no longer accredited by a nationally recognized private accrediting entity or no longer satisfies the minimum requirements

established under Title 41, Chapter 59, Idaho Code and this rule.

(1-1-10)T

b. Any change in the independent review organization's schedule of costs and fees for performing external reviews must be submitted to the Director at least sixty (60) days before the effective date of the change. No such change may be applied to an external review being performed by the independent review organization at the time the change would otherwise take effect.

(1-1-10)T

06. Termination of Approval. The Director may immediately terminate approval of an independent review organization if the independent review organization is no longer accredited by a nationally recognized private accrediting entity or if the independent review organization no longer satisfies the requirements of Title 41, Chapter 59, Idaho Code and this rule. Notice of termination will be in writing to the independent review organization and such organization will be deleted from the list of organizations approved to perform external reviews. If the independent review organization is performing an external review at the time of termination, the independent review organization must cease performing that review and immediately forward all information and documentation to the Director.

(1-1-10)T

024. ANNUAL REPORTING REQUIREMENTS.

All independent review organizations and health carriers must file with the Director, on or before March 1st of each year, an annual statement on the form available from the Department of Insurance and posted on the department's web site. An annual report is required regardless of whether any external review requests were sent to the independent review organization or health carrier during the year.

(1-1-10)T

025. -- 029. (RESERVED).

030. EFFECTIVE DATE -- EXISTING HEALTH BENEFIT PLANS -- GROUNDS FOR DISAPPROVAL.

01. Effective Date of Rule. This rule is applicable to every health benefit plan issued or renewed on and after January 1, 2010.

(1-1-10)T

02. Health Benefit Plan Compliance. A health benefit plan issued before the effective date of this rule must be brought into compliance with this rule by the anniversary date or renewal date of the plan following the effective date of this rule.

(1-1-10)T

03. Grounds for Disapproval. Any health benefit plan containing terms inconsistent with the provisions of this rule is misleading, inequitable and unfairly prejudicial to the covered person and the insurance-buying public. In addition to any other sanction or remedy afforded by Title 41, Idaho Code, the use of provisions inconsistent with this rule in a health benefit plan will be grounds for the Director to disapprove the health benefit plan in accordance with Section 41-1813, Idaho Code.

(1-1-10)T

031. -- 999. (RESERVED).

APPENDICES:

- A Health Carrier Disclosures - “Your Right to an Independent External Review
- B Health Carrier Notice - “Notice of Your Right to an Independent External Review”
- C Authorization for Release of Medical Records
- D Health Carrier’s Notice of Initial Determination

APPENDIX A

The summary description below provides an acceptable format approved by the director as meeting the requirements of Idaho Code Section 41-5916. A health carrier may change the terms “you, your” to “covered person” and “we, our” to the health carrier’s name, or similar references consistent with the health carrier’s typical terminology.

YOUR RIGHT TO AN INDEPENDENT EXTERNAL REVIEW

Please read this notice carefully. It describes a procedure for review of a disputed health claim by a qualified professional who has no affiliation with your health plan. If you request an independent external review of your claim, the decision made by the independent reviewer will be binding and final. Except in limited circumstances, you will have no further right to have your claim reviewed by a court, arbitrator, mediator or other dispute resolution entity.

If we issue a final adverse benefit determination of your request to provide or pay for a health care service or supply, you may have the right to have our decision reviewed by health care professionals who have no association with us. You have this right only if our denial decision involved:

- The medical necessity of your health care service or supply, or
- Our determination your health care service or supply was investigational.

You must first exhaust our internal grievance and appeal process. Exhaustion of that process includes completing all levels of appeal, or unless you requested or agreed to a delay, our failure to respond to a standard appeal within 35 days in writing or to an urgent appeal within three business days of the date you filed your appeal. We may also agree to waive the exhaustion requirement for an external review request.

You may submit a written request for an external review to:

Idaho Department of Insurance
ATTN: External Review
700 W State St., 3rd Floor

Boise ID 83720-0043

For more information and for an external review request form:

- See the department's web site, www.doi.idaho.gov, or
- Call the department's telephone number, (208) 334-4250, or toll-free in Idaho, 1-800-721-3272.

You may represent yourself in your request or you may name another person, including your treating health care provider, to act as your authorized representative for your request. If you want someone else to represent you, you must include a signed "Appointment of an Authorized Representative" form with your request.

Your written external review request to the Department of Insurance must include a completed form authorizing the release of any of your medical records the independent review organization may require to reach a decision on the external review, including any judicial review of the external review decision pursuant to ERISA, if applicable. The department will not act on an external review request without your completed authorization form.

If your request qualifies for external review, our final adverse benefit determination will be reviewed by an independent review organization selected by the department. We will pay the costs of the review.

Standard External Review Request: You must file your written external review request with the department within four months after the date we issue a final notice of denial.

1. Within seven days after the department receives your request, the department will send a copy to us.
2. Within 14 days after we receive your request from the department, we will review your request for eligibility. Within five business days after we complete that review, we will notify you and the department in writing if your request is eligible or what additional information is needed. If we deny your eligibility for review, you may appeal that determination to the department.
3. If your request is eligible for review, the department will assign an independent review organization to your review within seven days of receipt of our notice. The department will also notify you in writing.
4. Within seven days of the date you receive the department's notice of assignment to an independent review organization, you may submit any additional information in writing to the independent review organization that you want the organization to consider in its review.
5. The independent review organization must provide written notice of its decision to you, to us and to the department within 42 days after receipt of an external review request.

Expedited External Review Request: You may file a written "urgent care request" with the department for an expedited external review of a pre-service or concurrent service denial.

"Urgent care request" means any pre-service or concurrent care claim for medical care or treatment for which application of the time periods for making a regular external review determination:

1. Could seriously jeopardize the life or health of the covered person or the ability of the covered person to regain maximum function;
2. In the opinion of the treating health care professional with knowledge of the covered person's medical condition, would subject the covered person to severe pain that cannot be adequately managed without the disputed care or treatment; or
3. The treatment would be significantly less effective if not promptly initiated.

The department will send your request to us. We will determine, no later than the second full business day, if your request is eligible for review. We will notify you and the department no later than one business day after our decision if your request is eligible. If we deny your eligibility for review, you may appeal that determination to the department.

If your request is eligible for review, the department will assign an independent review organization to your review upon receipt of our notice. The department will also notify you. The independent review organization must provide notice of its decision to you, to us and to the department within 72 hours after the date of receipt of the external review request. The independent review organization must provide written confirmation of its decision within 48 hours of notice of its decision. If the decision reverses our denial, we will notify you and the department of the approval of coverage as soon as reasonably practicable, but not later than one business day after making the determination.

Binding Nature of the External Review Decision: If your plan is subject to federal ERISA laws (generally, any plan offered through an employer to its employees), the external review decision by the independent review organization will be final and binding on us. You may have additional review rights provided under federal ERISA laws.

If your plan is not subject to ERISA requirements, the external review decision by the independent review organization will be final and binding on both you and us. **This means that if you elect to request external review, you will be bound by the decision of the independent review organization. You will not have any further opportunity for review of our denial after the independent review organization issues its final decision.** If you choose not to use the external review process, other options for resolving a disputed claim may include mediation, arbitration or filing an action in court.

Under Idaho law, the independent review organization is immune from any claim relating to its opinion rendered or acts or omissions performed within the scope of its duties unless performed in bad faith or involving gross negligence.

APPENDIX B

The notice below provides an acceptable format approved by the director as meeting the requirements of Idaho Code Section 41-5905. A health carrier may change the terms “you, your” to “covered person” and “we, our” to the health carrier’s name, or similar references consistent with the health carrier’s typical terminology.

NOTICE OF YOUR RIGHT TO AN INDEPENDENT EXTERNAL REVIEW

Please read this notice carefully. It describes a procedure for review of a disputed health claim by a qualified professional who has no affiliation with your health plan. If you request an independent external review of your claim, the decision made by the independent reviewer will be binding and final. Except in limited circumstances, you will have no further right to have your claim reviewed by a court, arbitrator, mediator or other dispute resolution entity.

We have denied your request to provide or pay for a health care service or supply. You may have the right to have our decision reviewed by health care professionals who have no association with us. You have this right only if our denial decision involved:

- The medical necessity of your health care service or supply, or
- Our determination your health care service or supply was investigational.

No later than four months from the date of this denial, you may submit a written request for an external review to:

Idaho Department of Insurance
ATTN: External Review
700 W State St., 3rd Floor
Boise ID 83720-0043

For more information and for an external review request form:

- See the department’s web site, www.doi.idaho.gov, or
- Call the department’s telephone number, (208) 334-4250, or toll-free in Idaho, 1-800-721-3272.

You may represent yourself in your request or you may name another person, including your treating health care provider, to act as your authorized representative for your request. If you want someone else to represent you, you must include a signed “Appointment of an Authorized Representative” form with your request.

Your written external review request to the Department of Insurance must include a completed form authorizing the release of any of your medical records the independent review organization may require for review to reach a decision on the external review. The department will not act on an external review request without your completed authorization form.

If your request qualifies for external review, our decision will be reviewed by an independent

review organization selected by the department. We will pay the costs of the review.

Standard External Review Request: You must file your written external review request with the department **within four months** after the date we issued this notice of denial.

1. Within seven days after the department receives your request, the department will send a copy to us.
2. Within 14 days after we receive your request from the department, we will review your request for eligibility. Within five business days after we complete that review, we will notify you and the department in writing if your request is eligible or what additional information is needed. If we deny your eligibility for review, you may appeal that determination to the department.
3. If your request is eligible for review, the department will assign an independent review organization to your review within seven days of receipt of our notice. The department will also notify you in writing.
4. Within seven days of the date you receive the department's notice of assignment to an independent review organization, you may submit any additional information in writing to the independent review organization that you want the organization to consider in its review.
5. The independent review organization must provide written notice of its decision to you, to us and to the department within 42 days after receipt of an external review request.

Expedited External Review Request: You may file a written "urgent care request" with the department for an expedited external review of a pre-service or concurrent service denial.

"Urgent care request" means any pre-service or concurrent care claim for medical care or treatment for which application of the time periods for making a regular external review determination:

1. Could seriously jeopardize the life or health of the covered person or the ability of the covered person to regain maximum function;
2. In the opinion of the treating health care professional with knowledge of the covered person's medical condition, would subject the covered person to severe pain that cannot be adequately managed without the disputed care or treatment; or
3. The treatment would be significantly less effective if not promptly initiated.

The department will send your request to us. We will determine, no later than the second full business day, if your request is eligible for review. We will notify you and the department no later than one business day after our decision if your request is eligible. If we deny your eligibility for review, you may appeal that determination to the department.

If your request is eligible for review, the department will assign an independent review organization to your review upon receipt of our notice. The department will also notify you. The independent review organization must provide notice of its decision to you, to us and to the department within 72 hours after the date of receipt of the external review request. The independent review organization must provide written confirmation of its decision within 48 hours of notice of its decision. If the decision reverses our denial, we will notify you and the department of the approval of coverage as soon as reasonably practicable, but not later than one business day after making the determination.

Binding Nature of the External Review Decision: *[NOTE TO HEALTH CARRIERS: The carrier must include one of the applicable paragraphs below for the covered person's health benefit plan.]*

[Your plan is subject to federal ERISA laws (generally, any plan offered through an employer to its employees). The external review decision by the independent review organization will be final and binding on the health insurer, but you may have additional review rights provided under federal ERISA laws.]

*[The external review decision by the independent review organization will be final and binding on both you and us. **This means that if you elect to request external review of your claim, you will be bound by the decision of the independent review organization. You will not have any further opportunity for review of your claim after the independent review organization issues its final decision.** If you choose not to use the external review process, other options for resolving a disputed claim may include mediation, arbitration or filing an action in court.]*

Under Idaho law, the independent review organization is immune from any claim relating to its opinion rendered or acts or omissions performed within the scope of its duties unless performed in bad faith or involving gross negligence.

APPENDIX C-1



AUTHORIZATION FOR RELEASE OF MEDICAL RECORDS

I have requested an external review pursuant to Idaho Code Section 41-5906. In order to obtain that review, I understand that I must sign below to authorize my health carrier, whose decision is the subject of this request, and its subcontractors and all applicable medical providers, to release all information relating to the decision to be reviewed including, but not limited to, my files and medical record information, which may include mental health information to the Idaho Department of Insurance (DOI). I authorize the DOI to provide or to instruct the health carrier and/or its subcontractors and providers to provide such information to the independent review organization (IRO) assigned by the DOI to perform the external review.

I, _____, hereby reaffirm my request for an external review. I attest that the information provided in this request is true and accurate to the best of my knowledge. I authorize my health carrier, its subcontractors and agents, and my health care providers to release all relevant medical or treatment records to the independent review organization (IRO) and the Idaho Department of Insurance (DOI). I understand the IRO will use this information to make a determination on my external review and the information will be kept confidential and not be released to anyone else. This release is valid for one year unless it expires sooner upon the IRO rendering a final decision or upon revocation. I understand that the decision of the IRO may be binding and that neither the DOI nor the IRO may authorize services in excess of those covered by my health plan.

I acknowledge that I may revoke this authorization at any time. My revocation will be effective upon receipt, but will not affect actions already taken on the basis of the authorization. In any event, this authorization expires upon the IRO rendering a final decision regarding this external review.

Signature of Covered Person (or authorized Date representative)*

*(Parent, Guardian, Conservator or Other - Please Specify)

Printed Name of Authorized Representative

Complete the following form only if applicable:

APPENDIX C-2



**AUTHORIZATION FOR RELEASE OF DRUG OR ALCOHOL
ABUSE RECORDS AND PSYCHOTHERAPY NOTES**

I have requested an external review pursuant to Idaho Code Section 41-5906. In order to obtain that review, I understand that I must sign below to authorize my health carrier, whose decision is the subject of this request, and its subcontractors and all applicable medical providers, to release all information relating to the decision to be reviewed including, but not limited to, my files and medical record information, which may include mental health information to the Idaho Department of Insurance (DOI). I authorize the DOI to provide or to instruct the health carrier and/or its subcontractors and providers to provide such information to the independent review organization (IRO) assigned by the DOI to perform the external review. I acknowledge that information to be used or disclosed as a result of this authorization may include records that are protected by federal and/or state laws applicable to substance abuse and psychotherapy. I SPECIFICALLY AUTHORIZE THE RELEASE OF CONFIDENTIAL INFORMATION RELATING TO PSYCHOTHERAPY, DRUG AND/OR ALCOHOL ABUSE. The recipient of drug and/or alcohol abuse and psychotherapy information disclosed as a result of this authorization will need my further written authorization to re-disclose this information.

I, _____, hereby reaffirm my request for an external review. I attest that the information provided in this request is true and accurate to the best of my knowledge. I authorize my health carrier, its subcontractors and agents, and my health care providers to release all relevant medical or treatment records to the independent review organization (IRO) and the Idaho Department of Insurance (DOI). I SPECIFICALLY AUTHORIZE THE RELEASE OF CONFIDENTIAL INFORMATION RELATING TO PSYCHOTHERAPY, DRUG AND/OR ALCOHOL ABUSE. I understand the IRO will use this information to make a determination on my external review and the information will be kept confidential and not be released to anyone else. This release is valid for one year unless it expires sooner upon the IRO rendering a final decision or upon revocation. I understand that the decision of the IRO may be binding and that neither the DOI nor the IRO may authorize services in excess of those covered by my health plan.

I acknowledge that I may revoke this authorization at any time. My revocation will be effective upon receipt, but will not affect actions already taken on the basis of the authorization. In any event, this authorization expires upon the IRO rendering a final decision regarding this external review.

Signature of Covered Person (or authorized Date
representative)*

*(Parent, Guardian, Conservator or Other - Please Specify)

Printed Name of Authorized Representative

*Parent (if patient is under 18 years old), guardian (if other than patient), conservator, attorney or other. If other than parent of minor, attach a written authorization to represent patient.

Return to:

Idaho Dept of Insurance
PO Box 83720
Boise, ID 83720-0043

APPENDIX D

HEALTH CARRIER'S NOTICE OF INITIAL DETERMINATION

[Date]

[Covered Person/Authorized Representative]

[Address]

RE: Initial Determination of Your Request for an External Review

We completed our preliminary review of your request for an external review sent to us by the Idaho Department of Insurance. As part of our review, we considered:

1. Eligibility of the covered person under the health benefit plan at the time the health care service was requested, or, for a post-service review, the health care service was performed;
2. If the health care service is a covered service under the health benefit plan, except for our determination the health care service does not meet our requirements for medical necessity or the service or supply is investigational;
3. If the covered person has exhausted our internal grievance process, or if we failed to provide a timely determination to a grievance under that process or if we waived the exhaustion requirement under that process; and
4. All information and forms required to process an external review, including your signed authorization to disclose protected health information.

[If the request is complete and eligible for review:

We determined your request is complete and eligible for external review. We sent a copy of this notice to the Idaho Department of Insurance. The Department of Insurance will assign an independent review organization to perform the review and will notify you of the name of that organization.]

[OR if the request is not complete:

We have determined your request is not complete. In order to complete your request, you must provide the following: *(Provide details of what information or materials are needed to make the request complete.)*]

[OR if the request is not eligible for external review:

We have determined your request is not eligible for external review. Your request is ineligible for the following reasons: *(Provide details of the reasons for denial.)*

If you disagree with our initial determination that your request is ineligible, you may file a written appeal with the Director of the Idaho Department of Insurance within 30 days of the date of this notice. Your appeal must include adequate detail and documentation to show proof of your eligibility. The Director may determine a request is eligible based on the terms and conditions of the covered person's health benefit plan and the applicable provision of Idaho Code, Title 41, Chapter 59.]

[Include the following for all notices:]

For further information, please contact the Idaho Department of Insurance, (208) 334-4250, or toll-free, 1-800-721-3272. The department's fax number is (208) 334-4398. The department's web site is: www.doi.idaho.gov

Sincerely,

[Health Carrier]

C: Idaho Department of Insurance/External Review

IDAPA 24 - BUREAU OF OCCUPATIONAL LICENSES

24.01.01 - RULES OF THE IDAHO BOARD OF ARCHITECTURAL EXAMINERS

DOCKET NO. 24-0101-0902

NOTICE OF RULEMAKING - ADOPTION OF TEMPORARY RULE

EFFECTIVE DATE: The effective date of the temporary rule is **September 18, 2009**.

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 54-312, 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 December 16, 2009.

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 2009 Legislature passed House Bill 92 which allows an applicant who meets the education requirement and is currently enrolled in the Intern Development Program (IDP) to apply for the Architect Registration Examination (ARE). These rules implement this change in the law.

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:

This temporary rule is necessary to comply with a deadline to amendments in governing law.

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

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

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220, Idaho Code, negotiated rulemaking was not conducted because the change is due to changes in the Architect law.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary and proposed

rule, contact Cherie Simpson at (208) 334-3233.

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 December 23, 2009.

DATED this 22nd day of October, 2009.

Tana Cory
Bureau Chief
Bureau of Occupational Licenses
1109 Main St., STE 220
Boise, ID 83702
(208) 334-3233 phone (208) 334-3945 fax

THE FOLLOWING IS THE TEXT OF THE TEMPORARY RULE

250. QUALIFICATIONS OF APPLICANTS (RULE 250).

01. ARE Applicants. All applicants for the Architectural Registration Examination (ARE) shall possess the minimum qualifications required by the NCARB Handbook for Interns and Architects, where such handbook does not conflict with Idaho law. All applicants for the ARE must have started or completed the Intern Development Program (IDP) requirements.

~~(4-11-06)~~(9-18-09)T

02. Experience in Lieu of Degree Applicants. The Board may allow an applicant without an architecture degree to sit for the architecture examination upon determining that such applicant has attained the knowledge and skill approximating that attained by graduation from an accredited architecture curriculum including the submission of a record of eight (8) years or more of experience in architecture work of a character deemed satisfactory by the Board. Said experience shall be in addition to that necessary for completion of the Intern Development Program (IDP) requirements. Two (2) years of eight (8) or more years of experience may be accepted if determined that such experience is directly related to architecture under the direct supervision of a registered engineer (practicing as a structural, civil, mechanical or electrical engineer in the field of building construction) or a registered landscape architect. At least six (6) years of such experience must be obtained while working under the direct supervision of a licensed architect. A person is qualified for the examination once they have met the experience requirement and started the Intern Development Program (IDP).

~~(4-6-05)~~(9-18-09)T

251. – 299. (RESERVED).

300. APPLICATION (RULE 300).

01. Licensure by Examination. (7-1-93)

a. Application for licensure by examination shall be made on the uniform application form adopted by the Board and furnished to the applicant by the Bureau. (~~3-15-02~~)(9-18-09)T

b. Applicants shall furnish all information required by the uniform application form and shall include the following: (3-15-02)

i. Certified transcript of all subjects and grades received for all college courses taken. (7-1-93)

ii. If graduated from a college or university, furnish certification of graduation and a certified transcript of all work completed. (7-1-93)

iii. Furnish statement or statements, of all actual architectural or other applicable experience signed by the person under whose supervision the work was performed, giving kind and type of work done, together with dates of employment. (7-1-93)

iv. A recent passport photograph taken within the previous year for identification purposes. (3-30-01)

v. In addition to the above required information, an applicant having credits or a degree or degrees from any college or university shall furnish the Board a certified statement from each above institution stating by what accrediting group, if any, such credits or degree or degrees are accredited. (7-1-93)

c. Application shall not be reviewed by the Board until all required information is furnished and the required fee is paid. (3-15-02)

d. To be considered by the Board, properly completed applications must be received by the Bureau at least thirty (30) days prior to the first day of the month in which the Board will meet. (3-15-02)

02. Licensure by Endorsement -- Blue Cover. (7-1-97)

a. General requirements. Application shall be accompanied by a current blue cover dossier compiled by the NCARB certifying that the applicant has satisfactorily passed the standard NCARB examinations, or NCARB authorized equivalent and shall include letters, transcripts, and other documents substantiating all statements relative to education and experience made in said application as required by the Board. (7-1-97)

b. Seismic knowledge requirements for endorsement applicants. Each applicant for license under endorsement to practice architecture in the state of Idaho shall submit evidence of his skill and knowledge in seismic design and such evidence shall be submitted and signed by the applicants acknowledged before a notary public, and shall contain one of the following statements: (7-1-97)

i. "I have passed the examinations in Building Construction and Structural Design of

the Western Conference of State Architectural Registration Boards in June 1963 or since and/or the NCARB in 1965 or since.” (7-1-97)

ii. “I am registered in the State of _____ in 20____, where competence in seismic was a requirement for registration since _____, 20____.” (7-1-93)

iii. Certification of the successful completion of the seismic seminar approved by the National Conference of Architectural Registration Boards. (7-1-93)

c. All applicants shall attach to their statement a certification from the State architectural registration agency of the cited state attesting the adequacy of the cited seismic examination. (7-1-93)

03. Licensure by Endorsement -- Equivalency. (7-1-97)

a. Application shall be made on the uniform application form adopted by the Board and furnished to the applicant by the Bureau. (3-15-02)

b. Applicant shall comply with all requirements set forth in Subsections 300.01, 300.02.b.i., 300.02.b.ii., 300.02.b.iii., and 300.02.c. (7-1-97)

c. Applicant shall provide proof of holding a current and valid license issued by another state, a licensing authority recognized by the Board. (7-1-97)

d. Applicant shall provide proof of satisfactorily passing the NCARB examinations or NCARB authorized equivalent examination, as determined by the Board. (7-1-97)

IDAPA 24 - BUREAU OF OCCUPATIONAL LICENSES

24.25.01 - RULES OF THE IDAHO DRIVING BUSINESSES LICENSURE BOARD

DOCKET NO. 24-2501-0901 (FEE RULE -- NEW CHAPTER)

NOTICE OF RULEMAKING - ADOPTION OF TEMPORARY RULE

EFFECTIVE DATE: The effective date of the temporary rule is **October 30, 2009**.

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 54-5403, 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 December 16, 2009.

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 2009 legislature passed Senate Bill 1133 which created the State Driving Businesses Licensure Board. The proposed rules are necessary in order to implement the provisions of Title 54, Chapter 54, Idaho Code. The proposed rules provide contact information for the Board and definitions. The rules set out the application process; the fees; the renewal process; the requirements for a driving business license and a driving instructor license; the curriculum components; the course of instruction; the instructor apprenticeship training program; and the grounds for discipline.

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:

Senate Bill 1133 required that only licensed persons provide driver education. It created the Driving Businesses Licensure Board to issue licenses and enforce the minimum license standards and requirements. The rule sets the licensure fees needed for the Board to issue the required licenses. If licenses are not issued, persons and existing businesses will not be able to practice. Driving students would then face a shortage of driver education services.

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:

The 2009 Legislature passed Senate Bill 1133 which added Title 54, Chapter 54, Idaho Code. Per 54-5404, Idaho Code, the State Driving Businesses Licensure Board is setting fees in its rules for a license, a renewal, a permit and an application.

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:

The proposed rules establish fees that will be deposited in the Bureau of Occupational Licenses dedicated fund. The fees will be used by the State Driving Businesses Licensure Board to administer its act. Since all self governing boards are expected to be self-supporting, these fees are based on the estimated costs and the anticipated number of licensees.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220, Idaho Code, negotiated rulemaking was not conducted because the change is due to the creation of Title 54, Chapter 54.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary and proposed rule, contact Cherie Simpson at (208) 334-3233.

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 December 23, 2009.

DATED this 6th day November, 2009.

Tana Cory
Bureau Chief
Bureau of Occupational Licenses
1109 Main St., STE 220
Boise, ID 83702
(208) 334-3233 phone
(208) 334-3945 fax

THE FOLLOWING IS THE TEXT OF THE TEMPORARY RULE

IDAPA 24
TITLE 25
CHAPTER 01

24.25.01 - RULES OF THE IDAHO DRIVING BUSINESSES LICENSURE BOARD

000. LEGAL AUTHORITY (RULE 0).

In accordance with Section 54-5403, Idaho Code, the Idaho Driving Businesses Licensure Board hereby promulgates rules that implement the provisions of Chapter 54, Title 54, Idaho Code.

(10-30-09)T

001. TITLE AND SCOPE (RULE 1).

These rules are cited as IDAPA 24.25.01, “Rules of the Idaho Driving Businesses Licensure Board.” (10-30-09)T

002. WRITTEN INTERPRETATIONS (RULE 2).

The Board may have written statements that pertain to the interpretation of the rules of this 2chapter. Such interpretations, if any, are available for public inspection and copying at cost in the main office of the Bureau of Occupational Licenses. (10-30-09)T

003. ADMINISTRATIVE APPEALS (RULE 3).

Administrative appeals are governed by the Administrative Procedure Act, Title 67, Chapter 52, Idaho Code. (10-30-09)T

004. INCORPORATION BY REFERENCE (RULE 4).

These rules do not incorporate by reference any document. (10-30-09)T

005. ADDRESS OF IDAHO DRIVING BUSINESSES LICENSURE BOARD (RULE 5).

The office of the Idaho Driving Businesses Licensure Board is located within the Bureau of Occupational Licenses, Owyhee Plaza, 1109 Main Street, Suite 220, Boise, Idaho 83702-5642. The phone number of the Board is (208) 334-3233. The Board’s FAX number is (208) 334-3945. The Board’s e-mail address is drb@ibol.idaho.gov. The Board’s official web site can be found at <http://www.ibol.idaho.gov>. (10-30-09)T

006. PUBLIC RECORDS (RULE 6).

The records associated with the Idaho Driving Businesses Licensure Board are subject to the provisions of the Idaho Public Records Act. Title 9, Chapter 3, Idaho Code. (10-30-09)T

007. CHANGES IN LICENSEE INFORMATION (RULE 7).

01. Information Update. Each licensee must keep the Bureau current on the information that the licensee has placed on record with the Bureau. If a change occurs to the information that a licensee provided to the Bureau under Rules 150, 225 or 250, the licensee must notify the Bureau in writing of the change within twenty (20) calendar days after the change occurs. The licensee must provide the Bureau, upon request, with appropriate documentation reflecting the change. (10-30-09)T

02. Address for Notification Purposes. The most recent mailing address on file with the Bureau will be used for purposes of all written communication with a licensee including, but not limited to, notification of renewal and notices related to disciplinary actions. Each licensee must keep the Bureau informed of the licensee’s current mailing address. (10-30-09)T

008. -- 009. (RESERVED).

010. DEFINITIONS (RULE 10).

01. Board. The Idaho Driving Businesses Licensure Board as created in Section 54-

5403, Idaho Code.

(10-30-09)T

02. Bureau. The Idaho Bureau of Occupational Licenses as created in Section 67-2602, Idaho Code. (10-30-09)T

03. Student. A person aged fourteen and one-half (14 ½) up to seventeen (17) years. (10-30-09)T

011. -- 099. (RESERVED).

100. ORGANIZATION (RULE 100).

01. Meetings. The Board shall meet at least annually at such times and places as designated by the Chairman, or upon the written request of two (2) members of the Board. (10-30-09)T

a. All meetings shall be held in accordance with the Idaho Open Meeting Law, Chapter 23, Title 67, Idaho Code. (10-30-09)T

b. A minimum of three (3) Board members shall constitute a quorum and may exercise all powers and authority conferred on the Board in order to hold a meeting of the Board. A majority vote of the Board members present at a meeting shall be considered the action of the Board as a whole. (10-30-09)T

02. Organization of the Board. At the first meeting of each fiscal year, the Board shall elect from its members a Chairman, who shall assume the duty of the office immediately upon such selection. (10-30-09)T

a. The Chairman shall when present, preside at all meetings, appoint with the consent of the Board, all committees, and shall otherwise perform all duties pertaining to the office of Chairman. The Chairman shall be an ex-officio member of all committees. (10-30-09)T

b. The Bureau shall provide such services as may be authorized by Chapter 26, Title 67, Idaho Code, and as defined under contract between the Bureau and the Board. The Chief of the Bureau shall act as an agent of the Board and shall be the custodian of all records of the Board. (10-30-09)T

101. -- 149. (RESERVED).

150. APPLICATION (RULE 150).

Each applicant for a license, permit, or other authority from the Board must submit a complete application on Board-approved application forms. The application must be accompanied by required fee(s). The Board will not review completed applications received five (5) or fewer business days before a Board meeting. The Board also will not review incomplete applications, including applications submitted without the required fee(s). Further, an applicant must provide, or facilitate the provision of, any supplemental information or documents requested by the Board. Any application on file with the Board where an applicant has failed to respond to a Board request

or where the application has lacked activity for twelve (12) consecutive months will be deemed denied and will be terminated upon thirty (30) days written notice to the applicant unless good cause is established to the Board. (10-30-09)T

151. -- 174. (RESERVED).

175. FEES (RULE 175).

- 01. Fees.** The following fees are established by the Board: (10-30-09)T
 - a.** Initial application processing fee - fifty dollars (\$50). (10-30-09)T
 - b.** Original instructor license fee and renewal fee - fifty dollars (\$50). (10-30-09)T
 - c.** Instructor apprentice permit fee - fifty dollars (\$50). (10-30-09)T
 - d.** Original business license fee and renewal fee - five hundred dollars (\$500). (10-30-09)T
 - e.** Reinstatement fee - twenty-five dollars (\$25). (10-30-09)T
- 02. Refund of Fees.** All fees are non-refundable. (10-30-09)T

176. – 199. (RESERVED).

200. RENEWAL OF LICENSE (RULE 200).

01. Expiration Date. A license expires, unless renewed, on the birth date of an individual licensee, and on the anniversary date of the original license for a business, in accordance with Section 67-2614, Idaho Code. Licenses not renewed by those dates will be cancelled in accordance with Section 67-2614, Idaho Code. (10-30-09)T

02. Application for Renewal. In order to renew a license, a licensee must annually submit a timely, completed, Board-approved renewal application form and pay the required renewal fees. All renewals are subject to audit. When applying for renewal, the licensee must meet the following requirements: (10-30-09)T

a. The licensee must certify that the licensee continues to satisfy all requirements for the licensee's type of licensure, as set forth in Rules 225 and 250, and that the licensee is, and has been, in full compliance with Rule 007. The licensee must further certify that the licensee is in compliance with the Board's continuing education requirements. (10-30-09)T

b. An instructor licensee also must certify that the licensee does not suffer from any physical or mental condition or disease that would impair the licensee's ability to safely instruct drivers. (10-30-09)T

c. Every two (2) years, a driving instructor licensee must obtain a new medical certificate of the kind described in Subsection 250.05. The instructor licensee must annually

certify that the licensee is in compliance with the requirements. (10-30-09)T

d. A business licensee that offers a Board-approved instructor apprentice training program must certify that the licensee's program has maintained compliance with the Board's program approval criteria as specified in Rule 275. (10-30-09)T

03. Reinstatement. Any license cancelled for failure to renew may be reinstated in accordance with Section 67-2614, Idaho Code. (10-30-09)T

201 -- 224. (RESERVED).

225. DRIVING BUSINESS LICENSE (RULE 225).

A driving business license enables a licensee to operate a driver education business at one, principal classroom location as designated in the application. The licensee may also utilize secondary locations for classroom instruction, so long as the business does not conduct driver education at any given secondary location for more than sixty (60) days in a one-year period. A driving business license is not transferable. The business licensee must conspicuously display the license at the business's principal classroom location. Each applicant must apply as required by Rule 150. (10-30-09)T

01. Applicant Identity. The applicant must provide such identifying information as may be requested by the Board including, without limitation, the following: (10-30-09)T

a. The applicant's legal name (i.e., the name of the natural person or business entity to be issued the license) and assumed business name(s), if any. (10-30-09)T

b. The applicant's social security number, if the applicant has no employees and is a natural person (including a sole proprietor acting under an assumed business name). If the applicant has employees or is not a natural person (e.g., is a general or limited partnership, corporation, limited liability partnership, or limited liability company), then the applicant must provide its employer identification number. (10-30-09)T

c. The names and addresses of the applicant's officers and shareholders having a twenty-five percent (25%) or greater ownership interest (if a corporation), members and managers (if a limited liability company), and partners (if a partnership). (10-30-09)T

d. The applicant's contact information, including its mailing address, physical address, and telephone number. (10-30-09)T

02. Criminal History Background Check. The applicant, if a natural person, and all persons listed under Paragraph 225.01.c. and Subsection 225.05 of these rules, must submit to a current, fingerprint-based criminal history check conducted by an organization approved by the Board. Each applicant must ensure that such persons submit a full set of their fingerprints, and any relevant fees, directly to the organization that conducts the criminal history check, and that the organization delivers the results directly to the Bureau. The Board will not process the application until the Bureau has received all the criminal history checks. (10-30-09)T

03. Classroom Locations, and Certificates of Occupancy. Each applicant must list

all principal and secondary classroom locations to be utilized by the business. The applicant must provide a certificate of occupancy issued to the building/room by the local fire marshal or the fire marshal's designated agent, for each classroom location other than a location in a public or private school building, government building, church or synagogue. (10-30-09)T

04. Certificate of Vehicle Insurance. The certificate of vehicle insurance for each vehicle utilized by the driving business for driver education must accompany the application. The minimum coverage will include: (10-30-09)T

- a.** Five thousand dollars (\$5,000) (each person) medical insurance; and (10-30-09)T
- b.** One hundred thousand dollars (\$100,000) liability, property damage; and (10-30-09)T
- c.** Five hundred thousand dollars (\$500,000) bodily injury and property liability, each person, each accident for each in-use vehicle. (10-30-09)T

05. List of Licensed Instructors. Before beginning to offer driver education, and at all times while offering driver education, a driving business must employ or have contracted with one (1) or more licensed driving instructors to teach the classroom instruction phase and behind-the-wheel training phase of the driver education to be provided by the business. The driving business must submit to the Bureau a current list of such licensed instructors with the application, and keep such list current after licensure. (10-30-09)T

06. Vehicles. An applicant for a driving business license must submit to the Bureau a list of the vehicles that the business will utilize when offering driver education. A business licensee may not utilize vehicles that do not appear on the list. Each vehicle must have dual control brake pedals, safety restraints for all passengers, a side view mirror on each side of the vehicle, and an additional rear view mirror or compatible viewing device for the exclusive use of the instructor. A driving business must ensure that students are not allowed in a listed vehicle unless the vehicle is in a safe and proper operating condition. (10-30-09)T

a. Initial Inspection. An applicant may not include a vehicle on a business's vehicle list unless the vehicle has passed a vehicle inspection performed by an ASE mechanic or vehicle technician within the two (2) month period preceding the application. The inspection must be documented on the Board-approved inspection form included at Appendix A to these rules, or on such other similar forms as may be approved by the Board. The person who inspected the vehicle must sign the form, certifying that the vehicle generally is in a safe and proper operating condition, and that each inspected item passed inspection or, if found to be in need of repair, was repaired on a given date. The application must be accompanied by a separate, signed form for each listed vehicle. (10-30-09)T

b. Annual Inspection. A business licensee must ensure that each vehicle passes an inspection every twelve (12) months, and that the inspection is performed by an ASE mechanic or vehicle technician documented on the Board-approved form referenced in Paragraph 225.06.a. of these rules. If a vehicle fails an annual inspection, the business licensee must withdraw the vehicle from service. The business licensee may not use the vehicle for behind-the-wheel training until the vehicle passes a subsequent inspection and the business licensee has submitted to the Bureau

the inspection form evidencing that the vehicle has passed. (10-30-09)T

c. Incident Inspection. If a vehicle incident occurs that requires an investigation and report by law enforcement, or in which the damage exceeds one thousand five hundred dollars (\$1,500), the business licensee must withdraw the vehicle from service. The business licensee may not use the vehicle for behind-the-wheel training until the vehicle passes inspection by an ASE mechanic or vehicle technician and the business licensee has submitted to the Bureau the inspection form evidencing that the vehicle has passed. (10-30-09)T

d. Signage. The business licensee must ensure that the outside of each vehicle is equipped with safely secured signs. Signs must include "Student Driver," "Driver Education," "Driver Training," "Driving School," or similar language that clearly designates the vehicle as a driver training vehicle. (10-30-09)T

07. Course of Instruction. Each applicant for an original business license must provide with its application the course of instruction the applicant will use when instructing students. The course of instruction must be based on the minimum curriculum components outlined in Rule 226, and shall consist of: (10-30-09)T

a. Not less than thirty (30) hours of classroom instruction; and (10-30-09)T

b. Not less than six (6) hours of behind-the-wheel practice driving; and (10-30-09)T

c. Not less than six (6) hours of student, in-vehicle observation of other persons (e.g., parents, other student drivers, etc.) driving the vehicle. (10-30-09)T

08. Instructor Apprenticeship Training Program. A driving business may offer a Board-approved instructor apprenticeship training program under the conditions specified in Rule 275. (10-30-09)T

226. DRIVING BUSINESS -- MINIMUM CURRICULUM COMPONENTS (RULE 226). In order to assure consistency among driving businesses, it is necessary that every business licensee ensure that its driver education curriculum include the following minimum curriculum components: (10-30-09)T

01. Component One for Classroom. (10-30-09)T

a. Conducting a parent/student orientation and course overview. (10-30-09)T

02. Component Two for Classroom. (10-30-09)T

a. Identifying vehicle gauges, alert and warning symbols. (10-30-09)T

b. Preparing to drive. (10-30-09)T

c. Protecting occupants. (10-30-09)T

03. Component Three for Classroom. (10-30-09)T

- a. Identifying road signs and signals. (10-30-09)T
- b. Identifying lane markings. (10-30-09)T
- 04. Component Four for Classroom.** (10-30-09)T
- a. Understanding basic traffic laws including right-of-way rules. (10-30-09)T
- 05. Component Five for Classroom.** (10-30-09)T
- a. Using good habits for reduced risk driving. (10-30-09)T
- b. Using time and space management systems and strategies. (10-30-09)T
- 06. Component Six for Classroom.** (10-30-09)T
- a. Explaining the effect of gravity and energy of motion on a vehicle. (10-30-09)T
- b. Understanding procedures to maintain vehicle balance and traction. (10-30-09)T
- c. Identify strategies to negotiate hills and curves. (10-30-09)T
- 07. Component Seven for Classroom.** (10-30-09)T
- a. Identifying strategies to use when driving in rural and urban environments. (10-30-09)T
- b. Identifying strategies to use when driving on freeways. (10-30-09)T
- 08. Component Eight for Classroom.** (10-30-09)T
- a. Identifying strategies to use when driving in bad weather. (10-30-09)T
- b. Identifying strategies to use when encountering roadside emergencies. (10-30-09)T
- 09. Component Nine for Classroom.** (10-30-09)T
- a. Understanding ways to cooperate with other roadway users. (10-30-09)T
- b. Identifying responsibilities after a collision. (10-30-09)T
- c. Identifying the procedure for obtaining a driver's license. (10-30-09)T
- d. Identifying and avoiding common driver distractions. (10-30-09)T
- e. Identifying ways to prevent drowsiness while driving. (10-30-09)T

- f. Resisting aggressive driving behaviors. (10-30-09)T
- 10. Component Ten for Classroom.** (10-30-09)T
 - a. Explaining the effects of alcohol on the body. (10-30-09)T
 - b. Explaining the effects of alcohol on the driving task. (10-30-09)T
 - c. Correlating drinking and driving with vehicle crashes. (10-30-09)T
 - d. Identifying Idaho laws related to drinking and driving. (10-30-09)T
 - e. Explaining the dangers of alcohol and other drug use. (10-30-09)T
- 11. Component Eleven for In-Car.** (10-30-09)T
 - a. Performing pre-drive procedure. (10-30-09)T
 - b. Identifying vehicle controls. (10-30-09)T
 - c. Starting the vehicle. (10-30-09)T
 - d. Backing the vehicle. (10-30-09)T
 - e. Demonstrating approved steering technique. (10-30-09)T
 - f. Smoothly stopping the vehicle. (10-30-09)T
 - g. Demonstrating proper signaling and turning technique. (10-30-09)T
 - h. Recognizing relevant signs and markings. (10-30-09)T
 - i. Distinguishing between four-way and two-way stops. (10-30-09)T
- 12. Component Twelve for In-Car.** (10-30-09)T
 - a. Negotiating controlled and uncontrolled intersections. (10-30-09)T
 - b. Negotiating hills and curves. (10-30-09)T
 - c. Angle parking in a parking lot. (10-30-09)T
 - d. Driving in rural environment. (10-30-09)T
 - e. Making lane changes. (10-30-09)T
- 13. Component Thirteen for In-Car.** (10-30-09)T

- a. Driving in an urban environment (one with one-way and two-way streets, if available). (10-30-09)T
- b. Dealing with signal lights, pedestrians, and city traffic. (10-30-09)T
- c. Performing a perpendicular park. (10-30-09)T
- d. Merging onto the freeway. (10-30-09)T
- e. Driving on the freeway. (10-30-09)T
- f. Exiting the freeway and merging with traffic on surface streets. (10-30-09)T
- 14. Component Fourteen for In-Car. (10-30-09)T**
 - a. Performing a parallel park/street park. (10-30-09)T
 - b. Performing turnabouts. (10-30-09)T
 - c. Passing another vehicle. (10-30-09)T
 - d. Driving independently with the instructor. (10-30-09)T

227. DRIVING BUSINESS - COURSE OF INSTRUCTION (RULE 227).

01. Student Permit Required. No enrollee of any class D driver's training course will be allowed to attend classes or participate in driving instruction unless he has obtained a class D driver's training instruction permit, or a class D instruction permit, as provided in Section 49-307(4), Idaho Code. (10-30-09)T

02. In-Car Documentation. A business licensee must ensure that each listed vehicle contains documentation that identifies each student and the student's permit number. Permits will be given to the students following the completion of the course and used during the required graduate licensing process. (10-30-09)T

03. Maximum Daily Driving and Observation Time. Neither a business licensee nor an instructor licensee may permit an enrolled student to receive more than two (2) hours of behind-the-wheel driving time per day. Maximum observation time is two (2) hours per student, per day, and may be completed with a parent or legal guardian. (10-30-09)T

04. Maximum Number of Students In Vehicle. Neither a business licensee nor an instructor licensee may permit more than three (3) students in a vehicle at one (1) time. (10-30-09)T

05. Grading Criteria. A business licensee may not permit a student to graduate from the business's driver education program unless the student has achieved an eighty percent (80%) or higher in each of the three (3) course areas described in Subsection 225.07. The business

licensee must utilize written grading criteria for each of the minimum components in Rule 226. Criteria may include student attitude and such other criteria as the driving business may deem appropriate. The business licensee must maintain records of the student's grades. (10-30-09)T

06. Driving Log. Each driving instructor must complete a log for each student's behind-the-wheel driving and each driving business licensee must ensure that its driving instructors complete the log. The log must include, for each student, at least the student's name, birthdate, phone number, driving permit number, class date, instructor's name, lesson objective, total instruction time, total observation time, final grade, and date the student passed. (10-30-09)T

07. Parental Involvement. Each business licensee should encourage parental involvement in the education of the student. (10-30-09)T

08. Record Retention. The business licensee must maintain all logs and other records required under Rule 227 for at least three (3) years from date on which the student completes, or is no longer enrolled in, the business's driver education course. The business licensee may not release these records without written consent from the student and the student's parent or legal guardian. The Board and its agents, however, may inspect these records at any time. (10-30-09)T

228. DRIVING BUSINESS - INITIAL AUDIT (RULE 228).

After July 1, 2009, all new driving business licensees issued licenses will automatically be audited for compliance with the Board's laws and rules following their first renewal. (10-30-09)T

229. -- 249. (RESERVED).

250. DRIVING INSTRUCTOR LICENSE (RULE 250).

01. Application. Each applicant for a driving instructor license must apply as required by Rule 150. Each applicant is required to provide his name, date of birth, and contact information, including mailing address and telephone number, on the Board-approved application form. (10-30-09)T

02. Age. An applicant for a driving instructor license must be at least twenty-one (21) years old. (10-30-09)T

03. Driving Record and Drivers License. Each applicant must submit a copy of a valid driver's license in good standing and a copy of a satisfactory driving record. An unsatisfactory record includes, but is not limited to, two (2) moving violations in the past twelve (12) months, or suspension or revocation of a driver's license in the last thirty-six (36) months, or a conviction involving alcohol or controlled substances within the last thirty-six (36) months. (10-30-09)T

04. Criminal History Background Check. Each applicant must submit to a current, fingerprint-based criminal history check conducted by an organization approved by the Board. Each applicant must submit a full set of the applicant's fingerprints, and any relevant fees, directly to the organization that conducts the criminal history check, and ensure that the organization delivers the results directly to the Bureau. The Board will not process the application until the completed criminal history check has been received. (10-30-09)T

05. Medical Certificate. A driving instructor licensee may not provide in-vehicle instruction to students if the instructor suffers from a medical condition that may impair the instructor's ability to safely instruct student drivers. Accordingly, each applicant for an instructor's license must obtain a medical examination conducted in accordance with the Federal Motor Carriers Safety Regulations (49 CFR 391.41-391.49). The examination must occur within the thirty (30) days preceding the application. The applicant must submit a medical affidavit or certificate, issued and signed by a qualified medical professional, licensed under Title 54, Idaho Code, documenting that the examination occurred and that the applicant does not suffer from any physical or mental condition or disease that would impair the applicant's ability to safely instruct student drivers. If a medical condition exists, the applicant must re-certify as the physician requires. (10-30-09)T

06. Coursework. Applicants who apply for licensure before July 1, 2010, must submit to the Bureau along with their application official transcripts showing: (10-30-09)T

a. Completion of at least four (4) semester credits (amounting to at least sixteen (16) contact hours per credit) from a regionally or nationally accredited college or university. The four (4) semester credits must include at least two (2) semester credits of classroom driver education techniques, and at least a two (2) semester credit in-car, behind-the-wheel, practicum of instructional techniques. Classroom or theory coursework from an accredited college or university may be completed through distance learning or online instruction. If the applicant has not actively taught driver education within the five (5) year period immediately preceding the application, then applicant must have taken the four (4) semester credits, referenced in this Paragraph, within that five (5) year period. (10-30-09)T

b. Applicants for an original license must also have completed at least eight (8) semester credit hours in courses that will help prepare the applicant to be a teacher of drivers education. (10-30-09)T

07. Instructor Apprenticeship Training Program. On and after, July 1, 2010, applicants for licensure must demonstrate to the Board's satisfaction that they have successfully completed all required classroom instruction and behind-the-wheel training hours from a Board-approved instructor apprenticeship training program. The applicant must have undertaken and completed the apprenticeship training program within the five (5) year period immediately preceding the application. (10-30-09)T

a. Proof of successful completion must include written certificate from a Board-approved apprenticeship training program certifying that the applicant has satisfactorily completed the program. An applicant need not have completed all required classroom instruction and behind-the-wheel training hours through a single program so long as the last program attended by the applicant ensures itself, and its business licensee certifies to the Board, that the applicant has satisfactorily completed all required hours through Board-approved apprenticeship training programs. (10-30-09)T

b. A person may not enroll in an apprenticeship training program unless the person has applied for, paid for, and obtained an apprenticeship permit from the Board. The applicant must apply on Board-approved forms, which must identify the applicant and the business licensee

in whose approved apprenticeship training program the applicant will be enrolled. An apprenticeship permit automatically expires one (1) year after issuance. The Board also may suspend or revoke an apprenticeship permit, and refuse to issue another permit, if the permittee engages in any act or omission that would subject the permittee to discipline if the permittee had an instructor's license. No one may be a permittee for more than three (3) years. (10-30-09)T

251. -- 274. (RESERVED).

275. INSTRUCTOR APPRENTICESHIP TRAINING PROGRAM (RULE 275).

01. Application for Approval. A business licensee may operate a Board-approved instructor apprenticeship training program. The business licensee must apply for program approval on forms provided by the Board, and submit with the application such documentation as the Board may require to enable the Board to assess whether the proposed program meets the Board's approval criteria, as specified in Subsections 275.03 through 275.08 of these rules. (10-30-09)T

02. Suspension or Revocation of Approval, and Discipline. If an approved program fails to consistently adhere to the approval criteria in Subsections 275.03 through 275.08 of these rules, the Board may suspend or revoke the approval. Further, if a business licensee that operates an approved program fails to cooperate with the Board in any inspection or audit of the program, the licensee may be disciplined. (10-30-09)T

03. Apprentices. The business licensee must ensure that all persons who enroll in the licensee's program possess a valid instructor apprenticeship training permit from the Board, are at least twenty one (21) years old, hold a valid driver license and a satisfactory drivers record, have passed a criminal history background check, and have obtained a medical certificate, consistent with the requirements of Subsections 250.02 through 250.05. (10-30-09)T

04. Instruction and Training Hours. The Board must be satisfied that the program has designed its proposed instruction and training to produce safe and effective driving instructors. The business licensee must ensure that the program includes at least the following instruction and training components: (10-30-09)T

a. Each apprentice must receive at least sixty (60) hours of classroom instruction covering the curriculum components for student classroom instruction specified in Subsections 226.01 through 226.10 of these rules. These hours must include both a didactic component, in which a program instructor provides in-class instruction to the apprentice, and a practical component in which the apprentice provides in-class instruction to students. A program instructor must be physically present in the classroom to supervise at least thirty (30) hours of the apprentice's in-class instruction to students. (10-30-09)T

b. Each apprentice must receive at least one hundred eight (108) hours of behind-the-wheel-training covering the curriculum components for student in-car instruction specified in Subsections 226.11 through 226.14 of these rules. When an apprentice begins to provide behind-the-wheel driving instruction to students, a program instructor must supervise the apprentice by riding in the vehicle with the apprentice and students for the first six (6) hours. A program instructor also must ride in the vehicle with the apprentice and students to evaluate the apprentice

during the final two (2) hours of the apprentice's behind-the-wheel training. (10-30-09)T

05. Instructors. The business licensee must ensure that only licensed driving instructors with five (5) or more years of continuous driver education experience are allowed to teach in the program. A list of the instructors must accompany the application for approval. (10-30-09)T

06. Recordkeeping. The business licensee must ensure that the program maintains progress records for each apprentice. A program instructor and the apprentice must sign and date the records each month, and copies of the records must be provided to the apprentice. The records must, at a minimum, identify each lesson completed, the number of hours of instruction involved in the lesson, the date the apprentice completed the lesson, the instructor who taught the lesson, and whether the apprentice passed. When an apprentice's course of instruction has been completed or terminated, the program must maintain the records of the apprentice's progress, and the total hours recorded and maintained by the program for a period of five (5) years from completion or termination date. These records are subject to inspection by the Board at any time. (10-30-09)T

07. Certificate of Proficiency. The program must provide each apprentice with a certificate of proficiency evidencing all hours satisfactorily completed by the apprentice while in the program, and that the apprentice is proficient in all areas covered by the certificate. (10-30-09)T

08. Discontinuance of Program. If the business licensee ceases to operate the program, the business licensee must provide the program's current and prior apprentices with any progress or other records that the program is required to maintain under this Section. (10-30-09)T

276. -- 449. (RESERVED).

450. DISCIPLINE (RULE 450).

01. Grounds for Discipline. In addition to the grounds for discipline listed in Section 54-5408, Idaho Code, grounds for discipline also include: (10-30-09)T

a. Failure to cooperate with an inspection or audit conducted by the Board or its agents including, without limitation, any continuing education audit, as specified in Section 54-5403(6), Idaho Code. Failure to cooperate includes, without limitation, failure to provide documentation requested by the Board or its agents during an inspection or audit of the licensee's compliance with Board laws or rules. (10-30-09)T

b. Violating any of the following standards of conduct that have been adopted by the Board: (10-30-09)T

i. A licensee must not use fraud or deception in procuring or renewing, or in attempting to procure or renew, a license, permit, or other authorization issued by the Board. (10-30-09)T

ii. A licensee must not aid, abet, or assist any person or entity in conduct for which a

license or permit is required under Idaho Driving Businesses Act, unless the person or entity has the required license or permit. (10-30-09)T

iii. A licensee must comply with final orders of the Board issued in contested cases to which the licensee is a party. (10-30-09)T

02. Disciplinary Sanctions. If the Board determines that grounds for discipline exist, it may impose disciplinary sanctions against the licensee including, without limitation, any or all of the following: (10-30-09)T

a. Revoke or suspend the licensee’s license(s); (10-30-09)T

b. Restrict or limit the licensee’s practice; (10-30-09)T

c. Require the licensee to pay an administrative fine not to exceed one thousand dollars (\$1000) for each violation identified in the Board’s order. (10-30-09)T

d. Require the licensee to pay all or part of the costs and fees incurred by the Board in the investigation and prosecution of the licensee, including without limitation all costs and fees incurred by the Board in proceedings upon which the order was entered. (10-30-09)T

451. -- 999. (RESERVED).

APPENDIX “A”

IDAHO DRIVING BUSINESSES LICENSURE BOARD VEHICLE INSPECTION REPORT											
					DATE						
BUSINESS OWNER/OPERATOR AND BUSINESS NAME					INSPECTORS NAME (PRINT OR TYPE)						
ADDRESS											
CITY, STATE, ZIP CODE					VEHICLE IDENTIFICATION (LIC. PLATE NO. & VIN)						
VEHICLE TYPE (YEAR, MAKE and MODEL)					ODOMETER READING						
VEHICLE COMPONENTS INSPECTED											
OK	Needs Repair	Repaired Date	Item	OK	Needs Repair	Repaired Date	Item	OK	Needs Repair	Repaired Date	Comments
			1. BRAKES SYSTEM				7. LIGHTING DEVICES				List any other condition which may prevent safe operation of this vehicle and whether or not the repair has been made.
			a. service brakes				a. headlights high and low beam				
			b. parking brake system				b. brake lights				
			c. brake drums/rotors/pads				c. taillights				
			d. brake hoses				d. turn signals				
			e. brake tubing				e. parking lights				
			f. low pressure warning device				f. other				
			g. hydraulic brakes				8. SUSPENSION				
			h. vacuum system				a. Any damaged or loose U-bolt(s), spring hangers or other part(s) that may cause axle to shift				
			i. dual control brake with stopping distance 20mph				b. spring assembly				
			2. EXHAUST SYSTEM				c. torque, radius or tracking components				
			a. any exhaust system determined to be leaking				d. wheel alignment				
			b. emission control				9. ELECTRICAL SYSTEM				
			3. FUEL SYSTEM				a. horn				
			a. visible leak				b. switches				
			b. fuel tank cap missing				c. wiring				
			4. STEERING MECHANISM				d. starting system				
			a. steering wheel free play				10. VISIBILITY				
			b. steering column				a. dual side view mirrors				
			c. front axle beam and all steering components other than steering column				b. rearview mirror				
			d. steering gear box				c. inside instructor mirror				
			e. pitman arm				d. windshield wipers				
			f. power steering				c. defroster				
			g. ball and socket joints				11. INTERIOR				
			h. tie rods and drag links				a. seatbelts for all occupants				
			i. nuts				b. airbag readiness light				
			j. steering system								
			5. TIRES								
			tire condition and wear								
			6. WINDSHIELD GLAZE								
			cracks, discoloration or lack of clarity								
Mechanic Verification											
I verify I have inspected this vehicle and completed this form. I certify that the vehicle appears to be in a safe and proper operating condition, and that each inspected item passed inspection, or if found to be in need of repair, was repaired on the date indicated.											
Print Name				ASE ID #				Signature			

IDAPA 59 - PUBLIC EMPLOYEE RETIREMENT SYSTEM OF IDAHO

59.01.06 - RETIREMENT RULES FOR THE PUBLIC EMPLOYEE RETIREMENT SYSTEM OF IDAHO (PERSI)

DOCKET NO. 59-0106-0901

NOTICE OF RULEMAKING - ADOPTION OF TEMPORARY RULE

EFFECTIVE DATE: The effective date of the temporary rule is **March 1, 2009**.

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. The action is authorized pursuant to Section 59-1314(1), Idaho Code.

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

To delay scheduled increase in contribution rates to the unused sick leave fund by public schools.

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:

To delay scheduled increase in contribution rates to the unused sick leave fund by public schools. Actuarial valuation indicates the currently scheduled increases are not necessary to adequately fund the benefits provided by the schools unused sick leave fund.

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

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this temporary rule, contact Joanna L. Guilfooy, PERSI, 287-9271.

DATED this 1st day of March, 2009.

Don Drum
Executive Director
Public Employee Retirement System of Idaho
Street Address: 607 N. 8th Street, Boise, ID
Mailing Address: P.O. Box 83720
Boise, ID 83720-0078
Phone: 208-287-9230
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THE FOLLOWING IS THE TEXT OF THE TEMPORARY RULE

552. SICK LEAVE FUNDING RATES (RULE 552).

The sick leave pools shall be funded by employer contributions as follows: (3-30-01)

01. State Agencies and Junior College Districts. All employer groups participating in the pools established by Sections 33-2109A and 67-5339, Idaho Code, shall contribute point sixty-five percent (.65%) of employee covered payroll. (3-30-01)

02. Schools. All employer groups participating in the pool established by Section 33-1228, Idaho Code, shall contribute the percentage of employee covered payroll based on the number of days of paid sick leave permitted during the contract year for certified teachers as set forth in the following table:

Beginning:	July 1, 2006	July 1, 2007 11	July 1, 2008 12
9-10 days	1.16%	1.18%	1.21%
11-14 days	1.26%	1.35%	1.44%
More than 14 days	Individual rate to be set by the Retirement Board based on current cost and actuarial data and reviewed annually		

Where a four (4) day work week or similar policies have been adopted, adjustments shall be made to convert the number of days of paid sick leave to the contribution level necessary to maintain equity within the pool. (Amended 3-30-01) (~~Amended 4-11-06~~). (~~4-11-06~~)(3-1-09)T

03. Subdivisions. All employer groups participating in the pool established by Section 59-1365, Idaho Code, shall make contributions as provided in Rule 578. (3-30-01)