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**IDAPA 16
TITLE 05
Chapter 01**

**16.05.01 - RULES GOVERNING THE PROTECTION AND DISCLOSURE
OF DEPARTMENT RECORDS**

000. LEGAL AUTHORITY.

The Idaho Legislature has given to the Department of Health and Welfare and the Board of Health and Welfare the legislative power to promulgate rules governing the use and preservation of Department records, pursuant to Sections 39-106, 56-221 and 56-222, Idaho Code, and other specific statutory language. Conditioning this grant of authority are many federal and state mandates with which various programs within the Department must comply. These are restated in Sections 101. through 122. (12-31-91)

001. POLICY.

The Department of Health and Welfare recognizes that the correct use and the safeguarding of information made available to the Department is an essential element of responsible administration. The Department further acknowledges the right of the public to be informed of the activities of its government. It is therefore the policy of the Department to provide access to official records when such access is consistent with the principles of responsible administration as defined by these rules. (12-31-91)

002. DEFINITIONS.

01. Access. The availability of a record to the patient or client of the Department to whom it pertains. (11-24-77)
02. Appropriate Department Official. The Director, Executive Assistant to the Director, Division Administrator, Regional Director or Institutional Director, or their designee. (11-24-77)
03. Board. The Idaho State Board of Health and Welfare. (12-31-91)
04. Complete Investigation. An investigation conducted by the Department to determine whether or not an allegation is true and whether sufficient evidence can be developed to support a civil or criminal fraud or abuse action under state law. (11-24-77)
05. Department. The Idaho Department of Health and Welfare, and its divisions, bureaus, sections, programs, institutions and regional offices. (11-24-77)
06. Director. The Director of the Department of Health and Welfare or his designee. (12-31-91)
07. Disclosure. The availability of a record to a person or entity other than the patient or client to whom the record pertains. (11-24-77)
08. Identifying Information. The name, address, social security number or other information by which the identity of a patient or client can be determined with reasonable speed and accuracy. (11-24-77)
09. Incapacitated Patient or Client. Any person who is impaired by reason of mental illness, mental deficiency, physical illness or disability, advanced age, use of drugs, intoxication or other cause (except minority) but only to the extent that he lacks sufficient understanding or capacity to make or communicate responsible decisions. (11-24-77)
10. Incompetent Patient or Client. An individual who has been adjudged incompetent by an appropriate court within this state as being incapable of managing himself or his affairs independently and with ordinary prudence, or of being taught to do so, and who requires supervision, control and care for his own welfare, the welfare of others or the welfare of the community. (12-31-91)
11. Individual. Any person who is a citizen of the United States or any alien lawfully admitted for permanent or temporary residence. (11-24-77)

12. Preliminary Investigation. An investigation conducted by the Department to determine if there is sufficient merit to a complaint received to warrant initiation of a complete investigation. (11-24-77)

13. Program. A plan or organized series of activities within the Department implemented pursuant to state or federal authority. (11-24-77)

14. Record. Any information, regardless of form or physical characteristics, relating to a patient or client if received or acquired pursuant to law or in connection with the administration of any state or federally-assisted program. (11-24-77)

15. Working Papers. Preliminary notes including those of interviews, memoranda and documents, whether in summary, pictorial, graphic or tabular form, upon which an official Departmental position is taken. (11-24-77)

003. ACQUISITION OF INFORMATION.

01. General Policy. It is the general policy of this Department to acquire and retain in its records only that information which is relevant and absolutely necessary in the administration of a particular program or Departmental function. Any record retained by this Department must indicate the date the information was received and the source as allowed by law. When a record is reviewed by, or information is released to, any person or entity outside the Departmental unit with responsibility for the administration of a program and retention of its records, the identity of the requesting party and the date of the review or disclosure must be noted. If this accounting of disclosures is maintained separate from the record, the accounting must be retained for at least five (5) years or the life of the record, whichever is shorter. Such accounting must be made available to the individual to whom the record pertains upon request. (11-24-77)

02. Notification to Person Supplying Information to the Department. Any individual, corporation, partnership, proprietorship or governmental entity who responds to a request by this Department to supply information, upon request, must be informed of the following: (11-24-77)

- a. The Department's authority to request the information; and (11-24-77)
- b. Whether the providing of the requested information is mandatory or voluntary; and (11-24-77)
- c. The principal purpose and routine use of the information; and (11-24-77)
- d. The possible consequences for refusal to provide the requested information; and (11-24-77)
- e. The nature of that information which will be protected; and (11-24-77)
- f. The existence of the rules governing the protection and disclosure of Departmental records. (11-24-77)

004. COPIES OF RECORDS.

The appropriate Department official must authorize the copying of any record, or part thereof, subject to the conditions of any consent or other mandated purposes and uses. Cost of the copying, once approval is given, will be borne by the requesting person or entity. This requirement may be waived when it is cost effective to do so. (11-24-77)

005. PRIVILEGED COMMUNICATIONS.

Nothing in these rules impairs, restricts or alters the confidential relationship between physician and patient in civil cases and between an attorney and client and a psychologist and client in both civil and criminal cases, pursuant to Sections 9-203 and 54-2314, Idaho Code. Physician-patient communications which are privileged include documentation in hospital records or communications to and with nurses or other assisting persons or entities, pursuant to Section 39-1312, Idaho Code. In cases involving physical injuries to children, due to physical abuse or neglect by a parent, guardian or legal custodian, no privileges except the attorney-client privilege is recognized pursuant to Section 16-1620, Idaho Code. Finally, a licensed social worker may not release any information acquired

in a professional capacity except with written consent, if a crime or harmful act is contemplated or has been executed, where the person consulting is a minor and victim or subject of a crime, and where the person consulting brings charges against the social worker, pursuant to Section 54-3213, Idaho Code. (11-24-77)

006. AUTHORIZATION REQUIRED FOR DISCLOSURE.

The ultimate responsibility for the protection and disclosure of Department records rests with appropriate Department officials. No information may be released by any employee of the Department without the authorization of the appropriate Department official. (12-31-91)

007. -- 099. (RESERVED).

100. STATE AND FEDERAL REQUIREMENTS, RESTATEMENT.

Separate confidentiality requirements have been mandated or addressed by state and federal law for Departmental activities and supersede any provisions found within this manual to the contrary. Sections 101 through 122 contain restatements, not verbatim reproductions, of limited portions of the cited legal authority. Two (2) criteria have been used to identify these disclosure responsibilities set out below. First, the information, regardless of its form, must be in the actual possession of the Department, i.e., required by law to be kept and preserved by this agency. Second, the authority for disclosure of the information must lie solely with Departmental personnel. Therefore, the authority for disclosure by courts or other agencies or persons of records within their legal custody has not been included. (12-31-91)

101. ADOPTION.

01. Certificate of Birth. After receipt of a certified copy of the decree of adoption, a new birth certificate must be issued with no reference to the adoption. However, in a case when a single person adopts another person, any new birth certificate must designate the adopting parent as such. All records and information in this section, including the supplanted birth certificate, must not be disclosed except by court order (Section 39-218, Idaho Code). (11-24-77)

02. Hard-to-Place Children. The Department must disseminate information as to the availability of hard-to-place children, adoption procedures and of the existence of aid to adoptive families, to prospective adoptive families, especially those families of lower income levels and those belonging to disadvantaged groups (Section 56-804, Idaho Code). (11-24-77)

102. (RESERVED).

103. ALCOHOLISM AND INTOXICATION TREATMENT.

Rules and regulations mandating the confidentiality of alcohol and drug abuse patient records found in 42 CFR 2.12 through 42 CFR 2.67 must be adhered to. Records of alcoholics and intoxicated persons are confidential and may not be disclosed without the consent of the patient except that the Director may release data, other than identifying information of the patient, for the purpose of research into the causes and treatment of alcoholism (Section 39-308, Idaho Code). (11-24-77)

104. BLOOD TESTS, MOTOR VEHICLE FATALITIES.

The Department receives samples of blood drawn from pedestrians and motor vehicle operators who have died as a result of and contemporaneously with an accident involving a motor vehicle. These are tested to determine alcohol or drug content. The results of such tests must be disclosed only for statistical purposes and without identifying information of the deceased. Disclosure contrary to Section 104 is a misdemeanor (Section 49-1016, Idaho Code). (12-31-91)

105. CHILD PROTECTION.

01. Department Records. Department written records of investigations, evaluations, prognosis and all orders concerning disposition or treatment of every person over whom it has legal custody, must not be disclosed outside the Agency without a court order (Section 16-1623, Idaho Code). (Subsection 105.01 is more restrictive than present federal law, as restated in Subsections 105.02 and 105.03, and therefore supersedes.) (12-31-91)

02. Grants - Programs. All records concerning reports of child abuse and neglect, in order to protect the rights of the child or his parents or guardians, may be disclosed only to the following agencies and persons: (12-31-91)

a. A legally mandated child protection agency which is investigating a report of known or suspected child abuse or neglect or which is treating a child or family who is the subject of a report or record; or (11-24-77)

b. A police or other law enforcement agency investigating a report of known or suspected child abuse or neglect; or (11-24-77)

c. A physician who has before him/her a child whom he reasonably suspects may be abused or neglected; or (12-31-91)

d. A person legally authorized to place a child in protective custody if such person has before him a child whom he reasonably suspects may be abused or neglected and if the information is required in a report or record to determine whether to place the child in protective custody; or (12-31-91)

e. An agency legally responsible or authorized to care for, treat or supervise a child who is the subject of a report or record; or (11-24-77)

f. Any person named in the report or record who is alleged to be abused or neglected; if the person named is a minor or is otherwise incompetent, his guardian ad litem; or (12-31-91)

g. A parent, guardian, or other person responsible for the welfare of a child named in a report or record, with protection provided for the identity of persons supplying the information and other appropriate persons; or (11-24-77)

h. A court, upon its finding that access to such records may be necessary for determination of an issue--such access must be limited to inspection before the judge in his private room or in the courtroom when all spectators are excluded--unless the court determines that public disclosure is necessary for the resolution of an issue then pending before it; or (11-24-77)

i. A grand jury upon its determination that access to such records is necessary in the conduct of its official business; or (11-24-77)

j. Any appropriate state or local official responsible for the child protective service or legislation carrying out his official functions; or (12-31-91)

k. Any person engaged in a bona fide research purpose, provided, however, that no information identifying the subjects of the report will be made available to the researcher unless it is absolutely essential to the research purpose and unless the appropriate state official gives prior approval (45 CFR 1340.3-3(d)(5)). (Note controlling effect of Subsection 105.01). (12-31-91)

l. The Department may publicly disclose information or findings in cases of child abuse and neglect which result in a child fatality or near fatality. (7-1-99)

03. Records of Programs Assisted Under Child Abuse Prevention and Treatment Act of 1974. Information obtained as to personal facts about individuals served by any demonstration, research, training or technical assistance project or program assisted under this Act must not be disclosed except as provided in Subsection 105.03.b. (45 CFR 1340.2-5(a)). (12-31-91)

a. Information to be protected includes lists of names, addresses, photographs and records of evaluation. (11-24-77)

b. The use of such information must be limited to purposes directly connected with the administration of these programs, including evaluations conducted under contract with the Department of Health, Education and Welfare. Such information must not be disclosed, directly or indirectly, other than for such a purpose and the purposes

of Subsection 105.02, unless the written consent of the Department and the patient or client or his representative to whom the information applies has been obtained. No report or other documentation of these programs to be disclosed may contain individual identifying information without the written consent of the individual or his representative (45 CFR 1340.2-5(b)). (Note controlling effect of Subsection 105.01). (12-31-91)

04. Child Abuse Report to Law Enforcement. (11-24-77)

a. Any physician, resident on hospital staff, intern, nurse, coroner, school teacher, day care personnel, social worker or other person, having reasonable cause to believe that a person under the age of eighteen (18) has been abused, or who observes the child being subjected to conditions or circumstances which would reasonably result in abuse, must report or cause to be reported within twenty-four (24) hours such conditions or circumstances to the proper law enforcement agency (Section 16-1619, Idaho Code). (11-24-77)

b. When a physician, resident, intern, nurse or day care worker is attending the child in the performance of services as a member of the staff of a hospital or similar institution, he must notify the person in charge of the institution, or his designated delegate, who must make the necessary reports (Section 16-1619, Idaho Code). (12-31-91)

c. Any person acting upon reasonable cause in the making of such a report will have immunity from any civil or criminal liability that might otherwise be incurred or imposed. Any such person will have the same immunity with respect to participation in any judicial proceeding resulting from such report. Any person who reports in bad faith or from malice will not be protected from the provisions of this section (Section 16-1620, Idaho Code - For privileged communications in cases of child abuse and neglect, see Section 004). (12-31-91)

05. Court Proceedings. Records of a court proceeding may be made available to the Department: (12-31-91)

a. When the Department is providing protective supervision or has legal custody of the child; or (11-24-77)

b. When it is proven to the court that disclosure to the Department: (11-24-77)

i. Is in the best interest of the child; or (11-24-77)

ii. Is for the purpose of legitimate research in which case the Department may not disclose identifying information (Section 16-1621, Idaho Code). (11-24-77)

06. Actions for Termination of Parent-Child Relationships. (11-24-77)

a. In actions for termination of parent-child relationships, social records must not be disclosed to the public except as determined by the court and then only to persons or agencies having a legitimate interest in the protection, welfare and treatment of the child. Social records include social service records of the court, investigations made by this Department upon direction of the court pursuant to Section 16-2008, Idaho Code, and related papers and correspondence which include medical, psychological and psychiatric studies or reports. Such records may be either in the possession of the court or this Department (Section 16-2013, Idaho Code). (11-24-77)

b. It is a misdemeanor for Department personnel to disclose, or allow to be disclosed, the information in Subsection 105.03.a., or allow any copy thereof to be made, without a court order while an action for termination is pending (Section 16-2013, Idaho Code). (12-31-91)

07. Notwithstanding any other section of these rules regarding access to child protection assessment, evaluation, treatment and/or disposition records of the department, duly elected state officials may access such records in the course of carrying out their official duties. Such disclosure is subject to the same standard of confidentiality that exists for access granted to others by law or department rule. (7-1-96)L

106. DEVELOPMENTAL DISABILITIES.

All information as to personal facts and circumstances, including lists of names and addresses, must be disclosed only

in direct connection with the administration of the developmental disability program. Otherwise, consent of the client to whom the information applies must be given (45 CFR 416.27). (11-24-77)

107. DRUG ABUSE.

Rules mandating the confidentiality of drug abuse patient records found in 42 CFR 2.12 through 42 CFR 2.67 must be adhered to. (11-24-77)

01. Federally Assisted Programs. Certain information within records maintained by the Department in connection with a drug abuse program directly or indirectly assisted, regulated or conducted by any federal agency or department must be protected. Such information includes the identity, diagnosis, prognosis or treatment of a patient, present or past and must not be disclosed unless: (12-31-91)

a. The patient has given prior written consent; or (12-31-91)

b. Disclosed to medical personnel and only to the extent necessary to meet a bona fide medical emergency; or (12-31-91)

c. Disclosed to qualified personnel for the purpose of conducting scientific research, management or financial audits, or program evaluations but then only without any direct or indirect identifying material; or (12-31-91)

d. By court order which imposes appropriate safeguards against unauthorized disclosure; such a court order is required to disclose information to initiate or substantiate any criminal charges against a patient or to conduct any investigation of a patient; or (12-31-91)

e. By components of the Veterans Administration furnishing health care to veterans when giving information to the Armed Forces (21 U.S.C. 1175). (12-31-91)

02. Medical Practitioners. Any practitioner engaged in medical practice or research with respect to the use and abuse of controlled substances cannot be compelled to disclose identifying information of a patient to the Director of Law Enforcement, nor to disclose in any state or local, civil, criminal, administrative, legislative or other proceeding (Section 37-2743, Idaho Code). (11-24-77)

03. Quarterly Report. The Administrator of the Department's Division of Community Rehabilitation is responsible for seeing that the quarterly report which is given to Law Enforcement and to the Board of Pharmacy containing data of treatment or rehabilitative services to addicted persons does not disclose identifying information of any person treated or rehabilitated (Section 37-3105, Idaho Code). (12-31-91)

04. Treatment of Drug Addicts. (12-31-91)

a. Scope of Confidentiality. In the treatment of drug addicts, no treating or referring physician or person acting under his direction, may disclose the name of the person requesting treatment or the fact that treatment was requested or has been undertaken, to any law enforcement officer or agency. Such information is not admissible in any court, grand jury or administrative hearing unless consented to by the person requesting treatment (Section 37-3102, Idaho Code). (12-31-91)

b. Consent Over Age Sixteen (16). If the person seeking treatment is sixteen (16) years or older, the fact that the person sought treatment or is receiving such treatment must not be disclosed to the parents or legal guardian without his consent. The consent can be accepted only after the person has been counseled as to the effect of involving the parents or legal guardian in his treatment (Section 37-3102, Idaho Code). (12-31-91)

108. FAMILY PLANNING SERVICES, GRANTS.

Information relating to the examination, care and treatment of an individual served by projects or programs under Title X of the Public Health Services Act must not be disclosed without the consent of the individual, except as required by law or as necessary to provide service to the individual. However, information may be disclosed in summary, statistical or other form without identifying information (42 CFR 59.10). (11-24-77)

109. FOOD STAMPS.

01. Disclosure. The Department must restrict the use or disclosure of information obtained from applicant or recipient households to: (2-22-88)

a. Persons directly connected with the administration or enforcement of the provisions of the Food Stamp Act or regulations, other federal assistance programs, federally assisted state programs providing assistance on a means-tested basis to low income individuals or general assistance programs which are jointly processed with the Social Security administration; and (2-22-88)

b. Persons directly connected with the administration or enforcement of programs participating in the State Income and Eligibility Verification System (IEVS) to the extent necessary to establish and verify eligibility or benefit amount for those programs; and (2-22-88)

c. Persons directly connected with the administration of the Child Support Program under Part D, Title IV, of the Social Security Act; and (2-22-88)

d. Employees of the Department of Health and Human Services as necessary to establish and verify eligibility or benefit amount under Titles II and XVI of the Social Security Act; and (2-22-88)

e. Employees of the Comptroller General's Office of the United States authorized under any provision of law to audit and employees of the Idaho Legislative Auditor's office carrying out their audit function in compliance with the Single Audit Act, Public Law 96-502; and (2-22-88)

f. Local, state or federal law enforcement officials upon written request for purposes of investigating an alleged violation of the Food Security Act or violation of a regulation. (2-22-88)

02. Protection of Information. Recipients of this information must adequately protect the information against unauthorized disclosure to persons or for purposes not specified in Subsection 109.01. Information received through the State Income and Eligibility Verification System must be protected as required by the regulations established by the provider of the information. Information released to the state agency pursuant to Section 6103(1) of the Internal Revenue Code of 1954 shall be subject to the safeguards established in Section 6103(1) of the Internal Revenue Code. (12-31-91)

110. HOSPITALIZATION OF MENTALLY ILL.

In connection with hospitalization of the mentally ill, certificates, applications, records and reports held by the Department which directly or indirectly identify a patient or former patient, or an individual for whom commitment has been sought, must not be disclosed unless: (11-24-77)

01. Consent. The patient or individual, or his legal guardian if any, or parent if a minor, consents (Section 66-348, Idaho Code); (12-31-91)

02. Disclosure Required. Disclosure is required to carry out a provision of the act (Sections 66-317--66-355, Idaho Code) (Section 66-348, Idaho Code); (11-24-77)

03. Financial Standing. To determine financial standing of a patient (Sections 66-351, 66-354, Idaho Code); (11-24-77)

04. Designated Examiners. To designated examiners in civil commitment hearings (Section 66-329(g), Idaho Code); (11-24-77)

05. Issuing Court. To the court which originally issued the involuntary commitment order advising conditional release, discharge or rehospitalization (Sections 66-337 and 66-338, Idaho Code); (11-24-77)

06. Court Order. The court order that disclosure is necessary and that failure to disclose would be contrary to the public interest (Section 66-348, Idaho Code). (11-24-77)

111. MEDICAL CARE FACILITIES AND HEALTH PLANNING.

01. Disclosure Under National Health Planning and Resource Development Act of 1974. Information received by the Department in connection with the performance of its functions under this Act, and returned by the Agency as evidence of its functions, policies, decisions, procedures, operations, programs or other activities under this Act, must be made available for inspection to and copying by the public. Information which must be disclosed includes publications, brochures, pamphlets, punch cards, magnetic tapes, minutes, staff manuals, slides, photographs or other documentary materials, regardless of physical form or characteristics. Provider identifying information including financial and personnel data must also be disclosed. The Department will maintain an index of records and data on file, which will be available for public review (42 U.S.C. 300m-l(b)(6); Proposed 42 CFR 123.109).

(11-24-77)

02. Licensing. Information received by the Department or Board through field reports, inspections or as otherwise authorized by law, must not be disclosed to the public with identifying information of patients or residents of hospitals, except in a licensure proceeding (Section 39-1312, Idaho Code).

(11-24-77)

03. Medical Societies or In-House Committees.

(12-31-91)

a. Except as provided in Subsection 111.03.b., to encourage research, discipline and medical study, to reduce morbidity and mortality, and to improve the standards of medical practice, all written records of interviews, reports, statements, minutes, memoranda, charts and physical materials relating to research, discipline or medical study of any in-hospital medical staff committee or medical society, must not be disclosed directly or indirectly to any court even by subpoena or discovery proceedings, or to any administrative body, agency or person. Other dissemination for medical purposes or for use in medical society or hospital proceedings is excepted from this section, as is the original medical record of any patient (Section 39-1392b, Idaho Code).

(12-31-91)

b. In the event of a claim of civil action against a physician or a hospital ensuing out of a particular physician-patient or hospital-patient relationship, or which concerns the sufficiency of the delivery of particular health care to a specific patient, any medical or hospital society must disclose information pursuant to Section 39-1392e, Idaho Code.

(11-24-77)

112. PUBLIC ASSISTANCE.

Publication of lists of names and addresses must not be disclosed except for purposes directly connected with the administration of public assistance. Public assistance as defined in Section 56-201(e), Idaho Code, will include general assistance, old age assistance, aid to the blind, aid to dependent children, aid to the permanently and totally disabled and medical assistance (Section 56-221, Idaho Code - for language concerning specific Titles of the Social Security Act, see Sections 113 through 117).

(12-31-91)

113. AID FOR (TITLE IV-A) DEPENDENT CHILDREN--STATE PLAN REQUIREMENTS.

The release or use of any information as defined in Subsection 113.05 concerning individuals applying for or receiving financial assistance or services is restricted to persons or agency representatives subject to standards of confidentiality comparable to those of this Department. In addition, disclosure is restricted to specific purposes and recipients set out below. Particular and more severe restrictions on wage information received by the Department are found in Subsection 113.08.

(12-31-91)

01. Limitation on Disclosure. A state plan under Title IV-A must provide that disclosure of information concerning applicants and recipients of aid for dependent children must be limited to purposes directly connected with the following programs:

(11-24-77)

a. Title I (Grants - Old Age Assistance); or

(11-24-77)

b. Intra-program (Title IV-A); or

(11-24-77)

c. Title IV-B (Child Welfare Services); or

(11-24-77)

d. Title IV-C (Work Incentive Program); or

(11-24-77)

- e. Title IV-D (Child Support Enforcement); or (11-24-77)
- f. Title X (Grants-Aid to the Blind); or (11-24-77)
- g. Title XIV (Grants-Aid to the Permanently and Totally Disabled); or (11-24-77)
- h. Title XVI AABD (only for Puerto Rico, Virgin Islands, and Guam); or (11-24-77)
- i. Title XVI (Supplemental Security Income); or (11-24-77)
- j. Title XIX (Medical Assistance); or (11-24-77)
- k. Title XX (Grants-Services) (45 CFR 205.50(a)). (11-24-77)
- 02. Purposes of Disclosure. Pursuant to Subsection 113.01, purposes of disclosure include: (12-31-91)
 - a. Establishing eligibility; or (12-31-91)
 - b. Determining the amount of assistance; or (12-31-91)
 - c. Providing services for applicants and recipients (45 CFR 205.50(a)(1)(i)(A)); or (12-31-91)
 - d. For IV-A program purposes only, furnishing to a state or local law enforcement official upon his written request, the current address of any recipient of aid for dependent children if the officer provides the Department with such recipient's name and social security account number and provides proof that: (8-19-85)
 - i. Such recipient is a convicted fugitive felon, an indicted fugitive felon, or a person for whom a fugitive warrant has been issued; and (8-19-85)
 - ii. Location or apprehension of such felon or person is within the officer's official duties; and (8-19-85)
 - iii. The request is made in the proper exercise of those duties. (8-19-85)
- 03. Federally Assisted Programs. Information must be disclosed to, and in direct connection with, the administration of any federal or federally-assisted program which provides assistance (in cash or kind) or services directly to individuals on the basis of need. Identifying information of an applicant or recipient must not be disclosed to any federal, state or local committee or legislative body. Certification of receipt of aid for dependent children to an employer for purposes of claiming tax credit under the Tax Reduction Act of 1975 is considered to be directly connected with the administration of a plan under Title IV-A (45 CFR 205.50(a)(1)(c)). (11-24-77)
- 04. Court Actions, Investigations. Information concerning applicants and recipients of such programs listed above may be disclosed in direct connection with any investigation, prosecution, or civil or criminal proceeding conducted in connection with any of the programs set out in Subsection 113.01. (45 CFR 205.50). (12-31-91)
- 05. Contents To Be Safeguarded by Department. Types of information to be disclosed only as provided in Subsections 113.01 and 113.02 include but are not limited to: (12-31-91)
 - a. The names and addresses of applicants and recipients, and the amounts of assistance provided; (11-24-77)
 - b. Information related to the social and economic conditions or circumstances of a particular individual; (11-24-77)
 - c. Agency evaluation of information about a particular individual; (11-24-77)
 - d. Medical data, including diagnosis and past history of disease or disability, concerning a particular

individual (45 CFR 205.50(a)(2)(i)). (11-24-77)

06. Identifying Information Prohibited. Unless specifically authorized by law, publication of lists or names of applicants and recipients of aid for dependent children is prohibited (45 CFR 205.50(a)(1)(iii)). (11-24-77)

07. Notice to Child Support Enforcement. Notice must be given to Child Support Enforcement within two (2) working days whenever AFDC is furnished with respect to any child who has been deserted or abandoned by a parent. Such notice will include a copy of the AFDC case record, or all relevant information as prescribed by Child Support Enforcement (45 CFR 235.110). (11-24-77)

08. Wage Information. Wage information is that information which includes information about wages and/or self-employment income, as defined in Title II of the Social Security Act, and about the home, address, and employer identification number of an employer reporting wages for social security purposes. (8-14-78)

a. Wage information may only be disclosed as follows: (12-31-91)

i. Any wage information may be disclosed to the individual who is the subject of the information; and (8-14-78)

ii. An applicant or recipient may be given wage information about other applicants or recipients in the same family, if the information is needed in connection with an AFDC claim; and (8-14-78)

iii. Wage information about an applicant or recipient or someone else in his family may be given to an attorney or other person representing him, if the information is needed in connection with an AFDC claim; and (8-14-78)

iv. Wage information may be disclosed to another state or local agency or official who needs the information for a purpose described in Subsection 113.02.a. and 113.02.b.; and (12-31-91)

v. Any wage information may be released without restriction if the information has become public in a court proceeding. (8-14-78)

b. Wage information may not be: (12-31-91)

i. Given to Departmental employees or officials who do not need the information in connection with determining an individual's eligibility for aid or services, or the amount of such aid or services as it relates to the administration of the AFDC programs; or (8-14-78)

ii. Used by the Department for any purpose other than determining an individual's eligibility for aid or services, or the amount of such aid or services as it relates to the administration of the AFDC program. (8-14-78)

c. Wage information must be physically stored as follows: (12-31-91)

i. The information must be stored in a place physically secure from access by unauthorized persons; and (8-14-78)

ii. Information in electronic format, such as magnetic tapes or discs, must be stored and processed in such a way that unauthorized persons cannot retrieve the information by means of computer, remote terminal, or other means. (8-14-78)

114. TITLE IV-D (CHILD SUPPORT ENFORCEMENT) - STATE PLAN REQUIREMENTS.

01. Purposes and Recipients of Disclosure. The use or disclosure of information concerning applicants or recipients of child support enforcement services must be limited to purposes directly connected with: (12-31-91)

a. The administration of an approved program under parts A, B, C or D or Title IV, Titles II, X, XIV, XVI, XIX, XX or the supplemental security income program established under Title XVI; (11-24-77)

b. Any investigations, prosecutions, or criminal or civil proceedings conducted in connection with the administration of the programs listed in Idaho Department of Health and Welfare Rules, IDAPA 16.05.01, Subsection 113.01; (11-24-77)

c. The administration of any federal or federally assisted program which provides assistance (in cash or in kind) or services directly to individuals on the basis of need (45 CFR 302.18(a)). (11-24-77)

02. Disclosure to Federal, State or Local Committee or Legislative Body. No disclosure of information that identifies by name or address any applicant or recipient may be made to federal, state or local legislative bodies. (45 CFR 302.18(b)). (11-24-77)

03. Requests for Information from the Federal Parent Locator Service (PLS). Any information obtained by the Department from the PLS must comply with the requirement of 45 CFR 205.50 (See Section 113) (45 CFR 302.70(e)(2)). (12-31-91)

04. Cooperation with Other States. (11-27-77)

a. Referrals to Idaho's IV-D Agency. For all cases referred to Child Support Enforcement within the Department by another state under their IV-D plan for assistance in locating an absent parent, establishing paternity or securing support for a child in that state, the Department must periodically inform that state of the status of the case, and inform upon request. (11-24-77)

b. Referrals from Idaho's IV-D Agency. For all cases referred by Child Support Enforcement within the Department to a IV-D agency of another state, the Department must provide information including but not limited to: (12-31-91)

i. Whether case involves a recipient receiving assistance under Idaho's IV-A plan; (11-24-77)

ii. The amount of current assistance payment, if any; (11-24-77)

iii. Notice of termination of eligibility for assistance; and (11-24-77)

iv. Other information prescribed by the Office of Child Support Enforcement, U.S. Department of Health, Education and Welfare. (11-24-77)

c. Referrals from Idaho's IV-D Agency Requiring Location Activities. For all cases referred by Child Support Enforcement within the Department to a IV-D agency of another state, the Department must provide information including but not limited to the absent parent's social security number and other identifying information to the extent available (45 CFR 303.7). (11-24-77)

115. TITLE V (MATERNAL AND CHILD HEALTH AND CRIPPLED CHILDREN'S SERVICES) -- STATE PLAN REQUIREMENTS.

All information as to personal facts and circumstances obtained by the Department must not be disclosed without the individual's consent except as necessary to provide services to mothers and children. Information may be disclosed in summary, statistical or other form without identifying information (42 CFR 51a.112). (11-24-77)

116. TITLE XIX (MEDICAL ASSISTANCE) - STATE PLAN REQUIREMENTS.

Except as provided below, the Department must comply with the requirements of 45 CFR 205.50(a) as set out in Section 113, and also with Section 112, but disclosure is limited to purposes directly connected with the administration of its own medical assistance program. (12-31-91)

01. Providers of Health Care Services and Contractors. With respect to any health care facility, laboratory, agency, clinic or organization providing health care services in Idaho's medical assistance programs, documents subject to disclosure include: (12-31-91)

a. Survey reports prepared after January 31, 1973, by this Department to be made available upon

request immediately upon determination of eligibility, but in no case later than ninety (90) calendar days following the completion of the survey; or (11-24-77)

b. Official notification of findings prepared by the Department based on such reports, or any pertinent parts of written statements relating to such reports; (11-24-77)

c. Findings furnished by the provider to the Department; (11-24-77)

d. Upon request, information regarding ownership of particular skilled nursing facilities (see 20 CFR 405.1121(a)), and of particular nursing care facilities (see 45 CFR 249.33(a)(3)). (11-24-77)

e. Statements listing all deficiencies in compliance with pertinent health and safety regulations, to be available both in regional office where the provider is located and in urban areas as necessary, to provide ready access of information for persons likely to utilize the provider's services (45 CFR 250.70(a)(1-4)). (11-24-77)

02. Provider's Opportunity to Review and Comment. The documents listed below prepared after January 31, 1973, and made available by the Secretary of Health, Education and Welfare to this Agency pursuant to 42 U.S.C. 1106(d), must not be disclosed until the provider of services or contractor has had a reasonable opportunity (not exceeding thirty (30) days) to review such reports and offer comments which must then be incorporated in the public report: (11-24-77)

a. Individual contract performance reviews and other formal evaluations, including the reports of follow-up reviews; and (11-24-77)

b. Comparative evaluations of the performance of such contractors, including comparisons of either overall performance or of any particular aspect of contractor performance; and (11-24-77)

c. Program validation survey reports and other formal evaluations of the performance of providers of services, including the reports of follow-up reviews (45 CFR 250.70(b)(1-3)). (11-24-77)

03. Reports Made Public Under Subsection 116.02. These reports may not contain any identifying information of individual patients, individual health care practitioners, or other individuals (45 CFR 250.70(b)). (12-31-91)

04. Fraud in the Medical Assistance Program. The Department must disclose to the Health Care Financing Administration at prescribed intervals: (12-31-91)

a. The number of complaints of fraud and abuse made to the Department which warrant a preliminary investigation; (11-24-77)

b. The name and provider number (social security number or employer identification number) of each case of suspected fraud and abuse which warrants a complete investigation and the following information:(12-31-91)

i. The source of the allegation; and (11-24-77)

ii. The type of provider; and (11-24-77)

iii. The nature of the allegation; and (11-24-77)

iv. The approximate range of dollars involved; and (11-24-77)

v. The legal and administrative disposition of the case, including actions taken by law enforcement officials to whom a case has been referred. (11-24-77)

c. A summary of the data reported under Subsection 116.04.b. (45 CFR 250.80). (12-31-91)

117. TITLE XX (GRANTS - SERVICES) - STATE PLAN REQUIREMENTS.

The Department must comply with the requirement of 45 CFR 205.50(a) as set out in Section 113 except that disclosure under Title XX must be limited to purposes directly connected with the administration of the Title XX program, and with programs under Titles IV-A, IV-B, XVI (Supplemental Security Income) and XIX (45 CFR 205.50(c)). (12-31-91)

118. VENEREAL DISEASE.

01. Report of Venereal Disease to Health Authorities. Reports to the Director of the existence of syphilis, gonorrhea, and chancroid must be made using only a number which corresponds to the name of the patient being treated. Identifying information must not be disclosed (Section 39-606, Idaho Code). (11-24-77)

02. Premarital Serological Test. The detailed report, containing the result of a serological blood test for syphilis administered prior to issuance of any marriage license, must not be disclosed either within the Department or to the public (Section 32-415, Idaho Code). (11-24-77)

119. VITAL STATISTICS -- STATEMENT OF AUTHORITY.

The Board promulgates rules governing the disclosure of records pursuant to Title 39, Chapters 1, 2, and 54, Idaho Code, and related to Idaho Department of Health and Welfare Rules, IDAPA 16.02.08, Section 000, "Vital Statistics Rules". (5-7-93)

01. Policy and Authority for Disclosure. The State Registrar or local registrars of vital records shall not permit inspection of, or disclose information contained in vital statistics records, or copy or issue a copy of all or part of any such record unless the State Registrar is satisfied that disclosure to the applicant is authorized by these rules or other applicable laws. (12-26-83)

02. Disclosure to Persons With Direct and Tangible Interest. (5-7-93)

a. Except as otherwise provided in these rules, persons with a direct and tangible interest shall include only: the registrant, his spouse, children, parents, grandparents, grandchildren, siblings, the registrant's guardian, a person conducting genealogical research on the person's own family, or their respective authorized representative. Others may be authorized to obtain certified copies when they demonstrate that the record is needed for the determination or protection of their property right. (5-7-93)

i. The term "authorized representative" shall include an attorney, physician, funeral director, or other designated agent acting on behalf of any person with a direct and tangible interest defined in these rules. The term "designated agent" shall include an entity whose purpose for obtaining the record is to pay direct benefits to a person with a direct and tangible interest. (5-7-93)

ii. The term "parents" shall not include a natural parent of an adopted person if such parent's parental rights have been terminated. (5-7-93)

iii. If a deceased registrant is not survived by a family member listed in Subsection 119.02.a., the surviving next-of-kin shall be deemed to have a direct and tangible interest. (5-7-93)

b. Persons with a direct and tangible interest shall also include the Attorney General for the state of Idaho, a county prosecuting attorney of any county within the state, or the United State Attorney for the District of the state of Idaho, if such attorney submits to the State Registrar an application and an affidavit affirming that: (12-26-83)

i. Disclosure of the vital record is necessary for evidence in the prosecution of a felony for which a charge or indictment has been filed; (12-26-83)

ii. Such evidence is not reasonably available from another source; and (12-26-83)

iii. The affiant will request the court to take reasonable actions to preserve the confidentiality of the record. (12-26-83)

c. Vital records may be disclosed to any person upon the order of an Idaho court of competent jurisdiction, if the court determines that the person has a direct and tangible interest in the record and disclosure of the record is necessary in the interest of justice. (12-26-83)

03. Disclosure for Verification of Data. (12-26-83)

a. Verification of the facts contained in a vital record may be given by the State Registrar to any federal, state, county, or municipal agency. (12-26-83)

i. The State Registrar shall only confirm or deny the presence and accuracy of data already known to the agency requesting the information. (12-26-83)

ii. Such verifications shall be confidential and shall be on forms prescribed and furnished by the State Registrar, on forms furnished by the requesting agency and acceptable to the State Registrar, or in such other manner as the State Registrar determines to be in the best interest of the State Registrar or the Department. (12-26-83)

04. Disclosure for Research, Public Health or Statistical Purposes. The State Registrar may permit the use of data from vital statistics records for research, public health or statistical purposes, subject to such conditions as the State Registrar may impose. Such data shall not be furnished for such purposes until the applicant or its agent has signed an agreement specifying the conditions under which the records or data will be used and agreeing to meet and conform to such conditions. (12-26-83)

a. The definitions of terms for the purpose of this Section 119, shall be as follows: (12-31-91)

i. Research: organized scientific inquiry or examination of data in order to discover and interpret facts. (12-26-83)

ii. Statistical purposes: the collection, analysis, interpretation and presentation of masses of nonidentifying numerical information. (12-26-83)

iii. Public Health: the science and art of preventing disease; prolonging life, or promoting health and efficiency through organized community effort for the sanitation of the environment; the control of communicable infections, the education of the individual in personal hygiene; the organization of medical and nursing services for the early diagnosis and preventive treatment of disease, and/or the development of the social machinery to ensure everyone a standard of living adequate for the maintenance of health, so organizing these benefits as to enable every citizen to realize his birthright of health and longevity. (12-26-83)

iv. Identifying information: the name, address, social security number or other information by which the identity of a person can be determined with reasonable speed and accuracy. (12-26-83)

b. In the event identifying information is required for research, public health, or statistical purposes, the State Registrar must, within three (3) days of receipt of the written request, submit both the request and the project description to legal counsel assigned to the Department for review of confidentiality issues. Legal counsel must respond to the proposal within ten (10) days of receipt. Following the recommendation from legal counsel, the decision regarding acceptability of the proposal will be made by the State Registrar. If the decision is in conflict with the recommendation of the legal counsel, the proposal and recommendation will be forwarded by the State Registrar to the Director for final determination. (12-26-83)

c. If a request for access to identifying information for research, public health, or statistical purposes involves areas that in the opinion of the State Registrar are highly sensitive, the request can be denied on the grounds that the benefits would be outweighed by the possible adverse consequences to those individuals whose records would be used. (12-26-83)

05. When Records Become Public. When one hundred (100) years have elapsed after the date of birth or fifty (50) years have elapsed after the date of death, stillbirth, marriage, or divorce, the records of these events in the custody of the State Registrar shall become public records. Any person may obtain copies of such records, upon

submission of an application containing sufficient information to locate the record. For each copy issued or search of the files made, the State Registrar shall collect the same fee charged for the issuance of certified copies or for a search of the files for other records in the State Registrar's possession. (12-26-83)

06. Required by Statute. Records may be disclosed upon legitimate request if required by Idaho statute(s) other than Title 39, Chapters 1 and 2, Idaho Code. (12-26-83)

07. Disclosure - Registry of Putative Fathers. Except by Idaho court order or in accordance with the provisions of Section 16-1513, Idaho Code, the information acquired by the confidential registry of putative fathers shall not be disclosed under Public Record Law, Sunshine or Freedom of Information legislation, rules or practice. (1-10-86)

08. General Procedures for Disclosure of Vital Records. (12-26-83)

a. The State Registrar shall not issue a certified copy of a record or disclose information contained on a vital record until a signed application has been received from the applicant. Whenever it shall be deemed necessary to establish an applicant's right to information from a vital record, the State Registrar may also require identification of the applicant, an affidavit, or additional information about the applicant or the record being sought. (12-26-83)

b. An expedited certified copy of a vital record may be issued using proprietary telecommunications services only when the applicant can be served no other way and direct and tangible interest is established via telephone communication. A valid credit card in the name of the applicant will support identification and initiate such issuance. The applicant must immediately provide the State Registrar with a personally signed mail request for the document. If no certificate is found for the applicant, a charge will be made for the search of the file. (1-10-86)

c. Nothing in these rules shall be construed to permit disclosure of information contained in the "Information for Medical and Health Use Only" section of the birth or stillbirth certificate unless specifically authorized by the State Registrar for statistical, public health, or research purposes; or if ordered by an Idaho court of competent jurisdiction. (12-26-83)

d. Full or short form certified copies of vital records may be made by mechanical, electronic, or other reproduction processes, except that the information contained in the "Information for Medical and Health Use Only" section of the birth or stillbirth certificate shall not be included. (12-26-83)

e. When a certified copy is issued, it shall be certified as a true copy or abstract of the original vital record by the officer who has custody of the record and shall include the date issued, the State Registrar's signature or an authorized facsimile thereof, and the seal of the issuing office. (12-26-83)

f. If the State Registrar finds evidence that a certificate was registered through misrepresentation or fraud, the State Registrar has authority to withhold the issuance of a certified copy of such certificate, pending determination of the facts. (12-26-83)

09. Accountability for Disclosure of Records. A separate record shall be made by the State Registrar of disclosure of any vital record, as follows: (12-26-83)

a. When a record is disclosed to a person with direct and tangible interest, an accounting must be made to indicate the identity of the recipient. This accounting must be retained six (6) months and must be made available to any person with a direct and tangible interest, upon request; (12-26-83)

b. When verifying facts contained in a vital record to any federal, state, county, or municipal agency, no accounting must be made; (12-26-83)

c. When the disclosure is made for research, public health, or statistical purposes, a copy of the initial written request must be retained by the Vital Statistics Unit at least five (5) years; (12-26-83)

d. When records become public, one hundred (100) years after birth or fifty (50) years after death, stillbirth, marriage, or divorce, the application of the recipient will be kept on file for six (6) months and is also a

- public record; (12-26-83)
- e. When disclosure is required by other Idaho statute(s), accounting must be made in accordance with that statute. (12-26-83)

120. (RESERVED).

121. WOMEN, INFANTS AND CHILDREN PROGRAM (WIC).

The special supplemental food program for women, infants and children must maintain full and complete records concerning program operations. (11-24-77)

01. Inspection of Records by Federal Representatives. All records must be available to the representatives of USDA and of the General Accounting Office of the United States for inspection, audit and copying during normal business hours. Medical case records of individual recipients, however, must remain confidential (7 CFR 246.9(a)(2)). (11-24-77)

02. Limitations on Public Access. Unless otherwise required by law, the USDA must not require the Department to limit public access to its records of the WIC program except that records may be withheld: (11-24-77)

- a. To prevent a clearly unwarranted invasion of personal privacy; (11-24-77)
- b. Where specifically required by law; (11-24-77)
- c. Where commercial or financial information was obtained from a person or organization on a privileged or confidential basis (7 CFR 246.3(a)(1); Federal Management Circular 74-7). (11-24-77)

03. Use of Information by Food and Nutrition Service (FNS). The Food and Nutrition Service, U.S. Department of Agriculture, has the right to use information obtained under a WIC program in a summary, statistical or other form which does not contain identifying information (7 CFR 246.21 (c)). (11-24-77)

122. YOUTH REHABILITATION.

01. Grants. (12-31-91)
- a. All information obtained by a grantee as to personal facts about individuals served by the coordinated youth services system, including lists of names, addresses and records of evaluation, must not be disclosed except as provided in Subsection 120.01.b. (12-31-91)
- b. The use of such information must be limited to purposes directly connected with the youth services system and must not be disclosed directly or indirectly other than in their administration except with the written consent of both the Department providing the information and the individual to whom the information applies, or his legal representative. (12-31-91)
- c. Descriptive material or evaluation reports of the youth services project may not reveal any identifying information except with the written consent of the patient or client to whom the record pertains, or his representative (45 CFR 1350.61(c)). (12-31-91)

02. Commitment of Child to the Board. The records of commitment of a child under eighteen (18) years of age to the Board must not be disclosed unless: (12-31-91)

- a. With the consent of the Board; or (11-24-77)
- b. To the child, his parents, guardian or attorney (Section 16-1840, Idaho Code). (12-31-91)

123. -- 199. (RESERVED).

200. ACCESS OF A PATIENT OR CLIENT TO HIS OWN RECORD.

An adult patient or client or one (1) over the age of fourteen (14) must be allowed access to his own records in the possession of the Department subject to the exceptions provided in Section 201. Patients or clients under fourteen (14) years of age or who are incapacitated or incompetent may have access only through a representative. (12-31-91)

01. General Methods for Requesting Access. Except for those special provisions for minor or incapacitated patients or clients set out in Subsections 200.02 and 200.03 and the provisions for clients who are applicants for or recipients of food stamps and/or public assistance set out in Section 210 the following section applies: (12-31-91)

a. Any request made in person for access to a record must be in writing and contain the patient's or client's name, address, age, the specific record or substance of information desired, any other person outside the Department authorized to receive such information, and must bear the signatures of both the requesting individual with the date of the request and the appropriate Department official accepting or denying the request. The request must be accompanied by at least one (1) piece of sufficient identification. (11-24-77)

b. Patients or clients of the Department who are unable to make the request in person may request access to their records either: (12-31-91)

i. Through an authorized representative who presents a notarized writing substantially complying with the requirements of Subsection 200.01.a., and including a statement authorizing receipt of the information by the person presenting the statement; or (12-31-91)

ii. By mailing a notarized writing substantially complying with the requirements of Subsection 200.01.a. (12-31-91)

02. Minor Patient or Client Requesting Access. A minor between the ages of fourteen (14) and eighteen (18) has the same right of access to his own record as an adult. For a minor under the age of fourteen (14) a parent, legal guardian or custodian must act on behalf of the minor in requesting access. A parent, legal guardian or custodian who makes a request for access on behalf of a minor under fourteen (14) years of age must: (12-31-91)

a. Verify his relationship to the minor by providing a copy of the minor's birth certificate or court order or other competent evidence of such relationship; and (12-31-91)

b. Verify his own identity by providing at least one (1) piece of sufficient identification. (12-31-91)

03. Incapacitated or Incompetent Patient or Client Requesting Access. A parent, spouse, child over the age of eighteen (18), legal guardian or custodian must act on behalf of an incapacitated or incompetent patient or client in requesting access. Any person who makes a request for access to a record on behalf of an incapacitated or incompetent patient or client must: (12-31-91)

a. Verify his guardianship or conservatorship with a copy of the appropriate court order; or (12-31-91)

b. Verify his personal relationship; and (12-31-91)

c. Verify his own identity by providing at least one (1) piece of sufficient identification. (12-31-91)

201. INFORMATION WHICH MUST BE PROTECTED.

The following types of information cannot be released to the patient or client requesting access to his own record: (12-31-91)

01. Identifying Information of Supplier. Identifying information of a person not a patient or client of the Department to whom the record pertains who supplied data; or (11-24-77)

02. Information of Non-patients. Information received in the course of the administration of a program about a person not a patient or client of the Department to whom the record pertains; or (11-24-77)

03. Information Detrimental to Health. Information which the appropriate Department official reasonably determines to be detrimental to the mental or physical well-being of the patient or client; or (11-24-77)

04. Information Acquired Under Limitation. Information which the Department must agree to hold confidential before acquiring; or (11-24-77)

05. Working Papers. The working papers of all Department personnel, including but not limited to auditors, therapists, physicians or psychologists, caseworkers, social workers, attorneys and eligibility examiners. (11-24-77)

202. DENIAL OF REQUEST FOR ACCESS TO OWN RECORD.

The only reasons sufficient to justify denial of a request by a patient or client of this Department for access to his own record are listed in Section 201. The appropriate Department official making the denial must either retain in the record the request itself and make a specific notation of the reason for the denial, or must copy the pertinent facts from the request, adding the reason for the denial and place this in the record with his signature. (12-31-91)

203. REVIEW OF RECORD BY PATIENT OR CLIENT.

The individual making the request for access to the record of a patient or client of the Department once proper identification and/or authorization has been given, must not remove the original record from the presence of the responding Department official. (12-31-91)

204. CORRECTION OR DELETION OF ERRONEOUS INFORMATION.

Any patient or client of the Department or his representative may challenge the accuracy of the information in the record which pertains to him. If the record is shown to be in error, the Department must see that the record is corrected and provide notification of such error to any person or entity who received the erroneous information. In any event, the patient or client will be allowed to insert into the file an explanatory statement which must be signed and dated. (12-31-91)

205. -- 209. (RESERVED).

210. CLIENT ACCESS TO OWN CASE FILE FOR PUBLIC ASSISTANCE AND FOOD STAMP PROGRAM PURPOSES.

01. In General. For purposes of food stamps and for purposes of public assistance (Aid to Families with Dependent Children, Aid to the Aged, Blind and Disabled, and Medical Assistance), the contents of the client's eligibility case file is to be made available to the client or his authorized representative for review at the Field Office during normal working hours. (2-1-87)

02. Reasonable Request. The client must request access to his case file at a reasonable time prior to his actual review. (2-1-87)

a. The client's request is considered reasonable if he or his authorized representative provides notice of his wish to review his case file to the Field Office at least twenty-four (24) hours in advance. (2-1-87)

b. A request for access less than twenty-four (24) hours in advance will be honored when his request for review can be accommodated without advance notice. (2-1-87)

03. Access of Authorized Representative. An authorized representative's review of the client's case file must be according to the criteria in Section 300 except where the authorized representative is at the hearing presenting the client's case. (12-31-91)

04. Information Protected from Disclosure. The following confidential information which may be in the case file must be protected from disclosure to the client or his authorized representative: (2-1-87)

a. The names of individuals who have disclosed information about the client without the client's knowledge; (2-1-87)

- b. The nature or status of an investigation which is expected to result in a criminal prosecution against the client; (2-1-87)
- c. Information which the Department must agree to hold confidential before acquiring; (2-1-87)
- d. Working papers of all Department personnel; (2-1-87)
- e. Information about an individual who is not the client to whom the record pertains; and (2-1-87)
- f. Any other information specifically protected from release. (2-1-87)

211. -- 299. (RESERVED).

300. REQUEST FOR DISCLOSURE OF ANOTHER INDIVIDUAL'S RECORD.

01. Form of Request. Except as provided in Subsection 300.04, any request for information pertaining to a patient or client of the Department made by one (1) other than that person must be in writing and contain the name of the patient or client, the name and address of the requestor, the extent or nature of the information sought, the duration of time for which such information is sought, the reason(s) in detail for seeking disclosure, and the signatures of both the requestor and the appropriate Department official accepting or denying the request. This form need not be used in Interdepartmental Requests For Information unless and until an administrator denies the request of another administrator, and documentation must be prepared for the Director. (12-31-91)

02. By Governmental Entity. A governmental entity seeking disclosure without the consent of the patient or client must show that the activity for which the information is sought and its subsequent transferal is specifically authorized by law. It must also prove to the appropriate Department official accepting the request that it is subject to or will comply with confidentiality standards comparable to applicable rules of the Department. (See also Section 330). (12-31-91)

03. By Individual or Private Organization. Any individual seeking disclosure of information pertaining to a patient or client of the Department must give written assurance to the appropriate Department official accepting the request that the information received will not be disclosed to any other individual or entity. Private organizations must prove to the appropriate Department official accepting the request that they are subject to or will comply with confidentiality standards comparable to those of the Department. (11-24-77)

04. Exception to Written Request Requirement. A verbal request for information pertaining to a Department client can be honored only under the following circumstances: (2-22-88)

a. The requestor is another state governmental agency which administers the public assistance programs of AFDC, AABD or Medicaid or which administers the Food Stamp Program; and (2-22-88)

b. The individual about whom the information is sought is an applicant for or recipient of public assistance or foodstamps in the other state; and (2-22-88)

c. The request is for the purpose of establishing eligibility or determining the amount of assistance by the individual, if any, and/or his eligibility period in Idaho, if any. (2-22-88)

05. Documentation of Response to Verbal Request. Whenever a verbal request for information is honored pursuant to Subsection 300.04, the contact must be documented. (12-31-91)

a. The documentation must include the name of the requestor, his title, the agency he represents, his telephone number and the name and Social Security number of the individual to whom the request pertains. (2-22-88)

b. The person responding to the verbal request must sign and date the document. (2-22-88)

c. The documentation of the verbal release of information is to be filed in the individual's case record if he is a Department client. (2-22-88)

d. For an individual who is not a Department client, the documentation of verbal release of information must be kept on file in the unit which released the information for no less than one (1) year following the release date. (2-22-88)

301. DISCLOSURE WITH CONSENT.

Any information maintained in the departmental records may be disclosed with the conditional or general consent of the patient or client to whom the record applies subject to the following provisions: (12-31-91)

01. State and Federal Mandates. State and federal mandates specifically address disclosure with consent in the following areas: (11-24-77)

a. Alcoholism, which for alcohol and drug abuse patients, is addressed by 42 CFR 2.12 as incorporated by reference in Subsection 103.02; (12-31-91)

b. Child Protection, which for programs under the Child Abuse Prevention and Treatment Act of 1974 may disclose pursuant to 45 CFR 1340.2-5(b) as restated in Subsection 105.03.b.; (12-31-91)

c. Developmental Disabilities, which may disclose pursuant to 45 CFR 416.37 as restated in Section 106; (12-31-91)

d. Drug Abuse, which for federally-assisted programs may disclose pursuant to 21 U.S.C. 1175 as restated in Subsection 107.01.a.; and which for treatment of drug addicts may disclose pursuant to Section 37-3102, Idaho Code, as restated in Subsection 107.04; (12-31-91)

e. Family Planning Services, which may disclose pursuant to 42 CFR 59.10 as restated in Section 108; (12-31-91)

f. Hospitalization of the Mentally Ill, which may disclose pursuant to Section 66-348, Idaho Code, as restated in Subsection 109.02; (12-31-91)

g. Title V (Maternal and Child Health and Crippled Children's Services), which may disclose pursuant to 42 CFR 51 a.112 as restated in Section 115; (12-31-91)

h. Youth Rehabilitation, which for federal grants may disclose pursuant to 45 CFR 1350.61(c) as restated in Subsection 122.01.b.; and which for the commitment of a child to the Board may disclose pursuant to Section 16-1840, Idaho Code, as restated in Subsection 122.02. (12-31-91)

02. Patients or Clients Who May Give or Refuse Consent. Any patient or client other than a minor under the age of fourteen (14) or an incapacitated or incompetent person who is governed by Subsection 301.03, of ordinary intelligence and awareness sufficient for him generally to comprehend the need for, the nature of, and the significant risks ordinarily inherent in any disclosure of information is competent to consent to such disclosure on his own behalf. It is the responsibility of the appropriate Department official accepting the consent made in person to reasonably determine compliance with this section, after sufficient identification has been given. (12-31-91)

03. Persons Who May Give or Refuse Consent for Others. Consent for the disclosure of information for any patient or client of the Department not then capable of giving consent as provided in Subsection 301.02, or who is a minor under the age of fourteen (14) or incapacitated or incompetent person, may be given or refused by any competent parent, spouse, child over the age of eighteen (18), legal guardian or custodian after sufficient identification and verification of relationship have been given. If no such representative is available to do so, consent under particular circumstances, documented, dated and signed by the official, may be given by any competent relative or appropriate Department official. Nothing in this section can supersede the express refusal to disclose by a competent adult patient or client or one over the age of fourteen (14). (12-31-91)

04. Form of Conditional Consent. To be valid, any consent by the patient or client of the Department to

disclose his record must be given after a review of the actual written request, and must be on an appropriate form or in writing and must contain: (12-31-91)

- a. Name and address of the patient or client giving consent; and (11-24-77)
- and b. Title of the unit of the Department with possession of the record which is to make the disclosure; (11-24-77)
- c. The extent or nature of the information which he agrees to disclose; and (12-31-91)
- d. The specification of the duration or conditions upon which the consent is given; and (11-24-77)
- e. The date on which the consent is signed; and (11-24-77)
- f. The signature of the patient or client giving consent. (11-24-77)

05. Form of General Consent. A general consent by a patient or client to the disclosure of a record pertaining to him/her may be given. This consent authorizes the Department to release information in the future with no further contact with that patient or client. To be valid, any general consent must be on an appropriate form or in writing and must contain: (12-31-91)

- a. Name and address of the patient or client giving consent; and (11-24-77)
- b. Title of the unit of the Department with possession of the record which is to make disclosure; and (11-24-77)
- c. Statement allowing disclosure of information of any nature at any time and to any requesting person or entity; and (11-24-77)
- d. Statement that the information will be used only for purposes directly connected with the health, safety and welfare of patient or client, past or present, as determined by the Department; and (11-24-77)
- e. Date on which consent is signed; and (11-24-77)
- f. Signature of the patient or client giving consent. (11-24-77)

06. Deficient Conditional or General Consent. No disclosure of information may be made on the basis of a form or writing which: (12-31-91)

- a. Fails in any particular to conform to all requirements of Subsections 301.04 or 301.05; or (12-31-91)
- b. Is known by the Department official accepting the consent to be false in any respect or is known to be made under duress or by mistake. (11-24-77)

302. DECEASED PATIENTS OR CLIENTS.

Records of a deceased patient or client may be disclosed in response to a request based on a direct and tangible interest subject to the following provisions: (12-31-91)

- 01. Blood Tests, Motor Vehicle Fatalities. The disclosure of tests is governed by Section 49-1016, Idaho Code, as restated in Section 104; (12-31-91)
- 02. Drug Abuse. Records maintained in connection with a drug abuse program directly or indirectly assisted, regulated or conducted by any federal agency or department are governed by 21 U.S.C. 1175 as restated in Section 107.; and (12-31-91)
- 03. Hospitalization of the Mentally Ill. Records maintained in connection with the hospitalization of

the mentally ill are governed by Section 66-348, Idaho Code, as restated in Section 109; and (12-31-91)

04. Protected Information. The following information may not be disclosed: (12-31-91)

a. Identifying information of a person not a patient or client of the Department to whom the record pertains who supplied data; (11-24-77)

b. Information received in the course of the administration of any program about an individual not a patient or client of the Department to whom the record pertains; (11-24-77)

c. Information which the appropriate Department official reasonably determines to be detrimental to the mental or physical well-being of the immediate family of the patient or client; (11-24-77)

d. Information which the Department must agree to hold confidential before acquiring; (11-24-77)

e. Working papers of all Department personnel. (11-24-77)

303. -- 309. (RESERVED).

310. DISCLOSURE WITHOUT CONSENT.

Information may be disclosed without the consent of the patient or client to whom the information applies as provided in this rule. (11-24-77)

01. State or Federal Mandates. State or federal mandates either directly or indirectly address disclosure without consent in the following areas: (12-31-91)

a. Alcoholism and Intoxication Treatment, which is governed by Section 39-308, Idaho Code, as restated in Section 103; (12-31-91)

b. Blood Tests, Motor Vehicle Fatalities, which is governed by Section 39-308, Idaho Code, as restated in Section 104; (12-31-91)

c. Child Protection, for federal grants, disclosure is addressed by 45 CFR 1340.3-3(d)(5) as restated in Subsection 105.02 and for programs under the Child Abuse Prevention and Treatment Act of 1974, disclosure is addressed by 45 CFR 1340.2-5(a) and 45 CFR 1340.2-5(b) as restated in Subsection 105.02; however, because of more stringent requirements by the state for records of disposition or treatment of each patient or client over whom the Department has legal custody, disclosure is governed by Section 16-1623, Idaho Code, as restated in Subsection 105.03; for reports of child abuse to law enforcement agencies, disclosure is governed by Section 16-1619, Idaho Code, as restated in Subsection 105.04; for records of court proceedings made available to the Department, disclosure is governed by Section 16-1621, Idaho Code, as restated in Subsection 105.05; for social records involved in the termination of a parent-child relationship, disclosure is governed by Section 16-2013, Idaho Code, as restated in Subsection 105.06; (12-31-91)

d. Developmental Disabilities, which is governed by 45 CFR 416.27 as restated in Section 106; (12-31-91)

e. Drug Abuse, for federally assisted programs, disclosure is governed by 21 U.S.C. 1175 as restated in Subsection 107.01; for the Department's quarterly report, disclosure is governed by Section 37-3105, Idaho Code, are stated in Subsection 107.03; for the treatment of drug addicts, disclosure is governed by Section 37-3102, Idaho Code, as restated in Subsection 107.04; (12-31-91)

f. Family Planning Services, which is governed by 42 CFR 59.10 as restated in Section 108; (12-31-91)

g. Food Stamps, which is governed by 7 CFR 271.1(f) as restated in Section 109; (12-31-91)

h. Hospitalization of Mentally Ill, which is governed by Section 66-348, Idaho Code, as restated in

- Section 110; (12-31-91)
- i. Medical Care Facilities and Health Planning, for functions under the National Health Planning and Resource Developmental Act of 1974, disclosure is governed by 42 U.S.C. 300 m-1(b) (6) and proposed 45 CFR 123.09 as restated in Subsection 111.01; for licensing of medical care facilities, disclosure is governed by Section 39-1312, Idaho Code, as restated in Subsection 111.02; for medical societies or in-hospital medical staff committees, disclosure is governed by Sections 39-1392b and 39-1392e, Idaho Code, as restated in Subsection 111.03; (12-31-91)
 - j. Public Assistance, which is governed by Section 56-221, Idaho Code, as restated in Section 112; (12-31-91)
 - k. Title IV-A (Aid for Dependent Children), which is governed by 45 CFR 205.50 as restated in Section 113; (12-31-91)
 - l. Title IV-D (Child Support Enforcement), which is governed by 45 CFR 205.50 as restated in Section 114; (12-31-91)
 - m. Title V (Maternal and Child Health and Crippled Children's Services), which is governed by 42 CFR 51a.112 as restated in Section 115; (12-31-91)
 - n. Title XIX (Medical Assistance), which is governed by 45 CFR 205.50(b), 45 CFR 250.70, 45 CFR 250.80, and Section 56-221, Idaho Code, as restated in Sections 113, 116, and 112; (12-31-91)
 - o. Title XX (Grant-Services), which is governed by 45 CFR 205.50(c) as restated in Sections 113 and 117; (12-31-91)
 - p. Venereal Disease, for the premarital serological test, disclosure is governed by Section 32-415, Idaho Code, as restated in Subsection 118.02; (12-31-91)
 - q. Vital Statistics, which is governed by Section 39-264, Idaho Code, as restated in Section 119; (12-31-91)
 - r. Women, Infants and Children Program, which is governed by 7 CFR 246, as restated in Section 121; (12-31-91)
 - s. Youth Rehabilitation, in connection with federal grants, disclosure is governed by 45 CFR 1350.61(c) as restated in Subsection 122.01; in connection with the commitment of a child to the Board of Health and Welfare, disclosure is governed by Section 16-1840, Idaho Code, as restated in Subsection 122.02. (12-31-91)
02. Interdepartmental Disclosure of Information. Subject to the conditions set out in Section 320 disclosure of information is authorized within the Department. (12-31-91)
03. Interagency Disclosure of Information. Subject to the conditions set out in Sections 330 and 300, disclosure of information is authorized to any federal, state or local public or nonprofit agency. (12-31-91)
04. Medical Emergencies. Disclosure of information to medical personnel is authorized if necessary to meet a bonafide medical emergency. The appropriate Department official must, whenever possible, give notification of such emergency to the immediate family or to any person with whom the patient or client has established a responsible personal relationship. (11-24-77)
05. Life-endangering Situations. If a Department official or employee has reason to believe that an individual's behavior poses an imminent threat of substantial physical harm either to such individual, or others, the official is authorized to disclose information to necessary medical personnel, affected third parties and appropriate law enforcement personnel. (11-24-77)
06. Audits and Evaluations. Records maintained in connection with Departmental functions may be

disclosed to qualified personnel for the purpose of conducting management audits, financial audits or program evaluations. Such records may include information pertaining to any patient or client, corporation, partnership, proprietorship or other person providing services to the Department. Personnel receiving the information must not identify, directly or indirectly, any patient or client in any report of such audit or evaluation, or otherwise disclose individual identities in any manner. (11-24-77)

07. Nonidentifying Information. Consent is not required for the disclosure of information such as statistical or demographic material by which the identity of a patient or client cannot be determined with reasonable speed and accuracy. (11-24-77)

311. -- 319. (RESERVED).

320. INTRADEPARTMENTAL DISCLOSURE OF INFORMATION.

The disclosure of a Departmental record may be made to employees of the Department without the consent of the patient or client to whom the information applies subject to the following provisions: (12-31-91)

01. State or Federal Mandates. For certain programs, state or federal mandates rather than the general rule above, and its conditions as set out below in Subsection 320.02, regulate interdepartmental disclosure of information: (12-31-91)

a. Child Protection, which for federally-assisted programs is addressed by 45 CFR 1340.3(d)(5) as restated in Subsection 105.02, and by 45 CFR 1340.2-5(a) as restated in Subsection 105.03; (12-31-91)

b. Developmental Disabilities, which is governed by 45 CFR 416.27 as restated in Section 106; (12-31-91)

c. Drug Abuse, which for federally-assisted programs is governed by 21 U.S.C. 1175 as restated in Subsection 107.01; (12-31-91)

d. Family Planning Services, which is governed by 42 CFR 59.10 as restated in Section 108; (12-31-91)

e. Food Stamps, which is governed by 7 CFR 271.1(f) as restated in Section 109; (12-31-91)

f. Hospitalization of Mentally Ill, which is governed by Section 66-348, Idaho Code, as restated in Section 110; (12-31-91)

g. Hospital Medical Staff Committees, which are governed by Section 39-1392b, Idaho Code, as restated in Subsection 111.03.a.; (12-31-91)

h. Public Assistance, which is governed by Section 56-221, Idaho Code, as restated in Section 112; (12-31-91)

i. Title IV-A (Aid for Dependent Children), which is governed by 45 CFR 205.50 and 45 CFR 235.110 as restated in Section 113; (12-31-91)

j. Title IV-D (Child Support Enforcement), which is governed by 45 CFR 302.18(a) as restated in Subsection 114.01; (12-31-91)

k. Title V (Maternal and Child Health and Crippled Children's Services), which is governed by 42 CFR 51a.112, as restated in Section 115; (12-31-91)

l. Title XIX (Medical Assistance), which is governed by Section 56-221, Idaho Code, and 45 CFR 205.50 as restated in Sections 111, 113, and 116; (12-31-91)

m. Title XX (Grants-Services), which is governed by 45 CFR 205.50(c) as restated in Sections 113 and 117; (12-31-91)

n. Venereal Disease and the Premarital Serological Test, which is governed by Section 32-415, Idaho Code, which is restated in Subsection 118.02; (12-31-91)

o. Vital Statistics, which is governed by Section 39-264, Idaho Code, as restated in Section 119; (12-31-91)

p. Youth Rehabilitation, which in connection with federal grants is governed by 45 CFR 1350.61(c) as restated in Subsection 122.01.b. (12-31-91)

02. Conditions for Disclosure. Before information can be disclosed, all of the conditions set out below must be satisfied. (11-24-77)

a. The information to be disclosed must be needed in connection with the performance of the requesting person's official duties; and (11-24-77)

b. The receiving officer or employee of the Department must maintain disclosure standards comparable to the standards of the unit of the Department with custody of the record; and (11-24-77)

c. The information to be disclosed must be beneficial to the patient or client unless reasonable grounds exist to believe a possible violation of law has occurred or is likely to occur. (11-24-77)

d. The appropriate Department official receiving the request must determine if the conditions stated in Subsections 320.02.a. through 320.02.c. have been met. The signature of the appropriate Department official either accepting or denying the request must be placed on the request itself. Any valid disagreement between the official making these determinations and the requesting person must be presented in writing to the Director for resolution. (12-31-91)

03. Integrated Programs. Employees of the Department who serve in the administration or delivery of integrated programs including, but not limited to, child protection, developmental disabilities, food stamps, hospitalization of mentally ill, public assistance, Title IV-A, Title IV-D, Title V, Title XXIX (medical assistance), vital statistics, adoptions, elderly abuse and youth rehabilitation for the purposes of access to record information and confidentiality restrictions, shall be deemed to be a part of this agency and to be directly connected with the administration of or the enforcement of the particular programs involved. Information from the Medical Assistance (Medicaid) Program regarding applicants and recipients shall be accessible only if necessary to provide medical services. All such employees shall be subject to the same standards of confidentiality provided in this chapter. (12-31-91)

04. Interdisciplinary Staffing Team. Employees of the Department, employees of law enforcement agencies, and other individuals when serving on an interdisciplinary staffing team reviewing the furnishing of treatment or services to children subject to children's programs including, but not limited to, the Child Protection Act, Youth Rehabilitation Act, Developmental Disabilities Acts, Mental Health Acts, or adults subject to adult programs including, but not limited to, mental health, elderly abuse, developmental disabilities and public assistance, shall be deemed to be, for the purposes of confidentiality and access to records, a part of the agency and to be directly connected with the administration of or the enforcement of the particular programs involved. All such employees or other individuals shall be subject to the standards of confidentiality provided in this chapter. (12-31-91)

321. -- 329. (RESERVED).

330. INTERAGENCY DISCLOSURE OF INFORMATION.

Information may be disclosed to federal, state or local public or nonprofit entities without the consent of the patient or client to whom the information applies subject to the following provisions: (12-31-91)

01. Federal and State Mandates. For certain programs federal and state mandates rather than the general rule above and its conditions set out in Subsection 330.02 regulate interagency disclosure of information in the following areas: (12-31-91)

- a. Child Protection, which for federal grants is addressed by 45 CFR 340.3-3(d)(5) as restated in Subsection 105.02.b.; and which for programs under the Child Abuse Prevention and Treatment Act of 1974 is addressed by 45 CFR 1340.2-5(b) as restated in Subsection 105.03.b., but because of more stringent requirements by the state, disclosure is governed by Section 16-1623, Idaho Code, as restated in Subsection 105.01; which, for reports of child abuse to law enforcement agencies, is governed by Section 16-1619, Idaho Code, as restated in Subsection 105.04; (12-31-91)
- b. Developmental Disabilities, which is governed by 45 CFR 416.27 as restated in Section 106; (12-31-91)
- c. Drug Abuse, which for federally-assisted programs is governed by 21 U.S.C. 1175 as restated in Subsection 107.01; which for the Department's quarterly report, is governed by Section 37-3105, Idaho Code, as restated in Subsection 107.03; which for the treatment of drug addicts, is governed by Section 37-3102, Idaho Code, as restated in Subsection 107.04; (12-31-91)
- d. Family Planning Services, which is governed by 42 CFR 59.10 as restated in Section 108; (12-31-91)
- e. Food Stamps, which is governed by 7 CFR 271.1(f) as restated in Section 109; (11-24-77)
- f. Hospitalization of Mentally Ill, which is governed by Section 66-348, Idaho Code, as restated in Section 110; (12-31-91)
- g. Licensing of Medical Care Facilities, which is governed by Section 39-1312, Idaho Code, as restated in Subsection 111.02; (12-31-91)
- h. Medical Societies or In-House Committees, which are governed by Section 39-1392b and Section 39-1392e, Idaho Code, as restated in Subsection 111.03; (12-31-91)
- i. Public Assistance, which is governed by Section 56-221, Idaho Code, as restated in Section 112; (12-31-91)
- j. Title IV-A (Aid for Dependent Children), which is governed by 45 CFR 205.50 and 45 CFR 235.110 as restated in Section 113; (12-31-91)
- k. Title IV-D (Child Support Enforcement), which is governed by those legal authorities as restated in Section 114; (12-31-91)
- l. Title V (Maternal and Child Health and Crippled Children's Services) which is governed by 42 CFR 51a.112 as restated in Section 115; (12-31-91)
- m. Title XIX (Medical Assistance), which is governed by 45 CFR 205.50(b), 45 CFR 250.70 and 45 CFR 250.80, Section 56-221, Idaho Code, as restated in Sections 113 and 116; (12-31-91)
- n. Title XX (Grant-Services), which is governed by 45 CFR 205.50(c) as restated in Sections 113 and 117; (12-31-91)
- o. Venereal Disease, which for the premarital serological test is governed by Section 32-415, Idaho Code, as restated in Subsection 118.02; (12-31-91)
- p. Vital Statistics, which is governed by Section 39-264, Idaho Code, as restated in Section 119; (11-24-77)
- q. Women, Infants and Children Program, which is governed by 7 CFR 246 as restated in Section 121; (12-31-91)
- r. Youth Rehabilitation, which in connection with federal grants is governed by 45 CFR 1350.61(c) as

restated in Subsection 121.01; which for the commitment of a child to the Board is governed by Section 16-1840, Idaho Code, as restated in Subsection 122.02. (12-31-91)

02. Conditions for Disclosure. Before information can be disclosed, all of the conditions set out below must be satisfied. (12-31-91)

a. The information to be disclosed must be for purposes of civil litigation, criminal law enforcement activity, or statutorily mandated activities of a governmental entity; and (11-24-77)

b. The activity for which the information is sought, and its subsequent transferal, must be specifically authorized by state or federal statute or regulation, or by order of a court of competent jurisdiction; and (11-24-77)

c. The agency requesting disclosure of the information must prove to the appropriate Department official accepting the request that it is subject to or will comply with confidentiality standards comparable to rules of the Department. (11-24-77)

03. Special Provision for Treatment-Oriented Facilities. Subsections 330.02.a. and 330.02.b. will not apply where a patient or client of the Department is placed in a treatment-oriented facility, and where subsequent disclosure will benefit and is necessary for the diagnosis or treatment of that individual. The facility, before receiving the information, must comply with Subsections 300.01 and 330.02.c. (12-31-91)

331. -- 339. (RESERVED).

340. COURT PROCEEDINGS AND DEPARTMENTAL DISCLOSURE.

01. State or Federal Mandates. For court proceedings relating to certain programs, state or federal mandates rather than the rules below regulate disclosure of information. (12-31-91)

a. Child Protection, which for federally assisted programs is governed by 45 CFR 1340.3-3(d)(5) as restated in Subsection 105.02 for records of disposition or treatment of each patient or client over whom it has legal custody, disclosure is governed by Section 16-1623, Idaho Code, as restated in Subsection 105.03; for any judicial proceeding resulting from a child abuse report to law enforcement, disclosure is governed by Section 16-1620, Idaho Code, as restated in Subsection 105.04.c.; for records of court proceedings made available to this Department, disclosure is governed by Section 16-1621, Idaho Code, as restated in Subsection 105.05; for social records involved in the termination of a parent-child relationship, disclosure is governed by Section 16-2013, Idaho Code, as restated in Subsection 105.06; (12-31-91)

b. Drug Abuse, which for medical practitioners is governed by Section 37-3105, Idaho Code, as restated in Subsection 107.02; for treatment of addicts, disclosure is governed by Section 37-3102, Idaho Code, as restated in Subsection 107.04.a.; (12-31-91)

c. Hospitalization of the Mentally Ill, which is governed by Sections 66-329(g), 66-337, 66-338 and 66-348, Idaho Code, as restated in Subsections 110.04 through 110.06; (12-31-91)

d. Medical Societies or In-House Committees, which are governed by Sections 39-1392b and 39-1392e, Idaho Code, as restated in Subsection 111.03; (12-31-91)

e. Title IV-A (Aid for Dependent Children), which is governed by 45 CFR 205.50 as restated in Subsection 113.04; (12-31-91)

f. Title IV-D (Child Support Enforcement), which is governed by 45 CFR 302.18(a) as restated in Subsection 114.01.b.; and (12-31-91)

02. Seeking Disclosure by Legal Process. Should any Departmental employee be subpoenaed for disclosure of information contained in this manual, he/she must immediately contact his Regional or Institutional Director or Division Administrator. If the appropriate Department official determines that disclosure would be contrary to the rules contained in this manual, the official will immediately notify the Administrator of the Division

of Administrative Counsel, who will take appropriate action in response to the subpoena. (12-31-91)

03. Action Upon Court-ordered Disclosure. If a court of competent jurisdiction determines that disclosure contrary to Departmental rules is required, and that failure to make such disclosure would be contrary to the public interest, the appropriate Department official must authorize disclosure. Before disclosing the information to the parties in the litigation however, the information must be turned over to the court with a request that the ordered materials be first inspected by the judge in chambers or in the courtroom with all spectators excluded. (11-24-77)

341. -- 499. (RESERVED).

500. REVIEW OF DEPARTMENTAL DECISIONS.

Any person or entity who disagrees with a decision of the appropriate Department official as allowed by these rules, may request a review of such decision. (11-24-77)

01. Request for Review. The request for review must be in writing, signed and must contain the nature of the decision which is disputed and reasons for the disagreement with the decision. It must be given to the appropriate Department official who made the initial decision and contain a statement of the reasons for the disagreement with the decision. (11-24-77)

02. Final Determination by Department. Within thirty (30) days from the receipt of the request for review, the administrator or regional or institutional director of the Departmental unit with custody of the record, if other than the official who made the initial decision, must make a final determination. If the administrator or regional director was the appropriate Department official who made the initial determination, then the final determination will be made by the Executive Assistant to the Director. (11-24-77)

03. Response by Requestor. If, after review, the request is denied, the person so requesting must be permitted to place a final signed and dated written statement with the record addressed. (11-24-77)

501. CIVIL IMMUNITY.

No appropriate Department official who, in good faith and in compliance with these rules, accepts and honors a request for the disclosure of a record shall be subject to civil liability, either in a personal or representative capacity. (11-24-77)

502. -- 995. (RESERVED).

996. ADMINISTRATIVE PROVISIONS.

Contested case appeals shall be governed by Idaho Department of Health and Welfare Rules, IDAPA 16.05.03, Sections 000, et seq., "Rules Governing Contested Cases and Declaratory Rulings". (12-31-91)

997. INCLUSIVE GENDER

For the purposes of these rules, words used in the masculine gender include the feminine, or vice versa, where appropriate. (11-24-77)

998. CONFLICTS WITH EXISTING RULES.

Where there is any conflict between the rules set out in Idaho Department of Health and Welfare Rules, IDAPA 16.05.01, and any existing Departmental rules, this chapter governs. (11-24-77)

999. SEVERABILITY.

Idaho Department of Health and Welfare Rules, IDAPA 16.05.01, are severable. If any rule, or part thereof, or the application of such rule to any person or circumstance is declared invalid, that invalidity does not affect the validity of any remaining portion of this chapter. (11-24-77)