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**IDAPA 22
TITLE 01
CHAPTER 14**

22.01.14 - RULES RELATING TO COMPLAINT INVESTIGATION

000. LEGAL AUTHORITY.

Pursuant to Section 54-1806(2), Idaho Code, the Idaho State Board of Medicine is authorized to promulgate rules for the receipt and investigation of complaints. (3-30-01)

001. TITLE AND SCOPE.

These rules shall be cited as IDAPA 22.01.14, "Rules Relating to Complaint Investigation". (3-30-01)

002. WRITTEN INTERPRETATIONS.

Written interpretations of these rules in the form of explanatory comments accompanying the notice of proposed rule-making that originally proposed the rules and review of comments submitted in the rulemaking process in the adoption of these rules are available for review and copying at cost from the Board Of Medicine, 1755 Westgate Drive, Suite 140, Box 83720 Boise, Idaho 83720-0058. (3-30-01)

003. ADMINISTRATIVE APPEAL.

All contested cases shall be governed by the provisions of IDAPA 04.11.01, "Idaho Rules of Administrative Procedures of the Attorney General" and this chapter. (3-30-01)

004. PUBLIC RECORD ACT COMPLIANCE.

These rules have been promulgated according to the provisions of Title 67, Chapter 52, Idaho Code, and are public records. (3-30-01)

005. INCORPORATION BY REFERENCE.

There are no documents incorporated by reference into this rule. (3-30-01)

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

The central office of the Board of Medicine will be in Boise, Idaho. The Board's mailing address, unless otherwise indicated, will be Idaho State Board of Medicine, Statehouse Mail, Boise, Idaho 83720. The Board's street address is 1755 Westgate Drive, Suite 140, Boise, Idaho 83704. The telephone number of the Board is (208) 327-7000. The Board's facsimile (FAX) number is (208) 377-7005. The Board's office hours for filing documents are 8:00 a.m. to 5:00 p.m. MST. (3-30-01)

007. FILING OF DOCUMENTS - NUMBER OF COPIES.

All documents in rule-making or contested case proceedings must be filed with the office of the Board. The original and ten (10) copies of all documents must be filed with the office of the Board. (3-30-01)

008. -- 009. (RESERVED).

010. COMPLAINTS.

Complaints received, which are related to allegations against health care providers regulated by the Board, shall be referred to the appropriate Quality Assurance staff. (3-30-01)

011. FORMAT FOR SUBMISSION OF COMPLAINT.

Complaints will be submitted in writing to the Board, with the name of the provider, the approximate date of the incident or care, the individual's concerns regarding the incident or care, and the name, telephone number, and address of the complainant. (3-15-02)

012. DETERMINATION OF AUTHORITY.

After preliminary investigation, the Quality Assurance Specialist (QAS) shall determine if the complaint falls within the statutory authority of the Board as defined in the appropriate practice act and rules. Questions related to jurisdiction will be referred to the Executive Director and/or Board Counsel. (3-15-02)

01. Outside Statutory Authority. If the complaint falls outside of the statutory authority of the Board,

the QAS shall notify the complainant in writing and may offer referral to an appropriate agency, if indicated. The staff will maintain a copy of the complaint, response, and the preliminary investigation file for a period of one (1) year. Each file determined to be outside the statutory authority of the Board will be reviewed by the Committee on Professional Discipline at its next scheduled meeting. (3-15-02)

02. Within Statutory Authority. If the complaint falls within the authority of the Board, the QAS will: (3-30-01)

- a.** Establish a complaint file; (3-30-01)
- b.** Assign a case number; (3-30-01)
- c.** Enter information regarding the complaint onto the database. (3-30-01)
- d.** Correspond in writing with the complainant and the provider within ten (10) business days, when possible, explaining the nature of the complaint; (3-30-01)
- e.** Provide written information to the complainant and provider regarding the complaint process; (3-30-01)
- f.** Monitor the case to insure the provider has replied and that the complainant and the provider are kept informed of the status of the investigation at least every forty-five (45) to sixty (60) days. (3-30-01)
- g.** The QAS may request any additional information deemed necessary to fully investigate the complaint, including but not limited to: (3-15-02)
 - i.** Interviewing the complainant and the respondent; (3-15-02)
 - ii.** Requesting additional records, documents, or statements; and (3-15-02)
 - iii.** Collecting collateral information. (3-15-02)

013. COMPLAINT AUTHORITY.

At the time the complaint is opened, the Quality Assurance Specialist will assign a priority rating* (*rating may change at any point in the investigation as new information is received) to the investigation according to the following table:

CATEGORY	DESCRIPTION	EXAMPLE
1	Imminent, or current danger to the public.	Impairment by psychiatric or substance abuse problems.
2	Threat to the public, currently monitored or controlled.	Retired, incarcerated, enrolled in recognized treatment program poses no immediate threat to the public.
3	Identified as having practice, skills, or judgment concern considered a potential threat to the public.	Prescribing concerns, isolated incident of error, negligence, or misconduct.
4	Medium to low risk to public.	Improper delegation Disciplinary action in another state
5	Low risk to public.	Paperwork problems Record keeping issues Failure to transfer medical records.

(3-30-01)

01. Category One. Category one (1) requires immediate referral to the Executive Director for appropriate action. (3-30-01)

02. Category Two. Category two (2) is reported to the Executive Director for appropriate action. (3-30-01)

014. – 019. (RESERVED).

020. REPORT OF INVESTIGATION.

When the needed response and documentation is received, QAS shall prepare a report containing the following: (3-30-01)

01. Provider Information. The name of the provider, city, specialty, and date. (3-30-01)

02. Previous Complaints. A summary of previous complaints against the provider. (3-30-01)

03. Complaint Concerns. A summary of the complainant's concerns. (3-30-01)

04. Provider's Response. A summary of the provider's response. (3-30-01)

05. QAS Review. A summary of the QAS review of medical records/documentation; (3-30-01)

06. Copies Of Documents. Copies of the written complaint and response shall be attached to the summary. Other documents may be attached as indicated by the nature of the summary. (3-30-01)

07. Summary Of Additional Information. A written summary of any additional interviews or information collected in the course of the investigation (3-15-02)

021. TRACKING.

After review by the Committee on Professional Discipline and/or the Board of Medicine: (3-30-01)

01. Case Is Closed. If closed by the Board, the QAS shall correspond with the complainant and provider and notify each of the Board's final determination and action within the bounds of confidentiality. (3-30-01)

02. Further Investigation Is Requested. If further investigation is requested by the Board, the QAS shall obtain the requested information and prepare a summary as described in Section 020. The complainant and provider shall be notified of the status of the complaint. (3-30-01)

03. Consultant Is Requested. If a consultant is requested by the Board, the QAS shall request a consultant, recently retired or currently in a clinical practice similar to the physician under review, to review the information provided and prepare a report of findings to the Board. The consultant shall be: (3-15-02)

a. Board certified; (3-15-02)

b. Free from disqualifying information such as no open complaints or pending formal action; and (3-15-02)

c. Free from conflicting or disqualifying interest. (3-15-02)

d. The consultant must sign an independence statement before commencing the review. (3-15-02)

04. Records Review Is Requested. If a records review is requested, the Board will define the focus, scope and depth of the review. (3-30-01)

05. Stipulation And Order Is Issued. If a stipulation and order is issued, the QAS will complete the stipulation checklist as indicated by the nature of the stipulation, identify the monitoring requirements and establish a monitoring plan for the provider. (3-30-01)

06. Other Disciplinary Action Directed. If other disciplinary actions are directed by the Board, the QAS will act under the guidance of the Executive Director and/or Board counsel. (3-30-01)

07. Opportunity To Meet With Committee. Before the initiation of formal disciplinary proceedings, a person under investigation shall be provided an opportunity to meet with the Committee on Professional Discipline or its staff, at the discretion of the licensee. (3-30-01)

08. Recording Of Board Action. The QAS will update the database and the case file to reflect the Board's action on the reviewed cases. (3-30-01)

022. AUTHORITY TO CLOSE COMPLAINTS.

The only individuals authorized to close complaint files are the Committee of Professional Discipline and/or the Board of Medicine. All complaints must be presented to the respective Board for consideration and action. (3-30-01)

023. OTHER INDICATORS FOR INVESTIGATION.

01. Board Investigations. The Board may initiate any investigation on its own initiative or on the basis on performance indicators. (3-15-02)

02. Performance Indicators. Performance indicators that may be used include, but are not limited to: (3-15-02)

- a.** Frequent changes in geographical practice location. (3-15-02)
- b.** Number of inactive licenses held. (3-15-02)
- c.** Number of malpractice complaints. (3-15-02)
- d.** Number of complaints. (3-15-02)
- e.** Failure to receive speciality board certification. (3-15-02)
- f.** Changes in area/speciality of practice without formal retraining. (3-15-02)
- g.** Health status. (3-15-02)
- h.** Age. (3-15-02)
- i.** Prescribing practices. (3-15-02)
- j.** Physicians without hospital privileges or medical practice affiliation who are not routinely subject to peer review. (3-15-02)
- k.** Physician performance and outcome data received from sources such as Professional Review Organizations. (3-15-02)
- l.** Disciplinary reports from managed care organizations. (3-15-02)
- m.** Disciplinary reports by other government agencies. (3-15-02)

024. -- 999. (RESERVED).

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