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**IDAPA 16
TITLE 07
CHAPTER 39**

16.07.39 - APPOINTMENT OF DESIGNATED EXAMINERS AND DESIGNATED DISPOSITIONERS

000. LEGAL AUTHORITY.

Under Sections 16-2403 and 66-317, Idaho Code, the Department is authorized to promulgate rules regarding who may be appointed as a designated examiner, a designated dispositioner, or both. Under Sections 56-1003 and 56-1004, Idaho Code, the Director is authorized to adopt rules to supervise and administer a mental health program.

(1-1-09)T

001. TITLE AND SCOPE.

01. Title. The title of these rules is IDAPA 16.07.39, "Appointment of Designated Examiners and Designated Dispositioners."

(1-1-09)T

02. Scope. This chapter of rules sets forth the qualifications, appointment requirements, appointment process, duration of appointment, revocation of appointment, and requirements for reappointment for designated examiners and designated dispositioners in Idaho.

(1-1-09)T

03. Effective Date and Appointments Prior to January 1, 2009. This chapter of rules is applicable to all new applications for appointment as a designated examiner or designated dispositioner, or both, received by the Department's Division of Behavioral Health on or after January 1, 2009. If an individual was granted an appointment prior to January 1, 2009, and met the requirements at that time, he may continue to have his appointment recognized until it expires or until January 1, 2011, whichever occurs first. Notwithstanding any prior appointment, however, effective January 1, 2011, all designated examiners and designated dispositioners in Idaho must be in compliance with these rules.

(1-1-09)T

002. WRITTEN INTERPRETATIONS.

There are no written interpretations for these rules.

(1-1-09)T

003. ADMINISTRATIVE APPEALS.

Administrative appeals are governed by provisions of IDAPA 16.05.03, "Rules Governing Contested Case Proceedings and Declaratory Rulings."

(1-1-09)T

004. INCORPORATION BY REFERENCE.

American Psychiatric Association: Diagnostic and Statistical Manual of Mental Disorders, Fourth Edition, Text Revision (DSM-IV-TR) Washington, DC, American Psychiatric Association, 2000, is hereby incorporated by reference under this chapter of rules. Copies of the manual are available from the American Psychiatric Association, 1400 K Street, N.W., Washington, DC, 20005. A copy of the manual is also available for public review at the Department of Health and Welfare, 450 West State Street, Boise, Idaho, 83702.

(1-1-09)T

005. OFFICE -- OFFICE HOURS -- MAILING ADDRESS -- STREET ADDRESS -- TELEPHONE NUMBER -- INTERNET WEB SITE.

01. Office Hours. Office hours are 8 a.m. to 5 p.m., Mountain Time, Monday through Friday, except holidays designated by the State of Idaho.

(1-1-09)T

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

(1-1-09)T

03. Street Address. The business office of the Idaho Department of Health and Welfare is located at 450 West State Street, Boise, Idaho 83702.

(1-1-09)T

04. Telephone. The telephone number for the Idaho Department of Health and Welfare is (208) 334-5500.

(1-1-09)T

05. Internet Web Site. The Department's internet web site is found at: <http://www.healthandwelfare.idaho.gov>. (1-1-09)T

006. CONFIDENTIALITY OF RECORDS AND PUBLIC RECORDS REQUESTS.

01. Confidential Records. Any information about an individual covered by these rules and contained in the Department's records must comply with IDAPA 16.05.01, "Use and Disclosure of Department Records." (1-1-09)T

02. Public Records. The Department will comply with Sections 9-337 through 9-350, Idaho Code, when requests for the examination and copying of public records are made. Unless otherwise exempted, all public records in the custody of the Department are subject to disclosure. (1-1-09)T

007. -- 008. (RESERVED).

009. CRIMINAL HISTORY AND BACKGROUND CHECK REQUIREMENTS.

All current Department employees, contract employees, and others working directly with children or vulnerable adults as described in Section 39-5302, Idaho Code, who are seeking appointment as a designated examiner or designated dispositioner, or both, must comply with the provisions in IDAPA 16.05.06, "Criminal History and Background Checks." (1-1-09)T

010. DEFINITIONS.

For the purposes of these rules, the following terms are used as defined below: (1-1-09)T

01. Clinical Nurse Specialist, Licensed. An individual licensed as a Clinical Nurse Specialist in accordance with Title 54, Chapter 14, Idaho Code, and IDAPA 23.01.01, "Rules of the Idaho Board of Nursing." (1-1-09)T

02. Clinical Professional Counselor, Licensed (LCPC). An individual licensed in accordance with Title 54, Chapter 34, Idaho Code, and IDAPA 24.15.01, "Rules of the Idaho Licensing Board of Professional Counselors and Marriage and Family Therapists." (1-1-09)T

03. Clinical Social Worker, Licensed (LCSW). An individual licensed in accordance with Title 54, Chapter 32, Idaho Code, and IDAPA 24.14.01, "Rules of the State Board of Social Work Examiners." (1-1-09)T

04. Department. The Idaho Department of Health and Welfare. (1-1-09)T

05. Designated Dispositioner. In accordance with Section 66-317, Idaho Code, the practice of a designated dispositioner is professional in nature and requires specialized knowledge, training, and experience determining the appropriate location for care and treatment of involuntary patients. A designated dispositioner is a designated examiner employed by or under contract with the Department and designated by the Director. (1-1-09)T

06. Designated Examination. An evaluation by an appointed mental health professional to determine if an individual is mentally ill and if the individual is either likely to injure himself or others or is gravely disabled due to mental illness. (1-1-09)T

07. Designated Examiner. In accordance with Sections 16-2403 and 66-317, Idaho Code, the practice of a designated examiner is professional in nature and requires specialized knowledge, training, and experience in the diagnosis and treatment of mental illness. A designated examiner is a psychiatrist, psychologist, psychiatric nurse, social worker, or such other mental health professional as may be designated in accordance with these rules. (1-1-09)T

08. Director. The Director of the Idaho Department of Health and Welfare or his designee. (1-1-09)T

09. Division. The Department's Division of Behavioral Health. (1-1-09)T

10. Marriage and Family Therapist, Licensed (LMFT). An individual licensed in accordance with

Title 54, Chapter 34, Idaho Code, and IDAPA 24.15.01, "Rules of the Idaho Licensing Board of Professional Counselors and Marriage and Family Therapists." (1-1-09)T

11. Masters of Social Work, Licensed (LMSW). An individual licensed in accordance with Title 54, Chapter 32, Idaho Code, and IDAPA 24.14.01, "Rules of the State Board of Social Work Examiners." (1-1-09)T

12. Nurse Practitioner, Licensed. An individual licensed as a Nurse Practitioner in accordance with Title 54, Chapter 14, Idaho Code, and IDAPA 23.01.01, "Rules of the Idaho Board of Nursing." (1-1-09)T

13. Physician, Licensed. An individual licensed to practice medicine, under Title 54, Chapter 18, Idaho Code, and IDAPA 22.01.01, "Rules of the Board of Medicine for the Licensure to Practice Medicine and Surgery and Osteopathic Medicine and Surgery in Idaho." (1-1-09)T

14. Professional Counselor, Licensed (LPC). An individual licensed in accordance with Title 54, Chapter 34, Idaho Code, and IDAPA 24.15.01, "Rules of the Idaho Licensing Board of Professional Counselors and Marriage and Family Therapists." (1-1-09)T

15. Psychiatrist, Board Certified. An individual licensed to practice medicine under Title 54, Chapter 18, Idaho Code, and IDAPA 22.01.01, "Rules of the Board of Medicine for the Licensure to Practice Medicine and Surgery and Osteopathic Medicine and Surgery" who is certified by the American Board of Psychiatry and Neurology in psychiatry. (1-1-09)T

16. Psychologist, Licensed. An individual licensed to practice psychology in Idaho under Title 54, Chapter 23, Idaho Code, and as outlined by IDAPA 24.12.01, "Rules of the Idaho State Board of Psychologist Examiners." (1-1-09)T

011. -- 199. (RESERVED).

200. MINIMUM QUALIFICATIONS AND REQUIREMENTS FOR APPOINTMENT AS A DESIGNATED EXAMINER.

To be appointed and practice as a designated examiner in Idaho, an applicant must meet the following minimum qualifications and requirements: (1-1-09)T

01. Required License. Each applicant must maintain his professional licensure for the duration of his appointment and be one (1) of the following: (1-1-09)T

- a.** Licensed Physician; (1-1-09)T
- b.** Board-certified Psychiatrist; (1-1-09)T
- c.** Licensed Psychologist; (1-1-09)T
- d.** Licensed Clinical Nurse Specialist; (1-1-09)T
- e.** Licensed Nurse Practitioner; (1-1-09)T
- f.** Licensed Clinical Professional Counselor (LCPC); (1-1-09)T
- g.** Licensed Professional Counselor (LPC); (1-1-09)T
- h.** Licensed Clinical Social Worker (LCSW); (1-1-09)T
- i.** Licensed Masters Social Worker (LMSW) with a supervision plan approved by the licensing board in accordance with IDAPA 24.14.01, "Rules of the State Board of Social Work Examiners," Subsection 201.02; (1-1-09)T
- j.** Licensed Marriage and Family Therapist (LMFT). (1-1-09)T

02. Required Experience and Abilities. The Division will determine whether an applicant meets and demonstrates the following experience and abilities, based on the documentation provided by the applicant as required under Subsection 400.02 of these rules: (1-1-09)T

a. At least two (2) years of post-master's degree experience in a clinical mental health setting which includes: (1-1-09)T

i. Assessment of the likelihood of danger to self or others, grave disability, capacity to give informed consent, and capacity to understand legal proceedings; (1-1-09)T

ii. Use of DSM-IV-TR diagnostic criteria; (1-1-09)T

iii. Treatment of mental health disorders including knowledge of treatment modalities and experience applying treatment modalities in a clinical setting; and (1-1-09)T

iv. An understanding of the differences between behavior due to mental illness which poses a substantial likelihood of serious harm to self or others or which may result in grave disability from behavior which does not represent such a threat or risk. (1-1-09)T

b. Knowledge of and experience applying Idaho mental health law. This must include: (1-1-09)T

i. Experience that demonstrates understanding of the judicial process, including the conduct of commitment hearings. (1-1-09)T

ii. Experience preparing reports for the court and testifying before a court of law. Experience must demonstrate an ability to provide the court with a thorough and complete oral and written evaluation that addresses the standards and questions set forth in the law; and (1-1-09)T

iii. Knowledge of a client's legal rights. (1-1-09)T

03. Required Training. Each applicant must have completed: (1-1-09)T

a. A minimum of six (6) hours of training, provided by a Department-approved trainer, on the role of designated examiners and the processes used in fulfilling the responsibilities of designated examiners. (1-1-09)T

b. A minimum of four (4) additional hours observing a designated examiner conducting a designated examination. (1-1-09)T

201. -- 299. (RESERVED).

300. MINIMUM QUALIFICATIONS AND REQUIREMENTS FOR APPOINTMENT AS A DESIGNATED DISPOSITIONER.

To be appointed as a designated dispositioner in Idaho, an applicant must meet the following minimum qualifications and requirements. (1-1-09)T

01. Appointment as a Designated Examiner. Applicants for designated dispositioner must also be appointed as a designated examiner by the Director. (1-1-09)T

02. Required Experience and Abilities. Each applicant must have and demonstrate specific knowledge of available treatment alternatives in Idaho, types of treatment available for appropriate placement in Idaho, and level of care requirements in Idaho. (1-1-09)T

301. -- 399. (RESERVED).

400. PROCESS AND PROCEDURE FOR APPLICANTS SEEKING CONSIDERATION FOR AN INITIAL APPOINTMENT AS A DESIGNATED EXAMINER, DESIGNATED DISPOSITIONER, OR BOTH.

Each applicant seeking an initial appointment as a designated examiner or designated dispositioner, or both, must submit the following information to the Regional Behavioral Health Program Manager of the region where he intends to practice or the State Hospital Administrative Director of the hospital at which he intends to practice. (1-1-09)T

01. Complete an Application. Each applicant must complete and sign an application using Department form HW-0790. (1-1-09)T

02. Provide Verification of Education, Training, Experience, and Criminal Background Check. Each applicant must provide the Department with the following: (1-1-09)T

a. A current resume that documents: (1-1-09)T

i. The applicant's degree, the date the degree was awarded, and the school from which the degree was received; and (1-1-09)T

ii. How the applicant meets the requirements under Subsection 200.02 of these rules. (1-1-09)T

b. A copy of the applicant's license. If the applicant is an LMSW, he must also provide a copy of the supervision plan approved by the Board of Social Work Examiners; (1-1-09)T

c. Evidence of completion of the required ten (10) hours of training within sixty (60) days prior to the date of application in accordance with Subsection 200.03 of these rules showing the date(s), place(s), number of hours of training and the qualifications of the person(s) providing the training; (1-1-09)T

d. Documentation of a criminal history and background check clearance completed within ninety (90) days of the date of the application. (1-1-09)T

03. Regional or Hospital Recommendation. (1-1-09)T

a. To be eligible for consideration and appointment as a designated examiner or designated dispositioner, or both, each applicant must receive a favorable recommendation from the Regional Behavioral Health Program Manager of the region where he intends to practice or the State Hospital Administrative Director of the hospital at which he intends to practice. (1-1-09)T

b. Within thirty (30) days of the receipt of a completed and signed application, the Regional Behavioral Health Program Manager or the State Hospital Administrative Director will review the applicant's qualifications and, if satisfied, sign the application and forward it to the Division along with all the information provided by the applicant as required under Subsection 400.02 of this rule. (1-1-09)T

04. Final Decision on Appointment. (1-1-09)T

a. Upon receiving a favorable recommendation in accordance with Subsection 400.03 of these rules, the Division will review each application for completeness and compliance with these rules. The review of the application will include such factors as the availability of funding, the degree of need in the regions and the state, and other factors, including the requirements under this rule. (1-1-09)T

b. Upon completion of this review, the Division will make recommendations to the Director regarding appointments as designated examiner or designated dispositioner, or both. (1-1-09)T

c. In accordance with Sections 66-317(5), 66-317(f), and 54-2303(a), Idaho Code, the Director has the authority to appoint applicants for designated examiner or designated dispositioner, or both, who meet the requirements under these rules. (1-1-09)T

d. The Division will notify each applicant in writing of the Department's decision within sixty (60)

days of the date the application was received by the Division. Written notification of the Department's decision will also be sent to the Regional Behavioral Health Program Manager or State Hospital Administrative Director that rendered a favorable recommendation in accordance with Subsection 400.03 of these rules. (1-1-09)T

401. -- 499. (RESERVED).

500. DURATION OF APPOINTMENT AS DESIGNATED EXAMINER OR DESIGNATED DISPOSITIONER, OR BOTH.

01. Initial Appointment. Initial appointment of a designated examiner or a designated dispositioner, or both, expires one (1) year from the date of appointment, unless the designated examiner or designated dispositioner applies for, and is granted, reappointment in accordance with Section 600 of these rules. (1-1-09)T

02. Reappointment. Reappointment of an individual as a designated examiner or designated dispositioner, or both, expires two (2) years from the date of such appointment, unless the designated examiner or designated dispositioner applies for, and is granted, reappointment. (1-1-09)T

03. Expiration of Appointment Upon Leaving Department Employment. When an individual serving as a designated examiner, designated dispositioner, or both, leaves the employ of the Department, his appointment(s) expires the date his employment ends. He may reapply as a contractor under Section 600 of these rules. (1-1-09)T

501. -- 599. (RESERVED).

600. PROCESS AND PROCEDURE FOR APPLICANTS SEEKING CONSIDERATION FOR REAPPOINTMENT AS A DESIGNATED EXAMINER OR DESIGNATED DISPOSITIONER, OR BOTH.

Each applicant seeking reappointment as a designated examiner or designated dispositioner, or both, must submit the following information to the Regional Behavioral Health Program Manager of the region where he intends to practice or the State Hospital Administrative Director of the hospital at which he intends to practice. (1-1-09)T

01. Complete an Application. Each applicant must complete and sign an application using Department form HW-0790. (1-1-09)T

02. Regional or Hospital Recommendation. (1-1-09)T

a. To be eligible for consideration and appointment as a designated examiner or designated dispositioner, or both, each applicant must receive a favorable recommendation from the Regional Behavioral Health Program Manager of the region where he intends to practice or the State Hospital Administrative Director of the hospital at which he intends to practice. (1-1-09)T

b. Within thirty (30) days of the receipt of a completed and signed application, the Regional Behavioral Health Program Manager or the State Hospital Administrative Director will review the applicant's qualifications and, if satisfied, sign the application and forward it to the Division along with all the information provided by the applicant as required under Subsection 400.02 of this rule. (1-1-09)T

03. Final Decision on Reappointment. (1-1-09)T

a. The request for reappointment must be received by the Division at least sixty (60) days prior to the expiration date of the previous appointment of the designated examiner or designated dispositioner. (1-1-09)T

b. The Division will notify each applicant in writing of the Department's decision within sixty (60) days of the date the application for reappointment was received by the Division. Written notification of the Department's decision will also be sent to the Regional Behavioral Health Program Manager or State Hospital Administrative Director that submitted the request for reappointment. (1-1-09)T

c. If a designated examiner or designated dispositioner allows his appointment to expire, the applicant must reapply in accordance with the initial appointment requirements under Section 400 of this rule. (1-1-09)T

601. -- 699. (RESERVED).

700. REVOCATION OF APPOINTMENT AS DESIGNATED EXAMINER OR DESIGNATED DISPOSITIONER, OR BOTH.

The Department may deny, suspend, or revoke the appointment or reappointment of designated examiners and designated dispositioners, or both, in accordance with the following procedures: (1-1-09)T

01. Emergency Denial, Suspension, Revocation of Appointment or Reappointment. The Department will deny, suspend, or revoke appointment or reappointment, without prior notice, when conditions exist as to endanger the health or safety of any client. (1-1-09)T

02. Written Request for Denial, Suspension, or Revocation of Appointment or Reappointment. In the absence of an emergency, a written request from the Regional Behavioral Health Program Manager or State Hospital Administrative Director must be made to the Division. The request must state the reason(s) for the requested denial, suspension, or revocation of an appointment or reappointment. (1-1-09)T

03. Grounds for Revocation of Appointment or Reappointment. The Department may deny, suspend, or revoke an appointment or reappointment for any of the following reasons: (1-1-09)T

a. Failure to comply with these rules. (1-1-09)T

b. Failure to furnish data, information, or records as requested by the Department. (1-1-09)T

c. Revocation or suspension of the applicant's professional license. (1-1-09)T

d. Refusal to participate in a quality assurance process as requested by the Department. (1-1-09)T

e. Inadequate knowledge or performance as demonstrated by repeated substandard peer or quality assurance reviews. (1-1-09)T

f. Misrepresentation by the applicant in his application, or in documents required by the Department, or by an appointee in which there is a criminal, civil, or administrative determination that he has misrepresented the facts or the law to the court or administrative agency. (1-1-09)T

g. Conflict of interest in which an appointee exploits his position as a designated examiner or designated dispositioner for personal benefit. (1-1-09)T

h. A criminal, civil, or administrative determination that an appointee has committed fraud or gross negligence in his capacity as a designated examiner or designated dispositioner. (1-1-09)T

i. Substantiated disposition of a child protection referral or adult protection referral. (1-1-09)T

j. Failure to correct within thirty (30) days of written notice, any unacceptable conduct, practice, or condition as determined by the Department to be detrimental to public health or safety. (1-1-09)T

04. Appeal of Department Decision. Applicants may appeal a Department decision to deny, suspend, or revoke an appointment in accordance with IDAPA 16.05.03, "Rules Governing Contested Case Proceedings and Declaratory Rulings." (1-1-09)T

05. Reapplication for Appointment. Following denial, suspension, or revocation of appointment or reappointment, the same appointee may not reapply for appointment for a period of one (1) year after the effective date of the action. (1-1-09)T

701. -- 999. (RESERVED).

Subject Index