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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 (Board) 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, 1755 Westgate Drive, Suite 140, Box 83720 Boise, Idaho 83720-0058. (4-4-13)

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 shall be in Boise, Idaho. The Board's mailing address, unless otherwise indicated, shall 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 website is www.bom.idaho.gov. The Board's office hours for filing documents are 8:00 a.m. to 5:00 p.m. MST. (4-4-13)

007. FILING OF DOCUMENTS -- NUMBER OF COPIES.
All documents in rulemaking or contested case proceedings must be filed with the office of the Board. The original and one (1) electronic copy of all documents must be filed with the office of the Board. (4-4-13)

008. -- 009. (RESERVED)

010. COMPLAINTS.
All received complaints, related to allegations against health care providers regulated by the Board, shall be referred to the appropriate Quality Assurance Specialist (QAS). (4-4-13)

011. FORMAT FOR SUBMISSION OF COMPLAINT.
Complaints shall be submitted in writing to the Board, and include, but are not limited to, the name of the provider, the approximate date of the incident or care, the concerns regarding the incident or care, and the complainant's signature, telephone number, and address. (4-4-13)

012. DETERMINATION OF AUTHORITY.
After preliminary investigation, a QAS shall determine if the complaint falls within the Board's statutory authority as defined in the appropriate practice act and rules. Questions related to jurisdiction shall be referred to the Executive Director and/or Board Counsel. (4-4-13)

01. Outside Statutory Authority. If the complaint falls outside of the Board's statutory authority, the QAS shall notify the complainant in writing and may offer referral to an appropriate agency, if indicated. The Board

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shall maintain a copy of the complaint, response, and the preliminary investigation file for a period of one (1) year. Each complaint determined to be outside the Board's statutory authority shall be reviewed by the Committee on Professional Discipline at its next scheduled meeting. (4-4-13)

02. Within Statutory Authority. If the complaint falls within the Board's authority, the QAS shall: (4-4-13)

a. Establish a complaint file; (3-30-01)

b. Assign a case number; (3-30-01)

c. Enter the complaint information into the Board's database. (4-4-13)

d. Correspond in writing to the complainant within ten (10) business days, when possible, and provide written information regarding the complaint process; (4-4-13)

e. Correspond in writing to the provider within ten (10) business days, when possible, explaining the nature of the complaint and provide written information regarding the complaint process; (4-4-13)

f. Monitor the case to insure the provider has replied and correspond in writing to the complainant and the provider advising of the case's status at least every forty-five (45) to sixty (60) days. (4-4-13)

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 case is opened, the QAS shall 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.

(4-4-13)

01. Category One. Cases assigned as Category one (1) shall be immediately reported to the Executive

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Director for appropriate action. (4-4-13)

02. Category Two. Cases assigned as Category two (2) is shall be reported to the Executive Director for appropriate action. (4-4-13)

014. -- 019. (RESERVED)

020. REPORT OF INVESTIGATION.

Upon receipt of the response and documentation obtained from the investigation, QAS shall prepare a report containing the following: (4-4-13)

01. Provider Information. The name of the provider, address, specialty, and date of Board meeting. (4-4-13)

02. Previous Complaints. A summary of previous complaints lodged against the provider. (4-4-13)

03. Complaint Concerns. A copy and summary of the complainant's concerns. (4-4-13)

04. Provider's Response. A copy and summary of the provider's response. (4-4-13)

05. QAS Review. A summary of the QAS review of medical records/documentation. (4-4-13)

06. Copies of Documents. Additional copies of documents may be attached as indicated by the nature of the complaint, response, and summary. (4-4-13)

07. Summary of Additional Information. A copy and written summary of any additional interviews or information collected in the course of the investigation. (4-4-13)

021. TRACKING.

The Board, upon review and consideration of the recommendation made by the Committee on Professional Discipline (Committee) or respective Board or Committee, makes a determination upon the merits of the case and may take action to impose sanctions or limitations or conditions on licenses or permits issued: (4-4-13)

01. Case Is Closed. If the Board determines to close, the QAS shall correspond in writing to the complainant and provider notifying each of the Board's final determination and action subject to federal and state law. (4-4-13)

02. Further Investigation Is Requested. If the Board determines further investigation is necessary to fully adjudicate the case, the QAS shall obtain the requested information and prepare a summary as described in Section 020. The complainant and provider shall be notified in writing of the Board determination and the case's status. (4-4-13)

03. Consultant Is Requested. If the Board determines a medical consultant is necessary to fully adjudicate the case, the QAS shall engage an appropriate medical consultant to review the case and submit a written report of findings to the Board. Such medical consultant may be recently retired from or currently in a clinical practice similar to the named provider. The Board shall define the focus, scope and depth of the medical consultant's review. The medical consultant shall be: (4-4-13)

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

b. Free from current Board review such as no open complaints or pending formal action; and (4-4-13)

c. Free from conflicts and disqualification. Medical consultants shall disqualify themselves and, on motion of any interested party may, on proper showing, be disqualified in any proceeding concerning which they have an actual conflict of interest or bias which interferes with their fair and impartial service. (4-4-13)

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d. The medical consultant must sign an independence statement before commencing the review. (4-4-13)

04. Stipulation and Order Is Issued. If the Board determines the case warrants issuance of a stipulation and order, a Board attorney shall generate the stipulation and order and submit to the named provider for signature. The QAS shall complete the stipulation checklist as indicated by the nature of the stipulation, identify the monitoring requirements and establish a monitoring plan for the provider. (4-4-13)

05. Other Disciplinary Action Directed. If the Board determines other disciplinary actions are warranted, the QAS shall act under the guidance of the Executive Director and/or Board counsel. (4-4-13)

06. Opportunity to Meet With Committee. The named provider shall be provided an opportunity to meet with the Committee or Board staff prior to the initiation of formal disciplinary proceedings. (4-4-13)

07. Recording of Board Action. The QAS shall update the database and the case file to reflect the Board's determination and action on the reviewed cases. (4-4-13)

022. AUTHORITY TO CLOSE COMPLAINTS/CASES.

The Board is solely authorized to close complaints and cases. All complaints and cases must be presented to the respective Board for consideration and recommendation to the Board. (4-4-13)

023. OTHER INDICATORS FOR INVESTIGATION.

01. Board Investigations. The Board may commence any investigation on its own initiative or on the basis on performance indicators. (4-4-13)

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 lodged with the Board. (4-4-13)

e. Failure to receive specialty board certification. (3-15-02)

f. Changes in area/specialty of practice without formal retraining. (3-15-02)

g. Health status. (3-15-02)

h. Illness. Mental or physical illness, including but not limited to, deterioration through the aging process, or loss of motor skill; or excessive use or abuse of drugs, including alcohol. (4-4-13)

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. Provider performance and outcome data received from sources such as Professional Review Organizations. (4-4-13)

l. Disciplinary reports from managed care organizations. (3-15-02)

m. Disciplinary reports by other state and government agencies. (4-4-13)

024. -- 999. (RESERVED)

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