

IDAPA 16 – IDAHO DEPARTMENT OF HEALTH AND WELFARE

Division of Behavioral Health

16.07.39 – Designated Examiners and Dispositioners

Who does this rule apply to?

For those seeking appointment as designated examiners or designated dispositioners in Idaho.

What is the purpose of this rule?

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. It is their role 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.

What is the legal authority for the agency to promulgate this rule?

This rule implements the following statutes passed by the Idaho Legislature:

Public Assistance and Welfare - Department of Health and Welfare:

- [Section 56-1003, Idaho Code](#) – Powers and Duties of the Director
- [Section 56-1004, Idaho Code](#) – Director – Additional Powers and Duties

Juvenile Proceedings - Children's Mental Health Services:

- [Section 16-2403\(4\), Idaho Code](#) – Definitions

State Charitable Institutions - Hospitalization of Mentally Ill:

- [Section 66-317\(5\), Idaho Code](#) – Definitions

Where can I find information on Administrative Appeals?

Administrative appeals and contested cases are governed by the provisions of IDAPA 16.05.03, "Contested Case Proceedings and Declaratory Rulings."

How do I request public records?

Unless exempted, all public records are subject to disclosure by the Department that will comply with Title 74, Chapter 1, Idaho Code, upon requests. Confidential information may be restricted by state or federal law, federal regulation, and IDAPA 16.05.01, "Use and Disclosure of Department Records."

Who do I contact for more information on this rule?

Idaho Department of Health and Welfare

Division of Behavioral Health – Designated Examiners and Dispositioners

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16.07.39 – DESIGNATED EXAMINERS AND 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. (7-1-21)T

001. TITLE AND SCOPE.

01. **Title.** These rules are titled IDAPA 16.07.39, “Designated Examiners and Dispositioners.” (7-1-21)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. (7-1-21)T

002. INCORPORATION BY REFERENCE.

American Psychiatric Association: Diagnostic and Statistical Manual of Mental Disorders, Fifth Edition, (DSM-5) Washington, DC, American Psychiatric Association, 2013, is hereby incorporated by reference under this chapter of rules. Copies of the manual are available from the American Psychiatric Association, 1000 Wilson Boulevard, Suite 1825, Arlington, VA 22209-3901. 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. (7-1-21)T

003. -- 008. (RESERVED)

009. CRIMINAL HISTORY AND BACKGROUND CHECK REQUIREMENTS.

Each individual who works directly with children or vulnerable adults as described in Section 39-5302, Idaho Code, and who is 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.” (7-1-21)T

01. **Criminal History And Background Check Requirement -- Initial Appointment.** The criminal history and background check requirements for applicants seeking consideration for an initial appointment as a designated examiner, designated dispositioner, or both, are found under Subsection 400.02 of these rules. (7-1-21)T

02. **Criminal History And Background Check Requirement -- Reappointment.** The criminal history and background check requirements for applicants seeking consideration for reappointment as a designated examiner, designated dispositioner, or both, are found under Subsection 600.02 of these rules. (7-1-21)T

010. DEFINITIONS.

For the purposes of these rules, the following terms are used as defined below: (7-1-21)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 24.34.01, “Rules of the Idaho Board of Nursing.” (7-1-21)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.” (7-1-21)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.” (7-1-21)T

04. **Department.** The Idaho Department of Health and Welfare. (7-1-21)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. (7-1-21)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. (7-1-21)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.(7-1-21)T

08. Director. The Director of the Idaho Department of Health and Welfare or their designee. (7-1-21)T

09. Division. The Department's Division of Behavioral Health. (7-1-21)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." (7-1-21)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." (7-1-21)T

12. Nurse Practitioner, Licensed. An individual licensed as a Nurse Practitioner in accordance with Title 54, Chapter 14, Idaho Code, and IDAPA 24.34.01, "Rules of the Idaho Board of Nursing." (7-1-21)T

13. Physician, Licensed. An individual licensed to practice medicine, under Title 54, Chapter 18, Idaho Code, and IDAPA 24.33.01, "Rules of the Board of Medicine for the Licensure to Practice Medicine and Surgery and Osteopathic Medicine and Surgery in Idaho." (7-1-21)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." (7-1-21)T

15. 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." (7-1-21)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: (7-1-21)T

01. Required License. Each applicant maintains their professional licensure for the duration of their appointment and be one (1) of the following: (7-1-21)T

- a.** Licensed Physician; (7-1-21)T
- b.** Licensed Psychologist; (7-1-21)T
- c.** Licensed Clinical Nurse Specialist; (7-1-21)T
- d.** Licensed Nurse Practitioner; (7-1-21)T
- e.** Licensed Clinical Professional Counselor (LCPC); (7-1-21)T
- f.** Licensed Professional Counselor (LPC); (7-1-21)T
- g.** Licensed Clinical Social Worker (LCSW); (7-1-21)T
- h.** 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;
(7-1-21)T

i. Licensed Marriage and Family Therapist (LMFT). (7-1-21)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: (7-1-21)T

a. At least two (2) years of post-master's degree experience in a clinical mental health setting which includes: (7-1-21)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; (7-1-21)T

ii. Use of DSM-5 diagnostic criteria; (7-1-21)T

iii. Treatment of mental health disorders including knowledge of treatment modalities and experience applying treatment modalities in a clinical setting; and (7-1-21)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. (7-1-21)T

b. Knowledge of and experience applying Idaho mental health law. This must include: (7-1-21)T

i. Experience that demonstrates understanding of the judicial process, including the conduct of commitment hearings. (7-1-21)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 (7-1-21)T

iii. Knowledge of a client's legal rights. (7-1-21)T

03. Required Training. Each applicant must have completed: (7-1-21)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. (7-1-21)T

b. A minimum of four (4) additional hours observing a designated examiner conducting a designated examination. (7-1-21)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. (7-1-21)T

01. Appointment as a Designated Examiner. Applicants for designated dispositioner are also appointed as a designated examiner by the Director. (7-1-21)T

02. Required Experience and Abilities. Each applicant has and demonstrates specific knowledge of available treatment alternatives in Idaho, types of treatment available for appropriate placement in Idaho, and level of care requirements in Idaho. (7-1-21)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 they intend to practice or the State Hospital Administrative Director of the hospital at which they intend to practice.

(7-1-21)T

01. Complete an Application. Each applicant must complete and sign an application using Department form HW-0790. (7-1-21)T

02. Provide Verification of Education, Training, Experience, and Criminal Background Check. Each applicant must provide the Department with the following: (7-1-21)T

a. A current resume that documents: (7-1-21)T

i. The applicant's degree, the date the degree was awarded, and the school from which the degree was received; and (7-1-21)T

ii. How the applicant meets the requirements under Subsection 200.02 of these rules. (7-1-21)T

b. A copy of the applicant's license. If the applicant is an LMSW, they must also provide a copy of the supervision plan approved by the Board of Social Work Examiners; (7-1-21)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; (7-1-21)T

d. Documentation of a criminal history and background check clearance completed within ninety (90) days of the date of the application. (7-1-21)T

03. Regional or Hospital Recommendation. (7-1-21)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 they intend to practice or the State Hospital Administrative Director of the hospital at which they intend to practice. (7-1-21)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. (7-1-21)T

04. Final Decision on Appointment. (7-1-21)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. (7-1-21)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. (7-1-21)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.

(7-1-21)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.

(7-1-21)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.

(7-1-21)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.

(7-1-21)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, their appointment(s) expires the date their employment ends. They may reapply as a contractor under Section 600 of these rules.

(7-1-21)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 they intend to practice or the State Hospital Administrative Director of the hospital at which they intend to practice.

(7-1-21)T

01. Complete an Application. Each applicant for reappointment must complete and sign an application using Department form HW-0790.

(7-1-21)T

02. Criminal History and Background Check Requirement for Individuals Appointed as a Designated Examiner or Designated Dispositioner Prior to January 1, 2009. Each individual appointed as a designated examiner or designated dispositioner, or both, prior to January 1, 2009, must show documentation of a criminal history and background check clearance completed within ninety (90) days prior to the date of their application for reappointment.

(7-1-21)T

03. Regional or Hospital Recommendation.

(7-1-21)T

a. To be eligible for consideration and reappointment 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 they intend to practice or the State Hospital Administrative Director of the hospital at which they intend to practice.

(7-1-21)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 a copy of the applicant's current license.

(7-1-21)T

04. Final Decision on Reappointment.

(7-1-21)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. (7-1-21)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. (7-1-21)T

c. If a designated examiner or designated dispositioner allows their appointment to expire, the applicant must reapply in accordance with the initial appointment requirements under Section 400 of this rule. (7-1-21)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: (7-1-21)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. (7-1-21)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. (7-1-21)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: (7-1-21)T

a. Failure to comply with these rules. (7-1-21)T

b. Failure to furnish data, information, or records as requested by the Department. (7-1-21)T

c. Revocation or suspension of the applicant's professional license. (7-1-21)T

d. Refusal to participate in a quality assurance process as requested by the Department. (7-1-21)T

e. Inadequate knowledge or performance as demonstrated by repeated substandard peer or quality assurance reviews. (7-1-21)T

f. Misrepresentation by the applicant in their application, or in documents required by the Department, or by an appointee in which there is a criminal, civil, or administrative determination that they have misrepresented the facts or the law to the court or administrative agency. (7-1-21)T

g. Conflict of interest in which an appointee exploits their position as a designated examiner or designated dispositioner for personal benefit. (7-1-21)T

h. A criminal, civil, or administrative determination that an appointee has committed fraud or gross negligence in their capacity as a designated examiner or designated dispositioner. (7-1-21)T

i. Substantiated disposition of a child protection referral or adult protection referral. (7-1-21)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. (7-1-21)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, “Contested Case Proceedings and Declaratory Rulings.” (7-1-21)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. (7-1-21)T

701. -- 999. (RESERVED)

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