

Dear Senators PATRICK, Martin, Schmidt, and
Representatives BARBIERI, Clow, Smith:

The Legislative Services Office, Research and Legislation, has received the enclosed rules of
the Department of Insurance:

IDAPA 18.01.27 - Self-Funded Employee Health Care Plans Rule - Proposed Rule (Docket No.
18-0127-1501);

IDAPA 18.01.44 - Schedule of Fees, Licenses, and Miscellaneous Charges - Proposed Rule (Docket
No. 18-0144-1501);

IDAPA 18.01.60 - Long-Term Care Insurance Minimum Standards - Proposed Rule (Docket No.
18-0160-1501).

Pursuant to Section 67-454, Idaho Code, a meeting on the enclosed rules may be called by the
cochairmen or by two (2) or more members of the subcommittee giving oral or written notice to Research
and Legislation no later than fourteen (14) days after receipt of the rules' analysis from Legislative
Services. The final date to call a meeting on the enclosed rules is no later than 10/01/2015. If a meeting is
called, the subcommittee must hold the meeting within forty-two (42) days of receipt of the rules' analysis
from Legislative Services. The final date to hold a meeting on the enclosed rules is 10/29/2015.

The germane joint subcommittee may request a statement of economic impact with respect to a
proposed rule by notifying Research and Legislation. There is no time limit on requesting this statement,
and it may be requested whether or not a meeting on the proposed rule is called or after a meeting has
been held.

To notify Research and Legislation, call 334-4834, or send a written request to the address on the
memorandum attached below.



Eric Milstead
Director

Legislative Services Office

Idaho State Legislature

Serving Idaho's Citizen Legislature

MEMORANDUM

TO: Rules Review Subcommittee of the Senate Commerce & Human Resources Committee and the House Business Committee

FROM: Legislative Research Analyst - Elizabeth Bowen

DATE: September 14, 2015

SUBJECT: Department of Insurance

IDAPA 18.01.27 - Self-Funded Employee Health Care Plans Rule - Proposed Rule (Docket No. 18-0127-1501)

IDAPA 18.01.44 - Schedule of Fees, Licenses, and Miscellaneous Charges - Proposed Rule (Docket No. 18-0144-1501)

IDAPA 18.01.60 - Long-Term Care Insurance Minimum Standards - Proposed Rule (Docket No. 18-0160-1501)

The Department of Insurance submits notice of proposed rulemaking at IDAPA 18.01.27, 18.01.44, and 18.01.60.

18.01.27

This proposed rule amends the existing rule to conform it to statutory changes made in 2013. It also provides clarity and removes duplicative language.

Negotiated rulemaking was conducted. There is no anticipated impact on the state general fund. The Department states that the rulemaking is authorized pursuant to Sections 41-211 and 41-4020, Idaho Code.

18.01.44

This proposed fee rule relates to registration fees for self-funded health care plans and also to fees for licensure exams for producers, public adjusters, and adjusters. The rule clarifies that registration fees for self-funded health care plans apply to all self-funded health care plans. The rule also amends existing language to provide that the fee for licensure exams shall be set forth in a contract between the Department and the third-party testing vendor. Finally, the rule revises language to be consistent with the Idaho Code and makes some technical corrections.

Negotiated rulemaking was conducted, and there is no anticipated fiscal impact on the state general fund. The Department states that the rulemaking is authorized pursuant to Sections 41-211, 41-401, 41-1006(2), 41-4005(4), 41-4011(4), 41-5806(1)(g), and 41-5807, Idaho Code.

18.01.60

Mike Nugent, Manager
Research & Legislation

Cathy Holland-Smith, Manager
Budget & Policy Analysis

April Renfro, Manager
Legislative Audits

Glenn Harris, Manager
Information Technology

This proposed rule clarifies annual inflation protection requirements applicable to long-term care partnership policies. It also incorporates certain documents by reference.

Negotiated rulemaking was conducted, and there is no anticipated impact on the state general fund. The Department states that the rulemaking is authorized pursuant to Sections 41-211, 41-4608, and 56-1305, Idaho Code.

cc: Department of Insurance
Thomas A. Donovan

IDAPA 18 - IDAHO DEPARTMENT OF INSURANCE
18.01.27 - SELF-FUNDED EMPLOYEE HEALTH CARE PLANS RULE
DOCKET NO. 18-0127-1501
NOTICE OF RULEMAKING - PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Sections 41-211 and 41-4020, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than September 16, 2015.

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

DESCRIPTIVE SUMMARY: The following is a nontechnical explanation of the substance and purpose of the proposed rulemaking:

To amend the existing rule to conform to code changes made during 2013, provide additional clarity, and remove some duplicative language unnecessary to the rule that reiterates the code.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased: None.

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year resulting from this rulemaking: NA

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(1), Idaho Code, negotiated rulemaking was conducted. The Notice of Intent to Promulgate Rules - Negotiated Rulemaking was published in the July 1, 2015 Idaho Administrative Bulletin, [Vol. 15-7, page 68](#).

INCORPORATION BY REFERENCE: Pursuant to Section 67-5229(2)(a), Idaho Code, the following is a brief synopsis of why the materials cited are being incorporated by reference into this rule: NA

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions or to submit comments concerning the proposed rule, contact Thomas Donovan, tom.donovan@doi.idaho.gov, (208) 334-4214.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the attention of the undersigned and must be delivered on or before September 23, 2015.

DATED this 7th Day of August, 2015.

Dean L. Cameron, Director
Idaho Department of Insurance
700 W State St, 3rd Floor
P.O. Box 83720
Boise, ID 83720-0043
Phone: (208) 334-4250
Fax: (208) 334-4398

THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 18-0127-1501
(Only Those Sections With Amendments Are Shown.)

001. TITLE AND SCOPE.

01. **Title.** This rule shall be cited in full as Idaho Department of Insurance Rule, IDAPA 18.01.27, "Self-Funded ~~Employee~~ Health Care Plans Rule." (4-5-00)()

02. **Scope.** The purpose of this rule is to supplement the provisions of Title 41, Chapter 40, Idaho Code, Self-Funded Health Care Plans by providing: (4-5-00)

- a. Dates of application for registration; (4-5-00)
- b. Requirements for application for registration; (4-5-00)
- c. Rules regarding investigation of applications; (4-5-00)
- d. Definition of terms, required liabilities; and establishment of reserve bases; ~~and~~ (4-5-00)()
- e. Requirements for contribution rates, contracts and services, and records; and ()
- ef. ~~To provide a~~ An effective date. (4-5-00)()

(BREAK IN CONTINUITY OF SECTIONS)

010. DEFINITIONS.

All terms defined in Title 41, Chapter 40, Idaho Code, that are used in this rule shall have the same meaning as used in that Chapter. (4-5-00)()

01. "All contributions to be paid in advance". As used in Title 41, Chapter 40, Idaho Code, means all contributions are to be paid in advance of the period of time for which the contribution is made. ()

02. "Deposited in and disbursed from a trust fund". As used in Title 41, Chapter 40, Idaho Code, means all contributions based on calculated rates in accordance with Section 028 of this rule shall be deposited into the trust fund and all expenses shall be paid out of the trust fund. ()

011. -- 020. (RESERVED)

021. QUALIFICATION OF PLAN.

In order for a plan to qualify under Title 41, Chapter 40, Idaho Code, the plan's trust must be established by agreement between the employer or employers or a postsecondary education institution and the trustee of the trust, for the sole purpose of providing health care benefits to employees of the employer or employers or to students of the postsecondary educational institution. (3-30-07)()

(BREAK IN CONTINUITY OF SECTIONS)

023. ~~APPLICATION FOR REGISTRATION. (RESERVED)~~

~~01. Application. The application must include each of the requirements set out in Section 41-4005,~~

~~Idaho Code. The projected income and disbursement statement referenced in Section 41-4005(2)(d), Idaho Code, must be certified by an actuary meeting the qualifications of Section 41-4005(6), Idaho Code, and accompanied by a description of assumptions used in projecting income and disbursements together with bases used to estimate amounts reserved for claims. (3-30-07)~~

~~02. Trust Agreement. (3-30-07)~~

~~a. The trust agreement must comply with Title 41, Chapter 40, Idaho Code, and, to the extent not in conflict with Title 41, the trust agreement must also comply with Title 68, Idaho Code, and Title 15, Chapter 7, Idaho Code. The trust agreement must contain, at a minimum, the conditions set forth in Section 41-4004, Idaho Code. (3-30-07)~~

~~b. The term irrevocable as used in Section 41-4004(1), Idaho Code, means that the plan sponsor cannot retain the power to alter, amend, revoke or terminate the transfer in trust. The trustee may, pursuant to the terms of the trust agreement, amend the terms of the trust agreement for the purpose of complying with applicable law. (3-30-07)~~

~~03. Biographical Affidavit. The application must be accompanied by a biographical affidavit for each trustee on a form acceptable to the Director. (3-30-07)~~

(BREAK IN CONTINUITY OF SECTIONS)

026. TRUST FUND RESERVES AND SURPLUS.

01. Reserve Requirements. The trust fund of the plan must continuously maintain reserves sufficient, as certified by a qualified actuary as being necessary, to fully fund payment of all benefits in effect at the time a claim thereunder arises. This reserve must adequately provide for all reasonably estimated future claim payments, adjustment expenses, and litigation expenses on claims which have arisen, including claims incurred but not reported, extended benefits and maternity benefits, if any. ~~(7-1-93)()~~

02. Reserves for Disability Income Benefits. Reserves established for disability income benefits shall be in an amount not less than reserves determined by the Minimum Reserve Standards for Group Health Insurance Contracts set forth in the NAIC's Accounting Practices and Procedures Manual as adopted by the Director unless it can be proven to the satisfaction of the Director that a lower reserve can be actuarially justified. (3-30-07)

03. Certification by Actuary. Reserves must be certified annually by ~~an~~ a qualified actuary. ~~who meets the requirements of Section 41-4005(6), Idaho Code,~~ sSuch certification must be accompanied by a statement describing bases used in reserve determination. The certification shall be in a form acceptable to the Director. ~~(3-30-07)()~~

04. Insolvent Condition. If determination of surplus reveals a deficiency in surplus, the Director may, in his discretion, allow the plan a period of time not exceeding ninety (90) days to accumulate required surplus. The plan shall be deemed to be insolvent when the plan is either unable to pay its obligations when they are due or its assets are do not sufficient to meet exceed all its liabilities, including required reserves. ~~(3-30-07)()~~

~~**05. Surplus.** The trust fund of a self-funded plan shall maintain a surplus equal to thirty percent (30%) of unpaid claim liability of the plan. The total unpaid claim liability to which the thirty percent (30%) is calculated against includes total claims reported and not yet paid, claims incurred but not yet reported, adjustment expenses, litigation expenses, extended benefits and maternity benefits, if any. A newly formed self-insured plan with no prior operating history shall maintain surplus of not less than ten percent (10%) of unpaid claim liability of the plan during the first year and not less than twenty percent (20%) of the unpaid claim liability of the plan during its second year of operation. The unpaid claim liability includes total claims reported and not yet paid, claims incurred but not yet reported, adjustment expenses, litigation expenses, extended benefits and maternity benefits, if any. (3-30-07)~~

~~**06. Letter of Credit.** To qualify as surplus, the clean, irrevocable, unconditional and "evergreen" letter~~

~~of credit must be issued by a qualified United States financial institution having a branch office in Idaho. Qualified financial institution shall have the same definition as set forth in Section 41-514(3), Idaho Code.~~ (3-30-07)

027. BONDING.

01. Certified Copy of Bond. A certified copy of the fidelity bond or equivalent coverage, as required under Section 41-4014(3), Idaho Code, shall be furnished to the Director by the plan. (3-30-07)

02. Scope of Coverage. The fidelity bond or equivalent coverage must cover any person handling fiduciary funds on behalf of the plan including, but not limited to, any signatory on a trust fund or account owned by the plan. ()

023. Cancellation of Bond Requirements. The fidelity bond or equivalent coverage must contain language stating that it is noncancellable except upon not less than thirty (30) days advance notice in writing to the trustee and the Director. A copy of any notice cancelling a bond required under Chapter 40, Title 41, Idaho Code, is to be forwarded to the Director by the surety at the same time it is forwarded to the trustee. (3-30-07)()

04. Third Party Administrator. Any party that provides any one of the following services to the plan must be licensed as a third party administrator in accordance with Title 41, Chapter 9, Idaho Code, and Section 41-4014(4), Idaho Code: ()

a. Directly or indirectly underwrites; ()

b. Collects or handles charges or contributions; or ()

c. Adjusts or settles claims on members or beneficiaries of the plan. ()

028. CONTRIBUTION RATES.

01. Contribution Rate Calculation. Contribution rates shall be calculated at least annually by a qualified actuary. The contribution rate calculations should be broken down and designated as the rate for the employer and the rate per employee, or the rate for the postsecondary educational institution and the rate per student. ()

02. Employer Contributions. Employer contributions shall be based on filed rates, paid in advance on a periodic basis during the period of coverage or at the beginning of the period of coverage. ()

03. Annual Filing of Rates. The required annual filing of rates with the Director shall include the breakdown as required under Subsection 028.01. ()

029. CONTRACTS AND SERVICES.

01. Affiliated Contracts. All contracts for goods or services provided to the plan by any plan sponsor, employer, third party administrator, or other affiliated entity or employee or agent thereof, shall be in writing, setting forth in detail the rights and duties of each party to the writing; regardless of whether compensation, fees, or other consideration is paid or exchanged directly or indirectly. ()

02. Contracts for Services. All contracts for services including, but not limited to, accounting services, legal services, custodial agreements, and agreements for lease, rent, or insurance coverage to be performed or entered into on behalf of the plan shall be directly with the plan as agreed to by the board of trustees and the other party. ()

03. Recordkeeping and Writing. Contracts and agreements valued at greater than five hundred dollars (\$500.00) entered into by the plan, shall be in writing and shall be approved by resolution of the board of trustees, and placed in the minutes and records of the plan. ()

04. Fiduciary Duty. By entering into contracts and agreements, the trustees are not permitted to

transfer or otherwise avoid their statutory fiduciary responsibilities. ()

030. RECORDS.

01. Board Actions. Any and all acts, resolutions, appointments, or delegations, or other decisions of the board of trustees shall be in writing and placed in the minutes and records of the plan. ()

02. Complete Records. The full and accurate records and accounts of the plan include, but are not limited to, minutes of the meetings of the board of trustees that document the acts, resolutions, appointments or delegations of the trustees; any and all correspondence between the board of trustees and contractors; accounting and actuarial records; and any and all records, correspondence, minutes, or statements as required by law or the trust agreement. ()

~~028~~31. ANNUAL STATEMENT.

The trustee shall file an annual statement within ninety (90) days after the close of each fiscal year of the Plan and at such other time as may be determined by the Director. A quarterly statement shall be filed with the Director within sixty (60) days of the end of each quarter in a form acceptable to the Director. (3-30-07)

~~029~~32. SEVERABILITY CLAUSE.

If any provision of this rule, or the application thereof to any person or circumstance, is held invalid, the remainder of the rule, or the applicability of such provision to other persons or circumstances, shall not be affected thereby. (7-1-93)

~~030~~3. -- 999. (RESERVED)

IDAPA 18 - IDAHO DEPARTMENT OF INSURANCE

18.01.44 - SCHEDULE OF FEES, LICENSES, AND MISCELLANEOUS CHARGES

DOCKET NO. 18-0144-1501 (FEE RULE)

NOTICE OF RULEMAKING - PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Sections 41-211, 41-401, 41-1006(2), 41-4005(4), 41-4011(4), 41-5806(1)(g), 41-5807(2) and (3), Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than September 16, 2015.

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

DESCRIPTIVE SUMMARY: The following is a nontechnical explanation of the substance and purpose of the proposed rulemaking:

Title 41, Chapter 40, was amended in 2013 to provide that post-secondary educational institutions could provide students self-funded health care plans in Idaho. Previously, registration of such plans was limited to employee plans. The rulemaking will seek to clarify the language that the registration fee is paid by all self-funded plans registering with the department.

Title 41, Chapter 58, Idaho Code, permits the department to license public adjusters. The proposed rule provides that public adjusters pay the same licensing and examination fees as producers and adjusters.

The department contracts with a private contractor to administer insurance producer, adjuster and public adjuster examinations. The examination fee is currently established per rule at \$60. The rulemaking will revise language concerning the amount paid by an applicant for licensure as a producer, adjuster and public adjuster for an examination to a third party testing vendor.

The statutory provision for a solicitation permit application and fee (former Idaho Code § 41-2807) was repealed by the Idaho Legislature in 2003, so the reference to a fee in department rule should be removed.

Technical corrections are also made.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased:

The proposed rulemaking will:

- Amend 18.01.44.020.03 to clarify that registration of self-funded student health plans is subject to the licensing/renewal \$500 fee just like self-funded employer plans by removing the specific reference to “employee” plans;
- Amend IDAPA 18.01.44.030 to add a licensing/renewal fee for public adjusters of \$80;
- Amend IDAPA 18.01.44.030 to change the provision regarding the cost paid to a third party vendor by an applicant for a producer, public adjuster, or adjuster license to take an examination by eliminating the \$60 fee referenced and provide that the applicant will pay an amount to the vendor as provided for by contract between the department and testing vendor;
- Eliminate fees for solicitation permits in section 18.01.040, as related code sections have been repealed; and
- Make technical corrections in section 18.01.040 to update terminology and include catchall language regarding service of process fees, and eliminate unnecessary language in 18.01.020.04.

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year resulting from this rulemaking:

The fiscal impact of the changes is expected to be revenue neutral.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(1), Idaho Code, negotiated rulemaking was conducted. The Notice of Intent to Promulgate Rules - Negotiated Rulemaking was published in the July 1, 2015 Idaho Administrative Bulletin, **Vol. 15-7, page 69**.

INCORPORATION BY REFERENCE: Pursuant to Section 67-5229(2)(a), Idaho Code, the following is a brief synopsis of why the materials cited are being incorporated by reference into this rule: NA

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Thomas Donovan, tom.donovan@doi.idaho.gov, (208) 334-4214.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before September 23, 2015.

DATED this 7th Day of August, 2015.

Dean L. Cameron, Director
Idaho Department of Insurance
700 W State St, 3rd Floor
P.O. Box 83720
Boise, ID 83720-0043
Phone: (208) 334-4250
Fax: (208) 334-4398

THE FOLLOWING IS THE PROPOSED TEXT OF FEE DOCKET NO. 18-0144-1501
(Only Those Sections With Amendments Are Shown.)

020. INSURER FEES.

01. Annual Continuation Fee. All insurers and other entities (set forth in Section 020) licensed, listed, or otherwise approved to do business in the state of Idaho shall pay an annual continuation fee. (7-1-00)

a. The annual continuation fee shall be due on March 1st each year and shall provide for payment of the insurer's fees due through the last day of February next proceeding. (7-1-00)

b. The annual continuation fee shall be charged at the time the insurer applies for admission to do business in the state of Idaho. If the application is approved, the fee paid shall cover the insurer's fees through the last day of February next proceeding. (7-1-00)

02. Fee for Insurers. For all insurance companies receiving a certificate of authority pursuant to Chapter 3, Title 41, Idaho Code, the amount of the annual continuation fee shall be as follows: (7-1-00)

a. If insurer's surplus as regards policyholders at the preceding December 31 is less than ten million dollars (\$10,000,000) - One thousand dollars (\$1,000). (7-1-00)

b. If insurer's surplus as regards policyholders at the preceding December 31 is ten million (\$10,000,000) or more, but less than one hundred million (\$100,000,000) -- Two thousand five hundred dollars (\$2,500). (7-1-00)

c. If insurer's surplus as regards policyholders at the preceding December 31 is one hundred million

(\$100,000,000) or greater - Four thousand five hundred dollars (\$4,500). (7-1-00)

03. Fees of Other Entities. For the following entities, the amount of the annual continuation fee shall be: (7-1-01)

a. Five hundred dollars (\$500): (7-1-01)

i. Accredited reinsurers, listed pursuant to Section 41-514(1)(b), Idaho Code. (7-1-00)

ii. Trusteed reinsurers, listed pursuant to Section 41-514(1)(d), Idaho Code. (7-1-00)

iii. Authorized surplus line insurers. (7-1-00)

iv. County mutual insurers. (7-1-00)

v. Fraternal benefit societies. (7-1-00)

vi. Hospital and/or professional service corporations. (7-1-00)

vii. Hospital liability trusts. (7-1-00)

viii. Self funded *employee* health care plans. (~~7-1-00~~) ()

ix. Domestic Risk retention groups. (7-1-01)

x. Petroleum clean water trusts. (7-1-00)

xi. Rating organizations. (7-1-00)

xii. Advisory organizations. (7-1-00)

b. One hundred dollars (\$100): (7-1-01)

i. Purchasing groups. (7-1-00)

04. What Payment of Fee Shall Cover. Payment of the annual continuation fee shall be deemed to be payment of all fees that would ordinarily be paid to the Department by the insurer or entity during the relevant year, including, but not limited to, the following: (7-1-00)

a. Certificate of authority renewal, license renewal, and annual registration. (7-1-00)

b. Arson, Fire and Fraud. (7-1-00)

c. Annual statement filing. (7-1-00)

d. Agent appointment and renewal of appointment. (7-1-00)

e. Filings under Chapter 38, Title 41, Idaho Code, Acquisition of control and insurance holding company systems. (7-1-00)

f. Filing of amendments to Articles of Incorporation. (7-1-00)

g. Filing of amendments to Bylaws. (7-1-00)

h. Amendments to Certificate of Authority. (7-1-00)

i. Filing of notice of significant transactions pursuant to Section 41-345, Idaho Code. (7-1-00)

- j. Quarterly statement filing. (7-1-00)
 - k. Examination expenses, ~~except for those set forth in Subsection 020.05.g.~~ ~~(7-1-00)~~ ()
- 05. Fees Not Included.** Payment of the annual continuation fee will not exempt the insurer or entity from the following: (7-1-00)
- a. Fees for application for producer license. (7-1-00)
 - b. Costs incurred by the Department for investigation of an applicant for producer license. (7-1-00)
 - c. Attorney's fees and costs incurred by the Department when allowed pursuant to Idaho Code. (7-1-00)
 - d. Costs incurred for experts and consultants when allowed by Idaho Code. (7-1-00)
 - e. Penalties or fines levied by or payable to the Department of Insurance. (7-1-00)
 - f. All fees set forth under Section 040. (7-1-00)
- 06. Failure to Pay Fee.** Failure to pay the annual continuation fee on or before March 1st each year shall be treated as failure to pay the continuation fee and will result in expiration of the insurer's or entity's authority to do business in the state of Idaho pursuant to Section 41-324, Idaho Code. (7-1-00)
- 07. Reinstatement Fee.** The reinstatement fee referenced in Section 41-324(3), Idaho Code, shall be the amount referenced above for the insurer or entity continuation fee. (7-1-00)

021. -- 029. (RESERVED)

030. PRODUCER AND MISCELLANEOUS LICENSING FEES.

- 01. Original License Application.** The following fees are due and must be paid with the filing application for original license, which fees include the issuance of a license, if issued: (3-13-02)
- a. Administrators -- three hundred dollars (\$300). (7-1-00)
 - b. Producers -- eighty dollars (\$80). (3-13-02)
 - c. Designation as a managing general agent -- eighty dollars (\$80). (3-13-02)
 - d. Adjusters and public adjusters -- eighty dollars (\$80). ~~(3-13-02)~~ ()
 - e. Reinsurance intermediary -- eighty dollars (\$80). (3-13-02)
 - f. Surplus line brokers -- eighty dollars (\$80). (3-13-02)
 - g. Life settlement providers -- five hundred dollars (\$500). (3-29-10)
 - h. Life settlement brokers -- three hundred dollars (\$300). (3-29-10)
 - i. Independent review organization -- five hundred dollars (\$500). (3-29-10)
 - j. Vendor of portable electronics insurance, a type of limited lines producer: (3-27-13)
 - i. A vendor of portable electronic insurance who is engaged in portable electronic transactions at more than ten (10) locations in the state of Idaho -- one thousand dollars (\$1,000). (3-27-13)

ii. A vendor of portable electronic insurance who is engaged in portable electronic transactions at ten (10) or fewer locations in the state of Idaho -- one hundred dollars (\$100). (3-27-13)

02. Examination Fees. The following fees are due and must be paid in order to take examinations for the following licenses: (3-13-02)

a. Producers, public adjusters, and adjusters -- application for examination and each time taken -- ~~sixty dollars (\$60)~~ a fee set forth by contract between the department and third-party testing vendor, which entire amount is to be paid by the applicant to the vendor and retained by the vendor. (~~3-13-02~~)()

03. Fingerprint Processing. Processing fingerprints (when required) -- not to exceed eighty dollars (\$80). (3-27-13)

04. License Renewal. The following fees are due and must be paid for each license in order to renew or continue each and every license: (3-13-02)

a. Adjusters, public adjusters, and producers (biennial) -- eighty dollars (\$80), or sixty dollars (\$60) if renewed electronically. (~~3-16-04~~)()

i. A vendor of portable electronic insurance who is engaged in portable electronic transactions at more than ten (10) locations in the state of Idaho -- five hundred dollars (\$500). (3-27-13)

ii. A vendor of portable electronic insurance who is engaged in portable electronic transactions at ten (10) or fewer locations in the state of Idaho -- one hundred dollars (\$100). (3-27-13)

b. Redesignation as managing general agent (annual) -- eighty dollars (\$80). (3-13-02)

c. Administrators (biennial) -- eighty dollars (\$80). (3-19-07)

i. Renewal form shall be filed on or before December 31. (3-19-07)

ii. Any renewal form postmarked after December 31 shall include a penalty in an amount equal to the renewal fee. (3-19-07)

iii. A renewal form postmarked after January 31 must be submitted as a new application with supporting documents and the full application fee. (3-19-07)

d. Surplus line brokers (biennial) -- eighty dollars (\$80), or sixty dollars (\$60) if renewed electronically. (3-16-04)

e. Life settlement providers (biennial) -- three hundred dollars (\$300). (3-29-10)

f. Life settlement brokers (biennial) -- eighty dollars (\$80). (3-29-10)

g. Independent review organization (biennial) -- three hundred dollars (\$300). (3-29-10)

031. -- 039. (RESERVED)

040. MISCELLANEOUS FEES. Miscellaneous fees shall be as follows. (7-1-00)

01. Certified Copy. Certified copy of certificate of authority, license or registration - Fifty dollars (\$50). (7-1-00)

~~**02. Solicitation Permit. Organization and financing of insurer.** (7-1-00)~~

- ~~a.~~ ~~Filing application for solicitation permit -- Nine hundred dollars (\$900).~~ (7-1-00)
- ~~b.~~ ~~Issuance of solicitation permit -- One hundred eighty dollars (\$180).~~ (7-1-00)
- 032.** **Certificate Under Seal.** Director's certificate under seal (except for those under Subsection 040.01 of this rule) - Twenty dollars (\$20). (7-1-00)
- 043.** **Documents Filed.** For each copy of document filed in his office, a reasonable cost as fixed by the director. For rate and form filings not submitted electronically through the national System for Electronic Rate and Form Filing (SERFF) -- Twenty dollars (\$20) for each rate or form filed in excess of ten (10) per calendar year. (4-9-09)
- 054.** **Life Insurance Valuation.** For valuing life insurance, actual cost of valuation but not to exceed one cent (\$.01) for each one thousand dollars (\$1,000) of insurance. (7-1-00)
- 065.** **Insurer Service of Process.** For receiving and forwarding copy of summons or other process served upon the director as process agent of an insurer -- Thirty dollars (\$30). (7-1-00)
- 076.** **Agent Service of Process.** For receiving and forwarding copy of summons or other process served upon the director as process agent of a nonresident ~~agent, broker or consultant~~ producer or other person for which the director is authorized to serve as statutory agent for service of process -- Thirty dollars (\$30). (7-1-00)()
- 087.** **Continuing Education.** Filing continuing education applications for approval and certification of subjects of courses (each application) -- Twenty-five dollars (\$25). (7-1-00)
- 098.** **Small Employer Health Program.** Administrative expenses incurred in implementing and approving Idaho small employer health reinsurance program and plan of operation: (7-1-00)
- a. Initial deposit for program setup, approval and processing - One thousand dollars (\$1,000). (7-1-00)
 - b. Any additional reasonable expenses incurred in establishing and maintaining the program. (7-1-00)
 - c. Annual filings of Board, pursuant to Section 41-4711(12), Idaho Code - Three hundred dollars (\$300). (7-1-00)

PROPOSED RULE COST/BENEFIT ANALYSIS

Section 67-5223(3), Idaho Code, requires the preparation of an economic impact statement for all proposed rules imposing or increasing fees or charges. This cost/benefit analysis, which must be filed with the proposed rule, must include the reasonably estimated costs to the agency to implement the rule and the reasonably estimated costs to be borne by citizens, or the private sector, or both.

Department or Agency: Department of Insurance - 280

Agency Contact: Tom Donovan Phone: (208) 334-4214

Date: Aug. 20, 2015

IDAPA, Chapter and Title Number and Chapter Name:

18.01.44 – SCHEDULE OF FEES, LICENSES AND MISCELLANEOUS CHARGES

Fee Rule Status: Proposed Temporary

Rulemaking Docket Number: 18-0144-1501

STATEMENT OF ECONOMIC IMPACT:

Fees for self-funded post-secondary secondary educational institution health plans

The department has overseen the registration of certain self-funded health plans (typically non single-employer private plans). Title 41, chapter 40, Idaho Code, was amended in 2013 to provide that post-secondary educational institutional student self-funded health plans could also register with the department. Oversight of these plans will be comparable to that of employer plans, which are assessed an initial and annual \$500 fee. Benefits provided by the plan registration and payment of the fee include maintaining operational viability and financial solvency for the plan beneficiaries.

Fees for producer, adjuster, and public adjuster exams

The department contracts with a vendor to administer insurance producer, adjuster, and public adjuster exams as a prerequisite for licensure. The examination fee is currently set forth by rule at \$60. The rulemaking will seek to revise language concerning the fee for producer, adjuster, and public adjuster exams to allow the fee to be set in a revenue neutral manner to cover the vendor's costs of administering the examination by contract between the department and vendor. There is no increase cost to the Department of Insurance to implement this revised rule. Both currently and after this proposed rule change, the department will not collect or receive any portion of the examination "fee" or cost. The examination cost is borne by a private party (applicant for a license) and paid to a private party (testing vendor).

Fees for public adjusters

The department will charge the same application and biennial licensing fees for public adjusters, added pursuant to title 41, chapter 58, Idaho Code in 2008, as are assessed to producers and adjusters. The fee is appropriate for reviewing applications and maintaining oversight of public adjusters commensurate with that involved for producers and agents.

Fees for solicitation permits

The sections applicable to solicitation permits (Idaho Code § 41-2806 to 41-2808) were repealed in 2003. Idaho Code § 41-2807 set forth requirements for an application and provided for a fee to be paid as provided for by rule. No solicitation permit applications are received by the department since the requirement has been removed from the code and the need for a fee no longer exists.

Fees for service of process

The director is the statutory agent for service of process for foreign insurers and foreign producers. Although common practice is to refer to those selling, soliciting, or negotiating insurance often as agents and brokers, their license category was changed to “producer” many years ago. The fee amount is not changing, just updating the reference to producers. Additionally, a catch-all provision for others for whom the director is designated by statute as the statutory agent for service of process is being included. Examples of others include, fraternal benefit societies, those filing holding company statements, etc. The cost for service of process on foreign insurers is set by statute at \$30. The benefit is that Idaho plaintiffs and those seeking to serve legal process on insurers and others transacting insurance in Idaho have an ability to effectuate service in Idaho.

IDAPA 18 - IDAHO DEPARTMENT OF INSURANCE

18.01.60 - LONG-TERM CARE INSURANCE MINIMUM STANDARDS

DOCKET NO. 18-0160-1501

NOTICE OF RULEMAKING - PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Sections 41-211, 41-4608, and 56-1305, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than September 16, 2015.

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

DESCRIPTIVE SUMMARY: The following is a nontechnical explanation of the substance and purpose of the proposed rulemaking:

The long-term care rule (IDAPA 18.01.60.017) currently references inflation protection but does not clearly establish a minimum amount applicable to long-term care partnership policies. Qualifying long-term care partnership policies allow consumers who buy them to qualify for Medicaid asset disregard as provided for in Title 56, Chapter 13, Idaho Code. For long-term care partnership policies, the Department has required a minimum 5% compound inflation protection for policyholders less than 61 and 5% simple inflation for those age 61 to 75 or, alternatively, benefit guarantees of not less than the annual change in the Consumer Price Index pursuant to Bulletin 06-07. If and when the proposed rule becomes effective, the Department intends to rescind Bulletin 06-7. The rule will clarify annual inflation protection requirements applicable to long term care partnership policies, but will not require any minimum level of inflation protection. The Department expects that this may promote more purchases of such policies. The rulemaking will also revise how documents are incorporated by using the standard rulemaking format.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased: None.

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year resulting from this rulemaking: NA

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(1), Idaho Code, negotiated rulemaking was conducted. The Notice of Intent to Promulgate Rules - Negotiated Rulemaking was published in the July 1, 2015 Idaho Administrative Bulletin, [Vol. 15-7, page 70](#).

INCORPORATION BY REFERENCE: Pursuant to Section 67-5229(2)(a), Idaho Code, the following is a brief synopsis of why the materials cited are being incorporated by reference into this rule:

No new documents are being incorporated by reference into this rule. Rather, existing documents already incorporated by reference are being set forth more clearly in a renumbered section 004 consistent with rulemaking protocol.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Thomas Donovan, tom.donovan@doi.idaho.gov, (208) 334-4214.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before September 23, 2015.

DATED this 7th Day of August, 2015.

Dean L. Cameron, Director
Idaho Department of Insurance
700 W State St, 3rd Floor
P.O. Box 83720
Boise, ID 83720-0043
Phone: (208) 334-4250
Fax: (208) 334-4398

THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 18-0160-1501
(Only Those Sections With Amendments Are Shown.)

004. INCORPORATION OF DOCUMENTS BY REFERENCE.

01. Forms. Documents incorporated by reference may be obtained from the Idaho Department of Insurance website at <http://www.doi.idaho.gov>. ()

02. Documents Incorporated by Reference. This rule incorporates by reference the following documents, appendices, and attachments of the National Association of Insurance Commissioners (NAIC) Long-Term Care Model Regulation 641. The Model Regulation is available from the National Association of Insurance Commissioners, 2301 McGee Street, Suite 800, Kansas City, MO 64108-2662 and from the Idaho Department of Insurance. ()

a. Rescission Reporting Form for Long-Term Care, Appendix A. ()

b. Personal Worksheet, Appendix B. ()

c. Things You Should Know Before You Buy Long-Term Care Insurance, Appendix C. ()

d. Suitability Letter, Appendix D. ()

e. Claims Denial Reporting Form, Appendix E. ()

f. Instructions, Appendix F. ()

g. Replacement and Lapse Reporting Form, Appendix G. ()

h. Outline of Coverage. ()

i. Notice to Applicant Regarding Replacement of Individual Accident and Sickness or Long-Term Care Insurance, Attachment I. ()

j. Notice to Applicant Regarding Replacement of Accident and Sickness or Long-Term Care Insurance, Attachment II. ()

0045. OFFICE -- OFFICE HOURS -- MAILING ADDRESS, STREET ADDRESS AND WEB SITE.

01. Office Hours. The Department of Insurance is open from 8 a.m. to 5pm. Except Saturday, Sunday and legal holidays. (3-30-07)

02. Mailing Address. The department's mailing address is: Idaho Department of Insurance, P.O. Box 83720, Boise, ID 83720-0043. (3-30-07)

03. **Street Address.** The principal place of business is 700 West State Street, 3rd Floor, Boise, Idaho 83720-0043. (3-30-07)

04. **Web Site Address.** The department's website is <http://www.doi.idaho.gov>. (3-30-07)

0056. PUBLIC RECORDS ACT COMPLIANCE.

Any records associated with these rules are subject to the provision of the Idaho Public Records Act, Title 74, Chapter 1, Idaho Code. (3-30-07)

~~0067.~~ -- **009. (RESERVED)**

(BREAK IN CONTINUITY OF SECTIONS)

012. ~~INCORPORATION OF DOCUMENTS BY REFERENCE. (RESERVED)~~

~~**01. Forms.** An insurer shall use the forms published on the Department of Insurance website at <http://www.doi.idaho.gov> select consumer or company services link and go to Attachments to Idaho Rule, IDAPA 18.01.60, "Long Term Care Insurance Minimum Standards," to comply with the disclosure requirements of Subsection 014.10.a. and Subsection 014.10.b., which forms are incorporated herein by this reference. (3-30-07)~~

(BREAK IN CONTINUITY OF SECTIONS)

014. REQUIRED DISCLOSURE PROVISIONS.

01. Renewability. Individual long-term care insurance policies shall contain a renewability provision. (3-30-01)

a. The provision shall be appropriately captioned, shall appear on the first page of the policy, and shall clearly state that the coverage is guaranteed renewable or noncancellable. This provision shall not apply to policies that do not contain a renewability provision, and under which the right to nonrenew is reserved solely to the policyholder. (3-30-01)

b. A long-term care insurance policy or certificate, other than one where the insurer does not have the right to change the premium, shall include a statement that the premium rates may change. (3-30-01)

02. Riders and Endorsements. Except for riders or endorsements by which the insurer effectuates a request made in writing by the insured under an individual long-term care insurance policy, all riders or endorsements added to an individual long-term care insurance policy after date of issue or at reinstatement or renewal that reduce or eliminate benefits or coverage in the policy shall require signed acceptance by the individual insured. After the date of policy issue, any rider or endorsement which increases benefits or coverage with a concomitant increase in premium during the policy term must be agreed to in writing signed by the insured, except if the increased benefits or coverage are required by law. Where a separate additional premium is charged for benefits provided in connection with riders or endorsements, the premium charge shall be set forth in the policy, rider or endorsement. (4-5-00)

03. Payment of Benefits. A long-term care insurance policy that provides for the payment of benefits based on standards described as "usual and customary," "reasonable and customary," or words of similar import shall include a definition of these terms and an explanation of the terms in its accompanying outline of coverage. (4-5-00)

04. Limitations. If a long-term care insurance policy or certificate contains any limitations with respect to preexisting conditions, the limitations shall appear as a separate paragraph of the policy or certificate and shall be labeled as "Preexisting Condition Limitations." (4-5-00)

05. Other Limitations or Conditions on Eligibility for Benefits. A long-term care insurance policy

or certificate containing any limitations or conditions for eligibility other than those prohibited in Section 41-4605(4)(b)(i), Idaho Code, shall set forth a description of the limitations or conditions, including any required number of days of confinement, in a separate paragraph of the policy or certificate and shall label such paragraph "Limitations or Conditions on Eligibility for Benefits." (3-30-07)

06. Disclosure of Tax Consequences. With regard to life insurance policies that provide an accelerated benefit for long-term care, a disclosure statement is required at the time of application for the policy or rider and at the time the accelerated benefit payment request is submitted that receipt of these accelerated benefits may be taxable, and that assistance should be sought from a personal tax advisor. The disclosure statement shall be prominently displayed on the first page of the policy or rider and any other related documents. Subsection 014.06 shall not apply to qualified long-term care insurance contracts. (3-30-07)

07. Benefit Triggers. Activities of daily living and cognitive impairment shall be used to measure an insured's need for long-term care and shall be described in the policy or certificate in a separate paragraph and shall be labeled "Eligibility for the Payment of Benefits." Any additional benefit triggers shall also be explained. If these triggers differ for different benefits, explanation of the trigger shall accompany each benefit description. If an attending physician or other specified person must certify a certain level of functional dependency in order to be eligible for benefits, this too shall be specified. (4-5-00)

08. Qualified Contracts. A qualified long-term care insurance contract shall include a disclosure statement in the policy and in the outline of coverage as contained in Section 035 that the policy is intended to be a qualified long-term care insurance contract under Section 7702B (b) of the Internal Revenue Code of 1986, as amended. (3-30-07)

09. Non-Qualified Contracts. A non-qualified long-term care insurance contract shall include a disclosure statement in the policy and in the outline of coverage as contained in Section 035 that the policy is not intended to be a qualified long-term care insurance contract. (3-30-07)

10. Required Disclosure of Rating Practices to Consumers. (3-30-01)

a. Subsection 014.10 shall apply as follows: (3-30-07)

i. Except as provided in Subsection 014.10.a.ii., Subsection 014.10 applies to any long-term care policy or certificate issued in this state on or after July 1, 2001. (3-30-07)

ii. For certificates issued on or after the effective date of this amended rule under a group long-term care insurance policy as defined in Section 41-4603(4)(a), Idaho Code, which policy was in force at the time this amended rule became effective, the provisions of Subsection 014.10 shall apply on the policy anniversary following January 1, 2002. (3-30-07)

b. Other than policies for which no applicable premium rate or rate schedule increases can be made, insurers shall provide all of the information listed in Subsection 014.10.b. to the applicant at the time of application or enrollment, unless the method of application does not allow for delivery at that time. In such a case, an insurer shall provide all information listed in Subsection 014.10.b. to the applicant no later than at the time of delivery of the policy or certificate. (3-30-07)

i. A statement that the policy may be subject to rate increases in the future; (3-30-01)

ii. An explanation of potential future premium rate revisions, and the policyholder's or certificateholder's option in the event of a premium rate revision; (3-30-01)

iii. The premium rate or rate schedules applicable to the applicant that will be in effect until a request is made for an increase; and (3-30-01)

iv. A general explanation for applying premium rate or rate schedule adjustments that shall include, a description of when premium rate or rate schedule adjustments will be effective (e.g., next anniversary date, next billing date, etc.); and the right to a revised premium rate or rate schedule as provided in Subsection 014.10.b.ii., if

the premium rate or rate schedule is changed. (3-30-07)

c. Information regarding each premium rate increase on this policy form or similar forms over the past ten (10) years for this state or any other state that, at a minimum, identifies: (3-30-01)

i. The policy forms for which premium rates have been increased; (3-30-01)

ii. The calendar years when the form was available for purchase; and (3-30-01)

iii. The amount or percent of each increase. The percentage may be expressed as a percentage of the premium rate prior to the increase, and may also be expressed as minimum and maximum percentages if the rate increase is variable by rating characteristics. (3-30-01)

d. The insurer may, in a fair manner, provide additional explanatory information related to the rate increases. (3-30-01)

e. An insurer shall have the right to exclude from the disclosure premium rate increases that only apply to blocks of business acquired from other nonaffiliated insurers or the long-term care policies acquired from other nonaffiliated insurers when those increases occurred prior to acquisition. (3-30-01)

f. If an acquiring insurer files for a rate increase on a long-term care policy form acquired from nonaffiliated insurers or a block of policy forms acquired from nonaffiliated insurers on or before the later of the effective date of Subsection 014.10 or the end of a twenty-four (24) month period following the acquisition of the block of policies, the acquiring insurer may exclude that rate increase from the disclosure. However, the nonaffiliated selling company shall include the disclosure of that rate increase in accordance with Subsection 014.10.c. (3-30-07)

g. If the acquiring insurer in Subsection 014.10.f. above files for a subsequent rate increase, even within the twenty-four (24) month period, on the same policy form acquired from nonaffiliated insurers or block of policy forms acquired from ~~nonaffiliated~~ insurers referenced in Subsection 014.10.f., the acquiring insurer must make all disclosures required by Subsection 014.10.c., including disclosure of the earlier rate increase referenced in Subsection 014.10.f. ~~(3-30-07)~~()

h. An applicant shall sign an acknowledgement at the time of application, unless the method of application does not allow for signature at that time, that the insurer made the disclosure required under Subsections 014.10.b. and 014.10.c. If because of the method of application the applicant cannot sign an acknowledgement at the time of application, the applicant shall sign no later than at the time of delivery of the policy or certificate. (3-30-07)

i. An insurer shall use the forms in Appendices B and F to comply with the disclosure requirements of Subsection 014.10.b. and Subsection 014.10.h. ~~The company forms are published on the Department of Insurance website at http://www.doi.idaho.gov/company/te_attachments.aspx select consumer or company services link and go to Attachments to Idaho Rule, IDAPA 18.01.60, "Long Term Care Minimum Standards."~~ (3-30-07)()

j. An insurer shall provide notice of an upcoming premium rate schedule increase to all policyholders or certificateholders, if applicable, at least thirty (30) days prior to the implementation of the premium rate schedule increase by the insurer. The notice shall include the information required by Subsection 014.10.b., when the increase is implemented. (3-30-07)

015. PROHIBITION AGAINST POST-CLAIMS UNDERWRITING.

01. Health Conditions. All applications for long-term care insurance policies or certificates except those that are guaranteed issue shall contain clear and unambiguous questions designed to ascertain the health condition of the applicant. (4-5-00)

02. Medication. If an application for long-term care insurance contains a question that asks whether the applicant has had medication prescribed by a physician, it must also ask the applicant to list the medication that has been prescribed. If the medications listed in the application were known by the insurer, or should have been known at the time of application, to be directly related to a medical condition for which coverage would otherwise be

denied, then the policy or certificate shall not be rescinded for that condition. (4-5-00)

03. Non-Guaranteed Issue. Except for policies or certificates which are guaranteed issue: (4-5-00)

a. The following language shall be set out conspicuously and in close conjunction with the applicant's signature block on an application for a long-term care insurance policy or certificate: *Caution: If your answers on this application are incorrect or untrue, (company) has the right to deny benefits or rescind your policy.* (4-5-00)

b. The following language, or language substantially similar to the following, shall be set out conspicuously on the long-term care insurance policy or certificate at the time of delivery: *Caution: The issuance of this long-term care insurance (policy) (certificate) is based upon your responses to the questions on your application. A copy of your (application) (enrollment form) (is enclosed) (was retained by you when you applied). If your answers are incorrect or untrue, the company has the right to deny benefits or rescind your policy. The best time to clear up any questions is now, before a claim arises! If, for any reason, any of your answers are incorrect, contact the company at this address: (insert address)* (4-5-00)

c. Prior to issuance of a long-term care policy or certificate to an applicant age eighty (80) or older, the insurer shall obtain one (1) of the following: (4-5-00)

- i. A report of a physical examination; (4-5-00)
- ii. An assessment of functional capacity; (4-5-00)
- iii. An attending physician's statement; or (4-5-00)
- iv. Copies of medical records. (4-5-00)

04. Delivery of Application or Enrollment and Form. A copy of the completed application or enrollment form (whichever is applicable) shall be delivered to the insured no later than at the time of delivery of the policy or certificate unless it was retained by the applicant at the time of application. (4-5-00)

05. Record of Rescissions. Every insurer or other entity selling or issuing long-term care insurance benefits shall maintain a record of all policy or certificate rescissions, both state and countrywide, except those that the insured voluntarily effectuated and shall annually furnish this information to the insurance director in the format prescribed by the National Association of Insurance Commissioners in Appendix A. ~~The notice required in Subsection 015.05 shall be provided in substantially the following format based on the NAIC Model Regulation. The forms are published on the Department of Insurance website at <http://www.doi.idaho.gov> select consumer or company services link and go to Attachments to Idaho Rule, IDAPA 18.01.60, "Long Term Care Minimum Standards."~~ (3-30-07)()

(BREAK IN CONTINUITY OF SECTIONS)

017. REQUIREMENT TO OFFER INFLATION PROTECTION.

01. Inflation Protection Offer. No insurer may offer a long-term care insurance policy unless the insurer also offers to the policyholder in addition to any other inflation protection the option to purchase a policy that provides for benefit levels to increase with benefit maximums or reasonable durations which are meaningful to account for reasonably anticipated increases in the costs of long-term care services covered by the policy. Insurers must offer to each policyholder, at the time of purchase, the option to purchase a policy with an inflation protection feature no less favorable than one (1) of the following: (4-5-00)

- a.** Increases benefit levels annually in a manner so that the increases are compounded annually at a rate not less than five percent (5%); (4-5-00)
- b.** Guarantees the insured individual the right to periodically increase benefit levels without providing

evidence of insurability or health status as long as the option for the previous period has not been declined. The amount of the additional benefit shall be no less than the difference between the existing policy benefit and that benefit compounded annually at a rate of at least five percent (5%) for the period beginning with the purchase of the existing benefit and extending until the year in which the offer is made; or (4-5-00)

c. Covers a specified percentage of actual or reasonable charges and does not include a maximum specified indemnity amount or limit. (4-5-00)

d. With respect to inflation protection for a Partnership policy only: (3-30-07)

i. If the policy is sold to an individual who has not attained age sixty-one (61) as of the date of purchase, the policy must provide some level of automatic compound annual inflation protection; ~~(3-30-07)~~()

ii. If the policy is sold to an individual who has attained age sixty-one (61) but has not attained age 76 as of the date of purchase, the policy must provide some level of automatic annual inflation protection; and ~~(3-30-07)~~()

iii. If the policy is sold to an individual who has attained age seventy-six (76) as of the date of purchase, the policy may (but is not required to) provide some level of inflation protection. (3-30-07)

02. Group Offer. Where the policy is issued to a group, the required offer in Subsection 017.01 shall be made to the group policyholder; except, if the policy is issued to a group defined in Section 41-4603(4)(d), Idaho Code, other than to a continuing care retirement community, the offering shall be made to each proposed certificateholder. (3-30-07)

03. Requirements for Life Insurance Policies. The offer in Subsection 017.01 above shall not be required of life insurance policies or riders containing accelerated long-term care benefits. (3-30-07)

04. Outline of Coverage. Insurers shall include the following information in or with the outline of coverage: (4-5-00)

a. A graphic comparison of the benefit levels of a policy that increases benefits over the policy period with a policy that does not increase benefits. The graphic comparison shall show benefit levels over at least a twenty (20) year period. (4-5-00)

b. Any expected premium increases or additional premiums to pay for automatic or optional benefit increases. (4-5-00)

c. An insurer may use a reasonable hypothetical, or a graphic demonstration, for the purposes of this disclosure. (4-5-00)

05. Continuation of Inflation Protection. Inflation protection benefit increases under a policy which contains these benefits shall continue without regard to an insured's age, claim status or claim history, or the length of time the person has been insured under the policy. (4-5-00)

06. Premium Disclosures. An offer of inflation protection that provides for automatic benefit increases shall include an offer of a premium which the insurer expects to remain constant. The offer shall disclose in a conspicuous manner that the premium may change in the future unless the premium is guaranteed to remain constant. (4-5-00)

07. Rejection of Offer. Inflation protection as provided in Subsection 017.01 shall be included in a long-term care insurance policy unless an insurer obtains a rejection of inflation protection signed by the policyholder as required in Subsection 017.07. The rejection may be either in the application or on a separate form. The rejection shall be considered a part of the application and shall state: I have reviewed the outline of coverage and the graphs that compare the benefits and premiums of this policy with and without inflation protection. Specifically, I have reviewed Plans _____, and I reject inflation protection (signature line: _____). (3-30-07)

018. REQUIREMENTS FOR APPLICATION FORMS AND REPLACEMENT COVERAGE.

01. Application Forms. Application forms shall include the following questions designed to elicit information as to whether, as of the date of the application, the applicant has another long-term care insurance policy or certificate in force or whether a long-term care policy or certificate is intended to replace any other accident and sickness or long-term care policy or certificate presently in force. A supplementary application or other form to be signed by the applicant and producer, except where the coverage is sold without a producer, containing the questions may be used. With regard to a replacement policy issued to a group defined by Section 41-4603(a), Idaho Code, the following questions may be modified only to the extent necessary to elicit information about health or long-term care insurance policies other than the group policy being replaced, provided that the certificateholder has been notified of the replacement. (3-30-07)

a. Do you have another long-term care insurance policy or certificate in force (including insurance, Fraternal Benefit Societies, Managed Care Organization) or other similar organizations? (4-5-00)

b. Did you have another long-term care insurance policy or certificate in force during the last twelve (12) months? (4-5-00)

i. If so, with which company? (4-5-00)

ii. If that policy lapsed, when did it lapse? (4-5-00)

c. Are you covered by Medicaid? (4-5-00)

d. Do you intend to replace any of your medical or health insurance coverage with this policy (certificate)? (4-5-00)

02. Other Policy Disclosures. Producers shall list any other health insurance policies they have sold to the applicant. (3-30-07)

a. List policies sold that are still in force. (4-5-00)

b. List policies sold in the past five (5) years that are no longer in force. (4-5-00)

03. Solicitations Other Than Direct Response. Upon determining that a sale will involve replacement, an insurer, other than an insurer using direct response solicitation methods, or its producer shall furnish the applicant, prior to issuance or delivery of the individual long-term care insurance policy, a notice regarding replacement of accident and sickness or long-term care coverage. One (1) copy of the notice shall be retained by the applicant and an additional copy signed by the applicant shall be retained by the insurer. The required notice shall be in a form based on the NAIC Model Regulation- Attachment I, ~~NOTICE TO APPLICANT REGARDING REPLACEMENT OF INDIVIDUAL ACCIDENT AND SICKNESS OR LONG TERM CARE INSURANCE, is published on the Department of Insurance website at <http://www.doi.idaho.gov> select consumer or company services link and go to Attachments to Idaho Rule, IDAPA 18.01.60, "Long Term Care Minimum Standards."~~ (3-30-07)()

04. Direct Response Solicitations. Insurers using direct response solicitation methods shall deliver a notice regarding replacement of accident and sickness or long-term care coverage to the applicant upon issuance of the policy. The required notice shall be in a form based on the NAIC Model Regulation- Attachment II, ~~NOTICE TO APPLICANT REGARDING REPLACEMENT OF INDIVIDUAL ACCIDENT AND SICKNESS OR LONG TERM CARE INSURANCE, is published on the Department of Insurance website at <http://www.doi.idaho.gov> select consumer or company services link and go to Attachments to Idaho Rule, IDAPA 18.01.60, "Long Term Care Minimum Standards."~~ (3-30-07)()

05. Notice of Replacement. Where replacement is intended, the replacing insurer shall notify, in writing, the existing insurer of the proposed replacement. The existing policy shall be identified by the insurer, name of the insured and policy number or address including zip code. Notice shall be made within five (5) working days from the date the application is received by the insurer or the date the policy is issued, whichever is sooner. (4-5-00)

06. Life Insurance Policy Replacement. Life insurance policies that accelerate benefits for long-term care shall comply with Section 018 if the policy being replaced is a long-term care insurance policy. If the policy being replaced is a life insurance policy, the insurer shall comply with the replacement requirements of IDAPA 18.01.41, "Replacement of Life Insurance and Annuities." If a life insurance policy that accelerates benefits for long-term care is replaced by another such policy, the replacing insurer shall comply with both the long-term care and the life insurance replacement requirements. (3-30-07)

019. REPORTING REQUIREMENTS.

01. Maintenance of Producer Records. Every insurer shall maintain records for each producer of that producer's amount of replacement sales as a percent of the producer's total annual sales and the amount of lapses of long-term care insurance policies sold by the producer as a percent of the producer's total annual sales. ~~in the format of Appendix G, which is published on the Department of Insurance website at <http://www.doi.idaho.gov> select consumer or company services link and go to Attachments to Idaho Rule, IDAPA 18.01.60, "Long Term Care Minimum Standards."~~ **(3-30-07)()**

02. Producers Experiencing Lapses and Replacements. Every insurer shall report annually by June 30 the ten percent (10%) of its producer's with the greatest percentages of lapses and replacements as measured by Subsection 019.01. (3-30-07)

03. Purpose of Reports. Reported replacement and lapse rates do not alone constitute a violation of insurance laws or necessarily imply wrongdoing. The reports are for the purpose of reviewing more closely producer activities regarding the sale of long-term care insurance. (3-30-07)

04. Lapsed Policies. Every insurer shall report annually by June 30 the number of lapsed policies as a percent of its total annual sales and as a percent of its total number of policies in force as of the end of the preceding calendar year. (4-5-00)

05. Replacement Policies. Every insurer shall report annually by June 30 the number of replacement policies sold as a percent of its total annual sales and as a percent of its total number of policies in force as of the preceding calendar year. (4-5-00)

06. Claims Denied. Every insurer shall report annually by June 30, for qualified long-term care insurance contracts, the number of claims denied for each class of business, expressed as a percentage of claims denied, other than claims denied for failure to meet the waiting period or because of an applicable preexisting condition. ~~See, in the format of Appendix E, which is published on the Department of Insurance website at <http://www.doi.idaho.gov> select consumer or company services link and go to Attachments to Idaho Rule, IDAPA 18.01.60, "Long Term Care Minimum Standards."~~ **(3-30-07)()**

07. Policies and Reports. For purposes of Section 019, "policy" shall mean only long-term care insurance and "report" means on a statewide basis. (3-30-07)

a. Policy means only long-term care insurance; (4-5-00)

b. Claim means any request for payment of benefits under a policy regardless of whether the benefit claimed is covered under the policy or any terms or conditions of the policy have been met; (4-5-00)

c. Denied means the insurer refused to pay a claim for any reason; and (4-5-00)

d. Report means on a statewide basis. (4-5-00)

08. Filing. Reports required under Section 019 shall be filed with the Director. (3-30-07)

(BREAK IN CONTINUITY OF SECTIONS)

027. STANDARDS FOR MARKETING AND PRODUCER TRAINING.

01. General Provisions. Every Insurer, Fraternal Benefit Society, Managed Care Organization or other similar organization marketing long-term care insurance coverage in this state, directly or through its producers, shall: (3-30-07)

a. Establish marketing procedures and producer training requirements to assure that any marketing activities, including any comparison of policies by its producers will be fair and accurate. (3-30-07)

b. Establish marketing procedures to assure excessive insurance is not sold or issued. (4-5-00)

c. Display prominently by type, stamp or other appropriate means, on the first page of the outline of coverage and policy the following: "Notice to buyer: This policy may not cover all of the costs associated with long-term care incurred by the buyer during the period of coverage. The buyer is advised to review carefully all policy limitations." (4-5-00)

d. Provide copies of the disclosure forms required in Subsection ~~009~~14.10. (~~3-30-07~~)()

e. Provide an explanation of contingent benefit upon lapse as provided for in Subsection 032.04.b. and if applicable, the additional contingent benefit upon lapse provided to policies with fixed or limited premium paying period in Subsection 032.04.c. (3-30-07)

f. Inquire and otherwise make every reasonable effort to identify whether a prospective applicant or enrollee for long-term care insurance already has accident and sickness or long-term care insurance and the types and amounts of any such insurance, except that in the case of qualified long-term care insurance contracts, an inquiry into whether a prospective applicant or enrollee for long-term care insurance has accident and sickness insurance is not required. (4-5-00)

g. Establish auditable procedures for verifying compliance with Subsection 027.01. (3-30-07)

h. At solicitation, provide written notice to the prospective policyholder and certificateholder that Senior Health Insurance Benefits Advisors/SHIBA the program is available and the name, address and telephone number of the program. (3-30-01)

i. For long-term care insurance policies and certificates, use the terms "noncancellable" or "level premium" only when the policy or certificate conforms to Subsection 011.01.c. of this chapter. (3-30-07)

02. Prohibited Practices. In addition to the practices prohibited in Chapter 13, Title 41, Idaho Code, Trade Practices and Frauds, the following acts and practices are prohibited: (3-30-01)

a. Twisting. Knowingly making any misleading representation or incomplete or fraudulent comparison of any insurance policies or insurers for the purpose of inducing, or tending to induce, any person to lapse, forfeit, surrender, terminate, retain, pledge, assign, borrow on or convert any insurance policy, or to take out a policy of insurance with another insurer. (4-5-00)

b. High Pressure Tactics. Employing any method of marketing having the effect of or tending to induce the purchase of insurance through force, fright, threat, whether explicit or implied, or undue pressure to purchase or recommend the purchase of insurance. (4-5-00)

c. Cold Lead Advertising. Making use directly or indirectly of any method of marketing which fails to disclose in a conspicuous manner that a purpose of the method of marketing is solicitation of insurance and that contact will be made by an insurance producer or insurance company. (3-30-07)

d. Misrepresentation. Misrepresenting a material fact in selling or offering to sell a long-term care insurance policy. (4-5-00)

03. Associations. With respect to the obligations set forth in Subsection 027.03, the primary

responsibility of an association, as defined in Section 41-4603(4)(b), Idaho Code, when endorsing or selling long-term care insurance shall be to educate its members concerning long-term care issues in general so that its members can make informed decisions. Associations shall provide objective information regarding long-term care insurance policies or certificates endorsed or sold by such associations to ensure that members of such associations receive a balanced and complete explanation of the features in the policies or certificates that are being endorsed or sold.

(3-30-07)

- a.** The insurer shall file with the insurance department the following material: (4-5-00)

 - i. The policy and certificate; (4-5-00)
 - ii. A corresponding outline of coverage; and (4-5-00)
 - iii. All advertisements to be utilized. (4-5-00)
- b.** The association shall disclose in any long-term care insurance solicitation: (4-5-00)

 - i. The specific nature and amount of the compensation arrangements (including all fees, commissions, administrative fees and other forms of financial support) that the association receives from endorsement or sale of the policy or certificate to its members; and (4-5-00)
 - ii. A brief description of the process under which the policies and the insurer issuing the policies were selected. (4-5-00)
- c.** If the association and the insurer have interlocking directorates or trustee arrangements, the association shall disclose that fact to its members. (4-5-00)
- d.** The board of directors of associations selling or endorsing long-term care insurance policies or certificates shall review and approve the insurance policies as well as the compensation arrangements made with the insurer. (4-5-00)
- e.** The association shall also: (4-5-00)

 - i. At the time of the association's decision to endorse, engage the services of a person with expertise in long-term care insurance not affiliated with the insurer to conduct an examination of the policies, including its benefits, features, and rates, and update the examination thereafter in the event of material change; (4-5-00)
 - ii. Actively monitor the marketing efforts of the insurer and its producers; and (3-30-07)
 - iii. Review and approve all marketing materials or other insurance communications used to promote sales or sent to members regarding the policies or certificates. (4-5-00)
 - iv. Subsections 027.03.e.i. through 027.03.e.iii. shall not apply to qualified long-term care insurance contracts. (3-30-07)
- f.** No group long-term care insurance policy or certificate may be issued to an association unless the insurer files with the state insurance department the information required in Section 027. (3-30-07)
- g.** The insurer shall not issue a long-term care policy or certificate to an association or continue to market such a policy or certificate unless the insurer certifies annually that the association has complied with the requirements set forth in Section 027. (3-30-07)
- h.** Failure to comply with the filing and certification requirements of Section 027 constitutes an unfair trade practice in violation of Chapter 13, Title 41, Idaho Code, Trade Practices and Frauds. (3-30-07)

04. Producer Training Requirements. An individual may not sell, solicit or negotiate long-term care insurance unless the individual is licensed as an insurance producer for life and disability (accident and health

insurance) and has completed a one-time training course and ongoing training every twenty-four (24) months thereafter. The training shall meet the requirements set forth in this Subsection 027.04. Such training requirements may be approved as continuing education course under IDAPA 18.01.53, "Continuing Education." (4-2-08)

a. The one-time training course required by this section shall be no less than eight (8) hours. In addition to the one-time training course, an individual who sells, solicits, or negotiates long-term care insurance shall complete the ongoing training required by this Subsection 027.04, which shall be no less than four (4) hours every twenty four (24) months. (4-2-08)

b. The training required under Subsection 027.04.a. shall consist of topics related to long-term care insurance, long-term care services and qualified state long-term care insurance partnership program, including, but not limited to: (3-30-07)

i. State and federal regulations and requirements and the relationship between qualified state long-term care insurance partnership programs and other public and private coverage of long-term care services, including Medicaid; (3-30-07)

ii. Available long-term care services and providers; (3-30-07)

iii. Changes or improvements in long-term care services or providers; (3-30-07)

iv. Alternatives to the purchase of private long-term care insurance; (3-30-07)

v. The effect of inflation on benefits and the importance of inflation protection; and (3-30-07)

vi. Consumer suitability standards and guidelines. (3-30-07)

c. The training required by Subsection 027.04. shall not include any sales or marketing information, materials, or training, other than those required by state and federal law. (3-30-07)

d. Insurers subject to this rule shall obtain verification that a producer receives training required by Subsection 027.04 before a producer is permitted to sell, solicit or negotiate the insurer's long-term care insurance products, maintain records subject to the state's record retention requirements, and make that verification available to the director upon request. An insurer shall maintain records with respect to the training of its producers concerning the distribution of its long-term care Partnership policies that will allow the Department of Insurance to provide assurance to the Division of Medicaid that the producers have received the training as required by Subsection 027.04 and that producers have demonstrated an understanding of the Partnership policies and their relationship to public and private coverage of long term care including Medicaid in this state. These records shall be maintained in accordance with the state's record retention requirements and shall be made available to the director upon request. (3-30-07)

e. The satisfaction of these training requirements in any state shall be deemed to satisfy the training requirements of this state. (3-30-07)

028. SUITABILITY.

01. Life Insurance Policies That Accelerate Benefits. Section 028 shall not apply to life insurance policies that accelerate benefits for long-term care. (3-30-07)

02. General Provisions. Every Insurer, Fraternal Benefit Society, Managed Care Organization or other similar organization marketing long-term care insurance (the "issuer") shall: (4-5-00)

a. Develop and use suitability standards to determine whether the purchase or replacement of long-term care insurance is appropriate for the needs of the applicant; (4-5-00)

b. Train its producers in the use of its suitability standards; and (3-30-07)

c. Maintain a copy of its suitability standards and make them available for inspection upon request by

the director. (4-5-00)

03. Determination of Standards. To determine whether the applicant meets the standards developed by the issuer; (4-5-00)

a. The producer and issuer shall develop procedures that take the following into consideration: (3-30-07)

i. The ability to pay for the proposed coverage and other pertinent financial information related to the purchase of the coverage; (4-5-00)

ii. The applicant's goals or needs with respect to long-term care and the advantages and disadvantages of insurance to meet these goals or needs; and (4-5-00)

iii. The values, benefits, and costs of the applicant's existing insurance, if any, when compared to the values, benefits and costs of the recommended purchase or replacement. (4-5-00)

b. The issuer and ~~an~~ producer, if involved, shall make reasonable efforts to obtain the information set out in Subsection 028.03. The efforts shall include presentation to the applicant, at or prior to application, the "Long-Term Care Insurance Personal Worksheet." The personal worksheet used by the issuer shall contain, at a minimum, the information in the format contained in the NAIC Model Regulations in Appendix B, in not less than twelve (12) point type. The issuer may request the applicant to provide additional information to comply with its suitability standards. A copy of the issuer's personal worksheet shall be filed with the director. (3-30-07)()

i. Copies of NAIC Model Regulations for Long-Term Care Insurance Minimum Standards Appendixes B, C, and D can be found at the Idaho Department of Insurance website *at <http://www.doi.idaho.gov>; select consumer or company services link and go to Attachments to Idaho Rule, IDAPA 18.01.60, "Long-Term Care Minimum Standards."* (3-30-07)()

c. A completed personal worksheet shall be returned to the issuer prior to the issuer's consideration of the applicant for coverage, except the personal worksheet need not be returned for sales of employer group long-term care insurance to employees and their spouses. (4-5-00)

d. The sale or dissemination outside the company or agency by the issuer or producer of information obtained through the personal worksheet in the NAIC Model Regulations, Appendix B is prohibited. (3-30-07)

04. Appropriateness. The issuer shall use the suitability standards it has developed pursuant to Section 028 in determining whether issuing long-term care insurance coverage to an applicant is appropriate. (3-30-07)

05. Use of Standards. Producers shall use the suitability standards developed by the issuer in marketing long-term care insurance. (3-30-07)

06. Disclosure Form. At the same time as the personal worksheet is provided to the applicant, the disclosure form entitled "Things You Should Know Before You Buy Long-Term Care Insurance" shall be provided. The form shall be in the format contained in the NAIC Model Regulations, Appendix C, in not less than twelve (12) point type. (4-5-00)

07. Rejection and Alternatives. If the issuer determines that the applicant does not meet its financial suitability standards, or if the applicant has declined to provide the information, the issuer may reject the application. In the alternative, the issuer shall send the applicant a letter similar to the NAIC Model Regulations, Appendix D. However, if the applicant has declined to provide financial information, the issuer may use some other method to verify the applicant's intent. Either the applicant's returned letter or a record of the alternative method of verification shall be made part of the applicant's file. (4-5-00)

08. Reporting. The issuer shall report annually to the director the total number of applications received from residents of this state, the number of those who declined to provide information on the personal worksheet, the number of applicants who did not meet the suitability standards, and the number of those who chose to confirm after

receiving a suitability letter.

(4-5-00)

(BREAK IN CONTINUITY OF SECTIONS)

035. STANDARD FORMAT OUTLINE OF COVERAGE.

Section 035 of the rule implements, interprets and makes specific, the provisions of Section 41-4605(7)(a), Idaho Code, in prescribing a standard format and the content of an outline of coverage. (3-30-07)

01. Format. The outline of coverage shall be a freestanding document, using no smaller than ten (10) point type. Text that is capitalized or underscored in the standard format outline of coverage may be emphasized by other means that provide prominence equivalent to the capitalization or underscoring. (4-5-00)

02. Content. The outline of coverage shall contain no material of an advertising nature. (4-5-00)

03. Standard Form. Use of the text and sequence of text of the standard format outline of coverage is mandatory, unless otherwise specifically indicated. Format for the outline of coverage is published on the Department of Insurance website [at http://www.doi.idaho.gov](http://www.doi.idaho.gov), ~~select consumer or company services link and go to Attachments to Idaho Rule, IDAPA 18.01.60, "Long Term Care Minimum Standards."~~ (3-30-07) ()