

Dear Senators MARTIN, Riggs, Stennett, and
Representatives WOOD, Vander Woude, Chew:

The Legislative Services Office, Research and Legislation, has received the enclosed rules of the
Office of the Governor - Commission on Aging:

IDAPA 15.01.02 - Rules Governing Adult Protective Services Programs (ZBR Chapter Rewrite) -
Proposed Rule (Docket No. 15-0102-2201).

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 11/25/2022. 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 12/23/2022.

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 334-4854, or send a written request to the address on the
memorandum attached below.



Terri Kondeff
Director

Legislative Services Office Idaho State Legislature

Serving Idaho's Citizen Legislature

MEMORANDUM

TO: Rules Review Subcommittee of the Senate Health & Welfare Committee and the House Health & Welfare Committee
FROM: Principal Legislative Drafting Attorney - Elizabeth Bowen
DATE: November 08, 2022
SUBJECT: Office of the Governor - Commission on Aging

IDAPA 15.01.02 - Rules Governing Adult Protective Services Programs (ZBR Chapter Rewrite) - Proposed Rule (Docket No. 15-0102-2201)

Summary and Stated Reasons for the Rule

This proposed rule rewrites existing rules regarding adult protective services programs. The purpose of the rewrite is to simply and streamline language in accordance with Executive Order 2020-01.

Negotiated Rulemaking / Fiscal Impact

Negotiated rulemaking was conducted. There is no anticipated negative fiscal impact on the state general fund.

Statutory Authority

This rulemaking appears to be authorized pursuant to Sections 39-5312 and 67-5003, Idaho Code.

cc: Office of the Governor - Commission on Aging
Judy Taylor

*** PLEASE NOTE ***

Per the Idaho Constitution, all administrative rules may be reviewed by the Legislature during the next legislative session. The Legislature has 3 options with this rulemaking docket: **1)** Approve the docket in its entirety; **2)** Reject the docket in its entirety; or **3)** Reject the docket in part.

Paul Headlee, Deputy Director Kristin Ford, Manager Keith Bybee, Manager April Renfro, Manager Glenn Harris, Manager
Legislative Services Office Research & Legislation Budget & Policy Analysis Legislative Audits Information Technology

Statehouse, P.O. Box 83720
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**IDAPA 15 – OFFICE OF THE GOVERNOR
IDAHO COMMISSION ON AGING**

15.01.02 – RULES GOVERNING ADULT PROTECTIVE SERVICES PROGRAMS

DOCKET NO. 15-0102-2201 (ZBR CHAPTER REWRITE)

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 67-5003 and 39-5312, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be held as follows:

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|--|
| 15.01.02 – Rules Governing Adult Protective Services Programs |
| Topic: 15.01.02 – Rules Governing Adult Protective Services Programs |
| Time: Oct 18, 2022 10:00 AM Mountain Time (US and Canada) |
| <p>Join from the meeting link https://us06web.zoom.us/j/84127668389?pwd=enVSUG5wcDk5K3d2cnN2SEoySWlxQT09</p> <p>Meeting ID: 841 2766 8389 Passcode: 830434 One tap mobile +13462487799,,84127668389#,,,,*830434# US (Houston) +14086380968,,84127668389#,,,,*830434# US (San Jose)</p> <p>Dial by your location +1 346 248 7799 US (Houston) +1 408 638 0968 US (San Jose) +1 669 444 9171 US +1 669 900 6833 US (San Jose) +1 719 359 4580 US +1 253 215 8782 US (Tacoma) +1 646 876 9923 US (New York) +1 646 931 3860 US +1 301 715 8592 US (Washington DC) +1 309 205 3325 US +1 312 626 6799 US (Chicago) +1 386 347 5053 US +1 564 217 2000 US</p> <p>Meeting ID: 841 2766 8389 Passcode: 830434</p> <p>Find your local number: https://us06web.zoom.us/j/84127668389?pwd=enVSUG5wcDk5K3d2cnN2SEoySWlxQT09</p> |

The meeting will be held via web conferencing in order to provide a rulemaking platform that enables broad participation by stakeholders from across the state and minimize travel for stakeholders.

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:

These rules are being presented for authorization as part of the Idaho Commission on Aging's plan to review each rule every 5 years under [Executive Order 2020-01, Zero-Based Regulation](#). The Commission seeks to prevent the accumulation of costly, ineffective, and outdated regulations and reduce regulatory burden to achieve a more efficient operation of government. The rule changes are intended to perform a comprehensive review of this chapter by collaborating with the public to streamline or simplify language. The Idaho Commission on Aging intends to carefully consider all changes presented by the public and may propose certain changes so long as they are consistent with the rules' statutory authority and the Governor's Executive Order.

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

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 as a result of 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 March 2, 2022 Idaho Administrative Bulletin, [Volume 22-3 page 14](#).

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 Bettina Briscoe, 208-577-2858.

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 October 26, 2022.

DATED this August 26, 2022.

Judy B. Taylor
Director
Idaho Commission on Aging
6305 Overland Road Suite 110
Boise, ID 83709
Phone: (208) 334-3833

THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 15-0102-2201
(Zero Based Regulation (ZBR) Chapter Rewrite)

15.01.02 – RULES GOVERNING ADULT PROTECTIVE SERVICES PROGRAMS

000. AUTHORITY.

Under authority of Sections 67-5003 and 39-5312, Idaho Code, the ICOA adopts the following rules. ()

001. TITLE AND SCOPE.

01. Title. These rules are titled IDAPA 15.01.02, "Rules Governing Adult Protective Services Programs." ()

02. Scope. These rules relate to the authority and responsibilities of Providers to administer adult protective services. ()

002. -- 009. (RESERVED)

010. DEFINITIONS.

Any item not specifically defined below has the same meaning as those defined in Idaho Code Title 39 Chapter 53 “Adult Abuse, Neglect, and Exploitation Act” or IDAPA 15.01.01, “15.01.01, “Rules Governing Senior Services and Older Americans Act Programs.” ()

01. Adult Protective Services (APS). The legal and bureaucratic systems and protections safeguarding vulnerable adults through investigations of reports alleging abuse, neglect, self-neglect or exploitation, and arrangements for the provision of emergency or supportive, and preventative services necessary to reduce or eliminate risk of harm. ()

02. Provider. An Area Agency on Aging or a person or entity capable of providing APS, including duly authorized agents and employees. ()

011. -- 019. (RESERVED)

020. POLICY STATEMENT.

The ICOA is charged by statute to provide APS services to ensure the vulnerable adult population in Idaho is protected from abuse, neglect, and exploitation. Protective services will be provided that are the least restrictive to personal freedom and ensure the maximum independence of individuals served. In protecting the vulnerable adult population, APS may also provide assistance to care givers experiencing difficulties in maintaining or supporting a vulnerable adults. ()

021. ADMINISTRATIVE REQUIREMENTS.

In accordance with Section 67-5011, Idaho Code, the ICOA will administer APS through contracts with Area Agencies on Aging. ()

022. PROVISION OF SERVICE REQUIREMENTS.

In accordance with Section 67-5011, Idaho Code, each Provider assumes all responsibilities cited in Title 39, Chapter 53, Idaho Code. ()

01. Direct Provision of Service. Area Agencies on Aging will administer APS as a direct service or may subcontract the service to another Provider at the sole discretion of the Administrator. ()

02. Contracts. Each Provider must administer APS pursuant to contracts delineating the duties and obligations of the Provider in the APS program. ()

03. Provider Guidance: Provider guidance is developed, modified, and updated by the ICOA with input from appropriate stakeholder groups and approved by the Administrator. Guidance may be modified to adhere to state or federal law or regulations. Guidance may include manuals, training, standardized forms and assessment tools or other documentation as necessary. ()

04. Court Visitors. Providers shall not serve as a court appointed visitor in a guardianship or conservatorship proceeding involving a proposed ward who is or has been the alleged victim in an investigation. ()

05. Confidentiality. All records relating to a vulnerable adult and held by a Provider are confidential and shall only be divulged as permitted pursuant to Idaho Code Sections 39-5307 and 39-5308 and Federal Law, whichever is more restrictive. ()

023. -- 030. (RESERVED)

031. INVESTIGATIVE REQUIREMENTS.

01. Review of Allegations. Upon receipt of a report of abuse, neglect, or exploitation the Provider shall conduct a review of the allegations of such report to determine whether: ()

a. The report was required to be made pursuant to Section 39-5303, Idaho Code; ()

b. An emergency exists; and ()

c. In cases involving resident-to-resident contact to determine whether the case involves the sexual abuse, death, or serious physical injury jeopardizing the life, health, or safety of a vulnerable adult, or involves repeated physical or verbal altercations between residents, not resulting in observable physical or mental injury, but constituting an ongoing pattern of resident behavior that a facility's staff is unable to remedy through reasonable efforts. ()

02. Need for Investigation. If, based on its review, the Provider determines that a report involves a facility, and was required to be made to the Department pursuant to Section 39-5303, Idaho Code, the Provider shall immediately refer the report to the Department. If, based on its review, the Provider determines that a report involving resident-to-resident contact was exempted from reporting by Section 39-5303, Idaho Code, no further investigation need be conducted on such report. The Provider shall investigate all other reports. ()

03. Vulnerability Determination. Upon investigating a report, the Provider shall determine whether an alleged victim is vulnerable. If the alleged victim is determined to be vulnerable the Provider shall continue the investigation to determine if the report is substantiated or unsubstantiated. If the alleged victim is not vulnerable the investigation shall be closed; however, the Provider may provide a referral to Information and Assistance, Case Management, the Ombudsman, law enforcement or other appropriate entity for investigation and resolution. ()

04. Investigative Determinations. The Provider shall make one (1) of two (2) investigative determinations upon completion of an APS investigation: ()

a. Substantiated. A report of abuse, neglect, or exploitation of a vulnerable adult by another individual is deemed substantiated when, based upon limited investigation and review, the Provider perceives the report to be credible. A substantiated report shall be referred immediately to law enforcement for further investigation and action. Additionally, the name of the individual against whom a substantiated report was filed shall be forwarded to the Department for further investigation. In substantiated cases of self-neglect, the Provider shall initiate appropriate referrals for supportive services with the consent of the vulnerable adult or his legal representative. ()

b. Unsubstantiated. If a report is unsubstantiated, but the Provider determines that the vulnerable adult has unmet service needs, the Provider shall initiate appropriate referrals for supportive or prevention services with consent of the vulnerable adult or their legal representative. ()

05. Caregiver Neglect. In investigating a report of caregiver neglect, the Provider shall take into account any deterioration of the mental or physical health of the caregiver resulting from the pressures associated with care giving responsibilities that may have contributed to the neglect of the vulnerable adult. In such cases, the Provider shall make every effort to assist the informal primary caregiver in accessing available social, supportive or prevention services necessary to reduce the risk to the vulnerable adult. ()

032. -- 999. (RESERVED)