



**Terri Kondeff**  
**Director**

# Legislative Services Office Idaho State Legislature

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## MEMORANDUM

**TO:** Senators VANORDEN, Wintrow and,  
Representatives VANDER WOUDE, Erickson, Chew

**FROM:** Jill Randolph - Senior Legislative Drafting Attorney

**DATE:** December 07, 2023

**SUBJECT:** Temporary Rule

IDAPA 16.03.14 - Hospitals - Adoption of Temporary Rule - Docket No. 16-0314-2301

We are forwarding this temporary rule to you for your information only. No analysis was done by LSO. This rule is posted on our web site. If you have any questions, please call Jill Randolph at the Legislative Services Office at (208) 334-4845. Thank you.

Attachment: Temporary Rule

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# IDAPA 16 – DEPARTMENT OF HEALTH AND WELFARE

## 16.03.14 – HOSPITALS

### DOCKET NO. 16-0314-2301

#### NOTICE OF RULEMAKING – ADOPTION OF TEMPORARY RULE

**EFFECTIVE DATE:** The effective date of the temporary rule is November 14, 2023.

**AUTHORITY:** In compliance with Sections 67-5226, Idaho Code, notice is hereby given this agency has adopted a temporary rule. The action is authorized pursuant to Section 39-1307, Idaho Code.

**DESCRIPTIVE SUMMARY:** The following is the required finding and concise statement of its supporting reasons for adopting a temporary rule:

Idaho Hospital Association (IHA) requested rule changes about recredentialing to align with CFR language and asked that changes be made before the scheduled ZBR Rewrite for 2025. The Department supports this change.

**TEMPORARY RULE JUSTIFICATION:** Pursuant to Section(s) 67-5226(1) (a) and (c), Idaho Code, the Governor has found that temporary adoption of the rule is appropriate for the following reasons:

The changes in this rulemaking qualify for all the following purposes for a Temporary rulemaking:

1. Protection of the public health, safety, or welfare by removing barriers and allowing providers flexibility in providing care to their patients; and
2. Confers a benefit as requested by stakeholders.

**FEE SUMMARY:** Pursuant to Section 67-5226(2), the Governor has found that the fee or charge being imposed or increased is justified and necessary to avoid immediate danger and the fee is described herein:

This chapter contains no fees or charges.

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning the temporary rule, contact Laura Stute at 208-866-1775.

DATED this 9th day of November, 2023.

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**THE FOLLOWING IS THE TEXT OF THE TEMPORARY RULE FOR DOCKET NO. 16-0314-2301  
(Only Those Sections With Amendments Are Shown.)**

**200. GOVERNING BODY AND ADMINISTRATION.**

There shall be an organized governing body, or equivalent, that has ultimate authority and responsibility for the operation of the hospital. (3-17-22)

**01. Bylaws.** The governing body shall adopt bylaws in accordance with Idaho Code, community responsibility, and identify the purposes of the hospital and that specify at least the following: (3-17-22)

**a.** Membership of Governing Body, that consists of: (3-17-22)

i. Basis of selecting members, term of office, and duties; and (3-17-22)

ii. Designation of officers, terms of office, and duties. (3-17-22)

**b.** Meetings: (3-17-22)

i. Specify frequency of meetings; (3-17-22)

ii. Meet at regular intervals, and there is an attendance requirement; (3-17-22)

iii. Minutes of all governing body meetings shall be maintained. (3-17-22)

**c.** Committees: (3-17-22)

i. The governing body officers shall appoint committees as appropriate for the size and scope of activities in the hospitals; (3-17-22)

ii. Minutes of all committee meetings shall be maintained, and reflect all pertinent business. (3-17-22)

**d.** Medical Staff Appointments and Reappointments: (3-17-22)

i. A formal written procedure shall be established for appointment to the medical staff; (3-17-22)

ii. Medical staff appointments shall include an application for privileges, signature of applicant to abide by hospital bylaws, rules, and regulations, and delineation of privileges as recommended by the medical staff. The same procedure shall apply to nonphysician practitioners who are granted clinical privileges; (3-17-22)

iii. The procedure for appointment and reappointment to the medical staff shall involve the administrator, medical staff, and the governing body. ~~Reappointments shall be made at least biannually;~~ (3-17-22)(11-14-23)T

iv. The governing body bylaws shall approve medical staff authority to evaluate the professional competence of applicants, appointments and reappointments, curtailment of privileges, and delineation of privileges; (3-17-22)

v. Applicants for appointment, reappointment or applicants denied to the medical staff privileges shall be notified in writing; (3-17-22)

vi. There shall be a formal appeal and hearing mechanism adopted by the governing body for medical staff applicants who are denied privileges, or whose privileges are reduced. (3-17-22)

- e.** The bylaws shall provide a mechanism for adoption, and approval of the organization bylaws, rules and regulations of the medical staff. (3-17-22)
- f.** The bylaws shall specify an appropriate and regular means of communication with the medical staff. (3-17-22)
- g.** The bylaws shall specify departments to be established through the medical staff, if appropriate. (3-17-22)
- h.** The bylaws shall specify that every patient be under the care of a physician licensed by the Idaho State Board of Medicine. (3-17-22)
- i.** The bylaws shall specify that a physician be on duty or on call at all times. (3-17-22)
- j.** The bylaws shall specify to whom responsibility for operations, maintenance, and hospital practices can be delegated and how accountability is established. (3-17-22)
- k.** The governing body shall appoint a chief executive officer or administrator, and shall designate in writing who will be responsible for the operation of the hospital in the absence of the administrator. (3-17-22)
- l.** Bylaws shall be dated and signed by the current governing body. (3-17-22)
- m.** Patients being treated by nonphysician practitioners shall be under the general care of a physician. (3-17-22)
- 02. Administration.** The governing body, through the administrator, shall provide appropriate physical facilities and personnel required to meet the needs of the patients and the community. (3-17-22)
- 03. Chief Executive Officer or Administrator.** The governing body through the chief executive officer shall establish the following policies, procedures or plans: (3-17-22)
- a.** The hospital shall adopt a written personnel policy concerning qualification, responsibility, and condition of employment for each category of personnel. The policy and/or procedures shall contain the following elements: (3-17-22)
- i.** Documentation of orientation of all employees to policies, procedures and objectives of the hospital. (3-17-22)
- ii.** Job descriptions for all categories of personnel. (3-17-22)
- iii.** Documentation of continuing education (inservice) for all patient care personnel. (3-17-22)
- b.** There shall be a personnel record for each employee that shall contain at least the following: (3-17-22)
- i.** Current licensure and/or certification status. (3-17-22)
- ii.** The results of a Tuberculin Skin Test that shall be determined either by history of a prior positive, or by the application of a skin test prior to or within thirty (30) days of employment. If the skin test is positive, either by history or by current test, a chest X-ray shall be taken, or a report of the result of a chest X-ray taken within three (3) months preceding employment, shall be accepted. The Tuberculin Skin Test status shall be known and recorded and a chest X-ray alone is not a substitute. No subsequent annual chest X-ray or skin test is required for routine surveillance. (3-17-22)
- c.** There shall be regularly scheduled departmental and interdepartmental meetings, appropriate to the needs of the hospital, and documentation of such meetings shall be available. (3-17-22)

**d.** The chief executive officer shall serve as liaison between the governing body, medical staff and the nursing staff, and all other departments of the hospital. (3-17-22)

**e.** Written policies and procedures shall be reviewed as needed. (3-17-22)

**04. Discharge Planning.** Administration shall provide a procedure to screen each patient for discharge planning needs. If discharge planning is necessary, a qualified person shall be designated responsible for such planning. The hospital shall have a transfer agreement with a Medicare and/or Medicaid skilled nursing home. If there is a common governing board for a hospital and a skilled nursing home, a policy statement concerning transfers will be sufficient. (3-17-22)

**05. Institutional Planning.** The governing body through the chief executive officer shall provide for institutional planning by means of a committee composed of members of the governing body, administration, and medical staff. The plan shall include at least these elements: (3-17-22)

**a.** Annual budgeting; and (3-17-22)

**b.** A protocol for coordinating the hospital services with other health care facilities and community resources. (3-17-22)

**06. Disclosure of Ownership.** The governing body and administration of hospitals required to be licensed under these rules shall fully disclose to the licensing agency the names and addresses of all persons owning or controlling five percent (5%) interest in the hospital. (3-17-22)

**07. Compliance with Laws and Regulations.** The governing body through the chief executive officer will be responsible for meeting all applicable laws and regulations pertaining to hospitals, and acting promptly upon reports and reviews of regulatory and inspecting agencies. (3-17-22)

**08. Use of Outside Resources.** If a hospital does not employ a required professional person to render a specific service, there shall be a written agreement for such service to meet the requirements of these rules. The agreement shall specify the following: (3-17-22)

**a.** Responsibilities of both parties, with the hospital retaining responsibility for services rendered. (3-17-22)

**b.** All services to be performed by outside resources including reports, frequency of visits, and services rendered. (3-17-22)

**09. Substantial Change in Services.** Any hospital proposing to offer a new service or a new department under these rules or proposing to implement a substantial change in an existing service or department shall provide to the licensing agency evidence of a request for a determination of reviewability if a program providing prospective review of hospitals is in effect. (3-17-22)

**10. Quality Assurance.** Through administration and medical staff, the governing body shall ensure that there is an effective, hospital-wide quality assurance program to evaluate the provision of care. The hospital must take and document appropriate remedial action to address deficiencies found through the program. The hospital must document the outcome of the remedial action. (3-17-22)

**(BREAK IN CONTINUITY OF SECTIONS)**

**250. MEDICAL STAFF.**

The hospital must have an active medical staff organized under bylaws approved by the governing body and responsible to the governing body for the quality of all medical care provided the patients, and for the professional practices and ethical conduct of the members. (3-17-22)

**01. Medical Staff Qualifications and Privileges.** All medical staff members must be qualified legally and professionally for the privileges that they are granted. (3-17-22)

**a.** Privileges must be granted only on the basis of individual training, competence, and experience. (3-17-22)

**b.** The medical staff, with governing body approval, must develop and implement a written procedure for determining qualifications for medical staff appointment, and for determining privileges. (3-17-22)

**c.** The governing body must approve medical staff privileges within the limits of the hospital's capabilities for providing qualified support staff and equipment in specialized areas. (3-17-22)

**02. Authority to Admit Patients.** A hospital may grant to physicians, physician assistants, and advanced practice nurses the privilege to admit patients, provided that admitting privileges be granted only if the privileges are: (3-17-22)

**a.** Recommended by the medical staff at the hospital; (3-17-22)

**b.** Approved by the governing body of the hospital; and (3-17-22)

**c.** Within the scope of practice conferred by the license of the physician, physician assistant, or advanced practice nurse. (3-17-22)

**d.** A hospital must specify in its bylaws the process by which its governing body and medical staff oversee those practitioners granted admitting privileges. Such oversight must include credentialing and competency review. (3-17-22)

**03. Medical Staff Appointments and Reappointments.** Medical staff appointments and reappointments must be made by the governing body upon the recommendation of the active medical staff, or a committee of the active staff. (3-17-22)

**a.** Appointments to the medical staff must include a written delineation of all privileges including surgical procedures, and governing body approval must be documented. (3-17-22)

**b.** Reappointments to the medical staff must be made ~~at least every two (2) years~~ periodically with appropriate documentation indicating governing body approval. ~~(3-17-22)~~(11-14-23)T

**c.** Reappointment procedures must include a means of increasing or decreasing privileges after consideration of the member's physical and mental capabilities. (3-17-22)

**d.** The medical staff and administration with approval of the governing body must develop a written procedure for temporary or emergency medical staff privileges. (3-17-22)

**04. Required Hospital Functions.** Each hospital must have a mechanism in place to perform the following functions: (3-17-22)

**a.** Coordinate all activities of the medical staff; (3-17-22)

**b.** Develop a hospital formulary and procedures for the choice and control of all drugs used in the hospital; (3-17-22)

**c.** Establish procedures to prevent and control infections in the hospital; (3-17-22)

**d.** Develop and monitor standards of medical records contents; (3-17-22)

**e.** Maintain communications between medical staff and the governing body of the hospital; and (3-17-22)

- f. Review clinical work of the medical staff. (3-17-22)
- 05. Documentary Evidence of Medical Staff Activities.** The medical staff or any committees of the staff must meet as often as necessary, but at least twice annually, to assure implementation of the required functions in Subsection 250.04 of this rule. Minutes of all meetings of the medical staff or any committees of the staff must be maintained. (3-17-22)
- 06. Medical Staff Bylaws, Rules, and Regulations.** These must specify at least the following: (3-17-22)
- a. A description of the medical staff organization that includes: (3-17-22)
- i. Officers and their duties; (3-17-22)
- ii. Staff committees and their responsibilities; (3-17-22)
- iii. Frequency of staff and committee meetings; and (3-17-22)
- iv. Agenda for all meetings and the type of records to be kept. (3-17-22)
- b. A statement of the necessary qualifications for appointment to the staff, and the duties and privileges of each category of medical staff. (3-17-22)
- c. A procedure for appointment, granting and withdrawal of privileges. (3-17-22)
- d. A mechanism for hearings and appeals of decisions regarding medical staff membership and privileges. (3-17-22)
- e. A statement regarding attendance at staff meetings. (3-17-22)
- f. A statement of qualifications and a procedure for delineation of clinical privileges for all categories of nonphysician practitioners. (3-17-22)
- g. A requirement for keeping accurate and complete medical records. (3-17-22)
- h. A requirement that all tissue surgically removed will be delivered to a pathologist for a report on such specimens, unless the medical staff, in consultation with the pathologist, adopts uniform exceptions to sending tissue specimens to the laboratory for analysis. (3-17-22)
- i. A statement requiring a medical history and physical examination be performed no more than seven (7) days before or within forty-eight (48) hours after admission. The findings from this history and physical examination, including a provisional diagnosis, must be included in the medical record prior to surgery, except in emergencies. (3-17-22)
- j. A requirement that consultation is necessary with unusual cases, except in emergencies. Unusual cases must be defined by the hospital medical staff. (3-17-22)
- 07. Review of Policies and Procedures.** The medical staff must review and approve all policies and procedures directly related to medical care. (3-17-22)
- 08. Dentists and Podiatrists.** If dentists and podiatrists are appointed to the medical staff, the bylaws must specifically refer to services performed by such professionals, and must specify at least the following: (3-17-22)
- a. Patients admitted for dental or podiatry service must be under the general care of a physician member of the active staff. (3-17-22)

**b.** All medical staff requirements and procedure for privileges must be followed for dentists and podiatrists. (3-17-22)

**09. Dating of Bylaws.** Bylaws must be dated and signed by the current officers of the medical staff or the committee of the whole. (3-17-22)

**10. Medical Orders.** Written, verbal and telephone orders from persons authorized to give medical orders under Idaho law must be accepted by those health care practitioners empowered to do so under Idaho law and written hospital policies and procedures. Verbal and telephone orders must contain the name of the person giving the order, the first initial and last name and professional designation of the health care practitioners receiving the order. The order(s) must be promptly signed or otherwise authenticated by the prescribing practitioner in a timely manner in accordance with the hospital's policy. (3-17-22)