

Dear Senators MARTIN, Souza, Jordan, and
Representatives WOOD, Wagoner, Chew:

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

IDAPA 16.00.00 - Notice of Omnibus Rulemaking (Fee Rule) - Proposed Rule (Docket No.
16-0000-2000F).

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 11/06/2020. 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 12/04/2020.

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.



Eric Milstead
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: October 20, 2020

SUBJECT: Department of Health and Welfare

IDAPA 16.00.00 - Notice of Omnibus Rulemaking (Fee Rule) - Proposed Rule (Docket No. 16-0000-2000F)

This proposed rule republishes fee rules previously reviewed by the Legislature. Fees include:

- EMS licensing fees;
- Hospital designation fees under the Idaho Time Sensitive Emergency System;
- Vital statistics record fees;
- Certification fees for laboratories that test drinking water;
- Service fees regarding public swimming pools;
- Fees for laboratory testing and services by the State Laboratory;
- Program service fees for the Children's Special Health Program;
- Licensing fees for radiation producing machines;
- Child support program fees;
- Premium fees for Youth Empowerment Services;
- Application and certification fees for certified family homes;
- Building evaluation and survey service fees for residential assisted living facilities;
- Service fees for state hospitals;
- Fees for criminal history and background checks;
- Fees for child protection registry checks;
- Childcare licensing fees; and
- Behavioral health service fees.

This rulemaking imposes only those fees or charges previously reviewed by the Legislature. There is no increase of any fee or charge.

This rulemaking appears to be consistent with the Department's statutory authority.

cc: Department of Health and Welfare
Frank Powell and Trinette Middlebrook

Kristin Ford, Manager
Research & Legislation

Paul Headlee, Manager
Budget & Policy Analysis

April Renfro, Manager
Legislative Audits

Glenn Harris, Manager
Information Technology

***** 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.

IDAPA 16 – DEPARTMENT OF HEALTH AND WELFARE

DOCKET NO. 16-0000-2000F (FEE RULE)

NOTICE OF OMNIBUS RULEMAKING – PROPOSED RULE

AUTHORITY: In compliance with Sections 67-5221(1), Idaho Code, notice is hereby given this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Sections 7-1206, 16-1629, 16-2102, 16-2433, 19-2524, 20-511A, 32-1207, 32-1209, 32-1214G, 32-1217, 39-242, 39-309, 39-1105, 39-1107, 39-1111, 39-1209 through 1211, 39-1210(10), 39-1211(4), 39-1213, 39-3137, 39-3305, 39-3505, 39-3520, 39-5403, 39-5603, 39-5604, 39-7501, 39-9109, 56-202(b), 56-203(2), 56-203A, 56-204A, 56-803, 56-1003, 56-1004, 56-1004A, 56-1005, 56-1005(8), 56-1007, 56-1009, 56-1023, 56-1028, 56-1041, 56-1043, 66-404(7), 15-5-308(4), 15-5-311(5), 15-5-316(5), Title 39, Chapter 3 and 31, Title 66, Chapters 1 and 3, and Title 67, Chapter 52, Idaho Code, and 42 USC Section 9858f.

PUBLIC HEARING SCHEDULE: Public hearings concerning this rulemaking will be held as follows:

LIVE MEETING

**Wednesday, September 23, 2020
10:00 a.m. to 11:30 a.m. (MDT)**

Call in:

1-415-655-0003 US Toll

Meeting Number (access code): 133 919 4984

Meeting password: rpTxEBvB536

(77893282 from phones and video systems)

Please do not call earlier than 15 minutes before the start of the meeting

Join from a Video System or Application:

Dial: 1339194984@idhw.webex.com; or

Dial: 173.243.2.68 and enter your meeting number; or

Join using Microsoft Lync or Microsoft Skype for Business by dialing:

1339194984.idhw@lync.webex.com

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 the required finding and concise statement of the purpose of the proposed rulemaking:

This proposed rulemaking re-publishes the following existing temporary rule chapters previously submitted to and reviewed by the Idaho Legislature under IDAPA 16, rules of the Idaho Department of Health and Welfare:

IDAPA 16

- IDAPA 16.01.07, *Emergency Medical Services (EMS) – Personnel Licensing Requirements;*
- IDAPA 16.02.01, *Idaho Time Sensitive Emergency System Council;*
- IDAPA 16.02.08, *Vital Statistics Rules;*
- IDAPA 16.02.13, *State of Idaho Drinking Water Laboratory Certification Program;*
- IDAPA 16.02.14, *Construction and Operation of Public Swimming Pools;*
- IDAPA 16.02.25, *Fees Charged by the State Laboratory;*
- IDAPA 16.02.26, *The Idaho Children's Special Health Program;*
- IDAPA 16.02.27, *Idaho Radiation Control Rules;*

- IDAPA 16.03.03, *Child Support Services*;
- IDAPA 16.03.18, *Medicaid Cost-Sharing*;
- IDAPA 16.03.19, *Certified Family Homes*;
- IDAPA 16.03.22, *Residential Assisted Living Facilities*;
- IDAPA 16.04.07, *Fees for State Hospital North and State Hospital South*;
- IDAPA 16.05.06, *Criminal History and Background Checks*;
- IDAPA 16.06.01, *Child and Family Services*;
- IDAPA 16.06.02, *Child Care Licensing*; and
- IDAPA 16.07.01, *Behavioral Health Sliding Fee Schedules*.

The Department is also proposing a change in IDAPA 16.03.19 to reduce regulatory burden by removing the requirement that certified family home providers obtain annual interactive training. Instead, all annual training requirements may be met through independent study.

FEE SUMMARY: This rulemaking does not impose a fee or charge, or increase a fee or charge, beyond what was previously submitted to and reviewed by the Idaho Legislature in the prior rules.

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: This rulemaking is not anticipated to have any fiscal impact on the state general fund because the FY2021 budget has already been set by the Legislature, and approved by the Governor, anticipating the existence of the rules and fees being reauthorized by this rulemaking.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not feasible because engaging in negotiated rulemaking for all previously existing rules will inhibit the agency from carrying out its ability to serve the citizens of Idaho and to protect their health, safety, and welfare.

INCORPORATION BY REFERENCE: Pursuant to Section 67-5229(2)(a), Idaho Code, incorporated material may be obtained or electronically accessed as provided in the text of the proposed rules attached hereto.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning the proposed rule, contact the Rules Unit by emailing dhwrules@dhw.idaho.gov.

Anyone may submit written comments regarding the proposed rulemaking. All written comments must be directed to the undersigned and must be delivered within twenty-one (21) days after publication of this Notice in the Idaho Administrative Bulletin. Oral presentation of comments may be requested pursuant to Section 67-5222(2), Idaho Code, and must be delivered to the undersigned within fourteen (14) days of the date of publication of this Notice in the Idaho Administrative Bulletin.

Dated this 17th day of August, 2020.

Tamara Prisock
DHW – Administrative Rules Unit
450 W. State Street – 10th Floor
P.O. Box 83720 Boise, ID 83720-0036
Phone: (208) 334-5500
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16.01.07 – EMERGENCY MEDICAL SERVICES (EMS) – PERSONNEL LICENSING REQUIREMENTS

000. LEGAL AUTHORITY.

The Idaho Board of Health and Welfare is authorized under Section 56-1023, Idaho Code, to adopt rules and standards concerning the administration of the Idaho Emergency Medical Services Act, Sections 56-1011 through 56-1023, Idaho Code. The Director is authorized under Section 56-1003, Idaho Code, to supervise and administer an emergency medical service program. ()

001. TITLE AND SCOPE.

01. Title. These rules are titled IDAPA 16.01.07, “Emergency Medical Services (EMS) – Personnel Licensing Requirements.” ()

02. Scope. These rules include requirements and standards for certification and licensure of emergency medical personnel, the establishment of fees for licensure, renewals of licensure, and education criteria for needed skills to perform duties of specific types of licensure. Emergency medical personnel licensed under these rules work or provide EMS services for agencies licensed by the state. ()

002. -- 008. (RESERVED)

009. CRIMINAL HISTORY AND BACKGROUND CHECK REQUIREMENTS.

Licensed EMS personnel must comply with the provisions in IDAPA 16.05.06, “Criminal History and Background Checks,” to include: ()

01. Initial Licensure. An individual applying for initial licensure described in Section 110 of these rules. ()

02. Reinstatement of Licensure. An individual applying for reinstatement of licensure described in Section 131 of these rules. ()

03. Certificate of Eligibility. An individual applying for a certificate of eligibility described in Section 150 of these rules. ()

04. Additional Criminal Background Check. The EMS Bureau may require an updated or additional criminal background check at any time, without expense to the candidate, if there is cause to believe new or additional information will be disclosed. ()

010. DEFINITIONS.

For the purposes of this chapter, the definitions in IDAPA 16.01.02, “Emergency Medical Services (EMS) -- Rule Definitions” apply. ()

011. -- 074. (RESERVED)

075. INVESTIGATION OF COMPLAINTS FOR PERSONNEL LICENSING VIOLATIONS.

Investigation of complaints and disciplinary actions for personnel licensing are provided under IDAPA 16.01.12, “Emergency Medical Services (EMS) -- Complaints, Investigations, and Disciplinary Actions.” ()

076. ADMINISTRATIVE ACTION IMPOSED FOR LICENSE OR CERTIFICATION.

Any license or certification may be suspended, revoked, denied, or retained with conditions for noncompliance with any standard or rule. Administrative license or certification actions imposed by the EMS Bureau for any action, conduct, or failure to act which is inconsistent with the professionalism, or standards, or both, are provided under Sections 56-1011 through 56-1023, Idaho Code, and IDAPA 16.01.12, “Emergency Medical Services (EMS) -- Complaints, Investigations, and Disciplinary Actions.” ()

077. STANDARDS OF PROFESSIONAL CONDUCT FOR EMS PERSONNEL.

01. Method of Treatment. EMS personnel must practice medically acceptable methods of treatment and must not endeavor to extend their practice beyond their competence and the authority vested in them by the medical director. EMS personnel must not perform any medical procedure or provide medication that deviated from or exceeds the scope of practice for the corresponding level of licensure established under IDAPA 16.02.02, “Idaho Emergency Medical Services (EMS) Physician Commission.” ()

02. Knowledge and Proficiency. EMS personnel must maintain standards of knowledge and

proficiency as required by this chapter of rules and IDAPA 16.02.02, “Idaho Emergency Medical Services (EMS) Physician Commission.” ()

03. Respect for the Patient. EMS personnel must provide all services with respect for the dignity of the patient, unrestricted by considerations of social or economic status, personal attributes, or the nature of health problems. ()

04. Confidentiality. EMS personnel must hold in strict confidence all privileged information concerning the patient except as disclosure or use of this information is permitted or required by law or Department rule. ()

05. Conflict of Interest. EMS personnel must not accept gratuities for preferential consideration of the patient and must guard against conflicts of interest. ()

06. Professionalism. EMS personnel must uphold the dignity and honor of the profession and abide by its ethical principles and must be familiar with existing laws governing the practice of emergency medical services and comply with those laws. EMS personnel must never perform duties of the profession while under the influence of alcohol, illegal substances, or legal drugs or medication causing impairment of function. ()

07. Cooperation and Participation. EMS personnel must cooperate with other health care professionals and participate in activities to promote community and national efforts to meet the health needs of the public. ()

08. Ethical Responsibility. EMS personnel must refuse to participate in unethical procedures, and assume the responsibility to expose incompetence or unethical conduct of others to the appropriate authority in a proper and professional manner. Misrepresentation in an application or documentation for licensure by means of concealment of a material fact is a violation of ethical responsibility. ()

09. Integrity. EMS personnel must act with honesty and integrity and assure that reports, applications and documentation for which they are responsible are free of fraudulent and false information. ()

078. -- 089. (RESERVED)

090. ADVANCE DO NOT RESUSCITATE (DNR) DIRECTIVES. Licensed EMS personnel must follow the DNR protocol established by the Department. ()

091. -- 099. (RESERVED)

PERSONNEL LICENSURE REQUIREMENTS
(Sections 100-199)

100. PERSONNEL LICENSURE REQUIRED. Any individual who provides emergency medical care must obtain and maintain a current EMS personnel license issued by the EMS Bureau, or recognition by the EMS Bureau described under Section 140 of these rules. The levels of Idaho personnel licensure are: ()

01. Emergency Medical Responder (EMR). ()

02. Emergency Medical Technician (EMT). ()

03. Advanced Emergency Medical Technician (AEMT). ()

04. Paramedic. ()

101. AFFILIATION REQUIRED TO PRACTICE. Licensed EMS personnel must be affiliated with an EMS agency, and only practice under the supervision of the agency medical director as required in IDAPA 16.02.02, “Idaho Emergency Medicaid Services (EMS) Physician

Commission.” ()

102. (RESERVED)

103. RECOGNITION OF EMS PERSONNEL LICENSURE INTERSTATE COMPACT (REPLICA).

01. Licensed EMS Personnel from a REPLICA Member State. An individual who possesses a current, valid, and unrestricted EMS personnel license from a REPLICA member state whose primary affiliation is an Idaho-licensed EMS agency: ()

a. Must apply for Idaho EMS licensure within ninety (90) days of affiliation with an Idaho EMS agency. ()

b. May affiliate and respond with the Idaho-licensed EMS agency during the initial ninety (90) day period. ()

c. Will be issued an Idaho EMS personnel license at the same level of licensure as the REPLICA home state license upon payment of any applicable licensure fee in accordance with Section 111 of these rules. ()

02. Out-of-State Primary Affiliation. If EMS personnel licensed in another REPLICA state claim an EMS agency in that state as their primary affiliation, Idaho licensure is not required. ()

104. (RESERVED)

105. APPLICATION AND INSTRUCTIONS FOR EMS PERSONNEL LICENSURE.

A personnel license or certificate of eligibility application and instructions may be obtained from the EMS Bureau, see online at: <http://www.idahoems.org>. ()

106. TIME FRAME FOR PERSONNEL LICENSURE AFTER SUCCESSFUL COMPLETION OF EDUCATION COURSE.

An individual who has successfully completed an EMS education course is eligible to attempt the standardized examination for the appropriate level of licensure. ()

01. Complete Standardized Examination. A candidate must successfully complete all components of the standardized examination within twenty-four (24) months of completing an EMS training course in order to be eligible for an Idaho EMS personnel license. ()

02. Standardized Examination Not Completed. If all components of the standardized examination are not successfully completed period within twenty-four (24) months of course completion, the candidate must repeat the initial training course and all components of the standardized examination in order to be eligible for an Idaho EMS personnel license. ()

107. LICENSURE OF MEMBERS OF THE MILITARY, VETERANS, AND SPOUSES.

A member of the military, a veteran, or a spouse of any such person who possesses a current, valid, and unrestricted EMS personnel license in another state, district, or territory of the United States is eligible for EMS personnel licensure in Idaho as follows: ()

01. Licensure in REPLICA Member State. A member of the military, a veteran, or a spouse of such a person who possesses a REPLICA member state EMS personnel license is eligible for licensure in Idaho under Section 103 of these rules. ()

02. Licensure in Non-REPLICA Member State. A member of the military, a veteran, or a spouse of such a person who possesses an EMS personnel license from a state that is not a REPLICA member state is eligible for licensure by endorsement in Idaho under Section 108 of these rules. ()

108. QUALIFICATIONS FOR LICENSURE BY ENDORSEMENT -- MEMBERS OF THE MILITARY, VETERANS, AND SPOUSES.

Members of the military, veterans, and their spouses may apply to the EMS Bureau for licensure by endorsement provided they meet the following: ()

01. Military, Veteran, or Spouse. Are a member of the military, a veteran, or a spouse of any such person. ()

02. Graduation Required. Have successfully completed an education program that is substantially equivalent to the approved education course recognized by the EMS Bureau under IDAPA 16.01.05, "Emergency Medical Services -- Education, Instructor, and Examination Requirements." ()

03. Licensing Examination. Successfully complete, or have successfully completed, the same standardized examination for the level of licensure on the application required under IDAPA 16.01.05, "Emergency Medical Services (EMS) -- Education, Instructor, and Examination Requirements." ()

04. License from Another Jurisdiction. Possess a current, valid, and unrestricted EMS personnel license, at the same or higher level as the Idaho license being requested, from another state, district, or territory of the United States. The license of any individual subject to official investigation or disciplinary proceedings is not considered current, valid, and unrestricted. ()

05. Criminal History and Background Check. Successfully complete a criminal history and background check in accordance with the provisions in IDAPA 16.05.06, "Criminal History and Background Checks." Denial without the grant of an exemption under the provisions in IDAPA 16.05.06, "Criminal History and Background Checks," will result in denial or revocation of licensure. ()

06. Declaration of Previous Applications and Licensures. Declare each state or jurisdiction in which they have ever applied for, been denied, or held an EMS license or certification. ()

07. Authorization for Release of Information. Provide authorization for the EMS authority in other states or jurisdictions to release the candidate's registration, licensure, and certification information to the Idaho EMS Bureau. ()

08. Provide Current Affiliation with EMS Agency. Declare all organizations in which they are allowed to practice as licensed personnel. A candidate must have a current affiliation with a licensed EMS agency that functions at, or above, the level of licensure being sought by the candidate. ()

09. Valid Identification. Have a valid state driver's license, an Idaho identification card issued by a county driver's license examining station, or an identification card issued by the armed forces of the United States. ()

10. Submit Required Licensure Fee. Submit the applicable initial licensure fee provided in Section 111 of these rules. A candidate for EMR or EMT level of licensure has no fee requirement. ()

109. (RESERVED)

110. INITIAL PERSONNEL LICENSURE.

Upon successful completion of an approved education course recognized by the EMS Bureau under IDAPA 16.01.05, "Emergency Medical Services -- Education, Instructor, and Examination Requirements," an individual may apply to the EMS Bureau for licensure. The candidate must meet the following: ()

01. Candidate Age Requirements. An individual applying for licensure must meet the following age requirements: ()

a. An EMR and EMT candidate must be either sixteen (16) or seventeen (17) years old with parental or legal guardian consent, or eighteen (18) years old. ()

- b.** An AEMT and Paramedic candidate must be eighteen (18) year old. ()
- 02. Declaration of Previous Applications and Licensures.** A candidate must declare each state or jurisdiction in which they have applied for, been denied, or held an EMS license or certification. ()
- 03. Authorization for Release of Information.** A candidate must provide authorization for the EMS authority in other states or jurisdictions to release the candidate’s registration, licensure, and certification information to the Idaho EMS Bureau. ()
- 04. Provide Current Affiliation with EMS Agency.** A candidate must declare all organizations in which they are allowed to practice as licensed personnel. A candidate must have a current affiliation with a licensed EMS agency that functions at, or above, the level of licensure being sought by the candidate. ()
- 05. Valid Identification.** A candidate must have a valid state driver’s license, an Idaho identification card issued by a county driver’s license examining station, or an identification card issued by the Armed Forces of the United States. ()
- 06. Criminal History and Background Check.** A candidate must successfully complete a criminal history and background check according to the provisions in IDAPA 16.05.06, “Criminal History and Background Checks.” Denial without the grant of an exemption under the provisions in IDAPA 16.05.06, “Criminal History and Background Checks,” will result in denial or revocation of licensure. ()
- 07. Pass Standardized Examination.** A candidate must successfully complete the standardized examination for the level of licensure on the application required under IDAPA 16.01.05, “Emergency Medical Services (EMS) -- Education, Instructor, and Examination Requirements.” ()
- a.** A candidate for EMR licensure must have successfully completed the standardized examination at the EMR level or higher within the preceding thirty-six (36) months. ()
- b.** A candidate for EMT licensure must have successfully completed the standardized examination at the EMT level or higher within the preceding thirty-six (36) months. ()
- c.** A candidate for AEMT licensure must have successfully completed the standardized examination at the AEMT level or higher within the preceding twenty-four (24) months. ()
- d.** A candidate for Paramedic licensure must have successfully completed the standardized examination at the Paramedic level within the preceding twenty-four (24) months. ()
- 08. Standardized Exam Attempts For Initial Licensure.** A candidate for initial licensure is allowed to attempt to successfully pass the standardized exam as follows: ()
- a.** An EMR candidate is allowed three (3) attempts to pass the exam, after which the initial EMR course must be successfully completed again before another three (3) attempts are allowed. ()
- b.** An EMT candidate is allowed three (3) attempts to pass the exam, after which twenty-four (24) hours of remedial education must be successfully completed before another three (3) attempts are allowed. ()
- c.** An AEMT candidate is allowed three (3) attempts to pass the exam, after which thirty-six (36) hours of remedial education must be successfully completed before another three (3) attempts are allowed. ()
- d.** A Paramedic candidate is allowed three (3) attempts to pass the exam, after which forty-eight (48) hours of remedial education must be successfully completed before another three (3) attempts are allowed. ()
- 09. Submit Required Licensure Fee.** A candidate must submit the applicable initial licensure fee provided in Section 111 of these rules. A candidate for EMR or EMT level of licensure has no fee requirement. ()

111. APPLICATION FEES FOR PERSONNEL LICENSURE.

01. Initial Licensure. A candidate applying for an initial personnel license must submit the following license fee at time of application: ()

a. EMR and EMT have no license fee. ()

b. AEMT and Paramedic license fee is thirty-five dollars (\$35). ()

02. Renewal. A candidate applying for personnel license renewal must submit the following amount at the time of application: ()

a. EMR and EMT have no license renewal fee. ()

b. AEMT and Paramedic license renewal fee is twenty-five dollars (\$25). ()

03. Reinstatement. A candidate applying for a personnel license reinstatement must pay the following amount at the time of application: ()

a. EMR and EMT have no reinstatement fee. ()

b. AEMT and Paramedic reinstatement fee is thirty-five dollars (\$35). ()

112. -- 114. (RESERVED)

115. EMS PERSONNEL LICENSE DURATION.

Duration of a personnel license is determined using the following specified time intervals. ()

01. Initial License Duration for EMR and EMT Level Licensure. EMR and EMT personnel licenses expire on March 31 or September 30. Expiration dates for EMR and EMT initial licenses are set for not less than thirty-six (36) months and not more than forty-two (42) months from the date of successful certification examination completion in order to establish an expiration date of March 31 or September 30. ()

02. Initial License Duration for AEMT and Paramedic Level Licensure. AEMT and Paramedic personnel licenses expire on March 31 or September 30. Expiration dates for AEMT and Paramedic initial licenses are set for not less than twenty-four (24) months and not more than thirty (30) months from the date of successful certification examination completion in order to establish an expiration date of March 31 or September 30. ()

03. EMS Personnel License Renewal Duration for EMR and EMT Level Licensure. An EMR and EMT level personnel license is renewed for three (3) years. ()

04. EMS Personnel License Renewal Duration for AEMT and Paramedic Level Licensure. An AEMT and Paramedic level personnel license is renewed for two (2) years. ()

05. EMS REPLICIA Licensure Duration. EMS personnel from another REPLICIA state who become licensed in Idaho will have their Idaho EMS license expire March 31 or September 30 following the expiration of their EMS license from the original state. ()

116. PERSONNEL LICENSE TRANSITION.

Personnel licensed at the AEMT level can opt to either transition to the AEMT-2011 level, or they may remain at the AEMT-1985 level. ()

117. (RESERVED)

118. REPLICIA EXPIRATION.

EMS personnel from another REPLICIA state who become licensed in Idaho will have their Idaho license expire in March or September following the expiration of their license in the original state. ()

119. (RESERVED)

120. PERSONNEL LICENSE RENEWAL.

Licensed personnel must provide documentation that they meet the following requirements: ()

01. Documentation of Affiliation with EMS Agency. A candidate applying for renewal of licensure must be affiliated with a licensed EMS agency which functions at, or above, the level of licensure being renewed. Documentation that the license holder is currently credentialed or undergoing credentialing by an affiliating EMS agency medical director must be submitted as assurance of affiliation for license renewal. ()

02. Documentation of Continuing Education for Level of Licensure Renewal. A candidate for renewal of licensure must provide documentation of continuing education consistent with the license holder's level of licensure. All continuing education and skill proficiency requirements must be completed under the provisions in Sections 300 through 325 of these rules. The time frame for continuing education courses must meet the following requirements: ()

a. All continuing education and skill proficiency requirements for renewal of an initial Idaho personnel license must be completed as follows: ()

i. For EMR or EMT, within the thirty-six (36) months preceding expiration. ()

ii. For AEMT and Paramedic, within the twenty-four (24) months preceding expiration. ()

b. All continuing education and skill proficiency requirements for successive licenses must be completed between the effective and expiration dates of the license being renewed, or according to Section 116 or 125 of these rules. ()

c. All continuing education and skill proficiency requirements for renewal of licenses obtained through conversion of a Certificate of Eligibility must be completed as follows: ()

i. For EMR or EMT, within the thirty-six (36) months preceding expiration. ()

ii. For AEMT and Paramedic, within the twenty-four (24) months preceding expiration. ()

d. A licensee certified by a national EMS certification body may petition the Department to review the certification standards under which the licensee was certified. The Department may waive specific duplicated continuing educational requirements where appropriate. When an external education requirement is found to be more rigorous than these rules, the Department may elect to renew a license based on that education. ()

03. Declarations of Convictions or Adjudications. A candidate for renewal of licensure must provide a declaration of any misdemeanor or felony adjudications. ()

04. Time Frame for Application of Licensure Renewals. Documentation of license renewal requirements is due to the EMS Bureau prior to the license expiration date. Failure to submit a complete renewal application by the license expiration date renders the license invalid and the individual must not practice or represent himself as a license holder. ()

05. Submit Required Licensure Renewal Fees. A candidate must submit the applicable license renewal fee provided in Section 111 of these rules. A candidate for EMR or EMT level of licensure has no fee requirement. ()

121. -- 124. (RESERVED)

125. SUBMISSION OF EMS PERSONNEL LICENSURE APPLICATION AND DOCUMENTATION.

Each EMS personnel license holder or candidate is responsible for meeting license renewal requirements and submitting completed license renewal documentation to the EMS Bureau by the current license expiration date.

()

01. Early Submission for License Renewal.

()

a. Licensed EMS personnel may submit renewal application and documentation to the EMS Bureau up to six (6) months prior to the current license expiration date. ()

b. Continuing education (CE) taken after early submission of a renewal application may be counted as CE for the next licensure cycle. Prior to the expiration date of the current license, the licensee must submit written notification to the EMS Bureau of the intention to use those CE hours for the next licensure cycle. ()

02. EMS Personnel License Expiration Date Falls on a Non-Work Day. When a license expiration date falls on a weekend, holiday, or other day the EMS Bureau is closed, the EMS Bureau will accept applications until the close of the next regular business day following the non-work day. ()

126. -- 129. (RESERVED)

130. LAPSED LICENSE.

Licensed personnel who fail to submit a complete renewal application prior to the expiration date of their license cannot practice or represent themselves as licensed EMS personnel. ()

01. Failure to Submit an Application and Renewal Documentation. No grace periods or extensions to an expiration date may be granted. After the expiration date the EMS personnel license will no longer be valid. ()

02. Application Under Review by the EMS Bureau. Provided the license renewal candidate submitted the renewal application to the EMS Bureau prior to the application deadline, a personnel license does not lapse while under review by the EMS Bureau. ()

03. Failure to Provide Application Information Requested by the EMS Bureau. After the expiration date of a license, a candidate for license renewal who does not provide the information requested by the EMS Bureau within twenty-one (21) days from the date of notification to the last known address, will be considered to have a lapsed license. ()

04. Reinstatement of Lapsed EMS Personnel License. In order to reinstate at lapsed license, a candidate must submit an application for license reinstatement to the EMS Bureau within twenty-four (24) months of the expiration date of the lapsed license. ()

05. Reinstatement of an EMS Personnel License Lapsed for More Than Twenty-Four Months. An individual whose license has been lapsed for more than twenty-four (24) months must retake and successfully complete an initial education course for the level of licensure for reinstatement. The individual must then meet all requirements in Section 110 of these rules for an initial personnel license. ()

131. REINSTATEMENT OF A LAPSED EMS PERSONNEL LICENSE.

An individual desiring to reinstate a lapsed personnel license must provide documentation that he meets the following requirements: ()

01. Declaration of Previous Applications and Licensures. A reinstatement candidate must declare each state or jurisdiction in which he has applied for, been denied, or held an EMS license or certification. ()

02. Authorization for Release of Information. A reinstatement candidate must provide authorization for the EMS authority in other states or jurisdictions to release the candidate's registration, licensure, and certification information to the Idaho EMS Bureau. ()

03. Provide Current Affiliation with EMS Agency. A reinstatement candidate must declare all organizations in which they are allowed to practice as licensed personnel. The candidate must have a current affiliation with a licensed EMS agency that functions at, or above, the level of licensure being sought by the

candidate. ()

04. Documentation of Continuing Education for Lapsed License Reinstatement. A candidate for reinstatement of a lapsed license must provide documentation of continuing education consistent with the license holder's lapsed license. Continuing education requirements are provided in Sections 300 through 325 of these rules. The time frame for meeting the continuing education requirements for reinstatement are as follows: ()

a. The candidate must meet continuing education requirements under Sections 320 through 325 of these rules for the last valid licensure cycle; and ()

b. Additional continuing education hours in any combination of categories and venues, proportionate to the amount of time since the expiration date of the lapsed license, as follows: ()

i. EMR -- Three-quarters (3/4) of one (1) hour of continuing education per month of lapsed time. ()

ii. EMT -- One and one-half (1 ½) hours of continuing education per month of lapsed time. ()

iii. AEMT -- Two and one-quarter (2 ¼) hours of continuing education per month of lapsed time. ()

iv. Paramedic -- Three (3) hours of continuing education per month of lapsed time. ()

05. Valid Identification for Reinstatement of Lapsed License. A reinstatement candidate must have a valid state driver's license, an Idaho identification card which is issued by a county driver's license examining station, or identification card issued by the Armed Forces of the United States. ()

06. Criminal History and Background Check for Reinstatement of Lapsed License. A reinstatement candidate must successfully complete a criminal background check under the provisions in IDAPA 16.05.06, "Criminal History and Background Checks." Denial without the grant of an exemption under IDAPA 16.05.06 will result in denial of reinstatement of licensure. ()

07. Competency Certification. The Medical Director of the reinstatement candidate's affiliating EMS agency must certify that he has actively assessed the reinstatement candidate's competency in both the psychomotor and cognitive domains and found that the reinstatement candidate meets the baseline competency requirements for the level of the lapsed license. ()

08. Submit Required Licensure Fee for Reinstatement. A candidate must submit the applicable reinstatement license fee provided in Section 111 of these rules. A candidate for reinstatement of an EMR or EMT level of licensure has no fee requirement. ()

09. Expiration Date of a Reinstated License. The expiration date for a lapsed license that is reinstated is determined as provided in Section 115 of these rules. ()

132. -- 139. (RESERVED)

140. RECOGNITION OF REGISTRATION, CERTIFICATION, OR LICENSURE FROM OTHER JURISDICTIONS.

01. EMS Personnel Licensed or Certified in Other States. An individual, possessing an EMS personnel license or certification from a state other than Idaho, must have prior recognition or reciprocity granted by the EMS Bureau prior to providing emergency medical care in Idaho. The following applies: ()

a. An individual certified or licensed in a state that has an interstate compact with Idaho that allows reciprocal recognition of EMS personnel may practice as licensed personnel as defined in the interstate compact. ()

b. An individual who is currently licensed or certified by another state to provide emergency medical care can apply to the EMS Bureau for limited recognition to practice in Idaho as provided in Subsection 140.02 of this rule. ()

02. Limited Recognition in Idaho. An individual, who is currently licensed or certified by another state to provide emergency medical care and applies to practice EMS within the confines of a specific incident, may be granted limited recognition by the EMS Bureau. Limited recognition allows an individual to practice EMS in Idaho only within the confines of the specific incident for which it was issued and only for a specified period of time not to exceed the duration of the incident for which it was issued. ()

03. Personnel with NREMT Registration or Current EMS Certification. An individual, possessing a current NREMT registration or a current EMS certification or license from another state at or above the level of licensure they are seeking in Idaho, is eligible for an Idaho EMS personnel licensure if they satisfy the requirements in Section 110 of these rules. ()

04. Personnel Licensure Candidate Trained in Other States. A candidate trained outside of Idaho must apply for and obtain an Idaho EMS license as required in Section 110 of these rules prior to providing emergency medical care in Idaho. A declaration that the candidate is fully eligible for EMS licensure in the state in which they were trained, must be obtained from the EMS licensing authority in that state and submitted to the EMS Bureau. ()

141. -- 144. (RESERVED)

145. CHANGES TO AN EXISTING LICENSE.

01. Surrender of a Current EMS Personnel License. An individual who possesses a current EMS personnel license may surrender that license at any time by submitting a letter of intent and their license to the EMS Bureau. ()

02. Surrender of License to Prevent Investigation or Disciplinary Action. Surrendering or expiration of a license does not prevent an investigation or disciplinary action against the individual. ()

03. Relinquish a Current EMS Personnel License for a Lower Level License. An individual who possesses a current license may relinquish that license and receive a license at a lower level with the same expiration date as the original license. The individual must have current affiliation with a licensed EMS agency which functions at, or higher than, the level of licensure being sought. ()

04. Relinquishment of a License to a Lower Level License to Prevent Investigation or Disciplinary Action. Relinquishing a personnel license does not prevent an investigation or disciplinary action against the individual. ()

05. Reporting Requirements for Changes in Status. Licensed personnel must notify the EMS Bureau within thirty (30) days of a change in name, mailing address, telephone number or agency affiliation. ()

06. Personnel License Duration Shortened. The EMS Bureau will issue a license with a shortened licensure duration upon the request of the license holder. ()

146. MULTIPLE LICENSES.

An individual may hold more than one (1) level of personnel licensure in Idaho, but can only renew one (1) personnel license at one (1) level. ()

147. -- 149. (RESERVED)

150. CERTIFICATE OF ELIGIBILITY REQUIREMENTS.

01. Personnel Licensure Requirements are Met. An individual, who has successfully completed an approved course, and meets all requirements for EMS personnel licensure required in Section 110 of these rules,

except for obtaining an agency affiliation provided in Subsection 110.04 of these rules, may apply to the EMS Bureau for a certificate of eligibility. ()

02. Certificate of Eligibility Duration. Duration of a certificate of eligibility is determined using the specified time intervals of the personnel licensure level requirements in Section 115 of these rules. ()

03. Criminal History and Background Check. An individual applying for a certificate of eligibility must successfully complete a criminal history and background check within the six (6) months prior to the issuance or renewal of a certificate of eligibility, according to the provisions in IDAPA 16.05.06, “Criminal History and Background Checks.” Denial without the grant of an exemption under the provisions in IDAPA 16.05.06, “Criminal History and Background Checks,” will result in denial of a certificate of eligibility. ()

04. Renewal of Certificate of Eligibility. An individual must provide documentation that the following requirements have been met in order to renew a certificate of eligibility: ()

a. Continuing education requirements for the level of licensure listed under the license renewal requirements in Section 120 of these rules have been met; and ()

b. Successful completion of the standardized examination designated by the EMS Bureau for the certificate of eligibility. ()

05. Revocation of Certificate of Eligibility. The EMS Bureau will revoke a certificate of eligibility if the certificate holder is determined to no longer meet eligibility requirements or has obtained a personnel license. ()

151. AMBULANCE CERTIFICATION.

01. Ambulance Certification is Required. In order for a licensed EMR to serve as the sole patient care provider who is delivering patient care, the EMR must possess a current ambulance certification issued by the EMS Bureau. ()

02. Ambulance Certification Requirements. A licensed EMR applying for and meeting the requirements defined in this section of rule will be issued an ambulance certification. The requirements for ambulance certification are: ()

a. Have a valid, unrestricted EMR license; ()

b. Have successfully completed an ambulance certification training program, examination, and credentialing; ()

03. Duration of Certification. Ambulance certifications are valid as long as the license holder is continually licensed. ()

04. Disciplinary and Corrective Action. The Department may impose disciplinary and corrective actions on an ambulance certification based on the procedures for administrative license actions described in IDAPA 16.01.12, “Emergency Medical Services (EMS) – Complaints, Investigations, and Disciplinary Actions.” ()

152. -- 174. (RESERVED)

175. EMS BUREAU REVIEW OF APPLICATIONS.

01. Review of License Applications. The EMS Bureau reviews each application for completeness and accuracy. Random applications are selected for audit by the EMS Bureau. Applications will also be audited when information declared on the application appears incomplete, inaccurate, or fraudulent. ()

02. EMS Bureau Review of Renewal Application. A personnel license does not expire while under review by the EMS Bureau, provided the license renewal candidate submitted the renewal application to the EMS

Bureau prior to the application deadline required under Section 130 of these rules. ()

176. -- 299. (RESERVED)

**CONTINUING EDUCATIONAL AND SKILLS PROFICIENCY REQUIREMENTS
FOR PERSONNEL LICENSURE
(Sections 300-399)**

300. CONTINUING EDUCATION AND SKILLS PROFICIENCY.

01. Continuing Education Must Meet Objectives of Initial Course Curriculum. All continuing education and skills proficiency assurance must be consistent with the objectives of the initial course curriculum or be a logical progression of those objectives. ()

02. Documentation of Continuing Education. Licensed personnel must maintain documentation of all continuing education as follows: ()

a. An EMR and EMT must maintain documentation of continuing education for four (4) years. ()

b. An AEMT and Paramedic must maintain documentation of continuing education for three (3) years. ()

03. Transition to New Scope of Practice. Education required to transition to a new scope of practice must meet the following: ()

a. Within the same level of licensure, all transition education may count on an hour-for-hour basis in the appropriate categories within a single venue. When transition education hours exceed seventy-five percent (75%) of the total continuing education hours required, all continuing education hours can be in a single venue; and ()

b. Education must be completed during a single license duration. ()

301. CONTINUING EDUCATION RECORDS ARE SUBJECT TO AUDIT.

The EMS Bureau reserves the right to audit continuing education records to verify that renewal requirements have been met. ()

01. Documentation Record. All documentation for continuing education hours must include: ()

a. Name of attendee; ()

b. Date education was completed; and ()

c. Education sponsor or instructor. ()

02. Proof of Completion. The following are acceptable formats for proof of completion of continuing education: ()

a. Signed course roster; ()

b. Certificate of completion; ()

c. Electronic verification of completion of on-line course; ()

d. Verification of attendance from EMS conference; ()

e. Verification or proof of providing instruction; or ()

- f. Agency training record validated by agency administrator. ()

302. -- 304. (RESERVED)

305. CONTINUING EDUCATION CATEGORIES FOR PERSONNEL LICENSURE RENEWAL.

01. Airway. ()
02. Cardiovascular. ()
03. Trauma. ()
04. Medical. ()
05. Operations. ()
06. Pediatrics. ()

306. -- 309. (RESERVED)

310. VENUES OF CONTINUING EDUCATION FOR PERSONNEL LICENSURE RENEWAL.

Continuing education for all personnel must include at least two (2) of the venues described in Subsections 310.01 through 310.12 of this rule for each licensure period. ()

01. Structured Classroom Sessions. ()
02. Refresher Programs. Refresher programs that revisit the original curriculum and have an evaluation component ()
03. Nationally Recognized Courses. ()
04. Regional and National Conferences. ()
05. Teaching Continuing Education Topics. The continuing education topics being taught must fall under the categories in Section 305 of these rules. ()
06. Agency Medical Director-Approved Self-Study or Directed Study. This venue is not allowed to be used for a certificate of eligibility continuing education requirement. ()
07. Case Reviews and Grand Rounds. ()
08. Distributed Education. This venue includes distance and blended education using computer, video, audio, Internet, and CD resources ()
09. Journal Article Review with an Evaluation Instrument. ()
10. Author or Co-Author an EMS-Related Article in a Nationally Recognized Publication. ()
11. Simulation Training. ()
12. Evaluator at a State or National Psychomotor Exam. ()

311. -- 319. (RESERVED)

320. LICENSE RENEWAL CONTINUING EDUCATION REQUIREMENTS.

A license renewal candidate must provide documentation of the following continuing education hours provided in the

table below during each licensure period.

()

TABLE 320				
LICENSE RENEWAL CONTINUING EDUCATION (CE) REQUIREMENTS				
CE CATEGORIES	EMR	EMT	AEMT	PARAMEDIC
	24 TOTAL CE Hours	48 TOTAL CE Hours	54 TOTAL CE Hours	72 TOTAL CE Hours
An individual must complete at least 1 hour of continuing education in each category.				
Airway, Respiration, and Ventilation	No more than 7 CE hours in any single category may be counted toward the total number of CE Hours needed for renewal.	No more than 14 CE hours in any single category may be counted toward the total number of CE Hours needed for renewal.	No more than 16 CE hours in any single category may be counted toward the total number of CE Hours needed for renewal.	No more than 22 CE hours in any single category may be counted toward the total number of CE Hours needed for renewal.
Cardiovascular				
Trauma				
Medical				
Operations: Landing Zone & Extrication Awareness				
Pediatrics	2 hours	4 hours	6 hours	8 hours

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321. -- 324. (RESERVED)

325. LICENSE RENEWAL SKILLS PROFICIENCY REQUIREMENTS.

A license renewal candidate must demonstrate proficiency in the skills necessary to provide safe and effective patient care at the licensure level consistent with the scope of practice provided in IDAPA 16.02.02, "Idaho Emergency Medical Services (EMS) Physician Commission."

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326. -- 999. (RESERVED)

16.02.01 – IDAHO TIME SENSITIVE EMERGENCY SYSTEM COUNCIL

000. LEGAL AUTHORITY.

The Idaho Time Sensitive Emergency System Council (TSE) is authorized under Section 56-1028, Idaho Code, to promulgate rules for the purpose of establishing standards and for the administration of a voluntary time sensitive emergency system of care. Sections 56-1024 through 56-1030, Idaho Code, provide requirements for the TSE Council, its membership, duties, regional TSE committees, standards criteria, and the designation of centers. The Department is authorized to charge and collect fees established by rule under Section 56-1007, Idaho Code, and to establish and collect data for a Time Sensitive Emergency (TSE) Registry under Section 57-2003, Idaho Code.

()

001. TITLE, SCOPE, AND INTENT.

01. Title. The title of these rules is IDAPA 16.02.01, “Idaho Time Sensitive Emergency System Council.”

()

02. Scope. These rules provide for the administration and establishment of standards for a voluntary statewide time sensitive emergency system of care that includes procedures and requirements for designation of trauma, stroke, and heart attack centers including data reporting, fees, appeal process and enforcement procedures, determination of regions to provide an effective access to the TSE system within the state, and operational procedures for regional TSE committees.

()

03. Intent. With the maturation of the Time Sensitive Emergency System (TSE), the intent is for the state to have the ability to designate TSE centers without reliance on national accreditation bodies. The TSE Council, upon review of appropriate documentation, may provide reciprocity for facilities in Idaho that also choose to operate under a designation in a neighboring state’s system.

()

002. -- 003. (RESERVED)

004. INCORPORATION BY REFERENCE.

The Time Sensitive Emergency System Standards Manual, Edition 2020-1, is incorporated by reference in this chapter of rules. Copies of the manual may be obtained online at <https://tse.idaho.gov/> or from the Bureau of Emergency Medical Services and Preparedness located at 2224 East Old Penitentiary Road, Boise, ID 83712-8249.

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005. -- 009. (RESERVED)

010. DEFINITIONS.

For the purposes of this chapter, the following terms and definitions apply.

()

01. American College of Surgeons (ACS). The American College of Surgeons (ACS) is a national body that sets standards and verifies compliance with published standards.

()

02. Department. The Idaho Department of Health and Welfare.

()

03. Director. The Director of the Idaho Department of Health and Welfare or their designee.

()

04. Division. The Division of Public Health, Idaho Department of Health and Welfare.

()

05. EMS Agency. Any organization licensed by the Department under Sections 56-1011 through 56-1023, Idaho Code, and IDAPA 16.01.03, “Emergency Medical Services (EMS) - Agency Licensing Requirements,” that operates an air medical service, ambulance service, or non-transport service.

()

06. EMS Bureau. The Bureau of Emergency Medical Services (EMS) & Preparedness of the Idaho Department of Health and Welfare.

()

07. Facility. A health care organization that is voluntarily seeking designation from the Idaho Time Sensitive Emergency Council. A facility may be any of the following:

()

a. Center. A facility designated by the Idaho Time Sensitive Emergency Council is known as a center.

()

b. Freestanding emergency department:

()

- i. Is owned by a hospital with a dedicated emergency department; ()
 - ii. Is located within thirty-five (35) miles of the hospital that owns or controls it; ()
 - iii. Provides emergency services twenty-four (24) hours per day, seven (7) days per week on an outpatient basis; ()
 - iv. Is physically separate from a hospital; and ()
 - v. Meets the staffing and service requirements in IDAPA 16.03.14, "Hospitals." ()
 - c.** Hospital. As defined in Section 39-1301, Idaho Code, is a facility primarily engaged in providing, by or under the daily supervision of physicians: ()
 - i. Concentrated medical and nursing care on a twenty-four (24) hour basis to inpatients experiencing acute illness; ()
 - ii. Diagnostic and therapeutic services for medical diagnosis and treatment, psychiatric diagnosis and treatment, and care of injured, disabled, or sick persons; ()
 - iii. Rehabilitation services for injured, disabled, or sick persons; ()
 - iv. Obstetrical care; ()
 - v. Provides for care of two (2) or more individuals for twenty-four (24) or more consecutive hours; and ()
 - vi. Is staffed to provide nursing professional nursing care on a twenty-four (24) hour basis. ()
 - d.** Rural Clinic. A health care clinic in a rural area that is located more than thirty-five (35) miles from a hospital via maintained roads and is capable of providing emergency care to patients. ()
- 08. Heart Attack.** STEMI, a common name for ST-elevation myocardial infarction, is a more precise definition for a type of heart attack caused by a prolonged period of blocked blood supply that affects a large area of the heart and has a substantial risk of death or disability calling for a quick response. ()
- 09. Idaho Time Sensitive Emergency (TSE) System Council.** The Idaho Time Sensitive Emergency System Council established in Section 56-1027, Idaho Code. ()
- 10. National Accrediting Body.** An organization whose standards criteria is recognized by the Idaho Time Sensitive Emergency System Council and verifies compliance with those standards. ()
- 11. Regional Time Sensitive Emergency (TSE) Committee.** An Idaho regional TSE committee established under Section 56-1030, Idaho Code. ()
- 12. STEMI.** STEMI is an ST segment elevation myocardial infarction that is a particular type of heart attack, or MI (myocardial infarction), that is caused by a prolonged period of blocked blood supply. It affects a large area of the heart muscle, and so causes changes on the ECG as well as in blood levels of key chemical markers. This is considered a major heart attack and is referred to in medical shorthand as a STEMI. ()
- 13. Stroke.** An interruption of blood flow to the brain causing paralysis, slurred speech, or altered brain function usually caused by a blockage in a blood vessel that carries blood to the brain (ischemic stroke) or by a blood vessel bursting (hemorrhagic stroke). ()
- 14. Time Sensitive Emergency (TSE).** Time sensitive emergencies specifically for this chapter of rules are trauma, stroke, and heart attack. ()

15. Trauma. The result of an act or event that damages, harms, or hurts a human being resulting in intentional or unintentional damage to the body resulting from acute exposure to mechanical, thermal, electrical, or chemical energy, or from the absence of such essentials as heat or oxygen. ()

16. TSE-Designated Center. A facility that has voluntarily applied for TSE designation, met and is in compliance with the designation criteria and standards of these rules, and that the TSE Council has designated as one (1) or more of the following: ()

- a. Level I Trauma Center; ()
- b. Level II Trauma Center; ()
- c. Level III Trauma Center; ()
- d. Level IV Trauma Center; ()
- e. Level V Trauma Center; ()
- f. Pediatric Level I Trauma Center; ()
- g. Pediatric Level II Trauma Center; ()
- h. Level I Stroke Center (Comprehensive); ()
- i. Level II Stroke Center (Primary); ()
- j. Level III Stroke Center (Acute Stroke Ready); ()
- k. Level I STEMI Center (Heart Attack Receiving); or ()
- l. Level II STEMI Center (Heart Attack Referring). ()

17. TSE Registry. The population-based data system defined under Section 57-2003, Idaho Code. ()

18. TSE System. An organized statewide approach to treating trauma, stroke, and heart attack patients that establishes and promotes standards for patient transportation, equipment, and information analysis for effective and coordinated TSE care. ()

011. -- 074. (RESERVED)

075. TSE COUNCIL.
Under Section 56-1027, Idaho Code, the TSE Council will consist of members appointed by the Governor of Idaho and the chair of each regional TSE committee. ()

076. TSE COUNCIL -- RESPONSIBILITIES AND DUTIES.
The TSE Council is responsible for the duties described under Section 56-1028, Idaho Code. ()

077. -- 079. (RESERVED)

080. TSE REGIONS.
Under Section 56-1028, Idaho Code, the TSE Council is required to establish TSE regions that provide more effective access to the Idaho TSE system through education, but not for the purpose of promoting competition, restricting, or directing patient referrals within the region. The TSE Council has established six (6) regions in Idaho described in the Time Sensitive Emergency System Standards Manual incorporated under Section 004 of these rules. ()

081. TSE REGIONS -- REALIGNMENT OF REGION.

The TSE Council may realign a region by initiation of the TSE Council, or at the request of a regional TSE committee, a county or local government entity within the region, a TSE-designated center, or a licensed EMS agency within the region. ()

01. Requesting Entity. The requesting entity must forward correspondence to the TSE Council specifying the reason for the realignment request. The correspondence must include: ()

- a. Existing patient routing patterns used by both EMS agencies and health care centers; ()
- b. Distances and transport times involved in patient routing patterns; ()
- c. A list of all entities affected by the request; ()
- d. A list of all other licensed health care facilities and licensed EMS agencies in the county; and ()
- e. Documentation that all affected regional TSE committees are agreeable to the realignment. ()

02. Copies of Request for Realignment. The entity requesting the TSE Council for realignment must provide copies of the correspondence to all affected regional TSE committees, county and local governments, licensed health care facilities, and EMS agencies in the requesting entity's county. ()

03. TSE Decision for Realignment. The TSE Council will evaluate the request based on the impact to patient care and will notify all parties of the council's decision. ()

082. REGIONAL TSE COMMITTEES -- ORGANIZATION AND RESPONSIBILITIES.

The regional TSE committees' organization and responsibilities are described under Section 56-1030, Idaho Code. ()

083. -- 099. (RESERVED)

100. DESIGNATION OF TSE CENTERS -- CRITERIA.

Under Section 56-1029, Idaho Code, the TSE Council will designate a hospital as a trauma, stroke, or STEMI (heart attack) center when such hospital, upon proper application and verification, is found by the TSE Council to meet an applicable designation level for trauma, stroke, or STEMI (heart attack) designation criteria established in the Time Sensitive Emergency System Standards Manual incorporated under Section 004 of these rules. ()

101. -- 104. (RESERVED)

105. TRAUMA DESIGNATION CENTERS.

To be an Idaho TSE-designated Level I, II, III, IV, V, or a Pediatric Level I or Level II Trauma Center, a facility must meet or exceed required standards published for state designation in the Time Sensitive Emergency System Standards Manual incorporated under Section 004 of these rules. ()

106. -- 109. (RESERVED)

110. STROKE DESIGNATION CENTERS.

To be an Idaho TSE-designated Level I, II, or III Stroke Center, a facility must meet or exceed required standards published for state designation in the Time Sensitive Emergency System Standards Manual incorporated by reference under Section 004 of these rules. ()

111. -- 114. (RESERVED)

115. STEMI (HEART ATTACK) DESIGNATION CENTERS.

To be an Idaho TSE-designated Level I or II STEMI (Heart Attack) Center, a facility must meet or exceed required standards published for state designation in the Time Sensitive Emergency System Standards Manual incorporated

under Section 004 of these rules. ()

116. -- 119. (RESERVED)

120. DESIGNATION OF CENTERS -- GENERAL REQUIREMENTS.

01. Application. A facility applying for initial TSE designation must submit an application along with applicable fees for each designation it is requesting. Application process and requirements are provided in the Time Sensitive Emergency System Standards Manual incorporated under Section 004 of these rules. Fee requirements are provided in Section 200 of these rules. ()

02. Initial Designation. Initial designation requires completion of appropriate application, submission of appropriate fees, and completion of an appropriate on-site survey based on the Time Sensitive Emergency System Standards Manual incorporated by reference under Section 004 of these rules. ()

121. -- 189. (RESERVED)

190. TSE DESIGNATION -- LENGTH OF DESIGNATION.

A TSE center will be designated for a period of three (3) years, unless the designation is rescinded by the TSE Council for non-compliance with the designation standards of these rules or adjusted to coincide with applicable external verification timetables. ()

191. RENEWAL OF TSE DESIGNATION.

A TSE center must submit its renewal application and applicable fees no later than six (6) months prior to the center's designation expiration date. Designation will not lapse due to a delay in scheduling the on-site survey, if the delay is through no fault of renewing center. ()

192. -- 194. (RESERVED)

195. NOTIFICATION OF LOSS OF CERTIFICATION OR LICENSURE.

Any TSE-designated center that has a loss of certification or licensure must immediately notify the TSE Council by contacting TSE program staff. ()

196. -- 199. (RESERVED)

200. DESIGNATION AND TSE ON-SITE SURVEY FEES.

01. Application With National Verification. An applicant applying for a TSE designation that is verified by a national accrediting body must submit the appropriate designation fees with its application for initial designation and renewal. The designation fees are for a three (3) year designation and are payable on an annual basis. TSE designation fees are not to exceed those listed in Subsections 200.03 through 200.05 of this rule. ()

02. Application Without National Verification. An applicant who requires a TSE on-site survey prior to designation is required to pay the applicable on-site survey fee at the time of application. TSE designation and on-site survey fees are not to exceed those listed in Subsections 200.03 through 200.05 of this rule. ()

03. Trauma Designation and TSE On-Site Survey Fees.

TRAUMA DESIGNATIONS 200.03	DESIGNATION FEE 3-year / Annual (Not to exceed)	TSE ON-SITE SURVEY FEE (Not to exceed)
LEVEL I	\$45,000 / \$15,000	\$3,000 / Not applicable with ACS verification
LEVEL II	\$36,000 / \$12,000	\$3,000 / Not applicable with ACS verification

TRAUMA DESIGNATIONS 200.03	DESIGNATION FEE 3-year / Annual (Not to exceed)	TSE ON-SITE SURVEY FEE (Not to exceed)
LEVEL III	\$24,000 / \$8,000	\$,3000 / Not applicable with ACS verification
LEVEL IV	\$12,000 / \$4,000	\$1,500 / Not applicable with ACS verification
LEVEL V	\$3,000 / \$1,000	\$1,500
PEDIATRIC LEVEL I and LEVEL II	\$36,000 / \$12,000	\$3000 / Not applicable with ACS verification

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04. Stroke Designation and TSE On-Site Survey Fees.

STROKE DESIGNATIONS 200.04	DESIGNATION FEE 3-year / Annual (Not to exceed)	TSE ON-SITE SURVEY FEE (Not to exceed)
LEVEL I	\$21,000 / \$7,000	\$3,000 / Not applicable with national or acceptable state verification
LEVEL II	\$12,000 / \$4,000	\$3,000 / Not applicable with national or acceptable state verification
LEVEL III	\$1,500 / \$500	\$3,000 / Not applicable with national or acceptable state verification

()

05. STEMI (Heart Attack) Designation and TSE On-Site Survey Fees.

STEMI (HEART ATTACK) DESIGNATIONS 200.05	DESIGNATION FEE 3-year / Annual (Not to exceed)	TSE ON-SITE SURVEY FEE (Not to exceed)
LEVEL I	\$21,000 / \$7,000	\$3,000 / Not applicable with national or acceptable state verification
LEVEL II	\$1,500 / \$500	\$3,000 / Not applicable with national or acceptable state verification

()

06. Designation Fee Payment. After completion of the TSE on-site survey, the TSE Council will notify the applicant facility of the designation determination by letter. The applicant facility must then pay either the annual designation fee or the entire three (3) year designation fee. After designation notification and upon the Department's receipt of the designation fee, designation is effective. The TSE Council will send a certificate of designation and confirmation of the designation period. Annual designation fees for those facilities paying yearly are due to the Department within thirty (30) days of the date of the invoice in order to maintain designation. Failure to meet this deadline will result in suspension or revocation of designation as provided in Section 285 of these rules.

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201. -- 249. (RESERVED)

250. TSE ON-SITE SURVEY.

The TSE Council will conduct an on-site survey of each TSE-designated center at least once every three (3) years, unless the center has been verified by a national accrediting body to meet or exceed the standards set in these rules. The TSE Council will schedule the on-site survey with the designated center in a timely manner. ()

251. TSE ON-SITE SURVEY -- GENERAL REQUIREMENTS.

The TSE on-site survey will consist of and consider each facility's application and compliance with the standards published for state designation and incorporated under Section 004 of these rules for the specific type of designation being requested. The general requirements in Subsections 251.01 through 251.06 of this rule apply: ()

01. Survey Team Member Requirements. Survey team members will meet the following inclusion criteria: ()

- a.** A physician surveyor must: ()
 - i. Be certified by the American Board of Medical Specialties or the American Board of Osteopathic Medicine; ()
 - ii. Be board-certified in the specialty area being represented on the review team; ()
 - iii. Be currently active, or active in the last twelve (12) months, in trauma, stroke, or emergency cardiac care at a center that is at or above the level being reviewed; ()
 - iv. Have no conflict of interest with the facility under review; ()
 - v. Be from another state when performing a survey for Level I or Level II Trauma Center designations; and ()
 - vi. Be from outside the region of the center being verified. ()
- b.** A nurse surveyor or program manager must: ()
 - i. Be currently active, or active in the last twelve (12) months, in trauma, stroke, or emergency cardiac care at a center that is at or above the level being reviewed; and ()
 - ii. Have no conflict of interest with the facility under review; ()
 - iii. Be from another state when performing a survey for Level I or Level II Trauma Center designations; and ()
 - iv. Be from outside the region of the center being verified. ()

02. Communication Between Surveyors and Facilities. In order to standardize ethical practice, all communication between surveyors and facilities prior to the survey must be facilitated by TSE program staff. ()

03. Survey Team Member Notification of Potential Conflict of Interest. Upon being assigned to an on-site survey team, a potential team member must notify the TSE Council of any potential conflict of interest regarding any financial, professional, or personal bias that may affect the survey of the applicant's facility. ()

04. Notification to Applicant of Survey Team Members. The TSE Council will provide the applicant with the names of the on-site survey team once they have been selected and at least thirty (30) calendar days prior to the scheduled survey. ()

05. Facility Notification to TSE Council of Potential Conflict of Interest. If the applicant believes that a potential surveyor has a financial, professional, or personal bias that may affect the survey, the applicant must notify the TSE Council in writing no later than seven (7) calendar days after the applicant receives the TSE Council's notification of the proposed survey team. ()

06. Notification of Decision for Conflict of Interest. The TSE Council will consider the conflict of interest notice and make a decision concerning replacement of the survey team member in question. No person who has a substantial conflict of interest in the operation of any facility under review will participate in the on-site survey of the applicant. ()

252. TSE ON-SITE SURVEY -- SURVEY TEAM COMPOSITION.

The TSE Council will select an on-site survey team based on the applicant's designation application and specifications provided in these rules and the standards published in the Time Sensitive Emergency System Standards Manual incorporated under Section 004 of these rules. ()

253. ON-SITE SURVEY -- ADDITIONAL SURVEYS.

The TSE Council may conduct additional, announced or unannounced, full or partial, on-site reviews of TSE designated centers or applicants when there is reason to believe that the center is not in compliance with the designation criteria standards of these rules. ()

254. -- 259. (RESERVED)

260. DESIGNATION DECISION.

01. Summary Report. The survey team will present a verbal summary of the survey results to the applicant. The survey team will submit in writing to the TSE Council its recommendation on the center's designation at the completion of the site survey. ()

02. Written Report. The TSE Council will consider all evidence and notify the applicant in writing of its decision within thirty (30) calendar days of receiving the survey team's recommendation. ()

03. Final Determination. The TSE Council's final determination regarding each application will be based upon consideration of: ()

- a. The application; ()
- b. The evaluation and recommendations of the on-site survey team; ()
- c. The best interests of patients; and ()
- d. Any unique attributes or circumstances that make the facility capable of meeting special community needs. ()

04. Provisional Designation. The TSE Council may grant a provisional designation to a facility with deficiencies it deems correctable. A facility receiving a provisional designation must: ()

- a. Resolve the deficiencies within the time period specified by the TSE Council; ()
- b. Submit documentation that the deficiency has been resolved; and ()
- c. If necessary, submit to an additional focused on-site survey and pay the applicable survey fees. ()

05. Denial. If the TSE Council denies an applicant a designation, the provisions of IDAPA 16.05.03, "Contested Case Proceedings and Declaratory Rulings," will apply. ()

261. -- 269. (RESERVED)

270. WAIVERS.

01. Granting a Waiver. The TSE Council may grant a waiver from one (1) or more designation criteria for a center applying for TSE designation. ()

02. Waiver Application. A center requesting a waiver must submit a completed TSE Waiver Application Form. The TSE Council may require the applicant to provide additional information, and the application will not be considered complete until all required information is provided. ()

03. Post Notice. A center requesting a waiver must post a notice of the waiver application at all public entrances to the center and in at least one (1) area that is commonly used by the patients. The notice must: ()

- a. Include a meaningful description of the reason for the waiver; ()
- b. Be posted on the date the waiver application is submitted; ()
- c. Remain posted for a minimum of thirty (30) calendar days; and ()
- d. Describe where and to whom comments may be submitted during the thirty (30) calendar days. ()

04. Notice Distribution. When the notice is posted, the center must also distribute copies of the notice to prehospital emergency medical service agencies active in the community served by the center. ()

05. Waiver Application Submission. The completed waiver application must be submitted to the TSE Council at least thirty (30) calendar days before a TSE Council meeting in order to be placed on the agenda. Applications submitted less than thirty (30) calendar days in advance of a TSE Council meeting will be placed on the next agenda. ()

06. Waiver Application Distribution. The TSE Council will make available the public notice of the TSE Council meeting regarding the waiver application to all TSE-designated centers. ()

07. Waiver Application Review. The regional TSE committee must review the request and make recommendations to the TSE Council. The TSE Council must make a decision and notify the facility administrator in writing within thirty (30) calendar days of the TSE Council meeting during which the waiver decision is made. ()

08. Waiver Conditions. When a waiver is granted, the TSE Council must: ()

- a. Specify the terms and conditions of the waiver; ()
- b. Specify the duration of the waiver; duration will not exceed the designation period for that center or three (3) years, whichever is shorter; and ()
- c. Require the submission of progress reports from the center that was granted a waiver. ()

09. Waiver Renewal. A center that plans to maintain a waiver beyond its expiration must submit a new waiver application to the TSE Council no less than three (3) months prior to the expiration of the waiver. ()

10. Waiver Revocation. The TSE Council may revoke or suspend a waiver when it determines: ()

- a. That continuation of the waiver jeopardizes the health, safety, or welfare of the patients; ()
- b. The applicant has provided false or misleading information in the waiver application; ()

- c. The applicant has failed to comply with conditions of the waiver; or ()
- d. That a change in federal or state law prohibits continuation of the waiver. ()

11. Notification and Appeal. When the TSE Council denies, revokes, or suspends a waiver, the TSE Council must provide the center with a written notification of the action and the basis for the action. The notice will inform the facility of the right to appeal and the procedure to appeal the waiver action under the provisions in IDAPA 16.05.03, "Contested Case Proceedings and Declaratory Rulings." Notification will be made in writing within thirty (30) calendar days of the TSE Council meeting during which the appeal decision is made. ()

271. -- 279. (RESERVED)

280. DENIAL AND MODIFICATION.

01. Denial. The TSE Council may deny an initial or renewal application for a center's designation when a center: ()

- a. Does not meet the criteria for designation required in these rules; ()
- b. Application or accompanying documents contain false statements of material facts; ()
- c. Refuses to allow any part of an on-site survey; ()
- d. Fails to comply with or to successfully complete a plan of correction, or ()
- e. Is substantially out of compliance with any TSE rules. ()

02. Modification. When a center fails to meet the criteria at the level of designation for which it applied or opts to surrender its designation, the TSE Council may recommend a designation at a lesser level described in Section 290 of these rules, or a complete revocation of state designation. This action, unless agreed to by the applicant, will represent a denial of the application. ()

03. Notification and Appeal. When the TSE Council denies an application for designation, the TSE Council must provide the center with a written notification of the denial and the basis for the denial. The notice will inform the facility of the right to appeal and the procedure to appeal the denial under the provisions in IDAPA 16.05.03, "Contested Case Proceedings and Declaratory Rulings." ()

281. -- 284. (RESERVED)

285. REVOCATION AND SUSPENSION.

01. Revocation. The TSE Council may revoke the designation of a center or a waiver when an owner, officer, director, manager, or other employee: ()

- a. Fails or refuses to comply with the provisions of these rules; ()
- b. Fails to make annual designation fee payment for those facilities paying yearly; ()
- c. Makes a false statement of material fact about the center's capabilities or other pertinent circumstances in any record or matter under investigation for any purposes connected with these rules; ()
- d. Prevents, interferes with, or attempts to impede in any way, the work of a representative of the TSE Council in implementing or enforcing these rules; ()
- e. Falsely advertises, or in any way misrepresents the facility's ability to care for patients based on its designation status; ()

- f.** Is substantially out of compliance with these rules and has not rectified such noncompliance; ()
- g.** Fails to provide reports required by the TSE registry or the Department in a timely and complete fashion; or ()
- h.** Fails to comply with or complete a plan of correction in the time or manner specified. ()

02. Suspension. The TSE Council may suspend a center’s designation or waiver when it finds, after investigation, that the center has engaged in a deliberate and willful violation of these rules, or that the public’s health, safety, or welfare is endangered. ()

03. Notification and Appeal. When the TSE Council revokes or suspends a center’s designation or waiver, it must provide the center with a written notification of the action and the basis for the action. The notice will inform the center of the right to appeal and the procedure to appeal the action under the provisions in IDAPA 16.05.03, “Contested Case Proceedings and Declaratory Rulings.” ()

286. -- 289. (RESERVED)

290. DESIGNATION AT A LESSER LEVEL.

01. Inability to Meet Criteria. The TSE Council may opt to redesignate a center at a lesser level due to the center’s inability to meet current designation criteria, without regard to any waiver previously granted. ()

02. Notification and Appeal. When the TSE Council decides to redesignate a center, it must provide the center with a written notification of the action and the basis for the action. The notice will inform the center of the right to appeal and the procedure to appeal the action under the provisions in IDAPA 16.05.03, “Contested Case Proceedings and Declaratory Rulings.” ()

291. -- 999. (RESERVED)

16.02.08 – VITAL STATISTICS RULES

000. LEGAL AUTHORITY.

The Idaho Board of Health and Welfare is authorized under Section 39-242, Idaho Code, to adopt rules that carry out the provisions of Title 39, Chapter 2, Idaho Code, related to vital statistics. ()

001. TITLE.

These rules are titled IDAPA 16.02.08, “Vital Statistics Rules.” ()

002. -- 049. (RESERVED)

050. TERMS AND DEFINITIONS.

For the purpose of vital statistics administration, the following definitions are applicable to this chapter: ()

01. Assistant Local Registrar. An individual, appointed by the State Registrar of Vital Statistics, who carries out the prescribed functions of the local registrar in the same location as the local registrar, either as an assistant to, or in the absence of, the local registrar. ()

02. Attendant at Birth or Stillbirth. Any physician, midwife, or other person who assists in the delivery of a live born infant or stillborn fetus. ()

03. Birth Out of Wedlock. A birth occurring when the mother was not married at the time of either conception or birth, or between conception and birth. ()

04. Confidential Registry. A file of all notices of putative fathers’ claims to paternity for their child(ren) born out of wedlock and intent to support such child(ren), that is established in the office of the State Registrar of Vital Statistics. ()

05. Current Registration. The filing of a certificate less than one (1) year after the event occurs. ()

06. Delayed Registration. The filing of a certificate one (1) year or more after the event occurs. ()

07. Department. The Idaho Department of Health and Welfare. ()

08. Director. The Director of the Idaho Department of Health and Welfare or designated individual. ()

09. Expedited Certified Copy. A certified copy of a vital record that has been given priority status for processing and issuance or issued by a local deputy state registrar. ()

10. Local Deputy State Registrar. The local registration officer designated by the Director to serve in a single health district for limited purposes. ()

11. Local Registrar. The local registration officer identified in Section 39-247, Idaho Code, appointed by the State Registrar of Vital Statistics to collect certificates of birth, death, and stillbirth, and to carry out duties incidental to registration within a specified territory. ()

12. Mortician or Funeral Director. Any person who makes a business of disposing of dead bodies. The term “mortician or person acting as such” refers to any person having charge of the burial, cremation, or other disposition of a dead body. This includes stillborn fetuses. ()

13. Nurse Midwife. A nurse practitioner who is certified by the Idaho Board of Nursing to practice midwifery. ()

14. Putative Father. The biological father of a child as identified by himself, the natural mother, an adoption agency, or a court. ()

15. Registration District. The district (area of land) specified in the letter of appointment to the local registrar over which the local registrar exercises exclusive local control for the purpose of vital record registration. ()

16. Relatives of Deceased Qualified Adult Adoptees. The adoptive parents or grandparents of the adult adoptee. ()

17. Relatives of Deceased Qualified Birth Parents. The parents or grandparents of birth parents. ()

051. -- 099. (RESERVED)

100. CERTIFICATES, RECORDS, AND FORMS.

01. Form and Content. The Director will prescribe the form and content of official vital records and certificates. ()

02. Official Nature of Forms. Other forms and reports may be prescribed and distributed by the State Registrar for reporting vital statistics. These forms and reports may be used only for official purposes. ()

03. Requirements for Preparation of Certificates. All certificates and records relating to vital statistics must be printed legibly in dark, unfading ink. All signatures required must be entered in dark, unfading ink. Unless otherwise directed by the State Registrar, no certificate will be complete and correct and acceptable for registration that: ()

a. Does not have the certifier's name typed or printed legibly under the certifier's signature; ()

b. Does not supply all items of information called for thereon or satisfactorily account for their omission; ()

c. Contains alterations or erasures; ()

d. Does not contain signatures as required; ()

e. Is marked "copy" or "duplicate"; ()

f. Is a photographic or a carbon copy; ()

g. Is prepared on an improper form; ()

h. Contains improper or inconsistent data; ()

i. Contains an indefinite cause of death that denotes only symptoms of disease or conditions resulting from disease; and ()

j. Is not prepared in conformity with statutes, regulations, or with instructions issued by the State Registrar. ()

04. Certificates with Defects. Certificates with defects as cited in Subsections 100.03.a. through 100.03.j. of this rule may be withheld from certification until the defect is remedied by persons who have the knowledge and authority to do so. ()

101. -- 149. (RESERVED)

150. ADDITIONAL OFFICES.

01. Determination. The State Registrar will determine whether offices other than the Vital Statistics Unit are needed in this state to aid in the efficient administration of the system of vital statistics. Such determination will be based on the identification of the most efficient method to meet the needs of the people of this state with respect to the establishment and operation of the system of vital statistics. If the State Registrar determines that additional offices are necessary, such offices will be designated with the approval of the Director. The duties and

responsibilities may be assigned to currently existing offices or special branch offices of the Vital Statistics Unit may be established in those areas where they are deemed necessary, or a combination of existing offices and branch offices may be used. In all cases where existing offices are utilized, the employees of such offices are subject to the control of the State Registrar when they are performing functions relating to the system of vital statistics. ()

02. Assignment of Duties. The State Registrar, with the approval of the Director, will determine the specific responsibilities and duties of each office. The State Registrar will assign to such offices such duties and responsibilities as may be deemed necessary to ensure the efficient operation of the system of vital statistics. These may include any or all of the following: ()

a. Receiving and processing birth, death, and stillbirth records. This would include the receipt of these records from the person responsible for filing the records, checking the records for accuracy and completeness, and forwarding them to the Vital Statistics Unit at intervals prescribed by the State Registrar. ()

b. Issuing certified copies of birth, death, or stillbirth records. The records from which the certified copies are issued will be maintained by the Vital Statistics Unit. All forms and procedures used to issue the copies will be provided or approved by the State Registrar. If it is deemed appropriate and feasible, any such office may be provided access to all birth, death, or stillbirth records filed in this state. ()

c. Acting as the agent of the State Registrar in their designated area and providing assistance to physicians, coroners, hospitals, morticians, and others in matters related to the system of vital statistics. ()

03. Copies of Original Certificates. ()

a. Copies from the original certificate will not be made or certified by any firm or person other than the State Registrar of Vital Statistics except under Subsection 150.02.b. of this rule. ()

b. If the State Registrar finds evidence that a certificate was registered through misrepresentation or fraud, the State Registrar has authority to withhold the issuance of a certified copy of such certificate until a determination of the facts has been made. ()

151. LOCAL REGISTRATION OFFICERS.

The State Registrar will contract for the services of local registrars who collect certificates of birth, death, and stillbirth, carry out duties incidental to registration within a specified territory (registration district), and perform other duties as assigned by the State Registrar. ()

01. Qualifications of Local Registrar. To be and remain eligible for the office of local registrar a person must meet the following minimum qualifications: ()

a. Be sufficiently mature and responsible to carry out the duties of the office; and ()

b. Be physically able to perform the duties of the office; and ()

c. Be able to read, to comprehend what is read, and to write legibly; and ()

d. Work in the registration district and be readily accessible. ()

02. Removal of Local Registrar. ()

a. If a local registrar does not meet all qualifications as listed in these rules or in the contract, the local registrar may be removed from office upon written notification by the State Registrar. ()

b. When any local registrar fails to perform any of the duties imposed by law, rule, or by the instructions of the State Registrar, the local registrar may be summarily removed from office by the State Registrar. ()

03. Local Deputy State Registrars. The Director may officially deputize local registrars for the

purpose of expediting certified copies of death or stillbirth certificates and other purposes as may be deemed necessary by the Director. ()

152. -- 199. (RESERVED)

200. TRANSMITTAL OF CERTIFICATES AND LOCAL RECORDS -- REPORTS.

01. Transmittal of Certificates of Death and Stillbirth. Certificates of death and stillbirth must be transmitted by the local registrar to the State Registrar of Vital Statistics within one (1) working day from the date they were received by the local registrar, except when certificates are to be used for expedited copies, in which case they must be transmitted to the State Registrar on the sixth working day from the date they were received by the local registrar. ()

02. Expedited Certified Copies of Certificates of Death or Stillbirth. No certified copies of certificates of death or stillbirth can be issued by a local deputy state registrar until the registrar is satisfied that the requesting person(s) has "direct and tangible interest" in the certificate as defined in IDAPA 16.05.01, "Use and Disclosure of Department Records," Subsections 011.01 and 011.03 and Section 283. ()

03. Transmittal of Certificates of Birth. All certificates of birth must be transmitted by the local registrar to the State Registrar of Vital Statistics within five (5) working days from the date they are received by the local registrar. ()

201. COMPLETION AND CORRECTION OF CERTIFICATES.

01. Correction of Minor Errors on Certificates During the First Year. Except as otherwise provided in these rules, correction of obvious errors or transposition of letters in words of common knowledge, may be made by the State Registrar or an authorized agent within the first year after the date of the event either upon individual observation or query or upon request of any person with a direct and tangible interest as defined in IDAPA 16.05.01, "Use and Disclosure of Department Records," Subsections 011.01 and 011.03, or any person listed in Subsection 201.07.d. of these rules. The method of correction will be determined by the State Registrar, and is not subject to the requirements of Subsection 201.09 of these rules. When such minor corrections are made by the State Registrar, a notation as to the source of the information, together with the date the change was made and the initials of the authorized agent making the change must be made on the certificate in such a way as not to become a part of any certification issued. The certificate must not be marked as amended. ()

02. Amendment of Registrant's Given Names or Surname on Birth Certificates Within the First Year. ()

a. Until the registrant's first birthday, given names or surname may be amended upon written notarized request of: ()

i. Both parents; ()

ii. The mother in the case of a child born out of wedlock and the father's name is not shown on the certificate; ()

iii. The father in the case of the death or incapacity of the mother; ()

iv. The mother in the case of the death or incapacity of the father; or ()

v. The legal guardian or agency having legal custody of the registrant. ()

b. The certificate must be marked as amended. ()

03. Amendment of Registrant's Given Name on Birth Certificate After the First Year. ()

a. After one (1) year from the date of birth, the provisions of Subsection 201.07 of these rules must be

followed to amend the given name if the name was entered in error at the time of the preparation of the birth certificate. ()

b. In all other cases, a legal change of name order from a court of competent jurisdiction must be submitted to change a given name after one (1) year. ()

04. Addition of Given Names on Birth Certificates. ()

a. Until the registrant's seventh birthday, given names, for a child whose birth was recorded without given names, may be added to the certificate upon written notarized request of: ()

i. Both parents; ()

ii. The mother in the case of a child born out of wedlock and the father's name is not shown on the certificate; ()

iii. The father in the case of the death or incapacity of the mother; ()

iv. The mother in the case of the death or incapacity of the father; or ()

v. The legal guardian or agency having legal custody of the registrant. ()

b. The certificate shall be marked as amended. ()

c. After the registrant's seventh birthday, the provisions of Subsection 201.07 of these rules must be followed to add a given name. ()

05. Acknowledgment of Paternity. ()

a. Subject to the provisions of Subsection 201.05.b. of these rules, a new certificate of birth will be prepared by the State Registrar for a child born out of wedlock in this state upon receipt of an affidavit of paternity signed by both parents and a written request by both parents. The child's surname will be changed on the certificate to that of the father if both parents so request. ()

b. If another man is shown as the father of the child on the original certificate, a new certificate may be prepared only when a determination of paternity is made by a court of competent jurisdiction, or following adoption. ()

c. The certificate must not be marked as amended. ()

06. Amendment of Indicator of Gender. ()

a. The State Registrar must issue an amended Idaho certificate of live birth for the change of the indicator of sex upon receipt of the following: ()

i. For a registrant eighteen (18) years of age and older, a completed and notarized application on a form approved by the State Registrar that includes the following information: ()

(1) The identity of the applicant; ()

(2) The Idaho certificate of live birth to be amended; ()

(3) A declaration that the registrant's indicator of sex on the Idaho certificate of live birth does not match the registrant's gender identity; and ()

(4) The gender indicator as it should appear on the amended certificate of live birth. ()

ii. For a registrant under the age of eighteen (18), a completed and notarized application on a form approved by the State Registrar that includes the following information: ()

(1) The identity of the applicant; ()

(2) The Idaho certificate of live birth to be amended; ()

(3) A declaration that the registrant's indicator of sex on the Idaho certificate of live birth does not match the registrant's gender identity; ()

(4) The gender indicator as it should appear on the amended certificate of live birth; and ()

(5) The consent of all parents listed on the certificate of live birth or the consent of the registrant's legal guardian. If a parent is deceased, a copy of the death certificate must be submitted with the application. If a parent cannot be located, the applicant must also submit a certified copy of an order from an Idaho court of competent jurisdiction ordering that the consent of only one (1) parent is required. ()

b. The amended certificate of live birth issued under this rule must not be marked amended, must not refer to the original certificate of live birth sex, and must show the amended gender as requested. The certificate of live birth being amended, application, and court order if required, must be placed in a sealed file which may only be opened by an order from an Idaho court of competent jurisdiction. ()

c. A one-time name change made under an amendment of sex on the certificate of live birth, whether made prior to, at the time of, or subsequent to a change of indicator of gender on a certificate of live birth must not be marked amended and must not refer to the original birth certificate name or indicator of sex. Any additional name changes are governed by Subsections 201.08 and 201.09 of this rule. ()

07. All Other Amendments. Unless otherwise provided in these rules or in Section 39-250, Idaho Code, all other amendments to vital records must be supported by: ()

a. An affidavit setting forth: ()

i. Information to identify the certificate; ()

ii. The incorrect data as it is listed on the certificate; and ()

iii. The correct data as it should appear. ()

b. If one (1) year has elapsed since the date the event occurred, one (1) or more items of documentary evidence which support the alleged facts and which were established at least five (5) years prior to the date of application for amendment or within seven (7) years of the date of the event. ()

c. Any item of a medical nature can be amended only upon receipt of an affidavit from the person certifying such item, except that queries originating in the vital statistics office and subsequently completed and signed by the certifier may be used to complete or modify the reported cause of death. The State Registrar may require documentary evidence to substantiate the requested amendment. ()

d. Applications to amend a specific vital record will be accepted as follows: ()

i. An application to amend a birth certificate may only be made by one (1) or both of the parents, the legal guardian, the registrant if eighteen (18) years of age or older, or the individual responsible for filing the certificate. ()

ii. An application to amend a death certificate may only be made by the informant, the next of kin, the funeral director or person acting as such who signed the death certificate, or the certifying physician or coroner. ()

iii. An application to amend a stillbirth certificate may only be made by a person listed in Subsections 201.07.d.i. or 201.07.d.ii. of these rules. ()

iv. An application to amend a marriage or divorce certificate may only be made by the custodian of the official record from which the certificate was prepared, either of the parties to the marriage or divorce, or the individual responsible for filing the certificate. ()

e. The State Registrar will evaluate the evidence submitted in support of any amendment, or require additional documentation. The State Registrar's decision and determination will be based upon serving the objectives of the vital statistics statutes and the best interests of the public. In the event the application is rejected or additional information is required, the State Registrar must advise the applicant of the reason for the action and the right to appeal pursuant to Section 39-250(5), Idaho Code. ()

08. Amendment of the Same Item More Than Once. Once an item is amended on a vital record, that item can not be amended again except upon receipt of a court order from an Idaho court of competent jurisdiction. ()

09. Methods of Amending Certificates. ()

a. Certificates of birth, death, stillbirth, marriage, and divorce may only be amended by the State Registrar as follows: ()

i. Preparing a new certificate showing the correct information when the State Registrar deems that the nature of the amendment so requires. The new certificate may be prepared on the form used for registering current events at the time of amendment. Except as provided elsewhere in these rules, the item number of the entry that was amended must be identified on the new certificate. In every case, except as provided elsewhere in these rules or the Idaho Code, the new certificate must show the date the amendment was made and be given the same state file number as the existing certificate. Signatures appearing on the existing certificate must be typed on the new certificate. ()

ii. Completing the item in any case where the item was left blank on the existing certificate. ()

iii. Drawing a single line through the item to be amended and inserting the correct data immediately above or to the side. The line drawn through the original entry must not obliterate such entry. ()

iv. A certificate of birth amended in accordance with the provisions of Section 39-250(4), Idaho Code, must be amended as prescribed in Subsection 201.09.a.iii. of these rules. The fact that the name was changed in accordance with a court order must be stated on the certificate. ()

b. Unless prohibited by statute or rule, there must be inserted on the face of the certificate the date the amendment was made and the initials of the person making the change; the certificate must be marked as amended. ()

202. -- 250. (RESERVED)

251. FEES FOR COPIES, SEARCHES, AND OTHER SERVICES.

01. Certified Copies. The fee for the issuance of a certified copy of a certificate of death is sixteen dollars (\$16) per copy. This fee incorporates the additional one dollar (\$1) coroner training and education fund fee in accordance with Section 39-252(2), Idaho Code. The fee for the issuance of a certified copy of any other vital record is sixteen dollars (\$16) per copy. ()

02. Searches. The fee for a search of the files for a record of any vital event when no record is found, no copy is made, or a special document search is requested, is sixteen dollars (\$16). ()

03. Verifications. ()

a. Except for Idaho state agencies and public health districts, the fee for manual or written verification of data from a certificate is ten dollars (\$10). ()

b. The fees for electronic verification by the Department's automated systems of data from a certificate of any vital event are based on the national pricing model as follows:

Fees for Electronic Verification	
National Monthly Transaction Volume	Charge per Verification Match Provided to Vital Records Agency
1 - 100,000	\$1.35
100,000 - 500,000	\$1.15
500,000 - 1,200,000	\$1.03
1,200,000+	\$0.87

()

04. Statistical, Research, or Public Health Services. The State Registrar assesses the fee for statistical, research or public health services. The costs are calculated based upon the costs of retrieving the data and the costs of compiling, organizing, and printing the data. Cost may be reduced on a prorated basis to reflect the number of expected requests for the same information or service. ()

05. Fees for Other Services. ()

a. The fee for filing a report, certificate, or decree of adoption is twenty dollars (\$20). ()

b. The fee for establishing a delayed certificate of any vital event is twenty-five dollars (\$25). ()

c. For any vital event, the fee for establishing a new certificate due to a court order, a replacement certificate, or an amended certificate is twenty dollars (\$20), except as specified under Subsection 251.05.f.ii. of this rule. ()

d. A service fee of three dollars (\$3), in addition to the sixteen dollars (\$16) for a certified copy of a death or stillbirth certificate, must be paid to the local deputy state registrar for securing each expedited certified copy of a vital record. ()

e. The fee for a copy of a certificate of any vital event provided upon written request to local, states other than Idaho, or federal government agencies in accordance with Section 39-270(b), Idaho Code, is sixteen dollars (\$16). ()

f. Fees for correction of a certificate of any vital event. ()

i. The fee for a replacement certified copy of a certificate of any vital event when the incorrect certified copy is returned for exchange within sixty (60) days of a correction of an error is five dollars (\$5) per certified copy. ()

ii. There is no charge for a correction of an error or errors on a certificate of any vital event when the required documentation is received within the first year after the date of the event. ()

iii. The fee for correction of an error or errors on a certificate of any vital event, when the required documentation is received one (1) year or more after the date of the event, is twenty dollars (\$20) per submitted

correction request. ()

g. Fees for priority processing or special handling. ()

i. A service fee of ten dollars (\$10) per certificate or document will be added for priority processing or special handling of a request for a certified copy or copies of a certificate of any vital event, a request for a disinterment permit, a request to file a registry form, or a request regarding another vital event related form or document, other than those identified in Subsection 251.05.g.ii. of this rule. This fee will be in addition to the current fee or fees for each certified copy, search, or filing requested, or any combination thereof. This fee is forfeited and a new service fee must be paid for priority processing or special handling in the event that the requester takes longer than ninety (90) days to respond to a request for additional information, or documentation, or both. ()

ii. A service fee of twenty-five dollars (\$25) per certificate will be added for priority processing to establish a new or amended certificate of any vital event due to a report, certificate or decree of adoption, delayed certificate filing, a court order, a paternity affidavit or rescission, a subsequent marriage affidavit or a correction of a certificate. This fee is in addition to the current fee or fees for the legal amendment processing or request for a certified copy or copies, or both. This fee is forfeited and a new legal amendment service fee must be paid for priority processing or special handling in the event that the requester takes longer than ninety (90) days to respond to a request for additional information or documentation or both. ()

06. Waiver of Fee Requirement. Fees may be waived for Idaho state agency and public health district administrative use requests. Statistical information prepared for public health planning purposes may be published and distributed without charge whenever the Director determines that the publication and distribution is in the public interest. ()

252. -- 299. (RESERVED)

300. REGISTRATION OF BIRTHS.

01. Certifier's Signature. The person certifying the facts of birth according to Section 39-255, Idaho Code, must sign the birth certificate. No stamps or other types of facsimile signatures may be used. The State Registrar may require additional evidence of the birth when the birth did not occur in an institution and was not attended by a person who regularly attends births. ()

02. Signature of Certifier. When a birth occurs in an institution, the signature of the certifier on the medical record of birth may satisfy the requirements of Section 39-255(a), Idaho Code. ()

03. Signature of the Informant. When a birth occurs in an institution and the institution maintains a working paper (worksheet) signed by either parent (named on the birth certificate) as informant, and the working paper (worksheet) is part of the medical record, the signature of the informant on the working paper (worksheet) may satisfy the requirements of Section 39-255(c), Idaho Code. ()

301. REGISTRATION OF FOUNDLINGS.

01. Form of Certificate. A special foundling certificate must be filed for any infant of unknown parentage. It must include, as a minimum, the following items: ()

a. The name designated for the infant; ()

b. The estimated date of birth; ()

c. The sex and race of the infant; ()

d. The address where the infant was found; ()

e. The name and address of the person or agency assuming custody of the infant; ()

f. A short description of the circumstances surrounding the finding of the infant, including the date of the finding; and ()

g. The signature of the informant and the date the certificate was signed. ()

02. Responsibility for Filing. The person or authorized representative of the agency assuming custody of the infant must sign the certificate and file it within fifteen (15) days of the finding with the State Registrar. ()

302. -- 399. (RESERVED)

400. NEW CERTIFICATES OF BIRTH FOLLOWING MARRIAGE OF NATURAL PARENTS.

01. Requirements. If the natural parents marry after the birth of a child born in this state, a new certificate of birth will be prepared for the child by the State Registrar upon receipt of an affidavit of paternity signed by the natural parents of said child, together with a certified copy of the parents' marriage record. However, if another man is shown as the father of the child on the original certificate, a new certificate will be prepared only when a determination of paternity is made by a court of competent jurisdiction, or following adoption. ()

02. Common-Law Marriage. If the natural parents establish a marriage by common law after the birth of a child, an affidavit of common-law marriage, provided by the Vital Statistics Unit and signed by the natural parents, may be substituted for the certified copy of the parents' marriage record required in Subsection 400.01 of this rule. ()

401. ADOPTION OF PERSONS BORN IN IDAHO.

01. Examination of Adoptive Child Born in Idaho for Whom No Original Certificate of Birth Can Be Located. ()

a. The physician's report of the physical examination of the adoptive child, conducted under Section 39-258, Idaho Code, must indicate the sex, the estimated age, the race, and the existence or absence of obvious congenital malformations or anomalies of the child. ()

b. The State Registrar may require the adoptive parents to furnish a court order that identifies natural parents, date of birth, place of birth, and those facts found by the physician's physical examination. ()

02. Corrections on Adoptive Certificates. ()

a. Minor corrections may be made within one (1) year after the establishment of the adoptive birth certificate in accordance with Subsection 201.01 of these rules. ()

b. Change of name amendments may be made by a court order amending the original adoption order or by a new order of a court, according to Subsection 201.09 of these rules. ()

c. All other amendments (except the registrant's name) will be made according to Subsections 201.07 through 201.09 of these rules. ()

d. In order to protect the confidential nature of adoptive births, the State Registrar may elect not to mark the record amended when carrying out amendments under Section 401 of this rule, when the indication of amendment would not be in the best interest of the registrant. ()

402. REGISTRATION SYSTEM FOR ADULT ADOPTEES.

01. Search for "the Other Birth Parent." The State Registrar will not participate in the search for "the other birth parent." The adoption service units of the Department may participate in such searches when requested to do so by a birth parent or the adult adoptee. Costs of the search will be provided by the birth parent or adult adoptee seeking the match. Such service costs will be set by the adoption service unit and are based upon the

actual cost of the search and cost of notification of the registrant(s). ()

02. Completion of Match. When dated evidence of a completed search is presented to the State Registrar and “the other birth parent” has not been found, then and only then will a match be completed as cited in Section 39-259A(e) and (f), Idaho Code. ()

a. When one (1) of the birth parents cannot be found according to Section 39-259A(b)(3), Idaho Code, no information about the missing birth parent will be released to either registrant. ()

b. When one (1) birth parent is deceased, proof of death must be established by a certified copy of the death certificate or a verification of the fact of death from the Vital Statistics official of the state where death occurred. Such proof is the responsibility of the registered birth parent. ()

03. Siblings of Adult Adoptee. When it appears that there is a match between siblings, the State Registrar may confirm the match from the sealed adoption record on file in the Vital Statistics Office and make appropriate notification to the siblings. However, if the birth parent(s) has not also voluntarily registered, no identifying information about the birth parent(s) will be provided to the adult adoptee or the sibling, except where proof of death of the birth parent(s) is found. ()

04. Notification. When it appears to the State Registrar that a match has occurred, the State Registrar will notify the registrants by certified mail of the opportunity to withdraw from the register prior to proceeding with full notification of the registrants. Such withdrawal must be made by written notarized request and must be received by the State Registrar within thirty (30) days of the date of registrant’s receipt of notification from the State Registrar. Such withdrawal is exempt from the usual withdrawal fee. ()

05. Registration Time. Birth parents or relatives of qualified birth parents may register at any time after an adoption has taken place, whether prior to or after the adoptive person reaches the age of eighteen (18). Adopted persons may register after they have reached their eighteenth birthday. ()

06. Fees. An initial filing fee of ten dollars (\$10) is paid by or on behalf of each registrant and must be submitted with the registration form. An update fee of ten dollars (\$10) is charged whenever a registrant requests in writing a revision, update, or withdrawal of a previous registration. ()

07. Release of Information. When it appears there is a match between registered adult siblings and no birth parent information has been registered, before release of identifying information to any registered adult sibling, the State Registrar will require proof from the registrant(s) of the identity and the relationship of the registrant to other registrants. At least two (2) documents providing such proof must be viewed and recorded by the State Registrar. Such documents may include sworn statements, court decrees, copies of birth certificates, marriage licenses, school records, and voter registration cards. ()

403. -- 449. (RESERVED)

450. REGISTRATION OF DEATHS AND STILLBIRTHS.

01. Acceptance of Incomplete Death Certificate. If all the information necessary to complete a death certificate is not available within five (5) days after the date the death occurred, the person in charge of interment or removal of the body from the district in which the death occurred must file the certificate as prescribed by the State Registrar with all information that is available, provided that the medical certification of the cause of death has been signed by the person responsible for such certification. If the cause of death is unknown or undetermined, the cause of death must be shown as unknown or undetermined on the certificate. The person responsible for the medical certification of the cause of death must also sign the authorization for final disposition of the body. If the body is to be cremated, the coroner must also give additional authorization. ()

a. A supplemental report providing the cause of death information missing from the original certificate must be filed by the person responsible for medical certification of the cause of death with the State Registrar within fifteen (15) days of the filing of the death certificate on a form provided or approved by the State Registrar. ()

b. A supplemental report providing all other information missing from the original certificate must be filed with the State Registrar by the person responsible for filing the certificate within thirty (30) days of the date the death occurred or as otherwise authorized by the State Registrar on a form provided or approved by the State Registrar. ()

c. The State Registrar will make the information on the supplemental report(s) a part of the existing death certificate and will file the supplemental report(s) with the death certificate. The State Registrar will also mark the death certificate to show that supplemental information was added. ()

02. Signatures Required on Death Certificates. ()

a. The mortician, or person acting as such, must sign the death certificate. No stamps or other types of facsimile signatures may be used. ()

b. The responsible person must sign the medical certification of the cause of death. Failure to do so will invalidate the record as a legal document. No stamps or other types of facsimile signatures may be used. ()

03. Signatures Required on Stillbirth Certificates. ()

a. The mortician's signature must meet the following criteria: ()

i. The mortician, or person acting as such, must sign the certificate. No stamps or other types of facsimile signatures may be used. ()

ii. When a hospital disposes of a stillborn fetus, in accordance with Section 39-268(3), Idaho Code, the hospital authority must complete and sign the certificate as mortician. ()

b. The person responsible according to Section 39-260, Idaho Code, for the attendant or medical certification, must sign the certificate. No stamps or other types of facsimile signatures may be used. ()

451. INDUCED ABORTION REPORTING FORMS -- COMPILATIONS.

01. Form of Report. The contents of the report of induced abortion must comply with Section 39-261, Idaho Code. ()

02. Nature of Reports. The completed forms submitted to the Vital Statistics Unit are statistical reports, not certificates. Copies of the reports will not be issued. ()

03. Patient Identification. No information will be collected that would identify the woman who had the abortion. ()

04. Compilations. No compilations will be released for public use that identify the institution where the induced abortion was performed, the physician who performed the induced abortion procedure, or the person completing the report of induced abortion. ()

452. -- 500. (RESERVED)

501. MARRIAGE LICENSE RECORDING FEES.
The county recorders will charge a recording fee of two dollars (\$2) for each marriage certificate. ()

502. -- 599. (RESERVED)

600. DIVORCE CERTIFICATE FILING FEE.
Effective July 1, 1985, the Clerk of the Court will charge a fee of one dollar (\$1) for each divorce certificate filed in accordance with Section 39-266, Idaho Code. ()

601. -- 649. (RESERVED)

650. LATE OR DELAYED REGISTRATION OF BIRTH.

01. Late Registration -- Fifteen Days to One Year. ()

a. Certificates of birth filed after fifteen (15) days, but within one (1) year from the date of birth, will be registered on the standard form of live birth certificate in the manner prescribed in Section 39-255, Idaho Code. Such certificate will not be marked as delayed. ()

b. In any case where the certificate is signed by someone other than the attendant or person in charge of the institution where birth occurred, a notarized statement setting forth the reason must be attached to the certificate. The State Registrar may require additional evidence in support of the facts of birth. ()

02. Form of Delayed Certificate of Birth. All certificates registered one (1) year or more after the date of birth will be registered on a delayed certificate of birth form prescribed by the Director. ()

03. Who May Request the Registration of and Sign a Delayed Certificate of Birth. ()

a. Any person born in this state whose birth is not recorded in this state, or the parent, guardian, next of kin of that person, or older person acting for the registrant and having personal knowledge of the facts of birth, may request the registration of a delayed certificate of birth, subject to these rules and instructions issued by the State Registrar. ()

b. Each delayed certificate of birth must be signed and sworn to before a notary public by the person whose birth is to be registered if such person is eighteen (18) years of age or older and is competent to sign and swear to the accuracy of the facts stated therein; otherwise, the certificate must be signed and sworn to by one (1) of the following in the indicated order of priority: ()

i. One (1) of the parents of the registrant; or ()

ii. The guardian of the registrant; or ()

iii. The next of kin of the registrant; or ()

iv. Any older person over eighteen (18) years of age having personal knowledge of the facts of birth. ()

04. Facts to be Established for a Delayed Registration of Birth. The minimum facts that must be established by documentary evidence are the following: ()

a. The original full name of the registrant; ()

b. The date of birth and place of birth; ()

c. The full maiden name of the mother; and ()

d. The full name of the father, unless the registrant was born out of wedlock, in which case the name of the father will not be entered on the delayed certificate except as provided in Sections 39-250, 39-255, or 39-257, Idaho Code, and rules adopted in accordance with these statutes. ()

05. Delayed Registration Following a Legal Change of Status. ()

a. When evidence is presented reflecting a legal change of status by adoption, legitimation, paternity determination, acknowledgment of paternity, or a court-ordered change of name, a new delayed certificate may be established to reflect such change. ()

b. In such cases changing legal status, when no birth certificate is found, the delayed certificate may be filed reflecting the information established by the legal change. ()

06. Documentary Evidence -- Requirements. ()

a. To be acceptable for filing, the name of the registrant and the date and place of birth entered on a delayed certificate of birth must be supported by at least: ()

i. Two (2) pieces of documentary evidence, only one (1) of which may be an affidavit of personal knowledge, if the record is filed within seven (7) years after the date of birth. ()

ii. Three (3) pieces of documentary evidence, only one (1) of which may be an affidavit of personal knowledge, if the record is filed seven (7) years or more after the date of birth. One (1) document must be dated within seven (7) years after the date of birth. ()

b. Facts of parentage must be supported by at least one (1) document. This document may be one (1) of the documents above other than an affidavit of personal knowledge. ()

07. Documentary Evidence -- Acceptability. ()

a. The State Registrar may establish a priority of best evidence. ()

b. Documents presented, such as census, hospital, church, and school records, must be from independent sources and must be in the form of the original record or a certified copy of the original or a notarized statement from the custodian of the record or document. ()

c. All documents submitted in evidence, other than an affidavit of personal knowledge, must have been established at least ten (10) years prior to the date of application or have been established prior to the applicant's seventh birthday. ()

d. An affidavit of personal knowledge, to be acceptable, must be made by a parent of the applicant or an older person other than a parent, who is over eighteen (18) years of age and must be signed before a notary public. In all cases, the affiant must be at least ten (10) years older than the applicant and have personal knowledge of the facts of birth. ()

08. Abstraction of Documentary Evidence. ()

a. The State Registrar, or a designated representative, will abstract on the delayed certificate of birth a description of each document submitted to support the facts shown on the delayed birth certificate. This description will include: ()

i. The title or description of the document; ()

ii. The name and address of the affiant, if the document is an affidavit of personal knowledge, or of the custodian, if the document is an original or certified copy of a record or a notarized statement from the custodian; ()

iii. The date of the original filing of the document being abstracted; and ()

iv. The information regarding the birth facts contained in the document. ()

b. All documents submitted in support of the delayed birth registration will be returned to the applicant after review, provided, however, that the State Registrar may make and keep on file abstracts or photocopies of any such documents. ()

09. Certification by the State Registrar. The State Registrar, or a designated representative, will by signature certify: ()

- a. That no prior birth certificate is on file for the person whose birth is to be recorded; ()
- b. That the State Registrar or a designated representative has reviewed the evidence submitted to establish the facts of birth; and ()
- c. That the abstract of the evidence appearing on the delayed certificate of birth accurately reflects the nature and content of the documents. ()

10. Dismissal After One Year. Applications for delayed certificates that have not been completed within one (1) year from the date of application may be dismissed at the discretion of the State Registrar. Upon dismissal, the State Registrar will so advise the applicant, and all documents submitted in support of such registration will be returned to the applicant. ()

651. LATE OR DELAYED REGISTRATION OF DEATHS.

The registration of death after the time prescribed by statute or rule must be made on the standard certificate of death form in the following manner: ()

01. Minimum Evidence Required. ()

a. If the person responsible for the medical certification of death, according to Section 39-260, Idaho Code, and the attending mortician or person who acted as such are available and they do complete and sign the certificate of death; and ()

i. If the certificate is filed within one (1) year after the date of death or finding of the body, the certificate of death may be completed without additional evidence and filed with the State Registrar; or ()

ii. If the certificate is filed one (1) year or more after the date of death or finding of the body, the medical certifier and the mortician or person who acted as such must state in accompanying affidavits that the information on the certificate is based on records kept in their files. ()

b. If either the medical certifier or the attending mortician, or person acting as such (or both), is unavailable, the certificate may be filed by the next of kin of the deceased and must be accompanied by: ()

i. An affidavit of the person filing the certificate, swearing to the accuracy of the information on the certificate; and ()

ii. Two (2) documents that identify the name of the deceased and the date and place of death. ()

02. Additional Evidence. In all cases, the State Registrar may require additional documentary evidence to prove the facts of death. ()

03. Summary Statement. A summary statement of the evidence submitted in support of the delayed registration will be entered on the certificate, and the certificate will be marked as delayed. ()

652. -- 699. (RESERVED)

700. LATE AND DELAYED REGISTRATION OF MARRIAGE.

01. Late Registration. Until one (1) year has elapsed from the date of the ceremony, marriage certificates will be accepted for filing by the State Registrar in accordance with Section 39-262, Idaho Code, and will not be marked as delayed. ()

02. Delayed Registration. The registration of a marriage after one (1) year must be made on the regular certificate of marriage form in the following manner: ()

a. The certificate must be filed with the county recorder where the marriage license was originally

issued. ()

b. To be acceptable for registration by the State Registrar, the delayed certificate of marriage must be supported by a notarized statement from two (2) people other than the bride and groom who know that a marriage ceremony was performed and the date and place of the marriage ceremony. One (1) of these statements must be from an actual witness to the marriage ceremony. ()

c. When the officiant is not available to sign the delayed certificate of marriage, the delayed certificate of marriage must be signed by an actual witness to the marriage ceremony, other than the bride and groom. ()

03. Additional Evidence. In all cases, the State Registrar may require additional documentary evidence to prove the facts of marriage. ()

04. Summary Statement. A summary statement of the evidence submitted in support of the delayed registration will be entered on the certificate, and the certificate will be marked as delayed. ()

701. LATE AND DELAYED REGISTRATION OF DIVORCE.

01. Late Registration. Until one (1) year has elapsed from the date of the divorce decree, divorce certificates will be accepted for filing by the State Registrar in accordance with Section 39-265, Idaho Code, and will not be marked as delayed. ()

02. Delayed Registration. The registration of a divorce after one (1) year must be made on the regular certificate of divorce form in the following manner: ()

a. The divorce certificate must be filed by the court directly with the State Registrar; and ()

b. The certificate must be accompanied by a certified copy of the final decree of divorce. ()

03. Additional Evidence. In all cases, the State Registrar may require additional documentary evidence to prove the facts of divorce. ()

04. Summary Statement. A summary statement of the evidence submitted in support of the delayed registration will be entered on the certificate, and the certificate will be marked as delayed. ()

702. -- 799. (RESERVED)

800. DELAYED REGISTRATION OF STILLBIRTH.

The requirements for filing a delayed certificate of stillbirth are the same as those for a delayed certificate of death, except that the section on paternity is governed by Section 39-260, Idaho Code. ()

801. -- 849. (RESERVED)

850. REMOVAL OF DEAD BODY OR FETUS FROM PLACE OF DEATH OR STILLBIRTH.

Before removing a dead body or fetus from the place of death or stillbirth, the funeral director, or person acting as such, must, in accordance with Section 39-268, Idaho Code: ()

01. Obtain Assurance That Death Is from Natural Causes. Obtain assurance from the attending physician, physician assistant, advanced practice registered nurse, or their designated associate, responsible for medical certification of the cause of death or stillbirth: ()

a. That the death or stillbirth is from natural causes; and ()

b. That the attending physician, physician assistant, advanced practice registered nurse, or their designated associate, will assume responsibility for certification of the cause of death or stillbirth; or ()

- 02. Notify the Coroner.** Notify the coroner when: ()
- or
- a.** The case falls within the jurisdiction of the coroner in accordance with Section 39-260, Idaho Code; ()
- b.** The death or stillbirth is due to natural causes; and ()
- i.** There was no attending physician, physician assistant, or advanced practice registered nurse during the last illness; or ()
- ii.** There was no physician, physician assistant, or advanced practice registered nurse in attendance at the stillbirth; or ()
- iii.** When the attending physician, physician assistant, advanced practice registered nurse, or their designated associate, is not available or is physically incapable of providing assurance that the death or stillbirth is from natural causes or providing permission to remove the dead body or fetus from the place of death or stillbirth. ()

- 03. Receive Permission to Remove the Dead Body or Fetus.** Receive permission to remove the dead body or fetus from the place of death or stillbirth from: ()
- a.** The attending physician, physician assistant, advanced practice registered nurse, or their designated associate, if the death is from natural causes and all assurances in Subsection 850.01 of this rule have been met; or ()
- b.** The coroner, if the case falls within the jurisdiction of the coroner, in accordance with Section 39-260, Idaho Code, or if the death or stillbirth is due to natural causes and one (1) of the conditions listed in Subsections 850.02.b.i. through 850.02.b.iii. of this rule has been met. ()

851. AUTHORIZATION FOR DISINTERMENT AND REINTERMENT.

01. Disinterment and Reinterment of a Dead Body or Fetus. Upon receipt of a notarized application, or an order of a court of record of this state, the State Registrar will issue a permit for the disinterment and reinterment of a dead body or fetus. The permit will be issued only to the mortician who is identified on the application or order as the mortician in charge of the disinterment. The application for the permit must be signed by the applicant and the mortician in charge of the disinterment. The applicant for the permit must be either: ()

- a.** The person or persons who have the highest authority under the provisions of Section 54-1142, Idaho Code; or ()
- b.** A person authorized by Section 39-269, Idaho Code, to request a special disinterment for legal purposes, in which case the application must state facts showing that the ends of justice require disinterment. ()

02. Mass Disinterment and Reinterment. Upon receipt of a notarized application, or an order of a court of record of this state, the State Registrar may issue a single permit for the disinterment and reinterment of all remains included in a mass disinterment. The permit will be issued only to the mortician who is identified on the application or order as the mortician in charge of the disinterment. The application or order for the permit must identify the remains of each body to the extent possible and specify the place of disinterment and reinterment. The application for the permit must be signed by the applicant and the mortician in charge of the disinterment. The applicant for the permit must be either: ()

- a.** The person or persons who have the highest authority under the provisions of Section 54-1142, Idaho Code, for each of the deceased; or ()
- b.** A person authorized by Section 39-269, Idaho Code, to request a special disinterment for legal purposes, in which case the application must state facts showing that the ends of justice require disinterment.

()

03. Nature of Permit. The authorization issued in accordance with the statutes and rules governing disinterment is permission for disinterment, transportation and reinterment. ()

852. -- 999. (RESERVED)

16.02.13 – STATE OF IDAHO DRINKING WATER LABORATORY CERTIFICATION PROGRAM

000. LEGAL AUTHORITY.

Under Section 56-1003, Idaho Code, the Idaho Legislature has delegated to the Board of Health and Welfare the authority to set standards for laboratories in the State of Idaho. Under Section 56-1007, Idaho Code, the Department is authorized to charge and collect fees for services rendered by the Department. ()

001. TITLE AND SCOPE.

01. Title. These rules are titled IDAPA 16.02.13, “State of Idaho Drinking Water Laboratory Certification Program.” ()

02. Scope. These rules establish a process for certification and standards of operation for laboratories certified by the State of Idaho to test drinking water. ()

002. INCORPORATION BY REFERENCE.

01. Selected Sections from the Code of Federal Regulations, Title 40, Part 141 -- National Primary Drinking Water Regulations, July 1, 2010 Edition. 40 CFR 141 and 143 may be accessed in electronic format at <https://ecfr.io/Title-40/cfrv25#0>. The following sections from the Code of Federal Regulations are hereby incorporated by reference: ()

- a. 40 CFR 141.6 (h), effective dates; ()
- b. 40 CFR 141.27, alternate testing program; ()
- c. 40 CFR 141.21(f)(3), total coliform rule; ()
- d. 40 CFR 141.23, inorganic methods; ()
- e. 40 CFR 141.24, organic methods; ()
- f. 40 CFR 141.25, methods for radioactivity; ()
- g. 40 CFR 141.131, disinfection by-products; ()
- h. 40 CFR 141.74(a), surface water treatment rule; ()
- i. 40 CFR 141.89, lead and copper; ()
- j. 40 CFR 141.402(c)(2), ground water; ()
- k. 40 CFR 141.704, long-term surface water treatment rule 2; ()
- l. 40 CFR 141.803, aircraft drinking water rules; ()
- m. 40 CFR 141, Appendix A to Subpart C, expedited method approval; and ()
- n. 40 CFR 143.4, secondary contaminants. ()

02. Manual for the Certification of Laboratories Analyzing Drinking Water EPA 815-R-05-004, Fifth Edition, January 2005. The Manual for the Certification of Laboratories Analyzing Drinking Water EPA 815-R-05-004, Fifth Edition, January 2005, including Supplement 1 EPA 815-F-08-006, June 2008, is hereby incorporated by reference. It may be accessed in electronic format at <https://www.epa.gov/dwlabcert/laboratory-certification-manual-drinking-water>. ()

003. -- 009. (RESERVED)

010. DEFINITIONS.

01. Analyst. A person responsible for testing, quality control, and reporting of analytical results. ()

- 02. Board.** The Idaho Board of Health and Welfare. ()
- 03. Certification Authority for the State of Idaho (CA).** The CA has signature authority for all certification decisions as required for primacy in 40 CFR 142.10 (b)(3)(i). The Bureau Chief of the Idaho Bureau of Laboratories is the certification authority for the State of Idaho. ()
- 04. Certification Officer (CO).** The CO is the person responsible for on-site evaluations and providing technical support and guidance to a certified drinking water laboratory (CDWL). ()
- 05. Certified Drinking Water Laboratory (CDWL).** A facility that examines drinking water for the purpose of identifying or measuring microbiological, chemical, radiological, or physical parameters, and is certified by the State of Idaho. ()
- 06. Department.** The Idaho Department of Health and Welfare. ()
- 07. Department of Environmental Quality (DEQ).** The state agency that has primacy and is primarily responsible for administrating and enforcing regulations related to environmental quality. ()
- 08. Director.** The Director of the Idaho Department of Health and Welfare, or their designee. ()
- 09. Discipline.** Areas of certification for the testing of drinking water, i.e., microbiology, radiochemistry, inorganic chemistry, and organic chemistry. ()
- 10. Drinking Water Coordinator (DWC).** The drinking water coordinator is an Environmental Health Specialist at a public health district assigned to monitor public water systems. ()
- 11. Idaho Bureau of Laboratories (IBL).** The IBL is a bureau in the Division of Public Health in the Idaho Department of Health and Welfare. ()
- 12. LIMS.** Laboratory Information Management System. ()
- 13. Laboratory Supervisor.** A person who directs the day-to-day activities of a CDWL. ()
- 14. Maximum Contaminant Level (MCL).** The maximum permissible level of a contaminant in water that is delivered to any user of a public water system. ()
- 15. On-Site Evaluation.** The physical, quality control, and data audit of a laboratory, including all aspects of operation related to the testing of drinking water samples. ()
- 16. Primacy.** The responsibility for ensuring that Safe Drinking Water Act (SDWA) laws are implemented and the authority to enforce a law and related regulations (40 CFR 142.2) applicable to public water systems within the state. ()
- 17. Proficiency Test (or Testing) (PT).** Sample(s) provided to demonstrate that a laboratory can successfully analyze the sample(s) within the acceptance limits specified in the regulations. The qualitative or quantitative composition of the reference material is unknown to the laboratory at the time of the analysis. ()
- 18. Public Water System (PWS).** A system for the provision to the public of water for human consumption through pipes or other constructed conveyances, if such system has at least fifteen (15) service connections, regardless of the number of water sources or configuration of the distribution system, or regularly serves an average of at least twenty-five (25) individuals daily at least sixty (60) days out of the year. ()
- 19. Quality Assurance (QA).** An integrated system of management activities that involves planning, quality control, quality assessment, reporting, and quality improvement to ensure a product or service meets defined standards of quality with a stated level of confidence. ()
- 20. Quality Control (QC).** The overall system of technical activities whose purpose is to measure and

control the quality of a product or service so that it meets the needs of the users. QC also includes operational techniques and activities that are used to fulfill the requirement of quality. ()

21. Quality Assurance Plan (QA Plan). A comprehensive plan detailing the aspects of quality assurance required to adequately fulfill the needs of a program. This document is required before a laboratory can be certified or reciprocity is granted. ()

22. Reciprocity. An extension of certification by the CA to an accredited or certified out-of-state laboratory based upon satisfactory review of documentation that demonstrates compliance with these rules. ()

23. Regulatory Agency. The Idaho Department of Environment Quality (DEQ). ()

24. Regulatory Authority (RA). The assigned drinking water Analyst III at a regional DEQ office. ()

25. Standard Operating Procedure (SOP). A written document that describes the method of an operation, analysis, or action whose techniques and procedures are thoroughly prescribed and that is officially approved as the method for performing a routine or repetitive test. ()

26. Standard Methods (SM). SM refers to a standard method of water testing published in the Standard Methods for the Examination of Water and Wastewater, as incorporated by reference under Section 004 of these rules. ()

27. Subcontracting. The procedure whereby a laboratory certified by the State of Idaho may send samples to another laboratory that is certified or has been granted reciprocity by the State of Idaho for analysis. ()

011. -- 099. (RESERVED)

REQUIREMENTS FOR CERTIFICATION OF DRINKING WATER LABORATORIES
(Sections 100-199)

100. APPLICATION FOR CERTIFICATION.

01. Required Information on Application. An application for first-time certification for microbiology, inorganic chemistry, organic chemistry, or radiochemistry must be submitted to the CA on a form provided by the IBL. The following information must be included: name, location, and contact information of the drinking water laboratory, name of the owner, listing of methods/analytes for which certification is requested, documentation of the education, experience, and training of the laboratory supervisor for each discipline for which certification is being requested. ()

02. Time Frame for Renewal of Application for Reciprocity. Applications for renewal of reciprocity must be received by the IBL at least thirty (30) days before the current certificate expires. ()

03. Reapplication for Additional Analytes or to Change Methods. An in-state laboratory seeking to change methods or to add analytes utilizing the same method for which the laboratory is currently certified must submit a written application requesting the change in certification and include a copy of the SOP with QC requirements specific to the method. ()

04. Reapplication for Certification. A laboratory that has been downgraded to provisional or has been decertified for an analyte or method, or both, must provide written documentation to the CO of the corrective actions within the specified period. A laboratory that has been decertified in entirety must re-apply following the same procedure as a laboratory applying for first-time certification. ()

05. Reciprocity for Out-State-Laboratories. Each out-of state laboratory seeking reciprocity with Idaho must submit the same information as an in-state drinking water laboratory applying for first-time certification. ()

101. CERTIFICATION FEES.

01. Annual Base Fee. All CDWLs must pay an annual base fee of fifty dollars (\$50) per discipline and twenty dollars (\$20) per analyte per method for which certification is requested. Certification is valid for one (1) year from the date of issuance. ()

02. Non-Refundable Application Fee. Each new laboratory that is seeking certification or reciprocity must include a non-refundable application fee of two hundred dollars (\$200) per discipline with the application. ()

102. TYPES OF CERTIFICATION.

01. Certified. A certified laboratory meets the regulatory performance criteria described in these rules. ()

02. Provisionally Certified. A provisionally certified laboratory has deficiencies, but demonstrates the ability to consistently produce valid data within the acceptance limits in these rules. ()

03. Not Certified. A laboratory with the status of “not certified” can not produce consistently valid data, or is not following method protocol, or both. Such laboratories cannot analyze compliance samples. ()

04. Interim Certification. The CA may grant interim certification to a laboratory if the laboratory has appropriate instrumentation, is using approved methods, has adequately trained personnel to perform the analyses, and has satisfactorily analyzed PT samples for the contaminants involved. The CO will review the laboratory’s quality control data before granting this type of certification and will conduct an on-site evaluation as soon as possible. ()

05. Reciprocity. Reciprocity may be granted by the CA to out-of-state laboratories if such laboratories are certified or accredited by an approved regulatory agency and meet the regulatory performance criteria described in these rules. ()

103. SUBCONTRACTING.

01. List of Subcontractors. Laboratories who subcontract work must maintain a list of subcontractors and documentation of the subcontracting laboratories' certification or reciprocity with the State of Idaho. ()

02. Identification Requirements for Subcontracting Laboratory. The laboratory performing the subcontracted analysis must be identified by name and EPA identification number on the final report. ()

03. Availability of the Report from the Subcontracting Laboratory. The report from the subcontracting laboratory must be available to the client upon request. ()

04. Availability of all Subcontracting Laboratory Records. All subcontracting laboratory records must be available to the COs. ()

104. -- 109. (RESERVED)

110. ON-SITE EVALUATION.

01. On-Site Audits and Evaluations. COs will perform audits of the premises and operations of new laboratories or laboratories requesting continuing certification for the purpose of determining if there is enough security to maintain the integrity of the samples and data. The frequency of the on-site evaluation is at the discretion of the CA or a minimum of every three (3) years. In addition, the CO will evaluate the: ()

a. Physical set up of the laboratory; ()

- b. Quality assurance program; ()
- c. Personnel qualifications; ()
- d. Equipment considerations; and ()
- e. Adequacy of data handling. ()

02. Written Report of Findings from the On-Site Evaluation. The CO will generate a written report of findings from the on-site evaluation. The report will detail areas requiring a written response and specify the length of time the laboratory has to respond. The length of time for the laboratory to respond will be proportional the number and severity of deviations. If the conditions observed during an on-site evaluation are such that an immediate down grade or decertification is warranted the laboratory will be notified by certified mail within thirty (30) days by the CA. ()

111. -- 119. (RESERVED)

120. PERSONNEL QUALIFICATIONS.

01. General Supervisor Qualifications. ()

a. A supervisor must be on-site frequently enough to satisfactorily perform the required duties outlined below. The CO must be notified if the supervisor is unable to be on-site for a period greater than three (3) consecutive weeks. ()

b. Supervisors are responsible for ensuring that all laboratory personnel have demonstrated proficiency for assigned functions and that all data reported by the laboratory meet the required quality assurance criteria and regulatory requirements. ()

c. If a formal complaint is received from the regulatory agency, then the CO will notify the responsible laboratory supervisor and request a report describing the incident, the probable cause, and the corrective action to be taken to ensure the situation is resolved. The incident report must be received by the CA within thirty (30) days of the laboratory being notified of the problem. The CO in conjunction with the CA will evaluate the response and if found to be acceptable, no further action will be required of the laboratory. If the response is incomplete, the CO will provide in writing the additional steps that must be completed for certification status to remain uninterrupted. ()

d. No drinking water supervisor will be responsible for the supervision of more than two (2) certified drinking water laboratories unless specifically approved by the CA. ()

e. If a microbiology supervisor is not available, a consultant having the same qualifications may be utilized. The laboratory must submit the academic qualifications and work experience of the potential consultant to the CA. In addition, the laboratory must define and submit a list of the specific functions the consultant will be performing along with a schedule of routine visits. If the information is found to be acceptable, the CA will notify the laboratory director or owner in writing. A record of all consultant visits and communications must be maintained and be available for review during the on-site evaluation. The record must include a brief description of on-site findings and include any telephone or electronic consultation. Each entry must be dated and signed by the consultant. ()

02. Supervisor Qualifications by Discipline. ()

a. The supervisor of a microbiology laboratory must have a bachelor's degree from an accredited college in microbiology, biology, or equivalent. Supervisors who have a degree in a subject other than microbiology must have had at least two (2) college-level microbiology courses in which environmental microbiology was part of the curriculum. In addition, the supervisor must have a minimum of two (2) weeks training at a federal agency, state agency, or academic institution in the microbiological analysis of drinking water or eighty (80) hours of on-the-job-training in water microbiology at a certified laboratory, or other comparable training acceptable to the CA. ()

b. The supervisor of a chemistry laboratory must have at least a bachelor's degree from an accredited college with a major in chemistry or equivalent and at least one (1) year of experience in the analysis of drinking water. In addition, the supervisor must have a working knowledge of quality assurance principles. ()

c. The supervisor of a radiochemistry laboratory must have at least a bachelor's degree from an accredited college with a major in chemistry, or equivalent, and should have at least one (1) year of experience in the measurement of radioactive analytes in drinking water. In addition, the supervisor must have a working knowledge of QA and QC principles as applied to all radiochemical practices and procedures conducted in the laboratory. ()

03. Analyst or Equivalent Job Title. ()

a. An analyst performing microbiological testing must have a minimum of a high school education or equivalent, at least three (3) months of bench experience in environmental microbiological testing, and thirty (30) days on-the-job training in drinking water microbiology under the direction of an experienced analyst. If an analyst has a bachelor's degree in microbiology, or related field, the three (3) month bench training may be shortened to thirty (30) hours at the discretion of the laboratory supervisor. Before analyzing compliance samples, the analyst must demonstrate competency by successfully completing a PT. ()

b. Analysts in each of the chemical disciplines should have at least a bachelor's degree with a major in chemistry, or equivalent, and at least one (1) year of experience in the analysis of drinking water for the discipline in which they are working. If the analyst is responsible for the operation of analytical instrumentation, they must have completed specialized training offered by the manufacturer or another qualified training facility or have successfully served an apprenticeship under an experienced analyst. The duration of this apprenticeship should be proportional to the sophistication of the instrument. Data produced by analysts and instrument operators while in the process of obtaining the required training or experience are acceptable only when reviewed and validated by a fully qualified analyst or the laboratory supervisor. Documentation of training must be maintained for each analyst and available for evaluation by the CO. ()

04. Chemistry Technician. Technicians in each of the chemical disciplines must have at least a high school diploma or equivalent, have completed a method-training program under an experience analyst, and have six (6) months bench experience in the analysis of drinking water. The method-training record for each analyst should be recorded in a training file and available for evaluation by the CO. ()

121. -- 129. (RESERVED)

130. REPORTING, NOTIFICATION, AND DISTRIBUTION OF LABORATORY RESULTS.

01. Submission of Test Results in Approved Format. The drinking water supervisor in each of the disciplines of certification is responsible for submission of all test results performed on samples submitted by PWSs, including subcontracted samples, in a format approved by the DEQ Drinking Water Program. Reports must be submitted to the appropriate regulatory authority or drinking water coordinator in a timely manner not to exceed ten (10) business days after the completion of testing or upon receipt of results from subcontract laboratories. ()

02. Notification of High Contaminant Levels. The chemistry supervisor or designee must notify the appropriate regulatory agency or drinking water coordinator by phone as soon as feasible of any nitrate and nitrite level exceeding the current MCL including subcontracted samples. Notification must also be made when any other regulated chemical or radiological contaminant exceeds four (4) times the MCL. ()

03. Notification of Positive Microbiological Results. The microbiological supervisor or designee is responsible for an immediate telephone notification to the appropriate regulatory agency in the case of a positive result for a microbiological test. If the RA or DWC is not available, the results must be given to the person designated by the RA or DWC to take the information. ()

131. -- 139. (RESERVED)

140. LABORATORY QUALITY ASSURANCE.

01. The QA Plan. Each laboratory certified or having reciprocity with the State of Idaho must have and adhere to a QA plan. Laboratories seeking certification will be required to submit such a plan for review as part of the application process. ()

02. Required Items for the QA Plan. The EPA Manual for the Certification of Laboratories Analyzing Drinking Water lists the items that must be included: ()

- a. Laboratory organization and responsibility; ()
- b. SOPs with dates of last revision; ()
- c. Laboratory sample receipt and handling procedure; ()
- d. Instrument calibration procedures; ()
- e. Analytical procedures; ()
- f. Data reduction, validation, reporting and verification; ()
- g. Type of quality control (QC) checks and frequency of use; ()
- h. List of schedules of internal and external system and data quality audits and inter laboratory comparisons; ()
- i. Preventive maintenance procedures and schedules; ()
- j. Corrective action contingencies; and ()
- k. Record-keeping procedures. ()

03. Chain-of-Custody Procedures. Each laboratory must have a procedure in place in the event the submitter requires an evidence chain-of-custody. ()

04. Maintenance of Records. Each laboratory must: ()

- a. Maintain a record keeping system that allows the history of the sample and associated data to be readily understood through documentation. This would include access to LIMS, both present and prior systems, all electronic data including backup, QC documents and all associated calculations, maintenance records including replacement history of instruments, submission forms, submission forms to subcontracting laboratories, final reports from subcontracting laboratories, and final reports generated by the certified laboratory. ()
- b. Retain all records for a minimum of five (5) years from generation of the last entry in the records. ()
- c. Notify public water system clients before disposing of records. ()
- d. Be aware of and adhere to specific record retention as required for specific analytes or disciplines. ()

05. Proficiency Testing (PT). Proficiency test samples must be successfully analyzed annually per analyte per method for which the laboratory is certified. All PT samples must be obtained from an approved supplier, and must be analyzed in the same manner as routine samples by the primary analyst assigned to the specific analysis. If testing is rotated among a number of analysts the supervisor will be responsible for determining who completes the PT. Records must include the name of the analyst who completed the testing. The results of the PT must be sent directly from the supplier to the CO. The methods listed on the laboratory's certificate must be the methods used for PT samples. ()

141. -- 149. (RESERVED)

150. EVALUATION.

01. Documentation of Corrective Action. If a CDWL is found to be noncompliant, it will be notified in writing by the CA of the number and seriousness of the deviations. The noncompliant laboratory will be required to submit documentation of correction to the CA or their designee within the time limit specified by the CA. ()

02. Adequacy of Corrective Action. Upon receipt of documentation of corrective action, the CO in conjunction with the CA will review the response to determine the adequacy of the corrective action taken. The laboratory will be eligible for certification if the response is found to be complete. If the response is incomplete or inadequate, the laboratory will be notified in writing of the additional changes required along with a specified time for completion. ()

03. Unacceptable PT Result. In the event of an unacceptable PT, the laboratory must submit an incident report to the CO that includes a description of the incident and corrective action taken. A second PT must be completed within sixty (60) days of the laboratory being notified of the failure. If the second PT is successfully analyzed no further action will be taken. If a second PT is not analyzed or if the second PT is also unacceptable, the laboratory will be downgraded in accordance with Section 210 of these rules. ()

04. Continued Certification of Other Tests. A CDWL that has an unacceptable PT result per analyte per method may remain certified for performance of all tests for which satisfactory performance has been demonstrated through the annual successful PT testing. ()

151. -- 199. (RESERVED)

**REQUIREMENTS FOR DRINKING WATER LABORATORIES TO MAINTAIN,
DOWNGRADE, OR REVOKE CERTIFICATION**
(Sections 200-299)

200. MAINTENANCE OF CERTIFICATION.

In order to maintain certification, drinking water laboratories must be able to demonstrate they continue to meet all of the following requirements. ()

01. Successful Completion of PT Samples. Each year, each laboratory must successfully complete a PT per analyte per method for which the laboratory is seeking to maintain certification. ()

02. Use of Specified Methods. Each laboratory must be able to demonstrate it is using the methods specified in the drinking water regulations. ()

03. Maintain Required Standard of Quality. The CO must be satisfied the laboratory is maintaining the required standard of quality for certification. This is based on the results of the PT testing, on-site evaluations, and any feedback from regulatory agencies. ()

04. Notification of Major Changes. The laboratory must notify the CA in writing within thirty (30) days of major changes that could affect the accuracy and precision of testing. A major change includes the loss of a laboratory supervisor, equipment failure or breakdown, or change in location or ownership. ()

201. -- 209. (RESERVED)

210. CRITERIA AND PROCEDURES FOR DOWNGRADING OR REVOKING CERTIFICATION STATUS.

01. Reasons a Laboratory May be Downgraded to Provisionally Certified Status. A laboratory may be downgraded to provisionally certified status for an analyte or method for any of the following reasons: ()

a. Failure to analyze a PT annually within acceptance limits specified in the regulations as demonstrated by a failure of a second PT; ()

b. Failure to submit an incident report after failing a PT or to analyze a second PT; ()

c. Failure to notify the CA within thirty (30) days of major changes; ()

d. Failure to maintain the required standard of quality based upon observations made by the CO during an on-site evaluation; or ()

e. Failure to report compliance data to the regulatory agency in a timely manner. ()

02. Procedure for Downgrading to Provisionally Certified Status. ()

a. The CA will notify the laboratory director or owner by certified mail of the intent to downgrade the laboratory to provisional certification per analyte per method within thirty (30) days of learning of any of the items listed under Subsection 210.01 of this rule. The laboratory will be given thirty (30) days from the date of receipt to develop a written corrective action plan and submit it with all supporting documentation to the CA. This information will be reviewed and evaluated for adequacy. The laboratory will be notified by certified mail if the response is acceptable or if additional corrective action must be taken. The CO will document that the corrective action plan has been implemented during the next on-site evaluation. ()

b. If a laboratory fails a second PT, the CA will downgrade the laboratory to provisionally certified status for that analyte or method and notify the laboratory by certified mail. ()

c. A provisionally certified laboratory has three (3) months to correct the problem in a manner that is acceptable to the CA. If the downgrading of certification is based on the results of PT testing, the reason for the error must be identified and corrected. A third PT must be successfully analyzed. A provisionally certified laboratory may continue to analyze samples for compliance purposes, but must notify its clients of the downgraded status of certification and provide that information in writing on all reports. ()

d. An out-of-state laboratory that has reciprocity with Idaho and is downgraded to provisional status by either the accreditation agency or certification authority of the home state must notify the CA of the change within thirty (30) days of the downgrade. ()

03. Criteria for Revoking Certification Status. ()

a. A laboratory must be downgraded from certified, provisionally certified, or interim certified status to “not certified” for a particular analyte or method for the following reasons: ()

i. Reporting PT data from another laboratory as its own; ()

ii. Falsification of data or other deceptive practices; ()

iii. Failure to use the analytical methodology specified in the regulations; and ()

iv. For provisionally certified laboratories, failure to correct the identified deficiencies that lead to the downgrading of certification status. ()

b. Reciprocity of out-of-state laboratories who do not notify the CA of any changes in the status of certification or accreditation will automatically be revoked. ()

04. Procedure for Revocation. ()

a. The CA will notify the laboratory in writing of the intent to revoke certification. The laboratory will have thirty (30) days from the time of the notification to provide a written response. ()

b. If the laboratory responds with an acceptable written corrective action plan, including documentation of implementation, the revocation will be suspended. ()

c. If the response is unacceptable, incomplete, or both, certification will be revoked. If the laboratory does not respond, certification will be revoked. The laboratory will be notified in writing of the revocation. ()

05. Upgrading or Reinstatement of Certification. A laboratory seeking an upgrade of certification must request this change in writing and provide documentation that the deficiencies that led to the provisional certification have been corrected. In addition, an on-site evaluation and successful completion of an additional PT may be required. A laboratory seeking certification after a revocation must follow the same procedure as a new laboratory seeking initial certification. ()

211. -- 999. (RESERVED)

16.02.14 – CONSTRUCTION AND OPERATION OF PUBLIC SWIMMING POOLS

000. LEGAL AUTHORITY.

Sections 56-1003 and 56-1007, Idaho Code, grant authority to the Director of the Department of Health and Welfare, to enforce minimum standards of health, safety and sanitation and to establish reasonable fees for services for all public swimming pools within the state of Idaho. ()

001. TITLE, SCOPE, AND INTENT.

01. Title. These rules are titled IDAPA 16.02.14, “Construction and Operation of Public Swimming Pools.” ()

02. Scope. The provisions of these rules apply to all public swimming pools and related facilities. The purpose of these rules is to control and regulate the design, construction, operation, and maintenance of public pools to protect public health and safety. ()

03. Intent. To prevent the spread of communicable disease and to assure a clean and safe environment in public swimming pools. ()

002. APPLICABILITY.

All public swimming pools, as defined, must be constructed and operated in conformance with these rules. Public swimming pools constructed prior to 1982 that can meet the requirement of Sections 190 through 198 and Sections 230 and 231 of these rules are not be required to meet the structural aspects of these rules. These rules apply to all public swimming pools. ()

003. -- 009. (RESERVED)

010. DEFINITIONS.

For the purpose of these rules, the following words and phrases are used, as defined below: ()

01. Bather. A person who becomes partially or totally immersed in water in a pool. ()

02. Board. Idaho Board of Health and Welfare. ()

03. Break in Grade. Where the slope of the bottom of pool exceeds a uniform slope greater than one (1) foot in twelve (12) feet horizontally. ()

04. Department. Idaho Department of Health and Welfare. ()

05. Director. Director of the Idaho Department of Health and Welfare. ()

06. Director’s Designee. The seven Public Health Districts. ()

07. Geothermal Water. Water derived from and heated exclusively from the natural heat energy from the earth. ()

08. Geothermal Pool. A flow-through public pool, which uses water solely derived from and heated exclusively by the natural heat energy from the earth. ()

09. Flow-Through Pool. A pool fed by a continuous supply of acceptable water that causes an equal volume of water to overflow to waste. ()

10. Lifeguard. A person who holds a current lifeguard training certificate and basic life support cardiopulmonary resuscitation (CPR) certificate from the American Red Cross, YMCA, Ellis & Associates, or any other equivalent certifying agency approved by the Director’s Designee. ()

11. Lifeguard Chair. An elevated stand erected for use by a lifeguard while superintending the safety of bathers in a pool. The height and location must afford the user an unobstructed view of all bathers within the pool enclosure. ()

12. Operator. An individual eighteen (18) years of age or older, who is familiar with the operation of the pool and is responsible for the health and safety of the public using the pool and for operating the pool in compliance with these rules. The operator must have an approved certification of competency from a Certified Pool

Operator (CPO), National Swimming Pool Foundation Certification; an Aquatic Facility Operator (AFO), National Recreation and Parks Association Certification; a National Swimming Pool Institute (NSPI Tech 1), National Spa and Pool Institute Certification Program, District Health Department Certification, or other certification programs approved by the Director designee. The operator must also have a basic life support cardiopulmonary resuscitation (CPR) certificate and current first aid certification as stated in Subsection 010.10 of these rules. ()

13. Person. A person, firm, partnership, association, corporation, company, governmental agency, club or organization of any kind. ()

14. Pool. An artificial structure containing water and its related elements used or intended to be used for swimming, diving, or recreation. ()

15. Private Pool. Any pool constructed in connection with or appurtenant to single-family dwellings or condominiums used solely by the persons maintaining their residence within such dwellings and the guests of such persons. ()

16. Public Swimming Pool. Herein referred to as public pool. A pool, and its related elements, that contains water more than two (2) feet deep, is used or intended to be used for swimming, diving, or recreational bathing, and is for the use of any segment of the public under a general invitation but not an invitation to a specific occasion or occasions. ()

17. Remodel. To replace all or part of any structure, circulation system, or related element of a pool facility, or to modify to the extent its design, configuration, or operating characteristics differ from those of the original. The term does not include normal maintenance, repair, or replacement of equipment or similar equipment that has previously been approved. Only that which is being remodeled needs to meet current specifications. ()

18. Spa. An artificial structure containing water no more than four (4) feet deep and a recirculation system primarily designed for relaxation or therapeutic use where the user is sitting, reclining, or at rest. ()

19. Special-Use Pool. A pool used exclusively for rehabilitating, curing, or treating a disease or disorder. This term also includes geothermal flow-through pools used exclusively for relaxation or therapeutic use where the user is sitting, reclining, or at rest. ()

20. Wading Pool. A public pool with water less than two (2) feet deep used mainly by non-swimming children and those supervising the children. ()

011. -- 019. (RESERVED)

020. SUBMISSION OF PLANS AND SPECIFICATIONS.

01. Plans. No person may construct or remodel any public pool until plans, specifications, and a plan review fee have been submitted, and the Director's designee has issued a letter of acceptance. Plans and specifications must be prepared by an architect or engineer licensed to practice in the state of Idaho. The architect or engineering plans, specifications and reports, must contain information sufficient to demonstrate the proposed pool is in compliance with these rules and certify the same. ()

02. Construction Compliance Certificate. The operator must submit, prior to public use of new facilities, a construction compliance certificate to the Director's designee. This certificate must: ()

a. Be prepared and signed by a professional engineer or architect licensed to practice in the state of Idaho; and ()

b. Include a statement that the pool and the related elements have been constructed in accordance with approved plans and specifications. ()

03. Stability. Pools must be designed and constructed to withstand all anticipated loadings for both full and empty conditions. A hydrostatic relief valve or other suitable means must be provided in areas having a high

water table. The designing architect or engineer is responsible for certifying the structural stability and safety of the pool. ()

021. -- 029. (RESERVED)

030. PERMITS.

No public pool may be open to the public unless the operator has applied for and received a permit. Permits expire on December 31 of each year, unless earlier revoked or suspended for violation of these rules. Exempt pools may voluntarily request to obtain a permit and be inspected. Only persons who comply with these rules are entitled to receive and retain a permit. Permits are not transferable. ()

031. APPLICATION.

An application for permit must be made on forms obtained from the Director's designee. ()

032. PERMIT FEE AND PLAN REVIEW FEE.

All applications must be accompanied by payment of the permit fee of fifty dollars (\$50) annually for each swimming pool. A plan review fee per unit for each swimming pool is one hundred dollars (\$100). ()

033. WAIVER OF FEES.

Upon written application to the Director, a waiver of a specific fee may be granted to an applicant who is required by these rules to pay the fee. ()

01. Determination of Good Cause. Good cause for a waiver must be shown before it is granted by the Director. Good cause may include hardship or extenuating circumstances, as determined by the Director. ()

02. Duration of Waiver. If the fee sought to be waived becomes due periodically, the fee may be waived for a designated period of time. ()

03. Limitations. Granting of a waiver will not be considered as precedent or be given any force or effect in any other proceeding. ()

034. -- 039. (RESERVED)

040. INSPECTIONS.

The Director's designee is authorized to conduct inspections as deemed necessary to insure compliance with all provisions of these rules and will have right of entry at any time the pool is in operation. ()

041. NOTICE OF VIOLATION.

If a violation of any provision of these rules is found during an inspection, the inspector will provide a written notice of such violation to the operator, which will establish a time frame for correction. ()

042. REINSPECTION.

A reinspection will be made to determine if the violation has been corrected. If upon reinspection the violation has been corrected, the pool will be allowed to remain open. If upon reinspection the violation still remains, the permit may be temporarily suspended and the pool closed until such time the violation has been corrected and approved by the Director, or the Director's designee. ()

043. -- 049. (RESERVED)

050. TEMPORARY SUSPENSION AND REVOCATION OF PERMITS.

01. Cause. The Director or the Director's designee may temporarily suspend, or revoke a permit for failure to comply with these rules or in cases where the permit has been obtained through nondisclosure, misrepresentation, or misstatement of a material fact. ()

02. Suspension. If the Director or the Director's designee determines that conditions at a public pool constitutes a serious danger to the health or safety of the public, a written order stating the particular reason for

suspension will be given to the operator; the permit will be immediately suspended and the pool closed until such time the condition is corrected. If the violation to these rules has not been corrected and a reinspection shows the violation still remains, a written order stating the particular reason for suspension will be given to the operator and the permit will be temporarily suspended and the pool closed until such time the condition is corrected. In the event a permit is suspended, the person to whom the permit was issued has the right to appeal under Section 003 of these rules. ()

03. Revocation. If an operator fails to comply with the orders of a temporary suspension, the permit will be revoked unless the operator immediately closes the pool. Before a permit is revoked, the person to whom the permit was issued will receive notice in writing indicating items that fail to comply with this chapter. The permit holder will be advised of his right to appeal. ()

04. Reissue. The permit may be reissued upon proper application and upon presentation of evidence that the deficiencies or abuses causing revocation have been corrected. ()

051. -- 059. (RESERVED)

060. PENALTY.

Any person who willfully violates, disobeys, or disregards the provisions of these rules is guilty of a misdemeanor under the provisions of Section 56-1008, Idaho Code. ()

061. -- 069. (RESERVED)

070. CONSTRUCTION REQUIREMENTS: PLUMBING CODES.

All plumbing must conform with and meet the provisions of IDAPA 07.02.06, "Rules Concerning the Idaho State Plumbing Code." ()

071. CONSTRUCTION REQUIREMENTS: ELECTRICAL CODE.

All electrical appliances and wiring must conform with and meet the provisions of IDAPA 07.01.06, "Rules Governing the Use of National Electrical Code." ()

072. CONSTRUCTION REQUIREMENTS: UNIFORM BUILDING CODE.

All buildings must conform with and meet the provisions of IDAPA 07.03.01, "Rules of Building Safety." ()

073. CONSTRUCTION REQUIREMENTS: MATERIALS.

Pools and all related elements must be constructed of materials that are inert, nontoxic to humans, impervious, permanent, and enduring; can withstand the design stresses; and will provide a tight tank with a smooth and easily cleanable surface, or to which an easily cleaned surface finish can be applied. ()

074. CONSTRUCTION REQUIREMENTS: CORNERS.

Corners formed by intersection of walls and floors must be rounded. ()

075. CONSTRUCTION REQUIREMENTS: FINISH.

Pool finish, including bottom and sides, must be of light colored material, nontoxic to humans, with a smooth and easily cleanable surface. ()

076. -- 079. (RESERVED)

080. DESIGN DETAIL: DIMENSIONS.

No limits are specified for length and width of pools except any pool in which diving is allowed must be at least sixteen (16) feet wide. ()

081. DESIGN DETAIL: CIRCULATION.

Provisions must be made for complete, continuous circulation of water throughout all parts of the pool. Pools with a recirculation system must have the necessary treatment and filtration equipment as required. Flow-through pools that can meet the bacterial and clarity requirements of Sections 230 and 231 will not be required to meet Sections 250 through 256 and Sections 260 and 261 of these rules. ()

082. DESIGN DETAIL: SHAPE.

The shape of any pool must be such that the circulation of water and the safety of bathers are not impaired. ()

083. DESIGN DETAIL: WADING POOLS.

All wading pools must have a maximum depth of two (2) feet, be physically separated from any pool, have a turnover rate of at least once every two (2) hours, have separate equipment for water recirculation and disinfection with no cross connections between a wading pool and any other pool, and be equipped with anti-vortex drains to avoid any possibility of entrapment. ()

084. DESIGN DETAIL: NO DIVING SIGN.

If a pool is not designed for diving, a conspicuous sign must be posted and state "NO DIVING," and contain lettering no less than six (6) inches high. Pools allowing diving must be at least eight (8) feet six (6) inches deep and meet manufacturer's installation criteria. ()

085. DESIGN DETAIL: SAFETY LINE.

A safety line must provide a visual and physical indicator of the separation between the shallow and deep portions of a pool and be in place when the pool is open to the general public, except during periods of lap swimming, competitive swimming or supervised training. It must be located in the shallow area no closer than one (1) foot nor any further than two (2) feet away from the break in grade line or five (5) foot depth, be securely fastened to wall anchors of corrosion-resistant material and of the type that is recessed or has no projections that would constitute a hazard when the line is removed, and be marked with visible floats. ()

086. -- 089. (RESERVED)

090. SLOPE OF FLOOR: SHALLOW AREA.

Any portion of the pool floor with a depth less than five (5) feet must be uniform, slope to drain, and must not exceed a slope of more than one (1) foot in twelve (12) feet horizontally. ()

091. SLOPE OF FLOOR: DEEP AREA.

The slope of the pool floor at a water depth of five (5) feet or more must be uniform, sloped to drain, and must not exceed a slope of one (1) foot in three (3) feet horizontally. ()

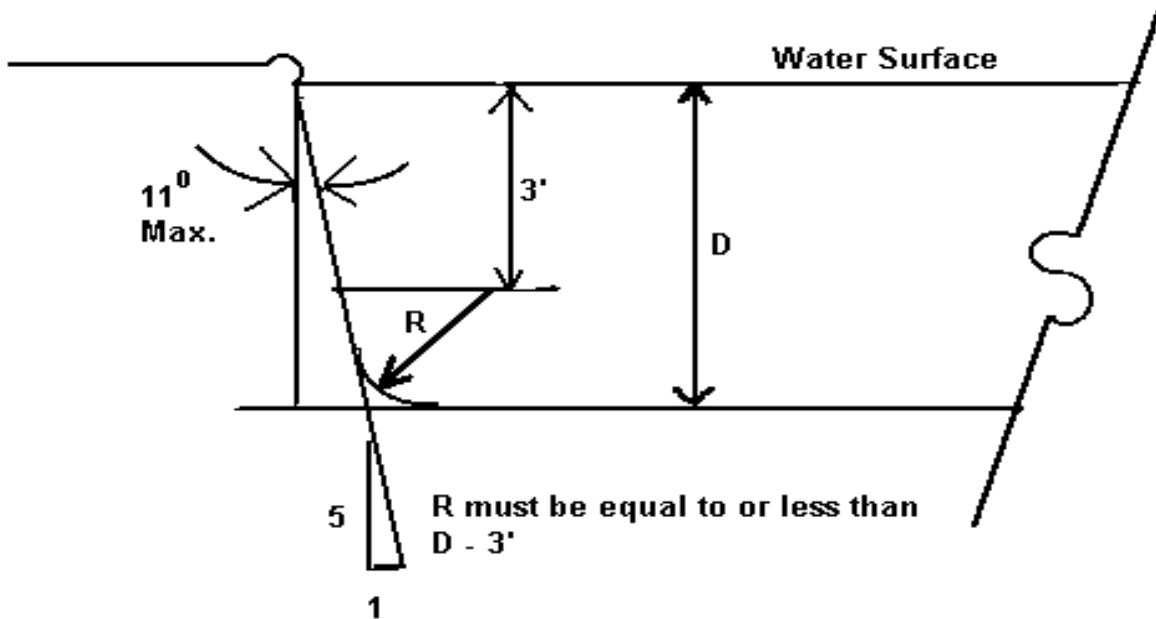
092. -- 099. (RESERVED)

100. SIDE WALLS.

Walls of a swimming pool must be either: vertical for water depth of at least six (6) feet; or vertical to a depth of three (3) feet below the water surface and then curved to join the bottom with a radius not greater than the difference between the depth at that point and three (3) feet, provided vertical is interpreted to permit slopes not greater than one (1) foot horizontally for each five (5) feet of sidewall depth (eleven (11) degrees from vertical). ()

101. ILLUSTRATION OF POOL SIDE WALL.

Illustration of Pool Side Wall



()

102. -- 109. (RESERVED)

110. WIDTH OF DECKS AND WALKWAYS.

01. Pool Deck. A pool must have: ()

a. A continuous deck, a minimum of eight (8) feet wide, that extends completely around the pool if it has one thousand eight hundred (1,800) square feet of surface area, or more; ()

b. A continuous deck a minimum of four (4) feet wide if it has less than one thousand eight hundred (1,800) square feet of surface area; and ()

c. A minimum of three (3) feet at the rear of any diving equipment or slide. ()

02. Spa. A spa may be constructed adjacent to a pool provided: ()

a. The spa has one hundred twenty (120) square feet of water surface area or less; ()

b. The spa is separated from the pool by a common wall no more than twelve (12) inches wide; ()

c. The common wall is constructed to prevent its use as a walkway; and ()

d. A continuous deck a minimum of four (4) feet wide extends completely around the pool and the spa. ()

111. SLOPE OF DECKS AND WALKWAYS.

Decks must have a nonslip surface and be sloped to remove any surface drainage from entering the pool water.

Drainage must be conducted from the deck in a manner that will not create hazardous or objectionable conditions and not be returned to the recirculation system. ()

112. -- 119. (RESERVED)

120. LADDERS, RECESSED STEPS, AND STAIRS REQUIREMENTS.

Recessed steps, stairs, or ladders must be provided at the shallow and deepest end of a pool. If the pool is over thirty (30) feet wide, such steps, ladders, or stairs must be installed on each side. ()

121. RECESSED STEPS.

Recessed steps must be readily cleanable and must be arranged to drain into the pool. The steps must have a minimum tread of five (5) inches and a minimum width of fourteen (14) inches. ()

122. STAIRS.

Where stairs are provided, they must be equipped with a handrail, have walking surfaces and treads that are of nonslip design with the leading edge in contrasting color, have steps with a minimum tread of twelve (12) inches and a maximum rise of ten (10) inches, and have no abrupt drop-off or submerged projections into the pool, unless guarded by handrails. ()

123. LADDERS.

All ladders must be corrosion-resistant, equipped with nonslip treads, designed to provide a handhold, be rigidly installed, and have a clearance of not more than five (5) inches or less than three (3) inches between any ladder and the pool wall. ()

124. HANDRAILS.

Where recessed steps or ladders are provided within the pool, handrails must be positioned at the top of both sides that extend over the coping or edge of the deck and be tight and secure. ()

125. ACCESS TO DIVING BOARDS.

Platforms and steps for diving boards must be of sufficient structural strength to safely carry the maximum anticipated loads. Steps must be of corrosion-resistant material, easily cleanable, and of nonslip design. Handrails must be provided at all steps and ladders leading to diving boards more than one (1) meter above the water. Platforms and diving boards over one (1) meter high must be protected with guard railings. ()

126. -- 129. (RESERVED)

130. DIVING AREA: HEADROOM.

All pools must have at least thirteen (13) feet of unobstructed area above each diving board as measured from the front end of the board, and this unobstructed area must extend horizontally at least sixteen (16) feet forward of the plummet, at least eight (8) feet behind the plummet, and at least eight (8) feet to both sides of the plummet. ()

131. DIVING AREA: WATER DEPTH.

The dimensions of the diving area on public pools must conform to the following:

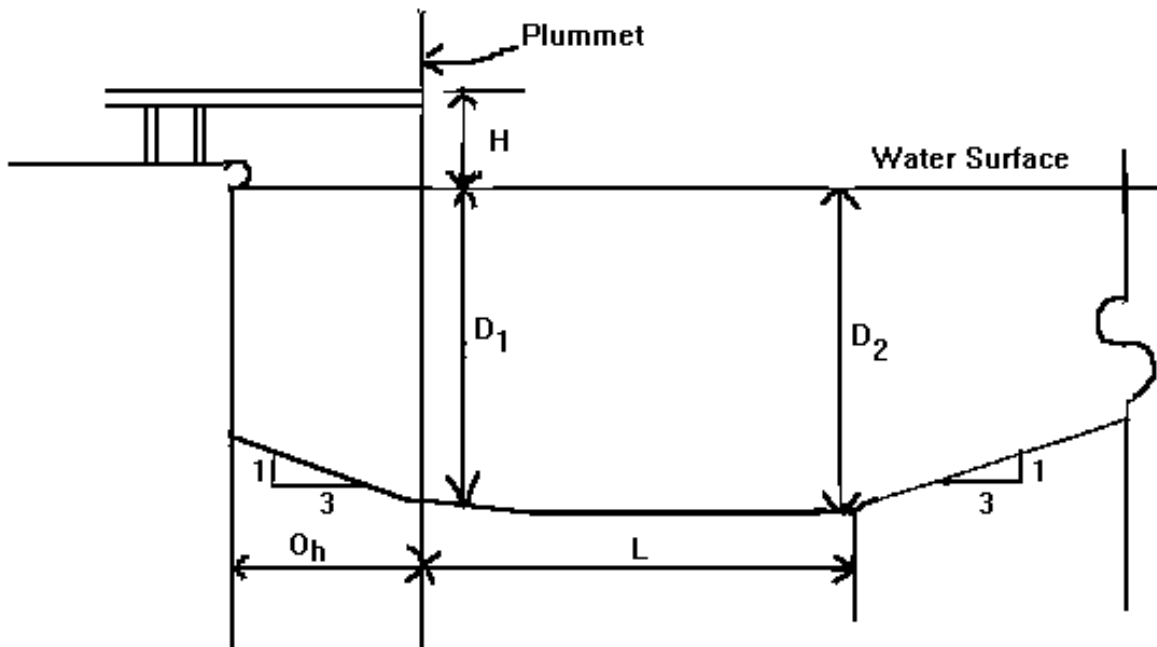
Minimum Dimensions					
Height of the diving board above the water level		Depth of water at the plummet	Distance ahead of plummet	Depth of water at the distance L From plummet	Overhang of diving board beyond edge of pool
H		D-1	L	D-2	O-H
Meters	Feet	Feet	Feet	Feet	Feet
0.00 to 0.50	0'0" to 1.7"	8'6"	11'6"	8'6"	3'0"
0.51 to 0.75	1'8" to 2'6"	9'3"	11'6"	9'3"	4'0"

Minimum Dimensions					
Height of the diving board above the water level		Depth of water at the plummet	Distance ahead of plummet	Depth of water at the distance L From plummet	Overhang of diving board beyond edge of pool
0.76 to 1.00	2'7" to 3'3"	10'0"	14'0"	10'0"	5'0"
1.01 to 3.00	3'4" to 10'0"	13'0"	20'0"	13'0"	6'0"
*Diving boards and platforms in excess of three (3) meters or ten (10) feet in height are not allowed in a pool without special provisions, controls, and definite limitation on their use, which has been approved by the Director's designee.					

()

132. ILLUSTRATION OF DIMENSIONS OF DIVING AREA.

Illustration of Dimensions of Diving Area



()

133. SEPARATION OF LOW DIVING BOARDS.

All diving boards installed on pools at heights not greater than three (3) feet three (3) inches or one (1) meter above the water level must be separated from adjacent diving boards of the same or less height by a distance of not less than eight (8) feet, and must be located not less than ten (10) feet from the side wall of the pool. ()

134. SEPARATION OF HIGH DIVING BOARDS.

All diving boards installed on pools at heights greater than three (3) feet three (3) inches or one (1) meter above the water level must be separated from adjacent diving boards of the same or less height by a distance of not less than ten (10) feet, and must be located not less than twelve (12) feet from the side wall of the pool. ()

135. ANCHORING OF DIVING BOARDS.

All installed equipment must be firmly anchored. ()

136. -- 139. (RESERVED)

140. LIGHTING AND ELECTRICAL REQUIREMENTS.

All electrical appliances and wiring must conform with and meet the provisions of IDAPA 07.01.06, "Rules Governing the Use of National Electrical Code." Defects in the electrical system, including underwater lights, overhead lights, and their respective lenses, must be immediately repaired. ()

141. PORTABLE ELECTRICAL DEVICES.

Portable electrical devices such as announcing systems and radios, unless battery operated, are prohibited within the pool enclosure. ()

142. OVERHEAD WIRING.

There may not be any overhead electrical wiring within twenty (20) feet horizontal distance of the pool enclosure. ()

143. UNDERWATER LIGHTING.

Where underwater lighting is used, the lights must be spaced to provide illumination so all portions of the pool, including the bottom, may be readily seen without glare. ()

144. -- 149. (RESERVED)

150. VENTILATION.

All indoor pools, bathhouses, dressing rooms, shower rooms, and toilet spaces must be ventilated either by natural or mechanical means to prevent corrosion or the build-up of mold or mildew. ()

151. -- 159. (RESERVED)

160. DRESSING ROOMS, TOILETS, AND SHOWERS.

Dressing rooms, toilets, and showers must be made available to all users of a pool. Dressing rooms must be finished in light colors and planned so good sanitation can be maintained throughout the buildings at all times. No glass containers are permitted. ()

161. LOCATION OF DRESSING ROOMS.

Dressing rooms must be located near toilets and showers, and should be adjacent to the locker or checkroom, and have a layout such that bathers, on leaving the dressing room, should pass the toilet and shower en route to the pool. ()

162. FLOORS IN DRESSING ROOMS, TOILETS, AND SHOWERS.

Floors must be constructed of non-absorbent materials with non-slip finishes, slope to properly located drains, and have a sufficient number of drains installed to prevent water from collecting on the floor. ()

163. CONSTRUCTION OF DRESSING ROOMS.

The material used for walls, partitions, and furniture must be such that it can be easily cleaned and will not be damaged by frequent hosing, wetting, or disinfection. ()

164. TOILETS.

Toilet facilities must be provided for both men and women, be accessible to disabled persons, and be kept clean and properly maintained. ()

165. SHOWERS.

The following must be provided: ()

- 01. Showers.** Showers for both men and women that are accessible to disabled persons. ()

- 02. Fixtures.** Fixtures that are kept clean and properly maintained. ()
- 03. Water Temperature.** Hot water for showers that is no less than ninety (90) degrees and no more than one hundred twenty (120) degrees. ()
- 04. Scald Prevention.** Thermostatic tempering, or mixing valves, to prevent scalding of bathers. ()
- 05. Soap.** ()

166. HAND SINKS.

A minimum of one (1) hand wash sink with hot and cold running water and soap must be provided in each toilet room. ()

167. EXCEPTION.

The requirements of Sections 160 through 166 of these rules do not apply to any pool operated solely for and in conjunction with a hotel, motel, or other place of lodging or other facility containing multiple dwellings. However, dressing rooms, toilets, and showers must be in compliance with Sections 160 through 166 of these rules, if provided in the pool area of hotels, motels, or other facilities containing multiple dwellings. ()

168. -- 169. (RESERVED)

170. WATER SUPPLY.

The water supply serving a pool must meet the water quality requirements of the Director's designee for potable water except the Director's designee may approve the use of geothermal waters. Drinking water must be approved and, if applicable, meet the provisions of IDAPA 58.01.08, "Idaho Rules For Public Drinking Water Systems." All portions of the water distribution system must be protected against backflow and cross connections. ()

171. -- 179. (RESERVED)

180. SEWER SYSTEM.

A sewer system must be provided and be adequate to serve the facility, including bathhouse, locker room, and related accommodations. The sanitary sewer serving the pool and auxiliary facilities must discharge to a public sewer system wherever possible. Where no such sewer is available, the connection must be made to a suitable disposal system designed, constructed, and operated in accordance with IDAPA 58.01.03, "Individual/Subsurface Sewage Disposal Rules." ()

181. -- 189. (RESERVED)

190. HEALTH AND SAFETY: POOL CLOSURE.

The operator must immediately close the pool when a pool is in violation of Sections 191, 192, 198, and 230 of these rules, or when ordered by the Director or the Director's designee, and keep the pool closed until such time as conditions are brought into compliance or the order has been rescinded. ()

191. HEALTH AND SAFETY: OPERATOR.

All pools must have an operator. ()

192. HEALTH AND SAFETY: LIFEGUARD REQUIREMENT.

- 01. When Lifeguards Are Required.** Lifeguard(s) are required at any public swimming pool when: ()
 - a.** The numbers of bathers within the pool enclosure exceed thirty-five (35); and ()
 - b.** Children under the age of thirteen (13) are allowed to swim without adult supervision. ()
- 02. When Lifeguards Are Not Required.** When lifeguard services are not required, a warning sign

- must: ()
- a. Be placed in plain view for all swimmers; ()
 - b. State, "WARNING NO LIFEGUARD ON DUTY" with clearly legible letters at least four (4) inches in height; and ()
 - c. Also state, "CHILDREN UNDER 13 YEARS OLD SHALL NOT USE THE FACILITY WITHOUT AN ADULT IN ATTENDANCE," and "DO NOT SWIM ALONE." ()

193. HEALTH AND SAFETY: LIFEGUARD CHAIRS.

If lifeguard chairs are provided, they must be located and constructed to provide a clear, unobstructed view of the pool bottom in the area under surveillance. ()

194. HEALTH AND SAFETY: LIFESAVING EQUIPMENT.

- 01. Rescue Tube.** Each lifeguard on duty must have a rescue tube. ()
- 02. Shepherd's Crook, Backboard, and First Aid Kit.** Every pool must have: ()
 - a. At least one (1) shepherd's crook or life-saving pole, having blunted ends, at least twelve (12) feet in length; ()
 - b. A readily accessible full-length backboard that complies with American Red Cross specifications or equivalent; and ()
 - c. A readily accessible first aid kit and a pocket face mask to assist with CPR. ()
- 03. Equipment Accessibility and Condition.** Equipment must be readily accessible, be mounted in a conspicuous place, and be kept in good repair and ready condition. ()

195. HEALTH AND SAFETY: SAFETY AND SANITATION.

A lifeguard or operator must be in full charge of bathers and have authority and responsibility to enforce all rules of safety and sanitation. Suitable placards embodying sanitation requirements are to be conspicuously posted in the pool enclosure. Safety and sanitation requirements are as follows: ()

- 01. Shower.** A cleansing shower should be taken before swimming. ()
- 02. Disease.** Persons having an infectious or communicable disease that may be transmitted through water are excluded from swimming. ()
- 03. Running and Roughhousing.** No running or rough play are permitted. ()
- 04. Contamination.** Contamination of water, walkways, or dressing room floors in any way is prohibited. ()
- 05. Glass.** Glass containers are prohibited in the pool area. ()

196. HEALTH AND SAFETY: ACCESS.

When the pool is not open for use, access must be restricted. ()

197. HEALTH AND SAFETY: EMERGENCY COMMUNICATION.

A means of contacting emergency medical services must be readily accessible and be provided on the premises. ()

198. CLARITY.

Water must have sufficient clarity at all times so the main drain can be clearly visible from the deck. Failure to meet

this requirement is grounds for immediate closure of the pool. It is the responsibility of the operator to close the pool when conditions exist that the main drain is not visible from the deck. ()

199. (RESERVED)

200. SUPERVISION.

Every pool must be operated under the supervision of an operator who assumes responsibility for compliance with all parts of these rules. The operator is responsible for operating the pool in a safe and healthful manner. ()

201. OPERATIONS MANUAL.

Each pool must have a readily accessible pool operations manual to ensure proper operation and maintenance. The operations manual should include instructions for such items as maintenance schedules, records and reports, water chemistry, accidents, emergency procedures, care of filters, operation of pumps and other equipment, and proper handling and storage of all chemicals used. ()

202. RECORD KEEPING.

The following information must be recorded each day the pool is open, and be kept on the premises and available for review: ()

- 01. Disinfectant Levels;** ()
- 02. pH Readings;** ()
- 03. Clarity Readings;** ()
- 04. Amount and Type of Chemicals Used;** and ()

05. Accidents Requiring Professional Medical Treatment. Accidents requiring professional medical treatment, including drownings or near drownings. ()

203. REPORTABLE ACCIDENTS.

Accidents requiring professional medical treatment, including drownings or near drownings, must be reported within twenty-four (24) hours of occurrence to the Director's designee. ()

204. -- 209. (RESERVED)

210. DEPTH MARKING LOCATIONS.

01. Water Depth. Water depth must be plainly marked at or above the water surface on the vertical wall of the pool and on the horizontal edge of the deck or walk next to the pool. ()

- 02. Depth Markers.** Depth markers must be placed at: ()
 - a.** Maximum and minimum depths; ()
 - b.** The five (5) foot break between the deep and shallow portions; ()
 - c.** Intermediate one (1) foot increments of depth, where the water depth is five (5) feet or less; and ()
 - d.** Regular intervals around the pool, not more than twenty-five (25) feet apart. ()

211. DEPTH MARKERS.

Depth markers must be numerals a minimum of four (4) inches high of a color contrasting with the background, and plainly visible to persons both in and out of the pool. Where depth markers cannot be placed on the vertical walls above the water level, other means must be used. ()

212. -- 219. (RESERVED)

220. WATER QUALITY STANDARDS.

Pools must be designed to provide for continuous disinfection of the pool water with a chemical that has an effective disinfectant and imparts an easily measured, active residual. A test kit for measuring the accurate concentration of the disinfectant must be provided at each pool. ()

221. CHLORINE DISINFECTION.

When chlorine is used, a minimum free available chlorine residual of not less than one (1) part per million (ppm) with a maximum of five (5) parts per million (ppm) must be maintained whenever a pool is in use. ()

222. BROMINE DISINFECTION.

When bromine is used, a minimum residual of not less than one (1) part per million (ppm) with a maximum of five (5) parts per million (ppm) must be maintained whenever a pool is in use. ()

223. CHLORINATED ISOCYANURATES DISINFECTION.

If chlorinated isocyanurates are used, the maximum allowable concentration must be one hundred (100) parts per million (ppm). When isocyanurates are used, a test kit for measuring the concentration of the stabilizer must be provided. ()

224. ORP OR HRR DISINFECTION.

If a pool uses an oxidation reduction potential (ORP) controller or a high resolution redox (HRR) controller as a method of measuring an effective index of disinfection, the chemical used should be introduced in quantities needed to maintain levels at a minimum of six hundred and fifty (650) millivolts (mV). ()

225. OTHER DISINFECTION METHODS.

Other disinfecting methods may be used when it can be demonstrated to the Director's designee that a pool provides a satisfactory residual effect that is easily measured. Other disinfection methods may also be allowed if demonstration and analysis provide assurance that results are effective and not dangerous to public health, create objectionable physiological effects, or impart toxic properties to the water. ()

226. ACID BASED CHEMISTRY.

Pool water must be maintained in an alkaline condition as indicated by a pH of not less than seven and two-tenths (7.2) and not over seven and eight-tenths (7.8). The total alkalinity of the water should be within the acceptable range of eighty (80) parts per million (ppm) to two hundred (200) parts per million (ppm). An accurate pH testing kit must be provided at each pool. ()

227. OTHER CHEMICALS.

Any chemical must be used in accordance with the manufacturer's recommendations and not cause irritation to the eyes or skin of the bathers, or have other objectionable physiological effects on bathers. ()

228. CHEMICAL STORAGE.

All chemicals must be kept from the reach of the general public, be stored in original containers, and be stored in accordance with the instructions of the manufacturer or, in the absence of such instructions, as directed by the Director's designee. ()

229. CLEANING.

01. Pools. Pools must be maintained and operated in a clean, safe, and sanitary manner at all times. Pool walls and bottom should be vacuumed or brushed as needed to remove visible material. ()

02. Decks. Decks must be kept clean, safe, and maintained in good condition. ()

03. Bathrooms, Showers, and Dressing Rooms. Bathrooms, showers, and dressing rooms must be kept clean, safe, and sanitary at all times. ()

230. BACTERIOLOGICAL QUALITY OF POOL WATERS.

The water in public pools must not contain the presence of fecal coliform bacteria. If fecal coliform bacteria are present in any sample, a confirmation sample must be taken within twenty-four (24) hours. Should any two (2) consecutive water samples taken show the presence of fecal coliform bacteria, the pool must be closed immediately until the bacterial quality of the water is found absent for the presence of fecal coliform bacteria. ()

231. MONTHLY SAMPLING.

Pools not required to have a disinfection system, or those pools having a disinfection system but do not meet the requirements of Sections 220 through 225 of these rules, are required to sample the water for the presence of fecal coliform bacteria on a monthly basis. Sampling must be done during hours of peak bather loads. ()

232. -- 239. (RESERVED)

240. DISINFECTANT AND CHEMICAL FEEDERS.

01. Feeder. Pools must be equipped with a disinfectant feeder or feeders that meet the following requirements. Equipment must be: ()

- a.** Capable of being easily disassembled for cleaning or repair and be constructed of corrosion-resistant materials; ()
- b.** Constructed to permit repeated adjustments without loss of output rate accuracy and be constructed to minimize stoppage from debris that may be contained in aid chemicals used; ()
- c.** Designed specifically for the type of disinfectant used; and ()
- d.** Provided with controls for adjusting the flow rate of disinfectant. ()

02. Backflow Prevention. When the disinfectant is introduced at the suction side of the pump, a device or method must be provided to prevent air lock of the pump or recirculation system. ()

03. Chlorine Gas Equipment. When compressed chlorine gas is used, the following additional features must be provided: ()

- a.** Chlorine rooms must have a ventilating fan with an airtight duct beginning near the floor and terminating at a safe point of discharge to the outdoors, away from any occupied area or any fresh air intake. A louvered air intake must be provided near the ceiling. The ventilating fan must provide one (1) air change per minute and operate from a switch located outside the door. ()
- b.** Chlorinator equipment must be designed to withstand wear without developing leaks. ()
- c.** Chlorine cylinders must be anchored in an upright position to prevent falling over. A valve stem wrench must be maintained on the chlorine cylinder so the supply can be shut off quickly in the case of an emergency. Empty chlorine gas cylinders must be tagged as such. Full and empty gas cylinders must be stored only in the chlorine room and have protective hoods in place when not in use. ()
- d.** A new washer or gasket approved for use on chlorine gas must be used each time a chlorine cylinder is connected to the chlorinator. Spare washers/gaskets must be kept on site. ()
- e.** A self-contained breathing apparatus designed for use in a chlorine atmosphere must be provided, and be located in an area outside the chlorination room easily accessible to pool employees. ()
- f.** An automatic chlorine leak detector or commercial twenty-six (26) degrees Baume Aqua Ammonia must be provided for chlorine gas leak detection. ()
- g.** Installation of chlorinator equipment, and operation thereof, must be carried out by or under the supervision of personnel trained in the installation and operation of such equipment. ()

04. Hypochlorite Equipment. When a hypochlorite solution is fed through hypochlorinator equipment, such equipment must also provide the following additional features: ()

a. Positive feed under all conditions of pressure in the circulating system, without artificial constriction of the pump suction line whether this line is under vacuum or pressure head; ()

b. Constant feed with varying supply or back pressure; ()

c. Prevent backflow from the circulation system to the solution container; and ()

d. Prevent siphoning of hypochlorite solution when recirculation pump and hypochlorinator are both turned off. ()

241. -- 249. (RESERVED)

250. RECIRCULATION SYSTEM: FLOW RATE.

A recirculation system, consisting of pumps, piping, skimmers, filters, water disinfection equipment, and other accessory equipment must be so designed and sized as to completely recirculate the pool volume of water at least once every eight (8) hours. ()

251. RECIRCULATION SYSTEM: SIZING.

All equipment and connecting piping must be designed to reduce friction losses, and for the piping to carry the required quantity of water at a velocity not to exceed six (6) feet per second for suction side pipe, and not more than ten (10) feet per second for filter discharge pipe. Piping must be of non-toxic material, resistant to corrosion, and able to withstand normal operating pressures. It is recommended all plastic pipes conform with NSF Standard 14 for potable water applications of the National Sanitation Foundation (NSF) and bear the NSF seal. ()

252. RECIRCULATION SYSTEM: CLEANING.

01. Cleaning System. A cleaning system must be provided to remove dirt from the bottom of the pool. ()

02. Integral Vacuum. When a vacuum is used as an integral part of the recirculation system: ()

a. Connections must be located in the walls of the pool, at least eight (8) inches below waterline, and at such point the floor of pool can be cleaned; and ()

b. The vacuum system must also be designed to preclude any possible entrapment. ()

253. RECIRCULATION SYSTEM: FLOW INDICATOR.

A functioning rate-of-flow indicator must be installed and located so the recirculation rate will be accurately measured, be accurate within five percent (5%) of true flow, and be located in a position that is easy to read. ()

254. RECIRCULATION SYSTEM: CLEANING.

A pump and motor unit must be provided for the recirculation of water that has been selected to meet the quantity of water required for filtering, and cleaning the filter, with the total dynamic head developed by the complete system. It is recommended the pump comply with requirements of NSF Standard 50, "Circulation System Components and Related Materials for Swimming Pools, Spas/Hot Tubs," of the National Sanitation Foundation (NSF) and bear the NSF seal. ()

255. RECIRCULATION SYSTEM: THERMOMETERS.

Pools equipped with heaters must have a minimum of one (1) fixed thermometer located between the heating outlet and the pool. ()

256. RECIRCULATION SYSTEM: STRAINER.

The recirculation system must include a corrosion-resistant strainer, readily accessible for frequent cleaning. ()

257. -- 259. (RESERVED)

260. FILTRATION SYSTEM AND FILTERS.

01. Filtration System. All pools must be equipped with a filtration system for the purpose of clarifying the water so it meets or exceeds the minimum clarity requirement. ()

02. Filters. All filters must: ()

a. Be designed and sized to achieve the proper turnover rate without exceeding the maximum flow rate; ()

b. Be equipped with pressure or vacuum gauges; and ()

c. Comply with all applicable requirements of NSF Standard 50, "Circulation System Components and Related Materials for Swimming Pools, Spas/Hot Tubs," or in the absence of applicable requirements, be approved by the Director's designee. ()

261. DISPOSAL OF WASTE.

Provisions must be made to dispose of material cleaned from filters and backwash water in a manner that will not create a nuisance. If drainage to a sanitary sewer or storm drain is permitted, an air gap must be provided that will positively preclude against surge or backflow introducing contaminated water into the pool or recirculation system. ()

262. -- 269. (RESERVED)

270. WALL INLETS.

01. General Inlet Requirements. Except as otherwise provided in this rule, inlets must: ()

a. Be rounded and smooth and installed not less than eighteen (18) inches below the normal operating level and located to produce a uniform circulation, without the existence of dead spots; and ()

b. Not extend from the pool wall or floor so as to create a hazard. ()

02. Wall Inlet Requirements. If wall inlets are used, there must: ()

a. Be at a minimum of one (1) per each six hundred (600) square feet of pool surface area. ()

b. Be a minimum of two (2) inlets. In case of a shallow pool, the Director's designee may grant an exception to this requirement if inlets cannot be installed at the depth otherwise required. ()

271. FLOOR INLETS.

Any pool having a width greater than forty (40) feet must have floor inlets or a combination of wall and floor inlets that meet the requirements of Section 260 of these rules and are located so they provide general circulation and do not direct flow to floor drains. ()

272. -- 279. (RESERVED)

280. OVERFLOW SYSTEMS.

All pools must be designed to provide continuous skimming, have overflow gutters or surface skimmers, and have an overflow system designed and installed so the water level of the pool is maintained at the operating level of the rim or weir device. ()

281. OVERFLOW GUTTERS.

The gutter, drains, and return piping to the surge system must be designed to rapidly remove overflow water caused by recirculation displacement, wave action, or other causes produced from the maximum pool bathing load.

- ()
- 01. General Requirements.** Overflow gutters must: ()
- a. Extend around the entire perimeter of the pool except at steps or recessed ladders; ()
 - b. Have the gutter lip be level within three-tenths (.3) inch; ()
 - c. Be capable of continuously removing fifty percent (50%) of the recirculated water and returning it to the recirculation system; and ()
 - d. Be designed to prevent entrance or entrapment of bathers. ()
- 02. Overflow Gutters Connected to the Recirculation System.** All overflow gutters connected to the recirculation system must be connected in an approved manner, such as a surge tank. ()

282. SKIMMERS: REQUIREMENT.

- 01. Minimum Requirements.** There must be provided: ()
- a. A minimum of one (1) skimmer for each four hundred (400) square feet of water surface area or fraction thereof; and ()
 - b. No fewer than two (2) skimmers in every pool. ()
- 02. Standard Requirements.** Any skimmer used in a pool must comply with all applicable requirements of NSF Standard 50 "Circulation System Components and Related Materials for Swimming Pools, Spas/Hot Tubs," of the NSF International or in the absence of applicable requirements, be approved by the Director's designee. ()

283. SKIMMERS: CAPACITY.

- 01. Total Capacity.** The total capacity of all skimmers used must be a minimum of two-thirds (2/3) of the required filter flow. ()
- 02. Piping.** Piping for skimmers used must be designed for a capacity of not less than eighty (80) percent of the required filter flow of the recirculation system, and in no case less than thirty (30) gallons per minute per eight (8) inches of weir. ()

284. SKIMMERS: EQUALIZERS.

- 01. Equalizer Valve and Line.** All skimmers used must be equipped with an approved equalizer valve and an equalizer line with an inside diameter of not less than two (2) inches, installed not less than twelve (12) inches below the normal operating level of the water. ()
- 02. Inlet to the Equalizer Line.** The inlet to the equalizer line or lines must: ()
- a. Be designed to prevent the creation of a holding force whenever the body or limb of a bather comes into contact with the inlet; and ()
 - b. Be protected by a grill or shroud that will prevent a bather or any limb of a bather from entering the inlet. ()

285. SKIMMERS: LOCATION.

All inlets must be spaced at least five (5) feet away from any skimmer. One (1) skimmer must be placed at a point in the pool opposite the direction of the prevailing winds. ()

286. -- 289. (RESERVED)

290. LOCATION OF DRAINS.

Every pool must have a tandem main drain located in the deepest section of the pool and have the ability to empty the pool through this drain. ()

291. MULTIPLE DRAINS.

Multiple drains must be provided. Outlet drains must not be further apart than twenty (20) feet on center. ()

292. DRAIN GRATING.

The main drain outlet grating must: ()

01. Area of Openings. Have an area of openings four (4) times the area of the discharge pipe or provide sufficient area so the maximum velocity of water passing through the grate will not exceed six (6) feet per second; ()

02. Maximum Width of Openings. Have grate openings with a maximum width of not more than one-half (1/2) inch; and ()

03. Securely Fastened. Be securely fastened in such a way that they cannot be removed without the use of tools. ()

293. -- 299. (RESERVED)

300. FENCE AND BARRIERS.

01. For Pools Under 1,800 Square Feet. A fence or barrier a minimum of four (4) feet high to exclude unauthorized persons from the pool area must enclose each public pool with less than one thousand eight hundred (1,800) square feet of surface area. ()

02. For Pools 1,800 Square Feet or Greater. A fence or barrier a minimum of eight (8) feet high to exclude unauthorized persons from the pool area must enclose each public pool with one thousand eight hundred (1,800) square feet of surface area, or greater. ()

301. -- 309. (RESERVED)

310. GEOTHERMAL POOL EXEMPTIONS.

01. Exemptions. Geothermal pools are hereby exempt from the following rules: ()

a. If a geothermal pool can meet the bacterial requirements of Section 230 of these rules and the clarity requirements of Section 198 of these rules, it will not be required to meet any requirements of Sections 220 through 225, and Sections 240, 250, and 260 of these rules. ()

b. Section 226 of these rules, "Acid Base Chemistry." ()

c. If an existing geothermal pool has a gravel bottom, Sections 075, 271, and Sections 290 through 292 of these rules. ()

02. Remodeling. Remodeling of an existing geothermal pool will not change exemptions. ()

311. -- 319. (RESERVED)

320. TECHNICAL WAIVERS OR MODIFICATIONS.

01. Director Waiver. The Director or the Director's designee may waive or modify the requirements of these rules as a condition of the permit to operate a pool, except no technical waiver or modification will be

granted from the health and safety portion of these rules. ()

02. Waiver Requirements. The person requesting a technical waiver or modification must submit a written request to the Director's designee specifying: ()

a. The section number of these rules and the rationale for considering a modification or waiver of the requirements; ()

b. An analysis of the potential public health, safety hazards, and issues associated with the proposed action; and ()

c. Scientific data or other information, as appropriate, showing safety or public health will not be compromised by the proposed action. ()

321. -- 999. (RESERVED)

16.02.25 – FEES CHARGED BY THE STATE LABORATORY

000. LEGAL AUTHORITY.

Under Section 56-1003, Idaho Code, the Department of Health and Welfare is responsible for the supervision and administration of laboratories and administration of standards of tests for environmental pollution, chemical analyses, and communicable diseases. Authority to set fees and establish charges for laboratory services is vested in the Director, under Section 56-1007, Idaho Code. ()

001. TITLE, SCOPE, AND POLICY.

01. Title. These rules are titled IDAPA 16.02.25, “Fees Charged by the State Laboratory.” ()

02. Scope. The intent of these rules is to standardize all fees levied by the Bureau of Laboratories for the services it provides. The Bureau of Laboratories is also known as the “State Laboratory.” ()

03. Policy. The primary purpose of the Bureau of Laboratories of the Idaho Department of Health and Welfare is to provide laboratory services to support the various programs carried out by the Department, district health departments, and other agencies. Since it is not economically feasible for all departments of state governments to develop their own laboratories, the Department laboratories provide services, as appropriate, to other state agencies. ()

002. -- 009. (RESERVED)

010. DEFINITIONS.

For the purposes of these rules, the following terms are used as defined below: ()

01. Clinical Laboratory Tests. Microbiological analysis for diagnosis of infectious diseases affecting human health. ()

02. Department. Idaho Department of Health and Welfare. ()

03. Director. The Director of the Idaho Department of Health and Welfare or designee. ()

04. Environmental Laboratory Tests. Analysis of various samples from air, microbiological, organic, or inorganic sources. ()

05. State Health Official. Administrator of the Department’s Division of Public Health. ()

011. -- 099. (RESERVED)

100. FEES FOR CLINICAL LABORATORY TESTS.

Fees for Clinical Laboratory Tests	
Clinical Test Name	Fee
Agglutination - Not Otherwise Specified	\$9.00
Bacterial Primary Culture - Not Otherwise Specified	\$51.00
Bordetella pertussis, Culture	\$27.00
<i>Bordetella pertussis</i> , PCR	\$42.00
<i>Chlamydia trachomatis</i> and <i>Neisseria gonorrhoeae</i> by Nucleic Acid Amplification	\$16.00
<i>Cryptosporidium/Giardia</i> , IFA	\$69.00
Disk Diffusion Test	\$17.00
Enteric Pathogens, Primary Culture	\$68.00
Enterovirus Isolation	\$95.00
Enzyme-Linked Immunoassay (EIA) - Not Otherwise Specified	15.00

Fees for Clinical Laboratory Tests	
Clinical Test Name	Fee
Fluorescent Antibody (FA) - Not Otherwise Specified	\$53.00
Hantavirus, IGG & IGM Antibody, EIA	\$167.00
Hepatitis B, Core Total Antibody, EIA	\$15.00
Hepatitis B, Surface Antibody, EIA	\$15.00
Hepatitis B, Surface Antigen Confirmation, EIA	\$127.00
Hepatitis B, Surface Antigen, EIA	\$15.00
Hepatitis C, Antibody, EIA	\$20.00
Herpes Simplex Type 1 & Type 2, IGG Antibody, EIA	\$35.00
Herpes Simplex Virus Isolation	\$53.00
HIV-1/2 Plus O, Antibody, EIA	\$15.00
HIV-1, Western Blot	\$311.00
Influenza Virus, RT-PCR	\$69.00
<i>Legionella</i> , Culture, Clinical	\$120.00
Microsphere Immunoassay (MIA) - Not Otherwise Specified	\$64.00
Mumps, IGG Antibody, EIA	\$15.00
Mumps, IGM Antibody, IFA	\$56.00
Mumps, Virus Isolation	\$88.00
Mycobacteria, AFS-Fluorochrome	\$98.00
Mycobacteria, Drug Susceptibility	\$373.00
Mycobacteria, Primary Culture	\$57.00
Mycobacteria, Reference Culture	\$130.00
Mycobacteria, Tuberculosis Quantiferon -TB Gold In Tube	\$85.00
<i>Neisseria gonorrhoeae</i> , Primary Culture	\$37.00
Norovirus, RT-PCR	\$66.00
Parasite Exam, Concentrate & Trichrome Stain	\$94.00
Plaque Reduction Neutralization Test (PRNT) - Not Otherwise Specified	\$260.00
Polymerase Chain Reaction (PCR) - Not Otherwise Specified	\$62.00
Pulsed Field Gel Electrophoresis	\$90.00
Rabies, FA	\$50.00
rDNA Sequence Analysis	\$113.00
Reference Culture, Aerobe	\$49.00
Reference Culture, Anaerobe	\$81.00
Respiratory Virus Isolation	\$94.00

Fees for Clinical Laboratory Tests	
Clinical Test Name	Fee
Rubella, IGG Antibody, EIA	\$15.00
Rubella, IGM Antibody, EIA	\$47.00
Rubeola (Measles), IGG Antibody, EIA	\$15.00
Rubeola (Measles), IGM Antibody, EIA	\$37.00
Serotyping	\$73.00
Shiga Toxin, Immunoassay	\$21.00
<i>Staphylococcus aureus</i> , Methicillin Resistant (MRSA), Identification/Confirmation	\$96.00
<i>Staphylococcus aureus</i> , Methicillin Resistant (MRSA), PCR	\$78.00
Syphilis, Treponema Pallidum Passive Agglutination	\$43.00
Syphilis, Venereal Disease Research Laboratory (VDRL)	\$9.00
Syphilis, Venereal Disease Research Laboratory (VDRL), Quantitative	\$6.00
Vancomycin Resistant <i>Enterococcus</i> (VRE)	\$119.00
Vancomycin-Intermediate/Resistant <i>Staphylococcus aureus</i> (VISA)	\$119.00
Varicella Zoster, IGG Antibody, EIA	\$15.00
Varicella Zoster, IGM Antibody, IFA	\$56.00
Varicella Zoster, Virus Isolation	\$91.00
Viral Culture - Not Otherwise Specified	\$67.00
West Nile Virus, IGG Antibody Screen, EIA	\$73.00
West Nile Virus, IGM Antibody Screen, EIA	\$78.00
West Nile Virus/St. Louis Encephalitis Virus IGM Antibody, Microsphere Immunoassay	\$65.00
West Nile Virus/St. Louis Encephalitis Virus Plaque Reduction Neutralization Test (PRNT)	\$278.00
West Nile Virus/St. Louis Encephalitis Virus/Western Equine Encephalitis, RT-PCR	\$156.00

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101. -- 199. (RESERVED)

200. FEES FOR ENVIRONMENTAL LABORATORY TESTS.

01. Environmental Laboratory Tests, Air -- Table.

Fees for Environmental Laboratory Tests -- Air	
Air Test Name	Fee
PM 10 Filter, Air	\$13.00
PM 25 Filter, Air	\$20.00

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02. Environmental Laboratory Tests, Microbiology -- Table.

Fees for Environmental Laboratory Tests -- Microbiology	
Microbiology Test Name	Fee
<i>Escherichia coli</i> O157:H7	\$100.00
Heterotrophic Plate Count	\$25.00
Identification System, Water, Food or Vegetation	\$50.00
<i>Legionella</i> , Water	\$100.00
Pathogen Screen, Water, Food, or Vegetation	\$23.00
<i>Pseudomonas aeruginosa</i> , Water	\$25.00
Salmonella Confirmation, Water	\$75.00
Total Coliform/E. coli, Presence/Absence	\$18.00
Total Coliform/E. coli, Quantitative	\$20.00
Total Coliform/Fecal Coliform/E. coli (MPN)	\$28.00

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03. Environmental Laboratory Tests, Inorganic -- Table.

Fees for Environmental Laboratory Tests -- Inorganic	
Inorganic Test Name	Fee
5-Day BOD, Water	\$45.00
Alkalinity (CaCO ₃), Water	\$14.00
Ammonia as N, Water	\$18.00
Arsenic, Water	\$21.00
Bromate, Water	\$100.00
Bromide, Water	\$32.00
Chemical Oxygen Demand, Water	\$29.00
Chlorate, Water	\$100.00
Chloride, Water	\$19.00
Chlorite, Water	\$150.00

Fees for Environmental Laboratory Tests -- Inorganic	
Inorganic Test Name	Fee
Chlorophyll A and Pheophytin A, Water	\$75.00
Conductivity, Water	\$11.00
Corrosivity, Calculation, Water	\$59.00
Cyanide, Total, Water or Soil	\$33.00
Cyanide, WAD, Water or Soil	\$33.00
Direct Mercury Analysis	\$44.00
Fluoride, Water	\$19.00
Hardness, Water	\$22.00
Lead, Water	\$21.00
Mercury, Water	\$34.00
Metals Digestion, Water, Soil, or Solids	\$19.00
Metals each (Aluminum, Antimony, Barium, Beryllium, Boron, Cadmium, Calcium, Chromium, Cobalt, Copper, Iron, Magnesium, Manganese, Molybdenum, Nickel, Potassium, Selenium, Silicon, Silver, Sodium, Strontium, Thallium, Tin, Vanadium, Zinc)	\$13.00
Metals Speciation	\$150.00
Nitrate + Nitrite as N, Water	\$19.00
Nitrate as N, Water	\$19.00
Nitrite as N, Water	\$19.00
Orthophosphate as P, Water	\$17.00
pH, Water	\$10.00
Settleable Solids, Water	\$16.00
Sulfate, Water	\$19.00
Sulfide as H ₂ S, Water	\$19.00
TCLP Extraction	\$165.00
Total Dissolved Solids, Water	\$15.00
Total Kjeldahl Nitrogen, Soil	\$53.00
Total Kjeldahl Nitrogen, Water	\$34.00
Total Phosphorus, Water	\$24.00
Total Solids, Water	\$13.00
Total Suspended Sediment, Water	\$14.00
Total Suspended Solids, Water	\$14.00
Turbidity, Water	\$13.00
Uranium, Water	\$44.00

Fees for Environmental Laboratory Tests -- Inorganic	
Inorganic Test Name	Fee
Volatile Solids, Water	\$24.00

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04. Environmental Laboratory Tests, Organic -- Table.

Fees for Environmental Laboratory Tests -- Organic	
Organic Test Name	Fee
1,2-dibromo-3-chloropropane/ethylene dibromide (DBCP/EDB/TCP), Water	\$100.00
Benzene, Toluene, Ethylbenzene and Xylenes (BTEX)	\$97.00
Carbamates, Water	\$169.00
Chlorinated Herbicides, Water	\$162.00
Diquat, Water	\$117.00
ELISA, Water (Submitter provides test kit; cost is for the analysis of each sample)	\$12.00
Endothall, Water	\$144.00
Glyphosate, Water	\$142.00
Haloacetic Acids, Water	\$150.00
Oil and Grease, Water	\$44.00
Organochlorine Pesticides, Water	\$135.00
Polychlorinated Biphenyls (PCBs)	\$117.00
Polycyclic aromatic hydrocarbons (PAHs), Soil	\$200.00
Semi-volatile Compounds, Water	\$182.00
Semi-volatile, GC-MS Screen (Qualitative Results)	\$125.00
Total Trihalomethanes (TTHMs)	\$100.00
Trichloroethylene (TCE) Tetrachloroethylene (PCE), Air	\$50.00
Unknown Identification	\$100.00
Volatile Organic Compounds (VOC), Water and Soil	\$187.00

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201. -- 899. (RESERVED)

900. WAIVER OF FEES.

Upon demonstration of good cause, any fee levied under this chapter may be suspended or waived, in full or in part, by the State Health Official. ()

901. -- 999. (RESERVED)

16.02.26 – THE IDAHO CHILDREN’S SPECIAL HEALTH PROGRAM

000. LEGAL AUTHORITY.

Section 56-1003, Idaho Code, directs the Department of Health and Welfare to establish rules as may be necessary to deal with problems related to personal health. The Children’s Special Health Program (CSHP) provides medical and rehabilitative services to persons age birth to eighteen (18) years who meet the diagnostic eligibility criteria defined in Sections 101 through 108 of these rules. The Omnibus Budget Reconciliation Act (OBRA) of 1989 requires that thirty percent (30%) of the Maternal and Child Health Block Grant to each state be committed to programs for children with special health care needs. ()

001. TITLE AND SCOPE.

01. Title. These rules apply to the administration of the Idaho Children’s Special Health Program and are titled IDAPA 16.02.26, “The Idaho Children’s Special Health Program.” ()

02. Scope of Services. The scope of activities provided by CSHP contractors and private providers such as diagnosis, case management, and treatment. The types of services for which reimbursement is made are related directly to program fiscal resources. Funds available for CSHP are limited in amount. Changes in the scope of services and in rates of reimbursement may be made by administrative decision should budgetary reductions or cost overruns occur. ()

002. WRITTEN INTERPRETATION.

This agency has written statements that pertain to the interpretation of the rules of this chapter, or to the documentation of compliance with the rules of this chapter. These documents are available for public inspection and copying at cost in the main office and each regional or district office of this agency. ()

003. -- 009. (RESERVED)

010. DEFINITIONS.

For the purposes of these rules, the following terms are used: ()

01. Applicant. A person under age eighteen (18) seeking services provided by CSHP. ()

02. Care Coordinator. A Department employee or contractor responsible for receiving and processing CSHP applications and supporting documentation from current and potential CSHP clients. A care coordinator issues authorization memos for services authorized by CSHP. ()

03. Children's Special Health Program (CSHP). The program section within the Idaho Department of Health and Welfare, Division of Health, which is responsible for the administration of services leading to the identification, diagnosis, and aftercare of children with special health care needs. ()

04. Client. A person under age eighteen (18) with a chronic physically disabling condition which meets one (1) of the diagnostic categories of CSHP. ()

05. Department. The Idaho Department of Health and Welfare. ()

06. Diagnosis. The act of identifying a disease from its signs or symptoms. ()

07. Division. The Division of Health, a division of the Idaho Department of Health and Welfare, and where CSHP is housed administratively. ()

08. Medical Food. A food which is formulated to be consumed or administered enterally (i.e., passing through the stomach and digested in the intestine), under the supervision of a physician and metabolic nutritionist, and which is intended for the specific dietary management of PKU. ()

09. Patient. The term “patient” is synonymous with the term “client” as defined in Subsection 101.04 of this rule. ()

011. -- 050. (RESERVED)

051. DIAGNOSTIC/CONSULTATIVE SERVICES.

Clinical examination of a CSHP client to confirm or determine the extent of their condition and recommend treatment options. Physician specialists under contract to CSHP may continue to serve in consultative roles to clients’ primary care physicians following clinical examination. ()

052. TREATMENT SERVICES.

Following the diagnostic process, individuals may be closed to further service as having "no eligible condition found." Program-eligible clients are accepted for continuing service coordination under CSHP. Care is provided through clinics where treatment schedules are planned and periodic review of cases are conducted, and through private medical providers. An individual client's treatment plan may cover a variety of related services. ()

053. FOLLOW UP AND CASE MANAGEMENT.

CSHP will contract with care coordinators to follow-up on CSHP clients receiving treatment through the program to assure that a treatment plan is outlined. These staff will also implement timely scheduling of medical habilitative and rehabilitative services. ()

054. HOSPITAL IN-PATIENT SERVICES.

If diagnostic evaluation requires hospitalization, a maximum of three (3) days inpatient care may be authorized. No inpatient hospital services are paid for emergency, acute or chronic medical care. ()

055. -- 099. (RESERVED)

100. DIAGNOSTIC CATEGORIES.

CSHP will serve clients in eight (8) general diagnostic categories: Cardiac, Cleft Lip and Palate, Craniofacial, Cystic Fibrosis, Neurological, Orthopedic, Phenylketonuria (PKU) and Plastic/Burn. These categories are explained further in Sections 101 through 108 of these rules. ()

101. CARDIAC.

01. Eligible Conditions. Eligible conditions include congenital heart disease or defects, acquired heart disease and dysrhythmia. ()

02. Excluded Conditions. The following conditions are excluded from care under CSHP: patent ductus arteriosus (PDA) in premature neonates, inpatient care for non-diagnostic and non-surgical admissions. Acute care, despite its potential relationship to an underlying covered condition. ()

03. Spending Limit. Services provided to eligible patients under the Cardiac Program are subject to a per patient, annual spending limit of twenty five thousand dollars (\$25,000) for each fiscal year, July 1 through June 30. ()

102. CLEFT LIP AND PALATE.

01. Eligible Conditions. Eligible conditions include cleft lip, cleft palate, cleft palate with cleft lip, cleft nose, Pierre Robin syndrome, choanal atresia, palatal incompetence, severe malocclusions resulting from disease or trauma, severe structural deformities involving the growth and development of the mandible or maxilla. ()

02. Excluded Conditions. The following conditions are specifically excluded from care under the CSHP Cleft Lip/Palate Program: isolated hyper/hyponasality, non-cleft-related malocclusions, mild familial malocclusions. ()

03. Spending Limits. Services provided to eligible patients under the CSHP Cleft Lip and Palate program are subject to a per patient, annual spending limit of fifteen thousand dollars (\$15,000) for each fiscal year, July 1 through June 30. ()

103. CRANIOFACIAL.

01. Eligible Conditions. Eligible conditions include congenital anomalies of the skull and face, acrocephalosyndactyly, craniosynostosis, Crouzon's Disease, hyperterlorism (severe), platybasia, hemifacial microsomia, including associated microtia. ()

02. Excluded Conditions. The following conditions are excluded from care under the Idaho CSHP Craniofacial Program: isolated microtia, temporal mandibular joint disease (TMJ), simple hemangioma not affecting other organ systems. ()

03. Spending Limits. Services provided to eligible patients under the CSHP Craniofacial Program are subject to a per patient, annual spending limit of eighteen thousand dollars (\$18,000) for each fiscal year, July 1 through June 30. ()

104. CYSTIC FIBROSIS.

01. Eligible Conditions. In addition to cystic fibrosis, services are also provided under this program to clients eighteen (18) years of age and under who have Kartagener's Syndrome or immotile cilia. ()

02. Services Provided. Services available include Physician's office visits or clinic visits, laboratory, x-ray and other tests ordered by physician, medications and drugs prescribed in connection with treatment of cystic fibrosis, transportation to out-of-state medical centers based on physician referral, and home therapy equipment prescribed by the physician. Genetic counseling clinics are available through the state or contractors, and cystic fibrosis patients and their families are encouraged to make use of this service. ()

03. Excluded Services. Inpatient hospital care is not paid for under the CSHP Cystic Fibrosis Program, consistent with CSHP policy of not paying acute care. ()

04. Spending Limit. Services provided to eligible patients under the CSHP Cystic Fibrosis Program are subject to a per patient, annual spending limit of eighteen thousand dollars (\$18,000) for each fiscal year, July 1 through June 30. ()

105. NEUROLOGIC.

01. Eligible Conditions. Eligible conditions include cerebral palsy, seizures/epilepsy, metabolic and storage diseases, central nervous system (CNS) degenerative disorders, congenital CNS anomalies, chronic encephalopathy and CNS injury (near drowning, birth asphyxia), neurocutaneous and neuromuscular syndromes, chronic residua of CNS infections, neuromuscular disorders, attention deficit hyperactive disorder (ADHD) (limited to two (2) visits per year after diagnosis), Tourette's Syndrome, rehabilitation services associated with tumors, infections, trauma and cerebral vascular disease (CVD). ()

02. Excluded Conditions. The following conditions are excluded from care under the CSHP Neurologic Program: speech problems without associated CSHP eligibility, primary intellectual disabilities, autism, acute head and spinal cord injuries, primary psychiatric and emotional disorders, headache, and night terrors. ()

03. Spending Limit. Services for eligible patients under the CSHP Neurologic Program are subject to a per patient, annual spending limit of twelve thousand dollars (\$12,000) for each fiscal year, July 1 through June 30. ()

106. ORTHOPEDIC.

01. Eligible Conditions. Eligible conditions include juvenile rheumatoid arthritis (JRA), developmental dysplasia of the hip, cerebral palsy, neuromuscular dystrophies and atrophies, spinal column defects and deformities causing functional impairment, congenital anomalies of the extremities causing functional impairment, chronic conditions resulting from trauma, limb deficiencies and length discrepancies, chronic infections and inflammations of bones and joints, congenital developmental hip conditions, skeletal dysplasia and other forms of dwarfism, fractures associated with bracing or other long-term care, rehabilitation services associated with tumors and malignancies, metatarsus varus and adductus, polydactyly. ()

02. Excluded Conditions. The following conditions are excluded from care: simple fractures and other trauma without handicapping residual, acute infections of bone or joint, simple flat feet (painless), acute care for amputations, acute care for fractures or other injuries, benign genu valgum (knock knee), benign genu varum (bow legs), tibial torsion/femoral version, growth hormone therapy for short stature. ()

03. Spending Limits. Services provided to eligible patients under the CSHP Orthopedic Program are subject to a per patient, annual spending limit of fifteen thousand dollars (\$15,000) for each fiscal year, July 1 through June 30. ()

107. PHENYLKETONURIA (PKU).

Under this program eligible patients are provided treatment services which include nutritional assessment, dietary counseling, and provision of medical foods, including formula, in compliance with the patient's treatment plan. PKU patients under eighteen (18) years of age may purchase medical foods from CSHP or CSHP's contractor(s) by pre-paying the appropriate percentage, if any, of CSHP's cost. The percentage of cost is based on the sliding fee scale in Section 157 of these rules. ()

01. PKU Patients Under Eighteen Years of Age. PKU patients under eighteen (18) years of age may purchase medical foods from CSHP or CSHP's contractor(s) by pre-paying the appropriate percentage, if any, of CSHP's cost. The percentage of cost is based on the sliding fee scale in Section 157 of these rules. ()

108. PLASTIC/BURN.

01. Eligible Conditions. Eligible conditions include hemangioma and lymphangioma depending on severity, location and effect on function; cystic hygroma; and hemifacial microsomia, including associated microtia. ()

02. Excluded Conditions. The following conditions are excluded from care under the Idaho CSHP Plastic/Burn program: acute burn care, cosmetic surgery, hemangioma, including port wine stain, not affecting physical function. ()

03. Spending Limit. Services provided to eligible patients under the CSHP Plastic/Burn Program are subject to a per patient, annual spending limit of fifteen thousand dollars (\$15,000) for each fiscal year, July 1 through June 30. ()

109. -- 148. (RESERVED)

149. PROGRAM ELIGIBILITY.

Eligibility for participation in CSHP is based on age, diagnosis, legal residence, insurance status, and financial criteria. Eligibility criteria is explained further in Sections 150 through 158 of these rules. ()

150. INSURANCE STATUS.

Any person with creditable medical insurance as determined by the Department is not eligible for this program, with the exception of CF and PKU participants. Creditable insurance is determined by using IDAPA 16.03.01, "Eligibility For Health Care Assistance For Families and Children." ()

151. AGE.

Applications may be accepted on persons up to age eighteen (18). CSHP will pay for no services after the patient's 18th birthday unless the person is receiving active inpatient treatment at the time of the birthday. In that case CSHP will pay for services until discharge if they fall within the guidelines described in Section 054 of these rules. ()

152. DIAGNOSIS.

Eligible persons are those born with or who acquire physical disabilities or special health care needs as defined under the various programs in Sections 101 through 108 and who require long-term multi-disciplinary care to improve their ability to function. ()

153. RESIDENCE.

Applicants must be legal residents of the state of Idaho to receive services from CSHP. Legal residents of neighboring states are not eligible for services. Non-citizens who are legal residents of Idaho are eligible to receive services but undocumented aliens are not. ()

154. (RESERVED)

155. INCOME.

Income for a family is defined as "adjusted taxable income" from the family's most recent tax return. Financial eligibility is redetermined annually and may be redetermined more often if family circumstances change during the year. ()

156. FAMILY SIZE.

Family is defined as a "group of related or non-related individuals who are not residents of an institution, but who are living together as one (1) economic unit." Family size is the number of individuals included in that unit. ()

157. SLIDING FEE SCALE.

The sliding fee scale in Table 157 of this rule is used to determine the family's percentage of financial participation for a CSHP client's treatment. Each percentage category includes an annual per-client maximum for which a family would be responsible in any given year. The percentage amount applies to all costs incurred for services provided to the client up to the annual maximum indicated.

TABLE 157 - SLIDING FEE SCALE FOR CSHP SERVICES		
Percent of Federal Poverty Level	Percentage of Cost Sharing Responsibility for Responsible Party	Annual Maximum Responsibility Per Client
0% - 185%	0%	\$0
186% - 199%	10%	\$1,800
200% - 224%	20%	\$3,600
225% - 249%	30%	\$5,400
250% - 274%	50%	\$9,000
275% - 299%	75%	\$13,500
300% and above	100%	\$18,000

()

158. APPLICATION FOR OTHER RESOURCES.

CSHP applicants are required to apply for benefits from other programs for which they may be eligible and which would reduce the costs to CSHP. The use of all available other resources is required in order to supplement program dollars to the greatest degree possible. For new applicants and during redetermination there will be a review for possible eligibility for other programs and appropriate referrals will be made. Families who refuse to obtain benefits for which they are eligible or do not complete the application process will be closed to the program. ()

159. -- 199. (RESERVED)

200. APPLICATIONS.

An application for services from CSHP must, at a minimum, consist of a completed Application Form. A copy of the family's most recent tax return will also be required in order to determine financial eligibility. CSHP may require additional forms such as a Request for Services, Consent for the Release of Information and an Authorization to Release Information. Applications are processed by CSHP staff and contractors. Applicants are notified as to their acceptance or denial by a CSHP Care Coordinator. ()

201. -- 249. (RESERVED)

250. PAYMENTS TO PROVIDERS.

CSHP payments are made on the basis of fee schedules or set allowances; where applicable, Idaho Medicaid rates are used. ()

251. PRIOR AUTHORIZATION.

To qualify for payment by CSHP, services other than diagnostic/consultative and follow-up/case management must be preauthorized by the CSHP Care Coordinator or designee. A CSHP Authorization Memo, obtained from the District CSHP Care Coordinator, must be issued for any service authorized under CSHP. ()

252. MAXIMUM ON HOSPITAL IN-PATIENT PAYMENTS.

There is a twelve thousand dollar (\$12,000) maximum payment, per hospitalization, for inpatient hospital expenses, exclusive of surgeon, anesthesiologist or other physician costs related to the hospitalization. These costs are applied toward the annual program cap. ()

253. BILLING THIRD PARTIES FIRST.

Providers must bill all other sources of direct third party payment before submitting their claims to CSHP for payment. Private insurance must be billed and benefits, or the denial of benefits, ascertained before the CSHP will consider payment. Typically either an Explanation of Benefits (EOB) from the third party payor or a letter stating that the service is not covered will be required before CSHP payment will be made. ()

254. THIRD PARTY PAYMENTS IN EXCESS OF CSHP LIMITS.

CSHP will not reimburse providers for services rendered when the amount received by the provider from the third party payor is equal to or exceeds the level of reimbursement allowed by CSHP for those particular services. ()

255. MEDICAID ELIGIBILITY.

Any person who may be eligible for Medicaid is required to apply before CSHP services are authorized. CSHP is always last payor to Medicaid. ()

256. OUT-OF-STATE-CARE.

CSHP will not pay for care out-of-state that is available in-state. Any exceptions to this rule will be determined by the state office of the CSHP. All out-of-state care must be preauthorized through a CSHP clinic or other regular program mechanism. ()

257. DURABLE MEDICAL EQUIPMENT.

The CSHP will always be payor of last resort for all durable medical equipment provided to clients. ()

258. -- 349. (RESERVED)

350. PROGRAM EXCLUSIONS.

The following is a list of additional conditions, services and items not covered or paid for by CSHP: ()

01. Excluded Conditions, Services and Items. ()

- a. Acute care, such as hospitalization for congestive heart failure or complications of cystic fibrosis. ()
- b. Ambulance/air ambulance charges. ()
- c. Behavior problems. ()
- d. Brain tumors. ()
- e. Biofeedback equipment. ()
- f. Routine dental care. ()
- g. Congenital defects of the gastrointestinal or genitourinary tracts. ()
- h. Cancer care. ()
- i. Cosmetic surgery. ()

- j. Diabetes care. ()
 - k. Prescription medicine -- except those prescribed for eligible cystic fibrosis patients. ()
 - l. Educational services. ()
 - m. Eye care except as related to an eligible condition such as cerebral palsy or juvenile rheumatoid arthritis. ()
 - n. Eyeglasses. ()
 - o. Fractures. ()
 - p. Growth Hormone. ()
 - q. Hearing problems, except as related to cleft lip and palate. ()
 - r. Hernias. ()
 - s. Home health/home nursing services. ()
 - t. Infectious diseases. ()
 - u. Legal services. ()
 - v. Minor foot and leg deformities: flat feet, bow legs, knock knees, pigeon toes, tibial torsion and mild femoral anteversion. ()
 - w. Neonatal intensive care in the newborn period. ()
 - x. Orthoptics - visual training therapy. ()
 - y. Routine pediatric care. ()
 - z. Prematurity. ()
 - aa. Pseudohermaphroditism. ()
 - bb. Psychological or psychiatric care or counseling. ()
 - cc. Respiratory or pulmonary problems except as related to cystic fibrosis. ()
 - dd. Respite care. ()
 - ee. Shoes (corrective or orthopedic). ()
 - ff. Sleep Apnea Monitors. ()
 - gg. Spinal disc lesions. ()
 - hh. Transplants. ()
 - ii. Transportation to in-town clinics or other regular services. ()
- 02. Individual Consideration.** Conditions not specifically identified within these rules as included or excluded by CSHP will be considered on a case by case basis that may include review by a medical advisor. ()

351. -- 999. (RESERVED)

16.02.27 – IDAHO RADIATION CONTROL RULES

000. LEGAL AUTHORITY.

The Idaho Legislature, under the following Sections of statute has granted authority to the Board of Health and Welfare and the Director of the Department to adopt rules related to x-ray producing machines in order to protect the health of the people of Idaho. Sections 56-1041 and 56-1043, Idaho Code, grant authority to the Board of Health and Welfare to adopt radiation control rules. Section 56-1041, Idaho Code, establishes the Department as the designated agency to regulate, license, and control radiation associated with x-ray machines. Section 56-1044, Idaho Code, requires that radiation machines for mammography be registered with the Department, as provided in rule. Section 56-1046, Idaho Code, grants authority to the Department to establish record-keeping and reporting requirements for those who possess or use an x-ray machine. Section 56-1003, Idaho Code, grants authority to the Director to supervise and administer laboratories. Section 56-1007, grants authority to the Department to charge and collect fees established by rule. ()

001. TITLE AND SCOPE.

01. **Title.** These rules are titled IDAPA 16.02.27, “Idaho Radiation Control Rules.” ()

02. **Scope.** Except as otherwise specifically provided, these rules apply to all persons who possess, use, transfer, own, or acquire any radiation machine. ()

002. -- 003. (RESERVED)

004. INCORPORATION BY REFERENCE.

The documents referenced in Subsections 004.01 through 004.03 of this rule are used as a means of further clarifying these rules. These documents are incorporated by reference and are available online as provided, or may be reviewed at the Department of Health and Welfare, Idaho Bureau of Laboratories at 2220 Old Penitentiary Road, Boise, Idaho 83712-8299. ()

01. **National Council of Radiation Protection (NCRP) Report No. 147.** National Council of Radiation Protection (NCRP) Report No. 147, entitled: “Structural Shielding Design and Evaluation for Medical Use of X-rays and Gamma Rays of Energies up to Ten (10) MeV,” issued November 19, 2004, by the National Council on Radiation Protection and Measurement. This document may be obtained from: NCRP Publications, 7910 Woodmont, Bethesda, MD 20814, e-mail: NCRPpubs@NCRPonline.org, phone: 1-301-657-2652, Ext. 14. ()

02. **Mammography Quality Standards Act Regulations, Part 900.** The Mammography Quality Standards Act Regulations, Part 900, located at 21 CFR 900.12 as authorized by 21 U.S.C. 360i, 360nn, 374(e); and 42 U.S.C. 263b. A copy of these regulation may be ordered from the U.S. Food and Drug Administration, 10903 New Hampshire Avenue, Silver Spring, MD 20993, phone: 1-888-INFO-FDA (1-888-463-6332). These regulations are available online at <http://www.fda.gov/Radiation-EmittingProducts/MammographyQualityStandardsActandProgram/Regulations/ucm110906.htm#s9001>. ()

03. **Suggested State Regulations for Control of Radiation, Volume 1.** This publication is being adopted with the exclusions, modifications, and additions listed below in Subsections 004.03.a through 004.03.k of this rule. Suggested State Regulations for Control of Radiation, Volume 1, is published by the Conference of Radiation Control Program Directors, Inc., 1030 Burlington Lane, Suite 4B, Frankfort, Kentucky 40601. It is also available online at <https://www.crcpd.org/page/SSRCRs>. ()

a. Part A -- General Provisions (March 2003). Modifications have been made to this Part. See Sections 100 - 199 of these rules. ()

b. Part B -- Registration [Licensure] of Radiation Machine Facilities, [Services] - And Associated Healthcare Professionals (February 2009). Exclusions and modifications have been made to this Part. See Sections 200 - 299 of these rules. ()

c. Part C -- Licensing of Radioactive Material (March 2010). This Part is excluded from incorporation. ()

d. Part D -- Standards for Protection Against Radiation (March 2003). The following Sections of this Part are incorporated: 1101a, 1101b, 1101c, 1201a, 1201b, 1201c, 1201f, 1206, 1207, 1208, 1301, 1501, 1502, 1503, 1601, 1602, 1901, 1902, 1903, 1904c, 2102, 2103a, 2104, 2105, 2106, 2107a, 2110, 2201, 2202, 2203, 2204, 2205, and 2207b. ()

e. Part E -- Radiation Safety Requirements for Industrial Radiographic Operations (February 1999). Exclusions have been made to this Part. See Sections 400 - 499 of these rules. ()

f. Part F -- Diagnostic X-rays and Imaging Systems in the Healing Arts (May 2009). This Part is incorporated with no exclusions, modifications, or additions. ()

g. Part G -- Use of Radionuclides in the Healing Arts (March 2003). This Part is excluded from incorporation. ()

h. Part H -- Radiation Safety Requirements for Analytical X-ray Equipment (January 1991). This Part is incorporated with no exclusions, modifications, or additions. ()

i. Part I -- Radiation Safety Requirements For Particle Accelerators (January 1991). This Part is excluded from incorporation. ()

j. Part J -- Notices, Instructions and Reports to Workers; Inspections (March 2003). This Part is incorporated with no exclusions, modifications, or additions. ()

k. Parts M through Z. These Parts are excluded from incorporation. ()

005. -- 049. (RESERVED)

050. LICENSING.

Sections 050 through 099 of these rules provide for the licensing of radiation machines. ()

051. MACHINES REQUIRED TO BE LICENSED.

Radiation producing machines, unless exempt under Section B.4 of the Suggested State Regulations for Control of Radiation incorporated under Section 004 of these rules, must be licensed with the Radiation Control Agency in accordance with the requirements of Sections B.6 through B.9, of the Suggested State Regulations for Control of Radiation, as applicable. ()

052. FEES.

01. Radiation Licensing Fees. Radiation facility fees apply to each person or facility owning, leasing, storing, or using radiation-producing machines. This fee is assessed on the same cycle as inspections and consists of a base licensing fee and a per tube charge. Fees are due within thirty (30) calendar days of the renewal date. A late charge of fifty (\$50) dollars will be assessed at thirty-one (31) days past the renewal date. If the fees are not paid by day ninety-one (91) past the renewal date, licensure will be terminated.

X-Ray Renewal Cycle and Facility Fees			
Facility Type	Renewal Cycle	Facility Fee	Per Tube Fee
Hospital, Clinic, Medical Practice	2 Years	\$50	\$25
Dental, Chiropractic, Podiatric, Veterinary Practice	4 Years	\$50	\$25
Industrial, research, academic/ educational, or security	10 Years	\$50	\$25

()

02. X-Ray Shielding Plan Review and Fee. Facilities housing X-ray producing devices and regulated under these rules must obtain a review of their shielding plan by a qualified expert. A copy of this review, to include a floor plan and site specific shielding calculations, must be submitted to the Radiation Control Agency within thirty (30) days of receipt. Facilities may request a departmental review of the X-ray shielding calculations and floor plan

by the Radiation Control Agency. A three hundred fifty dollar (\$350) fee will be charged for this service. ()

03. Radiation Safety Program Fee. If a facility or group of facilities under one administrative control employs one (1) or more full-time individuals whose positions are entirely devoted to in-house radiation safety, the facility may pay a flat annual facility fee of one thousand dollars (\$1,000) instead of the licensing fees required in Subsection 052.01 of this rule. In addition, annual submittal of documentation of evidence of an ongoing and functioning quality control program must be submitted for review and approval. ()

053. APPLICATION FOR LICENSE.

In addition to the requirements detailed in the incorporated reference, Section B, the following is required with application for use of x-ray producing devices. ()

01. Responsible Authority. All applications must be signed by the responsible authority (RA) over the x-ray producing device. Required qualifications of the RA can be found in Section B.6c of the SSRCC. ()

02. Application For License. Application for license must be on forms furnished by the Radiation Control Agency and must contain: ()

a. Name of the owner, organization or person having administrative control and responsibility for use (responsible authority); and ()

b. Address and telephone number where the machine is located; and if the radiation producing machine is used as a mobile device, a central headquarters must be used. ()

c. A designation of the general category of use, such as dental, medical, industrial, veterinary, and research; and ()

d. The manufacturer, model number, and type of machine; and ()

e. Name of the radiation machine supplier, installer, and service agent. ()

f. Name of an individual to be responsible for radiation protection, when applicable. ()

03. Qualifications for Authorized Operation, Service, and Repair of X-ray Machines. The responsible authority must prohibit any person from operating, performing maintenance, or furnishing servicing or services to an x-ray producing machine under their authority that is not properly trained, certified, or licensed to do so. The responsible authority must obtain and retain documentation for a minimum of two (2) years that all operation, service, repair, and maintenance of x-ray producing machine(s) under their authority are done so by a qualified individual or entity. ()

04. Operator Qualifications. No individual will be permitted to act as an operator of a particular machine until such individual has received an acceptable amount of training in radiation safety as it applies to that machine and is approved by the Radiation Protection Supervisor or Radiation Safety Officer. Operators will be responsible for: ()

a. Keeping radiation exposure to himself and to others as low as is practical; ()

b. Being familiar with safety procedures as they apply to each machine; ()

c. Wearing of personnel monitoring devices, if applicable; and ()

d. Notifying the Radiation Protection Supervisor or Radiation Safety Officer of known or suspected excessive radiation exposures to himself or others. ()

05. Minimum Safety Requirements. Unless otherwise specified within these or the incorporated rules, the following are the minimum safety requirements for personnel acting as radiographers or radiographers assistants. ()

a. Licensees must not permit any individuals to act as radiographers as defined in these rules until such individuals: ()

i. Have received copies of and instructions in the licensee's operating and emergency procedures; and have demonstrated understanding thereof; and ()

ii. Have been instructed in the subjects outlined in Subsection 053.06 of this rule, and have demonstrated understanding thereof; and ()

iii. Have received copies of and instruction in the correct execution of these rules and have demonstrated understanding thereof; and ()

iv. Have demonstrated competence to use the specific radiation machine(s), related handling tools, and survey instruments that will be employed in their assignment. ()

v. Have demonstrated an understanding of the instructions in this section by successful completion of a written test and a field examination on the subjects covered. ()

b. Licensees must not permit any individuals to act as a radiographer's assistant as defined in these rules until such individuals: ()

vi. Have received copies of and instructions in the licensee's operating and emergency procedures; and have demonstrated understanding thereof; and ()

vii. Have demonstrated competence to use under the personal supervision of the radiographer the radiation machine(s) and radiation survey instrument(s) that will be employed in their assignment. ()

viii. Have demonstrated an understanding of the instructions in this section by successfully completing a written or oral test and a field examination on the subjects covered. ()

c. Records of the above training, including copies of written tests and dates of oral tests and field examinations, must be maintained for inspection by the Radiation Control Agency for three (3) years following termination of employment. ()

d. Each licensee must conduct an internal audit program to ensure that the Radiation Control Agency's conditions and the licensee's operating and emergency procedures are followed by each radiographer and radiographer's assistant. These internal audits must be performed at least quarterly, and each radiographer must be audited at least annually. Records of internal audits must be maintained for inspection by the Agency for two (2) years from the date of the audit. ()

06. Subjects to Be Covered During the Instruction of Radiographers. ()

a. Fundamentals of Radiation Safety, to include at least: ()

i. Characteristics of gamma and x-radiation; ()

ii. Units of radiation dose (millirem); ()

iii. Bioeffects of excessive exposure of radiation; ()

iv. Levels of radiation from radiation machines; ()

v. Methods of controlling radiation dose, including: ()

(1) Working time; ()

- (2) Working distances; and ()
- (3) Shielding; ()
- vi. Radiation Protection Standards; ()
- b.** Radiation Detection Instrumentation, to include at least: ()
 - i. Use of radiation surveys instruments, including: ()
 - (1) Operation; ()
 - (2) Calibration; and ()
 - (3) Limitations; ()
 - ii. Survey techniques; ()
 - iii. Use of Personnel Monitoring Equipment, including: ()
 - (1) Film badges, TLDs; ()
 - (2) Pocket dosimeters; and ()
 - (3) Pocket chambers; ()
 - c.** Radiographic Equipment, to include operation and control of x-ray equipment; ()
 - d.** The Requirements of Pertinent Federal regulations and State rules; ()
 - e.** The Licensee's Written Operating and Emergency Procedures; and ()
 - f.** Case histories of radiography accidents. ()
- 07. Modification, Revocation, and Termination of Licensees.** In accordance with amendments to the Act, departmental rules or regulations, or orders issued by the Radiation Control Agency, the terms and conditions of all licenses are subject to amendment, revision, or modification, and are subject to suspension or revocation. ()
 - a.** Any license can be revoked, suspended, modified, or denied, in whole or in part. ()
 - i. For any materially false statement: ()
 - (1) In the application; or ()
 - (2) In any statement of fact required under provisions of the Act or under these rules; or ()
 - ii. Because of conditions revealed: ()
 - (1) Within the application; any report, record, or inspection; or ()
 - (2) By any other means that would warrant the Radiation Control Agency to refuse to grant a license on an original application; or ()
 - iii. For violations of or failure to observe any of the terms and conditions: ()
 - (1) Of the Act; or ()

- (2) Of the license; or ()
- (3) Of any rule; or ()
- (4) Of any regulation; or ()
- (5) Of an order of the Radiation Control Agency. ()

b. Except in cases of willful violation or in which the public health, interest or safety requires otherwise, no license can be modified, suspended, or revoked unless such issues have been called to the attention of the licensee in writing and the licensee afforded the opportunity to demonstrate or achieve compliance with all lawful requirements. ()

08. Emergency Action. If the Radiation Control Program Director finds the public health, safety or welfare requires emergency action, the Director will incorporate findings in support of such action in a written notice of emergency revocation issued to the licensee. Emergency revocation is effective upon receipt by the licensee. Thereafter, if requested by the licensee in writing, the Director will provide the licensee a revocation hearing and prior notice thereof. Such hearings are conducted in accordance with IDAPA 16.05.03, "Contested Case Proceedings and Declaratory Rulings." ()

054. -- 099. (RESERVED)

100. GENERAL PROVISIONS.

Sections 100 through 199 of these rules will be used for exclusions, modifications, and additions to Part A of the Suggested State Regulations for Control of Radiation, Volume 1, as incorporated in Section 004 of these rules. ()

101. SCOPE.

Modification to Part A, Section A.1. Except as otherwise specifically provided, these regulations apply to all persons who receive, possess, use, transfer, own, or acquire any source of radiation; provided that nothing in these regulations applies to any person to the extent such person is subject to regulation by the Nuclear Regulatory Commission. ()

102. DEFINITIONS.

Additions to Part A, Section A.2. ()

01. Act. "Act" means Section 56-1053, Idaho Code. ()

02. Agency. "Agency" means the Idaho Department of Health and Welfare. ()

103. VIOLATIONS.

Modification to Part A, Section A.8. Any person who willfully violates any provision of the Act is subject to penalties under Section 56-1053, Idaho Code. ()

104. IMPOUNDING.

Modification to Part A, Section A.9. Sources of radiation are subject to impounding under Section 56-1052, Idaho Code. ()

105. COMMUNICATIONS.

Modification to Part A, Section A.12. All communications and reports concerning these rules, and applications filed under these rules, must be addressed to the Agency at Radiation Control Section, Idaho Department of Health and Welfare, Bureau of Laboratories, 2220 Old Penitentiary Road, Boise, Idaho 83712-8299. ()

106. -- 199. (RESERVED)

200. LICENSURE OF RADIATION MACHINE FACILITIES, (SERVICES) - AND ASSOCIATED HEALTHCARE PROFESSIONALS.

Sections 200 through 299 of these rules will be used for exclusions, modifications, and additions to Part B of the Suggested State Regulations for Control of Radiation, Volume 1, as incorporated in Section 004 of these rules. ()

201. LICENSURE OF RADIATION MACHINE FACILITIES.

Exclusion to Part B, Section B.6. Subsection B.6.b is excluded from incorporation. ()

202. RECIPROCAL RECOGNITION OF OUT-OF-STATE RADIATION MACHINES.

Modifications and additions to Part B, Section B.16. ()

01. Modification to Part B, Section B.16.a.iv. States in which this machine is registered or licensed. ()

02. Addition to Part B, Section B.16 -- New Subsection d. The owner or person having possession of any radiation producing machine registered or licensed by a federal entity or state other than Idaho, or both, planning to establish regular operations in Idaho, must complete registration of the machine with the Agency within thirty (30) days after taking residence and prior to operation of the machine. Thirty (30) days prior to the expiration date of any out-of-state license for any radiation producing machine, the owner must apply to the Agency for a machine license. ()

203. -- 399. (RESERVED)

400. RADIATION SAFETY REQUIREMENTS FOR INDUSTRIAL RADIOGRAPHIC OPERATIONS.

Sections 400 through 499 of these rules will be used for exclusions, modifications, and additions to Part E of the Suggested State Regulations for Control of Radiation, Volume 1, as incorporated in Section 004 of these rules. ()

401. LICENSING AND REGISTRATION REQUIREMENTS FOR INDUSTRIAL RADIOGRAPHY OPERATIONS.

Exclusions to Part E, Section E.5. Subsections E.5.b.i and E.5.b.ii, are excluded from incorporation. ()

402. LEAK TESTING AND REPLACEMENT OF SEALED SOURCES.

Part E, Section E.10 is excluded from incorporation. ()

403. QUARTERLY INVENTORY.

Part E, Section E.11 is excluded from incorporation. ()

404. LABELING, STORAGE, AND TRANSPORTATION.

Exclusions to Part E, Section E.14. Subsections E.14.a, E.14.b, and E.14.d, are excluded from incorporation. ()

405. CONDUCTING INDUSTRIAL RADIOGRAPHIC OPERATIONS.

Exclusion to Part E, Section E.15. Subsection E.15.d is excluded from incorporation. ()

406. RECORDS OF LEAK TESTING OF SEALED SOURCES AND DEVICES CONTAINING DU.

Part E, Section E.27 is excluded from incorporation. ()

407. RECORDS OF QUARTERLY INVENTORY.

Part E, Section E.28 is excluded from incorporation. ()

408. UTILIZATION LOGS.

Part E, Section E.29 is excluded from incorporation. ()

409. LOCATION OF DOCUMENTS AND RECORDS.

Exclusions to Part E, Section E.37. Subsections E.37.b.iii, E.37.b.xi, and E.37.b.xii are excluded from incorporation. ()

410. NOTIFICATIONS.

Exclusions to Part E, Section E38. Subsections E.38.a.i, and E.38.a.ii are excluded from incorporation. ()

411. APPLICATION AND EXAMINATIONS.

Part E, Section E.39 is excluded from incorporation. ()

412. CERTIFICATION IDENTIFICATION (ID) CARD.

Part E, Section E.40 is excluded from incorporation. ()

413. RECIPROCITY.

Part E, Section E.41 is excluded from incorporation. ()

414. SPECIFIC REQUIREMENTS FOR RADIOGRAPHIC PERSONNEL PERFORMING INDUSTRIAL RADIOGRAPHY.

Part E, Section E.42 is excluded from incorporation. ()

415. -- 599. (RESERVED)

600. NOTICES, INSTRUCTIONS AND REPORTS TO WORKERS; INSPECTIONS.

Sections 600 through 699 of these rules will be used for exclusions, modifications, and additions to Part J of the Suggested State Regulations for Control of Radiation, Volume 1, as incorporated in Section 004 of these rules. ()

601. -- 999. (RESERVED)

16.03.03 – CHILD SUPPORT SERVICES

000. LEGAL AUTHORITY.

The Department of Health and Welfare is authorized to promulgate these rules under Sections 7-1206, 32-1207, 32-1209, 32-1214G, 32-1217, 56-203A, and 56-1004, Idaho Code. ()

001. TITLE, SCOPE, AND GOAL.

01. Title. These rules are titled IDAPA 16.03.03, “Child Support Services.” ()

02. Scope. These rules provide the requirements for the administration of the Department’s child support program. ()

03. Goal. The goal of child support services is to ensure that both parents provide the financial support necessary to provide for their children. This program requires cooperation between families, employers, and the community. ()

002. -- 049. (RESERVED)

050. DISTRIBUTION OF SUPPORT COLLECTED IN TITLE IV-E FOSTER CARE MAINTENANCE CASES.

01. Payment of Support Obligation. The amount collected as current support shall first be retained by the State to reimburse itself for the foster care assistance payment for that month. Any amount collected in excess of the current month’s foster care assistance payment, but less than the monthly support obligation, shall be paid to the state agency responsible for the child’s placement and care. Any amount collected in excess of the monthly support obligation shall be retained by the State to reimburse any previous foster care assistance payments. The State is limited to reimbursement for past foster care assistance by the amount of the total support obligation owed. Any excess collected after the State has been reimbursed for past foster care assistance payments shall be paid to the state agency responsible for the child’s placement and care. Collections shall be applied to future payments only after all current support and arrears have been satisfied. ()

02. Termination of Foster Care Payments. When a state stops providing foster care assistance under Title IV-E, the assignment of support rights ends except as to unpaid support which accrued prior to or during the assignment. ()

051. – 074. (RESERVED)

075. FEES.

01. Application Fee. At the time of application for child support services, a written application must be completed and a fee of twenty-five dollars (\$25) must be paid. The fee must be paid in advance of any services to be provided and is not refundable. ()

02. Income Tax Offset Fees. A fee of twenty-five dollars (\$25) will be deducted each time child support is collected as a result of an income tax offset. ()

03. Internal Revenue Service (IRS) Referral Fees. A fee of one hundred twenty-two dollars and fifty cents (\$122.50) shall be charged for a referral to the IRS for full collection of the child support obligation. ()

04. Locate Fees. Child Support Services may charge an applicant/recipient a fee of ten dollars (\$10) for referral to FPLS for location of a non-custodial parent when no other child support services are being provided. Child Support Services may also charge a fee of four dollars (\$4) for referral to the FPLS for a social security number search. Child Support Services may charge a fee of seventy cents (\$.70) for referral to FPLS for location of a non-custodial parent. ()

05. Federally Mandated Annual Service Fees. Child Support Services must charge an annual fee of thirty-five dollars (\$35) for each support enforcement case in which it has collected and disbursed at least five hundred fifty dollars (\$550) of support in the federal fiscal year. The fee will be billed to the parent ordered to pay support, but will not be assessed on any case in which an individual has ever received benefits under the Temporary Assistance for Needy Families program. ()

076. – 099. (RESERVED)

100. LEGAL COSTS.

An applicant/recipient will be notified at the time of the application that legal costs incurred by Child Support Services will be deducted from any child support collected to reimburse the State. The applicant/recipient will be notified as to the legal costs being incurred. No more than twenty percent (20%) of any collection will be deducted for reimbursement of these costs. Child Support Services will attempt to obtain an order against the non-custodial parent in favor of the applicant/recipient for reimbursement of the legal costs incurred by Child Support Services.

()

101. -- 199. (RESERVED)

200. SECURING AND ENFORCING MEDICAL SUPPORT.

Medical support enforcement services must be provided in any case for which an assignment of medical support is in effect, including:

()

01. Petition. Petitioning the court to include health insurance that is available to either parent at reasonable cost in new or modified court orders for support. Health insurance is considered reasonable in cost if it is available through employment or other group health benefit plan.

()

02. Enforcement. Taking any necessary action to ensure that one (1) parent secures and maintains medical insurance required by the support order.

()

201. ADMINISTRATIVE REVIEW FOR ENFORCEMENT OF MEDICAL SUPPORT.

01. Request. An obligor may request an administrative review within twenty (20) days after a notice of intent to enroll one (1) or more children in a health benefit plan is mailed by the Department.

()

02. Scope of Administrative Review. The Department will cancel a notice of intent to enroll or a National Medical Support Notice (NMSN) if:

()

a. The parent does not owe medical support. ()

b. The parent is no longer obligated to provide medical support. ()

c. Medical support, excluding Medicaid, is already being provided by either parent. ()

202. -- 299. (RESERVED)

300. REVIEW AND MODIFICATION OF SUPPORT ORDERS.

01. Notice. Each parent subject to a child support order in effect in the State that is being enforced by Child Support Services must be notified of the right of the parent to request a review of the order by Child Support Services every thirty-six (36) months. Reviews are not to be done more frequently unless there has been a substantial and material change in circumstances.

()

02. Review. A support order will be reviewed for possible modification: ()

a. If requested by either parent; ()

b. If requested by any state, tribal, or foreign child support services agency; or ()

c. Automatically, at least every thirty-six (36) months, in any case where the custodial parent or other custodian of the child or children is receiving benefits under Title IV-A of the Social Security Act, either in Idaho or elsewhere. ()

03. After the Review. Each parent will be notified of the proposed adjustment or of the determination that there should be no change in the amount of child support. ()

04. Adjustment. A modification of a support order will only be sought if the review conducted under Subsection 300.02 of this rule results in an obligation under the Child Support Guidelines which differs from the existing order by at least fifteen percent (15%), but not less than fifty dollars (\$50) per month. The following criteria will be applied by Child Support Services to determine whether there has been a substantial and material change of circumstances: ()

a. Whether there has been an increase or decrease in the income, as the term is defined in the Child Support Guidelines, of either parent or other person legally obligated for the support of a child; ()

b. Whether there has been a substantial increase or decrease in the assets of either parent or other person legally obligated for the support of a child; ()

c. Whether there has been a substantial change in the needs of the child; ()

d. Whether there has been a change in the custody or visitation rights of the non-custodial parent; and ()

e. Whether other factors exist indicating a substantial and material change in circumstances since the entry or modification of the support order. ()

301. CONSUMER REPORTING AGENCIES.

01. Consumer Reporting Agency. Any person who for monetary fees, dues or on a cooperative basis, regularly engages in whole or in part in the practice of assembling or evaluating consumer credit information or other information on consumers for the purpose of furnishing consumer reports to third parties, and who uses any means or facility of interstate commerce for the purpose of preparing or furnishing consumer reports. ()

02. Reports. Reports are made to consumer reporting agencies of any non-custodial parent who owes overdue support exceeding two thousand dollars (\$2,000) and is at least three (3) months in arrears after the court order is finalized. Notice will be provided to the non-custodial parent prior to the report being made available to the agencies and will inform the non-custodial parent of the methods available for contesting the accuracy of the information. ()

302. GOOD CAUSE DETERMINATION IN LICENSE SUSPENSION PROCEEDINGS.

01. Definitions. The following definitions apply for this section of rules: ()

a. “Obligor” means an individual who is ordered to pay child support under an order issued by a court or authorized administrative authority. ()

b. “Obligee” means an individual who is ordered to receive child support under an order issued by a court or authorized administrative authority. ()

c. “Motor Vehicle License” means a license required to operate any type of motor vehicle. ()

d. “Occupational or Professional License” means a license issued to allow a person to practice or engage in any business, occupation, or profession. ()

e. “Recreational License” means a license, certificate, or permit authorizing an individual to engage in any recreational activity including, but not limited to, hunting, fishing, and trapping. ()

02. Res Judicata. No issues that have been previously litigated may be considered at the license suspension hearing. ()

03. Good Cause in Motor Vehicle and Occupational License Suspension Proceedings. The license suspension will be denied or stayed if the obligor proves one (1) of the following conditions exist: ()

- a.** The obligor has been declared physically disabled by Social Security, workman's compensation, or another competent authority that works with disabled individuals, and that the disability has directly resulted in the current inability to pay the child support obligation; ()
- b.** The obligor is experiencing the effects of an extended illness or accident that has directly resulted in the current inability to pay the child support obligation; ()
- c.** The obligor is a student whose enrollment is a result of a referral from Vocational Rehabilitation, workman's compensation, or other competent authority working with disabled individuals; ()
- d.** The obligor is incarcerated in any county, state, or federal correctional facility, and proves that they have no assets. ()
- e.** The obligor is receiving Temporary Assistance for Families in Idaho (TAFI) or Supplemental Security Income benefits; ()
- f.** The obligor has court-ordered physical custody of all of the children listed in the order or orders for support; ()
- g.** Child support is being collected directly from the obligor's income through an income withholding order issued by the Department to the obligor's employer or other income source. ()

04. Not Good Cause in Motor Vehicle and Occupational License Suspension Proceedings. Any factor not defined as good cause in Subsection 302.03 of this rule is not good cause for a denial or stay of a license suspension, including but not limited to the following: ()

- a.** The obligor is unemployed, underemployed, or has difficulty maintaining consistent employment; ()
- b.** The obligor claims to be disabled but has not applied for disability or other benefits, or has been refused benefits; ()
- c.** The obligor asserts that the child support obligation is too high; ()
- d.** The obligor has been denied full visitation with the child or children; or ()
- e.** The obligor alleges the obligee misuses the child support. ()

05. Good Cause in Recreational License Suspension Proceedings. The license suspension will only be stayed if the obligor proves one (1) of the following conditions exist: ()

- a.** The obligor is receiving TAFI or Supplemental Security Income benefits; or ()
- b.** The obligor has court-ordered physical custody of all of the children listed in the order or orders for support. ()

303. -- 999. (RESERVED)

APPENDIX A - ORDER/NOTICE TO WITHHOLD INCOME FOR CHILD SUPPORT

ORDER/NOTICE TO WITHHOLD INCOME FOR CHILD SUPPORT

State _____	Original Order/Notice _____
Co./City/Dist. of _____	Amended Order/Notice _____
Date of Order/Notice _____	Terminate Order/Notice _____
Court/Case Number _____	
Employer/Withholder's Federal EIN Number _____)	RE: * _____
_____)	Employee/Obligor's Name (Last, First, MI)
_____)	Employee/Obligor's Social Security Number
Employer/Withholder's Name _____)	*
Employer/Withholder's Name _____)	Employee/Obligor's Case Identifier
_____)	Custodial Parent's Name (Last, First, MI)
_____)	

Child(ren)'s Name(s): DOB Child(ren)'s Name(s): DOB

ORDER INFORMATION: This is an Order/Notice to Withhold Income for Child Support based upon an order for support from _____. By law, you are required to deduct these amounts from the above-named employee's/obligor's income until _____ even if the Order/Notice is not issued by your State.

If checked, you are required to enroll the child(ren) identified above in any health insurance coverage available through the employee's/obligor's employment. _____

\$ _____ per _____ in current support	
\$ _____ per _____ in past-due support	Arrears 12 weeks or greater? _ yes _ no
\$ _____ per _____ in medical support	
\$ _____ per _____ in other (specify)	
\$ _____ per _____ in other (specify)	

for a total of \$ _____ per _____ to be forwarded to the payee below.

You do not have to vary your pay cycle to be in compliance with the support order. If your pay cycle does not match the ordered support payment cycle, use the following to determine how much to withhold:
\$ _____ per weekly pay period. \$ _____ per semimonthly pay period (twice a month).
\$ _____ per biweekly pay period (every two weeks). \$ _____ per monthly pay period.

REMITTANCE INFORMATION: Follow the laws and procedures of the employee's/obligor's principal place of employment even if such laws and procedures are different from this paragraph:

You must begin withholding no later than the first pay period occurring _____ working days after the date of this Order/Notice. Send payment within _____ working days of the payday date of withholding. You are entitled to deduct a fee of _____ to defray the cost of withholding. The total withheld amount, including your fee, cannot exceed _____% the employee/obligor's aggregate disposable weekly earnings. For the purpose of the limitation on withholding, the following information is needed (see #9 below):

When remitting payment provide the paydate/date of withholding and the case identifier _____.
If remitting by EFT/EDI, use this FIPS code: *; _____; Bank routing code: * _____;
Bank account number: * _____.

Make it payable to: **Payee and case identifier**

Send check to: **Payee's Address**

Authorized by _____

Print Name _____

ADDITIONAL INFORMATION TO EMPLOYERS AND OTHER WITHHOLDERS

___ **If checked you are required to provide a copy of this form to your employee.**

1. **Priority:** Withholding under this Order/Notice has priority over any other legal process under State law against the same income. Federal tax levies in effect before receipt of this order have priority. If there are Federal tax levies in effect please contact the requesting agency listed below.

2. **Combining Payments:** You can combine withheld amounts from more than one employee/obligor's income in a single payment to each agency requesting withholding. You must, however, separately identify the portion of the single payment that is attributable to each employee/obligor.

3. **Reporting the Paydate/Date of Withholding:** You must report the paydate/date of withholding when sending the payment. The paydate/date of withholding is the date on which the employee is paid and controls the income, i.e. the date the income check or cash is given to the employee, or the date in which the income is deposited directly in his/her account.

4. **Employee/Obligor with Multiple Support Withholdings:** If you receive more than one Order/Notice against this employee/obligor and you are unable to honor them all in full because together they exceed the withholding limit of the State of the employee's principal place of employment (see #9 below), you must allocate the withholding based on the law of the State of the employee's principal place of employment. If you are unsure of that State's allocation law, you must honor all Orders/Notices' current support withholdings before you withhold for any arrearages, to the greatest extent possible under the withholding limit. You should immediately contact the last agency that sent you an Order/Notice to find the allocation law of the state of the employee's principal place of employment.

5. **Termination Notification:** You must promptly notify the payee when the employee/obligor is no longer working for you. Please provide the information requested and return a copy of this order/notice to the agency identified below.

EMPLOYEE'S/OBLIGOR'S NAME: _____
EMPLOYEE'S CASE IDENTIFIER: _____ **DATE OF SEPARATION:** _____
LAST KNOWN HOME ADDRESS _____
NEW EMPLOYER'S ADDRESS _____

6. **Lump Sum Payments:** You may be required to report and withhold from lump sum payments such as bonuses, commissions, or severance pay. If you have any questions about lump sum payments, contact the person or authority below.

7. **Liability:** If you fail to withhold income as the Order/Notice directs, you are liable for both the accumulated amount you should have withheld from the employee/obligor's income and any other penalties set by State law.

8. **Anti-discrimination:** You are subject to a fine determined under State law for discharging an employee/obligor from employment, refusing to employ, or taking disciplinary action against any employee/obligor because of a child support withholding.

9. **Withholding Limits:** You may not withhold more than the lesser of: 1) the amounts allowed by the Federal Consumer Credit Protection Act (15 U.S.C. Section 1673(b)); or 2) the amounts allowed by the State of the employee's/obligor's principal place of employment. The Federal limit applies to the aggregate disposable weekly earnings (ADWE). ADWE is the net income left after making mandatory deductions such as: State, Federal, local taxes; Social Security taxes; and Medicare taxes. The Federal CCPA limit is 50% of the ADWE for child support and alimony, which is increased by: 1) 10% if the employee does not support a second family; and/or 2) 5% if arrears are more than 12 weeks old. (see boxes on front)

10. _____

Requesting Agency _____

If you or your employee/obligor have any questions, contact:

by telephone at _____ or
by FAX at _____ or
by Internet _____.

16.03.18 – MEDICAID COST-SHARING

000. LEGAL AUTHORITY.

Under Section 56-202(b), Idaho Code, the Legislature has delegated to the Department of Health and Welfare the responsibility to establish and enforce such rules as may be necessary or proper to administer public assistance programs within the state of Idaho. Under Sections 56-253 and 56-257, Idaho Code, the Department of Health and Welfare is to establish enforceable cost-sharing requirements within the limits of federal Medicaid law and regulations. Furthermore, the Idaho Department of Health and Welfare is the designated agency to administer programs under Title XIX and Title XXI of the Social Security Act. ()

001. TITLE AND SCOPE.

01. **Title.** These rules are titled IDAPA 16.03.18, “Medicaid Cost-Sharing.” ()

02. **Scope.** These rules describe the general requirements regarding the administration of the cost-sharing provisions for participation in a medical assistance program providing direct benefits in Idaho. ()

002. WRITTEN INTERPRETATIONS.

This agency may have written statements which pertain to the interpretation of the rules of this chapter. These documents are available for public inspection. ()

003. -- 009. (RESERVED)

010. DEFINITIONS.

01. **Copayment (Copay).** The amount a participant is required to pay to the provider for specified services. ()

02. **Cost-Sharing.** A payment the participant or the financially responsible adult is required to make toward the cost of the participant’s health care. Cost-sharing includes both copays and premiums. ()

03. **Creditable Health Insurance.** Creditable health insurance is coverage that provides benefits for inpatient and outpatient hospital services and physicians' medical and surgical services. Creditable coverage excludes liability, limited scope dental, vision, specified disease or other supplemental-type benefits. ()

04. **Department.** The Idaho Department of Health and Welfare, or a person authorized to act on behalf of the Department. ()

05. **Family Income.** The gross income of all financially responsible adults who reside with the participant, as calculated under IDAPA 16.03.01, “Eligibility for Health Care Assistance for Families and Children.” ()

06. **Family Size.** Family size is the number of people living in the same home as the child. This includes relatives and other optional household members. ()

07. **Federal Poverty Guidelines (FPG).** The federal poverty guidelines issued annually by the U. S. Department of Health and Human Services (HHS). The federal poverty guidelines are available on the U.S. Health and Human Services website at <http://aspe.hhs.gov/poverty>. ()

08. **Financially Responsible Adult.** An individual who is the biological or adoptive parent of a child and is financially responsible for the participant. ()

09. **Medical Assistance.** Payments for part or all of the cost of services funded by Titles XIX or XXI of the federal Social Security Act, as amended. ()

10. **Participant.** A person eligible for and enrolled in the Idaho Medical Assistance Program. ()

11. **Physician Office Visit.** Services performed by a physician, nurse practitioner or physician's assistant at the practitioner's place of business, including Federally Qualified Health Centers (FQHCs) and Rural Health Clinics (RHCs). Indian Health Clinic/638 Clinics providing services to individuals eligible for Indian Health Services are not included. ()

12. **Premium.** A regular and periodic charge or payment for health coverage. ()

13. Social Security Act. 42 U.S.C. 101 et seq., authorizing, in part, federal grants to the states for medical assistance to eligible low-income individuals. ()

14. State. The state of Idaho. ()

15. Title XIX. Title XIX of the Social Security Act, known as Medicaid, is a medical benefits program jointly financed by the federal and state governments and administered by the states. This program pays for medical assistance for certain individuals and families with low income and limited resources. ()

16. Title XXI. Title XXI of the Social Security Act, known as the State Children's Health Insurance Program (SCHIP). This is a program that primarily pays for medical assistance for low-income children. ()

011. -- 024. (RESERVED)

025. PARTICIPANTS EXEMPT FROM COST-SHARING.

Native American and Alaskan Native participants are exempt from the cost-sharing provisions of Sections 200, 205, 215, 320, and 400 of these rules. The participant must declare his race to the Department to receive this exemption. Participants in the Medicaid Workers with Disabilities (MWD) program are exempt from the cost-sharing provisions of Sections 200, 205, 207, and 400 of these rules. ()

026. -- 049. (RESERVED)

050. GENERAL COST-SHARING.

01. Cost-Sharing Maximum Amount. A family will be required to pay out of pocket costs not to exceed five percent (5%) of the family's anticipated gross monthly income unless an exception is made as provided in Subsection 050.02 of this rule. ()

02. Exception to Cost-Sharing Maximum. A family will be required to pay cost-sharing amounts as provided in Sections 215 and 400 of these rules. These cost-sharing amounts may exceed the family's five percent (5%) of anticipated gross monthly income. ()

03. Proof of Cost-Sharing Payment. If a participant believes that their cost-sharing exceeded the five percent (5%) cost-sharing of the family's anticipated gross monthly income, they must provide proof to the Department of the copy amounts that were paid. ()

04. Excess Cost-Sharing. A family that establishes proof of payment for cost-sharing that exceeds the five percent (5%) of the family's anticipated gross monthly income will be reimbursed by the Department for the amount paid that exceeds the five percent (5%), except as provided in Subsection 050.02 of this rule. ()

05. Cost-Sharing Suspended. A family that exceeds the five percent (5%) maximum amount for cost-sharing will not be required to pay a cost-sharing portion for any family participant for the remainder of the calendar month in which proof of payment is established. ()

051. - 199. (RESERVED)

200. PREMIUMS FOR PARTICIPATION UNDER THE STATE CHILDREN'S HEALTH INSURANCE PROGRAM (SCHIP).

01. Family Income Above 133% of FPG. Each SCHIP participant with family income above one hundred thirty-three percent (133%) and equal to or less than one hundred fifty percent (150%) of the current FPG must pay a monthly premium of ten dollars (\$10) to the Department. ()

02. Family Income Above 150% of FPG. Each SCHIP participant with family income above one hundred fifty percent (150%) and equal to or less than one hundred eighty-five percent (185%) of the current FPG must pay a monthly premium of fifteen dollars (\$15) to the Department. ()

201. -- 204. (RESERVED)

205. PREMIUMS FOR PARTICIPATION UNDER HOME CARE FOR CERTAIN DISABLED CHILDREN (HCCDC).

01. Family Income Above 150% and Equal to or Less Than 185% of FPG. Each HCCDC participant with a family income above one hundred fifty percent (150%) and equal to or less than one hundred eighty-five percent (185%) of the current FPG must pay a monthly premium of fifteen dollars (\$15) to the Department. The maximum monthly premium a family must pay is limited to thirty dollars (\$30). ()

02. Family Income Above 185% of FPG. Each HCCDC family with income above one hundred eighty-five percent (185%) of the current FPG must pay a monthly premium to the Department. The monthly premium is a fixed percent of the family's income as provided in the table below. ()

TABLE 205.02		
SLIDING FEE SCHEDULE FOR MONTHLY PREMIUMS FOR HCCDC PARTICIPATION		
Family Income Above 185% of Current FPG		Premium Based on % of Family Income
ABOVE	LESS THAN OR EQUAL TO	
185%	250%	1.0%
250%	300%	1.5%
300%	400%	2.0%
400%	500%	2.5%
500%	600%	3.0%
600%	700%	3.5%
700%	800%	4.0%
800%	900%	4.5%
900%	No Upper Limit	5.0%

03. Reduction of Premium for Creditable Health Insurance. A family who purchases creditable health insurance for the participant may receive a twenty-five percent (25%) reduction of the required monthly premium. ()

04. Failure to Provide Information. Failure to provide the Department with information needed to determine family income and household size may subject the participant to a monthly premium equal to the average monthly cost of coverage for participants receiving Medicaid Enhanced Plan Benefits through HCCDC. ()

05. Failure to Pay Premium. Failure to pay the premium for an HCCDC participant will not cause the participant to lose coverage or eligibility for services. A participant eligible through HCCDC is exempt from the provisions of Section 250 of these rules. ()

06. Waiver of Premium. The premium may be waived if the Department determines that payment of the premium would cause undue hardship on the family. Undue hardship exists when an unexpected expense would cause the family to forgo basic food or shelter in order to make a premium payment. Detailed documentation of the family's living and insurance expenses demonstrating such hardship must be provided to the Department. ()

07. Premium Recalculation. The premium amount is recalculated at each annual eligibility renewal. If a financially responsible adult reports a reduction in family income prior to renewal, the premium will be reduced to the appropriate level upon verification of the reduction to the family's income. When the family income is at a level that does not require premium payments, the premium will no longer be assessed. ()

206. (RESERVED)

207. PREMIUMS FOR PARTICIPATION UNDER THE YOUTH EMPOWERMENT SERVICES (YES) PROGRAM.

01. Premium Fee Schedule. Each YES program participant, as that individual is defined in IDAPA 16.03.10, "Medicaid Enhanced Plan Benefits," Section 636, is subject to assessment of a premium based on family income. The Department will establish a premium fee schedule at rates not to exceed maximums set forth in federal law and regulations governing state Medicaid programs. The fee schedule will be published on the Department's website and provided to families participating in the YES program who are subject to premiums. ()

02. Enforcement of Premiums. Payment of premiums will be enforced within the limitations of federal laws and regulations governing state Medicaid programs. ()

03. Waiver of Premium. The monthly premium described in Subsection 207.01 of this rule may be waived if the Department determines that the family is unable to participate in the cost of care. ()

04. Premium Recalculation. The premium amount is recalculated at each annual eligibility redetermination. If a financially responsible adult reports a reduction in family income prior to eligibility redetermination, the premium will be reduced to the appropriate level upon verification of the reduction in the family's income. When the family income is reduced to a level that does not require premium payments, the premium will no longer be assessed. ()

208. -- 209. (RESERVED)

210. DEPARTMENT RESPONSIBILITIES.

01. Assessed Premiums. A participant will not be assessed premiums during the time initial eligibility is determined. Obligation for premium payments does not begin for at least sixty (60) days after receipt of application, except for workers with disabilities under Section 215 of these rules. ()

02. Premiums Not Assessed Due to Late Review. A participant can not be assessed premiums for extra months of eligibility received due solely to the Department's late review of continuing eligibility, except for workers with disabilities under Section 215 of these rules. ()

03. No Retroactive Premiums Assessed. A participant can not be assessed premiums for months of retroactive eligibility. ()

04. Notification of Premiums. The Department is required to routinely notify a participant of their premium payment obligations including any delinquencies, if applicable. ()

211. -- 214. (RESERVED)

215. PREMIUMS FOR PARTICIPATION IN MEDICAID ENHANCED PLAN.

01. Workers with Disabilities. A participant in the Medicaid for Workers with Disabilities coverage group must share in the cost of Medicaid coverage, if required. Countable income is determined under IDAPA 16.03.05, "Eligibility for Aid to the Aged, Blind, and Disabled (AABD)." A participant's premium for his share of Medicaid costs under this coverage group is determined in Subsections 215.01.a. through 215.01.c. of this rule. ()

a. A participant who has countable income at or below one hundred thirty-three percent (133%) of the current federal poverty guideline is not required to pay a premium for Medicaid. ()

b. A participant who has countable income above one hundred thirty-three percent (133%) to two hundred fifty percent (250%) of the current federal poverty guideline is required to pay a monthly premium of ten dollars (\$10) to the Department. ()

c. A participant who has countable income in excess of two hundred fifty percent (250%) of the current federal poverty guideline is required to pay a monthly premium to the Department. The amount due is the greater of ten dollars (\$10); or seven and one-half percent (7.5%) of the participant's income above two hundred fifty percent (250%) of the current federal poverty guideline. ()

02. Recomputed Premium Amount. Premium amounts are recomputed when changes to a participant's countable income result in a different percentage premium calculation as determined in Subsections 215.02 through 215.04 of this rule, and at the annual re-determination. ()

216. -- 249. (RESERVED)

250. DELINQUENT PREMIUM PAYMENTS.

If the participant is sixty (60) days or more past due on its premium payments, the participant is contacted to determine the reason for the delinquency. If the participant's countable income is less than the amount used for the most recent eligibility determination, the participant is offered a new eligibility determination. If a participant's family income is at a level that does not require premium payments, the premium will no longer be assessed. The change is effective the month after the participant becomes eligible for such benefits. The following Subsections 250.01 through 250.03 of this rule apply to delinquent premium payments. ()

01. Delinquent Payments. A participant must not be approved for or renewed for coverage that requires premium payments, if their premium payments are sixty (60) days or more delinquent as of the last working day of their twelve (12) month eligibility period. ()

02. Reestablishing Eligibility. A participant can reestablish eligibility by paying the premium debt in full, unless one (1) of the conditions listed in Subsection 250.03 applies. ()

03. Premium Debt. Any premium debt assessed, but not paid, will be forgiven if one (1) of the following applies: ()

a. The participant reports and the Department determines that the participant's family income is below one hundred and thirty-three percent (133%) FPG. This may occur at any time during the eligibility period; or ()

b. A participant in the Medicaid Basic Plan has a medical condition that requires the participant to receive the benefits provided in IDAPA 16.03.10 "Medicaid Enhanced Plan Benefits." ()

251. -- 299. (RESERVED)

300. PARTICIPANTS EXEMPT FROM COPAYMENT.

01. Exempt Participants. Certain participants are exempt from copayments for services described in Section 320.03 through 320.10 of these rules. Exempt participants include: ()

a. A child under the age of nineteen (19) with family income less than or equal to one hundred and thirty-three percent (133%) of the current federal poverty guidelines (FPG); ()

b. An individual age of nineteen (19) or older with family income less than or equal to one hundred percent (100%) of the current federal poverty guidelines (FPG); ()

c. A pregnant or post-partum woman when the services provided are related to the pregnancy;

()

d. An inpatient in a hospital, nursing facility, intermediate care facility for persons with intellectual disabilities (ICF/ID), or other medical institution, who is required to pay all but a nominal amount of their income to the institution for their care; ()

e. An adult participant who receives services provided under a waiver of Section 1915c of the Social Security Act (SSA); ()

f. A participant who has other health care coverage that is the primary payor for the services provided; ()

g. A participant receiving hospice care; ()

h. A child in foster care receiving aid or assistance under the Social Security Act (SSA), Title IV, Part B; ()

i. A participant receiving adoption or foster care assistance under the Social Security Act (SSA), Title IV, Part E, regardless of age; and ()

j. A woman eligible under the breast and cervical cancer eligibility group. ()

02. Notification of Copayment. The Department will provide notification to each participant who is not exempt from the copayment requirements in Subsections 320.03 through 320.10 of these rules. ()

301. -- 309. (RESERVED)

310. COPAYMENT FEE AMOUNTS.

01. Nominal Amount. The amount of the copayment must be a nominal amount as provided in 42 CFR 447.54. This nominal amount is set by the U.S. Department of Health and Human Services. ()

02. Fee Amount. Beginning on November 1, 2011, the nominal fee amount required to be paid by the participant as a copayment is three dollars and sixty-five cents (\$3.65). This copayment amount will be adjusted annually as determined by the Secretary of Human Services. ()

03. Annual Increase. The nominal fee amount will be increased annually by an adjusted percentage rate determined by the Secretary of Health and Human Services as set in the Social Security Act Section 1916. ()

311. -- 319. (RESERVED)

320. MEDICAID OUTPATIENT SERVICES SUBJECT TO COPAYMENTS.

Medicaid participants are responsible for making copayments for the outpatient services described in Subsections 320.01 through 320.10 of this rule, unless exempted. The amount of the copayment is provided in Section 310 of these rules. ()

01. Accessing Hospital Emergency Department for Non-Emergency Medical Conditions. A participant who seeks care at a hospital emergency department for services that do not meet the definition of an emergency medical condition as defined in IDAPA 16.03.09, "Medicaid Basic Plan Benefits," may be required to pay a copayment to the provider. A participant who must access a hospital emergency department in order to receive routine services for their medical condition is exempt from this provision. ()

02. Accessing Emergency Transportation Services for Non-Emergency Medical Conditions. A participant who accesses emergency transportation services for a condition that is determined by the Department to be a non-emergency medical condition may be required to pay a copayment to the provider of the service.()

- 03. Chiropractic Services.** Those services for spinal manipulation performed by a chiropractor. ()
- 04. Occupational Therapy.** ()
- 05. Optometric Services.** Those services performed by a optometrist that fall into the “General Ophthalmological Services” category of Current Procedural Terminology (CPT). ()
- 06. Outpatient Hospital Services.** Any of the services included in Subsections 320.03 through 320.05 and Subsections 320.07 through 320.10 of this rule performed in an outpatient hospital setting. Services performed in a Hospital Emergency Department are excluded, except as provided for in Subsection 320.01 of this rule. ()
- 07. Physical Therapy.** ()
- 08. Podiatry Services.** Services provided by a podiatrist during an office visit. ()
- 09. Physician Office Visit.** Each physician office visit, unless: ()
- a.** The visit is for a preventive wellness exam, immunizations, or family planning: ()
- b.** The visit is for urgent care provided at a clinic billing as an urgent care facility. ()
- 10. Speech Therapy.** ()
- 321. -- 324. (RESERVED)**
- 325. EXCEPTION TO CHARGING A COPAYMENT.**
In order for a copay to be charged by the provider, the Medicaid payment amount for the services rendered during a visit must be equal to or greater than ten (10) times the amount of the copay described in Section 310 of these rules. The Medicaid payment amount is determined by the Department and published in the Medicaid Fee Schedule. ()
- 326. -- 329. (RESERVED)**
- 330. COLLECTION OF COPAYMENTS.**
- 01. Responsibility for Collection.** The provider of services is responsible for collection of the copayment from the participant. ()
- 02. Denial of Services.** The provider may require payment of an applicable copay prior to rendering services. ()
- 03. Waiver of Copayment.** The provider may choose to waive payment of any copay. The provider must have a written policy describing the criteria for enforcing collection of copayments and when the copay may be waived. ()
- 04. Reduction in Reimbursement.** When a copay is applicable, the provider's reimbursement will be reduced by the amount of the copay regardless of whether or not a copay was charged or collected by the provider. ()
- 331. -- 399. (RESERVED)**
- 400. PARTICIPATION IN THE COST OF HOME AND COMMUNITY-BASED WAIVER SERVICES.**
Medicaid participants required to participate in the cost of Home and Community-Based Waiver (HCBS) services as described in IDAPA 16.03.10, “Medicaid Enhanced Plan Benefits,” must have their share of cost determined as described in Subsections 400.01 through 400.10 of this rule. ()

01. Excluded Income. Income excluded under the provisions of IDAPA 16.03.05, “Eligibility for Aid to the Aged, Blind, and Disabled (AABD),” Sections 723 and 725, is excluded in determining participation. ()

02. Base Participation. Base participation is income available for participation after subtracting all allowable deductions, except for the incurred medical expense deduction in Subsection 400.07 of this rule. Base participation is calculated by the participant's Self Reliance Specialist. The incurred medical expense deduction is calculated by the Division of Welfare. ()

03. Community Spouse. Except for the elderly or physically disabled participant’s personal needs allowance, base participation for a participant with a community spouse is calculated under IDAPA 16.03.05, “Eligibility for Aid to the Aged, Blind, and Disabled (AABD),” Section 725. A community spouse is the spouse of an HCBS participant who is not an HCBS participant and is not institutionalized. The HCBS personal needs allowance for a participant living in adult residential care equals the federal Supplemental Security Income (SSI) benefit rate for an individual living independently. ()

04. Home and Community Based Services (HCBS) Spouse. Except for the elderly or physically disabled participant's personal needs allowance (PNA), base participation for a participant with an HCBS spouse is calculated and specified under IDAPA 16.03.05, “Eligibility for Aid to the Aged, Blind, and Disabled (AABD),” Section 723. An HCBS spouse is the spouse of a participant who also receives HCBS. ()

05. Personal Needs Allowance. The participant's personal needs allowance depends on whether the participant has a legal obligation to pay rent or mortgage. The participant's personal needs allowance is deducted from any countable income after income exclusions and before other allowable deductions. To determine the amount of the personal needs allowance, use Table 400.05 of this rule:

TABLE 400.05 - PERSONAL NEEDS ALLOWANCE	
Amount of Personal Needs Allowance (PNA) for Participation	
Not Responsible for Rent or Mortgage	Responsible for Rent or Mortgage
One hundred percent (100%) of the federal SSI benefit for a person with no spouse	One hundred and eighty percent (180%) of the Federal SSI benefit for a person with no spouse

()

06. Developmentally Disabled Participants. These allowances are specified in IDAPA 16.03.05, “Eligibility for Aid to the Aged, Blind, and Disabled (AABD).” The HCBS personal needs allowance for adult participants receiving waiver services under the Developmentally Disabled Waiver is three (3) times the federal SSI benefit amount to an individual in his own home. ()

07. Incurred Medical Expenses. Amounts for certain limited medical or remedial services not covered by the Idaho Medicaid Plan and not paid by a third party may be deducted from the base participation amount. The Department must determine whether a participant’s incurred expenses for such limited services meet the criteria for deduction. The participant must report such expenses and provide verification in order for an expense to be considered for deduction. Costs for over-the-counter medications are included in the personal needs allowance and will not be considered a medical expense. Deductions for necessary medical or remedial expenses approved by the Department will be deducted at application, and changed, as necessary, based on changes reported to the Department by the participant. ()

08. Remainder After Calculation. Any remainder after the calculation in Subsection 400.05 of this rule is the maximum participation to be deducted from the participant's provider payments to offset the cost of services. The participation amount will be collected from the participant by the provider. The provider and the participant will be notified by the Department of the amount to be collected. ()

09. Recalculation of Participation. The participant's participation amount must be recalculated annually at redetermination or whenever a change in income or deductions becomes known to the Department. ()

10. Adjustment of Participation Overpayment or Underpayment Amounts. The participant's participation amount is reduced or increased the month following the month the participant overpaid or underpaid the provider. ()

401. -- 999. (RESERVED)

16.03.19 – CERTIFIED FAMILY HOMES

000. LEGAL AUTHORITY.

The Idaho Board of Health and Welfare is authorized under Sections 56-1005 and 39-3505, Idaho Code, to adopt and enforce rules and standards for Certified Family Homes. The Department is authorized under Sections 56-264 and 56-1007, Idaho Code, to adopt and develop application and certification criteria, and to charge and collect application and certification fees. Under Sections 56-1002, 56-1003, 56-1004, 56-1004A, 56-1005, and 56-1009, Idaho Code, the Department and the Board of Health and Welfare have prescribed powers and duties to provide for the administration and enforcement of Department programs and rules. ()

001. TITLE, SCOPE, AND EXCEPTIONS.

01. Title. These rules are titled IDAPA 16.03.19, “Certified Family Homes.” ()

02. Scope. These rules set the minimum standards and administrative requirements for any care provider who is paid to care for an adult living in the care provider’s home, when the adult is elderly or has a developmental disability, mental illness, or physical disability, and needs assistance with activities of daily living. ()

03. Exceptions to These Rules. These rules do not apply to the following: ()

a. Any individual who provides only housing, meals, transportation, housekeeping or recreational and social activities. ()

b. Any health facility defined by Title 39, Chapter 13, Idaho Code. ()

c. Any residential care or assisted living facility defined by Title 39, Chapter 33, Idaho Code. ()

d. Any arrangement for care in a relative’s home that is not compensated through a publicly-funded program. ()

e. Any home approved by the Department of Veterans Affairs as a “medical foster home” described in 38 CFR Part 17 and Sections 39-3502 and 39-3512, Idaho Code. Care providers who provide care to both veterans and non-veterans living in a “medical foster home” are not exempt from these rules. ()

04. State Certification to Supersede Local Regulation. These rules will supersede any program of any political subdivision of the state which certifies or sets standards for certified family homes. These rules do not supersede any other local regulations. ()

002. INCORPORATION BY REFERENCE.

The Americans with Disabilities Act Accessibility Guidelines, 28 CFR Part 36 - 2010 ADA Standards for Accessible Design, is incorporated by reference. The internet website is http://www.ada.gov/2010ADASTandards_index.htm. ()

003. -- 008. (RESERVED)

009. CRIMINAL HISTORY AND BACKGROUND CHECK REQUIREMENTS.

01. Department Criminal History and Background Check Clearance. The provider, substitute caregivers, and all adults living in the home are required to complete a Department criminal history and background check and receive a clearance in compliance with IDAPA 16.05.06, “Criminal History and Background Checks.” The resident is exempt from criminal history check requirements. ()

02. When Certification Can Be Granted. Prior to certification being granted: ()

a. The provider must have a completed criminal history check, including clearance; and ()

b. Any other adult living in the home must have completed a self-declaration form, be fingerprinted, and not have any designated crimes listed in IDAPA 16.05.06, “Criminal History and Background Checks.” ()

03. New Adults in the Home After Certification Is Granted. A new adult who plans to live in the

home must complete a self-declaration form, be fingerprinted, and not have any designated crimes listed in IDAPA 16.05.06, "Criminal History and Background Checks," before moving into the home. Any adult who is a visitor in the home and leaves within thirty (30) days is not required to have a criminal history check but must not have unsupervised contact with the resident. ()

04. Minor Child Turns Eighteen. A minor child turning eighteen (18) and living in the home must complete a self-declaration form, be fingerprinted, and not have disclosed any designated crimes listed in IDAPA 16.05.06, "Criminal History and Background Checks," within thirty (30) days following the month of his eighteenth birthday. ()

05. Substitute Caregiver. A substitute caregiver must complete a self-declaration form, be fingerprinted, and not have disclosed any designated crimes listed in IDAPA 16.05.06, "Criminal History and Background Checks," prior to any unsupervised contact with the resident. ()

06. Additional Criminal Convictions, Pending Investigations, or Charges. Once criminal history clearances have been received, the provider must report to the Department any additional criminal convictions, pending investigation or charges for himself, any other adult living in the home or a substitute caregiver as described in Section 210 of these rules. ()

07. Renewal of Clearance. Any adult who needs to clear a Department criminal history and background check according to these rules must obtain a new clearance from the Department at least every five (5) years. ()

010. DEFINITIONS AND ABBREVIATIONS -- A THROUGH K.

For the purposes of these rules, the following definitions apply: ()

01. Abuse. A nonaccidental act of sexual, physical, or mental mistreatment or injury of the resident through the action or inaction of another individual. ()

02. Activities of Daily Living. The performance of basic self-care activities in meeting an individual's needs to sustain them in a daily living environment, including bathing, washing, dressing, toileting, grooming, eating, communication, mobility, and associated tasks. ()

03. Adult. A person who has attained the age of eighteen (18) years. ()

04. Alternate Caregiver. A certified family home provider approved by the Department to care for a resident from another certified family home for up to thirty (30) consecutive days when the original provider is temporarily absent or unable to care for the resident. ()

05. Assessment. The conclusions reached through evaluation of functional and cognitive ability using uniform criteria that identifies the resident's strengths, weaknesses, risks and needs, and includes functional needs, medical needs and behavioral needs. ()

06. Certificate. A permit issued by the Department to operate a certified family home. ()

07. Certified Family Home. A home certified by the Department to provide a family-styled living environment and care to one (1) or two (2) adults who are not able to reside in their own home and who require care, help with activities of daily living, help with instrumental activities of daily living, protection and security, supervision, personal assistance or encouragement toward independence. The certified family home is referred to as "the home" in these rules. ()

08. Certified Family Home Care Provider. The adult member of the certified family home living in the home who is responsible for providing care to the residents and maintaining the home. The certified family home care provider is referred to as "the provider" in these rules. ()

09. Certifying Agent. A person acting under the authority of the Department to participate in the certification, inspection, and regulation of a certified family home. ()

10. Chemical Restraint. The use of any medication that results or is intended to result in the modification of behavior for the purposes of discipline or convenience and not required to treat the resident's medical condition or symptoms. ()

11. Core Issue. Abuse, neglect, exploitation, inadequate care, inoperable fire detection or extinguishing systems with no fire watch in place pending the correction of the system, and situations in which advocates, representatives, and certifying agents are denied access to records, residents, or the home according to their respective authority. ()

12. Criminal Offense. Any crime as defined in Section 18-111, Idaho Code, in 18 U.S.C. Section 4A1.2 (o), and 18 U.S.C. Sections 1001 through 1027. ()

13. Critical Incident. Any actual or alleged event or situation that creates a significant risk of substantial or serious harm to the physical or mental health, safety or well being of a resident. ()

14. Department. The Idaho Department of Health and Welfare. ()

15. Director. The Director of the Idaho Department of Health and Welfare or their designee. ()

16. Exploitation. The misuse of a vulnerable adult's funds, property, or resources by another person for profit or advantage. ()

17. Health Care Professional. An individual licensed to provide health care within their respective discipline and scope of practice. ()

18. Immediate Jeopardy. An immediate or substantial danger to a resident. ()

19. Inadequate Care. The provider fails to provide services required to meet the terms of the negotiated plan of service or provide for room, board, activities of daily living, supervision, first aid, assistance and monitoring of medications, emergency intervention, coordination of outside services or a safe living environment, or engages in violations of residents' rights or takes residents who have been admitted in violation of the provisions of Section 39-3507, Idaho Code. ()

20. Incident. An actual or alleged minor event or situation that has impacted or has the potential to impact the resident's health or safety, but does not rise to the level of a critical incident. ()

21. Incidental Supervision. Supervision provided by an individual approved by the provider to supervise the resident, not to exceed four (4) hours per week. ()

22. Instrumental Activities of Daily Living. The performance of secondary level activities that enable a person to live independently in the community, including preparing meals, accessing transportation, shopping, laundry, money management, housework, medication management, using tools and technology, and other associated tasks. ()

011. DEFINITIONS AND ABBREVIATIONS -- L THROUGH Z.
For the purposes of these rules, the following definitions apply: ()

01. Level of Care. A categorical assessment of the resident's functional ability in any given activity of daily living, instrumental activity of daily living or self-preservation and the degree of care required in that area to sustain the resident in a daily living environment. ()

02. Neglect. The failure to provide food, clothing, shelter or medical care to sustain the life and health of a resident. ()

03. Negotiated Service Agreement. The agreement between the resident or their representative, and

the provider based on the resident's assessment, health care professional's orders, admission records, and desires of the resident, that outlines services to be provided and the obligations of the provider and the resident. This agreement is also known as a plan of service. ()

04. Personal Assistance. The provision of care to the resident by the provider of one (1) or more of the following services: ()

- a.** Assisting the resident with activities of daily living; ()
- b.** Assisting the resident with instrumental activities of daily living; ()
- c.** Arranging for supportive services; ()
- d.** Being aware of the resident's general whereabouts; and ()
- e.** Monitoring the activities of the resident while on the premises of the home to ensure the resident's health, safety and well-being. ()

05. Plan of Service. The generic term used in these rules to refer to the Negotiated Service Agreement, Personal Care Plan, Plan of Care, Individual Support Plan, Support and Spending Plan, or any other comprehensive service plan. ()

06. PRN (Pro Re Nata). PRN is an abbreviation meaning "when necessary" used for medication or treatment ordered by a health care professional to an individual allowing the medication or treatment to be given as needed. ()

07. Relative. A person related by birth, adoption, or marriage to the third degree, including spouses, parents, children, siblings, grandparents, grandchildren, aunts, uncles, nephews, nieces, great-grandparents, great-grandchildren, great-aunts, great-uncles, and first cousins. ()

08. Resident. An adult who lives in a certified family home and who requires personal assistance or supervision. ()

09. Substitute Caregiver. An adult designated by the provider to provide care, services and supervision to the resident in the provider's certified family home for up to thirty (30) consecutive days. ()

10. Supervision. An administrative activity which provides the following: protection, guidance, knowledge of the resident's whereabouts and monitoring activities. ()

11. Supportive Services. The specific services that are provided to the resident in the community and that are required by the plan of service or reasonably requested by the resident. ()

12. Variance. A temporary exception not to exceed twelve (12) months issued by the Department to a certified family home allowing noncompliance with a specific standard required under these rules when the provider has shown good cause for such an exception and the variance does not endanger the health and safety of any resident. ()

13. Vulnerable Adult. A person eighteen (18) years of age or older who is unable to protect himself from abuse, neglect, or exploitation due to physical or mental impairment that affects the person's judgment or behavior to the extent that they lack sufficient understanding or capacity to make or communicate or implement decisions regarding their person as defined in Section 39-5302(10), Idaho Code. ()

14. Waiver. A permanent exception issued by the Department to a certified family home allowing noncompliance with a specific standard required under these rules when the provider has shown good cause for such an exception and the waiver does not endanger the health and safety of any resident. ()

012. -- 099. (RESERVED)

100. CERTIFICATION REQUIREMENTS.

Certification is required in order to operate a certified family home in the State of Idaho. The Department will issue a certificate to a provider when all certification requirements are met. ()

01. Certificate Issued in the Name of Provider. The certificate is issued in the name of the provider applying for certification, and only to the address of the home stated in the application. A new certificate is required if the provider or the location of the certified family home changes. ()

02. Accessibility to the Home. The home, physical premises, and all records required under these rules must be accessible at all times to the Department for the purposes of inspection, with or without prior notification. ()

03. Number of Residents in the Home. The home cannot be certified for more than two (2) residents. A variance may be granted by the Department as described in Section 140 of these rules. ()

04. Certification Limitations. ()

a. A home cannot be certified if it also provides room or board to any person who is not a resident or relative of the provider as defined by these rules. A variance may be granted by the Department when the individual receiving room or board is the spouse of the resident and does not require certified family home care or any higher level of care. ()

b. A home cannot be certified as a certified family home and a children's foster home at the same time, unless a variance is granted by the Department. ()

c. The provider, provider's relatives, and other adults living in the home must not be the legal guardian of the resident unless the provider, provider's relative, or other adult living in the home is a relative of the resident. A variance may be granted by the Department when determined the guardianship is in the best interest of the resident. ()

d. The provider may not be absent from the certified family home for more than thirty (30) consecutive days when the home has an admitted resident. Appropriate care and supervision must be provided to the resident in the provider's absence as described in Section 300 of these rules. ()

e. The provider's primary residence must be the certified family home. ()

05. Certification Study Required. Following receipt of an acceptable application and other required documents, the Department will begin a certification study within thirty (30) days. The certification study, along with the application and other required material, will serve as the basis for issuing or denying a certificate. The study will include the following: ()

a. A review of all material submitted; ()

b. A home inspection; ()

c. An interview with the proposed provider; ()

d. An interview with the provider's relatives or other members of the household, when deemed necessary; ()

e. A review of the number, age, and sex of children or other adults in the home to evaluate the appropriateness of a placement to meet the needs of the resident; ()

f. A medical or psychological examination of the provider or other members of the household, when the Department determines it is necessary, including a statement from a health care professional that the provider has the ability to provide adequate care to the resident and ensure a safe living environment; ()

and g. Proof that the provider or provider's spouse is listed on the deed, mortgage, or lease of the home; ()

h. Other information necessary to verify that the home is in compliance with these rules. ()

06. Provider Training Requirements. As a condition of initial certification, the provider must receive training in the following areas: ()

a. Resident rights; ()

b. Certification in first aid and adult Cardio-Pulmonary Resuscitation (CPR) which must be kept current and include hands-on skills training; ()

c. Emergency procedures; ()

d. Fire safety, including use and maintenance of fire extinguishers, smoke alarms, and carbon monoxide alarms; ()

e. Completion of an approved "Assistance with Medications" course available through an Idaho Professional Technical Education Program or other course approved by the Department; and ()

f. Complaint investigation and inspection procedures. ()

07. Effect of Previous Revocation or Denial of Certificate or License. The Department is not required to consider the application of any applicant who has had a health care certificate or license denied or revoked until five (5) years have elapsed from the date of denial or revocation according to Section 39-3525, Idaho Code. ()

101. APPLICATION FOR CERTIFICATION.

The applicant must apply for certification on forms provided by the Department, pay the application fee, and provide information required by the Department. ()

01. Completed and Signed Application. A completed application form signed by the applicant. ()

02. Statement to Comply. A written statement that the applicant has thoroughly read and reviewed this chapter and is prepared to comply with all of its provisions. ()

03. Criminal History and Background Checks. Satisfactory evidence that the applicant and all adults living in the home are of reputable and responsible character, including criminal history and background checks as provided in Section 009 of these rules. ()

04. Statement Disclosing Revocation or Disciplinary Actions. A written statement that discloses any revocation or other disciplinary action taken or in the process of being taken against the applicant as a care provider in Idaho or any other jurisdiction, or a statement from the applicant stating they have never been involved in any such action. ()

05. Electrical Inspection. A current statement from a licensed electrician or the local/state electrical inspector that all wiring in the home complies with applicable local code. ()

06. Environmental Sanitation Inspection. If the home is not on a municipal water supply or sewage disposal system, a current statement is needed from the local environmental health agency that the water supply and sewage disposal system meet the legal standards. If the local environmental health agency cannot provide this information, the applicant must obtain a statement to that effect. In addition, the applicant must provide a signed statement from a person in the business of servicing these systems that the water supply and sewage disposal system are in good working order. ()

07. Proof of Insurance. Proof of homeowner's or renter's insurance on the applicant's home. For continued certification, the provider must ensure that insurance is kept current. ()

08. List of Individuals Living in the Home. A list of all individuals living in the home at the time of application and their relationship to the applicant. ()

09. Payment of Application Fee. Payment of the application fee required in Section 109 of these rules. ()

10. Other Information as Requested. Other information that may be requested by the Department for the proper administration and enforcement of the provisions of these rules. ()

11. Termination of Application Process. Failure of the applicant to cooperate with the Department in the application process will result in the termination of the application process. Failure to cooperate means that the information described in Section 101 of these rules is not provided in a timely manner, or not provided in the form requested by the Department, or both. ()

102. -- 108. (RESERVED)

109. APPLICATION AND CERTIFICATION FEES FOR CERTIFIED FAMILY HOMES.

01. Application Fee Amount. An applicant is required to pay to the Department at the time of application a one-time non-refundable application fee of one hundred fifty (\$150) dollars. ()

02. Payment of Application Fees. The application fee is required for the following: ()

a. Upon application to become a certified family home care provider; ()

b. When an application is terminated or the home closes, the applicant must pay the application fee again to reapply for certification; or ()

c. When the home will be operated by a new care provider. ()

03. Certification Fees. The provider is required to pay to the Department a certification fee of twenty-five (\$25) dollars per month. This amount is billed to the provider quarterly, and is due and payable within thirty (30) days of date of the invoice. ()

a. Failure of the provider to pay certification fees when due may cause the Department to take enforcement action described in Section 913 of these rules. ()

b. Monthly certification fees paid in advance for the home will be refunded when the provider operates the home for less than fifteen (15) days during any given month for which payment was received by the Department. An advanced payment refund may be paid when the provider voluntarily closes the home as provided in Section 115 of these rules, or involuntarily closes the home due to an enforcement remedy imposed by the Department. ()

110. ISSUANCE OF CERTIFICATE.

01. Certificate. A certificate is valid for no more than twelve (12) months from the date of approval. The certificate expires at the end of the stated period unless it is continued in effect by the Department as provided in Section 111. of these rules. ()

a. The initial certificate requires a scheduled home inspection by a certifying agent. ()

b. The certificate is valid only for the location and person named in the application and is not transferable or assignable. ()

- c. The certificate must be available at the home upon request. ()

02. Temporary Certificate. A temporary certificate may be issued to allow time for the provider to meet all certification requirements without a lapse in certification when the provider plans to relocate to a residence within the state and plans to continue operation of a certified family home. A temporary certificate is valid for no more than sixty (60) days from the date of approval. ()

a. At least thirty (30) days prior to moving into a new residence, the provider must notify the certifying agent for the region in which the new home will be located. Prior to moving into the new residence, the provider must submit to the certifying agent the following: ()

i. A completed application form as required in Section 101 of these rules. An application fee is not required for only a change of location of the home; ()

ii. An electrical inspection for the new residence as required in Section 101 of these rules; ()

iii. Inspection and approval of any fuel-fired heating system in the new residence as required in Section 600 of these rules; and ()

iv. Other information requested by the Department to ensure the new residence is appropriate for use as a certified family home and safe for occupation. ()

b. The Department will issue a temporary certificate upon review and approval of the information required under Subsection 110.02 of this rule. ()

c. The provider must coordinate with the certifying agent an inspection of the new residence to occur prior to the expiration of the temporary certificate and be prepared to demonstrate compliance with this chapter of rules during the home inspection. ()

d. The Department will issue a certificate as described in Subsection 110.01 of this rule when it determines that the home is in compliance with these rules. ()

03. Provisional Certificate. A provisional certificate may be issued to the home as provided in Section 909 of these rules when it is not in substantial compliance with these rules and the deficiencies do not adversely affect the health or safety of the resident and are not likely to continue beyond six (6) months. ()

a. A provisional certificate may be issued for up to six (6) months and is contingent on compliance with the conditions for the provisional certificate and implementation of an approved plan to correct all deficiencies prior to the expiration of the provisional certificate. ()

b. A provisional certificate may be replaced with a certificate when the Department has determined the home is in substantial compliance with these rules prior to the expiration of the provisional certificate. ()

c. A certified family home will not be issued more than one (1) provisional certificate in any twelve (12) month period. ()

111. RENEWAL OF CERTIFICATE.

The provider must submit a written request on a form provided by the Department to renew the home's certificate at least thirty (30) days prior to the expiration of the existing certificate. The completed renewal application form and any required documentation must be returned to the regional certifying agent where the home is located. ()

01. Home Inspection. A home inspection by a certifying agent is required the year after the initial home certification study and at least every twenty-four (24) months thereafter. The home inspection will consist of the elements of the certification study as required in Section 100 of these rules. ()

02. Desk Review. When the Department determines a home inspection is not required to renew the

certificate, the Department may conduct a desk review by written notification to the provider. The provider must submit the renewal application to the certifying agent and copies of the following documentation: ()

- a. Current first aid and adult CPR cards; ()
- b. Furnace, well, and fireplace inspection reports, as applicable; ()
- c. Septic system inspection or pumping report, as applicable, when the previous inspection is older than five (5) years; ()
- d. Annual fire extinguisher inspection reports, or sales receipts for fire extinguishers that comply with Section 600 of these rules that are less than twelve (12) months old; ()
- e. Log of smoke and carbon monoxide alarm tests, fire extinguisher examinations, emergency plan reviews, and fire drill and evacuation summaries; ()
- f. Training logs; ()
- g. List of individuals currently living in the home and individuals who moved in and out of the home during the year; ()
- h. Proof that the provider or provider's spouse is listed on the deed, mortgage, or lease of the home; ()
- i. Proof of homeowner's or renter's insurance; ()
- j. Request for a waiver, variance, or renewal of a variance that meets the requirements in Sections 120 through 140 of these rules as applicable; and ()
- k. Other information as requested by the Department. ()

03. Validity of Existing Certificate. The existing certificate, unless suspended or revoked, remains valid until the Department has acted on the renewal application when the application and supporting documentation is filed in a timely manner with the certifying agent. ()

112. CHANGE OF PROVIDER OR LOCATION.

01. Change of Provider. Certificates are not transferable or assignable from one (1) individual to another. The home must be certified using the same procedure as a new home that has never been certified when a change of care provider occurs. ()

02. Change of Location. Certificates are not transferable or assignable from one (1) location to another. When a change of location occurs, the provider's new home must be: ()

- a. Certified using the same procedure as required in Section 100 of these rules for a new home that has never been certified; or ()
- b. Temporarily certified by the procedure described in Section 110 of these rules. ()

113. DENIAL OF APPLICATION FOR CERTIFICATE.

The Department may deny the application for issuance of a certificate when conditions exist that endanger the health, safety, or welfare of any resident or when the home or provider is not in compliance with these rules. ()

01. Additional Causes For Denial. Additional causes for denial of an application for a certificate include the following: ()

- a. The applicant or provider has willfully misrepresented or omitted information on the application or

other documents pertinent to obtaining a certificate; ()

b. The applicant or provider has been convicted of fraud, gross negligence, abuse, assault, battery or exploitation; ()

c. The applicant or provider has been convicted of a criminal offense within the past five (5) years, other than a minor traffic violation or similar minor offense; ()

d. The applicant or provider has been denied or has had revoked any child care (including foster home) or health facility license, residential assisted living facility license, or certified family home certificate; ()

e. The applicant or provider has been found to have operated a health facility, residential assisted living facility, or certified family home without a license or certificate; ()

f. A court has ordered that the applicant or provider must not operate a health facility, residential assisted living facility, or certified family home; ()

g. The applicant or provider is listed on the statewide Child Abuse Registry, Adult Protection Registry, Sexual Offender Registry, or Medicaid exclusion lists; or ()

h. The applicant or provider is directly under the control or influence of any person who is described in Subsection 113.01 of this rule. ()

02. Notice of Denial. Immediately upon denial of any application for a certificate, the Department will notify the applicant or provider in writing by certified mail or by personal service of its decision, including the reason(s) for the Department's decision and how to appeal the decision. ()

114. FAMILY HOME OPERATING WITHOUT A CERTIFICATE.

01. Operating Without Certificate. A person found to be operating a family home without first obtaining a certificate may be referred for criminal prosecution. ()

02. Placement or Transfer of Resident. Upon discovery of a family home operating without a certificate, the Department may transfer residents to the appropriate placements or refer to the local adult protective services agency when: ()

a. There is an immediate threat to any resident's health and safety; or ()

b. The individual operating the home does not cooperate with the Department to apply for certification, meet certification standards and obtain a valid certificate. ()

115. VOLUNTARY CLOSURE OF THE HOME.

When choosing to voluntarily close the home, the provider must provide written notice to the certifying agent in the region where the home is located. The notification must include the following: ()

01. Date of Notification. ()

02. Provider's Certificate. A copy of the certificate, or information from the certificate that includes: ()

a. Provider's name; ()

b. Address of the home; and ()

c. Certificate number. ()

03. Closure Date. The written notice must include the planned closure date. The Department will not refund or prorate prepaid certification fees on retroactive closures. ()

04. Discharge Plans. If applicable, discharge plans for current residents must accompany the written notice. ()

116. REQUIRED ONGOING TRAINING.

The provider must document a minimum of eight (8) hours per year of ongoing, relevant training in the provision of supervision, services, and care. ()

01. Initial Provider Training. The initial provider training required in Section 100 of these rules satisfies the eight (8) hour training requirement for the first year of certification. ()

02. Content of Training. ()

a. Resident specific. At least half of the required ongoing training hours each year must be devoted to the specific conditions, diagnoses and needs of admitted residents, when residents are admitted. ()

b. General topics. The remaining hours may be devoted to other topics related to care giving, health or safety. Up to two (2) hours of first aid or adult CPR training will count toward the annual requirement. ()

03. Documentation of Training. The provider must document ongoing training. The documentation must include: ()

a. Topic of the training with a brief description; ()

b. Source of training, including the name of the instructor or author; ()

c. Number of hours; and ()

d. Resident specific or general topic. ()

117. -- 119. (RESERVED)

120. WAIVERS.

The Department may grant permanent waivers. The decision to grant a waiver for a home or provider is not a precedent or applicable to any other home or provider and has no force of effect in any other proceeding. ()

01. Written Request. The provider must submit a written request for a waiver to the regional certifying agent where the home is located prior to any planned noncompliance with any rule under this chapter. The appropriateness of granting a waiver is determined by the Department. The request must include the following: ()

a. Reference to the section of the rules for which the waiver is requested; ()

b. Reasons that show good cause for granting the waiver, including any extenuating circumstances and any compensating factors or conditions that may have bearing on the waiver, such as additional floor space or additional staffing; and ()

c. A signed statement from the provider that assures the resident's health and safety will not be jeopardized if the waiver is granted. The statement must include an agreement to implement any special conditions the Department requires. ()

02. Special Conditions. When granting a waiver, the Department may require the provider to meet special conditions while the waiver is in effect to ensure the health and safety of residents. ()

03. Waiver Not Transferable. A waiver granted under Section 120 of this rule is not transferable to

any other provider, home, or resident. ()

121. GENERAL VARIANCES.

The Department may grant temporary variances that may be effective for up to twelve (12) months at a time. The decision to grant a variance for a home or provider is not a precedent or applicable to any other home or provider and has no force of effect in any other proceeding. ()

01. Written Request. The provider must submit a written request for a variance to the regional certifying agent where the home is located prior to any planned noncompliance with any rule under this chapter. The appropriateness of granting a variance is determined by the Department. The request must include the following: ()

a. Reference to the section of the rules for which the variance is requested; ()

b. Reasons that show good cause for granting the variance, including any extenuating circumstances and any compensating factors or conditions that may have bearing on the variance, such as additional floor space or additional staffing; and ()

c. A signed statement from the provider that assures resident health and safety will not be jeopardized if the variance is granted, including an agreement to implement any special conditions the Department may require. ()

02. Special Conditions. When granting a variance, the Department may require the provider to meet special conditions while the variance is in effect to ensure the health and safety of residents. ()

03. Variance Renewal. To renew a variance, the provider must submit a written request to the regional certifying agent where the home is located at least thirty (30) days prior to expiration of the variance. The request for renewal must include the information required in Subsection 121.01 of this rule. The appropriateness of renewing a variance is determined by the Department. ()

04. Variance Not Transferable. A variance granted under Section 121 of this rule is not transferable to any other provider, home, or resident. ()

122. REVOKING A WAIVER OR VARIANCE.

The Department may revoke a waiver or variance. ()

01. Causes for Revocation. Revocation of a waiver or variance may occur when: ()

a. The provider has not met the special conditions associated with granting the exception; ()

b. Conditions within the home have changed such that an exception is no longer prudent; or ()

c. The health and safety of residents have otherwise been compromised. ()

02. Written Notice. The Department will provide written notice to the provider when a waiver or variance is revoked, including the reason for the revocation. ()

03. Time Frame to Comply. The provider must comply with the rule for which the waiver or variance is revoked according to the following time frames: ()

a. Immediately upon notification, when there is a threat to the life or safety of residents; or ()

b. Within thirty (30) days of notification, when there is no threat to the life or safety of residents. ()

123. -- 129. (RESERVED)

130. NURSING FACILITY LEVEL OF CARE VARIANCE.

A certified family home may care for one (1) resident who requires nursing facility level of care as defined in Section 39-1301(b), Idaho Code, without obtaining a variance. A home seeking to provide care to two (2) residents who require nursing facility level of care must request a variance in writing from the Department as required in Section 121 of these rules. ()

01. Conditions for a Variance. The Department may issue a written variance permitting the arrangement when: ()

- a. Each of the residents provides a written statement to the Department requesting the arrangement; ()
- b. Each of the residents making the request is competent, informed, and has not been coerced; ()
- c. The Department finds the arrangement safe and effective. ()

02. Revoking a Variance. The Department will revoke the variance when: ()

- a. There is a threat to the life or safety of either resident; ()
- b. One (1) of the residents leaves the home permanently; ()
- c. One (1) of the residents notifies the Department in writing that they do not wish to live in the home with the other resident; or ()
- d. The Department finds the arrangement is no longer safe and effective. ()

03. Variance Not Transferable. A variance granted under Subsection 130.01 of this rule is not transferable to any other provider, home, or resident. ()

131. -- 139. (RESERVED)

140. VARIANCE TO THE TWO RESIDENT LIMIT.

01. Application for Variance. The provider may apply on forms provided by the Department for a variance to the two (2) resident limit in order to care for three (3) or four (4) residents on a per resident basis prior to any new admissions. The application must be submitted to the certifying agent where the home is located. The appropriateness of granting the variance is determined by the Department. ()

02. Criteria for Determination. The Department will determine if safe and appropriate care can be provided based on residents' needs. The Department will consider, at a minimum, the following factors in making its determination: ()

- a. Each current or prospective resident's physical, mental and behavioral status and history; ()
- b. The household composition including the number of adults, children and other family members requiring care from the provider; ()
- c. The training, education, and experience of the provider to meet each resident's needs; ()
- d. Potential barriers that might limit egress from and ingress to the home; ()
- e. The number and qualifications of care givers in the home; ()

- f. The desires of the prospective and current residents; ()
- g. The individual and collective hours of care needed by the residents; ()
- h. The physical layout of the home and the square footage available to meet the needs of all persons living in the home; and ()
- i. If a variance to the two (2) resident limit would result in two (2) or more residents who require nursing facility level of care living in the home, then the application for the variance must also include the information required in Section 130 of these rules. ()

03. Other Employment. A provider who is granted a variance to admit three (3) or four (4) residents must not have other gainful employment outside the home unless: ()

- a. The total direct care time for all residents as reflected by their plans of service and assessments or, if not indicated by these documents for a publicly-funded program, the time that the program bases its payment, does not exceed eight (8) hours per day; ()
- b. The provider is immediately available to meet resident needs as they arise; and ()
- c. Each resident is supervised at all times unless the assessment or plan of service indicates the resident may be left unattended for designated periods of time. ()

04. Additional Training. A provider who is granted a variance to admit three (3) or four (4) residents must obtain additional training to meet the needs of the residents as follows: ()

- a. A provider who cares for three (3) residents must obtain twelve (12) hours per year of ongoing relevant training as required in Section 116 of these rules. ()
- b. A provider who cares for four (4) residents must obtain sixteen (16) hours per year of ongoing relevant training as required in Section 116 of these rules. ()

05. Variance Nontransferable. A variance to care for more than two (2) residents is not transferable to another provider, home, or resident. ()

06. Reassessment of Variance. A variance to care for more than two (2) residents must be reassessed at least annually and when either of the following occurs: ()

- a. Each time a new admission is considered; or ()
- b. When there is a significant change in any of the factors specified in Subsection 140.02 of this rule. ()

07. Annual Home Inspection. A certified family home with a variance to care for more than two (2) residents must have a home inspection by a certifying agent at least annually. ()

08. Shared Sleeping Rooms. In addition to the requirements in Section 700 of these rules, the provider must not allow more than two (2) residents to share any one (1) sleeping room. ()

09. Fire Drill Frequency. A provider who is granted a variance to admit three (3) or four (4) residents must conduct fire drills as described in Section 600 of these rules, except the frequency of the fire drills must be at least monthly. ()

141. -- 149. (RESERVED)

150. INSPECTIONS OF HOMES.

The Department will inspect each certified family home at least every twenty-four (24) months, calculated from the first month of the most recent certification. Inspections may occur more frequently as the Department deems necessary. The Department may consider the results of previous inspections, history of compliance with rules, and complaints to determine the frequency of inspections. ()

01. Notice of Inspection. All inspections, except for the initial certification study, may be made unannounced and without prior notice. ()

02. Inspection by Department or Certifying Agent. The Department may use the services of any qualified person or organization, either public or private, to examine and inspect any home requesting certification. The inspector has the authority to have full access to the home and the authority to: ()

a. Examine quality of care and service delivery; ()

b. Examine home records, resident records, and any records or documents pertaining to any financial transactions between residents and the home, including resident accounts; ()

c. Examine the physical premises, including the condition of the home, grounds and equipment, food service, water supply, sanitation, maintenance, and housekeeping practices; ()

d. Examine any other areas necessary to determine compliance with these rules and standards; ()

e. Interview the provider, any adults living in the home, the resident and the resident's relatives, substitute caregivers, persons who provide incidental supervision, and any other person who is familiar with the home or its operation. Interviews with residents are confidential and conducted privately unless otherwise specified by the resident; and ()

f. Inspect the entire home, including the personal living quarters of members of the household, to check for inappropriate storage of combustibles, faulty wiring, or other conditions that may have a direct impact on the operation of the home. The provider, substitute caregiver, or any other adult living in the home may accompany the inspector. ()

03. Statement of Deficiencies. When violations of these rules are identified through the course of an investigation or inspection, depending on the severity, the Department may send a statement of deficiencies to the provider within thirty (30) days of the completed inspection or investigation. The statement of deficiencies will include the findings of the investigation or inspection and any rules the home was found to have violated. ()

04. Plan of Correction. When a statement of deficiencies is issued, the provider must develop a plan of correction and submit it to the Department for review and approval. ()

a. Depending on the severity of the deficiency, the provider may be given up to fourteen (14) calendar days to develop a written plan of correction and to return the plan of correction to the regional certifying agent where the home is located. ()

b. An acceptable plan of correction must include: ()

i. How each deficiency identified in the statement of deficiencies was corrected or how it will be corrected; ()

ii. What steps have been taken to assure that the deficiency does not recur; ()

iii. Acceptable time frames for correction of the deficiency; and ()

iv. Signature of the provider. ()

c. Follow-up inspections may be conducted to determine whether corrections to deficiencies are being ()

made according to the Department approved plan of correction. ()

d. The Department may provide consulting services to the provider, upon request, to assist in identifying and correcting deficiencies and upgrading the quality of care in the home. ()

05. List of Deficiencies. A current list of deficiencies, including plans of correction, are available to the public upon request at the home or by written request to the Department according to Section 006 of these rules. ()

151. -- 159. (RESERVED)

160. COMPLAINT PROCEDURE.

Any person who believes that any rule in this chapter has been violated by a certified family home may file a complaint with the Department. ()

01. Investigation. ()

a. The Department will investigate any complaint alleging a violation of these rules. Any complaint involving abuse, neglect, or exploitation of a vulnerable adult will also be referred to adult protective services according to Section 39-5303, Idaho Code. ()

b. The Department will investigate or cause to be investigated any reported critical incident affecting health and safety or change in a resident's condition, including the death of a resident, that indicates there was a violation of these rules. ()

02. Investigation Method. The nature of the complaint will determine the method used to investigate the complaint. On-site investigations at the home can be unannounced and without prior notice. ()

03. Written Report. Following completion of an investigation, the Department will provide a written report to the provider within thirty (30) days. The report will include the findings of the investigation. ()

04. Statement of Deficiencies. When violations of these rules are identified through the course of an investigation, depending on the severity, the Department may send the home a statement of deficiencies as described in Section 150 of these rules. When the Department issues a statement of deficiencies, the provider must prepare and submit a plan of correction as described in Section 150 of these rules. ()

05. Public Disclosure. Information received by the Department through filed reports, inspections, or as otherwise authorized under the law, must not be disclosed publicly in such a manner as to identify individual residents except in a proceeding involving a question of certification. ()

161. -- 169. (RESERVED)

170. MINIMUM STANDARDS OF CARE.

The provider must adequately care for each resident as follows: ()

01. Plan of Service. Provide the services required to meet the terms of the resident's plan of service as described in Section 250 of these rules, including development and implementation of the plan of service for private-pay residents and implementation of the plan of service for publicly-funded residents. ()

02. Supervision. Provide appropriate and adequate supervision for twenty-four (24) hours each day according to the resident's plan of service. ()

03. Daily Living Activities. Provide assistance to the resident at the level of care indicated on the resident's plan of service in the areas of activities of daily living and instrumental activities of daily living. ()

04. Medication Management. Provide assistance and monitoring of medications as described in

Sections 400 through 402 of these rules, as applicable. ()

05. Emergency Services. Provide immediate and appropriate interventions on behalf of the resident in response to an emergency, including the following: ()

a. Developing plans in advance of an emergency as described in Section 600 of these rules and executing those plans when necessary; ()

b. Evacuating the resident from the home; ()

c. Providing first aid to the resident when seriously injured; ()

d. Administering CPR to the resident unless the resident has an order not to resuscitate; ()

e. Arranging for emergency transportation; and ()

f. Contacting 9-1-1 for involvement of law enforcement officers or the fire department when necessary for the protection of the resident. ()

06. Supportive Services. Coordinate paid services for the resident outside the home, including: ()

a. Medical appointments; ()

b. Dental appointments; ()

c. Other services in the community as identified in the plan of service or reasonably requested by the resident; and ()

d. Arrange transportation to the service location and return to the home. ()

07. Resident Rights. Protect the resident's rights as listed in Section 200 of these rules. ()

08. Safe Living Environment. Provide a physical living environment that complies with Sections 500 through 710 of these rules. ()

171. -- 173. (RESERVED)

174. ACTIVITIES AND COMMUNITY INTEGRATION.

Section 39-3501, Idaho Code, requires that a certified family home provide a homelike, family-styled living environment with a focus on integrated community living. The provider must offer the following: ()

01. Activities. Recreational activities, provisions for trips to social functions, and daily activities. ()

02. Activity Supplies. Activity supplies in reasonable amounts, that reflect the interests of the resident. ()

03. Transportation. Arrangement of transportation to and from community, recreational, and religious activities within twenty-five (25) miles of the home when requested by the resident at least twenty-four (24) hours in advance. ()

175. ROOM, UTILITIES AND MEALS.

The home must provide room, utilities and three (3) daily meals to the resident. The charge for room, utilities and three (3) daily meals must be established in the admission agreement. The following are included in the charge for room, utilities and meals: ()

01. Sleeping Room. The resident sleeping room must meet the requirements of Section 700 of these

rules, must be equipped with a dresser, and when requested by the resident a chair, that are both substantially constructed and in good repair. ()

02. Bed. The resident must be provided with their own bed that is at least thirty-six (36) inches wide, substantially constructed, and in good repair. Roll-away type beds, cots, folding beds, or double bunks must not be used. The bed must have box springs kept in good repair, a clean and comfortable mattress, bedspread, sheets and pillow cases, and pillow that are standard for the size of the bed. ()

03. Monitoring or Communication System. A monitoring or communication system must be provided when necessary due to the size or design of the home or the needs of the resident. The provider must hold a written agreement with the resident or resident's representative prior to using a monitoring system that may violate the resident's right to privacy. ()

04. Secure Storage. On request, each sleeping room must be equipped with a lockable storage cabinet or drawer for personal items for each resident, in addition to the required storage in resident sleeping rooms. ()

05. Bathroom. Access to bathing and toilet facilities that meet the requirements of Section 700 of these rules. ()

06. Common Areas. Access to a common living area that contains reading lamps, tables, comfortable chairs or sofas, and basic television. The resident must be allowed to eat with the other members of the household if they so choose. ()

07. Supplies. Bath and hand towels; wash cloths; a reasonable supply of soap, shampoo, toilet paper, and facial tissue; and first aid supplies. ()

08. Housekeeping Service. Housekeeping and maintenance as required in Section 500 of these rules, including laundering of linens and clothing. ()

09. Water. Potable water that meets the requirements of Section 500 of these rules. ()

10. Sewer. A sewage disposal system that meets the requirements of Section 500 of these rules. ()

11. Trash. Disposal of garbage that meets the requirement of Section 500 of these rules. ()

12. Heating and Cooling. Sufficient heating and cooling to meet the requirements of Section 700 of these rules. ()

13. Electricity. Sufficient electricity to power common household and personal devices. ()

14. Telephone. Access to a telephone that meets the requirements of Section 700 of these rules. ()

15. Meals. The provider must offer breakfast, lunch, and dinner to the resident. ()

a. Food must be prepared in safe and sanitary methods that conserve nutritional value, flavor and appearance, when prepared by the provider or other member of the household. ()

b. Meals offered by the home must meet the dietary requirements or restrictions of the resident when so ordered by a health care professional. ()

176. -- 179. (RESERVED)

180. HOURLY ADULT CARE.

Hourly adult care, also referred to as adult day health, is a supervised, structured, paid service that may be provided in the home for up to fourteen (14) hours in any twenty-four (24) hour period to adult participants who are not residents

of the home. Hourly adult care encompasses health and social services, recreation, supervision, and assistance with activities of daily living needed to ensure the optimal functioning of the participant. The standards in this section do not apply if the service does not include a payment component to the provider, or the hourly adult care participant is a relative of the provider whose care is not publicly funded. Hourly adult care may be offered in the home when the following requirements are met: ()

01. Participants. No individual will be admitted to the home for hourly adult care who requires ongoing skilled nursing care or for whom the provider cannot adequately provide services and supervision. ()

02. Records. All records of services delivered by the provider must be maintained in the home for at least five (5) years from the date of service. ()

03. Enrollment Contract. The provider maintains an enrollment contract with each hourly adult care participant that contains the following: ()

- a. Full name of the participant; ()
- b. The participant's date of birth; ()
- c. Primary address of the participant; ()
- d. Names and telephone numbers of the participant's responsible party and other emergency contacts; ()
- e. Name and telephone number of the participant's primary physician; ()
- f. List of medications, diets, allergies, services, and treatments prescribed for the participant and other pertinent health information regarding the participant's needs; ()
- g. Services the provider must provide to the participant while in the home, which may include: activities, meals, supervision, assistance with medications, and assistance with activities of daily living, and the level of care required for each service; ()
- h. The rate charged by the provider for hourly adult care services if the participant is private pay; ()
- i. The number of days the provider will give written notice to the participant's primary contact in advance of terminating the enrollment contract; ()
- j. The date on which hourly adult day services will commence; and ()
- k. The printed name, signature, and contact information of the individual who completed the enrollment contract and the provider's printed name, signature, and contact information. Upon entering into the contract, a copy of the enrollment information must be provided to each party. ()

04. Service Logs. Service logs that identify, on a per day basis when hourly adult care services are provided in the home, the name of each participant who received services, the times of arrival to and departure from the home for each participant, and the names of staff who provided services and their arrival and departure times. ()

05. Space and Accommodations. The provider must only accept hourly adult care participants for whom the home can provide reasonable accommodations. The home must provide the following for hourly adult care participants: ()

- a. Seating on cushioned chairs or sofas positioned at least thirty-two (32) inches apart in common living areas such that all residents and participants in the home may comfortably enjoy the space; ()

b. A rest area away from the common living areas to permit privacy and to isolate participants who become ill or require rest and is equipped with furniture for napping, such as a bed, lounge chair, couch, or recliner; ()

c. Access to a bathroom that meets the requirements of Section 700 of these rules; and ()

d. When caring for participants with physical or sensory impairments, a physical environment that meets the requirements of Section 700 of these rules, as applicable. ()

06. Resident's Personal Space. The personal living space of the resident, including their sleeping room and on-suite bathroom, if equipped, must not be used by hourly adult care participants at any time. ()

07. Staffing. The provider must only accept hourly adult care participants for whom they can safely provide the level and types of service required. The provider must ensure that all staff providing hourly adult care services have been sufficiently trained in and follow universal infection control precautions and each participant's specific care plan as documented in the enrollment contract. In addition: ()

a. Each caregiver providing hourly adult care services must meet the qualifications of a substitute caregiver as described under Section 300 of these rules. ()

b. The provider must employ sufficient staff to assure safe and proper care for both residents and hourly adult care participants. Staffing must be based on: ()

i. The functional and cognitive status of each hourly adult care participant and resident; ()

ii. The size and layout of the home; and ()

iii. Staffing ratios must not fall below one (1) caregiver to four (4) residents and hourly adult care participants, combined. ()

08. Medications. Assistance with medications to hourly adult care participants must meet the requirements in Sections 400 through 402 of these rules. ()

a. The provider is responsible for safeguarding the participant's medications while the participant is receiving services at the home. ()

b. The participant's medications must not be stored at the home during hours in which the participant is not receiving hourly adult care services at the home. ()

09. Fire and Life Safety. The provider must ensure the home adheres to fire and life safety standards described in Section 600 of these rules. For fire and life safety purposes, the hourly adult care participant is considered a "resident" when that term is used in Section 600 of these rules. When offering hourly adult care, the provider must: ()

a. Prohibit smoking or unsupervised smoking in accordance with Section 600 of these rules. ()

b. Review emergency preparedness plans as required under Section 600 of these rules with the individual who completed the enrollment contract and provide a written copy of the plans to that individual. ()

c. Conduct fire drills as required in Section 600 of these rules, except that the frequency of the drills must be at least monthly. ()

181. -- 199. (RESERVED)

200. RESIDENT RIGHTS POLICY.

The provider must possess, annually review, and implement a written policy designed to protect and promote the rights of each resident as provided in this section. The written resident rights policy must include a statement that the resident or any other individual may file a complaint with the Department as described in Section 160 of these rules, when they believe that any resident's right has been violated. Resident rights policies must include the following:

()

01. Privacy. Each resident must be assured the right to privacy with regard to accommodations, medical and other treatment, written and telephone communications, visits and meetings of family and resident groups, including:

()

a. The right to send and receive mail unopened, either by postal service, electronically, or by other means, unless the resident's plan of service specifically calls for the provider to monitor the correspondence in order to protect the resident from abuse or exploitation;

()

b. If the resident is married, privacy for visits by their spouse. If both are residents in the home, they are permitted to share a room unless medically inadvisable, as documented by the resident's health care professional;

()

c. The right to control the use of pictures and videos containing the resident's image.

()

02. Humane Care. Each resident has the right to humane care and a humane environment, including the following:

()

a. The right to a diet which is consistent with any religious or health-related restrictions;

()

b. The right to refuse a restricted diet;

()

c. The right to a safe and sanitary living environment; and

()

d. The right to an environment free of illicit drug use or possession and other criminal activities.

()

03. Respectful Treatment. Each resident has the right to be treated with dignity and respect, including:

()

a. The right to be treated in a courteous manner by the provider and other individuals in the home;

()

b. The right to receive a response from the provider to any request of the resident within a reasonable time;

()

c. Freedom from discrimination on the basis of race, color, national origin, sex, religion, age, disability, or veteran status;

()

d. Freedom from intimidation, manipulation, and coercion;

()

e. The right to wear their own clothing; and

()

f. The right to determine their own dress and hair style.

()

04. Basic Needs Allowance. Each resident whose care is paid for by publicly-funded assistance must retain, for their personal use, the difference between their total monthly income and the Certified Family Home basic allowance established by IDAPA 16.03.05. "Eligibility for Aid to the Aged, Blind, and Disabled," Section 513.

()

05. Resident Funds and Property. Each resident has the right to manage their personal funds and use

their personal property. ()

a. The provider must not require the resident to deposit their personal funds into an account controlled by any other person. ()

b. Upon accepting written authorization from the resident, or the resident's representative, allowing the provider, provider's relative, or other member of the provider's household to manage the resident's personal funds, the provider must hold, safeguard, and account for the resident's personal funds as required in Section 275 of these rules. ()

c. The resident has the right to retain and use their own personal property in their own living area in order to maintain their individuality and personal dignity. The storage and use of these items by the resident must not present a fire or life safety hazard. ()

06. Access to Resident. Each provider and individuals living in the home must permit immediate access to any resident by any representative of the Department, by the state ombudsman for the elderly or their designee, by an adult protection investigator or by the resident's personal health care professional. Each home must also permit the following: ()

a. Immediate access to a resident by their relatives, subject to the resident's right to deny or withdraw consent at any time; ()

b. Immediate access to a resident by others who are visiting with the consent of the resident, subject to reasonable restrictions and the resident's right to deny or withdraw consent at any time; ()

c. Reasonable access to a resident by any entity or individual that provides health, social, legal, or other services to the resident, subject to the resident's right to deny or withdraw consent at any time; and ()

d. Reasonable access to the resident's records, medications and treatments by the resident's health care professional subject to the resident's permission. ()

07. Freedom From Harm. The resident has the right to be free from: ()

a. Physical, mental, or sexual abuse; ()

b. Neglect; ()

c. Exploitation; ()

d. Corporal punishment; ()

e. Involuntary seclusion; and ()

f. Any physical or chemical restraints imposed for purposes of discipline or convenience and not required to treat a medical condition. ()

08. Health Services. The resident has the right to control their health-related services, including: ()

a. The right to retain the services of their own personal physician and dentist; ()

b. The right to select the pharmacy or pharmacist of their choice; ()

c. The right to confidentiality and privacy concerning their medical or dental condition and treatment; ()

d. The right to participate in the formulation of their plan of service; ()

- e. The right to decline treatment for any medical condition; and ()
- f. When the resident is unable to give medical consent, the provider will give the name and contact information of the person holding guardianship or power of attorney for health care to any health care provider upon request. ()
- 09. Grievance.** ()
 - a. The resident has the right to voice or file a grievance with respect to care or service that is or fails to be furnished, without discrimination or reprisal for voicing the grievance and the right to prompt efforts by the provider to resolve grievances the resident may have, including those with respect to the behavior of other residents. ()
 - b. The provider must provide a written response to the resident or resident's representative describing how they resolved or attempted to resolve the grievance, and maintain a copy of this written response in the resident record. ()
- 10. Advance Notice.** The resident must receive written advance notice at least thirty (30) calendar days prior to their non-emergency transfer or discharge unless the transfer or discharge is for a reason described in Section 260, including the following: ()
 - a. The resident is transferred or discharged only for medical reasons; ()
 - b. To protect their welfare or the welfare of other members of the household; ()
 - c. Nonpayment for their stay; ()
 - d. The resident violates any condition mutually established between the resident and the provider at the time of admission; or ()
 - e. The resident engages in unlawful delivery, production, or use of a controlled substance on the premises of the home. ()
- 11. Other Rights.** In addition to the rights outlined in Subsections 200.01 through 200.10 of this rule, the resident has the following rights: ()
 - a. The resident has the right to refuse to perform services for the home except as contracted between the resident and the provider. The provider agrees to pay the resident for such services, and the provider pays the resident a wage consistent with state and federal law; ()
 - b. The resident must have access to their personal records, including those described in Section 270 of these rules, and must have the right to confidentiality of personal, medical, and clinical records; ()
 - c. The resident has the right to practice the religion of their choice or to abstain from religious practice. Residents must also be free from the imposition of the religious practices of others; ()
 - d. The resident has the right to participate in social, religious, and community activities that do not interfere with the rights of other residents in the home; ()
 - e. The resident has the right to examine, upon reasonable request, the results of the most recent inspection of the home conducted by the Department with respect to the home and any plan of correction in effect with respect to the home; ()
 - f. The resident has the right to review a list of other certified family homes that may be available to meet their needs in case of transfer; ()

g. The resident has the right to refuse routine care of a personal nature from any person whom the resident is uncomfortable receiving such care; ()

h. The resident has the right to be informed, in writing, regarding the formulation of advance directives as described in Title 39, Chapter 45, Idaho Code; and ()

i. The resident must have any other right established by law. ()

201. NOTICE OF RESIDENT RIGHTS.

01. Resident Rights Notice. The provider must inform the resident or their representative, verbally and in writing, at the time of admission to the home, of their legal rights during the stay at the home acknowledged by date and signatures. These rights are found in Section 200 of these rules. The provider must supply a copy of the resident rights policy to the resident or the resident's representative. ()

02. Annual Review of Resident Rights. The provider must review the resident rights policy with the resident or their representative at least annually including date and signature. ()

03. Documentation of Review. The provider must retain the signed and dated copy of the policy in the resident's record indicating that the resident or resident's representative has had the opportunity to review the policy. ()

202. ACCESS BY ADVOCATES AND REPRESENTATIVES.

The provider, substitute caregivers and adult members of the household must permit advocates and representatives of community and legal services programs, whose purposes include rendering assistance without charge to residents, to have access to the home at reasonable times. Advocates and representatives may observe all common areas of the home. Access must be permitted in order for advocates and representatives to provide the following: ()

01. Inform Residents of Services. Visit, talk with and make personal, social and legal services available to all residents. ()

02. Inform Residents of Rights. Inform residents of their rights and entitlements, their corresponding obligations under state, federal, and local laws by distribution of educational materials or discussion in groups and with individuals. ()

03. Assist Residents to Secure Rights. Assist residents in asserting their legal rights regarding claims for public assistance, medical assistance, and social security benefits, as well as in other matters in which residents are aggrieved. This assistance may be provided individually or in a group basis, and may include organizational activity, counseling, and litigation. ()

04. Advise and Represent. Engage in other methods of assisting, advising, and representing residents so as to extend to them the full enjoyment of their rights. ()

05. Communicate Privately. Communicate privately and without restrictions with any resident who consents to the communication. ()

203. -- 209. (RESERVED)

210. REPORTING REQUIREMENTS.

The provider must report to the regional certifying agent where the home is located or appropriate agency or individual for the following: ()

01. Serious Physical Injury or Death. The provider must report to the appropriate law enforcement agency within four (4) hours when there is reasonable cause to believe that abuse, neglect, or sexual assault has resulted in death or serious physical injury jeopardizing the life, health, or safety of a resident according to Sections 39-5303 and 39-5310, Idaho Code. ()

02. Abuse, Neglect, or Exploitation. When the provider has reasonable cause to believe that a vulnerable adult is being or has been abused, neglected, or exploited, they must immediately report this information to the Idaho Commission on Aging or its Area Agencies on Aging, according to Section 39-5303, Idaho Code. ()

03. Critical Incidents. The provider must notify the certifying agent when a critical incident affects the health or safety of the resident or leads to a change in the resident's condition, including serious illness, accident, elopement, death, or adult protective services or law enforcement contact and investigation. Reporting requirements are as follows: ()

- a. Within twenty-four (24) hours of the resident's death or disappearance; and ()
- b. Within three (3) business days following: ()
 - i. Contact from adult protective services or law enforcement in conjunction with an investigation; ()
 - ii. A visit to an urgent care clinic or emergency room; or ()
 - iii. Admission to a hospital. ()

04. Report of Fire. A separate report on each fire incident occurring within the home, for which a fire extinguisher was discharged or 9-1-1 was contacted, must be submitted to the certifying agent within three (3) business days of the occurrence. The report must include: ()

- a. Date of the incident; ()
- b. Origin of the fire; ()
- c. Extent of damage; ()
- d. How and by whom the fire was extinguished; and ()
- e. Injuries or deaths, if any. ()

05. Additional Criminal Convictions. The provider must immediately report any additional criminal convictions for himself, any other adult living in the home or a substitute caregiver to the certifying agent. ()

06. Notice of Investigations. The provider must immediately report to the certifying agent when they, any other adult living in the home, or a substitute caregiver is charged with or under investigation by law enforcement, adult protection services, or child protection services for: ()

- a. Abuse, neglect, or exploitation of any vulnerable adult or child; ()
- b. Other criminal conduct; or ()
- c. When an adult protection or child protection complaint is substantiated. ()

07. Reporting of Funds Managed by the Provider for a Deceased Resident. For funds managed under Section 275 of these rules, the following is required: ()

- a. On the death of a private-pay resident, the provider must convey the resident's funds, with a final accounting of those funds, to the individual administering the resident's estate within thirty (30) days. ()
- b. On the death of a publicly funded resident, the provider must convey the resident's funds, with a final accounting of those funds, to the Department within thirty (30) days. ()

08. Discharge of a Resident. The provider must immediately notify the certifying agent upon the discharge of any resident from the home. ()

211. -- 224. (RESERVED)

225. UNIFORM ASSESSMENT REQUIREMENTS.

01. State Responsibility for Publicly Funded Residents. The Department will assess residents accessing services through a publicly funded program according to uniform criteria developed to assess all participants within that respective program. Assessment criteria may vary from one program to another, but must be uniform within the same program. ()

02. Provider Responsibility for Private-Pay Residents. The provider will develop, identify, assess, or direct a uniform needs assessment of each private-pay resident. The uniform needs assessment: ()

- a.** Must be completed no later than fourteen (14) calendar days after admission; ()
- b.** Must be reviewed when there is a change in condition, or every twelve (12) months, whichever occurs first; ()
- c.** Must include: ()
 - i.** Identification and background information; ()
 - ii.** Medical diagnosis; ()
 - iii.** Medical and health needs; ()
 - iv.** Prescriptions, including route of administration, and all over-the-counter medications, supplements, treatments, and special diets, if applicable; ()
 - v.** Historical and current behavior patterns; ()
 - vi.** Cognitive function; ()
 - vii.** Psychosocial and physical needs of the resident; ()
 - viii.** Functional status; ()
 - ix.** Assessed level of care; and ()
 - x.** A statement from the resident's health care professional indicating the resident is appropriate for certified family home care. ()

d. May be the Department's Uniform Assessment Instrument (UAI) as described in IDAPA 16.03.23, "Uniform Assessments for State-Funded Clients," for a private-pay resident's uniform needs assessment. Upon request by the provider, the Department will provide training in conducting uniform needs assessments. ()

03. Results of Assessment. The results of the assessment for both publicly funded and private-pay residents are used to evaluate the ability of the provider to meet the identified resident's needs. The results of the assessment may also be used to determine the need for special training or licenses or certificates that may be required to care for certain residents. ()

226. -- 249. (RESERVED)

250. PLAN OF SERVICE.

The resident must have a plan of service. The plan must identify the resident, describe the services to be provided,

and describe how the services will be delivered. ()

01. Core Elements. A resident's plan of service must be based on the orders of the resident's health care professionals, and: ()

a. Assessment; ()

b. Service needs for activities of daily living; ()

c. Need for limited nursing services; ()

d. Need for medication assistance; ()

e. Frequency of needed services; ()

f. Level of care; ()

g. Habilitation and training needs; ()

h. Behavioral management needs, including identification of situations that trigger inappropriate behavior; ()

i. Dated history and physical from the resident's health care professional reflecting the resident's current health status and conducted no earlier than twelve (12) months prior to admission; ()

j. Admission records; ()

k. Community supportive services; ()

l. Resident's desires; ()

m. Resident's need for supervision, including the degree; ()

n. Transfer and discharge requirement; and ()

o. Other identified needs. ()

02. Signature and Approval. The provider and the resident or the resident's representative must sign and date the plan of service upon its completion, within fourteen (14) days after the resident's admission. ()

03. Developing the Plan. The provider will consult the resident and other individuals identified by the resident in developing the plan of service. Professional staff must be involved in developing the plan if required by another program. ()

04. Resident Choice. A resident must be given the choice and control of how and what services the provider or external vendors will provide to the extent the resident can make choices. ()

05. Copy of the Plan. Signed copies of the plan of service must be placed in the resident's file, given to the resident, and given to their representative, if applicable, no later than fourteen (14) days after admission. For a resident receiving services through a publicly-funded program, the copy of the plan must indicate that it has been approved by the Department. ()

06. Changes to the Plan. A record must be made of any changes to the plan or when the provider is unable to provide services outlined in the plan of service. When changes to the plan are made, the resident or resident's representative and the provider must sign and date the changes. ()

07. Periodic Review. The next scheduled date of review must be documented in the plan of service.

The plan of service should be reviewed as necessary but must be reviewed at least every twelve (12) months. ()

251. – 259. (RESERVED)

260. ADMISSIONS.

According to Section 39-3507, Idaho Code, the provider must only admit or retain residents in the home for whom they have the training, appropriate skills, and time to provide adequate care. The provider must be able to provide the levels of service or types of service required for each resident admitted to the home. ()

01. Prior Approval Required. The provider must obtain approval from the Department for each admission prior to the prospective resident moving into the home. The following must be provided to the regional certifying agent where the home is located to aid the Department in making its determination: ()

- a.** Name, gender and date of birth of the prospective resident; ()
- b.** The contemplated date of admittance of the prospective resident into the home; ()
- c.** The prospective resident's history and physical from their health care professional, conducted within the previous twelve (12) month period reflecting their current health status; ()
- d.** A list of the resident's current medications and treatments from their health care professional; ()
- e.** Contact information for the resident's health care professionals; ()
- f.** Contact information for the prospective resident's representative, if applicable; ()
- g.** The resident's plan of service from another health care setting, or any such plan of service conducted for the resident within the previous six (6) months, if one exists, when the resident transfers to the home from another health care setting; and ()
- h.** Other information requested by the Department relevant to the appropriateness of the admission and the provider's ability to provide adequate care. ()

02. Notification. Within five (5) business days of receipt of the documents listed in Subsection 260.01 of this rule, the Department will notify the provider verbally or in writing whether the proposed admission is approved or denied. When verbal notification is given, the Department will provide follow-up written communication to the provider stating the approval or denial within ten (10) business days. ()

03. Emergency Admission. The provider may not accept an emergency admission without prior approval from the Department except under the following conditions: ()

- a.** The provider may make a conditional admission when they reasonably believe they have the ability to provide adequate care to the resident when the request for an emergency placement occurs after normal business hours and the provider is unable to contact the Department for prior approval. The provider must notify the resident or their representative that the admission is conditional upon Department approval. ()
- b.** The provider must notify the regional certifying agent where the home is located the next business day after making a conditional admission. ()
- c.** The provider must follow the regular admission process described in Subsection 260.01 of this rule within two (2) business days of making a conditional admission. The Department may deny the placement and require the resident to transfer when there is reasonable cause to believe the provider lacks the ability to provide adequate care. ()

04. Admission Agreement. At the time of admission to a certified family home, the provider and the

resident or resident's representative, if applicable, must enter into an admission agreement. The agreement must be in writing and must be signed and dated by both parties. The agreement must, in itself or by reference to the resident's plan of service, include at least the following: ()

- a. Whether or not the resident will assume responsibility for their own medication; ()
- b. The provider must have a plan in place for steps the provider will take if the resident is not able to carry out their own self-preservation. ()
- c. Whether or not the provider will accept responsibility for the resident's funds; ()
- d. How a partial month's refund will be managed; ()
- e. Responsibility for valuables belonging to the resident and provision for the return of a resident's valuables should the resident leave the home; ()
- f. Amount of liability coverage provided by the homeowner's or renter's insurance policy and whether the insurance policy covers the resident's personal belongings; ()
- g. Written notice of at least thirty (30) calendar days as agreed to in the admission agreement prior to discharge on the part of either party or transfer, when the transfer is not for medical reasons or for the resident's welfare or the welfare of others, or when the discharge is not for a situation described in Subsection 260.05.b. of this rule; ()
- h. Conditions under which an emergency temporary placement will be made as described under Subsection 260.06 of this rule; ()
- i. Signed permission to provide pertinent information from the resident's record to a hospital, nursing home, residential and assisted living facility, or other certified family home; ()
- j. Responsibility to obtain consent for medical procedures including the name, address, and telephone number of the guardian or power of attorney for health care for any resident who is unable to make their own medical decisions; ()
- k. Resident responsibilities as appropriate; ()
- l. Amount the provider will charge the resident for room, utilities and three (3) daily meals on a monthly basis, and if the resident is private-pay or has a share of cost, a separately listed amount the provider will charge for care on a monthly basis; ()
- m. Written notice of at least fifteen (15) calendar days as agreed to in the admission agreement prior to the provider changing the charges to the resident as described in Subsection 260.04.l. of this rule; ()
- n. Protections that address eviction processes and appeals comparable to those provided under Idaho landlord tenant law. The admission agreement must either: ()
 - i. Adopt the eviction and appeal processes as described in Title 6, Chapter 3, Idaho Code; or ()
 - ii. Adopt the eviction and appeal processes as described in the version of the admission agreement provided by the Department; and ()
- o. Additional conditions as agreed upon by both parties but consistent with the requirements of these rules. ()

05. Termination of Admission Agreement. The admission agreement must only be terminated under the following conditions: ()

a. The provider or the resident, or the resident's representative, if applicable, provides the other party at least thirty (30) calendar days' written notice as agreed to in the admission agreement; or ()

b. A three (3) day written notice may be given by the provider to the resident or the resident's representative, if applicable, when any of the following occur, subject to the appeal process required under Subsection 260.04.n. of this rule: ()

i. Nonpayment of the resident's bill identified in Subsection 260.04.l. of this rule; ()

ii. The resident violates written conditions as mutually established between the resident and the provider at the time of admission; or ()

iii. The resident engages in the unlawful delivery, production, or use of a controlled substance on the premises of the home. ()

06. Emergency Temporary Placement. The admission agreement will remain in force and effect, excluding the provider's responsibility for care and the charge to the resident for such care as identified in Subsection 260.04.l. of this rule, while the resident is temporarily transferred from the home to another care setting on an emergency basis unless either party terminates the agreement as described in Subsection 260.05 of this rule. An emergency temporary placement must only occur when: ()

a. The resident's mental or physical condition deteriorates to a level requiring evaluation or services that cannot be met by the provider or reasonably accommodated by the home; or ()

b. Emergency conditions requiring the resident to transfer out of the home without thirty (30) calendar days' written notice to protect the resident or other residents, the provider, or other individuals living in the home from harm. ()

07. Discharge Procedure. The provider must immediately notify the Department upon the transfer or discharge of the resident according to Section 210 these rules. ()

08. Return of Resident's Possessions. The provider must document the return of the resident's personal possessions to the resident or resident's representative as agreed in the admission agreement according to Subsection 260.04.e. of this rule: ()

a. Return immediately upon discharge: ()

i. All personal funds belonging to the resident; and ()

ii. Any medication, supplement, or treatment belonging to the resident; ()

b. Return within three (3) business days: ()

i. If the provider, their relative, or any other member of the household was managing the resident's funds, a copy of the final accounting of the resident's funds; ()

ii. All resident belongings as indicated on their belongings inventory; and ()

iii. Any other items belonging solely to the resident, including personal documents. ()

261. -- 269. (RESERVED)

270. RESIDENT RECORDS. The provider must maintain records for each resident admitted to the home as provided in this rule. ()

01. Admission Records. Records required for admission to the home must be maintained, updated,

and kept confidential. The availability of the records without the consent of the resident, subject to IDAPA 16.05.01, "Use and Disclosure of Department Records," is limited to the resident and resident's representative, the provider, substitute caregivers, the resident's health care professionals, and representatives of the Department including certifying agents. All entries must be accurate and reflect updated information as changes occur, recorded legibly in ink, signed and dated, and must include: ()

- a. The resident's full legal name; ()
- b. The resident's permanent address if other than the home; ()
- c. The resident's marital status and sex; ()
- d. The resident's place and date of birth; ()
- e. The name, address, and telephone number of an individual identified by the resident or the resident's representative who should be contacted in the event of an emergency or death of the resident; ()
- f. The resident's personal health care professionals; ()
- g. Admission date and name of the person who completed the admission form; ()
- h. Results of a history and physical examination performed by a health care professional reflecting the resident's current health status and conducted no earlier than twelve (12) months prior to admission; ()
- i. A list of medications, treatments, and special diets, if any, prescribed for the resident and signed and dated by their health care professional; ()
- j. Religious affiliation if the resident so chooses to disclose; ()
- k. Social information, obtained by the provider from the resident or resident's relatives, service coordinator, legal guardian or conservator, or other knowledgeable individuals to include the resident's social history, hobbies, and interests; ()
- l. The written admission agreement as described in Section 260 of these rules; ()
- m. A signed copy of the resident rights policy as described in Section 200 of these rules; ()
- n. A copy of the resident's assessment as described in Section 225 of these rules; ()
- o. A copy of the resident's signed and dated plan of service as described in Section 250 of these rules; ()
- p. An inventory of the resident's belongings that may consist of photographs or a written descriptive list. The resident or the resident's representative may inventory any personal possession they so choose and expect returned upon the resident's transfer or discharge from the home. The belongings inventory may be updated at any time but must be updated at least annually; ()
- q. Information about any specific health problems of the resident that may be useful in a medical emergency; ()
- r. Any other health-related, emergency, or pertinent information that the resident requests the provider to keep on record; ()
- s. If the resident has a representative, a copy of the document giving the representative legal authority to act on behalf of the resident, including guardianship or power of attorney for healthcare decisions; ()
- t. Contact name, address, and telephone number of any individual or agency providing supportive

services to the resident; and ()

- u.** Signed copy of any care plan that is prepared for the resident by an outside service provider. ()

02. Ongoing Resident Records. Records must be kept by the provider for services to the resident showing accurate and updated information as services are rendered, including: ()

a. Any incident or accident occurring while the resident is living in the home and the provider's response. If the incident or accident occurs while the resident is receiving supportive services, the provider must obtain a written report of the event from the service provider; ()

b. The provider's written response to any grievance as described in Section 200 of these rules; ()

c. Notes from the licensed nurse, home health agency, physical therapist, or any other service providers, documenting the services provided to the resident at each visit to the home; ()

d. Documentation of significant changes in the resident's physical or mental status, and the provider's response; ()

e. When the provider, a relative of the provider, or an individual living in the home other than the resident manages the resident's funds, financial accounting records for such funds as described in Section 275 of these rules; and ()

f. Medication records as required in Sections 400 through 402 of these rules, as applicable. ()

03. Maintenance of Resident Records. All records of services delivered by the provider must be maintained in the home for at least five (5) years from the date of service. ()

271. -- 274. (RESERVED)

275. RESIDENT FUNDS AND FINANCIAL RECORDS.

01. Resident Funds Policy. Each provider must possess and implement a policy and procedure outlining how the resident's funds will be managed. This policy and procedure must include the following: ()

a. Statement of whether the provider will or will not manage resident funds. ()

b. When the resident leaves the home under any circumstances, the provider must: ()

i. Only retain room and board funds prorated to the last day of the notice period as specified in the admission agreement, or upon the resident moving from the home, whichever is later; ()

ii. Immediately return all remaining resident funds to the resident or to the resident's representative as specified in the admission agreement according to Section 260 of these rules; and ()

iii. Only use the resident's funds for that resident's expenses until a new payee is appointed. ()

c. Prohibit personal loans to the resident from the provider, provider's relatives, and other members of the household unless the loan is from a relative of the resident. When such a loan is made, the provider must: ()

i. Ensure the terms of the loan are described in a written contract signed by the resident or resident's representative; ()

- ii. Maintain a copy of the loan contract in the resident's record; and ()
- iii. Immediately update documentation of repayments towards the loan. ()

02. Managing Resident Funds. When the resident's funds are turned over to the provider for any purpose other than payment for services allowed under these rules, or if the provider, their relative, or an individual living in the home acts as the resident's payee, the provider is deemed to be managing the resident's funds. The provider who manages a resident's funds must: ()

a. Establish a separate account at a financial institution for each resident to which use of the resident's funds may be reconciled by means of a financial statement; ()

b. Prohibit commingling of the resident's funds with the funds of any other person, including borrowing funds from the resident; ()

c. Upon request, notify the resident or the resident's representative the amount of the resident's funds in their account that are available for their use; ()

d. Charge the resident the amount agreed upon in the admission agreement as described in Section 260 of these rules for their certified family home services on a monthly basis from their funds; ()

e. Maintain accounting documentation, including financial statements, receipts and ledgers, for all financial transactions in excess of five dollars (\$5) in which the resident's funds were used. A separate transaction record must be maintained for each resident; ()

f. Restore funds to the resident if the provider cannot produce proper accounting records of resident's funds or property, including receipts for purchases made using the resident's personal funds. Restitution of the funds to the resident is a condition for continued operation of the home; ()

g. Not require the resident to purchase goods or services from or for the home other than those designated in Section 260 of these rules; ()

h. Provide the resident, their legal guardian, their representative with financial power of attorney, and conservator access to the resident's funds; ()

i. On the death of a private-pay resident, convey the resident's funds with a final accounting of those funds to the individual administering the resident's estate; within thirty (30) days as described in Section 210 of these rules; ()

j. On the death of a publicly-funded resident, convey the resident's funds, with a final accounting of those funds, to the Department within thirty (30) days as described in Section 210 of these rules. ()

276. -- 299. (RESERVED)

300. SHORT-TERM CARE AND SUPERVISION.

When the provider is temporarily unavailable to provide care or supervision to the resident, they may designate another adult to provide care and supervision, or only supervision to the resident. The provider must assure that this short-term arrangement meets the needs of the resident and protects the resident from harm. ()

01. Alternate Caregiver. An alternate caregiver must be a certified family home provider. An alternate caregiver provides care and supervision in their home to a resident from another certified family home according to the resident's original plan of service and admission agreement. The following applies to an alternate care placement: ()

a. The Department must approve an alternate care placement using the process described in Section 260 of these rules. The alternate caregiver must: ()

- i. Not exceed the number of residents for which their home is certified to provide care; ()
 - ii. Comply with Section 140 of these rules when the resident receiving alternate care will be the third or fourth resident in the alternate caregiver's home; ()
 - iii. Comply with Section 130 of these rules when the resident receiving alternate care requires nursing facility level of care and any other resident in the alternate caregiver's home requires nursing facility level of care. ()
- b.** Upon approval from the Department, alternate care may be provided for up to thirty (30) consecutive days; and ()
- c.** The provider must provide or arrange for resident-specific training to the alternate caregiver, including supplying copies of the resident's current assessment, plan of service, and admission agreement. ()

02. Substitute Caregiver. A substitute caregiver must be an adult designated by the provider to provide care and supervision to the resident in the provider's certified family home. The following apply to the designation of a substitute caregiver: ()

- a.** The provider is responsible to provide or arrange for resident-specific training for the substitute caregiver including reviewing copies of each resident's current assessment, plan of service, and admission agreement; ()
- b.** Staffing levels in the home must be maintained at the same level as when the provider is available to provide care and supervision; ()
- c.** Substitute care can be provided for up to thirty (30) consecutive days; and ()
- d.** The substitute caregiver must have the following qualifications: ()
 - i. Current certification in first aid and adult Cardio-Pulmonary Resuscitation (CPR) that meets the standards under Section 100 of these rules; ()
 - ii. A criminal history check as provided in Section 009 of these rules; and ()
 - iii. Completion of the "Assistance with Medications" course or other Department-approved training as provided in Section 100 of these rules. ()

03. Incidental Supervision. An individual providing incidental supervision must be approved by the provider to supervise the resident. Incidental supervision must not include resident care. Incidental supervision may be provided for up to four (4) hours per week. ()

301. -- 399. (RESERVED)

400. MEDICATION POLICY.

The provider must possess and implement written medication policies and procedures that outline in detail how the home will assure appropriate assistance with and handling of and safeguarding of medications. These policies and procedures must be maintained in the home, and include the following: ()

01. Following Orders. Assistance given by the provider must only be as directed by the resident's health care professionals. ()

02. Evidence of Orders. Evidence of each resident's orders must be maintained in the home, regardless of whether the resident is able to self-administer, and may consist of the following: ()

- a.** Written instructions from the health care professional for the medication including the dosage,

expected effects, potential adverse reactions or side effects, and actions to take in an emergency; ()

b. Medisets filled and appropriately labeled by a pharmacist or licensed nurse with the name of the medications, dosage, time to be taken, route of administration, and any special instructions; ()

c. An original prescription bottle labeled by a pharmacist describing the order and instructions for use; and ()

d. If the medication, supplement, or treatment is without a prescription, it will be listed among over-the-counter medications approved by the resident's health care professional as indicated by a signed statement. Over-the-counter medications will be given as directed on the packaging. ()

03. Alteration of Orders. The provider must not alter dosage, discontinue or add medications, including over-the-counter medications and supplements, or discontinue, alter, or add treatments or special diets without first consulting the resident's prescribing health care professional and obtaining an order for the change as required under Subsection 400.02 of this rule. ()

04. Allergies. The provider must list any known food or drug allergies for each resident and take precautions to guard against the resident ingesting such allergens. ()

05. Training. Each adult assisting with resident medications must have successfully completed the "Assistance with Medications" course, or other Department-approved training as described in Section 100 of these rules. Additionally: ()

a. Each resident's orders must be reviewed by each staff person assisting residents with medications prior to offering assistance; and ()

b. Written instructions must be in place that outline who to notify if any of the following occur: ()

i. Doses are not taken; ()

ii. Overdoses occur; or ()

iii. Side effects are observed. ()

c. The provider must ensure any staff assisting with medications has reviewed each resident's known allergies and takes precautions against the resident ingesting such allergens. ()

06. Self-administration. When the provider cares for a resident who self-administers their own medications, the provider must follow the standards described under Section 401 of these rules. ()

07. Assistance with Medication. When the provider cares for a resident who needs assistance with medications, the provider must follow the standards described under Section 402 of these rules. ()

401. SELF-ADMINISTRATION OF MEDICATION.

If the resident is responsible for administering their own medication without assistance, the provider must ensure the following: ()

01. Approval. The provider must obtain written approval stating that the resident is capable of self-administration from the resident's health care professional; otherwise, the provider must comply with the standards in Section 402 of these rules. ()

02. Evaluation. The resident's record must include documentation that the resident's health care professional has evaluated the resident's ability to safely self-administer medication. The evaluation must include verification of the following: ()

- a. The resident understands the purpose of each medication; ()
- b. The resident is oriented to time and place and knows the appropriate dosage and times to take the medication; ()
- c. The resident understands the expected effects, adverse reactions, or side effects, and knows what actions to take in case of an emergency; and ()
- d. The resident is able to take the medication without assistance or reminders. ()

03. Change in Condition. Should the condition of the resident change such that it brings into question their ability to safely continue self-administration of medications, the provider must have a reevaluation and approval of the resident to self-administer as required in Subsections 401.01 and 401.02 of this rule. ()

04. Safeguarding Medication. The provider must ensure that the medications of a resident who self-administers are safeguarded, including providing a lockable storage cabinet or drawer to the resident as described in Section 175 of these rules. Notwithstanding, the resident must be allowed to maintain their medications under their own control and possession. ()

402. ASSISTANCE WITH MEDICATION.

The provider must offer assistance with medications to residents who need assistance; however, only a health care professional may administer medications. Prior to assisting residents with medication, the provider must ensure the following conditions are in place: ()

01. Training. Each person assisting with resident medications must be an adult who successfully completed and follows the "Assistance with Medications" course available through the Idaho Professional Technical Education Program approved by the Idaho State Board of Nursing, or other Department-approved training. ()

02. Condition of the Resident. The resident's health condition is stable. ()

03. Nursing Assessment. The resident's health status does not require nursing assessment before receiving the medication nor nursing assessment of the therapeutic or side effects after the medication is taken, unless the provider is a health care professional. ()

04. Containers and Labels. The medication is in the original pharmacy-dispensed container with proper label and directions or in an original over-the-counter container. ()

a. Each medication must be packaged separately unless in a Mediset, blister pack, or similar system. ()

b. Medication may be placed in a unit container by a licensed nurse when the container is appropriately labeled with the name of the medications, dosage, time to be taken, route of administration, and any special instructions. ()

c. Proper measuring devices must be available for liquid medication that is poured from a pharmacy-dispensed container. ()

05. Safeguarding Medications. The provider must take adequate precautions to safeguard the medications of each resident for whom they provide assistance. Safeguarding consists of the following: ()

a. Storing each resident's medications in an area or container designated only for that particular resident including a label with the resident's name, except for medications that must be refrigerated or over-the-counter medications; ()

b. Keeping the designated area or container for the resident's medications under lock and key when either of the following apply: ()

- i. The resident’s medications include a controlled substance; or ()
- ii. Any resident in the home or other member of the household has drug-seeking behaviors. ()
- c. Ensuring each resident’s designated medication area or container is clean and kept free of contamination, including disposal of loose pills in accordance with Subsection 402.08 of this rule; ()
- d. Dispensing only one (1) resident’s set of medications from its designated area or container at one (1) time, so as to mitigate medication errors; and ()
- e. On at least a monthly basis, document an inventory of narcotic medications. ()

06. Administration of Medications. Only a health care professional working within the scope of their license may administer medications. Administration of medications must comply with the Administrative Rules of the Board of Nursing, IDAPA 23.01.01, “Rules of the Idaho Board of Nursing.” Some procedures are of such a technical nature that they must always be performed by, or under the direct supervision of, a health care professional. These procedures are outlined in IDAPA 23.01.01, “Rules of the Idaho Board of Nursing,” Section 490. ()

07. Documentation of Assistance. Documentation of assistance with medications must be maintained by the provider. The documentation must: ()

- a. Be logged concurrent with the time of assistance; ()
- b. Contain at least the following information: ()
 - i. The name of the resident receiving the medication; ()
 - ii. The name of the medication given; ()
 - iii. The dosage of the medication given; and ()
 - iv. The time and date the medication was given. ()
- c. Indicate the reason for assisting with any PRN medication, including both over-the-counter and prescription medication. ()

08. Disposal of Medication. Medication that has been discontinued as ordered by the resident's health care professional, or has expired, must be disposed of by the provider within thirty (30) days of the order or expiration date. A written record of all disposal of drugs must be maintained in the home and must include: ()

- a. The name of the medication; ()
- b. The amount of the medication, including the number of pills at each dosage, if applicable; ()
- c. The name of the resident for whom the medication was prescribed; ()
- d. The reason for disposal; ()
- e. The date on which the medication was disposed; ()
- f. The method of disposal; and ()
- g. A signed statement from the provider and a credible witness confirming the disposal of the medication. ()

403. -- 499. (RESERVED)

500. ENVIRONMENTAL SANITATION STANDARDS.

The provider is responsible for disease prevention and maintenance of sanitary conditions in the home. ()

01. Water Supply. The water supply for the home must be adequate, safe, and sanitary. ()

a. The home must use a public or municipal water supply or a Department-approved private water supply; ()

b. If water is from a private supply, water samples must be submitted to an accredited laboratory and show an absence of bacterial contamination at least annually, or more frequently if deemed necessary by the Department. Copies of the laboratory reports must be kept on file at the home; and ()

c. There must be adequate water pressure to meet sanitary requirements at all times. ()

02. Sewage Disposal. The sewage disposal system must be in good working order. All sewage and liquid wastes must be discharged, collected, treated, and disposed of in a manner approved by the local municipality or the Department. ()

03. Nonmunicipal Sewage Disposal. ()

a. For homes with nonmunicipal sewage disposal, at the time of the initial certification and at least every five (5) years thereafter, the provider must obtain proof that the septic tank has been pumped or that pumping was not necessary, or that the system is otherwise in good working condition. ()

b. The Department may require the provider to obtain a statement from the local or area health district indicating that the sewage disposal system meets local requirements. The statement must be kept on file at the home. ()

04. Garbage and Refuse Disposal. Garbage and refuse disposal must be provided by the home. ()

a. Garbage containers outside the home used for storage of garbage and refuse must be constructed of durable, nonabsorbent materials and be provided with tight-fitting lids. ()

b. Garbage containers must be maintained in good repair and must not leak or absorb liquids. ()

c. Sufficient containers must be available to hold all garbage and refuse that accumulates between periods of removal from the premises. ()

d. Storage areas must be kept free of excess refuse and debris. ()

05. Insect and Rodent Control. The home must be maintained free from infestations of insects, rodents and other pests. Pesticides used in the control program must be selected, stored, and used safely. ()

a. The pesticide must be selected on the basis of the pest involved and used only in the manner prescribed by the manufacturer; ()

b. The provider must take necessary precautions to protect the resident from obtaining toxic chemicals, as appropriate for their functional and cognitive ability. ()

06. Yard. The yard surrounding the home must be safe and maintained. ()

07. Laundry Facilities and Services. A washing machine and dryer must be readily available for the proper and sanitary washing of linen and other washable goods. Laundry services must be offered on at least a weekly

basis, or more frequently when soiled linens or clothing create a noticeable odor. ()

08. Housekeeping and Maintenance. Sufficient housekeeping and maintenance must be provided to maintain the interior and exterior of the home in a clean, safe, and orderly manner. ()

a. Resident sleeping rooms must be thoroughly cleaned including the bed, bedding, furnishings, walls, and floors. Cleaning must occur on at least a weekly basis and immediately before being occupied by a new resident. ()

b. Deodorizers must not be used to cover odors caused by poor housekeeping or unsanitary conditions. ()

c. Cleaners and chemicals must be stored and used appropriately and safely. The provider must take necessary precautions to protect the resident from obtaining toxic chemicals, as appropriate for their functional and cognitive ability. ()

501. -- 599. (RESERVED)

600. FIRE AND LIFE SAFETY STANDARDS.

Each home must meet all applicable requirements of local and state codes concerning fire and life safety. ()

01. General Requirements. General requirements for the fire and life safety standards for a certified family home are: ()

a. The home must be structurally sound and equipped and maintained to assure the safety of residents; and ()

b. When natural or man-made hazards are present, suitable fences, guards, and railings must be provided to protect the residents according to their need for supervision as documented in the plan of service; and ()

c. The exterior and interior of the home must be kept free from the accumulation of weeds, trash, debris, rubbish, and clutter. ()

02. Fire and Life Safety Requirements. ()

a. Smoke alarms must be installed in sleeping rooms, hallways, on each level of the home, and as recommended by the local fire district. ()

b. Carbon monoxide (CO) alarms must be installed as recommended when: ()

i. The home is equipped with gas or other fuel-burning appliances or devices; or ()

ii. An enclosed garage is attached to the home. ()

c. Unvented combustion devices of any kind are prohibited from use inside the home. ()

d. Any locks installed on exit doors must be easily opened from the inside without the use of keys or any special knowledge. ()

e. An electric portable heating device must only be used under the following conditions: ()

i. The unit is maintained in good working order and without obvious damage or fraying of the cord; ()

ii. The heating element does not exceed two hundred twelve degrees Fahrenheit (212°F); ()

- iii. The user complies with safety labels, which are to remain on the unit; ()
- iv. The unit is equipped with automatic shut-off protection when tipped over; and ()
- v. The unit is operated under direct supervision and at least thirty-six (36) inches away from combustibles including furnishings, bedding, and blankets. ()
- f.** Homes that use fuel-fired stoves must provide adequate railings or other approved protection designed to prevent the resident from coming into contact with the stove surfaces, as appropriate for their functional and cognitive ability. ()
- g.** Each resident's sleeping room must have at least one (1) door or window that can be easily opened from the inside and leads directly to the outside. If a window is used as a means of egress/ingress, the following conditions must be met: ()
 - i. The window sill height must not be more than forty-four (44) inches above the finished floor; ()
 - ii. The window opening must be at least twenty (20) inches in width and twenty-four (24) inches in height; and ()
 - iii. If the sleeping room is in a below-ground basement, the window must open into a window well through which the resident can easily exit. ()
- h.** Flammable or highly combustible materials must be stored safely. The provider must take necessary precautions to protect the resident from obtaining flammable materials as appropriate for their functional and cognitive ability. ()
- i.** Boilers, hot water heaters, and unfired pressure vessels must be equipped with automatic pressure relief valves. ()
- j.** A portable fire extinguisher must be mounted on each level of the home. The location of fire extinguishers is subject to Department approval. All extinguishers must be at least five (5) pound dry chemical multipurpose 2A:10B:C type. ()
- k.** Electrical installations and equipment must comply with the applicable local and state electrical codes. ()
- l.** Fuel-fired heating devices must be approved by the local heating/venting/air conditioning (HVAC) board. ()
- m.** Exits must be free from obstruction. ()
- n.** Paths of travel to exits and all exit doorways must be at least twenty-eight (28) inches wide. ()
- o.** The door into each bathroom and sleeping room must unlock from both sides, if equipped with a lock, in case of an emergency. ()
- 03. Smoking.** Smoking is a fire hazard. The provider may choose to allow or not allow smoking. If the provider chooses to allow smoking, they must reduce the risk of fire by: ()
 - a.** Prohibiting smoking in any area where flammable liquids, gases, or oxidizers are in use or stored; ()
 - b.** Prohibiting residents from smoking in bed; and ()
 - c.** Prohibiting unsupervised smoking by the resident unless unsupervised smoking is specifically

allowed in their plan of service. ()

04. Emergency Preparedness. Each provider must develop and implement a written emergency preparedness plan. The provider must review the emergency plan with the resident(s), or their representative, at admission and at least every six (6) months thereafter. The plan must address the following: ()

a. Evacuation of the home, including: ()

i. A floor plan of the home depicting at least two (2) routes of escape from each room; ()

ii. A designated meeting area indicated on the floor plan where all members of the household will congregate upon evacuation of the home; and ()

iii. The person responsible to take a head-count at the designated meeting area and relay information to firefighters regarding the probable whereabouts in the home of missing individuals. ()

b. Emergency situations in which people are confined to the home for a period of at least seventy-two (72) hours and considering adequate food, water, and medications during that time; ()

c. Emergency situations in which people are ordered evacuated from the home, including pre-arranged plans to shelter within the local community and in a town outside the local community, and considering the necessary supplies that will be kept in a state of preparedness for quick evacuation; and ()

d. Procedures for any situation in which the provider is incapacitated and unable to provide services. ()

05. Fire Drills. The provider must conduct and document fire drills at least quarterly. ()

a. The provider must demonstrate the ability to evacuate all persons from the home to a point of safety outside the home within three (3) minutes. ()

b. Residents who are medically unable to exit unassisted are exempt from physical participation in the drill if the provider has an effective evacuation plan for such residents and discusses the plan with the resident at the time of the drill. ()

c. Documentation, which may consist of video recordings or written logs, must include the following: ()

i. The date and time of the drill; ()

ii. The length of time for all persons able to participate in the drill to evacuate from the home; ()

iii. The name or likeness of each caregiver who participated in the drill; and ()

iv. The name or likeness of each resident and whether the resident participated in the drill. ()

06. Report of Fire. A report on each fire incident occurring within the home must be submitted to the Department as described in Section 210 of these rules. ()

07. Maintenance of Equipment. The provider must assure that all equipment is properly maintained. ()

a. Smoke and carbon monoxide alarms must be tested at least monthly and a written record of the test results maintained on file. ()

b. If the smoke or carbon monoxide alarm has replaceable batteries, replacement of the batteries must

occur at least every six (6) months or as indicated by a low battery, whichever occurs first. ()

c. A smoke or carbon monoxide alarm must be replaced at the end of its useful life as indicated by the manufacturer. ()

d. Portable fire extinguishers must be serviced every twelve (12) months by an outside servicing agency or when the quarterly examination reveals issues with the extinguisher as described under Subsection 600.07.e. of this rule, whichever occurs first. Fire extinguishers purchased in the last twelve (12) months must be serviced within twelve (12) months from the dated receipt on file. ()

e. All portable fire extinguishers must be examined at least quarterly by the provider or a knowledgeable member of the household, as indicated by their initials and date on a log, to determine that: ()

i. The extinguisher is in its designated location; ()

ii. Seals or tamper indicators are not broken and the safety pin is in place; ()

iii. The extinguisher has not been physically damaged; ()

iv. The extinguisher does not have any obvious defects, such as leaks; ()

v. The nozzle is unobstructed; and ()

vi. Chemicals are prevented from settling and clumping by repeatedly tipping the extinguisher upside down and right-side up. ()

f. Fuel-fired heating systems must be inspected for safe operation, serviced if necessary, and approved at least annually by person(s) in the business of servicing these systems. The inspection records must be maintained on file in the home. ()

601. -- 699. (RESERVED)

700. HOME CONSTRUCTION AND PHYSICAL HOME STANDARDS.

01. General Requirements. Any residence used as a certified family home must be suitable for that use. Certified family homes must only be located in buildings intended for residential use. ()

a. Remodeling or additions to the home must be consistent with residential use of the property and must conform to local building standards including obtaining building permits as required by the local jurisdiction. ()

b. All homes are subject to Department approval. ()

02. Walls and Floors. Walls and floors must withstand frequent cleaning. Walls in sleeping rooms must extend from floor to ceiling. ()

03. Telephone. There must either be a telephone or an enhanced 911-compliant cell phone available to the resident. ()

a. If the home provides a cell phone for the resident's use, the provider must obtain documentation from the service carrier that the cell phone is enhanced 911-compliant. ()

b. The telephone or cell phone must: ()

i. Be immediately available in case of an emergency; ()

- ii. Be functional and operational at all times, including having dependable service; ()
 - iii. Be programmed with general emergency phone numbers and the emergency contacts for the resident, or alternatively, such numbers must be posted near the telephone; and ()
 - iv. Be accessible to the resident throughout the day, including night hours, with unlimited usage and adequate privacy. ()
- 04. Toilet Facilities and Bathrooms.** The home must contain: ()
- a. At least one (1) flush toilet, one (1) tub or shower, and one (1) sink with a mirror; ()
 - b. Toilet and shower or bathing facilities must be separated from all rooms by solid walls or partitions; ()
 - c. Each room containing a toilet, shower, or bath must have either a window that is easily opened to the outside, or forced ventilation to the outside; ()
 - d. Tubs, showers, and sinks must be connected to hot and cold running water; and ()
 - e. Access to toilet facilities and bathrooms designated for the resident's use must not require them to pass through another person's sleeping room. ()
- 05. Accessibility for Residents with Physical and Sensory Impairments.** A provider choosing to provide services to a resident who has difficulty with mobility or who has sensory impairments must assure the physical environment meets the needs of the resident and maximizes independent mobility and use of appliances, bathroom facilities, and living areas. The home must provide necessary accommodations that meet the "American With Disabilities Act Accessibility Guidelines--Standards for Accessible Design (SFAD)," as incorporated by reference in Section 004 of these rules and as described below according to the individual resident's needs: ()
- a. A ramp that complies with Section 405 of the SFAD. Elevators or lifts that comply with Sections 409 and 410, respectively, may be utilized in place of a ramp; ()
 - b. Doorways large enough to allow easy passage of a wheelchair and that comply with Subsection 404.2.3 of the SFAD; ()
 - c. Toilet and bathing facilities that comply with Sections 603 and 604 of the SFAD; ()
 - d. Sinks that comply with Section 606 of the SFAD; ()
 - e. Grab bars in resident toilet facilities and bathrooms that comply with Section 609 of the SFAD; ()
 - f. Bathtubs or shower stalls that comply with Sections 607 and 608 of the SFAD, respectively; ()
 - g. Non-retractable faucet handles that comply with Subsection 309.4 of the SFAD. Self-closing valves are not allowed; ()
 - h. Suitable handrails on both sides of all stairways leading into and out of the home that comply with Section 505 of the SFAD; and ()
 - i. Smoke and carbon monoxide alarms that comply with Section 702 of the SFAD. ()
- 06. Storage Areas.** Adequate storage must be provided in addition to the required storage in resident sleeping rooms. ()

07. Lighting. Adequate lighting must be provided in all resident sleeping rooms and any other rooms accessed by the resident. ()

08. Ventilation. The home must be well ventilated and the provider must take precautions to prevent offensive odors. ()

09. Heating and Cooling. The temperature in the home must be maintained between sixty-five degrees Fahrenheit (65°F) and eighty degrees Fahrenheit (80°F) when residents or adult hourly care participants are at home. The thermostat for the primary source of heat must be located away from the wood stove, if applicable. ()

10. Plumbing. All plumbing in the home must be in good working order and comply with local and state codes. All plumbing fixtures must be easily cleanable and maintained in good repair. ()

11. Resident Sleeping Rooms. ()

a. The sleeping room must not be in an attic, stairway, hall, or any room commonly used for other than bedroom purposes. ()

b. The sleeping room may be in a below-ground basement or a room located on the second story or higher only if the following conditions are met: ()

i. The resident is able to independently recognize an emergency and self-evacuate from their sleeping room without physical assistance or verbal cueing as assessed and indicated in their plan of service; or ()

ii. The provider's sleeping room or the sleeping room of another responsible and able-bodied individual living in the home is located on the same level with the resident's sleeping room; and ()

iii. The level of the home on which the resident's sleeping room is located has floors, ceilings, and walls that are finished to the same degree as the rest of the home. ()

c. Walls must run from floor to ceiling and doors must be solid. ()

d. The resident must not occupy the same bedroom as the provider. The resident must not occupy the same bedroom as a relative of the provider unless the relative is a sibling of the resident. ()

e. The ceiling height in the sleeping room must be at least seven feet, six inches (7'6"). ()

f. The sleeping room must have a closet that must be equipped with a door if the resident so chooses. ()

i. Closet space shared by two (2) residents must have a substantial divider separating each resident's space. ()

ii. Free-standing closet space must be deducted from the square footage in the sleeping room. ()

g. The sleeping room must have at least one hundred (100) square feet of floor space in a one (1) person sleeping room and at least one hundred and sixty (160) square feet of floor space in a two (2) person sleeping room. ()

701. MANUFACTURED HOMES AND MODULAR BUILDINGS.

01. Use of Manufactured Homes and Modular Buildings. Idaho Division of Building Safety (DBS) approved modular buildings or U.S. Department of Housing and Urban Development (HUD) approved buildings may be approved for use as a certified family home when the home meets the following requirements: ()

a. The manufactured or modular home meets the requirements of HUD or DBS requirements in

accordance with state and federal regulations as of the date of manufacture. ()

b. The manufactured or modular home meets the adopted standards and requirements of the local jurisdiction in which the home is located. ()

c. Recreational vehicles, commercial coaches, unregulated or unapproved modifications or additions to approved manufactured housing or modular buildings will not be approved by the Department. ()

d. Manufactured housing constructed prior to June 15, 1976, is prohibited for use as a certified family home without assessment and approval by the Department. ()

02. Previously Certified. A manufactured home approved for use as a certified family home before July 1, 2001, may continue to be certified when evaluated on a case-by-case basis. ()

702. -- 709. (RESERVED)

710. SITE REQUIREMENTS FOR CERTIFIED FAMILY HOMES.

In addition to the requirements of Section 700 of these rules, the home must comply with the following site requirements: ()

01. Fire District. The home must be in a lawfully constituted fire district. ()

02. Accessible Road. The home must be served by an all-weather road kept open to motor vehicles at all times of the year. ()

03. Emergency Medical Services. The home must be accessible to emergency medical services. ()

04. Accessible to Services. The home must be accessible to necessary social, medical, and rehabilitation services. ()

05. House Number. The house number must be prominently displayed and plainly visible from the street. ()

711. -- 899. (RESERVED)

900. EMERGENCY POWERS OF THE DIRECTOR.

In the event of an emergency endangering the life or safety of a resident, the Director may summarily suspend or revoke any certified family home certificate. As soon thereafter as practical, the Director will provide an opportunity for a hearing in accordance with the provisions of IDAPA 16.05.03, "Contested Case Proceedings and Declaratory Rulings." ()

901. ENFORCEMENT PROCESS.

If the Department finds that the provider does not meet, or did not meet, a rule governing certified family homes, it may impose a remedy, independently or in conjunction with others, subject to the provisions of these rules for notice and appeal. ()

01. Recommendation of Remedy. In determining which remedy to recommend, the Department will consider the provider's compliance history, complaints, and the number, scope, and severity of the deficiencies. Subject to these considerations, the Department may impose any of the following remedies: ()

a. Ban on all admissions in accordance with Section 910 of these rules; ()

b. Ban on admissions of residents with certain diagnosis in accordance with Section 911 of these rules; ()

c. Summarily suspend the certificate and transfer residents in accordance with Section 912 of these ()

rules; ()

d. Issue a provisional certificate in accordance with Section 909 of these rules; and ()

e. Revoke the home's certificate in accordance with Section 913 of these rules. ()

02. Notice of Enforcement Remedy. The Department will give the provider written notice of an enforcement remedy by certified mail or by personal service upon its decision. The notice will include the decision, the reason for the Department's decision, and how to appeal the decision subject to the hearing provisions in IDAPA 16.05.03, "Contested Case Proceedings and Declaratory Rulings." ()

902. FAILURE TO COMPLY.

The Department may revoke the provider's certificate when it determines any of the following conditions exist: ()

01. Out of Compliance. The provider has not complied with any part of these rules within thirty (30) days of the date the home is found out of compliance with that requirement. ()

02. Lack of Progress. The provider has made little or no progress in correcting deficiencies within thirty (30) days from the date the Department accepted the provider's plan of correction. ()

903. REPEATED NONCOMPLIANCE.

When the Department determines that a provider has repeated noncompliance with any of these rules, it may impose any of the enforcement remedies listed in Sections 909 through 913 of these rules. ()

904. -- 908. (RESERVED)

909. ENFORCEMENT REMEDY OF PROVISIONAL CERTIFICATION.

When the Department finds that the provider is unable to meet a standard required under these rules because of conditions that are not anticipated to continue beyond six (6) months and do not jeopardize the health or safety of the residents, the Department may grant a provisional certificate to the provider as described under Section 110 of these rules. ()

01. Conditions of Provisional Certification. The Department, at its discretion, may impose conditions upon the provider, which will be included with the notice of provisional certification, if so imposed. Conditions are imposed to ensure the provider achieves compliance with the requirements of these rules and to aid the Department in monitoring the provider's performance during the provisional certification period. ()

02. Failure to Meet Conditions of Provisional Certification. Failure by the provider to meet the conditions of a provisional certificate is cause for the Department to revoke the provider's certificate. ()

03. Certification or Revocation. The Department, upon review of the provider's performance during the course of the provisional certification period, may either issue a certificate to the provider when the Department finds that the provider has achieved substantial compliance with these rules, or revoke the provider's certificate if the provider has failed to comply. ()

910. ENFORCEMENT REMEDY OF BAN ON ALL ADMISSIONS.

All admissions to the home are banned pending satisfactory correction of all deficiencies. Bans will remain in effect until the Department determines that the provider has achieved full compliance with all requirements of these rules, or until a substitute remedy is imposed. ()

911. ENFORCEMENT REMEDY OF BAN ON ADMISSIONS OF RESIDENT WITH SPECIFIC DIAGNOSIS.

The Department may ban admission into the home any resident with a specific diagnosis when the Department has determined the provider lacks the skill to provide adequate care to such a resident. A ban may be imposed for all prospective residents, both publicly and privately funded, and will prevent the home from admitting residents with a specific diagnosis for whom the provider has shown an inability to provide adequate care as described in Section 170

of these rules. ()

912. ENFORCEMENT REMEDY OF SUMMARY SUSPENSION AND TRANSFER OF RESIDENT.

The Department may summarily suspend the provider's certificate and transfer the resident when convinced by a preponderance of the evidence that the resident's health and safety are in immediate jeopardy. ()

913. ENFORCEMENT REMEDY OF REVOCATION OF CERTIFICATE.

01. Revocation of the Certificate. The Department may institute a revocation action when persuaded by a preponderance of the evidence that the provider is not in substantial compliance with these rules. ()

02. Causes for Revocation of the Certificate. The Department may revoke any certificate for any of the following causes: ()

a. The provider has willfully misrepresented or omitted any of the following: ()

i. Information pertaining to their certification; or ()

ii. Information obstructing an investigation. ()

b. The home is not in substantial compliance with these rules; ()

c. When persuaded by a preponderance of the evidence that such conditions exist which endanger the health or safety of any resident; ()

d. Any act adversely affecting the welfare of residents is being permitted, aided, performed, or abetted by the person or persons in charge of the home. Such acts may include, but are not limited to, neglect, physical abuse, mental abuse, emotional abuse, violation of civil rights, or exploitation; ()

e. The provider has demonstrated or exhibited a lack of sound judgment essential to the operation and management of a certified family home; ()

f. The provider has violated any of the conditions of a provisional certificate; ()

g. The provider has one (1) or more core issues; ()

h. An accumulation of minor violations that, when taken as a whole, constitute inadequate care; ()

i. Repeat violations of any requirement of these rules or of the Idaho Code; ()

j. The provider lacks the ability to properly care for the resident, as required by these rules, or as directed by the Department; ()

k. The provider is not in substantial compliance with the provisions for services, resident rights, or admissions; ()

l. The provider refuses to allow the certifying agent or other representative of the Department or protection and advocacy agencies full access to the home, records, or the residents; ()

m. The provider fails to pay the certification fee as specified in Section 109 of these rules. The certification fee is considered delinquent if not paid within thirty (30) days of due date on the invoice. ()

914. (RESERVED)

915. TRANSFER OF RESIDENT.

The Department may require transfer of a resident from a certified family home to an alternative placement on the following grounds: ()

01. Violation of Rules. As a result of a violation of a provision of these rules or standards, the provider is unable or unwilling to provide an adequate level of meals, lodging, personal assistance, or supervision of a resident. ()

02. Violation of Resident's Rights. A violation of a resident's rights provided in Section 39-3516, Idaho Code, or Section 200 of these rules. ()

03. Immediate Jeopardy. A violation of a provision of these rules, or applicable rules or standards, results in conditions that present an immediate jeopardy. ()

916. -- 949. (RESERVED)

950. RIGHT TO SELL.
Nothing contained in these rules limits the right of any home owner to sell, lease, mortgage, or close any certified family home in accordance with all applicable laws. ()

951. -- 999. (RESERVED)

16.03.22 – RESIDENTIAL ASSISTED LIVING FACILITIES

000. LEGAL AUTHORITY.

The Idaho Board of Health and Welfare is authorized under Sections 39-3305 and 39-3358, Idaho Code, to adopt and enforce rules to protect the health, safety, and individual rights for residents in residential assisted living facilities. ()

001. TITLE, SCOPE, AND RESPONSIBILITIES.

01. Title. The title of this chapter of rules is IDAPA 16.03.22, “Residential Assisted Living Facilities.” ()

02. Scope. The purpose of a residential assisted living facility is to provide choice, dignity, and independence to residents while maintaining a safe, humane, and home-like living arrangement for individuals needing assistance with daily activities and personal care. These rules set standards for providing services that maintain a safe and healthy environment. ()

03. General Provider Responsibilities. The facility must ensure quality services by providing choices, dignity, and independence to residents. The facility must have an administrator and staff who have the knowledge and experience required to provide safe and appropriate services to all residents of the facility. The facility must be operated consistent with the rules and statutes as it conducts its work. ()

04. General Department Responsibilities. The Department is responsible for monitoring and enforcing the provisions of the statute and this chapter to protect residents in these facilities by providing information, education, and evaluating providers to ensure compliance with statute and these rules. This responsibility includes licensing facilities and monitoring the condition of facilities. ()

05. Exemptions. The provisions of these rules do not apply to any of the following: ()

a. The provisions of these rules do not apply to hospitals, nursing facilities, intermediate care facilities for persons with intellectual disabilities, or any other health facility as defined by Title 39, Chapter 13, Idaho Code. ()

b. The provisions of these rules do not apply to any house, institution, hotel, congregate housing project, retirement home, or other similar place that is limited to providing one (1) or more of the following: housing, meals, transportation, housekeeping, or recreational and social activities, or that have residents independently accessing supportive services from an entity approved to provide such services in Idaho and holding no legal ownership interest in the entity operating the facility. ()

c. The provisions of these rules do not apply to any arrangement for the receiving and care of persons by a relative, except when the caregiver is paid for the care through a state or federal program, in which case the caregiver’s relative and the care setting must meet all applicable requirements. ()

002. WRITTEN INTERPRETATIONS.

This agency has written statements which pertain to the interpretations of the rules of this chapter or to the documentation of compliance with the rules of this chapter. These documents is available for public inspection on the program website <http://assistedliving.dhw.idaho.gov>. ()

003. ADMINISTRATIVE APPEALS, CONTESTED CASES, AND INFORMAL DISPUTE RESOLUTION.

01. Administrative Appeals and Contested Cases. Administrative appeals and contested cases are governed by IDAPA 16.05.03, “Contested Case Proceedings and Declaratory Rulings.” ()

02. Informal Dispute Resolution Meeting. If a facility disagrees with a finding of a core issue, it may request an informal dispute resolution meeting with the Residential Assisted Living Facilities Program. The policy and procedure for requesting informal dispute resolution is posted on the Residential Assisted Living Facilities Program website at <https://assistedliving.dhw.idaho.gov>. ()

004. INCORPORATION BY REFERENCE.

The documents referenced in this rule, are incorporated by reference as provided by Section 67-5229(a), Idaho Code. These incorporated documents are available for public review upon request at the Department of Health and Welfare, 450 West State Street, Boise, Idaho 83702, or when available online at the websites provided in these rules. ()

- 01. National Fire Protection Association (NFPA) Documents.** ()
- a.** National Fire Protection Association (NFPA) Standard 101, The Life Safety Code, 2018 Edition, the occupancy chapters and all mandatory referenced documents contained therein under “Mandatory References.” ()
- b.** National Fire Protection Association (NFPA) Standard 99, Health Care Facilities Code, 2018 Edition. ()
- 02. Idaho Diet Manual.** The manual is available from the Idaho Academy of Nutrition & Dietetics, Eleventh Edition, 2015, online at <http://eatrightidaho.org>. ()
- 03. Idaho Food Code.** IDAPA 16.02.19, “Idaho Food Code.” These rules are available online at <http://adminrules.idaho.gov/rules/current/16/160219.pdf>. ()
- 04. Americans with Disabilities Act Accessibility Guidelines.** 28 CFR Part 36, Appendix A. This code is available online at <http://www.ada.gov/1991standards/adastd94-archive.pdf>. ()
- 05. Idaho Board of Nursing Rules.** IDAPA 23.01.01, “Rules of the Idaho Board of Nursing.” These rules are available online at <http://adminrules.idaho.gov/rules/current/23/230101.pdf>. ()
- 06. International Building Code.** IDAPA 07.03.01, “Rules of Building Safety.” These rules are available online at <https://adminrules.idaho.gov/rules/current/07/070301.pdf>. ()
- 005. -- 008. (RESERVED)**

009. CRIMINAL HISTORY AND BACKGROUND CHECK REQUIREMENTS.

- 01. Criminal History and Background Check.** A residential assisted living facility must complete a criminal history and background check on employees and contractors hired or contracted with after October 1, 2005, who have direct resident access to residents in the residential assisted living facility. The Department check conducted under IDAPA 16.05.06, “Criminal History and Background Checks,” satisfies this requirement. Other criminal history and background checks may be acceptable provided they meet the criteria in Subsection 009.02 of this rule and the entity conducting the check issues written findings. The entity must provide a copy of these written findings to both the facility and the employee. ()
- 02. Scope of a Criminal History and Background Check.** The criminal history and background check must, at a minimum, be fingerprint-based and include a search of the following record sources: ()
- a.** Federal Bureau of Investigation (FBI); ()
- b.** Idaho State Police Bureau of Criminal Identification; ()
- c.** Sexual Offender Registry; ()
- d.** Office of Inspector General List of Excluded Individuals and Entities; and ()
- e.** Nurse Aide Registry. ()
- 03. Availability to Work.** Any direct resident access individual hired or contracted with on or after October 1, 2005, must self-disclose all arrests and convictions before having access to residents. ()
- a.** If a disqualifying crime as described in IDAPA 16.05.06, “Criminal History and Background Checks,” is disclosed, the individual must not have direct resident access to any resident. ()
- b.** The individual is only allowed to work under another employee who has a cleared criminal history

and background check that meets the criteria in this rule. The cleared employee must keep the individual waiting for clearance in line-of-sight when the individual has direct resident access until the criminal history and background check is completed and the results are obtained by the facility, unless: ()

i. The individual has completed an alternative criminal history and background check that includes a search of the record sources listed in Subsection 009.02 except for Subsection 009.02.a. in this rule; ()

ii. The facility determines there is no potential danger to residents; and ()

iii. This alternative criminal history and background check is only in effect until the required criminal history and background check that meets the criteria in this rule is completed. The results must state whether the individual was cleared or denied based on the completed fingerprint-based background check. ()

04. Submission of Fingerprints. The individual's fingerprints must be submitted to the entity conducting the criminal history and background check within twenty-one (21) days of their date of hire. ()

05. New Criminal History and Background Check. An individual must have a criminal history and background check when: ()

a. Accepting employment with a new employer; and ()

b. The individual's last criminal history and background check was completed more than three (3) years prior to their date of hire. ()

06. Use of Previous Criminal History and Background Check. Any employer is allowed to use a previous criminal history and background check that meets the criteria in this rule if: ()

a. The individual has received a criminal history and background check within three (3) years of their date of hire; ()

b. Prior to the individual being granted unsupervised direct resident access, the employer obtains and retains the individual's previous criminal history and background check results; ()

c. The employer completes a state-only background check of the individual through the Idaho State Police Bureau of Criminal Identification, within thirty (30) days of obtaining the previous criminal history and background check results; and ()

d. No disqualifying crimes are found. ()

07. Employer Discretion. The new employer, at its discretion, may require an individual to complete a criminal history and background check at any time, even if the individual has received a criminal history and background check within three (3) years of their date of hire. ()

010. DEFINITIONS AND ABBREVIATIONS A THROUGH E.

01. Abuse. A non-accidental act of sexual, physical, or mental mistreatment or injury of a resident through the action or inaction of another individual. ()

02. Accident. An unexpected, unintended event that can cause a resident injury. ()

03. Activities. All organized and directed social and rehabilitative services a facility provides, arranges, or cooperates with. ()

04. Activities of Daily Living. Self-care actions necessary to sustain an individual in daily living, including bathing, dressing, toileting, grooming, eating, communicating, and managing medications. ()

05. Administrator. An individual licensed by the Idaho Bureau of Occupational Licenses as a

Residential Assisted Living Facility Administrator. ()

06. Administrator’s Designee. A person authorized in writing to act in the absence of the administrator who is knowledgeable of facility operations, the residents and their needs, emergency procedures, the location and operation of emergency equipment, and how the administrator can be reached in the event of an emergency. ()

07. Adult. A person who has reached eighteen (18) years of age. ()

08. Advance Directive. A written instruction, such as a living will or durable power of attorney for health care, recognized under state law, whether statutory or as recognized by the courts of the State, related to the provision of medical care when the individual is unable to communicate. ()

09. Advocate. An authorized or designated representative of a program or organization operating under federal or state mandate to represent the interests of a population group served by a facility. ()

10. Ambulatory Person. A person who, unaided by any other person, is physically and mentally capable of walking a normal path to safety, including the ascent and descent of stairs. ()

11. Assessment. Information gathered that identifies resident strengths, weaknesses, risks, and needs, to include functional, social, medical, and behavioral needs. ()

12. Authentication. The process or action of proving or showing authorship to be true, genuine, or valid. ()

13. Authorized Provider. An individual who is a nurse practitioner, clinical nurse specialist, or physician assistant. ()

14. Behavior Plan. A written plan that decreases the frequency, duration, or intensity of maladaptive behaviors, and increases the frequency of adaptive behaviors. ()

15. Call System. A signaling system whereby a resident can contact staff directly from their sleeping room, toilet room, and bathing area. The system may be voice communication, or an audible or visual signal, and may include wireless technology. The call system cannot be configured in such a way as to breach a resident’s right to privacy at the facility, including in the resident’s living quarters, in common areas, during medical treatments, while receiving other services, in written and telephonic communications, or in visits with family, friends, advocates, and resident groups. ()

16. Chemical Restraint. A medication used to control behavior or to restrict freedom of movement and is not a standard treatment for the resident's condition. ()

17. Cognitive Impairment. When a person experiences loss of short or long-term memory, orientation to person, place, or time, safety awareness, or loses the ability to make decisions that affect everyday life. ()

18. Complaint. A formal expression of dissatisfaction, discontent, or unhappiness by, or on behalf of, a resident concerning the care or conditions at the facility. This expression could be oral, in writing, or by alternative means of communication. ()

19. Complaint Investigation. A survey to investigate the validity of allegations of noncompliance with applicable state requirements. Allegations will be investigated by the Licensing Agency as described in Section 39-3355, Idaho Code. ()

20. Core Issue. A core issue is any one (1) of the following: ()

a. Abuse; ()

b. Neglect; ()

- c. Exploitation; ()
- d. Inadequate care; ()
- e. A situation in which the facility has operated for more than thirty (30) days without a licensed administrator overseeing the day-to-day operations of the facility; ()
- f. Inoperable fire detection or extinguishing systems with no fire watch in place pending the correction of the system; or ()
- g. Surveyors denied access to records, residents, or facilities. ()
- 21. **Criminal Offense.** Any crime as defined in Section 18-111, Idaho Code, 18 U.S.C. Section 4B1.2(a), and 18 U.S.C. Sections 1001 through 1027. ()
- 22. **Deficiency.** A determination of noncompliance with a specific rule or part of a rule. ()
- 23. **Dementia.** A chronic deterioration of intellectual function and other cognitive skills severe enough to interfere with the ability to perform activities of daily living. ()
- 24. **Department.** The Idaho Department of Health and Welfare. ()
- 25. **Developmental Disability.** A developmental disability, as defined in Section 66-402, Idaho Code, means a chronic disability of a person which appears before twenty-two (22) years of age and: ()
 - a. Is attributable to an impairment, such as an intellectual disability, cerebral palsy, epilepsy, autism, or other conditions found to be closely related or similar to one (1) of these impairments that requires similar treatment or services, or is attributable to dyslexia resulting from such impairments; ()
 - b. Results in substantial functional limitations in three (3) or more of the following areas of major life activity: self-care, receptive and expressive language, learning, mobility, self-direction, capacity of independent living, or economic self-sufficiency; and ()
 - c. Reflects the need for a combination and sequence of special, interdisciplinary or direct care, treatment, or other services which are of life-long or extended duration, and individually planned and coordinated. ()
- 26. **Direct Resident Access.** In-person access with any resident who resides at the facility, or any access to the residents' personal belongings or information. ()
- 27. **Director.** The Director of the Idaho Department of Health and Welfare or their designee. ()
- 28. **Electronic Signature.** The system for signing electronic documents by entering a unique code or password that verifies the identity of the person signing and creates an individual "signature" on the record. ()
- 29. **Elopement.** When a resident who is cognitively, physically, mentally, emotionally, or chemically impaired, physically leaves the facility premises or the secured unit or yard without personnel's knowledge. ()
- 30. **Exit Conference.** A meeting with the facility administrator or designee to: (1) provide review, discussion, and written documentation of non-core issues, and (2) to provide preliminary findings of core issues. ()
- 31. **Exploitation.** The misuse of a resident's funds, property, resources, identity, or person for profit or advantage. This includes charging a resident for services or supplies not provided or disclosed in the written admission agreement and staff accepting gifts or money for extra services. ()

011. DEFINITIONS AND ABBREVIATIONS F THROUGH N.

- 01. Follow-Up Survey.** A survey conducted to confirm that the facility is in compliance and has the ability to remain in compliance. ()
- 02. Governmental Unit.** The state, any county, any city, or any department, division, board, or other agency. ()
- 03. Hourly Adult Care.** Nonresident daily services and supervision provided by a facility to individuals who are in need of supervision outside of their personal residence(s) for a portion of the day. ()
- 04. Immediate Danger.** Any resident is subject to an imminent or substantial danger. ()
- 05. Inadequate Care.** When a facility fails to provide the services required to meet the terms of the Negotiated Service Agreement, or provide for room, board, activities of daily living, supervision, first aid, assistance and monitoring of medications, emergency intervention, coordination of outside services, a safe living environment, engages in violations of resident rights, or takes residents who have been admitted in violation of the provisions of Section 152 of these rules. ()
- 06. Incident.** An event that can cause a resident injury. ()
- 07. Independent Mobility.** A person’s ability to move about freely of their own choice with or without the assistance of a mobility device such as a wheelchair, cane, crutches, or walker. ()
- 08. Legal Guardian or Conservator.** A court-appointed individual designated to manage the affairs or finances of another person who has been found to be incapable of handling their own affairs. ()
- 09. License.** A permit to operate a residential assisted living facility. ()
- 10. Licensing Agency.** The Residential Assisted Living Facilities Program, a unit of the Division of Licensing and Certification within the Department of Health and Welfare, that conducts inspections and surveys of residential assisted living facilities and issues licenses based on compliance with this chapter of rules, in which “Residential Assisted Living Facilities Program” and “Licensing Agency” are synonymous. ()
- 11. Maladaptive Behavior.** Any behavior that interferes with resident care, infringes on any resident's rights, or presents a danger to the resident or others. Involuntary muscle movements are not considered maladaptive behaviors. ()
- 12. Medication.** Any substance used to treat a disease, condition, or symptom, which may be taken orally, injected, or used externally, and is available through prescription or over-the-counter. ()
- 13. Medication Administration.** The process where a prescribed medication is given by a licensed nurse to a resident through one (1) of several routes. ()
- 14. Medication Assistance.** The process whereby a non-licensed care provider is delegated tasks by a licensed nurse, to aid a person who cannot independently self-administer medications. See IDAPA 23.01.01, “Rules of the Idaho Board of Nursing,” Section 010. ()
- 15. Mental Disorders.** Health conditions that are characterized by alterations in thinking, mood, behavior, or some combination thereof, that are all mediated by the brain and associated with distress or impaired functioning. ()
- 16. Mental Illness.** Refers collectively to all diagnosable mental disorders. ()
- 17. Neglect.** Failure to provide food, clothing, shelter, or medical care necessary to sustain the life and health of a resident. ()

18. Negotiated Service Agreement. The plan reached by the resident or their representative and the facility which outlines services to be provided and the obligations of the facility and the resident. ()

19. Non-Core Issue. Any finding of deficient practice that is not a core issue. ()

20. Nursing Assessment. Information gathered related to a resident's health or medical status that has been reviewed, signed, and dated by a licensed registered nurse, as described in Section 305 of these rules. ()

012. DEFINITIONS AND ABBREVIATIONS O THROUGH Z.

01. Outside Services. Services provided to a resident by someone that is not a member of facility personnel. ()

02. Owner. Any person or entity having legal ownership of the facility as an operating business, regardless of who owns the real property. ()

03. Personal Assistance. The provision by the staff of the facility of one (1) or more of the following services : ()

a. Assisting the resident with activities of daily living; ()

b. Arranging for outside services; ()

c. Being aware of the resident's general whereabouts; or ()

d. Monitoring the activities of the resident while on the premises of the facility to ensure the resident's health, safety, and well-being. ()

04. Personnel. Paid individuals assigned the responsibility of providing care, supervision, and services to the facility and its residents. In this chapter of rules, "personnel" and "staff" are synonymous. ()

05. Physical Restraint. Any device or physical force that restricts the free movement of, normal functioning of, or normal access to, a portion or portions of an individual's body, except for the temporary treatment of a medical condition, such as the use of a cast for a broken bone. ()

06. Portable Heating Device. Any device designed to provide heat on a temporary basis that is not designed as part of a building's heating system, is not permanently affixed to the building, and, if electrical, is not hardwired to the building's electrical service. This does not include the use of therapeutic devices such as heating pads, heated mattress pads, and electric blankets, which require a physician or authorized provider's order. ()

07. PRN. Indicates that a medication or treatment prescribed by a medical professional to an individual may be given as needed. ()

08. Pressure Injury. Any lesion caused by unrelieved pressure that results in damage to the underlying tissue(s). ()

09. Provisional License. A license which may be issued to a facility not in compliance with the rules pending the satisfactory correction of all deficiencies. ()

10. Publicly Funded Program. Any program funded in whole, or in part, by an appropriation of the U.S. Congress, the Idaho Legislature, or other governmental body. ()

11. Punishment. The use of an adverse consequence with a resident, the administration of any noxious or unpleasant stimulus, or deprivation of a resident's rights or freedom. ()

12. Relative. A person related by birth, adoption, or marriage. ()

- 13. Repeat Deficiency.** A deficiency found on a licensure survey, complaint investigation, or follow-up survey that was also found on the previous survey. ()
- 14. Reportable Incident.** A situation when a facility is required to report information to the Residential Assisted Living Facilities Program, including: ()
- a.** Any resident injury of unknown origin (i.e., an injury, the source of which was not observed by any person and could not be explained by the resident); ()
 - b.** Any resident injury of significant or suspicious nature (i.e., an injury that includes severe bruising, fingerprint bruises, laceration(s) larger than a minor skin tear, sprains, or fractured bones); ()
 - c.** Resident injury resulting from accidents involving facility-sponsored transportation (i.e., falling from the facility's van lift, a wheelchair belt coming loose during transport, or a collision); ()
 - d.** Resident elopement of any duration; ()
 - e.** Any injury resulting from a resident-to-resident incident; ()
 - f.** An incident that results in the resident's need for assessment or treatment outside of the facility; or ()
 - g.** An incident that results in the resident's death. ()
- 15. Resident.** An adult, other than the owner, administrator, their immediate families, or employees, who lives in a residential assisted living facility. ()
- 16. Residential Assisted Living Facility.** A facility or residence, however named, licensed in the state of Idaho, operated on either a profit or nonprofit basis for the purpose of providing necessary supervision, personal assistance, meals, and lodging to three (3) or more adults not related to the owner. ()
- 17. Room and Board.** Lodging, meals, and utilities. ()
- 18. Scope.** The frequency or extent of the occurrence of a deficiency in a facility. ()
- 19. Self-Administration of Medication.** The act of a resident taking a single dose of their own medication from a properly labeled container and placing it internally in, or externally on, their own body as a result of an order by an authorized provider. ()
- 20. Story.** A level of rooms in a building. ()
- 21. Substantial Compliance.** The status of a facility that has no core issue deficiencies. ()
- 22. Substantial Evening Meal.** An offering of three (3) or more menu items at one time, one (1) of which is a high-quality protein such as meat, fish, eggs, or cheeses. The meal should represent no less than twenty percent (20%) of the day's total nutritional requirements. ()
- 23. Supervision.** A critical watching and directing activity which provides protection, guidance, knowledge of the resident's general whereabouts, and assistance with activities of daily living. The administrator is responsible for providing appropriate supervision based on each resident's Negotiated Service Agreement or other legal requirements. ()
- 24. Survey.** A review conducted by a surveyor to determine compliance with statutes and rules. There are two (2) components to a survey: (1) health care and (2) fire, life, and safety. ()
- 25. Surveyor.** A person authorized by the Department to conduct surveys or complaint investigations to determine compliance with statutes and rules. ()

26. Therapeutic Diet. A diet ordered by a physician or authorized provider as part of treatment for a clinical condition or disease, to eliminate or decrease specific nutrients in the diet (e.g., sodium), to increase specific nutrients in the diet (e.g., potassium), or to provide food the resident is able to eat (e.g., a mechanically altered diet). ()

27. Toxic Chemical. A substance that is hazardous to health if inhaled, ingested, or absorbed through skin. ()

28. Traumatic Brain Injury (TBI). An acquired injury to the brain caused by an external physical force, resulting in total or partial functional disability or psychosocial impairment. The term applies to open or closed-head injuries resulting in impairments in one (1) or more areas. ()

29. Unlicensed Assistive Personnel (UAP). Staff, with or without formal credentials, employed to perform nursing care services under the direction and supervision of licensed nurses. ()

30. Variance. Permission by the Department to do something contrary to rule. ()

013. -- 049. (RESERVED)

050. VARIANCES.

The Licensing Agency may grant a variance provided the following criteria are met. ()

01. Written Request. A written request for a variance must be sent to the Licensing Agency. The request must include the following: ()

a. Reference to the rule for which the variance is requested; ()

b. Reasons that show good cause why the variance should be granted, the extenuating circumstances which caused the need for the variance, any compensating factors or conditions that may have bearing on the variance such as additional floor space or additional staffing; and ()

c. Written documentation that ensures residents' health and safety will not be jeopardized if a variance is granted. ()

02. Temporary Variance. A temporary variance may be granted for a specific resident or situation. The variance expires when the resident no longer lives at the facility or when the situation no longer exists. ()

03. Continuing Variance. The Licensing Agency reviews the appropriateness of continuing a variance during the survey process. If the facility administrator wishes to continue the variance, an annual request must be submitted to the Licensing Agency in writing. ()

04. Decision to Grant a Variance. The decision to grant a variance will not be considered as a precedent or be given any force or effect in any other proceeding. ()

05. Revocation of Variance. The Licensing Agency may revoke a variance if circumstances identify a risk to resident health and safety. ()

051. -- 099. (RESERVED)

100. LICENSING REQUIREMENTS.

01. Current License. No person, firm, partnership, association, corporation, or governmental unit can operate, establish, manage, conduct, or maintain a residential assisted living facility in Idaho without a license issued by the Department as required in Section 39-3340, Idaho Code. Any entity found operating as a residential assisted living facility without a license is subject to Section 39-3352, Idaho Code. ()

02. Issuance of License. Upon completion of the application process requirements, the Department will issue a residential assisted living facility license. ()

03. Distinctive Business Name. Every facility must use a distinctive name, which is registered with the Idaho Secretary of State. If a facility decides to change its name, it will only be changed upon written notification to the Licensing Agency confirming the registration of the name change with the Idaho Secretary of State. This notification needs to be received by the Licensing Agency at least thirty (30) calendar days prior to the date the proposed name change is to be effective. ()

04. Administrator. Each facility must have an administrator. ()

05. Display of Facility License. The current facility license must be posted in the facility and clearly visible to the general public. ()

06. Change in Corporate Shares. When there is a significant change in shares held by a corporate licensee of a residential assisted living facility, which does not alter the overall ownership or operation of the business, that change must be communicated to the Licensing Agency within (60) days of the effective date of change. ()

07. Licensee Responsibility. The licensee of the facility is responsible for the operation of the residential assisted living facility, even when a separate administrator is employed. ()

101. -- 104. (RESERVED)

105. CHANGE OF OWNERSHIP.

01. Non-Transfer of Facility License. A facility license is not transferable from one (1) individual to another, from one (1) business entity to another, or from one (1) location to another. When a change of licensee, ownership, lease, or location occurs, the facility must be re-licensed. The new licensee must follow the application procedures, and obtain a license, before commencing operation as a facility. ()

02. Application for Change of Ownership. The application for a change of ownership must be submitted to the Licensing Agency at least ninety (90) days prior to the proposed date of change. ()

03. Change of Ownership for a Facility in Litigation. An application for change of ownership of a facility from a person who is in litigation for failure to meet licensure standards, or who has had a license revoked, must include evidence that there is a bona fide, arms-length agreement and relationship between the two (2) parties. An entity purchasing a facility with an enforcement action acquires the enforcement action. ()

106. -- 109. (RESERVED)

110. FACILITY LICENSE APPLICATION.

01. License Application. License application forms are available online at the Licensing Agency's website at <http://assistedliving.dhw.idaho.gov>. The applicant must provide the following information: ()

a. A written statement that the applicant has thoroughly read and reviewed the statute, Title 39, Chapter 33, Idaho Code, and IDAPA 16.03.22, "Residential Assisted Living Facilities," and is prepared to comply with both; ()

b. A written statement and documentation that demonstrate no license revocation or other enforcement action has been taken, or is in the process of being taken, against a license held, or previously held, by the applicant in Idaho or any other state or jurisdiction; ()

c. When the applicant is a firm, association, organization, partnership, business trust, corporation, government entity, or company, the administrator and other members of the organization who directly influence the facility's operation must provide the information contained in this rule; ()

- d. Each shareholder or investor holding ten percent (10%) or more interest in the business must be listed on the application; ()
- e. A copy of the Certificate of Assumed Business Name from the Idaho Secretary of State; ()
- f. A statement from the local fire authority that the facility is located in a lawfully constituted fire district or affirmation that a lawfully constituted fire authority will respond to a fire at the facility; ()
- g. A statement from a licensed electrician or the local or state electrical inspector that all wiring in the facility complies with current electrical codes; ()
- h. When the facility does not use an approved municipal water or sewage treatment system, a statement from a local environmental health specialist with the public health district indicating that the water supply and sewage disposal system meet the Department's requirements and standards; ()
- i. A complete set of printed operational policies and procedures; ()
- j. A detailed floor plan of the facility, including measurements of all rooms, or a copy of architectural drawings. See Sections 250 through 260, and Sections 400 through 430 of these rules. ()
- k. A copy of the Purchase Agreement, Lease Agreement, or Deed; and ()
- l. For facilities with nine (9) beds or more, signatures must be obtained from the following: ()
 - i. The local zoning official documenting that the facility meets local zoning codes for occupancy; ()
 - ii. The local building official documenting that the facility meets local building codes for occupancy; ()
 - iii. The local fire official documenting that the facility meets local fire codes for occupancy. ()

02. Written Request for Building Evaluation. The applicant must request in writing to the Licensing Agency for a building evaluation of existing buildings. The request must include the physical address of the building that is to be evaluated and the name, address, and telephone number of the person who is to receive the building evaluation report. ()

03. Building Evaluation Fee. This application and request must be accompanied by a five hundred dollar (\$500) initial building evaluation fee. ()

04. Identification of the Licensed Administrator. The applicant must provide a copy of the administrator's license and criminal history background check, and the current address for the primary residence of the administrator. ()

05. Failure to Complete Application Process. Failure of the applicant to complete the Licensing Agency's application process within six (6) months of the original date of application, may result in a denial of the application. If the application is denied, the applicant is required to initiate a new licensing application process. ()

111. -- 114. (RESERVED)

115. EXPIRATION AND RENEWAL OF LICENSE.

01. Application for License Renewal. The facility must submit to the Licensing Agency an annual report and application for renewal of a license at least thirty (30) days prior to the expiration of the existing license. ()

02. Existing License. The existing license, unless suspended, surrendered, or revoked, remains in force and effect until the Licensing Agency has acted upon the application renewal, when such application for renewal has been filed. ()

116. -- 125. (RESERVED)

126. EFFECT OF ENFORCEMENT ACTION AGAINST A LICENSE.

The Department will not review an application of an applicant who has an action, either current or in process, against a license held by the applicant either in Idaho or any other state or jurisdiction. ()

127. -- 129. (RESERVED)

130. INSPECTION OF FACILITIES.

01. Surveys of Facilities. As described in Section 39-3355, Idaho Code, the Licensing Agency will conduct inspections and investigations at specified intervals to determine compliance with this chapter of rules and Title 39, Chapter 33, Idaho Code. The intervals for surveys are as follows: ()

a. Initial surveys will be conducted within ninety (90) days of licensure, followed by a licensure survey within fifteen (15) months. ()

b. Facilities without core issue deficiencies during two (2) consecutive surveys, either initial or licensure surveys, will be inspected at least every thirty-six (36) months. For facilities with core issue deficiencies during any survey, surveys will be conducted at the discretion of the Licensing Agency, at least every twelve (12) months. ()

c. Complaint investigation surveys will occur based on the potential severity of the complaint. ()

02. Unannounced Inspections. Licensure, follow-up, and complaint investigation surveys are made unannounced and without prior notice. ()

03. Inspection or Survey Services. The Department may accept the services of any qualified person or organization, either public or private, to examine, survey, or inspect any entity requesting or holding a facility license, including as described in Section 39-3355(7), Idaho Code. ()

04. Access and Authority to Entire Facility. A surveyor must have full access and authority to examine: ()

a. Quality of care; ()

b. Service delivery; ()

c. Resident records; ()

d. Facility records, including any records or documents pertaining to any financial transactions between residents and the facility or any of its employees; ()

e. Resident accounts; ()

f. The physical premises, including buildings, grounds, equipment, food service, water supply, and housekeeping; and ()

g. Any other areas necessary to determine compliance with applicable statute, rules, and standards. ()

05. Interview Authority. A surveyor has the authority to interview any individual associated with the

facility or the provision of care, including the licensee, administrator, staff, residents, residents' families, outside service providers, and authorized providers or physicians. Interviews are confidential and conducted privately unless otherwise specified by the interviewee. ()

06. Access to Staff Living Quarters. A surveyor has full authority to inspect the facility, including personal living quarters of the licensee, administrator, or staff living in the facility, to check for inappropriate storage of combustibles, faulty wiring, or other conditions that may have a direct impact on compliance with these rules. ()

07. Written Report of Deficiencies. The Licensing Agency will provide the facility a written report to support any deficiencies identified. ()

a. The Licensing Agency will provide the facility a written report specifying the non-core issue deficiencies at the time of the exit conference. ()

b. When core issues are identified during a survey, the Licensing Agency will provide a written report within ten (10) business days of the exit conference or the last day of receipt of additional material. ()

c. If any deficiencies pose an immediate danger to the residents, the Department requires immediate correction of the deficient practice. ()

08. Plan of Correction for Core Issues. The facility must develop and submit an acceptable plan of correction to the Licensing Agency within ten (10) calendar days of receipt of the written report of identified core issues. If an acceptable plan of correction is not submitted within the required time frame, the Department may initiate or extend enforcement actions as described in Sections 900 through 940 of these rules. An acceptable plan of correction must include: ()

a. A plan to ensure correction of each deficient practice and ongoing compliance; ()

b. A description of how, and at what frequency, corrective actions will be monitored to ensure that each deficient practice is corrected and will not recur, such as what program will be put into place to monitor the continued effectiveness of the systemic change; and ()

c. The completion date for correcting each deficiency. No correction date may be more than forty-five (45) days from the exit date printed on the written report except in unusual circumstances and only with the written approval of the Licensing Agency. ()

09. Correction of Non-Core Issues. The facility must correct non-core issues within thirty (30) calendar days of the exit conference. If there are non-core issues that the facility is unable to resolve due to extenuating circumstances, a written request for the delay must be submitted for Licensing Agency approval within thirty (30) days of the exit conference. The request must contain the following information: ()

a. The reason for the delay; ()

b. A plan for resolution; ()

c. The date of the expected resolution, which may not exceed six (6) months; and ()

d. A plan for ensuring the safety of the residents until resolution. ()

10. Follow-Up Surveys. The Licensing Agency will conduct follow-up surveys to ascertain corrections to issues are made according to the time frames established in the plan of correction for core issues and within thirty (30) days for non-core issues. If the Department identifies repeat deficient facility practice(s) during any follow-up survey, the Department may initiate or extend enforcement actions as described in Sections 900 through 940 of these rules. ()

131. -- 149. (RESERVED)

150. POLICIES AND PROCEDURES.

The facility must develop a written, dated set of policies and procedures that are specific to the population served in the facility and are available to all staff at all times to direct and ensure compliance with these rules. Policy topics must include abuse, neglect, exploitation, incidents and accidents, activities, admissions, emergency preparedness, infection control, nursing, resident rights, staffing, and medications. ()

151. ACTIVITY REQUIREMENTS.

Each facility must develop and implement a written activity policy that assists, encourages, and promotes residents to maintain and develop their highest potential for independent living through their participation in planned, recreational, and other activities. The facility must provide opportunities for the following: ()

01. Socialization. Socialization through group discussion, conversation, recreation, visiting, arts and crafts, and music; ()

02. Physical Activities. Physical activities such as games, sports, and exercises which develop and maintain strength, coordination, and range of motion; ()

03. Education. Education through special classes or events; and ()

04. Community Resources for Activities. The facility will utilize community resources to promote resident participation in integrated activities of their choice both in and away from the facility. ()

152. ADMISSION REQUIREMENTS.

01. Admissions Policies. Each facility must develop and implement written admission policies and procedures, which must include: ()

a. The purpose, quantity, and characteristics of available services; ()

b. Limitations concerning delivery of routine personal care by persons of the opposite gender; ()

c. Notification to potential and existing residents and responsible parties if the facility accepts any residents who are on the sexual offender registry. The registry may be accessed online at http://isp.idaho.gov/sor_id/search.html; and ()

d. Notification to potential and existing residents if non-resident adults or children reside in the facility. ()

02. Resident Admission, Discharge, and Transfer. The facility must have policies addressing admission, discharge, and transfer of residents to, from, or within the facility. ()

03. Policies of Acceptable Admissions. Written descriptions of the conditions for admitting residents to the facility must include: ()

a. A resident will be admitted or retained only when: ()

i. The facility has the capability, capacity, and services to provide appropriate care; ()

ii. The resident does not require a type of service for which the facility is not licensed to provide or which the facility does not provide or arrange for; and ()

iii. The facility has the personnel, appropriate in numbers and with appropriate knowledge and skills to provide such services. ()

- b.** No resident will be admitted or retained who requires ongoing skilled nursing or care not within the legally licensed authority of the facility. Such residents include: ()

 - i. A resident who has a gastrostomy tube, arterial-venous (AV) shunt, or supra-pubic catheter inserted within the previous twenty-one (21) days; ()
 - ii. A resident who is receiving continuous total parenteral nutrition (TPN) or IV therapy; ()
 - iii. A resident who requires physical restraints, including bed rails; ()
 - iv. A resident who is comatose, except for a resident who has been assessed by a physician or authorized provider who has determined that death is likely to occur within thirty (30) days; ()
 - v. A resident who is on a mechanically supported breathing system, except for residents who use positive airway pressure devices only for sleep apnea, such as CPAP or BiPAP; ()
 - vi. A resident who has a tracheotomy who is unable to care for the tracheotomy independently; ()
 - vii. A resident who requires the use of a syringe to receive liquid or pureed nourishment directly into the mouth; ()
 - viii. A resident with open, draining wounds for which the drainage cannot be contained; ()
 - ix. A resident with a Stage 3 or 4 pressure injury or a pressure injury that is unstageable; ()
 - x. A resident with any type of pressure injury or open wound that is not improving bi-weekly; ()
 - xi. For any resident who is assessed to require nursing care, the facility must ensure a licensed nurse is available to meet the needs of the resident. ()
 - xii. A resident who has physical, emotional, or social needs that are not compatible with the other residents in the facility; ()
 - xiii. A resident who is violent or a danger to themselves or others; ()
 - xiv. Residents who are not capable of self-evacuation must not be admitted or retained by a facility which does not comply with NFPA, Standard 101 as referenced in Section 004 of these rules. ()

153. FINANCIAL REQUIREMENTS.

Each facility must develop and implement financial policies and procedures that include: ()

- 01. Statement.** A statement specifying if the facility does not manage resident funds. ()
- 02. Safeguarding of Funds.** Policies should specify how residents' funds will be handled and safeguarded, if the facility does manage resident funds. Policies must address the following: ()

 - a.** When a resident's funds are deposited with, or handled by the facility, the funds must be managed as described in Section 39-3316, Idaho Code, and Section 550 of these rules; ()
 - b.** A description of how facility fees are handled; ()
 - c.** Resident accounts and funds must be separate from any facility accounts; ()
 - d.** The facility cannot require a resident to purchase goods or services from the facility, other than items specified in the admission agreement and facility policies; ()

- e. Each transaction with resident funds must be documented at the time to include signatures of the resident and facility representative with copies of receipts; ()
- f. Residents must have access to their personal funds during normal business hours; and ()
- g. When a resident permanently leaves the facility, the facility can only retain room and board funds prorated to the last day of the thirty (30) day notice, except in situations described in Sections 217 and 550 of these rules. All remaining funds are the property of the resident. ()

154. STAFF TRAINING REQUIREMENTS.

The facility must develop and implement policies and procedures to address the following: ()

01. Response of Staff to Accidents, Incidents, or Allegations of Abuse, Neglect, or Exploitation of Residents. The facility must develop policies and procedures to ensure that accidents, incidents, or allegations of abuse, neglect, and exploitation are identified, documented, reported, investigated, and followed-up with interventions to prevent re-occurrence and ensure protection. ()

02. Response of Staff to Emergencies. How staff are to respond to emergency situations, including: ()

- a. Medical and psychiatric emergencies; ()
- b. Resident absence; ()
- c. Criminal situations; and ()
- d. Presence of law enforcement officials at the facility. ()

03. Notification of Changes to Resident Health or Mental Status. Who and how staff are to notify of any changes in residents' health or mental status. ()

04. Provided Care and Services by Staff. How staff are to provide care and services to residents in the following areas: ()

- a. Activities of daily living; ()
- b. Dietary and eating, including when a resident refuses to eat or follow a prescribed diet; ()
- c. Dignity; ()
- d. Ensuring each individual's rights; ()
- e. Medication assistance; ()
- f. Provision of privacy; ()
- g. Social activities; ()
- h. Supervision; ()
- i. Supporting resident independence; and ()
- j. Telephone access. ()

05. Intervention Procedures to Ensure Safety of Residents and Staff. How to intervene to ensure resident and staff safety in unsafe situations that are physically or behaviorally caused. ()

06. Behavior Management for Residents. The facility must have policies and procedures to ensure staff are trained and complete timely assessment, plan development, and documentation as described in Section 330 of these rules. ()

07. Facility Operations, Inspections, Maintenance, and Testing. Plans and procedures for the operation, periodic inspection, and testing of the physical plant, which includes utilities, fire safety, and plant maintenance for all areas of the facility's campus. ()

08. Hazardous Materials. The handling of hazardous materials. ()

09. Mechanical Equipment. The handling of potentially dangerous mechanical equipment. ()

155. EMERGENCY PREPAREDNESS REQUIREMENTS.

Each facility must develop and implement an emergency preparedness plan to follow in the event of fire, explosion, flood, earthquake, high wind, or other emergency. ()

01. Relocation Agreements. Each facility must have a written agreement developed between the facility and two (2) separate locations to which residents would be relocated in the event the building is evacuated and cannot be reoccupied. The facility will review the relocation agreements annually. ()

02. Written Procedures. The facility must have written procedures outlining steps to be taken in the event of an emergency including: ()

a. Each person's responsibilities; ()

b. Where and how residents are to be evacuated; and ()

c. Notification of emergency agencies. ()

03. Emergency Generators. Facilities that elect to have an emergency generator must ensure that the system is designed to meet the applicable codes in NFPA, Standard 110 (within NFPA, Standard 101 as incorporated in Section 004 of these rules). ()

156. HOURLY ADULT CARE REQUIREMENTS.

Facilities offering hourly adult care must develop and implement written policies and procedures which include the following: ()

01. Services Offered. A description of hourly adult care services, including transportation services (if offered), meals, activities, and supervision. ()

02. Individuals Accepted. Types of individuals who may or may not be accepted for hourly adult care. See Section 152 of these rules. ()

03. Cost of Hourly Adult Care. Details of the cost of hourly adult care for the person receiving services. ()

04. Hours for Care. The specific time periods of hourly adult care, not to exceed fourteen (14) consecutive hours in a twenty-four (24) hour period. ()

05. Assistance with Medications. Assistance with medications in the facility must comply with IDAPA 23.01.01, "Rules of the Idaho Board of Nursing," including: ()

a. Copies of all physician or authorized provider orders, including orders for all prescribed medications and treatments. ()

b. Appropriately labeled medications and treatments the facility safeguards while the person receives hourly adult care. ()

06. Staffing. Staffing must be based on the needs of the entire facility, including those receiving hourly adult care and residents. Hourly adult care may be provided to as many individuals as possible without disrupting the day-to-day operations and normal activities of the facility. ()

07. Accommodations. The facility must provide accommodations appropriate to the time frame for those receiving hourly adult care, including: ()

a. Daytime accommodations such as recliners and couches for napping. Napping furniture must be spaced at least (3) feet apart. ()

b. Evening accommodations such as beds and bedrooms that are not used by facility residents. Any bed used overnight by a person receiving hourly adult care will not be counted as a licensed bed. ()

08. Documentation. Documentation requirements described in Section 330 of these rules. ()

157. -- 160. (RESERVED)

161. SMOKING REQUIREMENTS.

The facility must develop and implement written rules governing smoking. Nothing in this rule requires a facility to permit smoking. Smoking policies must be made known to all staff, residents, and visiting public and must ensure: ()

01. Combustible Supplies and Flammable Items. Smoking is prohibited in areas where combustible supplies or materials, flammable liquids, gases, or oxidizers are in use or stored. ()

02. Smoking in Bed. Smoking in bed is prohibited. ()

03. Unsupervised Smoking. Unsupervised smoking by residents classified as not mentally or physically responsible, sedated by medication, or taking oxygen is prohibited. ()

04. Designated Smoking Areas. If smoking is permitted, there must be designated smoking areas which are specified in policy and clearly marked. Designated smoking areas must have non-combustible disposal receptacles. ()

162. -- 214. (RESERVED)

215. REQUIREMENTS FOR A FACILITY ADMINISTRATOR.

Under Section 39-3321, Idaho Code, each facility must have one (1) licensed administrator assigned as the person responsible for the day-to-day operation of the facility. Multiple facilities under one (1) administrator may be allowed by the Department based on an approved plan of operation for up to three (3) buildings with a total of no more than fifty (50) beds, or up to two (2) buildings with a total of no more than eighty (80) beds. The criteria and procedure for requesting to have multiple facilities under one (1) administrator is posted on the Residential Assisted Living Facilities Program website. ()

01. Administrator Responsibility. The administrator is responsible for ensuring that policies and procedures are developed and implemented to fulfill the requirements in Title 39, Chapter 33, Idaho Code, and IDAPA 16.03.22, "Residential Assisted Living Facilities." ()

02. Availability of Administrator. The facility's administrator must be on-site sufficiently to ensure safe and adequate care of the residents. The facility's administrator or their designee must be available to be on-site at the facility within two (2) hours. The facility must continuously employ an administrator. ()

03. Lapse of Administrator. If the facility operates for more than thirty (30) days without a licensed administrator, it will result in a core issue deficiency. ()

04. Representation of Residents. The owner or administrator, their relatives, and employees cannot act as, or seek to become the legal guardian of, or have power of attorney for any resident. Specific limited powers of attorney to address emergency procedures where competent consent cannot otherwise be obtained, are permitted. ()

05. Responsibility for Acceptable Admissions. The administrator must ensure that no resident is knowingly admitted or retained who requires care as defined in Section 39-3307, Idaho Code, and Section 152 of these rules. ()

06. Sexual Offender. The administrator must ensure that a nonresident on the sexual offender registry is not allowed to live or work in the facility. ()

07. Notification to Adult Protection and Law Enforcement. The administrator must ensure that adult protection and law enforcement are notified in accordance with Sections 39-5303 and 39-5310, Idaho Code. ()

08. Procedures for Investigations. The administrator must ensure the facility procedures for investigation of complaints, incidents, accidents, and allegations of abuse, neglect, or exploitation are implemented to ensure resident safety. Procedures must include: ()

a. Administrator Notification. The administrator, or person designated by the administrator, must be notified of all incidents, accidents, allegations of abuse, neglect, or exploitation immediately, and notified of complaints within one (1) business day. ()

b. Investigation within Thirty Days. The administrator or designee must complete an investigation and written report of the findings within thirty (30) calendar days for each accident, incident, complaint, or allegation of abuse, neglect, or exploitation. ()

c. Resident Protection. Any resident involved must be protected during the course of the investigation. ()

d. Written Response to Complaint within Thirty Days. The person making the complaint must receive a written response from the facility of the action taken to resolve the matter, or the reason why no action was taken within thirty (30) days of the complaint. ()

e. Corrective Action. When abuse, neglect, exploitation, incidents, and accidents occur, corrective action must be immediately taken and monitored to ensure the problem does not recur. ()

f. Notification to Licensing Agency within One Business Day. When a reportable incident occurs, the administrator or designee must notify the Licensing Agency within one (1) business day of the incident. ()

g. Identify and Monitor Patterns. The administrator or designee must identify and monitor patterns of accidents, incidents, or complaints and must develop interventions to prevent recurrences. ()

09. Administrator's Designee. A person authorized in writing to act in the absence of the administrator. An administrator's designee may act in the absence of the administrator for no longer than thirty (30) consecutive days when the administrator is on vacation, has days off, is ill, or is away for training or meetings. ()

10. Ability to Reach Administrator or Designee. The administrator or their designee must be reachable and available at all times. ()

11. Minimum Age of Personnel. The administrator will ensure that no personnel providing hands-on care or supervision services will be under eighteen (18) years of age unless they have completed a certified nursing assistant (CNA) certification course. ()

12. Notification to Licensing Agency. The facility must notify the Licensing Agency, in writing,

within three (3) business days of a change of administrator. ()

216. REQUIREMENTS FOR ADMISSION AGREEMENTS.

01. Initial Resident Assessment and Care Plan. Prior to admission, each resident must be assessed by the facility to ensure the resident is appropriate for placement in their residential assisted living facility. The facility must develop an interim care plan to guide services until the facility can complete the resident assessment process. The result of the assessment will determine the need for specific services and supports. ()

02. Written Agreement. Prior to, or on the day of admission, the facility and each resident or the resident's legal guardian or conservator must enter into a written admission agreement that is transparent, understandable, and is translated into a language the resident or their representative understands. The admission agreement will provide a complete reflection of the facility's charges, commitments agreed to by each party, and the actual practices that will occur in the facility. The agreement must be signed by all involved parties, and a complete copy provided to the resident and the resident's legal guardian or conservator prior to, or on the day of admission. The admission agreement may be integrated within the Negotiated Service Agreement (NSA), provided that all requirements for the NSA in Section 320 of these rules and the admission agreement are met. Admission agreements must include all items described under this rule. ()

03. Services, Supports, and Rates. The facility must identify the following services, supports, and applicable rates: ()

a. Unless otherwise negotiated with the resident or the resident's legal guardian or conservator, basic services must include the items specified in Section 430 of these rules. ()

b. The resident's monthly charges, including a specific description of the services that are included in the basic services rate and the charged rate. ()

c. All prices, formulas, and calculations used to determine the resident's basic services rate including: ()

i. Service packages; ()

ii. Fee-for-service rates; ()

iii. Assessment forms; ()

iv. Price per assessment point; ()

v. Charges for levels of care determined with an assessment; and ()

vi. Move-in fees or other similar charges. ()

d. The services and rates charged for additional or optional services, supplies, or amenities that are available through the facility or arranged for by the facility for which the resident will be charged additional fees. ()

e. Services or rates that are impacted by an updated assessment of the resident, the assessment tool, the assessor, and the frequency of the assessment, when the facility uses this assessment to determine rate changes. ()

f. The facility may charge residents for the use of personal furnishings, equipment, and supplies provided by the facility unless paid for by a publicly funded program. The facility must provide a detailed itemization of furnishings, equipment, supplies, and the rate for those items the resident will be charged. ()

04. Staffing. The agreement must identify staffing patterns and qualifications of staff on duty during a normal day. ()

05. Notification of Liability Insurance Coverage. The administrator of a residential assisted living facility must disclose in writing at the time of admission or before a resident's admission if the facility does not carry professional liability insurance. If the facility cancels the professional liability insurance all residents must be notified of the change in writing. ()

06. Medication Responsibilities. The agreement must identify the facility's and resident's roles and responsibilities relating to assistance with medications including the reporting of missed medications or those taken on a PRN basis. ()

07. Resident Personal Fund Responsibilities. The agreement must identify who is responsible for the resident's personal funds. ()

08. Resident Belongings Responsibility. The agreement must identify responsibility for protection and disposition of all valuables belonging to the resident and provision for the return of the resident's valuables if the resident leaves the facility. ()

09. Emergency Transfers. The agreement must identify conditions under which emergency transfers will be made as provided in Section 152 of these rules. ()

10. Billing Practices, Notices, and Procedures for Payments and Refunds. The facility must provide a description of the facility's billing practices, notices, and procedures for payments and refunds. The following procedures must be included: ()

a. Arrangement for payments; ()

b. Under what circumstances and time frame a partial month's resident fees are to be refunded when a resident no longer resides in the facility; and ()

c. Written notice to vacate the facility must be given thirty (30) calendar days prior to transfer or discharge on the part of either party, except in the case of the resident's emergency discharge or death. The facility may charge up to fifteen (15) days prorated rent from the date of the resident's emergency discharge or death. The agreement must disclose any charges that will result when a resident fails to provide a thirty (30) day written notice. ()

11. Resident Permission to Transfer Information. The agreement must specify permission for the facility to transfer information from the resident's records to any facility to which the resident transfers. ()

12. Resident Responsibilities. The agreement must specify resident responsibilities. ()

13. Restrictions on Choice of Care or Service Providers. The agreement must specify any restriction on choice of care or service providers, such as home health agency, hospice agency, or personal care services. ()

14. Advance Directive. The agreement must identify written documentation of the resident's preference regarding the formulation of an advance directive in accordance with Idaho state law. When a resident has an advance directive, a copy must be immediately available for staff and emergency personnel. ()

15. Notification of Payee Requirements. The agreement must identify if the facility requires as a condition of admission that the facility be named as payee. ()

16. Contested Charges. The facility must provide the methods by which a resident may contest charges or rate increases including contacting the ombudsman for the elderly. ()

17. Transition to Publicly Funded Program. The facility must disclose the conditions under which the resident can remain in the facility if payment for the resident shifts to a publicly funded program. ()

18. Smoking Policy. The admission agreement must include a copy of the facility's smoking policy. ()

217. REQUIREMENTS FOR TERMINATION OF ADMISSION AGREEMENT.

01. Conditions for Termination of the Admission Agreement. The admission agreement cannot be terminated, except under Section 39-3313, Idaho Code, as follows: ()

a. Giving the other party thirty (30) calendar days written notice; ()

b. The resident's death; ()

c. Emergency conditions that require the resident to be transferred to protect the resident or other residents in the facility from harm; ()

d. The resident's mental or medical condition deteriorates to a level requiring care as described in Section 39-3307, Idaho Code, and Section 152 of these rules; ()

e. Nonpayment of the resident's fees; ()

f. When the facility cannot meet resident needs due to changes in services, in-house or contracted, or inability to provide the services; or ()

g. Other written conditions as may be mutually established between the resident, the resident's legal guardian or conservator, and the administrator of the facility at the time of admission. ()

02. Facility Responsibility During Resident Discharge. The facility is responsible to assist the resident with transfer by providing a list of skilled nursing facilities, other residential assisted living facilities, and certified family homes that may meet the needs of the resident. The facility must provide a copy of the resident record, as described in Section 330 of these rules, within two (2) business days of receipt of a request signed and authorized by the resident or legal representative. ()

03. Resident's Appeal of Involuntary Discharge. A resident may appeal all discharges, with the exception of an involuntary discharge in the case of nonpayment or emergency conditions that require the resident to be transferred to protect the resident or other residents in the facility from harm. ()

a. Before a facility discharges a resident, the facility must notify the resident and their representative of the discharge and the cause. ()

b. This notice must be in writing and in a language and manner the resident or their representative can understand. ()

04. Written Notice of Discharge. The written notice of discharge must include the following: ()

a. The specific reason for the discharge; ()

b. The effective date of the discharge; ()

c. A statement that the resident has the right to appeal the discharge to the Department within thirty (30) calendar days of receipt of written notice of discharge; ()

d. The Residential Assisted Living Facilities Program website, where the appeal must be submitted; ()

e. The name, address, and telephone number of the local ombudsman; ()

f. The name, address, and telephone number of Disability Rights Idaho ()

g. If the resident fails to pay fees to the facility, as agreed to in the admission agreement, during the discharge appeal process, the resident's appeal of the involuntary discharge becomes null and void and the discharge notice applies; and ()

h. When the notice does not contain all the above required information, the notice is void and must be reissued. ()

05. Receipt of Appeal. Request for an appeal must be received by the Department within thirty (30) calendar days of the resident's or resident's representative's receipt of written notice of discharge to stop the discharge before it occurs. ()

218. -- 249. (RESERVED)

250. REQUIREMENTS FOR BUILDING CONSTRUCTION AND PHYSICAL STANDARDS.

Minimum construction must meet all requirements of this rule to include codes and standards incorporated by reference in Section 004 of these rules, and all local and state codes that are applicable to residential assisted living facilities. Where there are conflicts between the requirements in the codes, the most restrictive condition must apply. ()

01. Construction Changes. For all new construction, changes of occupancy, modifications, additions, or renovations to existing buildings, the facility must submit construction drawings with specifications to the licensing authority for review and approval prior to any work being started. All new construction and conversions must install audible and visual notification devices for fire alarm systems in all common areas and resident rooms no matter the size of facility. ()

02. Plans and Specifications. Plans must be prepared, signed, stamped, and dated by an architect or engineer licensed in the state of Idaho. A variance of this requirement may be granted by the Licensing Agency when the size of the project does not necessitate involvement of an architect or engineer. This must include the following: ()

a. Plans and specifications must be submitted to the Licensing Agency to ensure compliance with applicable construction standards, codes, and regulations; ()

b. Plans must be drawn to scale, but no less than a scale of one-eighth (1/8) inch to one (1) foot; ()

c. Plans must be submitted electronically; ()

d. A physical address approved by the city; ()

e. Life safety plans; ()

f. Fire alarm shop drawings; and ()

g. Fire sprinkler system drawings and calculations. ()

03. Approval. All buildings, additions, and renovations are subject to approval by the Licensing Agency and must meet applicable requirements. ()

04. Walls and Floor Surfaces. Walls and floors must be of such character to permit cleaning. Walls and ceilings in kitchens, bathrooms, and utility rooms must have washable surfaces. ()

05. Toilets and Bathrooms. Each facility must provide: ()

a. A toilet and bathroom for resident use so arranged that it is not necessary for an individual to pass through another resident's room to reach the toilet or bath; ()

- b.** Solid walls or partitions to separate each toilet and bathroom from all adjoining rooms; ()
- c.** Mechanical ventilation to the outside from all inside toilets and bathrooms not provided with an operable exterior window; ()
- d.** Each tub, shower, and lavatory with hot and cold running water; ()
- e.** At least one (1) flushing toilet for every six (6) residents; ()
- f.** At least one (1) tub or shower for every eight (8) residents; ()
- g.** At least one (1) lavatory with a mirror for each toilet; and ()
- h.** At least one (1) toilet, tub or shower, and lavatory in each building in which residents sleep, with additional units if required by the number of persons. ()

06. Accessibility for Persons with Mobility and Sensory Impairments. For residents who have mobility or sensory impairments, the facility must provide a physical environment which meets the needs of the person for independent mobility and use of appliances, bathroom facilities, and living areas. New construction must meet the requirements of the Americans with Disabilities Act Accessibility Guidelines (ADAAG). Existing facilities must comply, to the maximum extent feasible, with 28 CFR Sections 36.304 and 36.305 regarding removal of barriers under the Americans with Disabilities Act, without creating an undue hardship or burden on the facility, and must provide as required, the necessary accommodations: ()

- a.** Ramps for residents who require assistance with ambulation must comply with the requirements of the ADAAG 4.8; ()
- b.** Bathrooms and doors large enough to allow the easy passage of a wheelchair as provided for in the ADAAG 4.13; ()
- c.** Grab bars in resident toilet and bathrooms in compliance with ADAAG 4.26; ()
- d.** Toilet facilities in compliance with ADAAG 4.16 and 4.23; ()
- e.** Non-retractable faucet handles in compliance with ADAAG 4.19, with the exception of self-closing valves under 4.19.5, and 4.27; and ()
- f.** A suitable hand railing must be provided on both sides of all stairs leading into and out of a building for residents who require the use of crutches, walkers, or braces. ()

07. Lighting. The facility must provide adequate lighting in all resident sleeping rooms, dining rooms, living rooms, recreation rooms, and hallways. ()

08. Ventilation. The facility must be ventilated, and precautions taken to prevent offensive odors. ()

09. Plumbing. All plumbing in the facility must comply with local and state codes. All plumbing fixtures must be easily cleanable and maintained in good repair. The temperature of hot water at plumbing fixtures used by residents must be between one hundred five degrees Fahrenheit (105°F) and one hundred twenty degrees Fahrenheit (120°F). ()

10. Heating, Ventilation, and Air-Conditioning (HVAC). Equipment must be furnished, installed, and maintained to meet all requirements of current state and local mechanical, electrical, and construction codes. An HVAC system must be provided for the facility that is capable of maintaining a minimum temperature of seventy degrees Fahrenheit (70°F) and a maximum temperature of seventy-eight degrees Fahrenheit (78°F) during the day, and a minimum of sixty-two degrees Fahrenheit (62°F) and a maximum temperature of seventy-five degrees Fahrenheit (75°F) during the night. Wood stoves, gas fireplaces, or solid burning fireplaces are not permitted as the

sole source of heat, and the thermostat for the primary source of heat must be remotely located away from any of these sources. ()

a. Portable heating devices of any kind are prohibited. Portable electric space heaters and movable fuel-fired heaters are considered portable comfort heating devices. Exceptions are heated mattress pads, electric blankets, and heating pads when ordered by an authorized provider or physician; ()

b. All fireplaces must provide a safety barrier and have heat-tempered glass fireplace enclosures equivalent to ASTM Standard; ()

c. Boilers, hot water heaters, and unfired pressure vessels must be equipped with automatic pressure relief valves; ()

d. Fire and smoke dampers must be inspected, serviced, and cleaned once every four (4) years by a person professionally engaged in the business of servicing these devices or systems. A copy of these results must be kept in the facility. ()

11. Dining, Recreation, Shower, Bathing, and Living Space. The total area set aside for these purposes must be no less than thirty (30) square feet per licensed bed. A hall or entry cannot be included as living or recreation space. ()

12. Resident Sleeping Rooms. The facility must ensure that: ()

a. Resident sleeping rooms are not in attics, stairs, halls, or any other room commonly used for other than bedroom purposes; ()

b. A room with a window that opens into an exterior window well cannot be used for a resident sleeping room; ()

c. Not more than four (4) residents can be housed in any multi-bed sleeping room in facilities licensed prior to July 1, 1991. New facilities or buildings converted to a licensed facility after July 1, 1991, cannot have more than two (2) residents in any multi-bed sleeping room. When there is any change in ownership of the facility, the maximum number of residents allowed in any room is two (2); ()

d. Square footage requirements for resident sleeping rooms must provide for not less than one hundred (100) square feet of floor space per resident in a single-bed sleeping room and not less than eighty (80) square feet of floor space per resident in a multi-bed sleeping room. For facilities constructed after January 1, 2021, square footage requirements for resident sleeping rooms must provide at least one hundred (100) square feet of floor space per resident for both single-bed and multi-bed sleeping rooms. ()

e. Each resident's sleeping room must be provided with an operable exterior window. An operable window is not required where there is a door directly to the outside from the sleeping room; ()

f. The operable window sill height must not exceed thirty-six (36) inches above the floor in new construction, additions, or remodeling; ()

g. The operable window sill height must not exceed forty-four (44) inches above the floor in existing buildings being converted to a facility; ()

h. Each resident sleeping room must provide a total window space that equals at least eight percent (8%) of the room's total square footage; ()

i. Window screens must be provided on operable windows; ()

j. Resident sleeping rooms must have walls that run from floor to ceiling, have doors that will limit the passage of smoke, and provide the resident(s) with privacy; ()

k. Ceiling heights in sleeping rooms must be at least seven (7) feet, six (6) inches; and ()

l. Closet space in each resident sleeping room must provide at least four (4) usable square feet per resident. Common closets used by two (2) or more residents must have substantial dividers for separation of each resident's clothing. All closets must be equipped with doors. Free-standing closets are deducted from the square footage of the sleeping room. ()

13. Secure Environment. If the facility accepts and retains residents who have cognitive impairment and have a history of elopement or attempted elopement, the facility must provide an interior environment and exterior yard that is secure and safe. Because measures to secure the environment may be effective for one (1) resident, but not another, the type of the security provided must be evaluated for effectiveness in protecting each resident, based on their individual needs and abilities, and adjusted as necessary. These measures must be incorporated into the NSA of each applicable resident. ()

14. Call System. The facility must have a call system available for each resident to call for assistance and still be ensured a resident's right to privacy at the facility, including in the resident's living quarters and common areas, during medical treatment, and other services, and in written and telephonic communications, or in visits with family, friends, advocates, and resident groups. The call system cannot be a substitute for supervision. For facilities licensed prior to January 1, 2006, when the current system is no longer operational or repairable the facility must install a call system as defined in Section 010 of these rules. ()

15. Dietary Standards. Each facility must have a full-service kitchen to meet the needs of the residents. Any satellite kitchen must meet all applicable requirements. ()

251. -- 254. (RESERVED)

255. REQUIREMENTS FOR ADDITIONAL PHYSICAL STANDARDS.

01. Fire District. The facility site must be in a lawfully constituted fire district. ()

02. Roads. The facility must be served by an all-weather road and kept open to motor vehicles at all times of the year. ()

03. Medical Accessibility. The facility site must be accessible to authorized providers or emergency medical services within thirty (30) minutes driving time. ()

256. -- 259. (RESERVED)

260. REQUIREMENTS FOR ENVIRONMENTAL SANITATION.

01. Water Supply. The facility must have an adequate water supply that is safe and of a sanitary quality. ()

a. The water supply must be from an approved private, public, or municipal water supply; ()

b. Water from a private supply must have water samples submitted annually to either a private accredited laboratory or to the Public Health District Laboratory for bacteriological examination. The Department may require more frequent examinations if warranted; and ()

c. There must be a sufficient amount of water under adequate pressure to meet sanitary and fire sprinkler system requirements of the facility at all times. ()

02. Sewage Disposal. All sewage and liquid waste must be discharged into a municipal sewage system where such a system is available. If a municipal sewage system is not available, sewage and liquid waste must be collected, treated, and disposed of in a manner approved by the Department. ()

03. Garbage and Refuse Disposal. Garbage and refuse disposal must be provided to ensure that:

()

a. The premises and all buildings must be kept free from the accumulation of weeds, trash, and rubbish; ()

b. Material not directly related to the maintenance and operation of the facility must not be stored on the premises; ()

c. All containers used for storage of garbage and refuse must be constructed of durable, nonabsorbent material, and must not leak. Containers must be provided with tight-fitting lids unless stored in a vermin-proof room or enclosure; and ()

d. Garbage containers must be maintained in a sanitary manner. Sufficient containers must be afforded to hold all garbage and refuse which accumulates between periods of removal from the facility. Storage areas must be clean and sanitary. ()

04. Insect and Rodent Control. A pest control program must be in effect at all times. This program must effectively prevent insects, rodents, and other pests from entrance to, or infestation of, the facility. ()

05. Linen and Laundry Facilities and Services. ()

a. The facility must have available at all times a quantity of linen essential to the proper care and comfort of residents; ()

b. Linen must be of good quality, not thread-bare, torn, or stained; ()

c. Linens must be handled, processed, and stored in an appropriate manner that prevents contamination; ()

d. Adequate facilities must be provided for the proper and sanitary washing and drying of linen and other washable goods laundered in the facility; ()

e. The laundry must be situated in an area separate and apart from where food is stored, prepared, or served; ()

f. The laundry area must be well-lighted, ventilated, adequate in size for the needs of the facility, maintained in a sanitary manner, and kept in good repair; ()

g. Care must be taken to ensure soiled linen and clothing are properly handled to prevent contamination. Clean linen and clothing received from a laundry service must be stored in a proper manner to prevent contamination; and ()

h. Residents' and personnel's personal laundry must be collected, transported, sorted, washed, and dried in a sanitary manner and cannot be washed with general linens (e.g., towels and sheets). ()

06. Housekeeping and Maintenance Services. Housekeeping, maintenance personnel, and equipment must be provided to maintain the interior and exterior of the facility in a clean, safe, and orderly manner. Prior to occupancy of any sleeping room by a new resident, the room must be thoroughly cleaned including the bed, bedding, and furnishings. ()

07. Toxic Chemicals. All toxic chemicals must be properly labeled. Toxic chemicals cannot be stored where food is stored, prepared, or served, where medications are stored, and where residents with cognitive impairment have access. ()

261. -- 299. (RESERVED)

300. REQUIREMENTS FOR NURSING SERVICES.

The administrator must ensure policies and procedures are developed and implemented to ensure nursing services are performed in accordance with IDAPA 23.01.01, “Rules of the Idaho Board of Nursing” and this chapter of rules. The facility must have on staff sufficient nursing personnel to meet the requirements in this rule. ()

01. Licensed Registered Nurse (RN). A licensed registered nurse (RN) must visit the facility at least once every ninety (90) days to conduct initial and quarterly nursing assessments for each resident as described in Section 305 of these rules. The licensed registered nurse is responsible for delegation of nursing functions, according to IDAPA 23.01.01, “Rules of the Idaho Board of Nursing.” ()

02. Licensed Nurse. The licensed nurse must be available to address changes in a resident's health or mental status, review and implement new orders, and notify the physician or authorized provider when a resident repeatedly refuses to follow physician orders. ()

301. -- 304. (RESERVED)

305. REQUIREMENTS FOR THE LICENSED REGISTERED NURSING ASSESSMENT.

For each resident the licensed registered nurse must assess and document, including date and signature, the following: ()

01. Resident Medications and Therapies. Each resident's use of, and response to all medications, (including over-the-counter, and prescribed therapies), the monitoring of side effects, interactions, abuse, or other adverse effects, and ensuring the resident's physician or authorized provider is notified of any identified concerns with medications and therapies. ()

02. Current Medication Orders and Treatment Orders. Each resident's medication and treatment orders are current and verified for the following: ()

a. The medication listed on the medication distribution container, including over-the-counter medications, is consistent with physician or authorized provider orders; ()

b. The physician or authorized provider orders related to therapeutic diets, treatments, and medications for each resident are followed; and ()

c. A copy of the actual written, signed, and dated orders are present in each resident's care record. ()

03. Resident Health Status. The health status of each resident by conducting a physical assessment and identifying symptoms of illness, or any changes in mental or physical health status. ()

04. Recommendations. Recommendations to the administrator regarding any medication needs, other health needs requiring follow-up, or changes needed to the NSA. The nurse must notify the physician or authorized provider of recommendations for medical care and services that are needed. ()

05. Progress of Previous Recommendations. The progress of previous recommendations regarding any medication needs or other health needs that require follow-up. ()

06. Self-Administered Medication. Each resident participating in a self-administered medication program at the following times: ()

a. Before the resident can self-administer medication to ensure resident safety; and ()

b. Every ninety (90) days to evaluate the continued validity of the assessment to ensure the resident is still capable to safely self-administer medication(s). ()

07. Resident and Facility Staff Education. Recommendations for any health care-related educational needs, for both the resident and facility staff, as the result of the nursing assessment or at the direction of the resident's health care provider. ()

306. -- 309. (RESERVED)

310. REQUIREMENTS FOR MEDICATION.

Facility policies and procedures must specify how medications will be handled. ()

01. Medication Distribution System. Each facility must use medi-sets or blister packs for prescription medications. The facility may use multi-dose medication distribution systems that are provided for resident's receiving medications from the Veterans Administration or Railroad benefits. The medication system must be filled by a pharmacist and appropriately labeled in accordance with pharmacy standards and physician or authorized provider instructions. The facility's licensed nurse may fill medi-sets, blister packs, or other Licensing Agency approved systems as described in Section 39-3326, Idaho Code. ()

- a. All medications must be kept in a locked area such as a locked box or room; ()
- b. Poisons, toxic chemicals, and cleaning agents must not be stored with medications; ()
- c. Biologicals and other medications requiring cold storage must be maintained at thirty-eight degrees Fahrenheit to forty-five degrees Fahrenheit (38°F-45°F), and the temperature monitored and documented daily; ()
- d. Assistance with medication must comply with the Board of Nursing requirements; ()
- e. Each prescription medication must be given to the resident directly from the medi-set, blister pack, or medication container; ()
- f. Each resident must be observed taking the medication; and ()
- g. Each prescribed PRN must be available in the facility. ()

02. Discontinued and Expired Prescriptions. Discontinued or outdated medications and treatments must be removed from the resident's medication supply and cannot accumulate at the facility for longer than thirty (30) days. The unused medication must be disposed of in a manner that ensures it cannot be retrieved. The facility may enter into agreement, a copy of which must be maintained, with a pharmacy or other authorized entity to return unused, unopened medications for proper disposition. A written record of all drug disposals must be maintained in the facility and include: ()

- a. A description of the drug, including the amount; ()
- b. Name of the resident for whom the medication is prescribed; ()
- c. The reason for disposal; ()
- d. The method of disposal; ()
- e. The date of disposal; and ()
- f. Signatures of responsible facility personnel and witness. ()

03. Controlled Substances. The facility must track all controlled substances entering the facility, including the amount received, the date, a daily count, reconciliation of the number given or disposed, and the number remaining. ()

04. Psychotropic or Behavior Modifying Medication. ()

a. Psychotropic or behavior modifying medication intervention must not be the first resort to address behaviors. The facility must attempt non-drug interventions to assist and redirect the resident's behavior. ()

- b. Psychotropic or behavior modifying medications must be prescribed by a physician or authorized provider. ()
- c. The facility must monitor the resident to determine continued need for the medication based on the resident's demonstrated behaviors. ()
- d. The facility must monitor the resident for any side effects that could impact the resident's health and safety. ()
- e. The use of psychotropic or behavior modifying medications must be reviewed by the physician or authorized provider at least every six (6) months. The facility must provide behavior updates to the physician or authorized provider to help facilitate an informed decision on the continued use, and possible reduction, of the psychotropic or behavior modifying medication. ()

311. -- 318. (RESERVED)

319. COMPREHENSIVE ASSESSMENT REQUIREMENTS.

The facility must complete assessment information as described in Subsections 319.01 through 319.04 of this rule, prior to admitting the resident to the residential assisted living facility. The remainder of the comprehensive assessment must be completed within fourteen (14) days of admission. Comprehensive assessment information must be updated when there is a change, or at least every twelve (12) months. The comprehensive assessment must contain the following: ()

- 01. Resident Demographics.** Resident demographic information, including: ()
 - a. Date of birth; ()
 - b. Placement history; ()
 - c. Identification of any medical diagnoses, including any information about specific health problems, such as allergies, that may be useful in a medical emergency; ()
 - d. Prescription and over-the-counter medications and treatments; ()
 - e. Information related to cognitive function; ()
 - f. Legal status, to include copies of legal documents when applicable (e.g., guardianship or power of attorney); and ()
 - g. Names and contact information of representatives and emergency contacts. ()
- 02. Level of Personal Assistance Required.** The facility must assess the level of assistance required to help the resident with the following: Activities of daily living, including bathing, dressing, toileting, grooming, eating, communicating, medications, and the use of adaptive equipment, such as hearing aids, walkers, or eyeglasses. ()
- 03. Nursing Assessment.** Information related to the resident's health, medical status, and identification of any health services needed, including frequency and scope. ()
- 04. Maladaptive Behaviors.** Evaluation of maladaptive behaviors, including: ()
 - a. The resident's behavioral history, including any history of traumatic events; ()
 - b. The intensity, duration, and frequency of each maladaptive behavior; ()
 - c. Potential contributing environmental factors, such as heat, noise, or overcrowding; ()

- d. Any specific events that can trigger maladaptive behaviors; ()
- e. Potential contributing health factors, such as hunger, pain, constipation, infection, fever, or medication side effects; and ()
- f. Recent changes in the resident's life, such as a death in the family or changes in care. ()
- 05. Resident Preferences.** Resident preferences and historical information that includes: ()
 - a. Religion and church attendance, including preferred church contact information; ()
 - b. Historical information including significant life events, family, work, and education; and ()
 - c. Hobbies or preferred activities. ()
- 06. Outside Services.** Information related to outside services, including the service type being provided, when, and by whom. ()
- 07. Assessment Results.** The results of the comprehensive assessment must be used to develop the NSA, identify training needs for staff, and evaluate the ability of an administrator and facility to meet the identified resident's needs. ()

320. NEGOTIATED SERVICE AGREEMENT (NSA) REQUIREMENTS.

Under Section 39-3309, Idaho Code, each resident must enter into an NSA completed, signed, and implemented no later than fourteen (14) calendar days from the date of admission. An interim plan must be developed and used while the NSA is being completed as described in Section 330 of these rules. ()

01. Use of NSA. The NSA provides for the coordination of services and instruction to the facility staff. Upon completion, the agreement must clearly identify the resident, describe services to be provided, the frequency of such services, and how such services are to be delivered. ()

02. Key Elements of the NSA. A resident's NSA must be based on the comprehensive assessment information described in Section 319 of these rules. NSAs must incorporate information from the resident's care record, described in Section 330 of these rules. ()

03. Signature, Date, and Approval of Agreement. The administrator, resident, and any legal representative must sign and date the NSA upon its completion. ()

04. Review Date. The NSA must include the next scheduled date of review. ()

05. Development of the NSA. The resident, and other relevant persons as identified by the resident, must be included in the development of the NSA. Licensed and professional staff must be involved in the development of the NSA as applicable. ()

06. Copy of Initial Agreement. Signed copies of the agreement must be given to the resident, their representative, and their legal guardian or conservator, and a copy placed in the resident's record, no later than fourteen (14) calendar days from admission. ()

07. Resident Choice. A resident must be given the choice and control of how and what services the facility or external vendors will provide, to the extent the resident can make choices. The resident's choice must not violate the provisions of Section 39-3307(1), Idaho Code. ()

08. Periodic Review. The NSA must be reviewed when there is a change in a diagnosis for a resident or other change in condition requiring different, additional, or replacement services, or at least every twelve (12) months. ()

321. -- 329. (RESERVED)

330. REQUIREMENTS FOR FACILITY RECORDS.

The facility must maintain complete, accurate, and authentic records which are preserved in a safe location protected from fire, theft, and water damage for a minimum of three (3) years. ()

01. Paper Records. All paper records must be recorded legibly in ink. ()

02. Electronic Records. Electronic records policies and procedures must be developed and implemented that specify which records will be maintained electronically. Policy development and implementation must ensure: ()

a. The facility must print and provide paper copies of electronic records upon the request of the resident, their legal guardian or conservator, advocacy and protection agencies, and the Department. ()

b. Security measures must be taken to protect the use of an electronic signature by anyone other than the person to which the electronic signature belongs and to protect that person's identity. The policy must specify how passwords are assigned, and the frequency they are changed. ()

c. Security measures must be taken to ensure the integrity of any electronic documentation. ()

03. Record Confidentiality. The facility must safeguard confidential information against loss, destruction, and unauthorized use. ()

04. Resident Care Records. An individual care record must be maintained for each resident with all entries kept current and completed by the person providing the care. ()

a. Entries must include the date, time, name, and title of the person making the entry. Staff must sign each entry made by them during their shift. ()

b. Care records of all current residents must be available to staff at all times. ()

c. In addition to an NSA, as described in Section 320 of these rules, each care record must include documentation of the following: ()

i. Comprehensive assessments, as described in Section 319 of these rules; ()

ii. Current medications, treatments, and diet prescribed, all signed and dated by the ordering physician or authorized provider; ()

iii. Treatments, wound care, assistance with medications, and any other delegated nursing tasks. Documentation must include any PRN medication use (if applicable), including the reason for taking the medication and the efficacy; ()

iv. Times the NSA is not followed, such as during refusal of care or services. This includes any time a medication is refused by a resident, not taken by a resident, not given to a resident, and the reason for the omission; ()

v. Calls to the resident's physician or authorized provider, including the reason for each call and the outcome; ()

vi. Notification to the facility nurse of changes in the resident's physical or mental condition; ()

vii. Nursing assessments, as described in Section 305 of these rules; ()

viii. The results of any physician or authorized provider visits; ()

- ix. Copies of all signed and dated care plans prepared by outside service agencies; ()
- x. Notes regarding outside services and care provided to the resident, such as home health, hospice, or physical therapy; ()
- xi. Unusual events such as incidents, accidents, or altercations, and the facility's response; and ()
- xii. When a resident refuses medical treatment or physician's orders, the facility must document the resident and their legal guardian have been informed of the consequences of the refusal and the resident's physician or authorized provider has been notified of the refusal. ()

05. Admission Records. As described in Section 39-3315, Idaho Code, resident admission documentation must include: ()

- a. The resident's preferred providers and contact information, including physician or authorized provider, optometrist, dentist, pharmacy, and outside service providers. ()
- b. Results of the resident's last history and physical examination, performed by a physician or authorized provider. The examination must have been conducted no more than six (6) months prior to admission. ()
- c. Physician or authorized provider orders that are current, signed, and dated, including a list of medications, treatments, diet, and any limitations. ()
- d. A written admission agreement that is signed and dated by the administrator and the resident or their legal guardian or conservator, and meets the requirements of Section 216 of these rules. ()
- e. If separate from the admission agreement, a copy of the payment schedule and fee structure signed and dated by the resident or their legal guardian or conservator. ()
- f. If the facility manages the resident's funds, a signed and dated written agreement between the facility and the resident or their legal guardian or conservator that specifies the terms. ()
- g. A signed copy of the resident's rights, as described in Sections 550 and 560 of these rules, or a signed and dated statement that the resident or their legal guardian or conservator has read and understands their rights in a residential assisted living facility. ()
- h. An interim care plan signed by the resident, responsible party, and the facility, completed prior to, or on the day of, admission. ()
- i. Documentation indicating the resident has been informed of the facility's emergency procedures, including resident responsibility. ()

06. Behavior Documentation. For residents who exhibit maladaptive behaviors, behavior management records must be maintained in the resident record, including: ()

- a. An assessment of maladaptive behaviors, as described in Section 319 of these rules. ()
- b. A behavior plan that includes at least one (1) intervention specific to each maladaptive behavior. ()
 - i. Interventions must be the least restrictive possible; and ()
 - ii. Each intervention must be reviewed as appropriate, based on the severity of the behavior, to evaluate the effectiveness and continued need for the intervention. ()

c. Ongoing tracking of behaviors, including documentation of the date and time each maladaptive behavior was observed, the specific behavior that was observed, what interventions were used in response to the maladaptive behavior, and the effectiveness of each intervention. ()

07. Discharge Records. Resident discharge documentation must include: ()

a. When the discharge is involuntary, the facility's efforts to resolve the situation and a copy of the discharge notice, signed and dated by the resident and the facility. If the resident refuses, or is unable to sign the notice, the facility must maintain evidence that the notice was delivered to the resident and the responsible party; ()

b. The date and the location where the resident is discharged; and ()

c. The disposition of the resident's belongings. ()

08. Additional Resident Records. The facility must also maintain the following for each resident: ()

a. A record of all personal property that the resident has entrusted to the facility, including documentation to identify and track the property to ensure that personal items are kept safe and used only by the resident to which the items belong; and ()

b. Any complaints or grievances voiced by the resident including the date received, the investigation with outcome, and the response to the resident. ()

09. Resident Admission and Discharge Register. The facility must maintain an admission and discharge register listing the name of each resident, the date admitted, and the date discharged. The admission and discharge register must be produced as a separate document, apart from resident records, and kept current. ()

10. Hourly Adult Care Documentation. A log of those who have utilized hourly adult care must be maintained, including the dates the service was provided. Individual records must be maintained for each person utilizing hourly adult care. The individual record documentation must include: ()

a. Admission identification information, including contact information for the responsible party in an emergency, and the physician or authorized provider; ()

b. Information, such as medical and social, relevant to the supervision of the person; and ()

c. Care and services provided during hourly adult care, including assistance with medications. ()

11. Dietary Records. The facility must maintain on-site a minimum of three (3) months of dietary documentation, as follows: ()

a. Copies of planned menus, including therapeutic menus, that are approved, signed, and dated by a dietitian; and ()

b. Served menus, including therapeutic menus, which reflect substitutions made. ()

12. Records for Water Supply. Copies of laboratory reports documenting the bacteriological examination of a private water supply must be kept on file in the facility. ()

13. Personnel Records. A record for each employee must be maintained and available, which includes the following: ()

a. The employee's name, address, phone number, and date of hire; ()

- b.** A job description that includes the purpose, responsibilities, duties, and authority; ()
- c.** Evidence that on, or prior to hire, staff were notified in writing if the facility does or does not carry professional liability insurance. If the facility cancels existing professional liability insurance, all staff must be notified of the change in writing; ()
- d.** A copy of a current license for all nursing staff and verification from the Board of Nursing that the license is in good standing with identification of restrictions; ()
- e.** Signed evidence of training as described in Sections 620 through 641 of these rules; ()
- f.** Copies of CPR and first aid certifications; ()
- g.** Evidence of medication training as described in Section 645 of these rules; ()
- h.** Criminal history and background check results that meet Section 009 of these rules and state-only background check results; ()
- i.** Documentation by the licensed nurse of delegation to unlicensed staff who assist residents with medications and other nursing tasks; ()
- j.** When acting on behalf of the administrator, a signed document authorizing the responsibility; and ()
- k.** Copies of contracts with outside service providers and contract staff. ()
- 14. As Worked Schedules.** Work records must be maintained in written or electronic format which reflect: ()

 - a.** Personnel on duty, at any given time; and ()
 - b.** The first and last names of each employee and their position. ()
- 15. Fire and Life Safety Records.** The administrator must ensure the facility's records for fire and life safety are maintained. The facility must maintain on file: ()

 - a.** Fire detection, alarm, and communication system reports: ()

 - i.** The results of the annual inspection and tests; and ()
 - ii.** Smoke detector sensitivity testing results. ()
 - b.** The results of any weekly, monthly, quarterly, semi-annual, and annual sprinkler system inspections, maintenance, and tests; ()
 - c.** Records of the monthly examination of the portable fire extinguishers, documenting the following: ()

 - i.** Each extinguisher is in its designated location; ()
 - ii.** Each extinguisher seal or tamper indicator is not broken; ()
 - iii.** Each extinguisher has not been physically damaged; ()
 - iv.** Each extinguisher gauge shows a charged condition; and ()
 - v.** The inspection tag or documentation for the extinguisher must show at least the initials of the

person making the monthly examination and the date of the examination. ()

d. Documentation for when a fire watch is instituted and a fire watch log for each round of patrol, identifying who conducted the fire watch, date, time, and situations encountered. ()

331. -- 334. (RESERVED)

335. REQUIREMENTS FOR INFECTION CONTROL.

The administrator is responsible for ensuring that policies and procedures consistent with recognized standards that control and prevent infections for both staff and residents are developed and implemented throughout the facility, to include: ()

01. Staff with an Infectious Disease. Staff with an infectious disease must not work until the infectious stage no longer exists or must be reassigned to a work area where contact with others is not expected and likelihood of transmission of infection is absent. ()

02. Standard Precautions. Standard precautions must be used in the care of residents to prevent transmission of infectious disease according to the Centers for Disease Control and Prevention (CDC) guidelines. These guidelines may be accessed on the CDC website at <http://www.cdc.gov/hai/>. ()

03. Reporting of Individual with an Infectious Disease. The name of any resident or facility personnel with a reportable disease listed in IDAPA 16.02.10, "Idaho Reportable Diseases," must be reported immediately to the local health district authority with appropriate infection control procedures immediately implemented as directed by that local health authority. ()

336. -- 399. (RESERVED)

400. REQUIREMENTS FOR FIRE AND LIFE SAFETY STANDARDS.

A facility's buildings must meet all requirements of the local and state codes that are applicable to residential assisted living facilities for fire and life safety standards. Facilities' evacuation capability is considered "impractical" as defined by NFPA, Standard 101. ()

401. FIRE AND LIFE SAFETY STANDARDS FOR NEW BUILDINGS HOUSING THREE THROUGH SIXTEEN RESIDENTS.

A newly constructed facility, change of ownership, or a building converted to a residential assisted living facility on or after January 1, 2021, housing three (3) to sixteen (16) residents on the first story only must comply with NFPA, Standard 101, Chapter 32, Small Facilities. ()

402. FIRE AND LIFE SAFETY STANDARDS FOR NEW BUILDINGS HOUSING SEVENTEEN OR MORE RESIDENTS AND MULTI-STORY BUILDINGS.

A newly constructed facility, change of ownership, or a building converted to a residential assisted living facility on or after January 1, 2021, housing seventeen (17) residents or more, or any building housing residents on stories other than the first story must comply with requirements of NFPA, Standard 101, Chapter 32, Large Facilities. ()

403. FIRE AND LIFE SAFETY STANDARDS FOR EXISTING BUILDINGS LICENSED FOR THREE THROUGH SIXTEEN RESIDENTS.

Existing facilities licensed prior to January 1, 2021, housing three (3) to sixteen (16) residents on the first story only, must comply with the requirements of the NFPA, Standard 101, Chapter 33, Small Facilities. Existing buildings that are not sprinklered may continue to operate, except when Section 401 of these rules apply. ()

404. FIRE AND LIFE SAFETY STANDARDS FOR EXISTING BUILDINGS LICENSED FOR SEVENTEEN OR MORE RESIDENTS AND MULTI-STORY BUILDINGS.

Existing facilities licensed prior to January 1, 2021 housing seventeen (17) or more residents and multi-story buildings or any building housing residents on stories other than the first story must comply with NFPA, Standard 101, Chapter 33, Large Facilities. ()

405. ADDITIONAL FIRE AND LIFE SAFETY STANDARDS FOR ALL BUILDINGS AND FACILITIES.

01. Electrical Installations and Equipment. Electrical installations and equipment must comply with applicable local or state electrical requirements in NFPA, Standard 101, Mandatory References. ()

a. Extension cords and multi-plug adapters are prohibited; ()

b. Relocatable Power Taps (RPTs) must be Underwriter Laboratories (U/L) approved with the following requirements: ()

i. RPTs must be directly connected to a wall outlet; and ()

ii. Have a built-in surge protector. ()

02. Prohibited Applications. The following are prohibited uses of an RPT: ()

a. Medical equipment; ()

b. Daisy chain or plugging one (1) plug strip into a second plug strip; ()

c. Appliances; ()

d. As a convenience, in lieu of permanent installed receptacles; and ()

e. Extend through walls, ceilings, floors, under doors or floor coverings, or be subject to environmental or physical damage. ()

03. Medical Gases. Handling, use, and storage of medical gas must be according to NFPA, Standard 99, Chapter 11, Performance, Maintenance, and Testing as referenced in Section 004 of these rules. ()

04. Fuel-Fired Heating. Fuel-fired heating devices and systems must be inspected, serviced, and cleaned at least annually by a person professionally engaged in the business of servicing these devices or systems. ()

05. Natural or Man-Made Hazards. When natural or man-made hazards are present on the facility property or border the facility property, suitable fences, guards, railing, or a combination must be installed to provide protection for the residents. ()

06. Telephone. The facility must have a telephone on the premises available for staff use in the event of an emergency. Emergency telephone numbers must be posted near the telephone. ()

406. -- 409. (RESERVED)

410. REQUIREMENTS FOR EMERGENCY ACTIONS AND FIRE DRILLS.

Fire drills must be conducted not less than six (6) times a year on a bimonthly basis, with not less than two (2) conducted during the night when residents are sleeping. Records must be maintained on file at the facility and contain a description, date, and time of the drill, response of the personnel and residents, problems encountered, and recommendations for improvement. ()

01. Report of Fire. A separate report on each fire incident occurring within the facility must be submitted to the Licensing Agency within thirty (30) days of the occurrence. The reporting form, "Facility Fire Incident Report," issued by the Licensing Agency is used to secure specific data concerning date, origin, extent of damage, method of extinguishment, and injuries, if any. A fire incident is considered any activation of the building's fire alarm system other than a false alarm, during testing of the fire alarm system, or during a fire drill. ()

02. Fire Watch. Where a required fire alarm system or fire sprinkler system is out of service for more

than four (4) hours in a twenty-four (24) hour period, the authority having jurisdiction must be notified, and the building evacuated, or an approved fire watch provided for all parties left unprotected by the shutdown until the fire alarm system has been returned to service. ()

411. -- 429. (RESERVED)

430. REQUIREMENTS FOR FURNISHINGS, EQUIPMENT, SUPPLIES, AND BASIC SERVICES.
Each facility must provide to the resident: ()

01. Common Shared Furnishings. Appropriately designed and constructed furnishings to meet the needs of each resident, including reading lamps, tables, comfortable chairs, or sofas. All items must be in good repair, clean, safe, and provided at no additional cost to the resident. ()

02. Resident Sleeping Room Furnishings. Comfortable furnishings and individual storage, such as a dresser, for personal items for each resident in each sleeping room. All items must be in good repair, clean, and safe. ()

03. Resident Bed. Each resident must be provided their own bed, which will be at least thirty-six (36) inches wide, substantially constructed, clean, and in good repair. Roll-away beds, cots, futons, folding beds, or double bunks are prohibited. Bed springs must be in good repair, clean, and comfortable. Bed mattresses must be standard for the bed, clean, and odor-free. A pillow must be provided. ()

04. Resident Telephone Privacy. The facility must have at least one (1) telephone that is accessible to all residents, and provide local calls at no additional cost. The telephone must be placed in such a manner as to provide the resident privacy while using the telephone. ()

05. Basic Services. The following are basic services to be provided to the resident by the facility within the basic services rate: ()

- a. Rent; ()
- b. Utilities; ()
- c. Food; ()
- d. Activities of daily living services; ()
- e. Supervision; ()
- f. First aid; ()
- g. Assistance with and monitoring of medications; ()
- h. Laundering of linens owned by the facility; ()
- i. Emergency interventions and coordination of outside services; ()
- j. Routine housekeeping and maintenance of common areas; and ()
- k. Access to basic television in common areas. ()

06. Basic Supplies. The following are to be supplied by the facility at no additional cost to the resident: linens, towels, wash cloths, liquid hand soap, non-sterile exam gloves, toilet paper, and first aid supplies, unless the resident chooses to provide their own. ()

07. Personal Supplies. Soap, shampoo, hair brush, comb, electric razor or other means of shaving, toothbrush, toothpaste, sanitary napkins, and incontinence supplies must be provided by the facility unless the

resident chooses to provide their own. The facility may charge the resident for personal supplies the facility provides and must itemize each item being charged to the resident. ()

08. Resident Supplies and Furnishings. If a resident chooses to provide their own supplies or furnishings, the facility must ensure that the resident's supplies or furnishings meet the minimum standards as identified in this rule. ()

431. -- 449. (RESERVED)

450. REQUIREMENTS FOR FOOD AND NUTRITIONAL CARE SERVICES.

The facility food services must meet the standards in IDAPA 16.02.19, "Idaho Food Code," as incorporated in Section 004 of these rules. The facility must also implement operational policies for providing proper nutritional care for each resident, which includes procedures to follow if the resident refuses food or to follow a prescribed diet. ()

451. MENU AND DIET PLANNING.

The facility must provide each resident with at least the minimum food and nutritional needs in accordance with the Recommended Dietary Allowances established by the Food and Nutrition Board of the National Academy of Sciences. These recommendations are found in the Idaho Diet Manual incorporated by reference in Section 004 of these rules. The menu must be adjusted for age, sex, and activity as approved by a registered dietitian. ()

01. Menu. The facility must have a menu planned or approved, and signed and dated by a registered dietitian prior to being served to any resident. The planned menu must meet nutritional standards. ()

a. Menus will provide a sufficient variety of foods in adequate amounts at each meal; ()

b. Food selections must include foods that are served in the community and in season. Food selections and textures should account for residents' preferences, food habits, and physical abilities. ()

c. The current weekly menu must be posted in a facility common area; and ()

d. The facility must serve the planned menu. If substitutions are made, the menu must be modified to reflect the substitutions. ()

02. Therapeutic Diets. The facility must have a therapeutic diet menu planned or approved, and signed and dated by a registered dietitian prior to being served to any resident. ()

a. The therapeutic diet planned menu, if possible, must meet nutritional standards; ()

b. The therapeutic diet menu must be planned as close to a regular diet as possible; and ()

c. The facility must have for each resident on a therapeutic diet, an order from a physician or authorized provider. ()

03. Facilities Licensed for Sixteen Beds or Less. In facilities licensed for sixteen (16) beds or less, menus must be planned in writing at least one (1) week in advance. ()

04. Facilities Licensed for Seventeen Beds or More. Facilities licensed for seventeen (17) beds or more must: ()

a. Develop and implement a cycle menu which covers a minimum of two (2) seasons and is four (4) to five (5) weeks in length; ()

b. Follow standardized recipes; and ()

c. Have available in the kitchen a current copy of the Idaho Food Code and Idaho Diet Manual. ()

452. -- 454. (RESERVED)

455. FOOD SUPPLY.

The facility must maintain a seven (7) day supply of nonperishable foods and a two (2) day supply of perishable foods. The facility's kitchen must have the types and amounts of food to be served readily available to meet all planned menus during that time. ()

456. -- 459. (RESERVED)

460. FOOD PREPARATION AND SERVICE.

01. Food Preparation. Foods must be prepared by methods that conserve nutritional value, flavor, and appearance. ()

02. Frequency of Meals. Food must be offered throughout the day, as follows: ()

a. To provide residents at least three (3) meals daily, at regular times comparable to normal mealtimes in the community; ()

b. To ensure no more than fourteen (14) hours between a substantial evening meal and breakfast; ()

c. Ensure that residents who are not in the facility for the noon meal are offered a substantial evening meal; and ()

d. Offer snacks and fluids between meals and at bedtime. ()

03. Food Preparation Area. Any areas used for food preparation must be maintained as follows: ()

a. No live animals or fowl will be kept or maintained in the food service preparation or service area; and ()

b. Food preparation and service areas cannot be used as living quarters for staff. ()

04. Disposable Items. The facility will not use single-use items except in unusual circumstances for a short period of time or for special events. ()

461. -- 509. (RESERVED)

510. REQUIREMENTS TO PROTECT RESIDENTS FROM ABUSE.

The administrator must ensure that policies and procedures are developed and implemented to ensure that all residents are free from abuse. These policies and procedures should be posted in a conspicuous place in the facility, shared with new residents, families upon admission, all residents annually thereafter, and made available upon request. ()

511. -- 514. (RESERVED)

515. REQUIREMENTS TO PROTECT RESIDENTS FROM EXPLOITATION.

The administrator must ensure that policies and procedures are developed and implemented to ensure that all residents are free from exploitation. These policies and procedures should be posted in a conspicuous place in the facility, shared with new residents, families upon admission, all residents annually thereafter, and made available upon request. ()

516. -- 519. (RESERVED)

520. REQUIREMENTS TO PROTECT RESIDENTS FROM INADEQUATE CARE.

The administrator must ensure that policies and procedures are developed and implemented to ensure that all residents are free from inadequate care. These policies and procedures should be posted in a conspicuous place in the facility, shared with new residents, families upon admission, all residents annually thereafter, and made available upon request. ()

521. -- 524. (RESERVED)

525. REQUIREMENTS TO PROTECT RESIDENTS FROM NEGLECT.

The administrator must ensure that policies and procedures are developed and implemented to ensure that all residents are free from neglect. These policies and procedures should be posted in a conspicuous place in the facility, shared with new residents, families upon admission, all residents annually thereafter, and made available upon request. ()

526. -- 549. (RESERVED)

550. REQUIREMENTS FOR RESIDENTS' RIGHTS.

The administrator must ensure that policies and procedures are developed and implemented to ensure that residents' rights are observed, promoted, and protected. ()

01. Resident Records. Upon request, a resident or others authorized by law, must be provided immediate access to information in their record, and copies of information within two (2) business days. The facility must maintain and keep current a record for each resident that contains the information specified in Section 330 of these rules and Section 39-3316, Idaho Code. ()

02. Privacy. Each resident must be ensured the right to privacy with accommodations, medical and other treatment, written and telephone communications, visits, and meetings of family and resident groups. ()

03. Humane Care and Environment. ()

a. Each resident has the right to humane care and a humane environment, including the following: ()

i. The right to a diet that is consistent with any religious or health-related restrictions; ()

ii. The right to refuse a restricted diet; and ()

iii. The right to a safe and sanitary living environment. ()

b. Each resident has the right to be treated with dignity and respect, including: ()

i. The right to be treated in a courteous manner by staff; ()

ii. The right to receive a response from the facility to any request of the resident within a reasonable time; and ()

iii. The right to be communicated with, orally or in writing, in a language they understand. If the resident's knowledge of English or the predominant language of the facility is inadequate for comprehension, a means to communicate in a language familiar to the resident must be available and implemented. There are many possible methods such as bilingual staff, electronic communication devices, or family and friends to translate. The method implemented must ensure the resident's right to confidentiality, if the resident desires. ()

04. Personal Possessions. Each resident has the right to: ()

a. Wear their own clothing; ()

b. Determine their own dress or hair style; ()

c. Retain and use their own personal property in their own living area so as to maintain individuality and personal dignity; and ()

d. Be provided a separate storage area in their own living area and at least one (1) locked cabinet or drawer for keeping personal property. ()

05. Personal Funds. Residents whose board and care is paid for by public assistance will retain, for their personal use, the difference between their total income and the applicable board and care allowance established by Department rules. A facility must not require a resident to deposit their personal funds with the facility. ()

06. Management of Personal Funds. Upon a facility's acceptance of written authorization of a resident, the facility must manage and account for the personal funds of the resident deposited with the facility as follows: ()

a. The facility must deposit any amount of a resident's personal funds more than five (5) times the personal needs allowance in an interest-bearing account (or accounts) that is separate from any of the facility's operating accounts and credit all interest earned on such separate account to the account. The facility must maintain any other personal funds in a non-interest-bearing account or petty cash fund; ()

b. The facility must ensure a full and complete separate accounting of each resident's personal funds, maintain a written record of all financial transactions involving each resident's personal funds deposited with the facility, and afford the resident (or a legal representative of the resident) reasonable access to such record; and ()

c. Upon the death of a resident with such an account, the facility must promptly convey the resident's personal funds (and a final accounting of such funds) to the individual administering the resident's estate. For clients of the Department, the remaining balance of funds must be refunded to the Department. ()

07. Access and Visitation Rights. Each facility must permit: ()

a. Immediate access to any resident by any representative of the Department, by the local ombudsman for the elderly or their designees, or by the resident's physician or authorized provider; ()

b. Immediate access to a resident, subject to the resident's right to deny or withdraw consent at any time, by the resident's immediate family, significant other, or representative; ()

c. Immediate access to a resident, subject to reasonable restrictions and the resident's right to deny or withdraw consent at any time, by others who are visiting with the consent of the resident; and ()

d. Reasonable access to a resident by any entity or individual that provides health, social, legal, or other services to the resident, subject to the resident's right to deny or withdraw consent at any time. ()

08. Employment. Each resident must have the right to refuse to perform services for the facility except as contracted for by the resident and the administrator of the facility. If the resident is hired by the facility to perform services as an employee of the facility, the wage paid to the resident must be consistent with state and federal law. ()

09. Confidentiality. Each resident must have the right to confidentiality of personal and clinical records. ()

10. Freedom from Abuse, Neglect, and Restraints. Each resident must have the right to be free from physical, mental, or sexual abuse, neglect, corporal punishment, involuntary seclusion, and any physical or chemical restraints. ()

11. Freedom of Religion. Each resident must have the right to practice the religion of their choice or to abstain from religious practice. Residents must also be free from the imposition of the religious practices of others.

()

12. Control and Receipt of Health-Related Services. Each resident must have the right to control their receipt of health-related services, including: ()

a. The right to retain the services of their own personal physician, dentist, and other health care professionals; ()

b. The right to select the pharmacy or pharmacist of their choice so long as it meets the statute and rules governing residential assisted living and the policies and procedures of the residential assisted living facility; ()

c. The right to confidentiality and privacy concerning their medical or dental condition and treatment; and ()

d. The right to refuse medical services based on informed decision making. Refusal of treatment does not relieve the facility of its obligations under this chapter. ()

i. The facility must document the resident and their legal guardian have been informed of the consequences of the refusal; and ()

ii. The facility must document that the resident’s physician or authorized provider has been notified of the resident’s refusal. ()

13. Grievances. Each resident must have the right to voice grievances with respect to treatment or care that is, or fails to be, furnished, without threat of retaliation for voicing the grievances and the right to prompt efforts by the facility to resolve grievances the resident may have, including those with respect to the behavior of other residents. ()

14. Participation in Resident and Family Groups. Each resident must have the right to organize and participate in resident groups in the facility and the right of the resident's family to meet in the facility with the families of other residents in the facility. ()

15. Participation in Other Activities. Each resident must have the right to participate in social, religious, and community activities that do not interfere with the rights of other residents in the facility. ()

16. Examination of Survey Results. Each resident must have the right to examine, upon reasonable request, the results of the most recent survey of the facility conducted by the Licensing Agency and any plan of correction in effect. ()

17. Access by Advocates and Representatives. A residential assisted living facility must permit advocates and representatives of community legal service programs, whose purposes include rendering assistance without charge to residents, to have access to the facility at reasonable times in order to: ()

a. Visit, talk with, and make personal, social, and legal services available to all residents; ()

b. Inform residents of their rights and entitlements, and their corresponding obligations, under state, federal, and local laws by distribution of educational materials and discussion in groups and with individuals; ()

c. Assist residents in asserting their legal rights regarding claims for public assistance, medical assistance, and social security benefits, and in all other matters in which residents are aggrieved, that may be provided individually, or in a group basis, and may include organizational activity, counseling, and litigation; ()

d. Engage in all other methods of assisting, advising, and representing residents so as to extend to them the full enjoyment of their rights; ()

e. Communicate privately and without restrictions with any resident who consents to the communication; and ()

f. Observe all common areas of the facility. ()

18. Access by Protection and Advocacy System. A residential assisted living facility must permit advocates and representatives of the protection and advocacy system designated by the governor under 29 U.S.C. 794e, 42 U.S.C. Section 15043, and 42 U.S.C. Section 10801 et seq., access to residents, facilities, and records in accordance with applicable federal statutes and regulations. ()

19. Access by the Long-Term Care Ombudsman. A residential assisted living facility must permit advocates and representatives of the long-term care ombudsman program pursuant to 42 U.S.C. Section 3058, Section 67-5009, Idaho Code, and IDAPA 15.01.03, "Rules Governing the Ombudsman for the Elderly Program," access to residents, facilities, and records in accordance with applicable federal and state law, rules, and regulations. ()

20. Transfer or Discharge. Each resident must have the right to be transferred or discharged only for medical reasons, for their welfare or that of other residents, or for nonpayment for their stay. In non-emergency conditions, the resident must be given at least thirty (30) calendar days notice of discharge. A resident has the right to appeal any involuntary discharge. ()

21. Citizenship Rights. Each resident has the right to be encouraged and assisted to exercise rights as a citizen, including the right to be informed and to vote. ()

22. Advance Directives. Each resident has the right to be informed, in writing, regarding the formulation of an advance directive as provided under Section 39-4510, Idaho Code. ()

23. Fee Changes. Each resident has the right to written notice of any fee change not less than thirty (30) days prior to the proposed effective date of the fee change, except: ()

a. When a resident needs additional care, services, or supplies, the facility must provide to the resident or the resident's legal guardian or conservator written notice within five (5) days of any fee change taking place; ()

b. The resident and the resident's legal guardian or conservator must be given the opportunity to agree to an amended NSA. If the two parties do not reach an agreement on the proposed fee change, the facility is entitled to charge the changed rate after five (5) days have elapsed from the date of the facility's written notice. ()

551. -- 559. (RESERVED)

560. NOTICE OF RESIDENTS' RIGHTS. Each facility must: ()

01. Inform Residents Orally and in Writing. Inform each resident, orally and in writing at the time of admission to the facility, of their legal rights during the stay at the facility. ()

02. Written Statements. Make available to each resident, upon reasonable request, a written statement of such rights and when the rights change the resident is notified. ()

03. Written Description of Rights. Ensure the written description of legal rights in this rule includes a description of the protection of personal funds and a statement that a resident may file a complaint with the Department respecting resident abuse, neglect, and misappropriation of resident property in the facility. ()

04. Posting of Resident Rights. Conspicuously post the residents' rights in the facility at all times. ()

561. -- 599. (RESERVED)

600. REQUIREMENTS FOR STAFFING STANDARDS.

The administrator must develop and implement written staffing policies and procedures based on the number of residents, resident needs, and configuration of the facility, which include: ()

01. On-Duty Staff Up and Awake During Residents' Sleeping Hours. Qualified and trained staff must be up and awake, and immediately available in the facility during resident sleeping hours. ()

02. Detached Buildings or Units. Facilities with residents housed in detached buildings or units must have at least one (1) staff present and available in each building or unit when residents are present in the building or unit. The facility must also ensure that each building or unit complies with the requirements for on-duty staff during resident sleeping hours to be up, awake, and immediately available in accordance with the facility's licensed bed capacity as provided in this rule. The Licensing Agency will consider a variance based on the facility's written submitted plan of operation. ()

03. Personnel Management. The administrator is responsible for the management of all personnel to include contract personnel. ()

04. Sufficient Personnel. As described in Section 39-3322, Idaho Code, the facility will employ and the administrator will schedule sufficient personnel to: ()

a. Provide care and supervision, during all hours, as required in each resident's NSA, to ensure residents' health, safety, and comfort, and to ensure the interior and exterior of the facility is maintained in a safe and clean manner; and ()

b. To provide for at least one (1) direct care staff with certification in first aid and cardio-pulmonary resuscitation (CPR) in the facility at all times. Facilities with multiple buildings or units will have at least one (1) direct care staff with certification in first aid and CPR in each building or each unit at all times. ()

601. -- 619. (RESERVED)

620. REQUIREMENTS FOR TRAINING OF FACILITY PERSONNEL.

The facility must follow structured, written training programs designed to meet the training needs of personnel in relation to responsibilities, as specified in the written job description, to provide for quality of care and compliance with these rules. Signed evidence of personnel training, indicating hours and topic, must be retained at the facility. ()

621. -- 624. (RESERVED)

625. ORIENTATION TRAINING REQUIREMENTS.

The administrator must ensure that each staff member completes orientation training specific to their job description as described in Section 39-3324, Idaho Code. Staff who have not completed the orientation training requirements must work with a staff who has completed the orientation training. ()

01. Number of Hours of Training. A minimum of sixteen (16) hours of job-related orientation training must be provided to all new personnel before they are allowed to provide unsupervised personal assistance to residents. The means and methods of training are at the facility's discretion. ()

02. Timeline for Completion of Training. All orientation training must be completed within thirty (30) days of hire. ()

03. Content for Training. Orientation training must include the following: ()

a. The philosophy of residential assisted living and how it guides caregiving; ()

b. Resident rights; ()

- c. Cultural awareness; ()
- d. Providing personal assistance; ()
- e. How to respond to emergencies; ()
- f. Reporting and documentation requirements for resident care records, incidents, accidents, complaints, and allegations of abuse, neglect, and exploitation; ()
- g. Identifying and reporting changes in residents' health or mental condition; ()
- h. Advance directives and do not resuscitate (DNR) orders; ()
- i. Relevant policies and procedures; ()
- j. The role of the NSA; and ()
- k. All staff employed by the facility, including housekeeping personnel and contract personnel, must be trained in infection control procedures for universal precautions. ()

626. -- 629. (RESERVED)

630. TRAINING REQUIREMENTS FOR FACILITIES ADMITTING RESIDENTS WITH A DIAGNOSIS OF DEMENTIA, MENTAL ILLNESS, DEVELOPMENTAL DISABILITY, OR TRAUMATIC BRAIN INJURY.

A facility admitting and retaining residents with a diagnosis of dementia, mental illness, developmental disability, or traumatic brain injury must train all staff to meet the specialized needs of these residents. Staff must receive specialized training within thirty (30) days of hire or of admission of a resident with one (1) of these conditions. The means and methods of training are at the facility's discretion. The training should address the following areas:

- ()
- 01. Dementia:** ()
 - a. Overview of dementia; ()
 - b. Symptoms and behaviors of people with memory impairment; ()
 - c. Communication with people with memory impairment; ()
 - d. Resident's adjustment to the new living environment; ()
 - e. Behavior management, including the consistent implementation of behavior interventions; ()
 - f. Activities of daily living; and ()
 - g. Stress reduction for facility personnel and the resident. ()
- 02. Mental Illness:** ()
 - a. Overview of mental illnesses; ()
 - b. Symptoms and behaviors specific to mental illness; ()
 - c. Resident's adjustment to the new living environment; ()
 - d. Behavior management, including the consistent implementation of behavior interventions; ()

- e. Communication; ()
 - f. Activities of daily living; ()
 - g. Integration with rehabilitation services; and ()
 - h. Stress reduction for facility personnel and the resident. ()
 - 03. Developmental Disability:** ()
 - a. Overview of developmental disabilities; ()
 - b. Interaction and acceptance; ()
 - c. Promotion of independence; ()
 - d. Communication; ()
 - e. Behavior management, including the consistent implementation of behavior interventions; ()
 - f. Assistance with adaptive equipment; ()
 - g. Integration with rehabilitation services; ()
 - h. Activities of daily living; and ()
 - i. Community integration. ()
 - 04. Traumatic Brain Injury:** ()
 - a. Overview of traumatic brain injuries; ()
 - b. Symptoms and behaviors specific to traumatic brain injury; ()
 - c. Adjustment to the new living environment; ()
 - d. Behavior management, including the consistent implementation of behavior interventions; ()
 - e. Communication; ()
 - f. Integration with rehabilitation services; ()
 - g. Activities of daily living; ()
 - h. Assistance with adaptive equipment; and ()
 - i. Stress reduction for facility personnel and the resident. ()
- 631. -- 639. (RESERVED)**
- 640. CONTINUED TRAINING REQUIREMENTS.**
Each employee must receive a minimum of eight (8) hours of job-related continued training per year. ()
- 641. ADDITIONAL TRAINING RELATED TO CHANGES.**
When policies or procedures are added, modified, or deleted, the date of the change must be specified on the policy

and staff must receive additional training related to the changes. ()

642. -- 644. (RESERVED)

645. ASSISTANCE WITH MEDICATIONS.

01. Training Requirements. To provide assistance with medications, staff must have the following training requirements, and be delegated as described in this rule. ()

a. Before staff can begin assisting residents with medications, successful completion of an Idaho Board of Nursing approved medication assistance course. This training is not included as part of the minimum of sixteen (16) hours of orientation training or minimum of eight (8) hours of continued training per year. ()

b. Staff training on documentation requirements and how to respond when a resident refuses or misses a medication, receives an incorrect medication, or when medication is unavailable or missing. ()

02. Delegation. The facility nurse must delegate and document assistance with medications and other nursing tasks. Each medication assistant must be delegated individually, including skill demonstration, prior to assisting with medications or nursing tasks, and any time the licensed nurse changes. ()

646. -- 899. (RESERVED)

900. ENFORCEMENT ACTIONS.

Enforcement actions, as described in Sections 901 through 940 of these rules and Sections 39-3357 and 39-3358, Idaho Code, are actions the Department can impose upon a facility. The Department will consider a facility's compliance history, change(s) of ownership, and the number, scope, and severity of the deficiencies when initiating or extending an enforcement action. The Department can impose any of the enforcement actions, independently or in conjunction with others. ()

901. ENFORCEMENT ACTION OF SUMMARY SUSPENSION.

When the Department finds that the facility's deficient practice(s) immediately place the health or safety of any residents in danger, the Department may take immediate action through summary suspension of the facility's license, the imposition of temporary management, a limit on admissions, and transfer the residents. ()

902. -- 909. (RESERVED)

910. ENFORCEMENT ACTION OF A CONSULTANT.

A consultant may be required when an acceptable plan of correction has not been submitted, as described in Section 130 of these rules, or if the Department identifies repeat deficient practice(s) in the facility. The consultant is required to submit periodic reports to the Licensing Agency. ()

911. -- 919. (RESERVED)

920. ENFORCEMENT ACTION OF LIMIT ON ADMISSIONS.

01. Reasons for Limit on Admissions. The Department may limit admissions for the following reasons: ()

a. The facility is inadequately staffed or the staff is inadequately trained to handle more residents; ()

b. The facility otherwise lacks the resources necessary to support the needs of more residents; ()

c. The Department identifies repeat core issues during any follow-up survey; and ()

d. An acceptable plan of correction is not submitted as described in Section 130 of these rules.

()

02. Notification of Limit on Admissions. The Department will notify the facility of the limit on admissions of residents (e.g., a full ban of admissions, a limit of admissions based on resident diagnosis, etc.) pending the correction of deficient practice(s). Limits on admissions to the facility remain in effect until the Department determines the facility has achieved full compliance with requirements or receives written evidence and statements from the outside consultant that the facility is in compliance. ()

921. -- 924. (RESERVED)

925. ENFORCEMENT ACTION OF CIVIL MONETARY PENALTIES.

01. Civil Monetary Penalties. May be issued when a facility is operating without a license, repeat deficiencies are identified, or the facility fails to comply with conditions of the provisional license. Actual harm to a resident or residents does not need to be shown. A single act, omission, or incident will not give rise to imposition of multiple penalties, even though such act, omission, or incident may violate more than one (1) rule. ()

02. Assessment Amount for Civil Monetary Penalty. When civil monetary penalties are imposed, such penalties are assessed for each day the facility is or was out of compliance. The amounts below are multiplied by the total number of occupied licensed beds according to the records of the Department at the time non-compliance is established. ()

a. Repeat deficiency is ten dollars (\$10). Example below:

Number of Occupied Beds in Facility	Repeat Deficiency	Times Number of Days Out of Compliance	Amount of Penalty
11	\$10.00	30 days	\$3,300

()

b. In any ninety (90) day period, the penalty amounts may not exceed the limits shown in the following table:

Limits on Accruing Civil Monetary Amount	
Number of Occupied Beds in Facility	Repeat Deficiency
3-4 Beds	\$2,880
5-50 Beds	\$6,400
51-100 Beds	\$10,800
101-150 Beds	\$17,600
151 or More Beds	\$29,200

()

03. Notice of Civil Monetary Penalties and Appeal Rights. The Department will give written notice informing the facility of the amount of the penalty, the basis for its assessment and the facility's appeal rights. ()

04. Payment of Penalties. The facility must pay the full amount of the penalty within thirty (30) calendar days from the date the notice is received, unless the facility requests an administrative review of the decision to assess the penalty. The amount of a civil monetary penalty determined through administrative review must be paid within thirty (30) calendar days of the facility's receipt of the administrative review decision unless the facility

requests an administrative hearing. The amount of the civil monetary penalty determined through an administrative hearing must be paid within thirty (30) calendar days of the facility's receipt of the administrative hearing decision unless the facility files a petition for judicial review. Interest accrues on all unpaid penalties at the legal rate of interest for judgments. Such interest accrual will begin one (1) calendar day after the date of the initial assessment of the penalty. ()

05. Failure to Pay. Failure of a facility to pay the entire penalty, together with any interest, is cause for revocation of the license or the amount will be withheld from Medicaid payments to the facility. ()

926. -- 929. (RESERVED)

930. ENFORCEMENT ACTION OF TEMPORARY MANAGEMENT.

01. Need for Temporary Management. The Department may impose the action of temporary management in situations where there is a need to oversee operation of the facility and to ensure the health and safety of the facility's residents: ()

a. During an orderly transfer of residents of the facility to other facilities; or ()

b. Pending improvements to bring the facility into compliance with program requirements. ()

02. Notice of Temporary Management. The Department will give written notice to the facility of the imposition of temporary management. ()

03. Who May Serve as a Temporary Manager. The Department may appoint any person or organization that meets the following qualifications: ()

a. The temporary manager must not have any financial interest in the facility to be managed; ()

b. The temporary manager must not be related, within the first degree of kinship, to the facility's owner, manager, administrator, or other management principal; ()

c. The temporary manager must possess sufficient training, expertise, and experience in the operation of a facility as would be necessary to achieve the objectives of temporary management. If the temporary manager is to serve in a facility, the manager must possess an Residential Assisted Living Administrator's license; and ()

d. The temporary manager must not be an existing competitor of the facility who would gain an unfair competitive advantage by being appointed as temporary manager of the facility. ()

04. Powers and Duties of the Temporary Manager. The temporary manager has the authority to direct and oversee the management, and to hire and discharge any consultant or personnel, including the administrator of the facility. The temporary manager has the authority to direct the expenditure of the revenues of the facility in a reasonable and prudent manner, to oversee the continuation of the business and the care of the residents, to oversee and direct those acts necessary to accomplish the goals of the program requirements, and to direct and oversee regular accounting. When the facility fails or refuses to carry out the directions of the temporary manager, the Department will revoke the facility's license. ()

a. The temporary manager must observe the confidentiality of the operating policies, procedures, employment practices, financial information, and all similar business information of the facility, except that the temporary manager must make reports to the Department; ()

b. The temporary manager may be liable for gross, willful or wanton negligence, intentional acts of omissions, unexplained shortfalls in the facility's fund, and breaches of fiduciary duty; ()

c. The temporary manager does not have authority to cause or direct the facility, its owner, or administrator to incur debt, unless to bring the facility into compliance with these rules, or to enter into any contract with a duration beyond the term of the temporary management of the facility; ()

d. The temporary manager does not have authority to incur, without the permission of the owner, administrator, or the Department, capital expenditures in excess of two thousand dollars (\$2,000), unless the capital expenditures are directly related to correcting the identified deficiencies; ()

e. The temporary manager does not have authority to cause or direct the facility to encumber its assets or receivables; ()

f. The temporary manager does not have authority to cause or direct a facility, which holds liability or casualty insurance coverage, to cancel or reduce its liability or casualty insurance coverage; and ()

g. The temporary manager does not have authority to cause or direct the sale of the facility, its assets or the premises on which it is located. ()

05. Responsibility for Payment of the Temporary Manager. All compensation and per diem costs of the temporary manager must be paid by the licensee. ()

06. Termination of Temporary Management. A temporary manager may be replaced under the following conditions: ()

a. The Department may require replacement of any temporary manager whose performance is deemed unsatisfactory by the Department. No formal procedure is required for such removal or replacement, but written notice of any action will be given to the facility. ()

b. A facility subject to temporary management may petition the Department for replacement of a temporary manager whose performance it considers unsatisfactory. The petition must include why the replacement of a temporary manager is necessary or appropriate. ()

931. -- 934. (RESERVED)

935. ENFORCEMENT ACTION OF A PROVISIONAL LICENSE.

A provisional license may be issued when a facility has one (1) or more core issues, when non-core issues have not been corrected, have become repeat deficiencies, or an acceptable plan of correction is not submitted as described in these rules. The provisional license will state the conditions the facility must follow to continue to operate. ()

936. -- 939. (RESERVED)

940. ENFORCEMENT ACTION OF REVOCATION OF FACILITY LICENSE.

01. Revocation of Facility's License. The Department may revoke a license when the facility endangers the health or safety of residents, or when the facility is not in substantial compliance with the provisions of Title 39, Chapter 33, Idaho Code, or this chapter of rules. ()

02. Reasons for Revocation or Denial of a Facility License. The Department may revoke or deny any facility license for any of the following reasons: ()

a. The licensee has willfully misrepresented or omitted information on the application or other documents pertinent to obtaining a license; ()

b. When persuaded by a preponderance of the evidence that such conditions exist which endanger the health or safety of any resident; ()

c. Any act adversely affecting the welfare of residents is being permitted, aided, performed, or abetted by the person or persons in charge of the facility. Such acts may include neglect, physical abuse, mental abuse, emotional abuse, violation of civil rights, criminal activity, or exploitation; ()

d. The licensee has demonstrated or exhibited a lack of sound judgment essential to the operation and

- management of a facility; ()
- e. The licensee has violated any of the conditions of a provisional license; ()
 - f. The facility lacks adequate personnel, as required by these rules or as directed by the Department, to properly care for the number and type of residents residing at the facility; ()
 - g. Licensee refuses to allow the Department or the protection and advocacy agencies full access to the facility environment, facility records, and the residents as described in Sections 130 and 550 of these rules; ()
 - h. The licensee has been guilty of fraud, gross negligence, abuse, assault, battery, or exploitation with respect to the operation of a health facility, residential assisted living facility, or certified family home; ()
 - i. The licensee is actively affected in their performance by alcohol or the use of drugs classified as controlled substances; ()
 - j. The licensee has been convicted of a criminal offense other than a minor traffic violation within the past five (5) years; ()
 - k. The licensee is of poor moral and responsible character or has been convicted of a felony or defrauding the government; ()
 - l. The licensee has been denied, or the licensee's wrong-doing has caused the revocation of any license or certificate of any health facility, residential assisted living facility, or certified family home; ()
 - m. The licensee has previously operated any health facility or residential assisted living facility without a license or certified family home without a certificate; ()
 - n. The licensee is directly under the control or influence of any person who has been the subject of proceedings as described in this rule; ()
 - o. The licensee is directly under the control or influence of any person who is of poor moral and responsible character or has been convicted of a felony or defrauding the government; ()
 - p. The licensee is directly under the control or influence of any person who has been convicted of a criminal offense other than a minor traffic violation in the past five (5) years; ()
 - q. The licensee fails to pay civil monetary penalties imposed by the Department as described in Section 925 of these rules; ()
 - r. The licensee fails to take sufficient corrective action as described in Section 130 of these rules; or ()
 - s. The number of residents currently in the facility exceeds the number of residents the facility is licensed to serve. ()

941. -- 999. (RESERVED)

16.04.07 – FEES FOR STATE HOSPITAL NORTH AND SOUTH

000. LEGAL AUTHORITY.

The Idaho Board of Health and Welfare is authorized under Section 66-118, Idaho Code, to adopt rules for establishing and charging fees for services provided at State Hospital North and State Hospital South. Under Section 56-1007, Idaho Code, the Department of Health and Welfare is authorized to charge and collect reasonable fees, established by rule, for such services. Section 66-354, Idaho Code, authorizes a state facility to cause an inquiry to be made and collect fees and charges for treatment. Under Sections 56-1003(3)(e), 66-116 and 66-118, Idaho Code, the Idaho Board of Health and Welfare and Director are jointly authorized to administer, manage, and control State Hospital North and State Hospital South. ()

001. TITLE AND SCOPE.

The scope of these rules is to establish fees for services provided at State Hospital North (SHN) or State Hospital South (SHS) and are titled IDAPA 16.04.07, “Fees for State Hospital North and State Hospital South.” ()

002. POLICY.

Fees for services will be established and charged to all patients or responsible relatives. Further, SHN and SHS must not refuse service to any person because of race, color, religion, handicap, or ability or inability to pay. ()

003. -- 009 (RESERVED)

010. DEFINITIONS.

01. Charge. The dollar amount determined by costs per patient day for service received from SHN or SHS for specialized services. ()

02. Cost Per Patient Day. An accounting process of allocating all cost centers for the hospital to a twenty-four (24) hour period of time the patient occupies the hospital. ()

03. Responsible Relatives. Relatives as defined by Section 66-354, Idaho Code. ()

04. Services. May include reasonable and customary services such as: medical, nursing, pharmacy, individual and group counseling, etc. Services covered may differ between SHN and SHS. ()

05. Third Party Payor. A payor other than a patient or responsible relative who is legally liable for all or part of patient charge. ()

011. -- 029 (RESERVED)

030. FEES.

01. State Hospital North (SHN) - Diagnostic and Treatment Unit Costs. Costs per patient day for the diagnostic and treatment units will be determined by annual cost allocations and will be effective the first day of October of each calendar year. ()

02. State Hospital South (SHS) - Nursing Facility and Treatment Unit Costs. Costs per patient day for the nursing facility and individual treatment units will be determined by annual cost allocations and will be effective the first day of October of each calendar year. ()

03. Specialized Service Costs. Specialized services provided by the Hospital Mini Clinic will be billed in addition to the cost per patient day and receipts will be deducted from cost allocations. Specialized services provided outside SHN or SHS will be billed in addition to cost per patient day. ()

031. -- 049. (RESERVED)

050. CHARGES.

Charges will be established and billed based on fees calculated for services provided. The ability of a patient or responsible relative to pay charges will be determined from the following: ()

01. Insurance. ()

a. State Hospital North (SHN) - Claims will be itemized by cost per patient day unless the insurance requires a claim itemized by cost per service. No insurance claim will be filed without an assignment of insurance

benefits to the hospital. All benefits from insurance must be made available in total to be applied toward payment of fees set forth herein. ()

b. State Hospital South (SHS) - Patients with third-party insurance capability will be charged one hundred percent (100%) of cost. No insurance claims will be filed without an assignment of insurance benefits to SHS. All benefits from insurance must be made available in total to be applied toward payment of fees set forth herein. ()

02. Other Benefits. All patient benefits from Social Security, Veterans Administration, retirement, trust accounts, and other periodic benefits and earnings will be made available in total to SHN or SHS to be applied toward payment of fees set forth in this chapter unless otherwise dictated by benefit sources. ()

051. -- 069. (RESERVED)

070. WAIVER.

Upon a showing of good cause, the Administrators of SHN or SHS or a designee may waive a patient's fees for any given month or portion thereof. Also, the Administrator of State Hospital North or designee may increase or decrease the amount set aside for patient personal needs. ()

071. -- 089. (RESERVED)

090. PERSONAL NEEDS ALLOWANCE.

01. State Hospital North (SHN). ()

a. Set-Aside Amount. Excluded and set aside from all income or benefits for patients will be a personal needs allowance established by the hospital or as required by the benefit source. ()

b. Use of Monies. These moneys will not be applied toward payment of charges and will be accumulated and held for the patient to spend for his personal needs. ()

02. State Hospital South (SHS). ()

a. Set Aside Amount -- Nursing Facility. Excluded and set aside from all income or benefits for each patient on the Nursing Facility will be the amount of forty dollars (\$40) per month as a personal needs allowance. ()

b. Set Aside Amount -- Treatment Units. Excluded and set aside from all income or benefits for patients will be a personal needs allowance established by the hospital or as required by the benefit source. ()

c. Use of Monies. These monies will not be applied toward payment of charges and will be accumulated and held for the patient to spend for his personal needs. ()

091. -- 999. (RESERVED)

16.05.06 – CRIMINAL HISTORY AND BACKGROUND CHECKS

000. LEGAL AUTHORITY.

The Idaho Legislature has authorized the Department of Health and Welfare to promulgate rules to conduct criminal history and background checks under Sections 56-202(b), 56-203(2), 56-204A, 56-1004A, 56-1007, 39-1105, 39-1107, 39-1111, 39-1210(10), 39-1211(4), 39-3520, 39-5604, 39-9109, 66-404(7), 15-5-308(4), 15-5-311(5), and 15-5-316(5), Idaho Code. Under 42 USC Section 9858f, the Department is required to check certain records for federal child care programs. ()

001. TITLE, SCOPE AND POLICY.

01. Title. These rules are titled IDAPA 16.05.06, “Criminal History and Background Checks.” ()

02. Scope. These rules assist the Department in the protection of children and vulnerable adults by providing requirements to conduct criminal history and background checks of individuals licensed or certified by the Department, or who provide care or services to children or vulnerable adults. Individuals requiring a criminal history check are identified in Department rules. ()

03. Policy. It is the Department’s policy to conduct fingerprint-based criminal history and background checks on individuals who have completed a criminal history application. The criminal history applicant is required to disclose any pertinent information regarding crimes or findings that would disqualify the individual from providing care or services to children or vulnerable adults. The Department may obtain information for these criminal history and background checks from the following sources: ()

- a. Federal Bureau of Investigation; ()
- b. Idaho State Police Bureau of Criminal Identification; ()
- c. Any state or federal Child Protection Registry; ()
- d. Any state or federal Adult Protection Registry; ()
- e. Any state Sexual Offender Registry; ()
- f. Office of Inspector General List of Excluded Individuals and Entities; ()
- g. Idaho Department of Transportation Driving Records; ()
- h. Nurse Aide Registry; and ()
- i. Other states and jurisdictions records and findings. ()

002. -- 009. (RESERVED)

010. DEFINITIONS AND ABBREVIATIONS.

For the purposes of this chapter of rules, the following terms apply: ()

01. Agency. An administrative subdivision of government or an establishment engaged in doing business for another entity. This term is synonymous with the term employer. ()

02. Application. An individual’s request for a criminal history and background check in which the individual discloses any convictions, pending charges, or child or adult protection findings, and authorizes the Department to obtain information from available databases and sources relating to the individual. ()

03. Clearance. A clearance is a document designated by the Department as the official result of a completed criminal history and background check with no disqualifying crimes or relevant records found. ()

04. Conviction. An individual is considered to have been convicted of a criminal offense as defined in Subsections 010.04.a. through 010.04.d. of this rule: ()

- a. When a judgment of conviction, or an adjudication, has been entered against the individual by any federal, state, military, or local court; ()

- b.** When there has been a finding of guilt against the individual by any federal, state, military, or local court; ()
- c.** When a plea of guilty or nolo contendere by the individual has been accepted by any federal, state, military, or local court; ()
- d.** When the individual has entered into or participated in first offender, deferred adjudication, or other arrangement or program where judgment of conviction has been withheld. This includes: ()
- i.** When the individual has entered into participation in a drug court; or ()
- ii.** When the individual has entered into participation in a mental health court. ()
- 05. Criminal History and Background Check.** A criminal history and background check is a fingerprint-based check of an individual's criminal record and other relevant records. ()
- 06. Criminal History Unit.** The Department's Unit responsible for processing fingerprint-based criminal history and background checks, conducting exemption reviews, and issuing clearances or denials according to these rules. ()
- 07. Denial.** A denial is issued by the Department when an individual has a relevant record or disqualifying crime. There are two (2) types of denials: ()
- a.** Conditional Denial. A denial of an applicant because of a relevant record found in Section 230 of these rules. ()
- b.** Unconditional Denial. A denial of an applicant because of a conviction for a disqualifying crime or a relevant record found in Sections 200 and 210 of these rules. ()
- 08. Department.** The Idaho Department of Health and Welfare or its designee. ()
- 09. Direct Patient Access Employee.** Any individual who has access to a patient or resident of a long-term care provider or facility whether through employment or contract, and who has duties or performs tasks that involve (or may involve) one-on-one (1:1) contact with a patient or resident or has access to his personal belongings. Volunteers are not considered a Direct Patient Access employee of a long-term care provider or facility unless volunteers are required to undergo a criminal history background check per the rules applicable to that specific type of facility or provider. ()
- 10. Disqualifying Crime.** A disqualifying crime is a designated crime listed in Section 210 of these rules that results in the unconditional denial of an applicant. ()
- 11. Employer.** An entity that hires people to work in exchange for compensation. This term is synonymous with the term agency. ()
- 12. Enhanced Clearance.** An enhanced clearance is a clearance issued by the Department that includes a search of child protection registries in states or jurisdictions in which an applicant has resided during the preceding five (5) years. See Section 126 of these rules. ()
- 13. Exemption Review.** A review by the Department at the request of the applicant when a conditional denial has been issued. ()
- 14. Federal Bureau of Investigation (FBI).** The federal agency where fingerprint-based criminal history and background checks are processed. ()
- 15. Good Cause.** Substantial reason, one that affords a legal excuse. ()
- 16. Idaho State Police Bureau of Criminal Identification.** The state agency where fingerprint-based

criminal history and background checks are processed. ()

17. Relevant Record. A relevant record is a record that is found in a search of criminal records or registries checked by the Department as provided in Section 56-1004A, Idaho Code. ()

011. -- 049. (RESERVED)

050. FEES AND COSTS FOR CRIMINAL HISTORY AND BACKGROUND CHECKS.

The fee for a Department fingerprint-based criminal history and background check is up to seventy dollars (\$70) for an individual. The applicant is responsible for the cost of the criminal history and background check except where otherwise provided by Department rules. An applicant is responsible for any additional costs incurred by the Department paid to agencies, judicial, or law enforcement jurisdictions in other states. The Department will collect the additional funds to cover its costs. ()

051. -- 059. (RESERVED)

060. EMPLOYER REGISTRATION.

01. Initial Registration. Employers required to have Department criminal history and background checks on their employees, contractors, or staff must register with the Department and receive an employer identification number before criminal history and background check applications can be processed or accessed. ()

02. Change in Name or Ownership. An agency or facility must: ()

a. If acquired by another entity, the new ownership will register as a new employer and provide contact information to obtain a new employer identification number and website access within thirty (30) calendar days of acquisition. New ownership occurs when the agency obtains a new federal Employer Identification Number with the Internal Revenue Service. ()

b. If there is a change to its name or location, the employer will provide the new name, location, and contact information to the Department within thirty (30) calendar days of the change. ()

061. EMPLOYER RESPONSIBILITIES.

The criminal history and background check clearance is not a determination of suitability for employment. The Department's criminal history and background check clearance means that an individual was found to have no disqualifying crime or relevant record. Employers are responsible for determining the individual's suitability for employment as described in this rule. ()

01. Screen Applicants. The employer should screen applicants prior to initiating a criminal history and background check in determining the suitability of the applicant for employment. If an applicant discloses a disqualifying crime or offense, or discloses other information that would indicate a risk to the health and safety of children and vulnerable adults, a determination of suitability for employment should be made during the initial application screening. ()

02. Maintain Printed Copy of Application. The employer must maintain a copy of the printed, signed, and notarized criminal history and background check application for all individuals required to obtain a criminal history and background check. ()

a. The copy of the application must be readily available for inspection to verify compliance with this requirement. The document must be retained for a period consistent with the employer's own personnel documentation retention schedule. ()

b. An employer who chooses to use a criminal history and background check obtained for a previous employer must comply with Section 300 of these rules and maintain copies of the records identified in Subsections 190.01 and 300.02.c. of these rules. ()

03. Ensure Time Frames Are Met. The employer is responsible to ensure that the required time frames are met for completion and submission of the application and fingerprints to the Department as required in Section 150 of these rules. ()

04. Employment Determination. The employer is responsible for reviewing the results of the criminal history and background check even if a clearance that resulted in no disqualifying crimes or offenses found is issued by the Department. The employer will make a determination as to the ability or risk of the individual to provide care or services to children or vulnerable adults. ()

062. -- 069. (RESERVED)

070. NON-COMPLIANCE WITH THESE RULES.
 The Department will report an individual's or an employer's non-compliance with these rules to the applicable licensing or certification unit. ()

071. -- 099. (RESERVED)

100. INDIVIDUALS SUBJECT TO A CRIMINAL HISTORY AND BACKGROUND CHECK.
 Individuals subject to a Department criminal history and background check are those persons or classes of individuals who are required by statute, or Department rules to complete a criminal history and background check. ()

Required Classes	Idaho Code and IDAPA Chapter(s)
01. Adoptive Parent Applicants	IDAPA 16.06.01, "Child and Family Services" IDAPA 16.06.02, "Child Care Licensing"
02. Behavioral Health Programs	IDAPA 16.07.17, "Substance Use Disorders Services" IDAPA 16.07.33, "Adult Mental Health Services" IDAPA 16.07.37, "Children's Mental Health Services." IDAPA 16.07.39, "Appointment of Designated Examiners and Dispositioners."
03. Certified Family Homes	Section 39-3520, Idaho Code IDAPA 16.03.19, "Certified Family Homes" IDAPA 16.03.10, "Medicaid Enhanced Plan Benefits"
04. Children's Agency Facility Staff	IDAPA 16.06.02, "Child Care Licensing"
05. Children's Residential Care Facilities	Section 39-1210, Idaho Code IDAPA 16.06.02, "Child Care Licensing"
06. Children's Therapeutic Outdoor Programs	Section 39-1208, Idaho Code IDAPA 16.06.02, "Child Care Licensing"
07. Citizen Review Panel Members	Public health district volunteers who must comply with Section 16-1647, Idaho Code, "Citizen Review Panels - Child Protection Legislative Review Panel"
08. Contracted Non-Emergency Medical Transportation Providers	IDAPA 16.03.09, "Medicaid Basic Plan Benefits"
09. Court Appointed Guardians and Conservators	Title 15, Chapter 5, Idaho Code, & Title 66, Chapter 4, Idaho Code. Court required guardian and conservator criminal history and background checks are not provided Department clearances described in Section 180.01 of these rules
10. Designated Examiners and Dispositioners	IDAPA 16.07.39, "Appointment of Designated Examiners and Dispositioners"

Required Classes	Idaho Code and IDAPA Chapter(s)
11. Developmental Disabilities Agencies	IDAPA 16.03.21, "Developmental Disabilities Agencies" (DDA) IDAPA 16.03.10, "Medicaid Enhanced Plan Benefits"
12. Emergency Medical Services (EMS)	IDAPA 16.01.05, "Emergency Medical Services (EMS) -- Education, Instructor, and Examination Requirements" IDAPA 16.01.07, "Emergency Medical Services (EMS) -- Personnel Licensing Requirements"
13. High Risk Providers of Medicaid	IDAPA 16.03.09, "Medicaid Basic Plan Benefits" The Medicaid Provider Handbook
14. Home and Community-Based Services (HCBS)	IDAPA 16.03.10, "Medicaid Enhanced Plan Benefits" IDAPA 16.04.17, "Residential Habilitation Agencies"
15. Home Health Agencies	IDAPA 16.03.07, "Home Health Agencies"
16. Idaho Behavioral Health Plan (IBHP)	IDAPA 16.03.09, "Medicaid Basic Plan Benefits"
17. Idaho Child Care Program (ICCP)	IDAPA 16.06.12, "Idaho Child Care Program"
18. Intermediate Care Facilities for Individuals with Intellectual Disabilities (ICF/IID)	IDAPA 16.03.11, "Intermediate Care Facilities for Individuals with Intellectual Disabilities (ICF/IID)"
19. Licensed Foster Care	Section 39-1211, Idaho Code IDAPA 16.06.02, "Child Care Licensing"
20. Licensed Day Care	Sections 39-1105, 39-1113, and 39-1114, Idaho Code IDAPA 16.06.02, "Child Care Licensing"
21. Mental Health Services	IDAPA 16.07.33, "Adult Mental Health Services" IDAPA 16.07.37, "Children's Mental Health Services"
22. Personal Assistance Agencies	IDAPA 16.03.10, "Medicaid Enhanced Plan Benefits"
23. Personal Care Service Providers	Section 39-5604, Idaho Code IDAPA 16.03.10, "Medicaid Enhanced Plan Benefits"
24. Residential Assisted Living Facilities	IDAPA 16.03.22, "Residential Assisted Living Facilities"
25. Service Coordinators and Paraprofessional Providers	IDAPA 16.03.10, "Medicaid Enhanced Plan Benefits"
26. Skilled Nursing Facilities	IDAPA 16.03.02, "Skilled Nursing Facilities"
27. Substance Use Disorders Services	IDAPA 16.07.17, "Substance Use Disorders Services"
28. Support Brokers and Community Support Workers	IDAPA 16.03.13, "Consumer-Directed Services"

()

101. DEPARTMENT INDIVIDUALS SUBJECT TO A CRIMINAL HISTORY AND BACKGROUND CHECK.

The following Department employees, contractors, and volunteers are subject to criminal history and background checks. ()

01. Employees, Contractors, and Volunteers. Employees, contractors, and volunteers, providing direct care services or who have access to children or vulnerable adults as defined in Section 39-5302(10), Idaho Code. ()

- 02. Employees of Bureau of Audits and Investigations.** ()
 - a.** Fraud Investigators; ()
 - b.** Utilization Review Analysts; and ()
 - c.** Criminal History Staff. ()
 - 03. Employees at State Institutions.** All employees of the following state funded institutions; ()
 - a.** Southwest Idaho Treatment Center, Nampa, Idaho; ()
 - b.** State Hospital North, Orofino, Idaho; and ()
 - c.** State Hospital South, Blackfoot, Idaho. ()
 - 04. Emergency Medical Services (EMS) Employees.** EMS communication specialists and managers. ()
 - 05. Other Employees.** Other Department employees as determined by the Director. ()
- 102. -- 119. (RESERVED)**
- 120. APPLICATION FOR A CRIMINAL HISTORY AND BACKGROUND CHECK.**
Individuals who are subject to a criminal history and background check must complete an application and have it notarized. The application must include disclosure of any disqualifying crimes, offenses, or relevant records. ()
- 01. Application Form.** The applicant must request a criminal history and background check by completing the Department's application form and submitting it on-line or by mail. The individual's application authorizes the Department to obtain information and release it as required in accordance with applicable state and federal law. The following information is required to complete the application: ()
- a.** Name, current and former names, or aliases; ()
 - b.** Current and former addresses as requested in the application; ()
 - c.** Date of birth, that appears on a valid identification document issued by a governmental entity; ()
 - d.** State and country of birth; and ()
 - e.** Driver's license number, if licensed, state where licensed, and whether a license has ever been revoked or suspended. ()
 - f.** Other identifying information, including gender, race, height, weight, eye color, and hair color; ()
 - g.** Employer information; ()
 - h.** Any criminal record or criminal offense information; ()
 - i.** Any pending charges or outstanding warrants; ()
 - j.** Any child or adult protection involvement; ()
 - k.** Any Medicare or Medicaid Provider Exclusion; and ()

1. Any other information requested on the application. ()

02. Disclosures. The individual must disclose any conviction, pending charges or indictment for crimes, and furnish a description of the crime and the particulars on the application. The individual must also disclose any notice by a state or local agency of substantiated child or substantiated vulnerable adult abuse, neglect, exploitation, or abandonment complaint, and any other information as required. ()

03. Failure to Disclose Information. ()

a. An applicant who falsifies or fails to disclose information on the application, may be subject to a conditional denial under Section 230.01 and prosecution under Sections 18-3203, 18-5401, and 56-227A, Idaho Code. ()

b. An applicant required to obtain a criminal history and background check under Section 126 of these rules that knowingly makes a materially false statement in connection to their background check will receive an unconditional denial as provided in Section 200 of these rules. ()

121. -- 124. (RESERVED)

125. IDAHO CHILD PROTECTION CENTRAL REGISTRY CHECKS.

The Department will provide the results of a check of the Idaho Child Protection Central Registry to any agency that requires it to comply with the provisions of applicable federal or state law. The Department will process those requests as described in this rule. ()

01. Request for an Idaho Child Protection Central Registry Check. A request for an Idaho Child Protection Central Registry check must be submitted by mail, facsimile transmission, or e-mail attachment on state or agency letterhead with the requesting authority contact information, and must include the following: ()

a. Name of the subject of the check, and any aliases; ()

b. Date of birth and Social Security Number of the subject of the check; and ()

c. A notarized signature of the subject of the check authorizing the request. ()

02. Fee Amount. The fee for an Idaho Child Protection Central Registry check is twenty dollars (\$20) for each subject checked. ()

03. Department Response. A response will be returned to the agency initiating the request for the check within fourteen (14) days of receipt of the request. The Department's contact information will be included along with the result of the check. ()

126. APPLICANTS RECEIVING A DEPARTMENT ENHANCED CLEARANCE.

The following classes of individuals are required to provide their previous residence information for the preceding five (5) years in their application for a criminal history and background check as described in Section 100 of these rules. ()

01. Adoptive Parent Applicants. ()

02. Behavioral Health Programs. ()

03. Children's Agency Facility Staff. ()

04. Children's Residential Care Facilities. ()

05. Children's Therapeutic Outdoor Programs. ()

06. Citizen Review Panel Members. ()

- 07. Idaho Child Care Program (ICCP). ()
- 08. Licensed Foster Care. ()
- 09. Licensed Day Care. ()
- 10. Mental Health Services. ()
- 11. Substance Use Disorders Services. ()

127. -- 129. (RESERVED)

130. SUBMISSION OF APPLICATION.

An application for a criminal history and background check must be initiated, submitted, and received on the Department's website before a criminal history and background check can be processed. The application is pending until the Department issues a clearance or denial, or the individual withdraws the application. ()

131. -- 139. (RESERVED)

140. SUBMISSION OF FINGERPRINTS.

The Department's criminal history and background check is a fingerprint-based check. Ten (10) rolled fingerprints must be collected from the individual and submitted to the Department within the time frame for submitting applications as provided in Section 150 of these rules in order for a criminal history and background check request to be processed. The Department obtains fingerprints electronically at each of its fingerprint locations, or the Department's fingerprint card must be used. A Department fingerprint card can be obtained by contacting the Criminal History Unit, described in Section 005 of these rules. ()

01. Department Fingerprinting Locations. A fingerprint appointment is scheduled at designated Department locations where the Department will collect the individual's fingerprints. Locations for the closest Department fingerprint collection office where an individual may submit fingerprints are listed on the Department's website. The applicant may contact the Criminal History Unit as described in Section 005 of these rules for additional guidance. ()

02. Submitting Fingerprints by Mail. When an individual elects to have fingerprints collected by a local law enforcement agency or by the applicant's employer, the Department's fingerprint card must be used. The fingerprint card must be completed in accordance with the instructions provided, signed, and mailed along with the completed notarized application and applicable fee to the address indicated on the Department's website. The notarized application and fees must be received by the Department in the time frame required in Section 150 of these rules. ()

03. Submission of Reprints. In the event that an individual's submitted fingerprints are deemed unreadable by the Department, Idaho State Police, or the FBI, the applicant must comply with a request for reprints from the Department within fifteen (15) calendar days from the date of the notice. Failure to comply with the Department's reprint request will result in the applicant being unavailable to provide services. ()

141. -- 149. (RESERVED)

150. TIME FRAME FOR SUBMITTING APPLICATION AND FINGERPRINTS.

The completed notarized application and fingerprints must be received by the Department within twenty-one (21) days from the date of submission in the Department background check system whether it is sent by mail or accepted at a Department fingerprinting location. If the Department does not receive the criminal history and background check application and applicant fingerprints within sixty (60) calendar days from its submission in the department website, the applicant must complete a new application. ()

01. Availability to Provide Services. The applicant may provide services on the day the application is signed and notarized, as long as the applicant has not disclosed any disqualifying crimes or relevant records. The applicant must provide the Department a copy of the signed and notarized application to validate the date of

applicant's availability to provide services. ()

02. Unavailability to Provide Services. The applicant becomes unavailable to provide services or be licensed or certified when the notarized application is not received or fingerprints have not been collected within this timeframe, or the application is deemed inadequate or incomplete for processing by the Department. ()

03. Incomplete Application. The criminal history and background check is incomplete and will not be processed by the Department if this time frame is not met. ()

04. No Extension of Time Frame. The Department will not extend the twenty-one (21) day time frame, unless the applicant or employer provides just cause. An applicant for employment or employer can not submit a new application for the same purpose, or repeatedly re-sign and re-notarize the original application. ()

151. -- 159. (RESERVED)

160. WITHDRAWAL OF APPLICATION.

An individual may withdraw their application for a criminal history and background check at any time. An individual who withdraws their application cannot provide services, or receive licensure or certification. Fees paid for the cost of the criminal history and background check are non-refundable once the fingerprints have been submitted by the Department to the Idaho State Police. ()

161. -- 169. (RESERVED)

170. AVAILABILITY TO PROVIDE SERVICES PENDING COMPLETION OF THE CRIMINAL HISTORY AND BACKGROUND CHECK.

An individual is available to provide services pending completion of the criminal history and background check as described in Subsections 170.01 and 170.02 of this rule. The individual must have submitted a signed notarized application and fingerprints in the time frame required in Section 150 of these rules, in order to provide services. ()

01. Employees of Providers, Contractors, Emergency Medical Services (EMS), or the Department. An individual is available to provide services on a provisional basis at the discretion of the employer or EMS Bureau as long as no disqualifying crimes or relevant records are disclosed on the application. The employer must review the application for any disqualifying crimes listed in Section 210 of these rules or other relevant records listed in Sections 230 and 240 of these rules. The employer must determine whether the applicant poses a health or safety risk to vulnerable clients before allowing the individual to provide services until a clearance or denial is issued by the Department. ()

02. Individuals Licensed or Certified by the Department. Individuals applying for licensure or certification by the Department are not available to provide services or receive licensure or certification until the criminal history and background check is complete and a clearance is issued by the Department. The following are individuals required to have a clearance prior to providing services: ()

a. Adoption or foster care applicants and adults in the home; ()

b. Certification or licensure applicants; ()

i. Certified family homes; ()

ii. Licensed child care providers; ()

171. -- 179. (RESERVED)

180. CRIMINAL HISTORY AND BACKGROUND CHECK RESULTS.

The Department will issue a clearance or denial once the criminal history and background check is completed. ()

01. Results of Criminal History and Background Checks. The results may be accessed by the individual on the Department's website. The employer may access the information that is provided by the applicant and information obtained from the state, county, or through registries. ()

02. Findings for Court Required Criminal History and Background Checks. As required in Section 56-1004A(2)(b), Idaho Code, the Department will provide findings of a court ordered criminal history and background check to individuals appointed by the court according to Title 15, Chapter 5, or Title 66, Chapter 4, Idaho Code. ()

181. APPLICATION STATUS.

An individual and their employer may check on the criminal history and background check status and the individual's availability to work on the Department website at <https://chu.dhw.idaho.gov/>. ()

182. -- 189. (RESERVED)

190. CRIMINAL HISTORY AND BACKGROUND CHECK CLEARANCE.

01. Clearance. A criminal history and background check clearance is issued by the Department once all relevant records and findings have been reviewed and the Department has cleared the applicant. The clearance will be published on the Department's website and the individual may print copies of the clearance. The employer must print the clearance within fourteen (14) calendar days of the clearance being accessible on the Department's website, and maintain a copy readily available for inspection for a period consistent with the employer's own personnel documentation retention schedule. ()

02. Clearance Types. An applicant required to pass a criminal history and background must receive a clearance as provided below: ()

a. A clearance for an applicant who is not seeking an enhanced clearance for employment in classes listed in Section 126 of these rules, may receive a clearance for a criminal history and background check when a relevant record identified on any child protection registry is disclosed, but the applicant has no conviction of any crimes listed in Subsections 210.01 or 210.02 of these rules. ()

b. An applicant who receives an enhanced clearance has met the criteria to have obtained a clearance as provided in Subsection 190.02.a. of this rule. An enhanced clearance is required for each of the classes listed in Section 126 of these rules and requires searches from states and jurisdictions where the applicant has resided in the previous five (5) years. A relevant record on any child protection registry will result in a denial under Subsection 200.01 of these rules and no clearance will be issued. An applicant who applies to work in any of these classes must receive or have an enhanced clearance. ()

03. Revocation of Clearance. An individual's previously issued clearance may be revoked for the following: ()

a. The individual fails to comply with the Department's request to submit to a new criminal history and background check according to Subsection 300.04 of these rules. ()

b. The individual completes a new criminal history and background check and is found to have a criminal or relevant record that results in an inability to proceed action or in a denial as described in Sections 190 or 200 of these rules. ()

c. The criminal history and background check fees are not paid, or are insufficient to cover the costs of the background check. ()

191. -- 199. (RESERVED)

200. UNCONDITIONAL DENIAL.

An individual who receives an unconditional denial is not available to provide services, have access, or to be licensed

or certified by the Department. ()

01. Reasons for an Unconditional Denial. Unconditional denials are issued for: ()

a. Disqualifying crimes described in Section 210 of these rules; ()

b. A relevant record on any Child Protection Registry for the classes of individuals listed in Section 126 of these rules; ()

c. A relevant record on the Idaho Child Protection Central Registry with a Level one (1) or Level two (2) designation for all other applicants covered by these rules; ()

d. A relevant record on the Nurse Aide Registry; ()

e. A relevant record on either the state or federal sex offender registries; ()

f. A relevant record on the state or federal Medicaid Exclusion List, described in Section 240 of these rules; or ()

g. A materially false statement made knowingly in connection to the Department's criminal history and background check application for the classes of individuals listed in Section 126 of these rules will result in a five-year disqualification period for the applicant. ()

02. Issuance of an Unconditional Denial. The Department will issue an unconditional denial within fourteen (14) days of completion of a criminal history and background check. ()

03. Challenge of Department's Unconditional Denial. An individual has twenty-eight (28) days from the date the unconditional denial is issued to challenge the Department's unconditional denial. The individual must submit the challenge in writing and provide court records or other information which demonstrates the Department's unconditional denial is incorrect. These documents must be filed with the Criminal History Unit described in Section 005 of these rules. ()

a. If the individual challenges the Department's unconditional denial, the Department will review the court records, documents and other information filed by the individual. The Department will issue a decision within thirty (30) days of the receipt of the challenge. The Department's decision will be a final order under IDAPA 16.05.03, "Contested Case Proceedings and Declaratory Rulings," Section 152. ()

b. If the individual does not challenge the Department's unconditional denial within thirty (30) days, it becomes a final order of the Department under IDAPA 16.05.03, "Contested Case Proceedings and Declaratory Rulings," Section 152. ()

04. No Exemption Review. No exemption review, as described in Section 250 of these rules, is allowed for an unconditional denial. ()

05. Appeal of an Unconditional Denial. Following a challenge of the Department's unconditional denial, an individual may appeal the Department's decision under the provisions in IDAPA 16.05.03, "Contested Case Proceedings and Declaratory Rulings." The request to appeal an unconditional denial does not stay the action of the Department. ()

201. -- 209. (RESERVED)

210. DISQUALIFYING CRIMES RESULTING IN AN UNCONDITIONAL DENIAL.

An individual is not available to provide direct care or services when the individual discloses or the criminal history and background check reveals a conviction for a disqualifying crime on their record as described in this rule. ()

01. Disqualifying Crimes. The disqualifying crimes, described in Subsection 210.01 of this rule, or any substantially conforming foreign criminal violation, will result in an unconditional denial being issued. ()

- a.** Crimes against vulnerable adults: ()
 - i.** Abuse, neglect, or exploitation of a vulnerable adult, as defined in Section 18-1505, Idaho Code; ()
 - ii.** Abandoning a vulnerable adult, as defined in Section 18-1505A, Idaho Code; ()
 - iii.** Sexual abuse and exploitation of a vulnerable adult, as defined in Section 18-1505B, Idaho Code. ()
- b.** Aggravated, first-degree and second-degree arson, as defined in Sections 18-801 through 18-803, and 18-805, Idaho Code; ()
- c.** Crimes against nature, as defined in Section 18-6605, Idaho Code; ()
- d.** Forcible sexual penetration by use of a foreign object, as defined in Section 18-6608, Idaho Code; ()
- e.** Hiring, employing, or using a minor to engage in certain acts, as defined in Section 18-1517A, Idaho Code; ()
- f.** Human trafficking, as defined in Sections 18-8602 and 18-8603, Idaho Code; ()
- g.** Incest, as defined in Section 18-6602, Idaho Code; ()
- h.** Injury to a child, felony or misdemeanor, as defined in Section 18-1501, Idaho Code; ()
- i.** Kidnapping, as defined in Sections 18-4501 through 18-4503, Idaho Code; ()
- j.** Lewd conduct with a minor, as defined in Section 18-1508, Idaho Code; ()
- k.** Mayhem, as defined in Section 18-5001, Idaho Code; ()
- l.** Manslaughter: ()
 - i.** Voluntary manslaughter, as defined in Section 18-4006(1) Idaho Code; ()
 - ii.** Involuntary manslaughter, as defined in Section 18-4006(2), Idaho Code; ()
 - iii.** Felony vehicular manslaughter, as defined in Section 18-4006(3)(a) and (b), Idaho Code; ()
- m.** Murder in any degree or assault with intent to commit murder, as defined in Sections 18-4001, 18-4003, and 18-4015, Idaho Code; ()
- n.** Poisoning, as defined in Sections 18-4014 and 18-5501, Idaho Code; ()
- o.** Rape, as defined in Section 18-6101, Idaho Code; ()
- p.** Robbery, as defined in Section 18-6501, Idaho Code; ()
- q.** Felony stalking, as defined in Section 18-7905, Idaho Code; ()
- r.** Sale or barter of a child, as defined in Section 18-1511, Idaho Code; ()
- s.** Ritualized abuse of a child, as defined in Section 18-1506A, Idaho Code; ()

- t. Female Genital Mutilation, as defined in Section 18-1506B, Idaho Code; ()
 - u. Sexual abuse or exploitation of a child, as defined in Sections 18-1506, Idaho Code; ()
 - v. Felony sexual exploitation of a child, as defined in Section 18-1507, Idaho Code; ()
 - w. Sexual battery of a minor child under sixteen (16) or seventeen (17) years of age, as defined in Section 18-1508A, Idaho Code; ()
 - x. Video voyeurism, as defined in Section 18-6609, Idaho Code; ()
 - y. Enticing of children, as defined in Sections 18-1509 and 18-1509A, Idaho Code; ()
 - z. Inducing individuals under eighteen (18) years of age into prostitution or patronizing a prostitute, as defined in Sections 18-5609 and 18-5611, Idaho Code; ()
 - aa. Any felony punishable by death or life imprisonment; ()
 - bb. Attempted strangulation, as defined in Section 18-923, Idaho Code; ()
 - cc. Felony domestic violence, as defined in Section 18-918, Idaho Code; ()
 - dd. Battery with intent to commit a serious felony, as defined in Section 18-911, Idaho Code; ()
 - ee. Assault with intent to commit a serious felony, as defined in Section 18-909, Idaho Code; or ()
 - ff. Attempt, conspiracy, accessory after the fact, or aiding and abetting, as defined in Sections 18-205, 18-306, 18-1701, and 19-1430, Idaho Code, to commit any of the disqualifying designated crimes. ()
- 02. Disqualifying Five-Year Crimes.** The Department will issue an unconditional denial for an individual who has been convicted of the following described crimes for five (5) years from the date of the conviction for the crimes listed in this rule, or any substantially conforming foreign criminal violation: ()
- a. Any felony not described in Subsection 210.01, of this rule; ()
 - b. Misdemeanor domestic violence, as defined in Section 18-918, Idaho Code; ()
 - c. Failure to report abuse, abandonment or neglect of a child, as defined in Section 16-1605, Idaho Code; ()
 - d. Misdemeanor forgery of and fraudulent use of a financial transaction card, as defined in Sections 18-3123 through 18-3128, Idaho Code; ()
 - e. Misdemeanor forgery and counterfeiting, as defined in Sections 18-3601 through 18-3620, Idaho Code; ()
 - f. Misdemeanor identity theft, as defined in Section 18-3126, Idaho Code; ()
 - g. Misdemeanor insurance fraud, as defined in Sections 41-293 and 41-294, Idaho Code; ()
 - h. Public assistance fraud, as defined in Sections 56-227, 56-227A, 56-227D, 56-227E and 56-227F, Idaho Code; ()
 - i. Sexual exploitation of a child by electronic means, felony or misdemeanor, as defined in Section 18-1507A, Idaho Code; ()

- j. Stalking in the second degree, as defined in Section 18-7906, Idaho Code; ()
 - k. Misdemeanor vehicular manslaughter, as defined in Section 18-4006(3)(c), Idaho Code; ()
 - l. Sexual exploitation by a medical care provider, as defined in Section 18-919, Idaho Code; ()
 - m. Operating a certified family home without certification, as defined in Section 39-3528, Idaho Code; ()
- or
- n. Attempt, conspiracy, accessory after the fact, or aiding and abetting, as defined in Sections 18-205, 18-306, 18-1701, and 19-1430, Idaho Code, to commit any of the disqualifying five (5) year crimes. ()

03. Underlying Facts and Circumstances. The Department may consider the underlying facts and circumstances of felony or misdemeanor conduct including a guilty plea or admission in determining whether or not to issue a clearance, regardless of whether or not the individual received one (1) of the following: ()

- a. A withheld judgment; ()
- b. A dismissal, suspension, deferral, commutation, or a plea agreement where probation or restitution was or was not required; ()
- c. An order according to Section 19-2604, Idaho Code, or other equivalent state law; or ()
- d. A sealed record. ()

211. -- 219. (RESERVED)

220. CONDITIONAL DENIAL.

The Department may issue a conditional denial within fourteen (14) days of the completion of a criminal history and background check. An individual who receives a conditional denial is not available to provide services or be licensed or certified by the Department. ()

01. Reasons for a Conditional Denial Issuance. A conditional denial is issued when the criminal history and background check reveals a relevant record as described in Section 230 of these rules. ()

02. Effective Date of a Conditional Denial. A conditional denial is effective immediately. An applicant may not reapply for a criminal history and background check for three (3) years from the date of the conditional denial. ()

03. Request an Exemption Review. An individual may request an exemption review as described in Section 250 of these rules when a conditional denial has been issued. ()

221. -- 229. (RESERVED)

230. RELEVANT RECORDS RESULTING IN A CONDITIONAL DENIAL.

An individual is not available to provide direct care or services when the individual discloses or the criminal history and background check reveals a relevant record on their record as described Subsections 230.01 and 230.02 of this rule. ()

01. Individuals Licensed or Certified by the Department or a Department Employee. A conditional denial may be issued when an individual who is licensed or certified by the Department, or who is a Department employee discloses, or the criminal history and background check reveals, a relevant record as defined in Subsections 230.01.a. through 230.01.d. of this rule: ()

- a. A substantiated child protection complaint or a substantiated adult protection complaint; ()
- b. The Department determines there is a potential health and safety risk to vulnerable adults or

children; ()

c. The individual has falsified or omitted information on the application form; or ()

d. The Department determines additional information is required. ()

02. Employees of Providers or Contractors. A conditional denial may be issued when an individual who is employed by a provider or contractor discloses, or the criminal history and background check reveals, a relevant record as defined in Subsections 230.02.a. through 230.02.b. of this rule. ()

a. A substantiated child protection complaint or a substantiated adult protection complaint; or ()

b. The Department determines additional information is required. ()

03. Underlying Facts and Circumstances. The Department may consider the underlying facts and circumstances of felony or misdemeanor conduct including a guilty plea or admission in determining whether or not to issue a clearance, regardless of whether or not the individual received one (1) of the following: ()

a. A withheld judgment; ()

b. A dismissal, suspension, deferral, commutation, or a plea agreement where probation or restitution was or was not required; ()

c. An order according to Section 19-2604, Idaho Code, or other equivalent state law; or ()

d. A sealed record. ()

231. -- 239. (RESERVED)

240. MEDICAID EXCLUSION.

Individuals subject to these rules, who are excluded by the Office of the Inspector General, Department of Health and Human Services; or, are listed in the State of Idaho Medicaid Exclusion list, cannot provide Department funded services within the scope of these rules. At the expiration of the exclusion, the individual may reapply for a criminal history and background check. ()

241. -- 249. (RESERVED)

250. EXEMPTION REVIEWS.

An individual cannot request an exemption review for an unconditional denial. An individual may request an exemption review within fourteen (14) days from the date of the issuance of a conditional denial by the Department, unless good cause is shown for a delay. Once the Department receives the request for an exemption review, the Department will initiate a review for crimes or actions not designated in Section 210 of these rules. The review may consist of examining documents and supplemental information provided by the individual, a telephone interview, an in-person interview, or any other review the Department determines is necessary. Exemption reviews are governed and conducted as provided in Subsections 250.01 through 250.05 of this rule. ()

01. Scheduling an Exemption Review. Upon receipt of a request for an exemption review, the Department will determine the type of review and conduct the review within thirty (30) days from the date of the request. Where an in-person review is appropriate, the Department will provide the individual at least seven (7) days notice of the review date unless the time is waived by the individual. When an in-person review is scheduled, the individual is notified by the Department that they are able to bring witnesses and present evidence during the review. ()

02. Factors Considered at the Exemption Review. The Department will consider the following factors or evidence during the exemption review: ()

- a. The severity or nature of the crime or other findings; ()
- b. The period of time since the incident under review occurred; ()
- c. The number and pattern of incidents; ()
- d. Circumstances surrounding the incident that would help determine the risk of repetition; ()
- e. Relationship of the incident to the care of children or vulnerable adults; ()
- f. Activities since the incident, such as continuous employment, education, participation in treatment, payment of restitution, or any other factors that may be evidence of rehabilitation; ()
- g. Granting of a pardon by the Governor or the President; and ()
- h. The falsification or omission of information on the application form and other supplemental forms submitted. ()

03. Exemption Review Determination. The Department determines the individual's suitability based upon the information provided during the exemption review. The Department will issue a notice of decision within fifteen (15) business days of the close of the review. ()

04. Exemption Review Decision Effective Dates. The Department's exemption review decision is effective for three (3) years from the date of the notice of decision. ()

05. Exemption Review Appeal. Exemption reviews conducted under this section of rule may be appealed under IDAPA 16.05.03, "Contested Cases Proceedings and Declaratory Rulings." The filing of a notice of appeal does not stay the action of the Department. The individual who files an appeal must establish that the Department's denial was arbitrary and capricious. ()

251. -- 259. (RESERVED)

260. PREVIOUS EXEMPTION REVIEW DENIALS.

The individual's current request for a criminal history and background check for any Department program when there has been a denial from an exemption review within the last three (3) years will automatically be denied. ()

261. -- 269. (RESERVED)

270. CRIMINAL OR RELEVANT RECORD - ACTION PENDING.

01. Notice of Inability to Proceed. When the applicant is identified as having a pending criminal action for a crime or relevant record that may disqualify them from receiving a clearance for the criminal history and background check, the Department may issue a notice of inability to proceed. ()

02. Availability to Provide Services. The applicant is not available to provide service when a notice of inability to proceed or denial is issued by the Department. Any previous clearance issued by the Department will be revoked as described in Section 190 of these rules. ()

03. Reconsideration of Action Pending. In the case of an inability to proceed status, the applicant can submit documentation that the matter has been resolved to the Department for reconsideration within one hundred and twenty (120) calendar days from the date of notice. When the Department receives this documentation, the Department will notify the applicant of the reconsideration and issue a clearance or denial. When the Department's reconsideration results in a clearance after review, any previously revoked clearance will be restored as described in Section 190 of these rules. ()

271. -- 299. (RESERVED)

300. UPDATING CRIMINAL HISTORY AND BACKGROUND CHECKS.

The employer is responsible for confirming that the applicant has completed a criminal history and background check as provided in Section 190 of these rules. Once a clearance is issued by the Department, verifiable continuous employment of the applicant with the same employer eliminates the requirement for a new background check. ()

01. New Criminal History and Background Check. Any individual required to have a criminal history and background check under these rules must complete a new application, including fingerprints when: ()

a. Accepting employment with a new employer, and their last Department criminal history and background check was completed more than three (3) years prior to their employment date; or ()

b. Applying for licensure or certification with the Department, and their last Department criminal history and background check was completed more than three (3) years prior to their employment date or licensure application date; ()

c. If an applicant is terminated by the employer, is rehired by the same employer, and the applicant background check is older than three (3) years at the time of the rehire, the provisions of Subsections 300.01.a. through 300.01.b. of this rule apply. ()

02. Use of Criminal History Check Within Three Years of Completion. Any employer may use a Department criminal history and background check clearance obtained under these rules if: ()

a. The individual has received a Department's criminal history and background check clearance within three (3) years from the date of employment; ()

b. Prior to allowing the individual to provide services, the employer must obtain access to the individual's background check results and clearance through the Department's website by having the employer's identification number added to the individual's background check results, and ()

c. The employer completes a state-only background check of the individual through the Idaho State Police Bureau of Criminal Identification, and no disqualifying crimes are found. ()

i. The action must be initiated by the employer within thirty (30) calendar days of obtaining access to the individual's criminal history and background check clearance issued by the Department; and ()

ii. The employer must be able to provide proof of this action by maintaining a copy of the records required in Subsections 300.02.a. and 300.02.c. of this rule for a period consistent with the employer's own personnel documentation retention schedule. ()

d. If an applicant is terminated by the employer, is rehired by the same employer, and the applicant background check was completed less than three (3) years from the time of the rehire, the provisions of Subsections 300.02.b. and 300.02.c. of this rule apply. ()

e. An employer not listed in Section 126 of these rules, may use an individual's Department clearance or enhanced clearance that was obtained within three (3) years from date of employment. ()

f. An individual with a current clearance that is not Enhanced but is completed within three (3) years from date of employment, who applies to a new agency or employer identified in Section 126 of these rules, must submit an application for a new criminal history and background check to obtain an enhanced clearance. An agency or employer identified in Subsections 126.07 and 126.09 of these rules may not hire an employee with a clearance obtained prior to January 1, 2020, unless the Enhanced clearance complies with the requirements found in 42 USC Section 9858. ()

03. Employer Discretion. Any agency or employer, at its discretion, may require an individual to complete a Department criminal history and background check at any time, even if the individual has received a criminal history and background check clearance within three (3) years. ()

04. Department Discretion. The Department may, at its discretion or as provided in program rules, require a criminal history and background check of any individual covered under these rules at any time during the individual's employment, internship, or while volunteering. Any individual required to complete a criminal history and background check under Sections 100 and 101 of these rules, must be fingerprinted within fourteen (14) days from the date of notification by the Department that a new criminal history and background check is required. ()

301. -- 349. (RESERVED)

350. CRIMINAL HISTORY AND BACKGROUND CHECK RECORDS.

Criminal history and background checks done under this chapter become the property of the Department and are held confidential. ()

01. Release of Criminal History and Background Check Records. A copy of the criminal history and background check as defined in Section 010 of these rules will be released: ()

a. To the individual who has requested the criminal history and background check and upon receipt of a written request to the Department, provided the individual releases the state from all liability; ()

b. In response to a subpoena issued by a court of competent jurisdiction; or ()

c. As otherwise required by law. ()

02. Retention of Records. ()

a. If an exemption is granted, the criminal history and background record, supplemental documentation received, notes from the review, and the decision will be retained by the Department for a period of at least five (5) years after the criminal history and background check is completed. ()

b. If an exemption is denied, the Department retains all records and electronic recordings pertaining to the review for five (5) years after the criminal history and background check is completed. ()

03. Use and Dissemination Restrictions for FBI Criminal Identification Records. According to the provisions under 28 CFR 50.12, the Department will: ()

a. Notify the individual fingerprinted that the fingerprints will be used to check the criminal history records of the FBI; ()

b. In determining the suitability for licensing or employment, provide the individual the opportunity to complete or challenge the accuracy of the information contained in the FBI identification record; ()

c. Notify the individual that they have fifteen (15) days to correct or complete the FBI identification record or to decline to do so; and ()

d. Advise the individual who wishes to correct the FBI identification record that procedures for changing, correcting, or updating are provided in 28 CFR 16.34. ()

351. -- 999. (RESERVED)

16.06.01 – CHILD AND FAMILY SERVICES

000. LEGAL AUTHORITY.

The Idaho Legislature has delegated to the Department, or the Board of Health and Welfare, or both jointly, the responsibility to establish and enforce such rules and methods of administration as may be necessary or proper to administer social services to people who are in need, under the following Sections: 16-1629, 16-1623, 16-2102, 16-2406, 16-2423, and 16-2433, 39-1209 through 1211, 39-5603, 39-7501, 56-202(b), 56-204A, 56-803, 56-1003, 56-1004, 56-1004A, and 56-1007, Idaho Code. ()

001. TITLE, SCOPE, AND GOAL.

01. Title. These rules are titled IDAPA 16.06.01, “Child and Family Services.” ()

02. Scope. These rules are established to govern the statewide provision of: ()

a. Services associated with child protection, alternate care, and adoption; and ()

b. As resources are available, services aimed at preventing child abuse, neglect, and abandonment. ()

03. Goal. The goal of all Child and Family Services programs is the safety, permanency, and well-being of children, as well as promoting the stability and security of Indian tribes and families. ()

002. -- 008. (RESERVED)

009. CRIMINAL HISTORY AND BACKGROUND CHECK REQUIREMENTS.

01. Compliance With Department Criminal History and Background Check. All current Department employees, applicants, transfers, reinstated former employees, student interns, contract employees, Certified Adoption Professionals, volunteers, and others assigned to programs that involve direct contact with children or vulnerable adults as described in Section 39-5302, Idaho Code, must comply with the provisions in IDAPA 16.05.06, “Criminal History and Background Checks.” ()

02. Availability to Work or Provide Service. Certain individuals are allowed to provide services after the self-declaration is completed as provided in Section 56-1004A, Idaho Code, except when they have disclosed a designated crime listed in IDAPA 16.05.06, “Criminal History and Background Checks.” The criminal history check requirements applicable to each provider type are found in the rules that state the qualifications or certification of those providers. ()

03. Adoption. An individual applying to the Department to be an adoptive parent or petitioning the court for the adoption of a child must comply with the provisions in IDAPA 16.05.06, “Criminal History and Background Checks.” ()

010. DEFINITIONS AND ABBREVIATIONS A THROUGH E.

For the purposes of these rules, the following terms are used: ()

01. Adoption and Safe Families Act of 1997 (P.L. 105-89) (ASFA). Federal law whose purpose is to improve the safety of children, to promote adoption and other permanent homes for children who need them, and to support families. ()

02. Adoption Assistance. Funds provided to adoptive parent(s) of a child who has special needs or who could not be adopted without financial or medical assistance. ()

03. Adoption Services. Protective services through which a child is provided with a permanent home, under new legal parentage, including transfer of the mutual rights and responsibilities that prevail in the parent-child relationship. ()

04. Alternate Care. Temporary living arrangements, when necessary for a child to leave their own home, through a variety of foster care, respite care, residential treatment, and institutional resources, under the protections established in Public Law 96-272, the federal “Adoption Assistance and Child Welfare Act of 1980” as amended by Public Law 105-89, the Adoption and Safe Families Act of 1997, the Child Protective Act, Section 16-1601 et seq., Idaho Code, and the Indian Child Welfare Act, 25 U.S.C. Sections 1901-1963. ()

05. Alternate Care Plan. A federally required component of the Family Plan for a child in alternate care. The alternate care plan contains elements related to reasonable efforts, the family's plan, the child's alternate care provider, compelling reasons for not terminating parental rights, Indian status, education, immunization, medical, and other information important to the day-to-day care of the child. ()

06. Board. The Idaho State Board of Health and Welfare. ()

07. Case Management. A change-oriented service to families that ensures and coordinates the provision of family ongoing assessment, family service planning, treatment, planning for permanency, protection, advocacy, review and reassessment, documentation, and timely closure of a case. ()

08. Certified Adoption Professional (formerly "qualified individual"). An individual certified by the Department who meets the qualifications specified in Section 889 of these rules for completion of pre-placement adoption home studies, reports to the court under the Termination of Parent and Child Relationship and Adoption of Children Acts, and placement supervision reports. ()

09. Child and Family Services (CFS). Those programs and services provided to families and children, administered by the Department in accordance with these rules. ()

10. Child Protection. All children under eighteen (18) who have been harmed or threatened with harm by a person responsible for their health or welfare through non-accidental physical or mental injury, sexual abuse (as defined by state law) or negligent treatment or maltreatment, including the failure to provide adequate food, clothing, or shelter must be served without regard to income. ()

11. Child Protective Services. Services provided in response to potential, alleged, or actual abuse, neglect, or abandonment of individuals under the age of eighteen (18) in accordance with the provisions of Section 16-1601 et seq., Idaho Code, the "Child Protective Act." ()

12. Compact Administrator. The individual designated to coordinate interstate transfers of persons requiring special services in accordance with the provisions of Section 16-1901 et seq., Idaho Code, "Interstate Compact for Juveniles"; Section 16-2101 et seq., Idaho Code, "Interstate Compact on the Placement of Children"; or Section 39-7501 et seq., Idaho Code, "Interstate Compact on Adoption and Medical Assistance." ()

13. Daycare for Children. Care and supervision provided for compensation during part of a twenty-four (24) hour day, for a child or children not related by blood or marriage to the person or persons providing the care, in a place other than the child's or children's own home or homes. ()

14. Department. The Idaho Department of Health and Welfare. ()

15. Deprivation. One of the factors used in determining Aid to Families with Dependent Children -- Foster Care (AFDC-FC) eligibility for children in foster care. Deprivation is a lack of, or interruption in, the maintenance, physical care, and parental guidance a child ordinarily receives from one (1) or both parents. A child is deprived by the continued absence of a parent, incapacity of a parent, death of a parent, unemployment or underemployment of the principal wage earner parent. ()

16. Director. The Director of the Idaho Department of Health and Welfare or their designee. ()

17. Extended Family Member of an Indian Child. As defined by the law, or custom of an Indian child's tribe or, in the absence of such law or custom, a person who has reached the age of eighteen (18) and who is an Indian child's grandparent, aunt or uncle, brother or sister, brother-in-law or sister-in-law, niece or nephew, first or second cousin, or stepparent. ()

011. DEFINITIONS AND ABBREVIATIONS F THROUGH K.
For the purposes of these rules, the following terms are used: ()

01. Family. Parent(s), legal guardian(s), related individuals including birth or adoptive immediate family members, extended family members and significant other individuals, who are included in the family plan.

()

02. Family Assessment. An ongoing process based on information gained through a series of meetings with a family to gain mutual perception of strengths and resources that can support them in creating long-term solutions related to identified service needs and safety threats to family integrity, unity, or the ability to care for their members. ()

03. Family Case Record. Electronic and hard copy compilation of all documentation relating to a family, including legal documents, identifying information, and evaluations. ()

04. Family (Case) Plan. Also referred to as a family service plan. A written document that serves as the guide for provision of services. The plan, developed with the family, clearly identifies who does what, when, how, and why. The family plan incorporates any special plans made for individual family members. If the family includes an Indian child, or child's tribe, tribal elders or leaders should be consulted early in the plan development. ()

05. Family Services Worker. Any of the direct service personnel, including social workers, working in regional Child and Family Services Programs. ()

06. Federally-Funded Guardianship Assistance for Relatives. Benefits described in Subsection 702.04 and Section 703 of these rules provided to a relative guardian for the support of a child who is fourteen (14) years of age or older, who, without guardianship assistance, would remain in the legal custody of the Department of Health and Welfare. ()

07. Field Office. A Department of Health and Welfare service delivery site. ()

08. Goal. A statement of the long term outcome or plan for the child and family. ()

09. Independent Living. Services provided to eligible foster or former foster youth, ages fourteen (14) to twenty-one (21), designed to support a successful transition to adulthood. ()

10. Indian. Any person who is a member of an Indian tribe or who is an Alaska Native and a member of a Regional Corporation as defined in 43 U.S.C. 1606. ()

11. Indian Child. Any unmarried person who is under the age of eighteen (18) who is: ()

a. A member of an Indian tribe; or ()

b. Eligible for membership in an Indian tribe, and who is the biological child of a member of an Indian tribe. ()

12. Indian Child Welfare Act (ICWA). The Indian Child Welfare Act, 25 U.S.C. 1901, et seq. ()

13. Indian Child's Tribe. ()

a. The Indian tribe in which an Indian child is a member or eligible for membership, or ()

b. In the case of an Indian child who is a member of or eligible for membership in more than one (1) tribe, the Indian tribe with which the Indian child has the more significant contacts. ()

14. Indian Tribe. Any Indian Tribe, band, nation, or other organized group or community of Indians recognized as eligible for the services provided to Indians by the Secretary because of their status as Indians, including any Alaska Native village as defined in 43 U.S.C. 1602(c). ()

15. Intercountry Adoption Act of 2000 (P.L. 106-279). Federal law designed to protect the rights of, and prevent abuses against children, birth families, and adoptive parents involved in adoptions (or prospective adoptions) subject to the Convention on Protection of Children and Cooperation in Respect of Intercountry Adoption,

and to insure that such adoptions are in the children's best interests; and to improve the ability of the federal government to assist U.S. citizens seeking to adopt children from abroad and residents of other countries party to the Convention seeking to adopt children from the United States. ()

16. Interethnic Adoption Provisions of 1996 (IEP). IEP prohibits delaying or denying the placement of a child for adoption or foster care on the basis of race, color or national origin of the adoptive or foster parent(s), or the child involved. ()

17. Interstate Compact on the Placement of Children (ICPC). Interstate Compact on the Placement of Children (ICPC) in Title 16, Chapter 21, Idaho Code, ensures that the jurisdictional, administrative, and human rights obligations of interstate placement or transfers of children are protected. ()

18. Kin. Non-relatives who have a significant, family-like relationship with a child. Kin may include godparents, close family friends, clergy, teachers, and members of a child's Indian tribe. Also known as fictive kin. ()

012. DEFINITIONS AND ABBREVIATIONS L THROUGH R.

For the purposes of these rules, the following terms are used: ()

01. Legal Guardianship. A judicially-created relationship, in accordance with Title 15, Chapter 5, Part 2, Idaho Code, including one made by a tribal court, between a child and a relative or non-relative. ()

02. Licensed. Facilities or programs are licensed in accordance with the provisions of IDAPA 16.06.02, "Child Care Licensing." ()

03. Licensing. See IDAPA 16.06.02, "Child Care Licensing," Section 100. ()

04. Medicaid. See "Title XIX." ()

05. Multiethnic Placement Act of 1994 (MEPA). MEPA prohibits states or public and private foster care and adoption agencies that receive federal funds from delaying or denying the placement of any child solely on the basis of race, color, or national origin. ()

06. Parent. A person who, by birth or through adoption, is considered legally responsible for a child. The term "legal guardian" is not included in the definition of parent. ()

07. Permanency Planning. A primary function of family services initiated in all cases to identify programs, services, and activities designed to establish permanent home and family relationships for children within a reasonable amount of time. ()

08. Personal Care Services (PCS). Services to eligible Medicaid recipients that involve personal and medically-oriented tasks dealing with the physical or functional impairments of the individual. ()

09. P.L. 96-272. Public Law 96-272, the federal "Adoption Assistance and Child Welfare Act of 1980." ()

10. P.L. 105-89. Public Law 105-89, the federal "Adoptions and Safe Families Act of 1997," amends P.L. 96-272 and prohibits states from delaying or denying cross-jurisdictional adoptive placements with an approved family. ()

11. Planning. An orderly rational process that results in identification of goals and formulation of timely strategies to fulfill such goals, within resource constraints. ()

12. Qualified Expert Witness--ICWA. An individual who is an expert regarding tribal customs pertaining to family organization and child rearing practice, and is qualified to render an opinion as to whether continued custody of the child by the parent(s), or Indian custodian(s), is likely to result in serious emotional or physical damage to the child. ()

13. **Relative.** Person related to a child by blood, marriage, or adoption. ()
14. **Relative Guardian.** A relative who is appointed a child’s legal guardian in accordance with Title 15, Chapter 5, Part 2, Idaho Code, including a guardianship established by a tribal court. ()
15. **Reservation.** A reservation is an area of land “reserved” by or for an Indian band, village, or tribe(s) to live on and use. Reservations were created by treaty, by congressional legislation, or by executive order. Since 1934, the Secretary of the Interior has had the responsibility of establishing new reservations or adding land to existing reservations. ()
16. **Respite Care.** Time-limited care provided to children. Respite care is utilized in circumstances that require short term, temporary care of a child by a licensed or agency-approved caregiver different from their usual caregiver. The duration of an episode of respite care ranges from one (1) partial day up to fourteen (14) consecutive days. ()
17. **Responsible Party.** A Department social worker, clinician, or contracted service provider who maintains responsibility and authority for case planning and case management. ()
- 013. DEFINITIONS AND ABBREVIATIONS S THROUGH Z.** ()
For the purposes of these rules, the following terms are used: ()
01. **SSI (Supplemental Security Income).** Income maintenance grants for eligible persons who are aged, blind, or disabled. These grants are provided under Title VI of the Social Security Act and are administered by the Social Security Administration and local Social Security Offices. ()
02. **Safety Assessment.** A process and standardized tool for contact between a family services worker and a family to objectively determine if safety threats, or immediate service needs exist that require further Child and Family Services response. ()
03. **Safety Plan.** Plan developed by the Department and a family that assures the immediate safety of a child who has been determined to be conditionally safe or unsafe. ()
04. **Sibling.** One (1) of two (2) or more persons who shares the same biological or adoptive mother or father, or both. Siblings may be full-siblings or half-siblings. Siblings include those children who would be considered a sibling if not for the disruption in parental rights due to termination of parental rights or the death of a parent. ()
05. **State-Funded Guardianship Assistance.** Benefits described in Subsection 702.04 and Section 704 of these rules provided to a legal guardian for the support of a child who meets the eligibility criteria. ()
06. **TAFI.** Temporary Assistance to Families in Idaho. ()
07. **Title IV-E.** Title under the Social Security Act that provides funding for foster care maintenance and adoption assistance payments for certain eligible children. ()
08. **Title IV-E Foster Care.** Child care provided in lieu of parental care in a foster home, children’s agency, or institution eligible to receive Aid to Dependent Children under Title IV-E of the Social Security Act. ()
09. **Title XIX (Medicaid).** Title under the Social Security Act that provides “Grants to States for Medical Assistance Programs.” ()
10. **Title XXI.** (Children’s Health Insurance Program). Title under the Social Security Act that provides access to health care for uninsured children under the age of nineteen (19). ()
11. **Tribal Court.** A court with jurisdiction over child custody proceedings including a Court of Indian

Offenses, a court established and operated under the code or custom of an Indian tribe, or any other administrative body of a tribe vested with authority over child custody proceedings. ()

12. Unmarried Parents' Services. Services aimed at achieving or maintaining self-reliance or self-support for unmarried parents. These services include counseling for any unmarried parents who need such service in relation to their plans for their children and arranging for and paying for prenatal and confinement care for the well-being of the parent and infant. Services for unmarried parents are provided in accordance with Section 56-204A, Idaho Code. ()

13. Voluntary Services Agreement. A written and executed agreement between the Department and parents or legal guardians regarding the goal, areas of concern, desired results, and task responsibility, including payment. ()

014. -- 019. (RESERVED)

GENERAL REQUIREMENTS AND SERVICES
(Sections 020-239)

020. GENERAL REQUIREMENTS APPLICABLE TO ALL CHILD AND FAMILY SERVICES PROGRAMS.

01. Information, Referral and Screening. All residents of the state of Idaho, regardless of the duration of their residency or their income are entitled to receive, upon referral or request: ()

a. Accurate and current information about services to children and families provided through the Department. ()

b. Referral to other appropriate public or private services available in the community; and ()

c. A screening to determine service needs and safety threats that can be addressed through Child and Family Services. ()

02. Initiating Child and Family Services. Child and Family Services are initiated upon referral for services that the program is legally mandated to provide or after completion of a written voluntary request for services. Efforts will be made to identify any Indian children in the family and all possible tribes in which a child may be a member or eligible for membership. ()

03. Individual Authorized to Request Voluntary Services. Requests for voluntary services must be made by a family member or by an authorized representative, or by someone acting on behalf of an incompetent or incapacitated person. ()

04. Record of Request for Services. The date of referral or request for services will be documented in the records of the field office. ()

05. Information to Be Provided to Family. Upon referral or application for services, the family services worker must inform the family that: ()

a. They have the right to accept or reject services offered by the Department, except those services imposed by law or by a court order; ()

b. Fees may be charged for certain services, and that the parent(s) has financial responsibility for the child in care; ()

c. They have the right to pursue an administrative appeal of any decision of Child and Family Services relating to them, including any decision not to provide services or to discontinue planned services; the Department's failure to act upon a referral or request for services within thirty (30) days; or an decision to remove a child from an alternate care placement unless court-ordered or court-authorized. ()

021. -- 029. (RESERVED)

030. CORE CHILD AND FAMILY SERVICES.

The following core services are the state and federally mandated services provided by or through regional Child and Family Services offices: ()

01. Crisis Services. Crisis Services are an immediate response to ensure safety when a child is believed to be in imminent danger as a result of child abuse, neglect, or abandonment. Crisis services require immediate access to services, twenty-four (24) hours per day, seven (7) days per week to assess safety and place in alternate care, if necessary, to ensure safety for the child. ()

02. Screening Services. Initial contact with families and children to gather information to determine whether or not the child meets eligibility criteria to receive child protection or adoption services. When eligibility criteria is not met for Department mandated services, appropriate community referrals are made. ()

03. Assessment and Safety/Service Planning Services. Process in which the safety threats to the child, and the family's concerns, strengths, and resources are identified. Based on this assessment, a written plan is developed by the worker, together with the family and other interested parties. Each plan must have a long-term goal that identifies behaviorally-specific and measurable desired results and has specific tasks that identify who, how, and when the tasks will be completed. ()

04. Preventative Services. Community-based services that support children and families and are designed to reduce the risk of child abuse, neglect, or abandonment. These services can involve direct services, but are primarily implemented through community education, and partnerships with other community agencies such as schools and courts. ()

05. Court-Ordered Services. These services primarily involve court-ordered investigations or assessments of situations where children are believed to be at risk due to child abuse, neglect, or abandonment. ()

06. Alternate Care (Placement) Services. Temporary living arrangements outside of the family home for children and youth who are victims of child abuse, neglect, or abandonment. These out-of-home placements are arranged for and financed, in full or in part, by the Department. Alternate care is initiated through either a court order or voluntarily through an out-of-home placement agreement. Payment will be made on behalf of a child placed in the licensed home of an individual or relative, a public or private child care institution, a home licensed or approved by an Indian child's tribe, or in a state-licensed public child care institution accommodating no more than twenty-five (25) children. Payments may be made to individuals or to a public or private child placement or child care agency. ()

07. Community Support Services. Services provided to a child and family in a community-based setting designed to increase the strengths and abilities of the child and family and to preserve the family whenever possible. Services include respite care and family preservation. ()

08. Interstate Compact on Out-of-State Placements. Where necessary to encourage all possible positive contacts with family, including extended family, placement with family members or others who are outside the state of Idaho will be considered. On very rare occasion the Department may contract with a residential facility out of state if it best serves the needs of the child and is at a comparable cost to facilities within Idaho. When out-of-state placement is considered in the permanency planning for a child, such placement will be coordinated with the respective interstate compact administrator according to the provisions of Section 16-2101, et seq., Idaho Code, the "Interstate Compact on the Placement of Children." Placements must be in compliance with all state and federal laws. ()

09. Independent Living. Services, including assessment and planning, provided to eligible youth to promote self-reliance and successful transition to adulthood. ()

a. Eligibility Requirements for Current Foster Youth. To be eligible for independent living services, a

current foster youth must: ()

- i. Be fourteen (14) to nineteen (19) years of age; ()
- ii. Currently be under Department or tribal care and placement authority established by a court order or voluntary agreement with the youth's family, or be under a voluntary agreement for continued care if the youth is between eighteen (18) and nineteen (19) years of age; and ()

iii. Have been in foster care or similar eligible setting for a minimum of ninety (90) total days. ()

b. Eligibility Requirements for Former Foster Youth. To be eligible for independent living services, a former foster youth must: ()

- i. Be a former foster youth who is currently under twenty-one (21) years of age; and ()
- ii. Have been under Department or tribal care and placement authority established by a court order or voluntary agreement with the youth's family, or under a voluntary agreement for continued care after the youth has reached eighteen (18) years of age; and ()

iii. Have been placed in foster care or similar eligible setting for a minimum of ninety (90) days total after reaching fourteen (14) years of age; or ()

iv. Be eighteen (18) to twenty-one (21) years of age, provide verification of meeting the Independent Living eligibility criteria in another state, and currently be a resident of Idaho. ()

c. Eligibility Limit. Once established, a youth's eligibility is maintained up to their twenty-first birthday, regardless of whether they continue to be the responsibility of the Department, tribe, or be in foster care. ()

10. Adoption Services. Department services designed to promote and support the permanency of children with special needs through adoption. This involves the legal and permanent transfer of all parental rights and responsibilities to the family assessed as the most suitable to meet the needs of the individual child. Adoption services also seeks to build the community's capacity to deliver adoptive services. ()

11. Administrative Services. Regulatory activities and services that assist the Department in meeting the goals of safety, permanency, health and well-being for children and families. These services include: ()

- a.** Child care licensing; ()
- b.** Daycare licensing; ()
- c.** Community development; and ()
- d.** Contract development and monitoring. ()

031. -- 049. (RESERVED)

050. PROTECTIONS AND SAFEGUARDS FOR CHILDREN AND FAMILIES.

The federal and state laws that are the basis for these rules include a number of mandatory protections and safeguards intended to ensure timely permanency for children and to protect the rights of children, their families, and their tribes. ()

01. Reasonable Efforts. Services offered or provided to a family intended to prevent or eliminate the need for removal of the child from the family, to reunify a child with their family, and to finalize a permanent plan. The following efforts must be made and specifically documented by the Department in reports to the court. The court will make the determination of whether or not the Department's efforts were reasonable. ()

- a. Efforts to prevent or eliminate the need for a child to be removed from their home; ()
- b. Efforts to return a child home are not required due to a judicial determination of aggravated circumstances; and ()
- c. Efforts to finalize a permanent plan, so that each child in the Department's care will have a family with whom the child can have a safe and permanent home. ()
- 02. Active Efforts.** The efforts required under ICWA to provide remedial services and rehabilitative programs designed to prevent the breakup of an Indian family, or to reunify an Indian family. Active efforts must include contacts and work with an Indian child's tribe. ()
- 03. ICWA Placement Preferences.** ()
- a. When the Indian child's permanency goal is reunification, the preferences are described in Section 402 of these rules. ()
- b. When the Indian child's permanency goal is adoption or guardianship, the preferences are described in Subsection 800.01 of these rules. ()
- c. When the placement preferences are not followed, the court must determine that good cause exists for not following the preferences. ()
- 04. Least Restrictive Setting.** Efforts will be made to ensure that any child in the Department's care resides in the least restrictive, most family-like setting possible. Placement will be made in the least restrictive setting and in close proximity to the parent(s) or if not, written justification that the placement is in the best interest of the child. ()
- 05. Legal Requirements for Indian Children.** When there is reason to believe that a child is an Indian child, notice of the pending proceeding must be sent according to the notice provisions specified in Section 051 of these rules. Notice must also include notice of the tribe's right to intervene; their right to twenty (20) days additional time to prepare for the proceeding; the right to appointment of counsel if the parent(s) or Indian custodian(s) is indigent; and the right to examine all documents filed with the court upon which placement may be based. ()
- 06. Visitation for Child's Parent(s) or Legal Guardian(s).** Visitation arrangements must be provided to the child's parent(s) or legal guardian(s) unless visitation is contrary to the child's safety. ()
- 07. Notification of Change in Placement.** Written notification must be made within seven (7) days of a change of placement of the foster child if a child is relocated to another foster care setting. Notification must be sent to the child's parent(s) or legal guardian(s). When the child is an Indian child, written notification must also be sent to the child's Indian custodian(s), if applicable, and to the child's tribe. ()
- 08. Notification of Change in Visitation.** Written notification to the child's parent(s) or legal guardian(s) if there is to be a change in their visitation schedule with their child or ward in foster care. ()
- 09. Notification of Right to Participate and Appeal.** Written notification to the child's parent(s) or legal guardian(s) must be made regarding their right to discuss any changes and the opportunity to appeal if they disagree with changes in placement or visitation. ()
- 10. Qualified Expert Witness--ICWA.** The testimony of an expert witness is required at the hearing in which a child is placed in state custody, typically the adjudicatory, and at the hearing for termination of parental rights. A person who is most likely to be a qualified expert witness in the placement of an Indian child is: ()
- a. A member of the Indian child's tribe who is recognized by the tribal community as knowledgeable in tribal customs pertaining to family organization and child rearing practices; ()
- b. An individual who is not a tribal member who has substantial experience in the delivery of child

and family services to Indians and extensive knowledge of prevailing social and cultural standards and child rearing practices within the Indian child's tribe; or ()

c. A professional person who has substantial education and experience in a pertinent specialty area and substantial knowledge of prevailing social and cultural standards and child rearing practices within the Indian community. ()

11. Compliance with Requirements of the Multiethnic Placement Act of 1994 (MEPA) as Amended by the Interethnic Adoption Provisions (IEP) of 1996. ()

a. The Department prohibits entities that are involved in foster care or adoption placements and that receive federal financial assistance under Title IV-E, Title IV-B, or any other federal program from delaying or denying a child's foster care or adoptive placement on the basis of the child's or the prospective foster or adoptive parent's race, color, or national origin. ()

b. The Department prohibits entities that are involved in foster care or adoption placements and that receive federal financial assistance under Title IV-E, Title IV-B, or any other federal program, from denying to any individual the opportunity to become a foster or adoptive parent on the basis of the prospective foster or adoptive parent's or the child's race, color, or national origin; ()

c. To remain eligible for federal assistance for their child welfare programs, the Department must diligently recruit foster and adoptive parents who reflect the racial and ethnic diversity of the children in the state who need foster and adoptive homes; ()

d. A child's race, color, or national origin cannot be routinely considered as a relevant factor in assessing the child's best interests; ()

e. Failure to comply with MEPA/IEP's prohibitions against discrimination is a violation of Title VI of the Civil Rights Act of 1964; and ()

f. Nothing in MEPA/IEP is to be construed to affect the application of the Indian Child Welfare Act of 1978. ()

12. Family Decision-Making and Plan Development. ()

a. A family plan will be completed within thirty (30) days of the date the case was opened. ()

b. Families will be given ample opportunity to participate in the identification of areas of concern, their strengths, and developing service goals and tasks. The family plan and any changes to it must be signed and dated by the family. If the family refuses to sign the plan, the reason for their refusal will be documented on the plan. ()

c. Plans are to be reviewed with the family no less frequently than once every three (3) months. When there are major changes to the plan including a change in the long term goal, the family plan must be renegotiated by the Department and the family as well as signed by the family. A new plan must be negotiated at least annually. ()

13. Compelling Reasons. Reasons why the parental rights of a parent of a child in the Department's care and custody should not be terminated when the child has been in the custody of the Department for fifteen (15) out of the most recent twenty-two (22) months. ()

a. These reasons must be documented in the Alternate Care Plan, in a report to the court, and the court must make a determination if the reasons are sufficiently compelling. ()

b. A compelling reason must be documented when a child's plan for permanency is not adoption, guardianship, or return home. ()

c. When compelling reasons are not appropriate, the petition for termination of parental rights must be filed by the end of the child's fifteenth month in foster care. ()

14. ASFA Placement Preferences. The following placement preferences will be considered in the order listed below when recommending and making permanency decisions: ()

a. Return home if safe to do so; ()

b. Adoption or legal guardianship by a relative or kin; ()

c. Adoption or legal guardianship by non-relative; ()

d. Another planned permanent living arrangement such as long-term foster care. ()

051. NOTICE REQUIREMENTS FOR ICWA.

01. Notice of Pending Proceedings -- Who is Notified. When there is reason to believe that a child is an Indian child, the initial and any subsequent Notice of Pending Proceedings must be sent to the Indian child's parent(s), custodian(s), and tribe. Notices of Pending Proceedings must be sent to the ICWA Designated Agent for the child's tribe via Registered Mail, Return Receipt Requested. All Notices of Pending Proceedings must be received by the child's parent(s), Indian custodian(s) and tribe at least 10 (ten) days before the proceeding is scheduled to occur. Returned receipts are to be kept in the child's file and made available for review by the court. ()

02. Rights Under a Notice of Pending Proceedings. Notices of Pending Proceedings must also include notice of the tribe's right to intervene; their right to twenty (20) additional days to prepare for the proceedings; the right to appointment of counsel if the parent(s) or Indian custodian(s) are indigent; and the right to examine all documents filed with the court upon which placement may be based. ()

03. Notice of Pending Proceedings--When Identity or Location of Parent(s), Indian Custodian(s), or Tribe is Unknown. If the identity or location of the parent(s) or Indian custodian(s) or the tribe is unknown, the Notice of Pending Proceedings must be sent to the Secretary of the Interior by certified mail with a return receipt requested at the following address: Department of the Interior, Bureau of Indian Services, Division of Human Services, Code 450, Mail Stop, 1849 C Street N.W., Washington, D.C. 20240. ()

052. -- 059. (RESERVED)

060. FAMILY CASE RECORDS.

01. Electronic and Physical Files. The Department will maintain an electronic file and a physical file containing information on each family receiving services. The physical file will contain non-electronic documentation such as originals or original copies of all court orders, birth certificates, social security cards, and assessment information that is original outside the Department. ()

02. Storage of Records. All physical family case records must be stored in a secure file storage area, away from public access and retained not less than five (5) years after the case is closed, after which they may be destroyed. ()

a. Exception for Adoption Records. Complete family case records involving adoptive placements must be forwarded to the Department's central adoption unit for permanent storage. ()

b. Exception for Case Records Involving an Indian Child. A case record involving an Indian child must be available at any time at the request of an Indian child's tribe or the Secretary of the Interior. ()

061. -- 239. (RESERVED)

REVIEWS AND HEARINGS
(Sections 240-399)

240. SIX-MONTH REVIEWS FOR CHILDREN IN ALTERNATE CARE PLACEMENT.

When a judicial review does not occur at the end of a six (6) month period for any child in alternate care placement, the Department will conduct a case review to assure compliance with all applicable state and federal laws, and to ensure the plan focuses on the goals of safety, permanency and well-being of the child. ()

01. Notice of Six Month Review. The parent(s) or legal guardian(s), foster parent(s) of a child, and any preadoptive parent(s) or relative(s) providing care for the child, are to be provided with notice of their right to be heard in the six-month review. In the case of an Indian child, the child's tribe and any Indian custodian must also be provided with notice. This must not be construed to require that any foster parent, preadoptive parent, or relative providing care for the child be made a party to the review solely on the basis of the receipt of such notice. Participants have the right to be represented by the individual of their choice. ()

02. Procedure in the Six Month Review. The parties who received notice will be given the opportunity to participate in the case review. ()

03. Members of Six-Month Review Panel. The six-month review panel must include a Department employee who is not in the direct line of supervision in the delivery of services to the child or parent(s) or legal guardian(s) being reviewed. The review panel may include agency staff, staff of other agencies, officers of the court, members of Indian tribes, and citizens qualified by experience, professional background, or training. Members of the panel will be chosen by and receive instructions from the Department's Child and Family Services Program Manager or their designee, to enable them to understand the review process and their roles as participants. ()

04. Considerations in Six-Month Review. Whether conducted by the court in a review hearing or a Department review panel, under State law, Federal law and regulation, each of the following must be addressed in a six-month review: ()

- a. Determine the extent of compliance with the family services plan; ()
- b. Determine the extent of progress made toward alleviating or mitigating the causes necessitating the placement; ()
- c. Review compliance with the Indian Child Welfare Act, when applicable; ()
- d. Determine the safety of the child, the continuing need for and appropriateness of the child's placement; and ()
- e. Project a date by which the child may be returned and safely maintained at home or placed for adoption, legal guardianship, or other permanent placement. ()

05. Recommendations and Conclusions of Six-Month Review Panel. Following the six-month review, written conclusions and recommendations will be provided to all participants, subject to Department safeguards for confidentiality. The document containing the written conclusions and recommendations must also include appeal rights. ()

241. -- 399. (RESERVED)

ALTERNATE (OUT-OF-HOME) CARE
(Sections 400-424)

400. AUTHORITY FOR ALTERNATE CARE SERVICES.

Upon approval of the regional Child and Family Services Program Manager or their designee, the Department may provide or purchase alternative care under the following conditions: ()

- 01. Department Custody.** When the child is in the legal custody or guardianship of the Department; or ()
- 02. Voluntary Placement.** Upon agreement with the parent(s) or legal guardian(s) when circumstances interfere with their provision of proper care or they are no longer able to maintain a child in their home and they can benefit from social work and treatment services. ()
- a.** A service plan and an out-of-home placement agreement must be developed between the Department and the family. The service plan will identify areas of concern, goals, desired results, time frames, tasks and task responsibilities. The out-of-home placement agreement will include the terms for reimbursement of costs with any necessary justification for deviation from Child Support guidelines. ()
- b.** A voluntary agreement for out-of-home placement entered into between the Department and the parent(s) or legal guardian(s) of a minor child may be revoked at any time by the child's parent(s) or legal guardian(s) and the child must be returned to the parent or legal guardian upon their request. ()
- c.** A contract between the Department and the service provider, if applicable, must also be in effect. ()
- d.** Voluntary out-of-home placements exceeding one hundred eighty (180) days without a judicial determination that it is in the best interests of the child to continue their current placement cannot be reimbursed by Title IV-E funds. ()

401. CONSIDERATIONS FOR PLACEMENT IN ALTERNATE CARE.

The Department will make meaningful reasonable attempts, both verbally and in writing, to inform in priority order, individuals identified below of the potential imminent placement and the requirements for consideration as a placement resource. The Department will place children in a safe and trusted environment consistent with the best interest and special needs of the children as required by P.L.96-272, Section 475(5). Ideally, placement priority will be given in the following order: (a) Immediate family; (b) Extended family members; (c) Non-family members with a significant established relationship with the child; (d) other licensed foster parent(s). Upon immediate contact with persons in categories a) through d) above, and after preliminary screening, within seventy-two (72) hours of decision to place, Departmental staff will make reasonable attempts to inform immediate family members of the way to become a placement resource. Alternate care placement will in all cases include consideration of: ()

- 01. Family Assessment.** The family assessment conducted in accordance with the provisions of the CFS Practice Standards. ()
- 02. Ability of Providers.** The ability of potential alternate care providers to address and be sensitive to the unique and individual needs of the child and ability to comply and support the plan for the child and their family. ()
- 03. Family Involvement.** The involvement of the family in planning and selecting the placement. The Department will use a family unity meeting concept making reasonable efforts to gather immediate and extended family members and other significant supporters to identify family strengths relevant to creating a safe environment for the child. This process will be fully reported to the court along with resulting plans and commitments. ()

402. INVOLUNTARY PLACEMENT OF INDIAN CHILDREN.

Involuntary placement of an Indian child in foster care must be based upon clear and convincing evidence, including information from qualified expert witnesses, that the continued custody of the child by the parent(s) or Indian custodian(s) is likely to result in serious emotional or physical damage to the child. In the absence of good cause to the contrary, a preference must be given to placement with: ()

- 01. Extended Family.** A member of the Indian child's extended family; ()
- 02. Foster Home Approved by Tribe.** A foster home licensed or approved by the Indian child's tribe; ()

03. Licensed Indian Foster Home. An Indian foster home licensed or approved by an authorized non-Indian licensing authority; or ()

04. Indian Institution. An institution for children approved by an Indian tribe or operated by an Indian organization that has a program suitable to meet the child's needs. ()

403. DATE A CHILD ENTERED FOSTER CARE.

A child is considered to have entered foster care on the date the child is actually removed from their home. All foster care benefits and eligibility determinations must be based on this date. All periodic reviews, permanency hearings, and time frames for termination of parental rights must be based on the date the child entered foster care. ()

404. FOSTER CARE GOAL.

It is the goal of the Department that not more than twenty-five percent (25%) of foster youth will be in foster care longer than twenty-four (24) months. The Department will monitor this goal annually. ()

405. ALTERNATE CARE CASE MANAGEMENT.

Case management must continue while the child is in alternate care and must ensure the following: ()

01. Preparation for Placement. Preparing a child for placement in alternate care is the joint responsibility of the child's family, the child (when appropriate), the family services worker, and the alternate care provider. ()

02. Information for Alternate Care Provider. The Department and the family have informed the alternate care provider of their roles and responsibilities in meeting the needs of the child including: ()

a. Any medical, health and dental needs of the child including the names and address of the child's health and educational providers, a record of the child's immunizations, the child's current medications, the child's known medical problems, and any other pertinent health information concerning the child; ()

b. The name of the child's doctor; ()

c. The child's current functioning and behaviors; ()

d. A copy of the child's portion of the service plan including any visitation arrangements; ()

e. The case history of the child, including the reason the child came into foster care, the child's legal status, and the permanency goal for the child; ()

f. A history of the child's previous placements and reasons for placement changes, excluding information that identifies or reveals the location of any previous alternate care providers without their consent; ()

g. The child's cultural and racial identity; ()

h. Any educational, developmental, or special needs of the child; ()

i. The child's interest and talents; ()

j. The child's attachment to current caretakers; ()

k. The individualized and unique needs of the child; ()

l. Procedures to follow in case of emergency; and ()

m. Any additional information, that may be required by the terms of the contract with the alternate care provider. ()

03. Consent for Medical Care. Parent(s) or legal guardian(s) have signed a Departmental form of consent for medical care and keep the family services worker advised of where they can be reached in case of an emergency. Any refusal to give medical consent must be documented in the family case record. ()

04. Financial Arrangements. The family services worker must assure that the alternate care provider understands the financial and payment arrangements and that necessary Department forms are completed and submitted. ()

05. Contact with Child. The family, the family services worker, and the alternate care provider have established a schedule for frequent and regular visits with the child by the family and by the family services worker or designee. ()

a. Face-to-face contact with a child by the responsible party must occur at least monthly or more frequently depending on the needs of the child or the provider, or both, and the stability of the placement. Face-to-face contact may be made in settings other than where the child resides as long as contact between the responsible party and the child occurs where the child resides a minimum of once every sixty (60) days. ()

b. The Department will have strategies in place to detect abuse, neglect, or abandonment of children in alternate care. ()

c. Face-to-face contact between the responsible party and a child placed in an in-state group or residential care facility, located a significant distance from the responsible party's office is required a minimum of once every ninety (90) days. Communication by phone between the responsible party and the child must occur at least monthly. ()

d. Frequent and regular contact between the child and parents and other family members will be encouraged and facilitated unless it is specifically determined not to be in the best interest of the child. Such contact will be face-to-face if possible, with this contact augmented by telephone calls, written correspondence, pictures, and the use of video and other technology as may be relevant and available. ()

e. Children who are in out-of-state placements through the Interstate Compact on the Placement of Children (ICPC) must be contacted face-to-face no less frequently than every six (6) months, by either the responsible party in Idaho, by a representative of the state in which the child is placed, or by a private agency contracted by either. Idaho will request the state in which the child is placed to have face-to-face contact with the child on a monthly basis. If the policy of the state in which the child is placed allows only for face-to-face contact every six (6) months, the responsible party in Idaho will contact the child and the child's caregiver each month by phone to confirm the child's safety and well-being. ()

06. Discharge Planning. Planning for discharge from alternate care are developed with all concerned parties. Discharge planning will be initiated at the time of placement and completed prior to the child's return home or to the community. ()

07. Transition Planning. Planning for discharge from alternate care into a permanent placement are developed with all concerned parties. Discharge planning will be initiated at the time of placement and completed prior to the child's return home or to the community. ()

08. Financial and Support Services. As part of the discharge planning, Departmental resources are coordinated to expedite access to Department financial and medical assistance and community support services. ()

406. -- 421. (RESERVED)

422. ALTERNATE CARE PLANNING.

The elements of alternate care planning are mandated by the provisions of Title IV-E, Sections 471(a)(16), 475(1), and 475(5)(A) and (D) of the Social Security Act. ()

01. Alternate Care Plan Required. Each child receiving alternate care under the supervision of the

state must have a standardized written alternate care plan. ()

a. The purpose of the alternate care plan is to facilitate the safe return of the child to their own home as expeditiously as possible or to make other permanent arrangements for the child if such return is not feasible. ()

b. The alternate care plan must be included as part of the family service plan. ()

02. Written Alternate Care Plan. The Department must complete a written alternate care plan within thirty (30) days after a child has been placed in alternate care and at least every six (6) months thereafter. A copy of the alternate care plan will be provided to the child's parent, legal guardian, foster parent, Indian custodian, tribe, and to the child if they are over twelve (12) years of age. ()

423. -- 424. (RESERVED)

ELIGIBILITY AND FUNDING INFORMATION
(Sections 425-441)

425. TITLE IV-E ELIGIBILITY.

The state will claim Title IV-E funding for a foster child who meets the following criteria: ()

01. Physical or Constructive Removal of the Child. The child was physically or constructively removed from the home: ()

a. Under a voluntary placement agreement; or ()

b. As the result of a judicial determination that: ()

i. Remaining in the home would be contrary to the child's welfare; or ()

ii. Placement in foster care would be in the best interest of the child. ()

c. The determination that a situation is contrary to the child's welfare must be made in the first court ruling that sanctions, even temporarily, the removal of a child from the home. ()

02. Child's Residence. The child has been living in the home of a parent or other relative specified at 45 CFR 233.90(c)(1)(v) either in the month of, or within six (6) months prior to the month: ()

a. Removal court proceedings were initiated; or ()

b. The voluntary placement agreement was signed. ()

03. AFDC Eligibility. The child was AFDC (Aid to Families with Dependent Children) eligible in the removal home during the month of the initiation of court proceedings that initiated the removal or the month the voluntary placement agreement is signed. AFDC eligibility is based upon the standards found in the State's IV-A Plan on July 16, 1996. ()

04. "Removal From" and "Living With" Requirements. The "removal from" (01. of this rule) and "living with" (Subsection 425.02. of this rule) requirements must be satisfied by the same specified relative who meets AFDC eligibility (Subsection 425.03. of this rule). ()

05. Judicial Determination. A judicial determination was obtained regarding reasonable efforts to prevent a child's removal from the home no later than sixty (60) days from the child's foster care entry date. When there is a judicial determination of "aggravated circumstances," the court order must state that no reasonable efforts to reunify the family are required. ()

06. Agency with Placement Care and Responsibility. The IV-E agency, or another public agency or

Tribe that has a plan approved under 42 U.S.C. 671 in accordance with 42 U.S.C. 679c with which the Title IV-E agency has a written agreement in effect, has placement and care responsibility. ()

07. Child in Foster Care or Childcare Institution. The child is in a fully licensed or approved foster family home, or childcare institution. ()

08. Compliance with Safety Requirements. Compliance with the safety requirements was documented for the prospective foster family home or childcare institution. ()

09. Child's Age. The child is under the age of eighteen (18), or up to age nineteen (19) if the youth is a full-time student in a secondary school or its equivalent level of vocational or technical training and is expected to complete the educational program before reaching age nineteen (19). ()

10. Child's Citizenship Status. The child is a US citizen or qualified immigrant under Sections 403, 431, and 432 of the Personal Responsibility Work Opportunity Reconciliation Act (P.L. 104-193). ()

426. (RESERVED)

427. DETERMINATION OF ELIGIBILITY FOR TITLE IV-E.

The family services workers must submit an application to the Child Welfare Funding Team to evaluate for Title IV-E eligibility. ()

428. CUSTODY AND PLACEMENT.

01. Interstate Placements. In interstate placements, a child may be placed with an approved unlicensed relative when delaying the placement would be harmful to the child's well-being. In those cases, a subsequent request for foster care licensure will be made through the Interstate Compact on the Placement of Children. However, in these instances, a child is ineligible for Title IV-E until the placement is licensed. ()

02. Intrastate Placements That Become Interstate Placements. If a foster care placement that was initially intrastate becomes an interstate placement because the family with whom the child is placed relocates to another state, a request for foster care licensure will be made through the Interstate Compact on the Placement of Children immediately upon the decision to move the child. If the state to which the family has moved accepts the family's Idaho foster care license as effective, the placement is considered licensed until a determination is made that the family is in compliance with the licensing and other applicable laws of the state to which the family has moved. ()

429. EFFECTIVE DATE.

Claims for Title IV-E maintenance may begin as early as the first day of placement in the month in which all initial Title IV-E eligibility factors are met. A child cannot receive SSI and Title IV-E foster maintenance payments during the same time period. ()

430. ONGOING ELIGIBILITY.

To continue eligibility for Title IV-E, a child must meet the following conditions: ()

01. Child's Age. The child is under the age of eighteen (18), or up to age nineteen (19) if the youth is a full-time student in a secondary school or its equivalent level of vocational or technical training and is expected to complete the educational program before reaching age nineteen (19). ()

02. Department Custody. The child remains in the Department's custody through either a current court order or a voluntary placement agreement that has not been in effect more than one hundred and eighty (180) days. ()

03. Child's Residence. The child continues to live in a fully licensed or approved foster family home, or childcare institution, or on a court-ordered home visit. ()

04. Redetermination. A redetermination is used for a child who: ()

- a. Left foster care; ()
- b. Was placed in a Title IV-E ineligible living situation such as: unlicensed placement, a hospital, or a detention center; ()
- c. Exceeded one hundred eighty (180) days in a voluntary placement agreement in which there was no judicial determination of “best interests.” The child’s Title IV-E eligibility ceases on the 181st day; and ()
- d. Is on a home visit that exceeds the time specified in the court order signed by the Judge without a new judicial determination granting an extension. ()

05. Annual Redetermination. Annual redetermination is required to assure that the court has determined that the Department has made reasonable efforts to finalize a permanency plan for the child within twelve (12) months of the date the child is considered to have entered foster care and at least once every twelve (12) months thereafter while the child is in foster care. ()

431. (RESERVED)

432. TITLE XIX FOSTER CHILD.

For Title XIX Medicaid eligibility for a foster child, please refer to IDAPA 16.03.01, “Eligibility for Health Care Assistance for Families and Children,” Section 536. ()

433. INCOME, BENEFITS AND SAVINGS OF CHILDREN IN FOSTER CARE.

On behalf of the child and with the assistance of CWFT staff, family services workers are required to identify and apply for income or benefits from (one (1) or) every available source including Social Security, tribal benefits, or estates of deceased parents. The address of the payee must be DHW-FACS-CWFT, 450 West State Street, P. O. Box 83720 Boise, ID 83720-0036. ()

434. FORWARDING OF BENEFITS.

01. Home Visit. If the Department is receiving benefits and the child is returned to the home of the parent(s) or legal guardian(s) or relatives for a trial visit, Child Support Services must be notified by a family services worker giving the name and address of the person in order to discontinue accrual of child support owed to the State. ()

02. Return to Foster Care. If the child returns to foster care, the Department’s Child Support Unit must be notified immediately of the correct payee. ()

435. (RESERVED)

436. PARENTAL FINANCIAL SUPPORT FOR CHILDREN IN ALTERNATE CARE.

In accordance with Section 56-203B, Idaho Code, parents are responsible for costs associated with the care of their child in alternate care. ()

01. Notice of Parental Responsibility. The Department will provide the parents(s) with written notification of their responsibility to contribute toward the cost of their child’s support, treatment, and care, including clothing, medical, incidental, and educational costs. ()

02. Financial Arrangements with Parent(s). Parent(s) are responsible to reimburse the Department for the costs of alternate care when their child is placed in alternate care in accordance with a court order or voluntary placement agreement. ()

a. The amount of support is based on the parents’ income, the costs of care for the child, and any unique circumstances affecting the parents’ ability to pay. ()

b. Every parent is expected to contribute to the cost of their child’s care, but no parent will be asked to

pay more than the actual cost of care, including clothing, medical, incidental and educational costs. The cost of room and board must be paid by the parent(s) to the Department, and the Department will in turn reimburse the alternate care providers. ()

437. ACCOUNTING AND REPORTING.

The Department's Division of Family and Community Services, Child Welfare Funding Team must account for the receipt of funds and develop reports showing how much money has been received and how it has been utilized. ()

438. SUPPORT AGREEMENT FOR VOLUNTARY PLACEMENTS.

If the placement is voluntary, the parent(s) must sign an agreement that specifies the amount of support to be paid, when it is to be paid to the payee, and the address to which it is to be paid. ()

439. SUPPORT IN COURT-ORDERED PLACEMENT.

In the case of a court-ordered placement, if no support agreement has been reached with the parent(s) prior to the custody or commitment hearing, the Department's report to the Court will indicate the necessity to hold a support hearing. ()

440. INSURANCE COVERAGE.

The parent(s) or legal guardian(s) must inform the Department of all insurance policies covering the child, including names of carriers, and policy or subscriber numbers. If medical, health, and dental insurance coverage are available for the child, the parent(s) must acquire and maintain such insurance. ()

441. REFERRAL TO CHILD SUPPORT SERVICES.

The Department will refer the parent(s) to the Bureau of Child Support Services for support payment arrangements. ()

01. Assignment of Child Support. The Department through the Bureau of Child Support Services will secure assignment of any support due to the child while in alternate care. Social Security and Supplemental Security Income benefits are specifically aimed at meeting the child's needs and therefore will follow the child in placement and the Department must request to be named payee for all funds for placements extending over thirty (30) days. ()

02. Collection of Child Support. The Department must take action to collect any child support ordered in a divorce decree. ()

MEDICAL AND DENTAL FOR CHILDREN IN OUT-OF-HOME CARE

(Sections 442-479)

442. MEDICAID FOR CHILDREN IN ALTERNATE CARE.

Every child placed in alternate care will receive a medical card each month. ()

443. EPSDT SCREENING.

Children in alternate care will receive the Early Periodic Screening, Diagnosis and Treatment (EPSDT) services allowable under Medicaid. Those children already receiving Medicaid at the time of placement will be screened within thirty (30) days after placement. Children not receiving Medicaid at the time of placement will receive a screening within thirty (30) days from the date Medicaid eligibility is established. ()

444. MEDICAL EMERGENCIES.

In case of serious illness, the alternate care provider must notify the child's doctor and the Department immediately. The parent(s) or legal guardian(s) or the court in an emergency, or the Department if it is the guardian of the child, have the authority to consent to major medical care or hospitalization. ()

445. DENTAL CARE.

Each child age three (3) who is placed in alternate care must receive a dental examination as soon as possible after placement, but not later than ninety (90) days, and thereafter according to a schedule prescribed by the dentist. ()

01. Costs Paid by Medicaid. If dental care not included in the state medical assistance program is recommended, a request for payment must be submitted to the state Medicaid dental consultant. ()

02. Emergencies. For children in shelter care, emergency dental services will be provided for and paid for by the Department, if there are no other financial resources available. ()

446. COSTS OF PRESCRIPTION DRUGS.

The Department will purchase prescribed drugs, at the Medicaid rate, for a child in alternate care through participating pharmacists, in excess of the Medicaid monthly maximum. ()

447. MEDICAL EXAMINATION UPON ENTERING ALTERNATE CARE.

Within thirty (30) days of entering alternate care, each child will receive a medical examination to assess the child's health status, and thereafter according to a schedule prescribed by the child's physician or other health care professional. ()

448. -- 450. (RESERVED)

451. DRIVERS' TRAINING, DRIVERS' LICENSES, AND PERMITS FOR CHILDREN IN ALTERNATE CARE.

No Department employee or foster parent is allowed to sign for any foster child's driver's license or permit without written authorization from the Child and Family Services Program Manager. Any Department employee or foster parent signing for a foster child's driver's license or permit without the approval of the Child and Family Services Program Manager assumes full personal responsibility and liability for any driving related damages that may be assessed against the child. Those damages will not be covered by the Department's insurance. ()

01. Payments by Department. Subject to existing appropriations, the Department may make payments for driver's training, driver's license, and permits for a child in the Department's legal custody when driver's training or obtaining a driver's license or permit is part of the child's Independent Living Plan. In addition, subject to existing appropriations, the Department may reimburse a foster parent, licensed by the Department, for the cost of procuring owner's or operator's insurance listing a child residing in their home as a named insured with respect to the operation of a motor vehicle subject to the limits exclusive of interest and costs with respect to each motor vehicle as provided in Section 49-117, Idaho Code. ()

02. Payment by Parent(s) or Legal Guardian(s). The parent(s) or legal guardian(s) of children in foster care may authorize drivers' training, provide payment and sign for drivers' licenses and permits. ()

452. -- 479. (RESERVED)

LICENSURE AND REIMBURSEMENT OF ALTERNATE CARE PROVIDERS
(Sections 480-549)

480. ALTERNATE CARE LICENSURE.

All private homes and facilities providing care for children under these rules must be licensed in accordance with IDAPA 16.06.02, "Child Care Licensing," unless foster care placement of an Indian child is made with a foster home licensed or approved by the Indian child's tribe, or an institution for children approved by an Indian tribe or operated by an Indian organization. ()

481. FACILITIES OPERATED BY THE STATE.

Facilities operated by the State and providing care for children under these rules must meet the standards for child care licensure. ()

482. PAYMENT FOR SHELTER CARE.

Payment for placement of children requiring temporary, emergency alternate care is twenty dollars (\$20) per day for children from birth through age seventeen (17), for a maximum of thirty (30) days of shelter care for each uninterrupted placement. ()

483. PAYMENT TO FAMILY ALTERNATE CARE PROVIDERS.
Monthly payments for care provided by family alternate care providers are:

Family Alternate Care Payments - Table 483			
Ages	0-5	6-12	13-18
Monthly Room and Board	\$395	\$439	\$584

()

01. Gifts. An additional thirty dollars (\$30) for Christmas gifts and twenty dollars (\$20) for birthday gifts will be paid in the appropriate months. ()

02. Clothing. Costs for clothing will be paid, based upon the Department's determination of each child's needs. All clothing purchased for a child in alternate care becomes the property of the child. ()

03. School Fees. School fees due upon enrollment will be paid directly to the school or to the alternate care providers, based upon the Department's determination of the child's needs. ()

484. ADDITIONAL PAYMENTS TO FAMILY ALTERNATE CARE PROVIDERS.

For those children who require additional care above room, board, shelter, daily supervision, school supplies, personal incidentals, the Department may pay the family alternate care provider an additional amount to the amount paid under Section 483 of these rules. This family alternate care rate is based upon a ongoing assessment of the child's circumstances that necessitate special rates as well as the care provider's ability, activities, and involvement in addressing those special needs. Additional payment will be made as follows: ()

01. Lowest Level of Need. Ninety dollars (\$90) per month for a child requiring a mild degree of care for documented conditions including: ()

- a. Chronic medical problems; ()
- b. Frequent, time-consuming transportation needs; ()
- c. Behaviors requiring extra supervision and control; and ()
- d. Need for preparation for independent living. ()

02. Moderate Level of Need. One hundred fifty dollars (\$150) per month for a child requiring a moderate degree of care for documented conditions including: ()

- a. Ongoing major medical problems; ()
- b. Behaviors that require immediate action or control; and ()
- c. Alcohol or other substance use disorder. ()

03. Highest Level of Need. Two hundred forty dollars (\$240) per month for a child requiring an extraordinary degree of care for documented conditions including: ()

- a. Severe emotional or behavioral disturbance; ()
- b. Severe developmental disability; and ()
- c. Severe physical disability such as quadriplegia. ()

04. Reportable Income. Additional payments for more than ten (10) qualified children received

during any calendar year must be reported as income to the Internal Revenue Service. ()

485. TREATMENT FOSTER CARE.

A family home setting in which treatment foster parents provide twenty-four (24) hour room and board as well as therapeutic services and a high level of supervision. Services provided in treatment foster care are at a more intense level than provided in foster care and at a lower level than provided in residential care. Services may include the following: participation in the development and implementation of the child's treatment plan, behavior modification, community supports, crisis intervention, documentation of services and the child's behavior, participation as a member of a multi-disciplinary team, and transportation. Placement into a treatment foster home for children in the custody of the Department under the purview of the Child Protective Act, is based on the documented needs of the child, the inability of less restrictive settings to meet the child's needs, and the clinical judgement of the Department. ()

01. Qualifications. Prior to being considered for designation and reimbursement as a treatment foster parent, each prospective treatment foster parent must accomplish the following: ()

a. Meet all foster family licensure requirements as set forth in IDAPA 16.06.02, "Child Care Licensing"; ()

b. Complete Department-approved treatment foster care initial training; and ()

c. Provide a minimum of two (2) references in addition to those provided to be licensed to provide foster care. The additional references must be from individuals who have worked with the prospective treatment foster parent. The additional references must verify that the prospective treatment foster parent has: ()

i. Training related to, or experience working with, children or youth with mental illness or behavior disorders; and ()

ii. Demonstrated cooperation and a positive working relationship with families and providers of child welfare or mental health services. ()

02. Continuing Education. Following designation as a treatment foster home, each treatment foster home parent must complete fourteen (14) hours of additional training per year as specified in an agreement developed between the treatment foster parents and the Department. ()

03. Availability. At least one (1) treatment foster parent, in each treatment family home, must be available twenty-four (24) hours a day, seven (7) days a week to respond to the needs of the foster child. ()

04. Payment. The Department will pay treatment foster parents up to one thousand eight hundred (\$1,800) dollars per month, per child, which includes the monthly payment rate specified in Sections 483 and 484 of these rules. The payment will be made to treatment foster parents in accordance with a contract with the Department. The purpose of the contract is to make clear that the treatment foster parents must fulfill the requirements for treatment foster parents under the child's treatment plan referenced in Subsection 485.06 of this rule. ()

05. Payment to Contractors. The Department may also provide treatment foster care through a contract with an agency that is a private provider of treatment foster care. The Department will specify the rate of payment in the contract with the agency. ()

06. Treatment Plan. The treatment foster parent(s) must implement the portions of the Department-approved treatment plan for which they are designated as responsible, for each child in their care. This plan is incorporated as part of the family services plan identified in Section 011.05 of these rules. ()

486. GROUP FOSTER CARE.

Group foster care is for children who generally require more structured activities and discipline than found in a family setting. Examples are intermediate residential treatment, short-term group care, and emancipation homes. ()

01. Referral -- Group Foster Care. Any referral of a child to a group foster care facility where the

Department would be making full or partial payment must be prior authorized by the Child and Family Services Program Manager or designee. ()

02. Placement. Placement is based on the documented service needs of each child and the ability of the group care provider to meet those needs. ()

03. Payment -- Group Foster Care. Payment will be in accordance with the contract authorized by the regional director or division administrator, based on the needs of the children being placed and the services to be provided. ()

487. RESIDENTIAL CARE FACILITIES.

Placement into a residential care facility for children with a severe emotional or behavioral problems is based on the documented needs of the child and the inability of less restrictive settings to meet the child's needs. ()

01. Referral. Any referral of a child to a residential care facility where the Department would be making full or partial payment must be prior authorized by the Child Services and Family Program Manager or designee. ()

02. Payment. When care is purchased from private providers, payment must be made in accordance with a contract authorized by the Child Services and Family Program Manager, based on the needs of each child being placed and the services to be provided. When care is provided in facilities operated by the Department, payment will be arranged in cooperation with Department fiscal officers. ()

488. -- 491. (RESERVED)

492. REIMBURSEMENT IN THE HOME OF A RELATIVE.

Relatives licensed as a foster family must be afforded the opportunity to receive foster care reimbursement for any child(ren) placed in their home through the Department. A relative foster family may choose not to accept a foster care reimbursement and apply for a TAFI grant or provide for the child's care using their own financial resources. ()

493. -- 549. (RESERVED)

CHILD PROTECTION SERVICES
(Sections 550-639)

550. CHILD PROTECTION SERVICES.

Sections 56-204A, 56-204B, 16-1601, 16-1629 and 16-2001, Idaho Code, make the Department an official child protection agency of state government dealing with situations of reported child abuse, neglect, or abandonment. A respectful, non-judgmental approach should be the policy for assessments, especially during the initial contact with the family. Training in communication would include multicultural and diversity issues and interest-based conflict resolution. ()

551. REPORTING ABUSE, NEGLECT, OR ABANDONMENT.

Professionals and other persons identified in Section 16-1605, Idaho Code, have a responsibility to report abuse, neglect, or abandonment and are provided protection for reporters. ()

01. Ministers. Duly ordained ministers of religion are exempt from reporting child abuse, neglect, or abandonment if: ()

a. The church qualifies as tax-exempt under 26. U.S.C. 501(c)(3); ()

b. The confession or confidential communication was made directly to the duly ordained minister of religion; and ()

c. The confession was made in the manner and context that places the duly ordained minister of religion specifically and strictly under a level of confidentiality that is considered inviolate by canon law or church ()

doctrine. ()

02. Health and Welfare Employees. All Department of Health and Welfare personnel are responsible for recognizing and immediately reporting to Child and Family Services or to law enforcement any concern regarding abuse, neglect, or abandonment of a child or children. Failure to report as required by Section 16-1605, Idaho Code, is a misdemeanor. ()

552. REPORTING SYSTEM.

Each region of the Department maintains a system for receiving and responding to reports or complaints on a twenty four (24) hour per day, seven (7) day per week basis throughout the entire region. The region will advertise the system to the public throughout the region and ensure the accurate recording of as many facts as possible at the time of the report. ()

553. ASSIGNING REPORTS FOR SAFETY ASSESSMENT.

The Department must assign all reports of possible abuse, neglect, or abandonment of children for safety assessment, unless the field office has knowledge or information that discredits the report beyond a reasonable doubt. ()

554. RESPONSE PRIORITIES.

The Department must use the following statewide standards for responding to allegations of abuse, neglect, or abandonment, using the determination of risk to the child as the primary criterion. Any variance from these response standards must be documented in the family's case file with a description of action taken, and must be reviewed and signed by the Child and Family Services Supervisor. ()

01. Priority I. The Department must respond immediately if a child is in immediate danger involving a life-threatening or emergency situation. Emergency situations include sexual abuse when a child may have contact with the alleged perpetrator and circumstances indicate a need for immediate response. Law enforcement must be notified and requested to respond or to accompany a family services worker. Every attempt should be made to coordinate the Department's assessment with law enforcement's investigation. The child must be seen by a Department family services worker, law enforcement, and medical personnel if applicable, immediately unless written regional protocol agreements direct otherwise. All allegations of physical abuse of a child through the age of six (6) or with profound developmental disabilities should be considered under Priority I unless there is reason to believe that the child is not in immediate danger. ()

02. Priority II. A child is not in immediate danger but allegations of abuse, including physical or sexual abuse, or serious physical or medical neglect are clearly defined in the referral. Law enforcement must be notified within twenty-four (24) hours. The child must be seen by the family services worker within forty-eight hours (48) of the Department's receipt of the referral. Law enforcement must be notified within twenty-four (24) hours of receipt of all Priority II referrals that involve concerns of abuse, neglect, or abandonment. ()

03. Priority III. A child may be in a vulnerable situation because of services needs which, if left unmet, may result in harm, or a child is without parental care for safety, health and well being. The child and parent(s) or legal guardian(s) will be interviewed for substantiation of the facts, and to assure that there is no abuse, neglect, or abandonment by parent(s) or legal guardian(s). A family services worker must respond within three (3) calendar days and the child must be seen by the worker within five (5) calendar days of the Department's receipt of the referral. ()

04. Notification of the Person Who Made the Referral. The Department must notify the person who made the child protection referral of the receipt of the referral within five (5) days. ()

05. Disclosure of Information to Professionals. The Department has the discretion to disclose, on a need-to-know basis, minimally necessary information to individuals who are professionally involved in the ongoing care of the child who is the subject of a report of abuse, neglect, or abandonment. This includes information that the professional will need to know in order to fulfill their role in maintaining the child's safety and well-being. This provision applies to: ()

- a. Physicians, residents on a hospital staff, interns, and nurses; ()

- b. School teachers, school staff, and day care personnel; and ()
- c. Mental health professionals, including psychologists, counselors, marriage and family therapists, and social workers. ()

555. SUPERVISORY REVIEW - CERTAIN PRIORITY I AND II CASES.

In all Priority I and II cases where the alleged victim of abuse, neglect, or abandonment is through the age of six (6), review by supervisory or team of all case documentation and other facts will be conducted within forty-eight (48) hours of initiation of the safety assessment. Such review will be documented in the file with the signature of the supervisor or team leader, time and date, whether additional safety-related issues will be pursued and by whom, and any planning for initiation of services. ()

556. REPORTS INVOLVING INDIAN CHILDREN.

Possible abuse, neglect, or abandonment of a child who is known or believed to be Indian will be reported to appropriate tribal authorities immediately. If the reported incident occurs off a reservation, the Department will perform the investigation. The Department will also investigate incidents reported on a reservation if requested to do so by appropriate authorities of the tribe. A record of any response will be maintained in the case record and written documentation will be provided to the appropriate tribal authorities. ()

557. REPORTS INVOLVING MILITARY FAMILIES.

Reports of possible child abuse, neglect, or abandonment involving a military family must be reported in accordance with the provisions of any agreement with the appropriate military family advocacy representative, in accordance with the provisions of Section 811 of Public Law 99-145. Child abuse, neglect, or abandonment of a child on a military reservation falls under federal jurisdiction. ()

558. COMMUNITY RESOURCES.

The Department will provide information and referral to community resources or may offer preventative services to the family. Information and referral services enable individuals to gain access to human services through providing accurate, current information on community and Department resources. ()

559. CHILD PROTECTION SAFETY AND COMPREHENSIVE ASSESSMENTS.

The Department's safety and comprehensive assessments must be conducted in a standardized format and utilize statewide assessment and multi-disciplinary team protocols. The assessment must include contact with the child(ren) involved and the immediate family and a records check for history with respect to child protection issues. ()

01. Assessment of a Child. The family services worker must make an assessment of every child of concern. When the child is interviewed as part of a safety and comprehensive assessment, the interview of a child concerning a child protection report must be conducted: ()

a. In a manner that protects all children involved from undergoing any unnecessary traumatic experience, including multiple interviews; ()

b. By a professional with specialized training in using techniques that consider the natural communication modes and developmental stages of children; and ()

c. In a neutral, non-threatening environment, such as a specially equipped interview room, if available. ()

02. Assessment of the Family. The family services worker conducting the interview must: ()

a. Immediately notify the parent(s) or legal guardian(s) of the purpose and nature of the assessment. ()

b. Provide at the initial contact the name and work phone numbers of the family services worker and their supervisor to ensure the family has a contact for questions and concerns that may arise following the visit; ()

- c. Inquire if the family is Indian, or has Indian heritage, for the purposes of ICWA; ()
- d. Interview siblings who are identified as being at risk; and ()
- e. Not divulge the name of the person making the report of child abuse or neglect. ()

03. Collateral Interviews. Any assessment of an abuse or neglect report must include at least one (1) collateral interview with a person who is familiar with the circumstances of the child or children involved. Collateral interviews will be conducted with discretion and preferably with the parent(s)' or legal guardian(s)' permission. ()

04. Completion of a Comprehensive Assessment. A Safety Assessment will be completed on each referral assigned for assessment of abuse or neglect, or both. When safety threats are identified in the safety assessment and the case remains open for services, a comprehensive assessment must be completed. ()

05. Role of Law Enforcement. Section 16-1617, Idaho Code, specifies that the Department may enlist the cooperation of peace officers for phases of the safety assessment for which they have the expertise and responsibility and consistent with the relevant multidisciplinary team protocol. Such areas include: ()

- a. Interviewing the alleged perpetrator; ()
- b. Removing the alleged perpetrator from the child's home in accordance with Section 16-1608(b), Idaho Code, the "Domestic Violence Act"; and ()
- c. Taking a child into custody in accordance with Section 16-1608, Idaho Code, where a child is endangered and prompt removal from their surroundings is necessary to prevent serious physical or mental injury. ()

06. Notification of the Person Who Made the Referral. The Department must notify the person who made the child protection referral when the safety assessment has been completed. ()

560. DISPOSITION OF CHILD PROTECTION REPORTS.

Within five (5) days following completion of safety assessments, the Department will determine whether the reports are substantiated or unsubstantiated. All persons who are the subject of a child protection safety assessment will be notified of the disposition of the assessment. ()

01. Substantiated. Child abuse, neglect, or abandonment reports are substantiated by one (1) or more of the following: ()

- a. Witnessed by a family services worker, as defined in Section 011 of these rules; ()
- b. A court determines, in an adjudicatory hearing, that a child comes within the jurisdiction of the Child Protective Act, Title 16, Chapter 16, Idaho Code; ()
- c. A confession; ()
- d. Corroborated by physical or medical evidence; or ()
- e. Established by evidence that it is more likely than not that abuse, neglect, or abandonment occurred. ()

02. Unsubstantiated. Child abuse, neglect, or abandonment reports are unsubstantiated when they are not found to be substantiated under Subsection 560.01 of this rule. For intradepartmental statistical purposes, the Department will indicate whether the unsubstantiated disposition of the safety assessment was due to: ()

- a. Insufficient evidence; or ()

- b. An erroneous report. ()

561. CHILD PROTECTION CENTRAL REGISTRY.

The Adam Walsh Child Protection and Safety Act of 2006, P.L. 109-248, July 27, 2006, 120 Stat. 587, has directed the states to establish a central registry for the purpose of sharing information about persons who have substantiated reports of abuse, neglect, or abandonment against children. The Child Protection Central Registry was established under the authority of Section 16-1629(3), Idaho Code. The primary purpose of the Child Protection Central Registry is to aid the Department in protecting children and vulnerable adults from individuals who have previously abused, neglected, or abandoned children. The Child Protection Central Registry maintained by the Department is separate and apart from the central registry for convicted sexual offenders maintained by the Idaho State Police under Title 18, Chapter 83, Idaho Code. The Child Protection Central Registry provisions in this chapter of rules apply to safety assessments conducted by the Department after October 1, 2007. ()

562. CONFIDENTIALITY OF THE CHILD PROTECTION CENTRAL REGISTRY AND REQUESTS TO CHECK THE REGISTRY.

01. Confidentiality of Child Protection Central Registry. The names on the Child Protection Central Registry are confidential and may only be released with the written consent of the individual on whom a criminal history and background check is being conducted, unless otherwise required by federal or state law. No information is released regarding the severity or type of child abuse, neglect, or abandonment. ()

02. Child Protection Central Registry Check Fee. The fee for requesting a name-based check of the Child Protection Central Registry is twenty (\$20) dollars. The request must be accompanied with a signed written consent by the individual whose name is being checked. ()

563. LEVELS OF RISK ON THE CHILD PROTECTION CENTRAL REGISTRY.

When an incident of abuse, neglect, or abandonment has been substantiated, a level of risk is assigned to the incident. The level of risk is determined by the severity and type of the abuse, neglect, or abandonment and the potential risk of future harm to a child. The highest level of risk is designated as Level One and the lowest level of risk is Level Three. ()

01. Child Protection Level One. An individual with a Level One designation has been determined to pose a high to severe risk to children. Names of individuals for whom an incident of abuse, neglect, or abandonment has been substantiated for any of the following will remain permanently on the Child Protection Central Registry at Level One. ()

- a. Sexual Abuse as defined in Sections 16-1602(1)(b) and 18-1506, Idaho Code; ()
- b. Sexual Exploitation as defined in Sections 18-1507 and 18-1507A, Idaho Code; ()
- c. Physical abuse as described in Section 16-1602(1)(a), Idaho Code, that causes life-threatening, disabling, or disfiguring injury or damage; ()
- d. Neglect as described in Section 16-1602(31), Idaho Code, that results in life-threatening, disabling, or disfiguring injury or damage; ()
- e. Abandonment as described in Section 16-1602(2), Idaho Code, that results in life-threatening, disabling, or disfiguring injury or damage; ()
- f. Death of a child; ()
- g. Torture of a child as described in Section 18-4001, Idaho Code; ()
- h. Aggravated Circumstances as described in Section 16-1602(6), Idaho Code; or ()
- i. Occurrence of two (2) or more separate, substantiated incidents of abuse, neglect, or abandonment, each of which falls under the circumstances listed under Subsection 563.02 of this rule. ()

02. Child Protection Level Two. An individual with a Level Two designation has been determined to pose a medium to high risk to children and will remain on the Child Protection Central Registry for a minimum of ten (10) years. After the end of the ten-year (10) period, an individual may petition the Department to request their name be removed from the Child Protection Central Registry in accordance with Section 566 of these rules. Names of individuals for whom an incident of abuse, neglect, or abandonment has been substantiated for any of the following will be given the designation of Level Two. ()

a. Prenatal use of any controlled substance as defined under Section 37-2701(e), Idaho Code, except as prescribed by a medical professional; ()

b. Administering or knowingly allowing a child to absorb or ingest one (1) or more controlled substances as defined under Section 37-2701(e), Idaho Code, except in the amount prescribed for the child by a medical professional; ()

c. Child exposed to: ()

i. Drug paraphernalia, as defined in Section 37-2701(n), Idaho Code; ()

ii. Manufacture of controlled substances, as defined under Section 37-2701(e), Idaho Code, and Section 37-2701(s), Idaho Code; or ()

iii. Chemical components used in the manufacture of controlled substances, as defined under Section 37-2701(e), Idaho Code. ()

d. Failure to thrive caused by abuse, neglect, or abandonment, as established by medical evidence; ()

e. Physical abuse as described in Section 16-1602(1)(a), Idaho Code, abandonment as described in Section 16-1602(2), Idaho Code, or neglect as described in Section 16-1602(31), Idaho Code, that results in neither disabling nor disfiguring injury or damage, but may require medical or other treatment; ()

f. The restraint or confinement of a child that poses a substantial risk of causing life-threatening, disabling, or disfiguring injury or damage; ()

g. Medical neglect as described in Section 16-1602(31), Idaho Code, that poses a substantial risk of resulting in life-threatening, disabling, or disfiguring injury or damage; ()

h. Malnutrition as established by medical evidence; or ()

i. Occurrence of two (2) or more separate, substantiated incidents of abuse, neglect, or abandonment, each of which falls under the circumstances listed under Subsection 563.03 of this rule. ()

03. Child Protection Level Three. An individual with a Level Three designation has been determined to pose a mild to medium risk of harm to the health, safety, or well-being of a child. The name of that individual will remain on the Child Protection Central Registry for a minimum of five (5) years. After the end of the five-year (5) period, an individual may petition the Department to request their name be removed from the Child Protection Central Registry in accordance with Section 566 of these rules. Names of individuals for whom an incident of abuse, neglect, or abandonment has been substantiated for any of the following are given the designation of Level Three. ()

a. Lack of supervision; ()

b. Failure to protect from abuse, neglect, or abandonment as described in Section 16-1602, Idaho Code; ()

c. Failure to discharge parental responsibilities described under Section 16-1602(31), Idaho Code; or

()

d. Physical abuse as described in Section 16-1602(1)(a), Idaho Code, or neglect as described in Section 16-1602(31), Idaho Code, that causes minor injuries or damage that does not require medical treatment.

()

564. NOTIFICATION OF A SUBSTANTIATED INCIDENT OF ABUSE, NEGLECT, OR ABANDONMENT, AND RELATED ADMINISTRATIVE REVIEW AND CONTESTED CASE APPEAL RIGHTS.

01. Notification of Substantiated Incident. Prior to placement on the Child Protection Central Registry, the Department will notify by certified mail, return receipt requested, each individual for whom an incident of abuse, neglect, or abandonment has been substantiated. The individual has twenty-eight (28) days from the date on the notification to file a request for an administrative review under the requirements in IDAPA 16.05.03, "Contested Case Proceedings and Declaratory Rulings." The Department's written notice will state:

()

a. The risk level assigned to the incident; ()

b. The basis for the Department's decision; ()

c. The individual's right to request an administrative review by the Department's Family and Community Services (FACS) Division Administrator of the Department's decision; and ()

d. The Department's contact information. ()

02. Administrative Review Not Requested. If the individual does not request an administrative review by the FACS Division Administrator within twenty-eight (28) days from the date on the notification, their name will automatically be entered on the Child Protection Central Registry without further notice or right for appeal.

()

03. Administrative Review Requested. If the individual requests an administrative review by the FACS Division Administrator within twenty-eight (28) days from the date on the notification, the incident will be reviewed by the FACS Division Administrator and a decision will be rendered to either affirm, reverse, or modify, the decision to substantiate the incident of abuse, neglect, or abandonment. The Department will notify the individual of the FACS Division Administrator's decision by mail.

()

04. Reversal of Decision to Substantiate. When the FACS Division Administrator completes the administrative review and reverses the decision to substantiate the incident of abuse, neglect, or abandonment, and determines that the incident is not substantiated, then no further action is required by the individual. The individual's name will not be placed on the Child Protection Central Registry.

()

05. Contested Case Appeal. When the FACS Division Administrator completes the administrative review and affirms the decision to substantiate the incident of abuse, neglect, or abandonment, the individual will be notified by mail that their name has been placed on the Child Protection Central Registry and informed of:

()

a. The basis for the Department's decision; ()

b. The procedures for filing a contested case appeal under IDAPA 16.05.03, "Contested Case Proceedings and Declaratory Rulings," Section 101; ()

c. The procedures for filing a petition for removal from the Child Protection Central Registry after the applicable minimum time has passed under Section 566 of these rules; and ()

d. The Department's contact information. ()

565. PETITION FOR REMOVAL OF AN INDIVIDUAL'S NAME ON THE CHILD PROTECTION CENTRAL REGISTRY PRIOR TO OCTOBER 1, 2007.

After January 1, 2008, an individual whose name was placed on the Child Protection Central Registry prior to October 1, 2007, may file a petition to have their name removed from the registry in accordance with Subsection 566.01 of these rules. The petitioner will be assigned a child protection risk level in accordance with criteria under Section 563 of these rules and the case will be reviewed to determine if it meets the requirements for removal. ()

566. PETITION FOR REMOVAL OF AN INDIVIDUAL'S NAME FROM THE CHILD PROTECTION CENTRAL REGISTRY.

Any individual whose name is on the Child Protection Central Registry and whose required minimum time on the registry has elapsed, may petition the Department to remove their name from the Registry. An individual whose name appears with a Level One designation on the Child Protection Central Registry is not eligible to petition for removal. ()

01. Petition for Removal From the Child Protection Central Registry. Any individual whose name appears on the Child Protection Central Registry with a designation of either Level Two or Level Three, may petition to have their name removed from the Child Protection Central Registry after the minimum period of time has elapsed for the applicable level. The petition must include a written statement from the petitioner to the Department's FACS Division Administrator requesting that the petitioner's name be removed from the Child Protection Central Registry. ()

02. Criteria for Granting Petition for Removal From the Child Protection Central Registry. The petition for removal from the Child Protection Central Registry will be granted if: ()

a. There are no additional substantiated reports on the Child Protection Central Registry or that of other states in which the petitioner has resided since the last substantiated report of abuse, neglect, or abandonment in Idaho; and ()

b. There are no convictions, adjudications, or withheld judgments for any of the crimes listed under Subsection 566.03 of this rule: ()

i. On Idaho's central repository of criminal history records as established and maintained by the Idaho State Police under Title 67, Chapter 30, Idaho Code; or ()

ii. On the criminal history repository of other states in which the petitioner has resided since the last substantiated report of abuse, neglect, or abandonment in Idaho. ()

03. Criminal History Checks. It is the responsibility of the petitioner to request, pay for, and obtain the criminal history checks and submit them to the Department. ()

a. The Department will not remove a petitioner from the Child Protection Central Registry if a criminal history check reveals any of the following, within five (5) years of the receipt of the petition: ()

i. Physical Assault; ()

ii. Battery; or ()

iii. A drug-related offense. ()

b. The Department will not remove a petitioner from the Child Protection Central Registry if a criminal history check reveals any of the following: ()

i. Child abuse or neglect; ()

ii. Spousal abuse; ()

iii. A crime against children, including child pornography; or ()

iv. A crime involving violence, including rape, sexual assault, or homicide, but not including other physical assault or battery. ()

04. Granting or Denying Removal From the Child Protection Central Registry. The Department will issue a letter granting or denying removal of the petitioner's name from the Child Protection Central Registry within twenty-eight (28) days of receipt of the petition. ()

05. Appeal of a Denial of Removal From the Child Protection Central Registry. The individual may appeal the denial of removal of their name from the Child Protection Central Registry under IDAPA 16.05.03, "Contested Cases Proceedings and Declaratory Ruling," Section 101. ()

567. "SAFE HAVEN" EXEMPTION FOR PARENTS OF CERTAIN ABANDONED INFANTS. No disposition will be made on the parent(s) and no information will be entered into the Child Protection Central Registry when a parent(s) relinquishes their infant within the first thirty (30) days of life to a "Safe Haven" according to Title 39, Chapter 82, Idaho Code, Idaho Safe Haven Act. ()

568. COURT-ORDERED CHILD PROTECTION SAFETY ASSESSMENT. When, in any divorce proceeding or upon request for modification of a divorce decree, an allegation of child abuse or child sexual abuse is made, implicating either party, the court may order that an investigation/safety assessment be conducted by the Department. Court orders for preliminary child protective safety assessment and for any subsequent assessment the court may deem necessary will be served on the Department supervisor for child protection services in the field office in which the court has geographical jurisdiction. The child protection supervisor must immediately initiate the safety assessment and consult with the court promptly if there are any obstacles preventing its completion. Immediately upon completing the report, the Department must make a written report to the court. ()

569. PETITION UNDER THE CHILD PROTECTIVE ACT. If any incident of child abuse, neglect, or abandonment is substantiated through a safety or comprehensive assessment, or both, or during the provision of services, and cannot be resolved through informal processes or voluntary agreement that is adequate for protection of the child, the Department will request the prosecuting attorney to file a Child Protective Act petition. ()

570. COOPERATION WITH LAW ENFORCEMENT. The Department will cooperate with law enforcement personnel in their handling of criminal investigations and the filing of criminal proceedings. ()

571. CHILD CUSTODY INVESTIGATIONS FOR THE DISTRICT COURT. Where no other community resources are available and when ordered by the district courts, the Department will, for a fee of thirty-five dollars (\$35) per hour, conduct safety and comprehensive assessments and provide social information to assist the court in child custody actions, to assist the court to determine the most therapeutic placement for the child. ()

01. Requests From Private Attorney. If a parent's attorney requests a safety or comprehensive assessment, or both, and a report of findings regarding the fitness of a parent, the attorney must be advised that such service is provided on behalf of a child but not on behalf of a litigant, and that any such assessment and report would be provided to the court pursuant to a court order. ()

02. Conduct of the Assessment. In conducting the assessment, the family services worker must explain to the family the purpose for which the information is being obtained. If the judge intends to treat the report as evidence, the family must be informed that any information they provide will be brought out at the court hearing. If the family refuses to give information to the family services worker, the Department has no authority to require cooperation. However, the judge may issue an order directing the family to provide information to the family services worker for the purpose of making a report to the court. ()

03. Report to Court. The family services worker will provide a report only to the Magistrate judge who ordered the assessment, and must use the Department's format for the assessment of need. The report must describe what was observed about the home conditions and the care of the child(ren). ()

04. Department Clients. If the family is or has been a client of the Department, disclosure of information must comply with IDAPA 16.05.01, "Use and Disclosure of Department Records." ()

572. -- 699. (RESERVED)

ADOPTION SERVICES
(Sections 700-710)

700. ADOPTION SERVICES POLICY.

Where reasonable efforts to reunite or preserve a family are unsuccessful, or where relinquishment is requested by the parent(s), the Department will consider whether termination of parental rights is in the best interests of the child. The Department must make every effort to place any child legally free for adoption in an appropriate adoptive home. Each child will be placed with an adoptive family who can support the racial, ethnic or cultural identity of the child, and is able to cope with any forms of discrimination the child may experience. ()

701. SERVICES TO BE PROVIDED IN ADOPTIONS.

In addition to the core services provided under these rules, the Department must assure provision of the following: ()

01. Response to Inquiries. Written or personal inquiries from prospective adoptive families must be answered within two (2) weeks. ()

02. Pre-Placement Child/Family Assessment. An assessment of the child's family of origin history, needs as an individual and as part of a family, and completion of a life story book for each child preparing for adoptive placement. ()

03. Compliance with Multi-Ethnic Placement Act and Interethnic Adoption Provisions. Selection of the most appropriate adoptive family consistent with the Multi-Ethnic Placement Act and Interethnic Adoption Provisions, if the child is not an Indian. ()

04. (Pre-Placement) Home Study. An adoptive home study to ensure selection of an appropriate adoptive home. ()

05. Preparation for Placement. Preparation of the child by an assigned social worker who will assist the child in addressing anticipated grief and loss due to separation from their parents and assisting the child with the transition into an adoptive home. ()

06. Technical Assistance. Assistance in completing the legal adoption, including compliance with the Indian Child Welfare Act. ()

07. Adoption Assistance. A determination of eligibility for adoption assistance must be made for each child placed for adoption through the Department prior to the finalization of their adoption. Eligibility for adoption assistance is determined solely on the child's need. No means test may be applied to the adoptive family's income or resources. Once eligibility is established, the Division will negotiate a written agreement with the adoptive family. The agreement must be fully executed by all parties prior to the finalization of the adoption in order to be valid. ()

08. Period of Support Supervision. Once a child is placed with an adoptive family, a period of support and supervision by the Department lasting at least six (6) months must be completed prior to the finalization of the adoption. If the child has been a foster child placed with the family for a period of at least six (6) months, the family may submit a written request to the Department's Child and Family Services Program Manager to reduce the supervisory period to a minimum of three (3) months. ()

09. Post Adoption Services. Services after an adoption is final are provided within available resources. Children with negotiated adoption assistance agreements, whether from Idaho or from another state, are eligible for any services available to Idaho children. International adoptees residing in Idaho are also eligible for any services available to Idaho children under the Inter-Country Adoption of 2000 (P.L.106-279). Children with either IV-

E or state adoption assistance agreements are eligible for Medicaid in Idaho. A referral from an Interstate Compact on Adoption and Medical Assistance member state will serve as a formal application for services in Idaho. Applications for Medicaid are made through the Department in accordance with IDAPA 16.03.01, "Eligibility for Health Care Assistance for Families and Children." ()

702. CONDITIONS FOR GUARDIANSHIP ASSISTANCE.

The following conditions must be met for a child to be eligible for federally-funded or state-funded guardianship assistance. ()

01. Assessment of Suitability. The Department or its contractor will determine the suitability of an individual to become a legal guardian for a specific child or sibling group through a guardianship study. ()

02. Eligibility for Guardianship Assistance. The Department will determine eligibility for guardianship assistance for each child placed in the legal custody of the Department prior to the finalization of the guardianship. The child will first be considered for eligibility for a federally-funded subsidy. Should the child be found ineligible for a federally-funded subsidy, the child will then be considered for a state-funded subsidy. ()

03. Guardianship and Foster Care Licensure. To receive guardianship assistance, a potential legal guardian must apply for and receive a foster care license. ()

04. Guardianship Assistance Agreements and Payments. The Department and the prospective legal guardian must enter into a written agreement prior to the finalization of the guardianship. Benefits may include both a monthly cash payment and Medicaid benefits. The cash payment may not exceed the published foster care rate a child would receive if living in family foster care in Idaho. Eligibility for guardianship assistance is based on the child's needs. No means test may be applied to the prospective legal guardian family's income or resources in a determination of eligibility. The Department will provide the prospective legal guardian with a copy of the agreement. All Guardianship Assistance Agreements must contain the following: ()

a. The amount and manner in which the guardianship assistance payment will be provided to the prospective legal guardian; ()

b. The manner in which the payment may be adjusted periodically in consultation with the legal guardian, based on the circumstances of the legal guardian and the needs of the child; ()

c. Any additional services and assistance for which the child and legal guardian will be eligible under the agreement; ()

d. The procedure by which the legal guardian may apply for additional services; ()

e. A statement that the agreement will remain in effect without regard to the state of residency of the legal guardian; ()

f. The procedure by which the Department will make a mandatory annual evaluation of the need for continued assistance and the amount of the assistance; and ()

g. Guardianship assistance payments are prospective only. There will be no retroactive benefits or payments. ()

h. In Title IV-E Relative Guardianship Assistance Agreements, the prospective relative guardian may identify a successor legal guardian to be appointed guardianship of the child due to the death or incapacitation of the relative legal guardian. ()

05. Termination of Guardianship Assistance. Federally-funded or state-funded guardianship assistance benefits and cash payments are automatically terminated when: ()

a. A court terminates the legal guardianship or removes the legal guardian; ()

b. The child no longer resides in the home of the legal guardian, and the legal guardian no longer provides financial support for the child; ()

c. The child has reached the age of eighteen (18) years, regardless of the child's educational status or physical or developmental delays; or ()

d. The child marries, dies, or enters the military. ()

e. Title IV-E relative guardianship assistance benefits do not end upon the death or incapacitation of the relative legal guardian if the relative legal guardian identified a successor legal guardian in the child's Title IV-E Relative Guardianship Assistance Agreement and the successor legal guardian assumes legal responsibility for the child. ()

06. Administrative Review for Guardianship Assistance. The prospective legal guardian has twenty-eight (28) days from the date of the Department's notification of the guardianship assistance determination, to request an administrative review. The determination will be reviewed by the FACS Division Administrator, and a decision will be rendered to either affirm, reverse, or modify, the decision. The Department will notify the individual, by mail, of the FACS Division Administrator's decision, of their right to appeal, and procedures for filing an appeal according to requirements in IDAPA 16.05.03, "Contested Case Proceedings and Declaratory Rulings." ()

703. FEDERALLY-FUNDED GUARDIANSHIP ASSISTANCE ELIGIBILITY, REQUIREMENTS, AND BENEFITS.

In addition to Section 702 of these rules, the following requirements and benefits are applicable to a federally-funded guardianship assistance for an eligible child and a relative guardian. ()

01. Eligibility. A child is eligible for a federally-funded guardianship if the Department determines the child meets the following: ()

a. Is fourteen (14) years of age, or older, sometime during the consecutive six- (6) month residence with the prospective relative legal guardian as specified in Subsection 703.01.c. of this rule; ()

b. Has been removed from their home under a voluntary placement agreement, or as a result of a judicial determination that continuation in the home would be contrary to the welfare of the child; ()

c. Being returned home or adopted are not appropriate permanency options for the child; ()

d. Has been eligible for Title IV-E foster care maintenance payments during at least six (6) consecutive months during which the child resided in the home of the prospective relative legal guardian who was licensed or approved as meeting the licensure requirements as a foster family home. While it is not required that Title IV-E foster care maintenance payments have been paid on behalf of the child during the six-month timeframe, it is required the child meet all Title IV-E foster care maintenance payment eligibility criteria in the home of the fully licensed or approved relative foster parent for a consecutive six- (6) month period to be eligible for Title IV-E guardianship assistance payment with that prospective relative legal guardian; ()

e. Has been consulted regarding the legal guardianship arrangement; and ()

f. Has demonstrated a strong attachment to the prospective relative legal guardian, and the relative legal guardian has a strong commitment to caring permanently for the child. ()

g. When a successor legal guardian has been named in the child's most recent Title IV-E Relative Guardianship Assistance Agreement, the child remains eligible for guardianship assistance benefits upon the death or incapacitation of the relative legal guardian with any cash assistance paid to the successor legal guardian. ()

02. Siblings of an Eligible Child. ()

a. The Department may make guardianship assistance payments in accordance with a guardianship assistance agreement on behalf of each sibling of an eligible child, under the age of eighteen (18), who is placed with

the same relative under the same legal guardianship arrangement if the Department and the relative legal guardian agree that the placement is appropriate. ()

b. Nonrecurring expenses associated with obtaining legal guardianship of the eligible child's siblings are available to the extent the total cost does not exceed two thousand dollars (\$2,000). ()

c. The agency is not required to place siblings with the relative legal guardian of the child at the same time with the eligible child for the siblings to qualify for a cash payment. ()

d. A sibling of the eligible child does not have to meet the eligibility criteria for the relative legal guardian to receive a guardianship assistance payment or for the relative legal guardian to receive nonrecurring expenses. ()

03. Medicaid. A child who is eligible for federally-funded relative guardianship assistance is eligible for Title XIX Medicaid in the state where the child resides. ()

04. Case Plan Requirements. A child who is eligible for federally-funded relative guardianship assistance must have a case plan that includes: ()

a. How the child meets the eligibility requirements; ()

b. Steps the agency has taken to determine that return to the home or adoption is not appropriate; ()

c. The efforts the agency has made to discuss adoption with the child's relative foster parent and the reason why adoption is not an option; ()

d. The efforts the agency has made to discuss the legal guardianship and the guardianship assistance with the child's parent or parents, or the reason the efforts were not made; ()

e. The reason why a permanent placement with a prospective relative legal guardian and receipt of a guardianship assistance payment is in the child's best interests; and ()

f. If the child is not placed with siblings, a statement as to why the child is separated from their siblings. ()

05. Criminal History and Background Checks. To be eligible for a federally-funded guardianship assistance payment, all prospective legal guardians and other adult members of the household must receive a criminal history and background check clearance, according to the provisions in IDAPA 16.05.06, "Criminal History and Background Checks." As a licensed foster parent, if the prospective relative legal guardian has already received a clearance, another check is not necessary. ()

06. Nonrecurring Expenses. The Department will reimburse the cost, up to two thousand dollars (\$2,000), of nonrecurring expenses associated with obtaining a federally-funded legal guardianship for an eligible child. ()

704. STATE-FUNDED GUARDIANSHIP ASSISTANCE ELIGIBILITY, REQUIREMENT, AND BENEFITS.

In addition to Section 702 of these rules, the following requirements and benefits are applicable to a state-funded guardianship assistance for an eligible child and their legal guardian. ()

01. Eligibility for State-Funded Guardianship Assistance. A child is eligible for a state-funded guardianship assistance if the Department determines the child meets the following: ()

a. Assistance is based on the child's identified needs; ()

b. The child's parents have had their parental rights legally terminated; and ()

c. There is documentation of unsuccessful efforts to place the child for adoption. ()

02. Limitations on State-Funded Guardianship Assistance. State-funded guardianship assistance is subject to state appropriations and availability of state general funds. ()

03. Medicaid Benefits Under State-Funded Guardianship Assistance. State-funded guardianship assistance may include Medicaid benefits for the child(ren) receiving payment. These Medicaid benefits may only be used in Idaho. If the legal guardian moves to another state, they will be required to apply for Medicaid for the child(ren) in the new state of residency. ()

04. Nonrecurring Expenses. In cases where state-funded guardianship assistance is being considered, if the potential legal guardian is not able to afford the attorney and court costs to obtain legal guardianship of a child in the legal custody of the Department of Health and Welfare, financial assistance may be available from the Department. Financial assistance for legal fees may be provided regardless of the legal guardian's state of residence. ()

705. -- 709. (RESERVED)

710. FAMILY HISTORY.

If the family case plan is termination of parental rights and adoption is considered a part of the total planning for the child, the following information will be obtained and placed in the child's permanent adoption record: ()

01. Informational Forms. Informational background forms regarding the birth mother, birth father, and the child. ()

02. Hospital Records. Hospital birth records on child. ()

03. Evaluations/Assessments. Evaluations/Assessments previously completed on child. ()

04. Current Picture. Current picture of child. ()

05. Narrative Social History. Child and family's narrative social history that addresses: ()

a. Family dynamics and history; ()

b. Child's current functioning and behaviors; ()

c. Interests, talents, abilities, strengths; ()

d. Child's cultural and racial identity needs. The ability to meet the cultural and racial needs of the child does not necessitate a family have the same culture or race as the child; ()

e. Life story, moves, reasons, key people; ()

f. Child's attachments to current caretakers, siblings and significant others; i.e., special friends, teachers, etc.; ()

g. Medical, developmental and educational needs; ()

h. Child's history, past experiences, and previous trauma; ()

i. Membership or eligibility for membership in, and social and cultural contacts with parent's tribe, if any, including names and addresses of extended family; ()

j. Indian child's Indian ancestry; ()

- k. Individualized recommendations regarding each child's need for permanency; and ()
- l. Reasons for requesting termination of parental rights. ()

TERMINATION OF PARENT-CHILD RELATIONSHIP
(Sections 711-749)

711. DECISION AND APPROVAL PROCESS FOR TERMINATION OF PARENT AND CHILD RELATIONSHIP (TPR).

Any recommendation to the Child and Family Services Program Manager regarding the termination of parental rights will be based on the outcome of a team decision-making process and must receive written approval by the program manager before a petition may be filed. ()

712. -- 713. (RESERVED)

714. VOLUNTARY TERMINATION.

The Department becomes involved in voluntary terminations when a parent(s) requests the Department to place their special needs child or children for adoption and when voluntary termination is a goal in the family case plan. Parent(s) requesting placement of a potentially healthy unborn or healthy newborn child should be referred to the licensed private adoption agencies in Idaho. ()

715. VOLUNTARY CONSENT.

In obtaining a parent's consent to terminate their parental rights through the Department, a Consent to Terminate Parental Rights and Waiver of Rights to Hearing must be signed before the Magistrate Judge. Once a parent's consent has been given before the court, a corresponding petition under the Termination of Parent and Child Relationship Act will be filed by legal counsel representing the Department. ()

716. VOLUNTARY TERMINATION OF PARENTAL RIGHTS TO AN INDIAN CHILD.

Consent to voluntary termination of parental rights by the parent(s) or Indian custodian(s) of an Indian child is not valid unless executed in writing and recorded before a court of competent jurisdiction, which may be a tribal court. The written consent must be accompanied by the presiding judge's certificate that: ()

01. Explanation of Consent. The terms and consequences of the consent were fully explained in detail and were fully understood by the parent(s) or Indian custodian(s); and ()

02. Interpretation If Necessary. The parent(s) or Indian custodian(s) fully understood the explanation in English or it was interpreted into a language the parent(s) or Indian custodian(s) understood. ()

717. FILING OF PETITION FOR VOLUNTARY TERMINATION.

The petition for a voluntary termination of parental rights may be filed by an authorized agency, by the guardian(s) of the person or the legal custodian of the child or the person standing in loco parentis to the child, or by any other person having a legitimate interest in the matter. ()

718. REPORT TO COURT -- VOLUNTARY TERMINATION.

If a voluntary consent to termination has been signed by the parent(s) before the Magistrate Court, an investigation or Report to the Court under the Termination Act is at the court's discretion. If the petition has been filed by the Department of Health and Welfare, Division of Family and Community Services, a report is required to accompany the petition, under Section 16-2008(2), Idaho Code. ()

719. INVESTIGATION.

An investigation of the allegations in the petition and a report recommending disposition of the petition under the Termination of Parent and Child Relationship Act will be completed and submitted to the court within thirty (30) days, unless an extension of time is granted by the court. The purpose of this investigation is to verify the allegations through all available sources, including the petitioner, parent(s) and possibly the extended family of the child. The Report to the Court under the Termination of Parent and Child Relationship Act, is to serve as an aid to the court in determining a disposition that complies with the Indian Child Welfare Act where applicable, or that will be in the best interest of the child. If a petition is filed by a party other than the Department, the court may order such an

investigation by the Department. The law also allows completion of an investigation by an authorized agency or a certified adoption professional, prior to adjudication and disposition. If the Department is the petitioner, the report will accompany the petition. Reports submitted under the Termination of Parent and Child Relationship Act based on a parent's voluntary consent will include: ()

01. Description of Investigation. The circumstances of the petition and the facts determined from the investigation; and ()

02. Child-Related Factors. Child related factors, including: ()

a. Child's current functioning and behaviors; ()

b. Medical, educational and developmental needs of the child; ()

c. Child's history and past experiences; ()

d. Child's identity needs; ()

e. Child's interests and talents; ()

f. Child's attachments to current caretakers and any absent parent; ()

g. Child's current living situation; ()

h. Indian child's membership or eligibility for membership in tribe(s); ()

i. Indian child's contacts with tribe(s); ()

j. The present circumstances, history, condition and desire of the parent whose rights are being terminated regarding plans for the child; ()

k. Such other facts as may be pertinent to the parent and child relationship and this particular case; i.e., compliance with Interstate Compact Placement on Children; and ()

l. A recommendation and reasons as to whether or not the termination of the parent and child relationship should be granted. ()

720. FILING OF A PETITION FOR INVOLUNTARY TERMINATION OF PARENT AND CHILD RELATIONSHIP.

Unless there are compelling reasons it would not be in the interest of the child, the Department is required to file a Petition to Terminate the Parent and Child Relationship within sixty (60) days of a judicial determination that one (1) or more of the following has occurred: ()

01. Abandonment. An infant has been abandoned; ()

02. Reasonable Efforts to Reunify the Family Are Not Required. That reasonable efforts, as defined in Section 16-1610(2)(i)(iii), Idaho Code, are not required because the court determines the parent(s) has subjected a child or children to aggravated circumstances. ()

721. REPORT TO THE COURT -- INVOLUNTARY TERMINATION.

If a petition for an involuntary termination of parental rights has been brought before the Magistrate Court, an investigation or report to the court under the Termination Act is required. If the petition has been filed by the Department, a report is required under Section 16-2008(2), Idaho Code. Reports submitted under the Termination Act based on an involuntary termination of parental rights must include: ()

01. Allegations. The allegations contained in the petition. ()

- 02. Investigation.** The process of the assessment and investigation. ()
- 03. Family Circumstances.** The present condition of the child and parent(s), especially the circumstances of the parent(s) whose rights are being terminated and contact with the parent(s) of a minor parent, unless lack of contact is explained. ()
- 04. Medical Information.** The information forms regarding the child, birth mother, and birth father will be submitted with the Report to the Court. Reasonably known or available medical and genetic information regarding both birth parents and source of such information, as well as reasonably known or available providers of medical care and services to the birth parents. ()
- 05. Efforts to Maintain Family.** Other facts that pertain to the parent and child relationship including what reasonable efforts have been made to keep the child with the family, or what active efforts to prevent the breakup of the Indian family have been made. ()
- 06. Absent Parent.** Reasonable efforts made by the petitioner to locate an absent parent(s) and provision of notification to an unmarried father of the paternity registry requirement under Section 16-1513, Idaho Code. ()
- 07. Planning.** Proposed plans for the child consistent with: ()
- a.** The Indian Child Welfare Act, including potential for placement with the Indian child's extended family, other members of the Indian child's tribe, or other Indian families; and ()
- b.** The Adoption and Safe Families Act of 1997, which prohibits states from delaying or denying cross-jurisdictional adoptive placements with an approved family, and requires individualized documentation regarding the child's needs in permanent placement. ()
- 08. Compliance with the Indian Child Welfare Act.** Documentation of compliance with the Indian Child Welfare Act, including identification of whether the child is Indian and if so: ()
- a.** Notification of the pending proceedings to the parent(s) or Indian custodian(s) and the Indian child's tribe, or to the Secretary of the Interior if their identity or location is unknown according to Section 051 of these rules; ()
- b.** Notification of the right of the parent(s) or Indian custodian(s), and the Indian child's tribe, to intervene in the proceeding and their right to be granted up to twenty (20) additional days to prepare for the proceeding; ()
- c.** Notification that if the court determines indigency, the parent(s) or Indian custodian(s) have the right to court-appointed counsel; ()
- d.** Evidence, including identity and qualifications of expert witnesses, that continued custody of the child by the parent(s) or Indian custodian(s) is likely to result in serious emotional or physical damage to the child; ()
- 09. Termination of Parent-Child Relationship.** ()
- a.** A recommendation and the reasons whether or not termination of the parent and child relationship is in the best interest of the child; and ()
- b.** Upon the court's written decision to terminate parental rights, two certified copies of the "Findings of Fact, Conclusions of Law and Decree" are to be placed in the child's permanent record. ()

722. -- 749. (RESERVED)

BECOMING AN ADOPTIVE PARENT
(Sections 750-850)

750. APPLICATION TO BE ADOPTIVE PARENT(S).

Each field office is responsible for compiling the names and addresses of adoptive applicant(s), along with the dates of inquiry and membership in an Indian tribe, if any. A database or register must be maintained in order to assure the orderly completion of home studies. ()

01. Initial Application. Each adoptive applicant must: ()

a. Cooperate with and allow the Department, or certified adoption professional, to determine compliance with these rules to conduct an adoption home study; ()

b. Inform the Department, or certified adoption professional, if the applicant has previously applied to become a foster or adoptive parent, is currently licensed as a foster parent, or has been involved in the care and supervision of children or adults; ()

c. Provide a medical statement for each applicant, signed by a qualified medical professional, within the twelve (12) months period prior to application for adoption, indicating the applicant is in such physical and mental health so as to not adversely affect either the health or quality of care of the adopted child; ()

d. Provide the name of, and a signed release to obtain the following information about, each member of the household: ()

i. Admission to, or release from, a facility, hospital, or institution for the treatment of an emotional, intellectual, or substance abuse issue; ()

ii. Outpatient counseling, treatment, or therapy for an emotional, intellectual, or substance abuse issue. ()

e. Provide three (3) satisfactory references, one (1) of which may be from a person related to the applicant. Each applicant must provide additional references upon the request of the Department or certified adoption professional; ()

f. All applicants for adoption and other adult members of the household must comply with the provisions in IDAPA 16.05.06, "Criminal History and Background Checks" and IDAPA 16.06.02, "Child Care Licensing," Section 404. ()

02. Psychological Evaluation. An evaluation by a psychologist or a psychiatrist can be required by the family services worker or certified adoption professional when an applicant has received or is currently receiving treatment for psychological problems or mental illness or when the family services worker, or certified adoption professional, in consultation with their supervisor, determines that there appear to be emotional problems in the family that merit further evaluation. ()

03. Orientation of Potential Applicants. Initial meetings with groups of applicants, or with individual families, must be scheduled promptly by the Department or the certified adoption professional, whichever received the inquiry and initial application from the family. These initial meetings must be used to explain policies and procedures regarding adoptive placement, the kinds of children available, and the nature of the home study. ()

04. Denial of Application. Following an initial interview, an applicant who does not appear to meet the Department's requirements at the time of initial application may be denied a full home study. The family will be advised why they were ineligible for a full home study and notice provided to the applicant of their right to appeal this decision. Upon resolution of the factors leading to the denial, the applicant may again file an application and receive a home study. ()

05. Application for Subsequent Adoptions. Following the finalization of an adoption, a family may apply to be considered for another placement. ()

a. Adoptive parents who have experienced a successful adoption and wish to reapply must complete an adoption application and financial statement, complete a Criminal History and Background Check, and submit medical reports and three (3) personal references. One (1) reference may be from a person related to the applicant. When requested by the Department, an applicant must provide additional references. ()

b. The prospective adoptive family will assist in amending the original adoption study to include information concerning the acceptance and adjustment of the child previously placed in the home and their request for another placement. ()

c. Prospective adoptive parent(s) applying for subsequent adoption with an agency with whom they have maintained a foster care license since their previous adoption may have the requirement for a new Criminal History and Background Check, medical reports and personal references waived by the agency. ()

751. -- 761. (RESERVED)

762. COMPLETING THE ADOPTION HOME STUDY.

Upon application by a potential adoptive family, the family services worker or certified adoption professional will conduct the pre-placement adoptive home study and issue a recommendation. The home study must be completed prior to placement of any child for adoption in that home. ()

01. Interviews. Family assessment interviews as well as individual interviews must be held with the prospective adoptive parent(s). ()

02. Content. Adoption home studies for foster care, special needs, independent, relative, and step-parent adoptions must include an assessment of the following: ()

a. Names, including maiden or other names used by the applicant(s); ()

b. Legal verification that the person(s) adopting is at least fifteen (15) years older than the child, or twenty-five (25) years of age or older, except in cases where the adopting person is a spouse of the child's parent, must be accomplished by: ()

i. Viewing a certified copy of the birth certificate filed with the Bureau of Vital Statistics; or ()

ii. Viewing one (1) of the following documents for which a birth certificate was presumably required prior to its issuance, such as: armed services or other governmental identification, including a valid Idaho driver's license, passport, visa, alien identification cards, or naturalization papers. ()

iii. If verifying documentation is not available, the report must indicate the date and place of birth and reason for lack of verification. ()

c. Verification that the family has resided and maintained a dwelling within the State of Idaho for at least six (6) consecutive months prior to the filing of the petition; ()

d. Adequacy of the family's house, property, and neighborhood for the purpose of providing adoptive care as determined by on-site observations; ()

e. Educational background of the applicant(s); ()

f. A statement of employment, family income, and financial resources, including access to health and life insurance and the family's management of these resources; ()

g. Current and historical mental illness, drug or alcohol abuse, and medical conditions and how they may impact the adoptive parent(s) ability to care for an adopted child; ()

h. Previous criminal convictions and history of child abuse and neglect; ()

- i. Family history, including childhood experience and the applicant(s) parents' methods of discipline and problem-solving; ()
- j. Verification of marriages and divorces; ()
- k. Decision-making, communication, and roles within the marital relationship, if applicable; ()
- l. The names, ages, and addresses of all biological and adopted children currently residing inside or outside the home. Information regarding the current adjustment and special needs of the applicant(s) children; ()
- m. The religious and cultural practices of the family, including their ability to nurture and validate a child's particular cultural, racial, religious, and ethnic background; ()
- n. For an Indian child, the study will also determine the prevailing social and cultural standards of the Indian community in which the parent(s) or extended family resides or maintains social and cultural ties. ()
- o. Individual and family functioning including inter-relationships with each member of the household and the family's ability to help a child integrate into the family; ()
- p. Activities, interests, and hobbies; ()
- q. Child care and parenting skills, including historical and current methods of discipline used in the home; ()
- r. Reasons for applying for adoption; ()
- s. The family's prior and current experiences with adoption, understanding of adoption, and ability to form relationships and bond with a specific child or general description of children; ()
- t. The attitudes toward adoption by immediate and extended members of the family and other persons who reside in the home; ()
- u. Specifications of the child preferred by the family that include the number of children, age, gender, race, ethnic background, social, emotional, and educational characteristics. The family's ability to accept the behavior and personality of a specific child (if known) or general description of children and their ability to meet the child's particular educational, developmental, and psychological needs; ()
- v. Emotional stability and maturity in dealing with the needs, challenges, and related issues associated with the placement of a child into the applicant(s) home; ()
- w. The family's attitude about an adopted child's birth family including: ()
 - i. Their ability to accept a child's background and help the child cope with their past; and ()
 - ii. Their willingness to work with the child's family or tribe; ()
- x. Training needs of the applicant(s); and ()
- y. A recommendation regarding the family's ability to provide adoptive care to a specific child (if known) or general description of children. ()

763. PRE-ADOPTIVE PARENT RESPONSIBILITIES.

The pre-adoptive parent is responsible to keep the agency or Certified Adoption Professional that completed the home study informed of any changes in the family's circumstances, or of any subsequent decision against adoption. ()

764. ADOPTIVE HOME STUDY.

An adoption home study is valid for the purposes of new adoptive placement for a period of one (1) year following the date of completion. Upon completion of an adoptive placement agreement, an adoption home study remains valid for a period of two (2) years from the date of completion for the purpose of finalizing the adoption of the child(ren) for whom the adoptive placement agreement was written. ()

765. -- 769. (RESERVED)

770. CLOSURE OF ADOPTIVE HOME STUDIES.

Upon pre-adoptive placement of a child or children in the home of a pre-adoptive parent, the parent's adoption home study closes for the placement of an additional child or children for the purpose of adoption until a home study update is completed. ()

771. HOME STUDY UPDATE.

An adoptive home study must be updated on an annual basis. A current home study is defined as a home study completed within the previous twelve (12) months. Home study updates must include the following: ()

01. Initial Adoption Home Study and Subsequent Home Study Updates. All Changes to the Information Contained in the Initial Adoption Home Study and Subsequent Home Study Updates. ()

02. Family Functioning and Inter-Relationships. All Information on any Changes in Family Functioning and Inter-Relationships. ()

03. Circumstances Adversely Impacting Child Placed for Adoption. Any Information Regarding Circumstances Within the Family that may Adversely Impact a Child Placed for Adoption. ()

04. A Home Study Update Completed for the Purpose of Adoptive Placement of an Additional Child or Children in the Home. A home study update completed for the purpose of adoptive placement of an additional child or children in the home where a child or children are already placed for adoption and that adoption has not yet finalized must include agreement for the placement of the additional child or children by the individual or agency responsible for the placement of the initial child or children, and the individual or agency responsible for the additional child or children. ()

772. -- 789. (RESERVED)

790. FOSTER PARENT ADOPTIONS.

The procedure and requirements are the same for all adoptive applicants. This includes foster parents who want to be considered as adoptive parents for a child who has a plan of adoption. These requirements include compliance with the Indian Child Welfare Act, the Multi-Ethnic Placement Act of 1994 and the Interethnic Adoption Provisions of 1996. ()

791. -- 799. (RESERVED)

800. PLACEMENT OF THE CHILD.

Adoptive placement of a child in the custody or guardianship of the Department will be determined as follows: ()

01. Factors to be Considered in Determining Suitability of Adoptive Placements. ()

a. For an Indian child, absent good cause to the contrary, the following preferences for placement under the Indian Child Welfare Act must be followed: ()

i. Extended family; ()

ii. Other members of the child's tribe; or ()

iii. Other Indian families. ()

b. The primary factor in the review of a prospective adoptive family’s eligibility is the ability to protect and promote the best interests of a child to be placed in their home. ()

c. The Department will not delay or deny the placement of a child with an approved family that is located outside of the jurisdiction responsible for the care and planning for the child. ()

02. Selection of Adoptive Placement. The adoptive placement of a child in the custody or legal guardianship of the Department will be selected using a committee process of no less than three (3) individuals and be approved by a field program manager as described by the practice standards of the Department. ()

03. Disclosure. The field office must provide full confidential background information and discuss the child’s history fully with the prospective adoptive parent(s) prior to the placement. The disclosure of background information must be confirmed at the time of placement by a written statement from the family services worker to the prospective adoptive family, which they will be asked to acknowledge and sign. A copy of this statement must be provided to the adoptive family and one (1) copy will be kept in the child’s permanent record. ()

801. -- 829. (RESERVED)

830. ADOPTION APPLICATION FEE.

The adoption application fee covers the costs of processing the adoption application and does not guarantee that the applicant family will receive a child for adoption. The application fee is non-refundable. Money collected through the Department’s adoption program may be utilized to pay state adoption assistance payments for children with special needs and pay the service fees, recruitment costs, and placement fees for private agencies serving children who have special needs. ()

831. HOME STUDY, SUPERVISORY REPORTS, AND REPORTS OF THE COURT FEES.

A family who cares for a child, or children, with special needs who is in the custody of the Department is not required to pay the costs of the Department adoption services identified in Section 832 of these rules for the adoption of that child, or children. A relative or kin family being considered by the Department for adoption of a child from foster care who is their relative or kin, is not required to pay the costs referenced in Section 832 of these rules. If a family who did not pay the fee uses that home study to pursue adoption of a child not in the Department’s custody, the family must pay the Department for the full cost of the study and any other applicable fees identified in Section 832 of these rules. ()

832. FEE SCHEDULE - ADOPTIONS THROUGH DEPARTMENT.

TABLE 832	
Service	Fee
General Information/Adoption Inquiries	No Charge
Health and Welfare Application:	
Couple	\$50
Single Parent	\$25
Second Placement or Reapplication	\$25
Pre-placement Home Study - Payment due at time of study or per agreement	\$450
Report to Court under the Adoption Act	\$150
Second Placement	\$150
Placement Supervision Fee - Charged at the time of placement	\$300
Closed Adoption Home Study/Court Report Retrieval Fee	\$50

TABLE 832	
Service	Fee
Report to the Court Under the Termination Act	\$40 per hour

()

833. PLACEMENT SUPERVISION -- TRANSFER FROM OUT OF STATE PRIVATE AGENCY.

When a prospective adoptive parent(s) moves to Idaho, with a child who has been placed with them by a private agency in their former state of residency, the sending state agency must arrange through the Interstate Compact on the Placement of Children, services through one of Idaho's private, licensed adoption agencies, or a certified adoption professional. ()

834. -- 849. (RESERVED)

850. INDEPENDENT, RELATIVE AND STEPPARENT ADOPTIONS.

Independent adoptive placements are handled under Section 16-1506, Idaho Code. ()

851. -- 859. (RESERVED)

**THE ADOPTIVE PLACEMENT
(Sections 860-888)**

860. PROCEDURES FOLLOWING THE ADOPTIVE PLACEMENT.

Following the adoptive placement, a period of support and supervision by the Department lasting at least six (6) months must be completed prior to the finalization of the adoption. In situations where a foster family has a significant relationship with a child and the child has been placed in their home for at least the last six (6) months, the supervisory period may be reduced to a minimum of three (3) months. The family services worker will make scheduled visits to the home at least monthly during this period to assist the child and the family in their adjustment to each other and will update the child's permanent record by means of monthly progress reports. When completion of the adoption is recommended by the field office and approved by the Permanency Program Specialist, the Department will request the prospective adoptive parent(s) contact their attorney. The regional family services worker will provide the attorney with the necessary documentation to file the petition for adoption. ()

861. PROGRESS REPORTS.

Progress reports will be prepared regularly and will be based on the family services worker's or certified adoption professional's findings. ()

01. Initial and Subsequent Reports. Progress reports must be made at intervals not to exceed thirty (30) days. These reports will include the family services worker's or certified adoption professional's observation of each child and the prospective adopting parent(s), with emphasis on: ()

- a. Special needs, special circumstances, or both, of each child at time of placement; ()
- b. Services provided to each child and the family during the report period; ()
- c. Services to be provided to each child and the family; ()
- d. General appearance and adjustment of each child during the report period (may include eating, sleep patterns, responsiveness, bonding); ()
- e. Adjustment of each child to all of the following that apply: school, daycare, and day treatment program; ()
- f. Health and developmental progress, and medical practitioner information for each child;

- ()
- g. Whether each child has been accepted for coverage on the family's medical insurance, when coverage begins, and whether there will be any limitations, exclusions, or both; ()
- h. Family's adjustment to adoptive placement; ()
- i. Adoption assistance negotiation; ()
- j. Changes in family situation or circumstances; ()
- k. Areas of concern during the report period as addressed by each child and the adoptive parent(s); and ()
- l. The date of the next required six (6) month review or twelve (12) month permanency hearing. ()

02. Monthly Foster Care Payments -- Pre-Adoptive Placement. To receive Title IV-E monthly foster care payments during the period pending completion of adoption, the prospective adoptive parent(s) must have a foster care license. ()

862. PETITION TO ADOPT UNDER THE ADOPTION OF CHILDREN ACT.

01. Filing a Petition. When the family and the child who was placed for adoption in that home are ready to finalize the adoption, the family's attorney files a petition to adopt with the court. A copy of that petition is served upon the director of the Department. Upon receipt of a copy of the petition to adopt, the family services worker, licensed children's adoption agency worker or certified adoption professional verifies the allegations set forth in the petition and make a thorough investigation of the matter and report the findings in writing to the court within thirty (30) days. ()

02. Registration and Acknowledgment. Upon receipt of the petition to adopt, the field office registers the petition and acknowledge receipt to the court and to the petitioner(s) or private adoption agency. If the licensed adoption agency or certified adoption professional who completed the pre-placement home study is not identified, the information should be obtained from the petitioner(s)' attorney. The register will indicate the date the petition was received, the date the study is due in court, the date the completed study was sent to the court, whether an Indian child is involved, and other pertinent data. ()

863. INVESTIGATION OF PETITION TO ADOPT AND REPORT TO THE COURT.

According to Section 16-1506, Idaho Code, an investigation regarding the allegations stated in the petition and subsequent written report of findings must be filed with the court unless the investigation is waived by order of the court. The prospective adoptive family's pre-placement home study will be filed at the same time as the written report of investigation. If the family services worker, licensed child placing agency staff, or certified adoption professional is unable to complete the study within thirty (30) days, an extension of time must be requested in writing of the court, stating the reasons for the request. If the worker has reason to believe that the child may be an Indian child and the child's tribe or the Secretary of the Interior has not received written Notice of Pending Proceedings, the worker must inform the court and the petitioner's attorney and the independent agency of the need to comply with the Indian Child Welfare Act. This adoption report to the court must address the following: ()

01. Legal Availability of the Child. It is the responsibility of the petitioners, through their attorney, to present documentary evidence to the court so the judge can examine it and be satisfied that the identity, birthdate, and parentage of the child are as represented in the petition. The family services worker or certified adoption professional will interview the family and any other person(s) having knowledge in the matter, review all documentary evidence presented by the petitioner(s), record the information and source of the information, noting any discrepancies. Such documentary evidence must include the following: ()

- a. The birth certificate of the child; ()

b. The consent(s) of the child's parent(s) to terminate their parental rights, termination decrees for any parent(s) whose parental rights have been terminated involuntarily by the court, and documentation of marriage and divorce; ()

c. If the child is an Indian child, a copy of the Notice of Pending Proceedings for Termination of Parental Rights, and the return receipts showing that the notice was received by the Indian child's parent(s) or Indian custodian(s), and the child's tribe; ()

d. Consent to adoption has been secured for all persons from whom it is required, including a legal guardian(s), to make the child legally available for adoption; ()

e. The death certificate of a deceased parent; ()

f. Verification from the Bureau of Vital Statistics of the registry of any putative father; and ()

g. The Interstate Compact on the Placement of Children Form 100-A, for a child born outside of the state of Idaho, to determine if required state authorizations have been given, or if the Compact does not apply. ()

02. Needs of the Child. The report to the court must address the needs of the child, including but: ()

a. The history of the child and the child's birth family; ()

b. The family history for a child who has been previously adopted, should include information about the child's previous adoptive family and the circumstances of the disruption; ()

c. A detailed description of the circumstances that brought about the placement with the prospective adoptive family; ()

d. The state of Idaho Social, Medical, and Genetic History forms must be completed and submitted to the court, showing reasonably known or available medical and genetic information regarding both birth parents and the child, as well as reasonably known or available providers of medical care and services to birth parents and child; and ()

e. The appropriateness of the prospective adoptive family for the particular child or children who are the subject of the petition. ()

03. Degree of Relationship of the Child to Petitioners. In those cases where the court has ordered an investigation of petitions to adopt by relatives or step parents, the study must record such alleged relationship and specify the documentary evidence the petitioners have of that relationship. ()

04. Evaluation and Recommendation. The family services worker or certified adoption professional must provide a brief summary of data presented in prior sections and the pre-placement home study, supporting the recommendation regarding the adoption. ()

05. Medical Information. A copy of medical and genetic information compiled in the investigation must be made available to the prospective adoptive family by the family services worker or certified adoption professional prior to the final order of adoption. ()

06. Confidentiality of Information. The family services worker must exercise caution in discussing identifying information and avoid revealing that information in the petition while attempting to secure the necessary facts for the study. ()

07. Financial Accounting. A financial accounting must be approved by the court of any financial assistance given to the birth parent(s) that exceeds five hundred dollars (\$500), in accordance with Section 18-1511, Idaho Code. ()

864. -- 869. (RESERVED)

870. REMOVAL OF A CHILD FROM A PROSPECTIVE ADOPTIVE HOME.

Despite careful assessment of the child and the family prior to placement, circumstances may arise that make it necessary to remove the child from the prospective adoptive home prior to adoption. The child may manifest problems the family is unable to accept or to handle constructively; or changed circumstances may develop that make it inadvisable for the placement to continue. The final decision to remove a child from a prospective adoptive home will be made by the Department as the legal guardian of the child. ()

871. TEMPORARY REPLACEMENT AFTER DISRUPTION.

When a disruption occurs and it becomes necessary to remove a child from a prospective adoptive home, the field office where the child has been placed is responsible for finding a temporary arrangement for the child until another permanent placement can be arranged. In the case of the adoption of an Indian child, the consent of the parent(s) may be withdrawn for any reason at any time prior to the entry of a final decree of adoption, and the child returned to the parent(s). ()

872. -- 880. (RESERVED)

881. CLOSURE OF CASE.

The family services worker must request from the adopting parent(s)' attorney, a certified copy of the final order of adoption, and a copy of the family service worker's executed consent to adoption taken at the time of the adoption finalization. These documents are necessary to close the adoption file and initiate the child's adoption assistance benefits. ()

882. RECORDS OF PLACEMENT.

Upon finalization of the adoption, the complete record from the local field office, regarding the child and family will be requested by the State Adoption Program Specialist for permanent storage. Records of adoption involving Indian children must be forwarded by the State Adoption Program Specialist to the Secretary of the Interior. ()

883. POST-LEGAL ADOPTION SERVICES.

Upon finalization of the adoption, the Department can offer post-legal adoption services upon request, including case management services, referrals for counseling or other supportive services. ()

884. OPENING SEALED RECORDS OF ADOPTIONS.

In addition to the exceptions noted in Section 16-1511, Idaho Code, a sealed adoption proceedings may be opened in the following circumstances according to the Indian Child Welfare Act: ()

01. Motion of an Indian Individual. Upon motion of an Indian individual who has reached the age of eighteen (18) and was the subject of an adoption, the court must provide tribal affiliation, if any, of the individual's biological parent(s) and other information necessary to protect any rights flowing from the individual's tribal relationship. ()

02. Request From the Secretary of the Interior or the Indian Child's Tribe. Upon request of the Secretary of the Interior or the Indian child's tribe, evidence of efforts to comply with the Indian Child Welfare Act must be made available to the parties requesting such information. ()

885. -- 888. (RESERVED)

CERTIFIED ADOPTION PROFESSIONAL
(Sections 889-899)

889. CERTIFIED ADOPTION PROFESSIONAL REQUIREMENTS.

An applicant requesting to become a Certified Adoption Professional must meet the following criteria: ()

01. College Degree. A minimum of a bachelor's degree in a field deemed related to adoptions by the Department's Child and Family Services Program, such as social work, psychology, family counseling or other

related behavioral science; ()

02. Adoption Training. Must have completed a minimum of twenty (20) hours of training in adoption services within the last four (4) years; ()

03. Department Criminal History and Background Clearance. Must complete a Department criminal history and background check in accordance with IDAPA 16.05.06, "Criminal History and Background Checks," and receive a clearance; ()

04. License. A current license to practice social work in the state of Idaho; ()

05. Experience. A minimum of two (2) years experience as a paid full-time employee providing adoption services with a licensed private or public children's agency; ()

06. References. Three (3) satisfactory references, one (1) of which must be from a previous employer for whom the applicant worked providing adoption services; ()

07. Insurance. Verification of malpractice insurance that will provide coverage for the applicant's work as a certified adoption professional; and ()

08. Application Fee. An application fee of one hundred dollars (\$100) to be reimbursed, less a twenty-five dollar (\$25) processing fee, in the event the application is denied. ()

890. TERMS OF CERTIFICATION FOR ADOPTION PROFESSIONALS.

01. Certification. Certification for adoption professionals will be completed through the Division of Family and Community Services and will be effective for a period of two (2) years. ()

02. Types of Certification. Certified adoption professionals may be certified for any, some, or all of the following services: ()

a. Adoption home studies for families seeking domestic infant adoption. ()

b. Adoption home studies for families seeking domestic special needs adoption. ()

c. Adoption home studies for families seeking step-parent or relative adoption. ()

d. Court ordered investigations for termination of parental rights for domestic private or independent adoptions. ()

e. Court reports for domestic private or independent adoptions. ()

f. Supervision of adoptive placements for domestic private or independent adoptions. ()

03. Limits of Certification. Certified adoption professionals may not provide the following services: ()

a. Birth parent education or counseling. ()

b. Services related to international adoption. ()

04. Recertification. Certified adoption professionals must apply for renewal of their certificate every two (2) years and must provide the following: ()

a. Documentation of ten (10) hours of adoption training taken during the previous two (2) years; ()

- b. Verification of malpractice insurance; ()
- c. A satisfactory recommendation from the Division of Family and Community Services designee responsible for the review of the certified adoption professional's work; ()
- d. Satisfactory recommendations from a minimum of two (2) families for whom the certified adoption professional has provided adoption services during the previous two (2) years; and ()
- e. A certification fee of one hundred dollars (\$100) to be reimbursed, less a twenty-five dollar (\$25) processing fee, in the event the recertification is denied. ()

05. Lapse of Certification. If a certified adoption professional does not apply for recertification within two (2) years in accordance with Subsection 890.04 of this rule, this will result in a lapse of certification. Any lapse in certification will require completion of a new certified adoption professional application, documentation of ten (10) hours of adoption training during the two (2) years previous to this new application, and a new criminal history and background check. ()

a. If the individual applying for certification has received a Department criminal history and background check clearance within three (3) years of the date of this application and has not lived outside the state of Idaho since their last criminal history and background check, all of the following must be conducted and no disqualifying crimes or appearance on a registry found: ()

- i. A name-based background check by the Idaho State Police; ()
- ii. A check of the Idaho Child Protection Central Registry; ()
- iii. A check of the Idaho Adult Protection Registry; and ()
- iv. A check of the Idaho Sexual Offender Registry. ()

b. If the individual has lived outside the state of Idaho for any amount of time during the three (3) years since the previous Department criminal history and background check clearance was completed, they must get a new Department criminal history and background check clearance. ()

06. Denial of Recertification. The Department may choose not to recertify a certified adoption professional. Notification of denial will be made by the Department by certified mail. The notice will state the specific grounds for denial of recertification. This decision may be appealed within twenty-eight (28) days of receipt of notification under the provisions in IDAPA 16.05.03, "Contested Case Proceedings and Declaratory Rulings." Grounds for denial of recertification are one (1) or more of the following: ()

- a. Substandard quality of work following the development of a quality improvement plan; ()
- b. Failure to gain ten (10) additional hours of adoption continuing education required for recertification; or ()
- c. A demonstrated pattern of negligence or incompetence in performing the duties of a certified adoption professional. ()
- d. Failure to maintain malpractice insurance; ()
- e. Failure to maintain a license to practice social work in the state of Idaho. This requirement does not apply to a certified adoption professional who has maintained their initial certification that occurred prior to July 1, 2012. ()

07. Decertification. A certified adoption professional can be decertified by the Department at any time during a two (2) year period of certification. Notification of decertification will be made by the Department by certified mail. The notice will state the specific grounds for decertification. This decision may be appealed within

twenty-eight (28) days of receipt of notification under the provisions in IDAPA 16.05.03, "Contested Case Proceedings and Declaratory Rulings." Grounds for decertification are one (1) or more of the following: ()

- a. Conviction for a felony; ()
- b. Negligence in carrying out the duties of a certified adoption professional; ()
- c. Misrepresentation of facts regarding their qualifications or the qualifications of a prospective adoptive family to adopt, or both; ()
- d. Failure to obtain Departmental review and approval of pre-placement homestudies and court reports or placement supervision reports, or both, on more than one (1) occasion; ()
- e. Failure to maintain malpractice insurance; ()
- f. Suspension or loss of a license to practice social work in Idaho; or ()
- g. Practice as a certified adoption professional outside the scope of the certification. ()

891. CERTIFIED ADOPTION PROFESSIONAL'S CLIENT RELATIONSHIP.

A certified adoption professional may not assume a legal relationship with any child for whom they have been contracted to perform services and may not provide services for anyone with whom they have had a personal or professional relationship during the previous two (2) years. ()

892. MINIMUM STANDARDS FOR SERVICE.

A certified adoption professional must meet the following service requirements: ()

01. Description of Services Available. A written description of services will be provided to families by the certified adoption professional before any work is completed. The description of services must include information regarding Department oversight of the certified adoption professional and any limitations related to the use of the completed home study; ()

02. Education. Provision of, or referral to, educational resources to adoptive applicants requesting non-relative adoption; ()

03. Content. Standards for pre-placement home studies, home study updates, court reports, and supervisory reports must, at a minimum, meet the standards for adoption services established by the Department in these rules; ()

04. Release of Information. A written release of information that gives consent to the exchange of information between the certified adoption professional and Child and Family Services must be obtained from a family that receives services from a certified adoption professional; and ()

05. Disclosure of Non-Identifying Information. When providing adoption supervision or adoption finalization court report services, the certified adoption professional must provide disclosure of all known non-identifying information about the child, the child's birth parents, and the circumstances leading to the decision to place the child for adoption. ()

893. RECORDS OF THE CERTIFIED ADOPTION PROFESSIONAL.

Records of the pre-placement home studies, court reports, and supervisory reports provided by the certified adoption professional must be made available to the Division of Family and Community Services designee two (2) weeks prior to the required court filing date. The designee will be responsible for monitoring of quality of the services provided. ()

894. FEES CHARGED BY THE DEPARTMENT.

Monitoring fees will accompany the submission of each report and be paid directly to the Department through the Division of Family and Community Services as follows:

Table 894 - Qualified Individuals	
Home Study or Court Report	\$50
Supervision Report or Home Study Update	\$30

()

895. DEPARTMENT RESPONSIBILITY TO CERTIFIED ADOPTION PROFESSIONAL.

The Division of Family and Community Services is responsible for:

()

- a. Reviewing and responding to submitted reports within five (5) business days; ()
- b. Initiation of corrective action plans when the documentation of a certified adoption professional is determined to be incorrect or substandard; and ()
- c. Dissemination of information to certified adoption professionals that may impact provided services. ()

896. -- 899. (RESERVED)

**ADOPTION ASSISTANCE
(Sections 900-999)**

900. ADOPTION ASSISTANCE.

The purpose of the adoption assistance program is to encourage the legal adoption of children with special needs who would not be able to have the security of a permanent home without support payments. Applications are made through the Division of Family and Community Services, Resource Development Unit for a determination of eligibility. Once an application for adoption assistance is submitted to the Division of Family and Community Services, the Division will respond with a determination of the child's eligibility within forty-five (45) days. ()

01. Determination of Eligibility for Title IV-E Adoption Assistance. Child and Family Services will determine whether a child is a child with special needs. Children applying for adoption assistance benefits must meet Idaho's definition of a child with special needs according to Section 473 (c) of P.L. 96-272 (The Adoption Assistance and Child Welfare Act of 1980). There are five (5) ways a child can be eligible for Title IV-E adoption assistance: ()

a. Child is Aid to Families with Dependent Children (AFDC) eligible, is in the custody or care of the public child welfare agency or an Indian tribe with whom the state has a IV-E agreement and meets the definition of a child with special needs. For children whose adoption assistance eligibility is based on the child's AFDC eligibility, the child must meet the AFDC criteria at the time of removal from their home. ()

i. If the child is removed from their home in accordance with the first judicial determination, such determination must indicate that it was contrary to the welfare of the child to remain in the home. ()

ii. If the child is removed from the home in accordance with a voluntary out-of-home placement agreement, the child must receive at least one (1) Title IV-E foster care payment to be eligible for Title IV-E adoption assistance. ()

b. Child is eligible for Supplemental Security Income (SSI) benefits and meets the definition of a child with special needs. ()

i. A child is eligible for adoption assistance if, at the time the adoption petition is filed, the child has met the requirements for Title XVI (SSI) benefits; ()

ii. The circumstances of a child's removal from their home or whether the public child welfare agency has responsibility for the child's placement and care are not relevant. ()

c. Child has been voluntarily relinquished to a private non-profit adoption agency and meets the definition of a child with special needs. ()

i. The child must meet the requirements, or would have met the requirements, of the AFDC program as such sections were in effect on July 16, 1996, in or for the month in which the relinquishment occurred, or court proceedings were held that led to the removal of the child from their home; ()

ii. At the time of the voluntary relinquishment, the court must make a judicial determination that it would be contrary to the welfare of the child for the child to remain in the home. ()

d. Child is eligible for Title IV-E adoption assistance as a child of a minor parent and at the time of the adoption petition the child meets the definition of a child with special needs. ()

i. The child's parent is in foster care and receiving Title IV-E foster care maintenance payments that cover both the minor parent and child at the time the adoption petition is filed; and ()

ii. The child continues to reside in the foster home with their minor parent until the adoption petition has been filed. If the child and minor parent have been separated in foster care prior to the time of the adoption petition, the child's eligibility for Title IV-E adoption assistance must be determined based on the child's current and individual circumstances. ()

e. Child is eligible due to prior Title IV-E adoption assistance eligibility and meets the definition of a child with special needs. ()

i. A child whose adoption later dissolves or the adoptive parent(s) die, may continue to be eligible for Title IV-E adoption assistance in a subsequent adoption. ()

ii. The subsequent adoption of a child may be arranged through an independent adoption, private agency, or state agency. ()

iii. No needs or eligibility redetermination is to be made upon a subsequent adoption. The child's need and eligibility remain unchanged from what they were prior to the initial adoption. ()

iv. It is the responsibility of the placing state to determine whether the child meets the definition of special needs and to pay the subsidy in a subsequent adoption. ()

02. Special Needs Criteria. The definition of special needs includes the following factors: ()

a. The child cannot or should not be returned to the home of the parents as evidenced by an order from a court of competent jurisdiction terminating parents rights or its equivalent; and ()

b. The child has a physical, mental, emotional, or medical disability, or is at risk of developing such disability based on the child's experience of documented physical, emotional, or sexual abuse, or neglect; or ()

c. The child's age makes it difficult to find an adoptive home; or ()

d. The child is being placed for adoption with at least one (1) sibling; and ()

e. The State must make a reasonable but unsuccessful effort to place the child with special needs without a subsidy, except in cases where it is not in the best interests of the child due to their significant emotional ties with the foster parent(s) or relative(s) who are willing to adopt the child. ()

03. Determination of Eligibility for State Funded Adoption Assistance. Children in state custody who meet the special needs criteria found in Subsection 900.02 of these rules and do not meet any of the criteria for

Title IV-E adoption assistance found at Subsection 900.01 in these rules, may be eligible for state-funded adoption assistance benefits. If the child is determined ineligible for Title IV-E adoption assistance, the application will be evaluated for a state-funded subsidy. ()

04. Interjurisdictional Adoptions. When a child's adoption is arranged through the care and placement of a private non-profit adoption agency in another state and the adoptive family are residents of Idaho, the state of Idaho is responsible for the eligibility determination, negotiation, and payment of any subsequent Title IV-E adoption assistance benefits. ()

05. International Adoptions and Adoption Assistance. A child who meets the criteria for special needs under Subsection 900.02 of this rule, who is not a citizen or resident of the United States, and who was adopted outside of the United States or was brought into the United States for the purpose of being adopted, is not eligible to receive adoption assistance. This restriction does not prohibit adoption assistance payments for a child described in this Subsection who is placed in foster care subsequent to the failure, as determined by the State, of the initial adoption of the child by the adoptive parents. ()

901. ATTEMPT TO PLACE WITHOUT ADOPTION ASSISTANCE.

The Department is required to attempt to place all children for adoption without adoption assistance. However, all adoptive families are entitled to full information and disclosure regarding the adoption assistance program. Once the most suitable family is located for the child, the family will be informed of the needs and history of the child and asked if they can adopt the child without adoption assistance. If the family indicates that they need adoption assistance, the Department will begin the process of determining the amount and type of benefits for the child. ()

902. -- 909. (RESERVED)

910. TYPES AND AMOUNTS OF ASSISTANCE.

The needs of the child and the family, including any other children in the family, will be considered in determining the amount and type of support to be provided. Assistance may include the following: ()

01. Nonrecurring Adoption Reimbursement. Payment for certain one-time expenses necessary to finalize the adoption may be paid when a family adopts a special needs child. The child's eligibility must be determined and the contract for reimbursement must be fully executed prior to the finalization of the adoption. The reimbursement is paid only after the adoption finalizes. ()

a. The expenses are defined as reasonable and necessary adoption fees, court costs, attorney fees, and other expenses that are directly related to the legal adoption finalization of a child with special needs and which are not incurred in violation of state or federal law. They may include mileage and lodging involved in visiting the child before placement occurs. These expenses cannot be reimbursed if they are paid for the adoptive parents by other sources such as an employer. ()

b. Documentation of expenses must be submitted. ()

c. Costs are reimbursable up to two thousand dollars (\$2,000) per child and are entered on the Adoption Assistance Program Agreement. ()

d. Children for whom the adoption has been finalized without a negotiated Nonrecurring Expenses Reimbursement Agreement are not eligible to apply for these benefits. ()

02. Monthly Cash Payment. Financial assistance in the form of a monthly cash payment may be established to assist the adoptive family in meeting the additional expenses of the child's special needs. The amount of the payment must be negotiated with the family by the adoption worker and based on the family's circumstances and what additional resources are needed to incorporate the child into the adoptive family. ()

a. The amount must not exceed the rate for family foster care found in Subsections 483 and 484 of these rules, which would be made if the child were in a family foster home in Idaho. ()

b. Payments received for treatment foster care, gifts, clothing, and school fees are not considered part of the family foster care rate. ()

c. For children who meet the definition of special needs at Subsection 900.02 of these rules, no monthly cash payment is allowable until such time as the specific disability for which the child is known to be at risk becomes evident. ()

d. For children who are currently eligible for Personal Care Services (PCS), the treatment foster care rate of up to a maximum of one thousand dollars (\$1,000) per month may be used in negotiating the adoption assistance upon prior approval of the Department's Family and Community Services (FACS) Division Administrator. ()

e. Benefits will continue until the child reaches eighteen (18) years, based upon an annual determination of continuing need. ()

03. Title XIX -- Medicaid Coverage. Any child with special needs who has an adoption assistance agreement in effect is also eligible for medical coverage. ()

a. A Title IV-E adoption assistance agreement provides Medicaid coverage in the state of Idaho and in all other states. Under a state-funded adoption assistance agreement, a child living in Idaho is eligible for Medicaid. If the family moves to another state, Medicaid may or may not be available. If Medicaid is not available in the new state, provisions for medical coverage must be contained in the adoption assistance agreement or in an amendment to the agreement. ()

b. Families enrolled in a group health plan who plan to request to use Medicaid as the child's primary health care coverage must apply to the Idaho Health Insurance Premium Payment (HIP) program at the time of benefit negotiation. Medicaid provides secondary coverage after the family's health insurance has reached its benefit limit. ()

c. All services reimbursed by Medicaid must be determined to be medically necessary. ()

d. Prior authorization may be required for some Medicaid reimbursable services. ()

e. Medicaid benefits are available until the child reaches the age of eighteen (18), based upon an annual determination of continuing need. ()

04. Title XX -- Social Services. Any child with special needs who has an Adoption Assistance Agreement is also eligible for state-authorized Title XX - Federal Social Services Block Grant funded services. ()

911. ADOPTION ASSISTANCE PROGRAM AGREEMENT.

A written agreement must be negotiated and fully executed between the Department and adopting family prior to the finalization of adoption and implementation of benefits. ()

01. Agreement Specifications. The agreement specifies the following: ()

a. The type and amount of assistance to be provided; ()

b. That there will be an annual review of each agreement by the Department to evaluate the need for continued subsidy and the amount of the subsidy; ()

c. That the agreed upon type and amount of assistance may be adjusted only with the concurrence of the adoptive parent(s) based upon changes in the needs of the child or changes in the circumstances of the adoptive family; ()

d. That the adoptive parent(s) are required to inform the Department of any circumstances that would make them ineligible for adoption assistance payments, or eligible for adoption assistance payments in a different

amount. ()

02. Termination of Adoption Assistance. Adoption assistance will be terminated if the adoptive parent(s) no longer have legal responsibility for the child as a result of termination of parental rights, the child is no longer receiving any financial support from the parents, or the child has reached the age of eighteen (18) years regardless of the child's educational status. ()

03. Adoption Assistance Follows the Child. If the adoptive parents are located in a state other than Idaho, or move out of Idaho with the child, the adoption assistance payments initiated by Idaho will continue for the child. If the child is IV-E or state-funded adoption assistance eligible, referral for Medicaid or other state medical insurance and social service benefits will be forwarded to the new state of residence through the Interstate Compact on Adoption and Medical Assistance. Non IV-E eligible children receiving a state adoption subsidy, may not be eligible for Medicaid in a state other than Idaho. ()

912. -- 919. (RESERVED)

920. REQUEST FOR RECONSIDERATION FOR ADOPTION ASSISTANCE.

Families who adopted a child, or children with special needs on or after April 1, 1982, through either the Department or a licensed Idaho children's adoption agency, may be eligible for benefits through the Adoption Assistance program. Persons who adopted their relative children, may also be eligible for these adoption assistance benefits. ()

01. Adoption Assistance Agreement. Per Public Law 96-272, the adoptive family must sign an adoption assistance agreement prior to the finalization of the adoption in order for the child to receive benefits. Adoptive families who were not informed of these benefits or who were wrongly denied these benefits may submit an application to the Department prior to the eighteenth birthday of the adopted child for a determination of eligibility for these benefits. ()

02. Eligibility Determination. The Division of Family and Community Services determines eligibility based on the eligibility factors determining a special needs child that were in effect at the time of the child's adoption. ()

a. If the IV-E eligibility determination finds that a child was eligible for these benefits at the time of the child's adoption, and an agreement was not signed prior to the finalization, the Department is required to deny benefits to the child, since no contract was in effect at the time of the adoption finalization. ()

b. The adoptive family may request a fair hearing for adoption assistance IV-E eligibility determination. ()

i. The determinations to be made at this hearing are whether extenuating circumstances exist or whether the family was wrongly denied eligibility, or both. ()

ii. The Division of Family and Community Services may not change its eligibility determination for a child eligible for IV-E adoption assistance benefits and provide adoption assistance based on extenuating circumstances without obtaining a favorable ruling from a fair hearing officer. ()

921. BURDEN OF PROOF -- EXTENUATING CIRCUMSTANCES.

The family has the burden of proving extenuating circumstances at the fair hearing, although, if the state agency is in agreement that the family had erroneously been denied benefits, the agency may provide such facts to the family or present corroborating facts on behalf of the family to the fair hearing officer. Once the hearing officer rules in favor of a family that extenuating circumstance exist and that the child is eligible for IV-E adoption assistance benefits, the agency must negotiate an agreement with the adoptive family consistent with these rules. ()

922. RETROACTIVE ADOPTION ASSISTANCE BENEFITS.

The Department of Health and Welfare, Division of Family and Community Services may negotiate retroactive adoption assistance benefits for a maximum of twenty-four (24) months from the date of adoption assistance application, identified in Section 920 of these rules. ()

923. DISRUPTION OF INTERNATIONAL ADOPTIONS.

The Intercountry Adoption Act of 2000 (P.L. 106-279) requires that each state make an annual report of children who were adopted from other countries who enter state guardianship as a result of termination of the parental rights of the adoptive parent and the dissolution of the adoption. The report will include the name of the agency who handled the placement or the adoption, the plans for the child, and the reasons for the disruption or dissolution. Each region will collect this information and send it to the Department's Permanency Program Specialist in January of each year.

()

924. -- 999. (REERVED)

16.06.02 – CHILD CARE LICENSING

000. LEGAL AUTHORITY.

Under Sections 39-1107, 39-1111, 39-1207, 39-1209, 39-1210, 39-1211, 39-1213, 56-1003, 56-1004A, 56-1005(8), and 56-1007, Idaho Code, the Idaho Legislature authorizes the Department of Health and Welfare and the Board of Health and Welfare to adopt and enforce rules governing standards and procedures for licensing daycare centers, group daycare facilities, family daycare homes, foster homes, children’s agencies, children’s residential care facilities, children’s camps, and children’s therapeutic outdoor programs that are maintained or operated within Idaho. ()

001. TITLE, SCOPE, POLICY, PURPOSE, EXCEPTIONS, AND EXEMPTIONS TO LICENSING.

01. Title. These rules are titled IDAPA 16.06.02, “Child Care Licensing.” ()

02. Scope. These rules establish minimum standards and procedures for licensing, maintaining, and operating the following facilities or programs within Idaho: ()

a. Daycare centers; ()

b. Group daycare facilities; ()

c. Family daycare homes, voluntarily; ()

d. Foster homes; ()

e. Children’s agencies; ()

f. Children’s residential care facilities, including non-accredited residential schools; ()

g. Children’s camps providing child care for any one (1) child for more than nine (9) consecutive weeks in any one (1) year period; ()

h. Children's therapeutic outdoor programs; ()

i. Alcohol-drug abuse treatment facilities for adolescents certified according to IDAPA 16.07.17, “Substance Use Disorders Services”; and ()

j. Facilities specializing in maternity care for minors. ()

03. Policy. It is the policy of the Department to assure that children of this state receive adequate substitute parental care in the event of absence, temporary or permanent inability of parents to provide care and protection for their children or the parents are seeking alternative twenty-four (24) hour long-term care for their children. This policy is based on the fact that children are vulnerable and not capable of protecting themselves. When parents, for any reason have relinquished their children’s care to others, there arises the possibility of certain risks to those children’s lives, health and safety which the community as a whole must protect against. This requires the offsetting statutory protection of review and, in certain instances, licensing or registration. ()

04. Purpose. The Department issues a license to assure, as is reasonably practicable, that the care, services, and physical surroundings of each program or facility are in substantial compliance with these rules and minimum standards. ()

a. According to Section 39-1117, Idaho Code, a daycare license does not constitute a representation affirming to any person that the program or facility is free from risk. A daycare license does not guarantee adequacy of care, services, safety, or the well-being of any child, staff, contractor, volunteer, or visitor of a daycare facility. It is the parent’s primary responsibility for evaluation and selection of daycare services. ()

b. The state, its employees or agents of the state or its political subdivisions, will not be liable for nor will a cause of action exist for any loss or damage based upon the failure of any daycare facility to meet the minimum standards contained in these rules. ()

05. Exceptions and Exemptions to Daycare Licensing. Under Section 39-1103, Idaho Code, the minimum standards and licensing requirements in these rules do not apply to: ()

a. Daycare facilities regulated, licensed, or certified by a city or county in accordance with local options under Section 39-1108, Idaho Code; ()

b. The occasional or irregular care of a neighbor's, relative's, or friend's child or children by a person not ordinarily in the business of providing daycare; ()

c. The operation of a private school or religious school for educational purposes for children over four (4) years of age, or a religious kindergarten; ()

d. The provision of occasional care exclusively for children of parents who are simultaneously in the same building; ()

e. The operation of day camps, programs and religious schools for less than twelve (12) weeks during a calendar year or not more often than once a week; or ()

f. The provision of care for children of a family within the second degree of relationship as defined in Section 011 of these rules. ()

06. Exceptions and Exemptions to Child Care Licensing. Under Sections 39-1206, 39-1213(b), and 39-1211, Idaho Code, the minimum standards and licensing requirements in these rules do not apply to: ()

a. Foster homes that have been approved by a licensed children's agency provided the standards for approval by such agency are no less restrictive than the rules and standards established by the Board and that such agency is maintained, operated, and conforms with these rules and standards; ()

b. The occasional or irregular care of a neighbor's, relative's, or friend's child or children by a person not ordinarily engaged in child care; or ()

c. Children's camps which only provide child care for any one (1) child for less than nine (9) consecutive weeks in any one (1) year period. A children's camp which provides child care for any one (1) child for more than nine (9) consecutive weeks in any one (1) year period constitutes a children's residential care facility and is subject to the minimum standards and licensing requirements in these rules. ()

002. INCORPORATION BY REFERENCE.
The following documents are incorporated by reference in this chapter of rules. ()

01. Occupational Safety Health Act (OSHA). A copy of OSHA may be obtained at the Idaho Industrial Commission, 317 Main Street., P.O. Box 83720, Boise, Idaho, 83720-0041. ()

02. Crib Safety. Consumer Product Safety Commission, Crib Safety Tips can be found on the Internet at <https://www.cpsc.gov/Regulations-Laws--Standards/Rulemaking/Final-and-Proposed-Rules/Full-Size-Cribs>. ()

003. -- 008. (RESERVED)

009. CRIMINAL HISTORY AND BACKGROUND CHECK REQUIREMENTS.

01. Compliance with Department Criminal History and Background Check. Criminal history and background checks are required for individuals who are licensed under these rules. Individuals who are required to have a criminal history check must comply with IDAPA 16.05.06, "Criminal History and Background Checks," with the exception of those individuals described in Subsection 009.04 of this rule. ()

02. When License is Granted. The applicant must have a completed criminal history and background check, including clearance, prior to licensure. Any other adult living in the home must complete a criminal history application, must be fingerprinted, and must not have any disqualifying crimes listed in IDAPA 16.05.06, "Criminal History and Background Checks." ()

03. Individuals Subject to Criminal History Check Requirements. The following individuals must receive a criminal history and background check clearance prior to licensure: ()

a. Adoptive Parents. The criminal history and background check requirements applicable to adoptive parents are found in Subsection 671.02 of these rules. ()

b. Child Care Facility Staff. The criminal history and background check requirements applicable to a child care facility are found in Section 109 of these rules. ()

c. Children's Agency Facility Staff. The criminal history and background check requirements for a children's agency facility are found in Section 109 of these rules and in Section 39-1210(10), Idaho Code. ()

d. Children's Residential Care Facility and Children's Camp Staff. The criminal history and background check requirements for a children's residential care facility or children's camp are found in Section 109 of these rules and in Section 39-1210(10), Idaho Code. ()

e. Children's Therapeutic Outdoor Program Staff. The criminal history and background check requirements for a children's therapeutic outdoor program are found in Section 810 of these rules and in Section 39-1208(8), Idaho Code. ()

f. Daycare Center, Group Daycare Facility, and Family Day Care Home. The criminal history and background check requirements applicable to a daycare center, group daycare facility, and family daycare home are found in Section 309 of these rules and in Sections 39-1105, 39-1113, and 39-1114, Idaho Code. ()

g. Licensed Foster Care Home. The criminal history and background check requirements applicable to licensed foster care are found in Section 404 of these rules and in Section 39-1211(4), Idaho Code. ()

04. Exceptions to Criminal History and Background Checks for Certain Youths. Criminal history and background checks are optional for certain youth placed in licensed foster homes and licensed residential care facilities. ()

a. Youth in foster care who reach the age of eighteen (18) and continue to reside in the same licensed foster home. ()

b. Youth in a children's residential care facility who reach the age of eighteen (18) and continue to live in the same licensed residential facility. ()

05. Criminal History and Background Check at Any Time. The Department can require a criminal history and background check at any time on any individual who: ()

a. Is a resident or an adult living in a licensed foster home; ()

b. Is a resident or adult living in, employee, contractor, volunteer, or staff member of a licensed residential facility; or ()

c. Is an owner, operator, or staff of a daycare center, group daycare facility, family daycare home, and all other individuals who are thirteen (13) years of age or older who have unsupervised direct contact with children or who are regularly on the premises. ()

010. DEFINITIONS A THROUGH M. For the purposes of these rules, the following terms apply. ()

01. Accredited Residential School. A residential school for any number of children subject to the jurisdiction of the Idaho Department of Education that has been certified as accredited according to the accrediting standards promulgated by the Idaho State Board of Education or a secular or religious accrediting association recognized by the Idaho Department of Education. ()

- 02. Alcohol-Drug Abuse Treatment Facility.** A children’s residential care facility specializing in providing programs of treatment for children whose primary problem is alcohol or drug abuse, certified according to IDAPA 16.07.17, “Substance Use Disorders Services.” ()
- 03. Attendance.** For requirements of Title 39, Chapter 11, Idaho Code, and Sections 300 through 399 of these rules, “attendance” means the number of children present at a daycare facility at any given time. ()
- 04. Board.** The Idaho State Board of Health and Welfare. ()
- 05. Chief Administrator.** The duly authorized representative of an organization responsible for day-to-day operations, management and compliance with these rules and Title 39, Chapter 12, Idaho Code. ()
- 06. Child.** ()
- a.** For requirements of Title 39, Chapter 12, Idaho Code, and Sections 400 through 999 of these rules, “child” means an individual less than eighteen (18) years of age, synonymous with juvenile or minor. ()
- b.** For requirements of Title 39, Chapter 11, Idaho Code, and Sections 300 through 399 of these rules, “child” means an individual less than thirteen (13) years of age. ()
- 07. Child Care.** The care, control, supervision or maintenance of children for twenty-four (24) hours a day which is provided as an alternative to parental care. ()
- 08. Child-Staff Ratio.** “Child-staff ratio” means the maximum number of children allowed under the care and supervision of one (1) staff person. ()
- 09. Children's Agency.** A person who operates a business for the placement of children in foster homes, children's residential care facilities or for adoption in a permanent home and who does not provide child care as part of that business. A children’s agency does not include a licensed attorney or physician assisting or providing natural and adoptive parents with legal services or medical services necessary to initiate and complete adoptive placements. ()
- 10. Children's Camp.** A program of child care at a location away from the child’s home, which is primarily recreational and includes the overnight accommodation of the child and is not intended to provide treatment, therapy or rehabilitation for the child. A children’s camp which only provides child care for any one (1) child for less than nine (9) consecutive weeks in any one (1) year period is exempt from the licensure and disclosure provisions of this chapter. A children’s camp which provides child care for any one (1) child for more than nine (9) consecutive weeks in any one (1) year period constitutes a children’s residential care facility. ()
- 11. Children's Institution.** A person defined herein, who operates a residential facility for unrelated children, for the purpose of providing child care. Children’s institutions include foster homes, children's residential care facilities, maternity homes, or any residential facility providing treatment, therapy or rehabilitation for children, or any children's therapeutic outdoor program. ()
- 12. Children's Residential Care Facility.** A facility that provides residential child care, excluding foster homes, residential schools, juvenile detention centers and children's camps that: ()
- a.** Seeks, receives or enrolls children for treatment of special needs such as substance abuse, mental illness, emotional disturbance, developmental disability, mental retardation, or children who have been identified by the judicial system as requiring treatment, therapy, rehabilitation or supervision; ()
- b.** Receives payment, including payment from health insurance carriers, for identified treatment needs such as substance abuse, mental illness, emotional disturbance, developmental disability or mental retardation; or ()
- c.** Represents to the payor of the child care services provided by the children’s facility that such payment may qualify for health insurance reimbursement by the payor’s carrier or may qualify for tax benefits

relating to medical services; and ()

d. May include a children's therapeutic outdoor program whether or not that program operates out of a standard facility. ()

13. Children's Therapeutic Outdoor Program. A program which is designed to provide behavioral, substance abuse, or mental health services to minors in an outdoor setting and serves either adjudicated or non-adjudicated youth. Children's Therapeutic Outdoor programs do not include outdoor programs for minors that are primarily designed to be educational or recreational that may include Boy Scouts, Girl Scouts, 4-H and other youth organizations. ()

14. Continued Care. The ongoing placement of an individual in a foster home, children's residential care facility, children's therapeutic outdoor program, or transitional living placement who reaches the age of eighteen (18) years but is less than twenty-one (21) years of age. ()

15. Contraband. Goods or merchandise, the possession of which is prohibited, such as weapons and drugs. ()

16. Daycare. The care and supervision provided for compensation during part of a twenty-four (24) hour day, for a child or children not related by blood, marriage, adoption, or legal guardianship to the person or persons providing the care, in a place other than the child's or children's own home or homes. ()

17. Daycare Center. A place or facility providing daycare for compensation for thirteen (13) or more children. ()

18. Department. The Idaho Department of Health and Welfare. ()

19. Direct Care Staff. An employee who has direct personal interaction with children in the provision of child care and is included as staff in meeting the minimum staff-child ratio requirements. ()

20. Director. Director of the Idaho Department of Health and Welfare or designee. ()

21. Family Daycare Home. A home, place, or facility providing daycare for six (6) or fewer children. ()

22. Foster Care. The twenty-four (24) hour substitute parental care of children by persons who may or may not be related to a child. ()

23. Foster Home. The private home of an individual or family licensed or approved as meeting the standards for foster care and providing twenty-four (24) hour substitute parental care to six (6) or fewer children. ()

24. Foster Parent. A person or persons residing in a private home under their direct control to whom a foster care license has been issued. ()

25. Group Daycare Facility. A home, place, or facility providing daycare for seven (7) to twelve (12) children. ()

26. Inter-Country Adoption. The placement of a child from one (1) country to another for the purpose of adoption. ()

27. International Fire Code. The International Fire Code as outlined by Section 41-253, Idaho Code. The addition for the year prior to the issuance of the license will be used. Published by the International Code Council. A copy is available at any public library in Idaho. ()

28. International Building Code. The International Building Codes as outlined in Section 39-4109, Idaho Code. The addition for the year prior to the issuance of the license will be used. Published by the International

Code Council. A copy is available at any public library in Idaho. ()

29. Mechanical Restraint. Devices used to control the range and motion of an individual, including handcuffs, restraint boards, restraint chairs, and restraint jackets. ()

30. Medical Professionals. Persons who have received a degree in nursing or medicine and licensed registered nurse, licensed nurse practitioner, physician's assistant, and medical doctor. ()

31. Member of the Household. Any person, other than a foster child, who resides in, or on the property of, a foster home. ()

011. DEFINITIONS N THROUGH Z.
For the purposes of these rules, the following terms apply. ()

01. Nonaccredited Residential School. A residential school for any number of children that is not certified or accredited pursuant to Section 39-1207, Idaho Code, or has lost accreditation and is subject to the jurisdiction of the Department as a children's residential care facility pursuant to Section 39-1210, Idaho Code, unless and until accreditation is certified by the Idaho Department of Education. ()

02. Non-Compliance. Violation of, or inability to meet the requirements of, the act or a rule promulgated under the act, or terms of licensure. ()

03. Operator. An individual who operates or maintains within Idaho a daycare center, group daycare facility, family daycare home voluntarily licensed by the Department, children's residential care facility, children's agency, children's therapeutic outdoor program, or children's camp. ()

04. Organization. A children's agency or a children's residential care facility. ()

05. Person. Any individual, group of individuals, associations, partnerships or corporations. ()

06. Physical Intervention. Physical restraint utilized to control the range and motion of an individual. ()

07. Placement. The activities and arrangements related to finding a suitable licensed home or facility in which a child will reside for purposes of care, treatment, adoption, or other services. ()

08. Plan of Correction. The detailed procedures and activities developed between the licensing authority and caregiver required to bring a daycare center, group daycare facility, family daycare home voluntarily licensed by the Department, foster family, children's residential care facility, children's agency, children's therapeutic outdoor program, or children's camp into conformity with these licensing rules. ()

09. Regularly on the Premises. For the purposes of Sections 009 and 309 of these rules, regularly on the premises means twelve (12) hours or more in any one (1) month, or daily during any hours of operation. ()

10. Relative. Under Section 39-1202, Idaho Code, "relative" means a child's grandparent, great grandparent, aunt, great aunt, uncle, great uncle, brother-in-law, sister-in-law, first cousin, sibling, and half-sibling. ()

11. Representative. An employee of the Department of Health and Welfare. ()

12. Residential School. A residential facility for any number of children which: ()

a. Provides a planned, scheduled, regular, academic or vocational program for students in the elementary, middle or secondary grades as defined in Section 33-1001, Idaho Code; and ()

b. Provides services substantially comparable to those provided in nonresidential public schools where the primary purpose is the education and academic pursuits of the students; and ()

- c. Does not seek, receive or enroll students for treatment of such special needs as substance abuse, mental illness, emotional disturbance, developmental disability or mental retardation; and ()
- d. Does not receive payment, including payment from health insurance carriers, for identified treatment needs such as substance abuse, mental illness, emotional disturbance, developmental disability, or mental retardation; and ()
- e. Does not represent to the payor of child care services provided that such payment may qualify for health insurance reimbursement by the payor's carrier or may qualify for tax benefits relating to medical services. ()
13. **Restraint.** Interventions to control the range and motion of a child. ()
14. **Seclusion.** A room within a facility designed to temporarily isolate an individual in order to gain emotional or physical control by means of structure and minimal stimulation. ()
15. **Second Degree of Relationship.** The second degree of relationship refers to persons related consanguineally (“blood relative”) and affinally (“relative by marriage”) and includes their spouses. The number of degrees between two (2) relatives is calculated by summing the number of ties between each relative and the common ancestor. ()
16. **Secure.** A physically restrictive setting, as in a locked or guarded residential facility. ()
17. **Security Risk.** An individual who presents the possibility by actions, behavior or emotional reaction that may result in harm to self or others, or escape from physical control. ()
18. **Service Worker.** An employee of an organization who has obtained at a minimum, a Bachelor’s degree in a behavioral science, including social work, sociology, psychology, criminal justice, counseling, or a related field, whose duties may include assessment, service planning, supervision and support. ()
19. **Shelter Care.** The temporary or emergency out-of-home care of children in a foster home or residential facility. ()
20. **Social Worker.** An individual licensed by the state of Idaho in compliance with Title 54, Chapter 32, Idaho Code, and IDAPA 24.14.01, “Rules of the State Board of Social Work Examiners.” ()
21. **Soft Restraints.** Mechanical restraints made of leather, cloth or other combinations of fibers, utilized to control the range of motion of an individual. ()
22. **Staff.** For requirements of Title 39, Chapter 11, Idaho Code, and Sections 300 through 399 of these rules, “staff” means a person who is sixteen (16) years of age or older and employed by a daycare owner or operator to provide care and supervision at a daycare facility. ()
23. **Supervision.** For requirements of Title 39, Chapter 11, Idaho Code, and Sections 300 through 399 of these rules, supervision is defined as within sight and normal hearing range of the child or children being cared for. ()
24. **Time-Out.** Separation of a child from group activity as a means of behavior management. ()
25. **Training.** The preparation, instruction and education related to child care that increases the knowledge, skill and abilities of a foster parent, agency and residential care facility staff or volunteers. ()
26. **Transitional Living.** Living arrangements and aftercare services for children, or as continued care, to gain experience living on their own in a supportive and supervised environment prior to emancipation ()
27. **Variance.** The means of complying with the intent and purpose of a child care licensing rule in a

manner acceptable to the Department other than that specifically prescribed in the rule. ()

28. Waiver. The non-application of a child care licensing rule, except those related to safety, extended to a relative foster home by the licensing authority which serves to promote child health, well-being, and permanence while not compromising safety. ()

012. -- 099. (RESERVED)

LICENSING AND CERTIFICATION
(Sections 100-299)

100. LICENSING.

The purpose of licensing is to set minimum standards and to monitor compliance. Persons applying for licensure need to be physically and emotionally suited to protect the health, safety and well-being of the children in their care. Physical surroundings must present no hazards to the children in care. ()

01. Responsibilities of the Foster Parent or Operator. A foster parent or operator must conform to the terms of the license. ()

02. Responsible for Knowledge of Standards. The foster parent or operator is responsible for knowing the standards and rules applying to the type of foster home, children's residential care facility, children's agency, children's therapeutic outdoor program, children's camp, daycare center, group daycare facility, family daycare home voluntarily licensed by the Department, covered by the license, and for conforming to them at all times. ()

03. Responsible for Agency Staff Knowledge. The operator of a child care facility or agency is responsible for ensuring that all staff members are familiar with the applicable rules governing the children's residential care facility, children's therapeutic outdoor program, children's agency, children's camp, daycare center, group daycare facility, or family daycare home voluntarily licensed by the Department. A copy of these rules is available from the Office of the Administrative Rules Coordinator, 650 W. State Street, Boise ID 83720, or on the Office of the Administrative Rules Coordinator's website, <http://adminrules.idaho.gov/>. ()

04. Return of License. The foster parent or operator must immediately return their license to the Department under any of the following circumstances: ()

- a.** Changes of management or address; ()
- b.** Upon suspension or revocation of the license by the Department; or ()
- c.** Upon voluntary discontinuation of service. ()

101. APPLICATIONS FOR LICENSE.

An application for a license must be submitted to the Department. Licensing studies will follow the format of these rules and will contain a specific recommendation regarding the terms of the license. All foster homes, children's agencies, children's therapeutic outdoor programs, children's camps, daycare centers, group daycare facilities, family daycare homes voluntarily licensed by the Department, and children's residential care facilities must also comply with applicable Idaho city and county ordinances. ()

102. DISPOSITION OF APPLICATIONS.

The Department will initiate action on each completed application within thirty (30) days after receipt that addresses each requirement for the specific type of home, facility, or agency. Upon receipt of a completed application and study, the licensing authority will review the materials for conformity with these rules. ()

01. Approval of Application. A license will be issued to any daycare center, group daycare facility, family daycare home voluntarily licensed by the Department, foster home, children's residential facility, children's therapeutic outdoor program, children's camp, or children's agency found to be in conformity with these rules governing the home or facility. The license is issued according to the terms specified in the licensing study and will

be mailed to the applicant. ()

02. Regular License. A regular license will be issued to any daycare center, group daycare facility, family daycare home voluntarily licensed by the Department, foster home, children's residential care facility, children's therapeutic outdoor program, children's camp, or children's agency found to be in conformity with these rules governing the facility and will specify the terms of licensure, such as: ()

a. Full time or daycare; ()

b. The number of children who may receive care at any one (1) time; and ()

c. Age range and gender, if there are conditions in the foster home or children's residential care facility making such limitations necessary; ()

d. The regular license for a foster home, children's agency, children's residential care facility, children's therapeutic outdoor program, or children's camp is in effect for one (1) year from the date of issuance unless suspended or revoked earlier; ()

e. A regular license for a daycare center, group daycare facility, or family daycare home voluntarily licensed by the Department is in effect for two (2) years from the date of issuance unless suspended or revoked earlier; and ()

f. If the license for a foster home is for a specific child only, the name of that child will be shown on the foster home license. ()

03. Waiver. A regular license may be issued to the foster home of a relative who has received a waiver of licensing rules provided: ()

a. The waiver is considered on an individual case basis; ()

b. The waiver is approved only for non-safety foster care rules; ()

c. All other licensing requirements have been met; ()

d. The approval of a waiver of any foster home rules requires the licensing authority to document a description of the reasons for issuing a waiver, the rules being waived, and assurance that the waiver will not compromise the child's safety; and ()

e. The approved waiver must be reviewed for continued need and approval at regular intervals not to exceed six (6) months. ()

04. Variance. A regular license will be issued to a foster home, children's residential care facility or children's agency approved for a variance of a licensing rule provided: ()

a. The variance is considered on an individual case basis; ()

b. The variance is approved for a non-safety licensing rules; ()

c. The approval of a variance must have no adverse effect on the health, safety, and well-being of any child in care at the foster home or facility; ()

d. The approval of a variance is documented by the licensing agency and includes a description of the reasons for issuing a variance and assurances that the variance will not compromise any child's health, safety, and well-being; and ()

e. The approved variance must be reviewed for continued need and approval annually. ()

05. Provisional License. A provisional license may be issued to a foster home, children's residential

care facility, children's therapeutic outdoor program, children's camp, or children's agency when a licensing standard cannot be met but can be expected to be corrected within six (6) months, provided this does not affect the health, safety and well-being of any child in care at the home or facility. ()

a. A provisional license will be in effect for not more than six (6) months. ()

b. Only one (1) provisional license will be issued to a foster home, children's residential care facility, children's agency, children's therapeutic outdoor program, or children's camp in any twelve-month period of time under Section 39-1216, Idaho Code. ()

06. Limited License. A limited license for a foster home may be issued for the care of a specific child in a home which may not meet the requirements for a license, provided that: ()

a. The child is already in the home and has formed strong emotional ties with the foster parents; and ()

b. It can be shown that the child's continued placement in the home would be more conducive to their welfare than would removal to another home. ()

07. Denial of Application. In the event that an application is denied, a signed letter will be sent directly to the applicant by registered or certified mail, advising the applicant of the denial and stating the basis for such denial. An applicant whose application has been denied may not reapply until after one (1) year has elapsed from the date on the denial of application. ()

08. Failure to Complete Application Process. ()

a. Failure of the applicant to complete the application process within six (6) months of the original date of application will result in a denial of the application. ()

b. An applicant whose application has been denied for being incomplete may not reapply until after one (1) year has elapsed from the date on the denial of application. ()

103. RESTRICTIONS ON APPLICABILITY AND NONTRANSFER.

01. Issued License. A license applies only to the foster home, child care facility, daycare center, group daycare facility, family daycare home voluntarily licensed by the Department, children's residential care facility, children's agency, children's therapeutic outdoor program, children's camp, or the person and premises designated. Each license is issued in the name of the individual, firm, partnership, association, corporation, or governmental unit identified on the application and only to a specified address of the facility or program stated in the application for the period and services specified. A license issued in the name of a foster parent, child care facility, daycare center, group daycare facility, family daycare home voluntarily licensed by the Department, children's therapeutic outdoor program, children's camp, or children's agency applies only to the services specified in the license. Any change in management or address renders the license null and void, and the foster parent or operator must immediately return the license to the licensing agency as required in Section 100 of these rules. ()

02. Nontransferable. A license is nontransferable or assignable from one (1) individual to another, from one (1) business entity or governmental unit to another, or from one (1) location to another. ()

03. Change in Ownership, Operator, or Location. When there is a change in ownership, operator, or a change in location occurs, the facility or program must reapply for a license as required in Section 101 of these rules. The new owner or operator must obtain a license before starting operations. ()

104. MANDATORY VISITATIONS.

In accordance with Section 39-1217, Idaho Code, the Department or other licensing authority must visit, and must be given access to, the premises of each licensed foster home, licensed children's agency, licensed children's therapeutic outdoor program, and licensed children's residential care facility as often as deemed necessary or desirable by the Department to assure conformity with the requirements in this chapter of rules but, in any event, at intervals not to

exceed twelve (12) months. ()

105. REVISIT AND RELICENSE.

Revisit and relicense studies will document how the daycare center, group daycare facility, family daycare home voluntarily licensed by the Department, foster home, children's residential care facility, children's therapeutic outdoor program, children's camp, or children's agency continues to meet the standards for licensing. Consideration must be given to each point of the standards, including a review of the previous study and original application to determine what changes have occurred. An application for renewal of a license must be made by the operator on the form furnished by the Department, and filled out prior to the expiration date of the license currently in force. When such application for renewal has been made in the proper manner and form, the existing license will, unless officially revoked, remain in force until the Department has acted on the application for renewal. ()

106. COMPLAINTS AGAINST DAYCARE CENTERS, GROUP DAYCARE FACILITIES, FAMILY DAYCARE HOMES, FOSTER HOMES, CHILDREN'S RESIDENTIAL CARE FACILITIES, CHILDREN'S THERAPEUTIC OUTDOOR PROGRAMS, CHILDREN'S CAMPS, AND CHILDREN'S AGENCIES.

01. Investigation. The Department will investigate complaints regarding daycare centers, group daycare facilities, family daycare homes voluntarily licensed by the Department, foster homes, children's residential care facilities, children's therapeutic outdoor programs, children's camps, or children's agencies. The investigation may include further contact with the complainant, scheduled or unannounced visits to the children's residential care facility, foster home, daycare center, group daycare facility, family daycare home voluntarily licensed by the Department, children's therapeutic outdoor program, children's camp, or children's agency, collateral contacts including interviews with the victim, parents or guardian, children's residential care facility or children's agency administrator, operator, staff, consultants, children in care, other persons who may have knowledge of the complaint, and inspections by fire or health officials. ()

02. Informed of Action. If an initial preliminary investigation indicates that a more complete investigation must be made, the foster parents, operator, daycare center, group daycare facility, family daycare home voluntarily licensed by the Department, children's residential care facility, children's therapeutic outdoor program, children's camp, or children's agency will be informed of the investigation, and any action to be taken, including referral for civil or criminal action. ()

107. SUSPENSION FOR CIRCUMSTANCES BEYOND CONTROL OF FOSTER PARENT OR OPERATOR.

When circumstances occur over which the foster parent or operator has no control including illness, epidemics, fire, flood, or contamination, which temporarily place the operation of the foster home, child care facility, daycare center, group daycare facility, family daycare home voluntarily licensed by the Department, children's residential care facility, children's therapeutic outdoor program, children's camp, or children's agency out of conformity with Idaho law or with these rules, the license must be suspended until the nonconformity is remedied. ()

108. SUSPENSION OR REVOCATION FOR INFRACTIONS.

A license may be suspended for infractions of these rules. Such suspension may lead to revocation if the foster parent or operator fails to satisfy the Director that the infractions have been corrected sufficiently to assure conformity with the rules. ()

109. NON-RENEWAL, DENIAL, REVOCATION, OR SUSPENSION OF LICENSE.

If, upon investigation, it is found that an applicant, foster parent, or operator has failed or refused to comply with any of the provisions of the Basic Daycare License Law, Sections 39-1101 through 39-1120, Idaho Code, or the Child Care Licensing Reform Act, Sections 39-1201 through 39-1224, Idaho Code, or with these rules, or with any provision of the license, the Director may deny, suspend, revoke, or not renew a license. The Department may also deny, suspend, revoke, or deny renewal of a license for any daycare center, group daycare facility, family daycare home voluntarily licensed by the Department, child care facility, children's residential care facility, children's agency, children's therapeutic outdoor program, children's camp, or foster home when any of the following in Subsection 109.01 and 109.02 of this rule is determined. ()

01. Criminal Conviction or Relevant Record. Anyone providing direct care or working onsite under

these rules is denied clearance or refuses to comply with the requirements in IDAPA 16.05.06, "Criminal History and Background Checks." ()

02. Other Misconduct. The applicant, foster parent, operator, or the person proposed as chief executive officer: ()

a. Fails to furnish any data, statistics, records or information requested by the Department without good cause or provides false information; ()

b. Has been found guilty of or is under investigation for fraud, deceit, misrepresentation or dishonesty associated with the operation of a children's residential care facility or children's agency; ()

c. Has been found guilty of or is under investigation for the commission of any felony; ()

d. Has failed to exercise fiscal accountability toward a client or the Department regarding payment for services; or ()

e. Has knowingly permitted, aided or abetted the commission of any illegal act on the premises of the daycare center, group daycare facility, family daycare home voluntarily licensed by the Department, foster home, children's residential care facility, children's therapeutic outdoor program, children's camp, or children's agency. ()

110. ENFORCEMENT REMEDY OF BAN ON ADMISSIONS.

The Department may summarily ban admissions, in whole or in part, pending satisfactory correction of all deficiencies. Bans will remain in effect until the Department determines that the organization has achieved full compliance with all program requirements, or until a substitute remedy is imposed. ()

111. ENFORCEMENT REMEDY OF SUMMARY SUSPENSION AND TRANSFER OF RESIDENTS OR CHILDREN.

The Department may summarily suspend a daycare center, group daycare facility, family daycare home voluntarily licensed by the Department, foster home, children's agency, children's therapeutic outdoor program, children's camp, or a children's residential care facility license and require the program to transfer residents or children when the Department has determined a resident's or child's health and safety are in immediate jeopardy. Children in a daycare center, group daycare facility, or family daycare home voluntarily licensed by the Department, will not be transported from the facility, instead the parent or legal guardian will be contacted. ()

112. ENFORCEMENT REMEDY REVOCATION OF LICENSE AND TRANSFER OF RESIDENTS OR CHILDREN.

The Department may revoke the license of a daycare center, group daycare facility, family daycare home voluntarily licensed by the Department, foster home, children's agency, children's therapeutic outdoor program, or children's residential care facility when the Department determines the operator is not in compliance with these rules. Children in a daycare center, group daycare facility, or family daycare home voluntarily licensed by the Department, will not be transported from the facility, instead the parent or legal guardian will be contacted. Revocation and transfer of residents or children may occur under the following circumstances: ()

01. Endangers Health or Safety. Any condition that endangers the health or safety of any resident or child. ()

02. Not in Substantial Compliance. A foster home, children's agency, daycare center, group daycare facility, family daycare home voluntarily licensed by the Department, children's therapeutic outdoor program, children's camp, or children's residential care facility is not in substantial compliance with these rules. ()

03. No Progress to Meet Plan of Correction. A foster home, children's agency, daycare center, group daycare facility, family daycare home voluntarily licensed by the Department, children's therapeutic outdoor program, children's camp, or children's residential care facility has made little or no progress in correcting deficiencies within thirty (30) days from the date the Department accepted a plan of correction. ()

04. Repeat Violations. Repeat violations of any requirement of these rules or provisions of Title 39, Chapters 11 and 12, Idaho Code. ()

05. Misrepresented or Omitted Information. A foster home, children's agency, daycare center, group daycare facility, family daycare home voluntarily licensed by the Department, children's therapeutic outdoor program, children's camp, or children's residential care facility has knowingly misrepresented or omitted information on the application or other documents pertinent to obtaining a license. ()

06. Refusal to Allow Access. Refusal to allow Department representatives full access to the foster home, children's agency, daycare center, group daycare facility, family daycare home voluntarily licensed by the Department, children's therapeutic outdoor program, children's camp, or children's residential care facility and its grounds facilities and records. ()

07. Violation of Terms of Provisional License. A children's agency, foster home, children's therapeutic outdoor program, children's camp, or children's residential care facility that has violated any of the terms or conditions of a provisional license. ()

113. EFFECT OF PREVIOUS REVOCATION OR DENIAL OF A LICENSE.

An organization cannot apply and the licensing authority will not accept an application from any person, corporation, or partnership, including any owner with a ten percent (10%) or more interest, who has had a license denied or revoked, until five (5) years has elapsed from the date of denial, revocation, or conclusion of a final appeal, whichever occurred last. ()

114. -- 299. (RESERVED)

STANDARDS FOR DAYCARE
(Sections 300-399)

300. STANDARDS FOR DAYCARE.

01. Daycare Standards. In addition to meeting the rules and minimum standards required in Sections 000 through 199 of these rules, each owner, operator, or applicant seeking licensure from the Department as a daycare center, group daycare facility, or family daycare home voluntarily licensed by the Department, must also meet the requirements under Title 39, Chapter 11, Idaho Code, and Sections 300 through 399 of these rules. ()

02. Minimum Age of Applicant. An individual, submitting an application to the Department to be licensed for a daycare center, group daycare facility, or family daycare home, must be a minimum of eighteen (18) years of age. ()

301. TYPES OF DAYCARE LICENSES.

Subject to meeting all requirements under Title 39, Chapter 11, Idaho Code, and the rules and minimum standards in this chapter, the Department will determine the type of daycare license required by an owner or operator providing daycare by counting each child in attendance, regardless of relationship to the person or persons providing the care. The following types of daycare licenses may be issued by the Department. ()

01. Daycare Center License. A daycare center license is issued for a place or facility providing daycare, where thirteen (13) or more children, regardless of relationship to the person or persons providing the care, are in attendance. ()

02. Group Daycare Facility. A group daycare facility license is issued for a place or facility providing daycare, where seven (7) to twelve (12) children, regardless of relationship to the person or persons providing the care, are in attendance. ()

03. Family Daycare Home. A family daycare home is not required to be licensed. However, a family daycare home may voluntarily elect to be licensed by the Department. ()

302. -- 308. (RESERVED)

309. CRIMINAL HISTORY AND BACKGROUND CHECK FOR DAYCARE STANDARDS.

01. Criminal History and Background Check for Daycare Centers and Group Daycare Facilities.

Each owner, operator, or applicant seeking licensure for a daycare center, group daycare facility, or a family daycare home must submit evidence that is satisfactory to the Department that the following individuals have successfully completed and received a clearance for a Department criminal history and background check under the provisions of Sections 39-1105 and 39-1113, Idaho Code: ()

- a. Owners, operators, and staff; ()
- b. All other individuals thirteen (13) years of age or older who have unsupervised direct contact with children; or ()
- c. All other individuals thirteen (13) years of age or older who are regularly on the premises. ()

02. Juvenile Justice Records. The criminal history and background check for any individual under eighteen (18) years of age, must include a check of the juvenile justice records, as authorized by the minor and their parent or guardian. Records must be checked for each jurisdiction in which the individual has resided since becoming thirteen (13) years of age through eighteen (18) years of age. Each owner, operator, or applicant is responsible for requesting a check of the juvenile justice record, paying for the costs of a check of the juvenile justice records, and submitting them to the Department for review. A check of the juvenile justice records must include the following: ()

- a. Juvenile justice records of adjudication of the magistrate division of the district court; ()
- b. County probation services; and ()
- c. Department records. ()

03. Criminal History and Background Check for Family Daycare Homes. Under Section 39-1114, Idaho Code, any person providing daycare for four (4) or more children in a family daycare home is required to comply with the requirements of Sections 39-1105 and 39-1113, Idaho Code. ()

04. Criminal History and Background Check for Private Schools and Private Kindergartens. Under Section 39-1105, Idaho Code, any person who owns, operates, or is employed by a private school for educational purposes for children four (4) through six (6) years of age or a private kindergarten is required to comply with the requirements of Sections 39-1105 and 39-1113, Idaho Code. ()

05. Cost of Criminal History and Background Check and Juvenile Justice Records. Each individual who requests and obtains a Department criminal history and background check is responsible for the cost of the criminal history and background check and check of juvenile justice records. ()

06. On-going Duty to Report Convictions. Following completion of a criminal history and juvenile justice background check and clearance, additional criminal convictions and juvenile justice adjudications for disqualifying crimes under Section 39-1113, Idaho Code, must be self-disclosed by the individual to the owner or operator of a daycare center, group daycare facility, or family daycare home. The owner or operator must report these additional convictions and adjudications to the Department within five (5) days of learning of the conviction or adjudication. ()

310. -- 319. (RESERVED)

320. DAYCARE LICENSING MAXIMUM TOTAL FEES.

A nonrefundable licensing fee must be paid to the Department prior to the issuance or renewal of a daycare license. ()

01. Daycare Licensing Maximum Total Fee Amounts. The maximum total fee for initial licensure or

renewal of a daycare center, group daycare facility, or family daycare home voluntarily licensed must not exceed the following amounts: ()

a. For a daycare center with more than twenty-five (25) children in attendance at any given time - three hundred twenty-five dollars(\$325). ()

b. For a daycare center with thirteen (13) to twenty-five (25) children in attendance at any given time - two hundred fifty dollars (\$250). ()

c. For a group daycare facility - one hundred dollars (\$100). ()

d. For a family daycare home voluntary license - one hundred dollars (\$100). ()

02. Daycare Fire Inspection Fee. Daycare fire inspection fees are payable to the local fire department or fire district official. ()

321. APPLICATION FOR DAYCARE LICENSE OR RENEWAL.

Any individual applying for licensure as a daycare center, group daycare facility, or family daycare home voluntarily licensed by the Department must be at least eighteen (18) years of age. The applicant must apply on forms provided by the Department and must provide information required by the Department set forth in the following Subsections 321.01 through 321.10. ()

01. Completed and Signed Application. A completed application form signed and dated by the applicant. ()

02. Licensing Fee. The applicant must pay the appropriate licensing fee prior to the issuance of a daycare license by the Department. ()

03. Inspection Reports. The following reports must be submitted to the Department with the application: ()

a. Proof that the proposed facility meets local building code, where required; ()

b. Proof that the proposed facility meets local electrical code, where required; ()

c. Proof that the proposed facility meets fire code, where required; and ()

d. Proof that the facility meets local planning and zoning requirements. ()

04. Proof of Insurance. The applicant must provide proof of current fire and liability insurance coverage for the daycare facility. ()

05. Criminal History and Background Clearance. Evidence that the applicant and all individuals required to have a criminal history and background check have received a clearance from the Department required in Section 309 of these rules. ()

06. Statement to Comply. The applicant must provide a written statement that these rules have been thoroughly read and reviewed and the applicant is prepared to comply with all of its provisions. ()

07. Statement Disclosing Revocation or Disciplinary Actions. A written statement that discloses any revocation or other disciplinary action taken or in the process of being taken against the applicant as a daycare provider in Idaho or any other jurisdiction, or a statement from the applicant stating he has never been involved in any such action. ()

08. Other Information as Requested. The applicant must provide other information that may be requested by the Department for the proper administration and enforcement of the provisions of this chapter. ()

09. Additional Requirements for License Renewal. A daycare license must be renewed every two (2) years. The daycare operator must submit to the Department the renewal application, fee, and all required documentation in this section of rule at least forty-five (45) days prior to the expiration of the current daycare license. ()

10. Termination of Application Process. Failure of the applicant to cooperate with the Department in the application process may result in the termination of the application process. Failure to cooperate means that the information requested is not provided within ninety (90) days, or not provided in the form requested by the Department, or both. ()

322. -- 324. (RESERVED)

325. ISSUANCE OF LICENSE.

01. Department Action. The Department will order a health and safety inspection of the daycare facility once the application for licensure is complete and the licensing fee has been paid. ()

02. Issuance of a Regular License. If the Department determines the applicant is in compliance with the rules and minimum standards set forth in these rules, the Department will, within sixty (60) days from the date the completed application is submitted, issue one (1) of the following licenses: ()

a. Daycare Center License, stating the type of facility, the number of children who may be in attendance, and the length of time the license is in effect; ()

b. Group Daycare Facility License, stating the type of facility, the number of children who may be in attendance, and the length of time the license is in effect; or ()

c. Family Daycare Home License, stating the type of facility, the number of children who may be in attendance, and the length of time the license is in effect. ()

03. Denial of Licensure. If the Department determines the applicant is not in compliance with the rules and minimum standards set forth in this chapter and further determines not to issue a regular license or provisional license, the Department will, within thirty (30) days from the date the completed application is submitted, issue a letter of denial of licensure stating the basis for the denial. ()

04. Incomplete Application. The Department is not required to take any action on an application until the application is complete. ()

05. Notification of License Renewal. The Department will notify the licensed daycare operator at least ninety (90) days prior to expiration of the license. ()

06. List of Licensed Daycare Facilities. The Department will maintain a list of all licensed daycare facilities for public use. ()

326. -- 329. (RESERVED)

330. STAFF AND OTHER INDIVIDUAL RECORD REQUIREMENTS.

Each owner or operator of a daycare center, group daycare facility, or family daycare home voluntarily licensed by the Department must maintain a current list covering the previous twelve-month period of all staff and other individuals thirteen (13) years of age or older who have unsupervised direct contact with children, or are regularly on the premises. The list must specify, at a minimum, the following: ()

01. Legal Name. ()

02. Proof of Age. ()

03. Phone Number. ()

- 04. **Record of Training.** ()
- 05. **Verification of Criminal History and Background Check Clearance.** ()
- 06. **Results of Juvenile Justice Records.** The results of juvenile justice records, when applicable. ()
- 07. **Certification.** Verification of Pediatric Rescue Breathing, Infant-Child CPR, and First Aid Treatment certification from a certified instructor, when applicable. ()
- 08. **Record of Hours.** The times, dates, and records of hours on the premises each day. ()

331. CHILD RECORD CONTENT REQUIREMENTS.

Each owner or operator of a daycare center, group daycare facility, or family daycare home voluntarily licensed by the Department, must maintain a record for each child in attendance covering the previous twelve-month period. The record must contain, at a minimum, the following: ()

- 01. **Child's Full Name.** ()
- 02. **Date of Birth.** ()
- 03. **Parent or Guardian's Name, Address, and Contact Information.** ()
- 04. **Emergency Contact Information.** ()
- 05. **Child's Health Information.** ()
 - a. Immunization record or waiver of exemption form or statement; ()
 - b. Any medical conditions that could affect the care of the child; ()
 - c. Medications the child is taking or may be allergic to. ()
- 06. **Record of Attendance.** The times, dates, and record of attendance each day. ()

332. -- 334. (RESERVED)

335. CHILD-STAFF RATIO.

Under Section 39-1109, Idaho Code, the Department determines the maximum allowable child-staff ratio based on a point system. ()

01. Daycare Child-Staff Ratio Point System.

The maximum allowable points for each staff member is twelve (12), using the following point system which is based on the age of each child in attendance: ()

- a. Under the age of twenty-four (24) months, each child equals two (2) points. ()
- b. From the age of twenty-four (24) months to under the age of thirty-six (36) months, each child equals one and one-half (1 1/2) points. ()
- c. From the age of thirty-six (36) months to under the age of five (5) years, each child equals one (1) point. ()
- d. From the age of five (5) years to under the age of thirteen (13) years, each child equals one-half (1/2) point. ()

02. Compliance with Child-Staff Ratios. Child-staff ratios must be maintained at all times during all hours of operation when children are in attendance and when transporting children. ()

a. Each child in attendance is counted by the Department for the purposes of calculating maximum allowable points, counting the number of children in attendance, and for determining compliance with child-staff ratios; ()

b. Each adult staff member who is providing direct care for a child or children is counted by the Department as one (1) staff member for the purposes of counting the number of staff on-duty and determining compliance with child-staff ratios; and ()

c. Each staff member sixteen (16) and seventeen (17) years of age under the supervision of an adult staff member, when providing direct care for a child or children, may be counted by the Department as one (1) staff member for the purposes of counting the number of staff on-duty and determining compliance with child-staff ratios. ()

03. Supervision of Children. The owner or operator and all staff are responsible for the direct care, protection, supervision, and guidance of children through active involvement or direct observation. In addition to meeting all of the minimum requirements of child-staff ratio, the owner or operator of a daycare center, group daycare facility, or family daycare home licensed by the Department must ensure that at least one (1) adult staff member is: ()

a. Awake and on duty on the premises at all times during regular business hours or when children are in attendance, and ()

b. Currently certified in pediatric rescue breathing, infant-child CPR, and first-aid treatment. ()

04. Napping Children. Napping children who are not within sight of a staff member must be within easy hearing distance at all times. ()

05. Overnight Daycare. For daycare operators providing overnight care of children, the following must apply: ()

a. A sleeping child must sleep on the same level as the staff member who must be able to hear the child; and ()

b. A staff member must be awake and on duty to release and receive a child. ()

336. -- 339. (RESERVED)

340. DAYCARE CENTER TRAINING REQUIREMENTS.

Each owner or operator of a daycare center licensed by the Department must receive and ensure that each staff member receives and completes four (4) hours of ongoing training every twelve (12) months after the staff member's date of hire. ()

01. Child Development Training. Training must be related to continuing education in child development. ()

02. Documented Training. It is the responsibility of the owner or operator of the daycare center to ensure that each staff member has completed four (4) hours of training each year. The training must be documented in the staff member's record. ()

03. Pediatric Rescue Breathing, Infant-Child CPR and First Aid Treatment Training. Pediatric rescue breathing, infant-child CPR, and first aid treatment training will not count towards the required four (4) hours of annual training. ()

04. Staff Training Records. Each owner or operator of the daycare center is responsible for

maintaining documentation of staff's training and may be asked to produce documentation at the time of license renewal. ()

341. -- 344. (RESERVED)

345. MANDATORY REPORTING OF ABUSE, ABANDONMENT, OR NEGLECT.

Under Section 16-1605, Idaho Code, daycare personnel, including the owners, operators, staff, and any other person who has reason to believe that a child has been abused, abandoned, or neglected or is being subjected to conditions or circumstances which would reasonably result in abuse, abandonment, or neglect, must report or cause to be reported within twenty-four (24) hours, such conditions or circumstances to the Department or the proper law enforcement agency. ()

346. VISITATION AND ACCESS.

01. Visitation Rights. Parents and guardians have the absolute right to enter the daycare premises when their child is in the care of the daycare operator. Failure or refusal to allow parental or guardian entry to the daycare premises or access to their child may result in the suspension or revocation of a daycare license. ()

02. Denied or Limited Visitation Rights by Court Order. If a parent or guardian has been granted limited or has been denied visitation rights by a court of competent jurisdiction, and the daycare operator has written documentation from the court, Subsection 346.01 of this rule does not confer a right to visitation upon the parent or guardian. ()

03. Department Access. The owner or operator of a daycare center, group daycare facility, or family daycare home voluntarily licensed by the Department, must allow the Department access to the premises for re-inspection at any time during the licensing period. ()

347. -- 349. (RESERVED)

350. FIRE SAFETY STANDARDS.

Each daycare center, group daycare facility, or family daycare home voluntarily licensed by the Department, must comply with the fire safety standards outlined in Subsections 350.01 and 350.02 of this rule. ()

01. Inspections. Inspections must be completed by the local fire official or designee. For a daycare located outside of the area of authority outlined in Section 39-1109, Idaho Code, the Department can designate an approved inspector for daycare licensing purposes only. ()

02. Unobstructed Exits. Required exits must be located in such a way that an unobstructed path outside the building is provided to a public way or area of refuge. ()

a. Exit doors must open from the inside without the use of a key or any special knowledge or effort. ()

b. There must be at least two (2) exits located a distance apart of not less than one-half (1/2) the diagonal dimension of the building or portion used for daycare, but not to exceed seventy-five (75) feet. An exception may be made for the following: ()

i. The distance between exits may be extended to ninety (90) feet if the building is totally protected throughout with smoke detectors; or ()

ii. The distance between exits may be increased to one hundred ten (110) feet if the building is equipped with an automatic fire sprinkler system. ()

c. The required dimensions of exits must not be less than thirty-two (32) inches of clear exit width and not be less than six (6) feet, eight (8) inches in height. An exception for sliding patio doors will be accepted as a required second exit in a family daycare home and group daycare facilities only. ()

d. Sleeping room exits must be provided with at least one (1) emergency egress window having at least a minimum single net clear opening of five point seven (5.7) square feet, minimum height twenty-four (24) inches, minimum width twenty (20) inches, and maximum finished sill height not over forty-four (44) inches. ()

i. Approved egress windows from sleeping areas must be operable from the inside without the use of separate tools. ()

ii. In lieu of egress windows, an approved exit door is acceptable. ()

iii. An approved piece of furniture or platform, if anchored in place, may be approved to sit in front of a window if the sill height is over forty-four (44) inches. ()

e. Where children are located on a story below the level of exit discharge (basement), there must be at least two (2) exits, one (1) of which must open directly to the outside. More than one (1) exit from the basement opening directly to the outside may be required, depending on the structure of the building, in order to ensure the safety of the occupants. ()

f. Where children are located on a story above the level of exit discharge, there must be two (2) exits, one (1) of which must open directly to the outside and be in compliance with building codes. ()

351. FACILITY CAPACITY AND DETERMINING OCCUPANT LOAD.

Occupant load is determined by the local fire official or designee. ()

01. Area for Daycare Use Only. The local fire official or designee will only use those areas used for daycare purposes when determining the occupant load. ()

02. Facilities with an Occupancy Load of Fifty or More. Facilities with an occupancy load of fifty (50) or more occupants must meet the requirements in Section 350 of these rules in addition to Subsections 351.01 through 351.03 of this rule. ()

a. Exit doors must swing in the direction of egress. ()

b. Exit doors from rooms, if provided with a latch, must have panic hardware installed. ()

03. Exit Signs. Exit signs must be installed at required exit doorways and wherever else necessary to clearly indicate the direction of egress. ()

352. FIRE EXTINGUISHERS AND SAFETY REQUIREMENTS.

Each daycare center, group daycare facility, or family daycare home voluntarily licensed by the Department, must comply with the fire extinguisher and safety requirements in this section of rule as applicable for size and type of facility. ()

01. Portable Fire Extinguisher. There must be an approved portable fire extinguisher (minimum 2A-10BC) mounted securely in a visible location not to exceed five (5) feet from the floor to the top of the extinguisher and not more than seventy five (75) feet travel distance to an extinguisher and maintained properly. ()

02. Kitchen Area. An approved fire extinguisher must be present or a hood-type fire suppression system must be installed in the kitchen area. ()

03. Fire Extinguishers. Approved fire extinguishers must be maintained properly. ()

04. Facilities Over Three Thousand Square Feet. Each daycare facility over three thousand (3,000) square feet is required to have additional fire extinguishers as approved by the local fire official or designee. ()

05. Fire Alarm System. Each daycare facility with over fifty (50) children, must have an approved fire alarm system installed. ()

- 06. Smoke Detectors.** Smoke detectors must be installed and maintained in the following locations: ()
- a.** On the ceiling or wall outside or each separate sleeping area in the immediate vicinity of bedrooms; ()
 - b.** In each room used for sleeping purposes; and ()
 - c.** In each story within a facility including basements. ()
 - d.** If there is a basement, there must be a smoke detector installed in the basement having a stairway which opens from the basement into the facility. Such detector must be connected to a sounding device or other detector to provide an alarm which is audible in the sleeping area. ()

07. Automatic Sprinkler Systems. An automatic sprinkler system must be provided in all daycare facilities greater than twenty thousand (20,000) square feet in area or when the number of children under the age of eighteen (18) months exceeds one hundred (100). ()

353. FIRE SAFETY AND EVACUATION PLANS.

Each daycare center, group daycare facility, or family daycare home voluntarily licensed by the Department, must have an approved fire safety and evacuation plan prepared. Fire evacuation and safety plans must include the following: ()

- 01. Evacuation.** Procedures and policies for accounting for staff and children after an evacuation is completed. ()
- 02. Assembly Point.** Evacuation plan and assembly point for children and staff. ()
- 03. Locations of Facility Exits.** ()
- 04. Evacuation Routes.** ()
- 05. Location of Fire Alarms.** ()
- 06. Location of Fire Extinguishers.** ()
- 07. Annual Review.** Fire safety and evacuation plans must be reviewed or updated annually and available in the facility for reference and review. ()
- 08. Frequency of Fire and Emergency Evacuation Drills.** Fire and evacuation drills must be conducted on a routine schedule and all staff and children must participate. ()

354. -- 359. (RESERVED)

360. HEALTH STANDARDS.

Each daycare center, group daycare facility, or family daycare home voluntarily licensed by the Department, must comply with the health standards in Subsections 360.01 through 360.19 of this rule. Health inspections will be completed by a qualified inspector designated by the Department. ()

- 01. Food Source.** Food must be from an approved source as defined in IDAPA 16.02.19, "Idaho Food Code." Food must not be served past expiration or "use by date." ()
- 02. Food Preparation.** Food for use in daycare facilities must be prepared and served in a sanitary manner with sanitized utensils and on surfaces that have been cleaned, rinsed, and sanitized prior to use to prevent cross-contamination. ()

a. Frozen food must be thawed in the refrigerator, under cold running water, or as part of the cooking process. Food must be cooked to proper temperatures according to IDAPA 16.02.19, "Idaho Food Code." ()

b. Individuals preparing food must use proper hand-washing techniques, minimize bare hand contact with food, and wear clean clothes. ()

03. Food Temperatures. Potentially hazardous foods must be kept refrigerated at forty-one degrees Fahrenheit (41°F) or below, held hot at one hundred thirty-five degrees Fahrenheit (135°F) or more, and reheated or cooled at safe temperatures according to IDAPA 16.02.19, "Idaho Food Code." Refrigerators must be equipped with an accurate thermometer. ()

04. Food Storage. All food that is served in daycare facilities must be stored in such a manner that protects it from potential contamination. There must be no evidence of pests present in the daycare facility. ()

05. Food Contact Surfaces. Food contact surfaces must be kept clean and sanitized, including counters, serving tables, high chair trays, and cutting boards. ()

06. Dishwashing Sanitizing. Dishes, glasses, utensils, silverware and all other objects used for food preparation and eating must be sanitized using appropriate sanitizing procedures. ()

07. Utensil Storage. Clean utensils must be stored on clean shelves or drawers and not subject to recontamination. Sharp knives and other sharp objects must be kept out of reach of children. ()

08. Garbage. Garbage must be kept covered or inaccessible to children. ()

09. Hand Washing. Children and facility staff must be provided with individual or disposable towels for hand drying. The hand washing area must be equipped with soap and warm and cold running water. ()

10. Diaper Changing. Diaper changing must be conducted in such a manner as to prevent the spread of communicable diseases. A diaper-changing area must be separate from food preparation and serving areas and have easy access to a hand-washing sink. ()

11. Sleeping Areas. Children sleeping at the facility must have separate cots, mats, or beds and blankets. ()

12. Restrooms, Water Supply, and Sewage. All daycare facilities must have restrooms. ()

a. Each facility must have at least one (1) flushable toilet and at least one (1) hand washing sink with warm and cold water per restroom. ()

b. Plumbing and bathroom fixtures must be in good condition. ()

c. In addition, daycare centers must comply with requirements of the state-adopted International Building Code. ()

13. Water Supply. The facility's water supply must meet one (1) of the following requirements: ()

a. Be from a public water system which is maintained according to IDAPA 58.01.08, "Idaho Rules for Public Drinking Water Systems," at the time of initial application and application for license renewal; or ()

b. Be from a private source, such as well or spring, and must be tested annually for bacteria and nitrate, and approved by the Department. ()

c. Water used for consumption at a daycare facility must be from an acceptable source,. Temporary use of bottled water or boiled water may be allowed for a period specified by the by the Department. ()

14. Sewage Disposal. Facility sewage must be disposed of through a public system, or in the absence of a public system, in a manner approved by the local health authority, according to IDAPA 58.01.03 “Individual/Subsurface Sewage Disposal Rules.” ()

15. Use of Alcohol and Illegal Drugs. Alcohol and illegal drugs must not be used by operators, children, staff, volunteers, or visitors at daycare facilities or in the presence of children during hours of operation or in vehicles while transporting children. ()

a. Any individual under the influence of alcohol or drugs must not be permitted at or in the daycare facility. ()

b. Illegal drugs are prohibited by law and therefore must not be allowed on the premises of a licensed daycare facility at anytime whether the facility is open or closed. ()

16. Smoke Free Environment. Children must be afforded a smoke-free environment during all daycare hours, whether indoors or outdoors. While children are in care, the operator and all staff must ensure that no smoking or other tobacco use occurs within the facility, in outdoor areas, or in vehicles when children are present. ()

17. Medication. No person can administer any medication to a child without it first being authorized by a parent or caretaker. All medications, refrigerated or unrefrigerated, must be in a locked box or otherwise inaccessible to children. ()

18. Adequate Heat, Light and Ventilation. A daycare facility must have adequate heat, light and ventilation. Window and doors must be screened if used for ventilation. ()

19. Immunizations. Daycare operators must comply with the immunizations requirements provided in IDAPA 16.02.11, “Immunization Requirements for Day Care.” ()

361. MISCELLANEOUS SAFETY REQUIREMENTS.

Each daycare center, group daycare facility, or family daycare home voluntarily licensed by the Department must comply with the miscellaneous safety standards in Subsections 361.01 through 361.07 of this rule. ()

01. Telephone. An operable telephone or cell phone must be available on the facility at all times and the following conditions must apply: ()

a. The telephone number used to meet this standard must be made available to parents and guardians. ()

b. Emergency phone numbers to include 911, an adult emergency substitute operator, as well as the address and phone number of the facility, must be posted by the telephone or in a location that is immediately visible at all times. ()

02. Heat Producing Equipment. A furnace, fireplace, wood-burning stove, water heater and other flame or heat-producing equipment must be installed and maintained as recommended by the manufacturer and protected on all surfaces by screens or other means. ()

03. Portable Heating Devices. Portable heating devices must be limited and approved for use and location by the Fire Inspector prior to use within a facility. ()

04. Storage of Weapons, Firearms, and Ammunition. Firearms or other weapons which are stored at a daycare facility must be kept in a locked cabinet or other container that is inaccessible to children, including a locked gun safe, while children are in attendance. ()

a. Ammunition must be stored in a locked container separate from firearms. ()

b. Matches, lighters, and any other means of starting fires must be kept away from and out of the

reach of children. ()

c. Other weapons that could cause harm to children must be stored out of reach of children. ()

05. Animals and Pets. Any pet or animal present at the facility, indoors or outdoors, must be in good health, show no evidence of carrying disease, and be a friendly companion of the children. The operator must maintain the animal's vaccinations and vaccination records. These records must be made available to the Department upon request. ()

06. Storage of Hazardous Materials. Cleaning materials, flammable liquids, detergents, aerosol cans, pesticides, and other poisonous and toxic materials must be kept in their original containers and in a place inaccessible to children. They must be used in such a way that will not contaminate play surfaces, food, food preparation areas or constitute a hazard to the children. ()

362. -- 364. (RESERVED)

365. BUILDINGS, GROUNDS, FURNISHINGS, AND EQUIPMENT.

Each daycare center, group daycare facility, or family daycare home voluntarily licensed by the Department must comply with these minimum standards in Subsections 365.01 through 365.08 of this rule. ()

01. Appliances and Electrical Cords. All appliances, lamp cords, exposed light sockets and electrical outlets must be protected to prevent electrocution. ()

02. Balconies and Stairways. Balconies and stairways accessible to children must have substantial railings as required by the state-adopted International Building Code. ()

03. Stairway Protection. Where an operator cares for children less than three (3) years of age, stairways must be protected to prevent child access to stairs. ()

04. Hazard Areas Restrictions. Based on the age and functioning level of children in care and the type of hazard, any outdoor hazard area must be restricted to prevent easy access to the hazard. ()

05. Fueled Equipment. Fueled equipment including, but not limited to, motorcycles, mopeds, lawn-care equipment and portable cooking equipment may not be stored or repaired in areas where children are present. ()

06. Water Hazards. Above and below ground pools, hot tubs, ponds, and other bodies of water that are on the daycare facility premises must provide the following safeguards: ()

a. The area surrounding the body of water must be fenced and locked in a manner that prevents access by children and meets the following requirements: ()

i. The fence must be at least four (4) feet high with no vertical opening more than four (4) inches wide and be designed so that a young child cannot climb or squeeze under or through the fence. The fence must surround all sides of the pool and have a self-closing gate that has a self latching mechanism in proper working order that is out of the reach of young children. ()

ii. If the house forms one (1) side of the barrier for the pool, all doors that provide unrestricted access to the pool must have alarms that produce an audible sound when the door is opened. ()

b. Furniture or other large objects must not be left near the fence in a manner that would enable a child to climb on the furniture or other large object and gain access to the pool. If the area surrounding a pool, hot tub, pond or other body of water is not fenced and locked, there must be a secured protective covering that will prevent access by a child. ()

c. Wading pools and buckets must be empty when not in use. ()

d. Children must be under direct supervision of an adult staff member who is certified in pediatric rescue breathing, infant-child CPR, and first aid treatment while using a bath tub, pool, hot tub, pond, or other body of water. ()

e. A minimum of a four (4) foot high fence must be present that prevents access from the daycare facility premises, if the daycare premises are adjacent to a body of water. ()

07. Indoor Play Areas and Toys. The indoor play areas must be clean, reasonably neat and free from accumulation of dirt, rubbish or other health hazards. ()

08. Outdoor Play Areas and Toys. Any outdoor play area must be maintained free from hazards such as wells, machinery and animal waste. ()

a. If any part of the play area is adjacent to a busy roadway, drainage or irrigation ditch, stream, large holes, or other hazardous areas, the play area must be enclosed with a fence in good repair that is at least four (4) feet high without any holes or spaces greater than four (4) inches in diameter. ()

b. Outdoor equipment, such as climbing apparatus, slides and swings, must be anchored firmly and placed in a safe location and in accordance with the manufacturer's instructions. ()

c. Outdoor play areas must be designed so that all parts are always visible and are easily supervised by a staff member. ()

d. Toys, play equipment, and any other equipment used by the children must be of substantial construction and free from rough edges and sharp corners. Unguarded ladders on slides must be kept in good repair and well maintained. ()

e. Toys and objects with a diameter of less than one (1) inch (two point five (2.5) centimeters), objects with removable parts that have a diameter of less than one (1) inch (two point five (2.5) centimeters), plastic bags, styrofoam objects and balloons must not be accessible to children ages three (3) and under or children who are known to place such objects in their mouths. ()

366. -- 389. (RESERVED)

390. CONTINUED COMPLIANCE, REPORTING CHANGES, AND CRITICAL INCIDENTS.

Each daycare owner or operator must remain in compliance at all times with fire, safety, and health requirements as required in this chapter of rules. ()

01. Posting of License and Other Information. ()

a. A daycare license issued by the Department to operators meeting the standards in these rules must be posted in plain view where it can be seen by parents and the public upon entering the facility. ()

b. A daycare must post contact information of the Department and the statewide number to file daycare complaints. ()

02. Reporting Changes. The Department must be notified of any changes that would affect the terms of licensure or could affect the health, well-being, or safety of children. ()

03. Critical Incidents. A daycare operator must report any of the following to the Department within twenty-four (24) hours: ()

a. Serious injury or death of a child at the facility; ()

b. Any arrests, citations, withheld judgments, or criminal convictions of disqualifying crimes associated with Section 39-1113, Idaho Code, of an operator or any other individual regularly on the premises of the facility and provide documentation that the individual is not working with children or is not on the premises. ()

391. -- 394. (RESERVED)

395. FAILURE TO COMPLY.

01. Misdemeanors to Operate Without a License. It is a misdemeanor to operate a daycare center or group daycare facility within this state without first obtaining a daycare license from the Department or to operate a daycare center or group daycare facility without posting the license in a place easily seen by a parent or the general public. ()

a. The Department may grant a grace period of no more than sixty (60) days to allow the daycare facility to come into compliance with the minimum standards in this chapter and with Title 39, Chapter 11, Idaho Code. ()

b. The operator or owner must agree to begin the application process as described in Section 321 of these rules within one (1) business day of identification by the Department that a daycare owner or operator is not in compliance with Title 39, Chapter 11, Idaho Code or this chapter of rules. ()

02. Misdemeanor to Operate a Family Daycare Home for Four or More Children Without Obtaining a Criminal History Check. It is a misdemeanor to operate a family daycare home caring for four (4) or more children without obtaining the required criminal history check in Section 39-1105, Idaho Code. In the event of an initial citation for violation of the provisions of Section 39-1115, if a person makes the applications required within twenty (20) days, the complaint will be dismissed. Operating a family daycare home for four (4) or more children after failure to pass the required criminal history check is a misdemeanor. ()

03. Misdemeanor to Provide Daycare if Guilty of Certain Offenses. It is a misdemeanor to provide daycare services if found guilty of any offenses listed in Section 39-1113, Idaho Code. ()

396. -- 399. (RESERVED)

STANDARDS FOR FOSTER HOMES
(Sections 400-499)

400. STANDARDS FOR FOSTER HOMES.

The standards for licensing foster homes are intended to insure that children of the state who must live away from their parents receive adequate substitute parental care to address their need for safety, health, and well being, that the persons providing this care are capable and suitable to meet the protection needs of children living in foster homes, and the physical environment in which these children reside is a safe setting. ()

401. LICENSING PROVISIONS RELATED TO THE INDIAN CHILD WELFARE ACT.

These rules do not supercede the licensing authority of Indian tribes pursuant to the Indian Child Welfare Act, P.L. 95-608, 25 USC, Sections 1901 – 1963. ()

402. FOSTER PARENT QUALIFICATIONS AND SUITABILITY.

Foster parents must be physically and emotionally suited to care for children and to deal with the problems presented by children placed away from their own parents, family and homes. An applicant for licensure as a foster parent must meet all of the following qualifications: ()

01. Minimum Age. Be twenty-one (21) years of age or older. ()

02. Character. Be of good character. ()

03. Personal Attributes and Experiences. Have the maturity, interpersonal qualities, temperament and life experiences that prepare the foster parent to provide foster care. ()

04. Availability for Child Placement. Express a willingness to provide care for the kind of children the children's agency has available for placement. ()

05. Knowledge and Skill. Demonstrate an understanding of the care that must be provided to the children served by the children's agency or express a willingness to learn how to provide that care. ()

06. Child Care and Supervision. Have adequate time to provide care and supervision for children. ()

07. Income and Resources. Have a defined and sufficient source of income and be capable of managing that income to meet the needs of the foster family without relying on the payment made for the care of a foster child. ()

08. Health. Have the physical, intellectual, and emotional health to assure appropriate care of children. ()

09. Harmonious Home Life. Establish and maintain a harmonious home life to give children the emotional stability they need. No marital or personal problems may exist within the family that would result in undue emotional strain in the home or be harmful to the interest of children placed in the home. ()

10. Acceptance of Foster Children. Express a willingness and demonstrate the ability to accept a child into the home as a member of the family. ()

11. Family Supports. Express a willingness, and demonstrate the ability, to work with a foster child's legal family, future family, or Indian tribe. ()

12. Compliance with Licensing Rules. Demonstrate a willingness and ability to comply with the licensing rules for foster homes. ()

403. MEMBER OF HOUSEHOLD QUALIFICATIONS AND SUITABILITY.

To assure the safety and well-being of children, a member of the household must be in compliance with the requirements specified in these rules. ()

404. CRIMINAL HISTORY AND BACKGROUND CHECKS FOR FOSTER CARE LICENSE.

All applicants for a foster care license and other adult members of the household must comply with the provisions in IDAPA 16.05.06, "Criminal History and Background Checks," and the following requirements: ()

01. Required Procedures. Each applicant for a foster home license, and any other adult member of the household, must participate in a criminal history and background check as required by Section 39-1211(4), Idaho Code. ()

02. Change in Household Membership. By the next working day after another adult begins residing in a licensed foster home, a foster parent must notify the children's agency of the change in household membership and assure that the new adult member of the household will participate in a criminal history and background check as required by Section 39-1211(4), Idaho Code. ()

03. Foster Parent's Child Turns Eighteen. A foster parent's child who turns eighteen (18) and lives continuously in the home is not required to have a criminal history and background check except as specified in Subsection 404.03.c. of this rule. ()

a. After turning eighteen (18) years of age, if the foster parent's adult child no longer lives in the foster parent's home and subsequently resumes living in the licensed foster home, he will be considered an adult member of the household and must complete a criminal history and background check within fifteen (15) days from the date he became an adult member of the household. ()

b. If the adult child leaves the foster home for the purpose of higher education or military service, and periodically returns to the home for less than ninety (90) days, he is not considered to be an adult member of the household and is not required to complete a criminal history and background check. While in the home, he cannot have any unsupervised direct care responsibilities for any foster children in the home. Should he remain in the foster

home for more than ninety (90) days, he will immediately be considered an adult member of the household and must complete a criminal history and background check within fifteen (15) days from the date he became an adult member of the household. ()

c. If the adult child continues to live in their parent's licensed foster home or on the same property, he must complete a criminal history and background check within fifteen (15) days of turning twenty-one (21). This requirement is not necessary if the adult child has completed a criminal history and background check between the ages of eighteen (18) and twenty-one (21). ()

04. Criminal History and Background Check at Any Time. The Department retains the authority to require a criminal history and background check at any time on individuals who are residing in a licensed foster home or on the foster parent's property. ()

405. INITIAL EVALUATION.

An applicant must participate in the process and tasks to complete an initial evaluation for foster care licensure. ()

01. Applicant Participation. The applicant must do all of the following: ()

a. Cooperate with and allow the children's agency to determine compliance with these rules to conduct an initial foster home study; ()

b. Inform the children's agency if the applicant is currently licensed or has been previously licensed as a foster parent or the applicant has been involved in the care and supervision of children or adults; ()

c. Provide a medical statement for each applicant, signed by a qualified medical professional, within the twelve (12) month period prior to initial licensure for family foster care, indicating the applicant is in such physical and mental health so as to not adversely affect either the health or quality of care for children placed in the home; ()

d. Provide the name of, and a signed release to obtain the following information about, each member of the household: ()

i. Admission to or release from a facility, hospital, or institution for the treatment of an emotional, intellectual, or substance abuse issue; ()

ii. Outpatient counseling, treatment, or therapy for an emotional, intellectual, or substance abuse issue; and ()

e. Provide three (3) satisfactory references, one (1) of which may be from a person related to the applicant(s). An applicant will provide additional references upon the request of the children's agency. ()

02. Members of the Household Physical and Mental Health. All members of the household must be in such physical and mental health that the health, safety, or well-being of a foster child will not be adversely affected. A report of the member of the household's physical and mental health status may be required from a qualified medical professional if this appears advisable to the children's agency. ()

03. Disclosure of Information. An applicant must provide the children's agency with the following information and any other information the children's agency deems necessary to complete the initial family home study: ()

a. The names, including maiden or other names used, and ages of the applicant(s); ()

b. Social security number; ()

c. Education; ()

- d.** Verification of marriages and divorces; ()
- e.** Religious and cultural practices of the applicant including their willingness and ability to accommodate or provide care to a foster child of a different race, religion, or culture; ()
- f.** A statement of income and financial resources and the family's management of these resources; ()
- g.** Marital relationship, if applicable, including decision making, communication, and roles within the family; ()
- h.** Individual and family functioning and inter-relationships with each member of the household; ()
- i.** Any current family problems, including mental illness, drug and alcohol abuse, and medical conditions; ()
- j.** Previous criminal convictions and valid incidents of child abuse and neglect; ()
- k.** Family history, including childhood experiences and the applicant's parents' methods of discipline and problem solving; ()
- l.** Child care and parenting skills; ()
- m.** Current methods of discipline; ()
- n.** The names, ages, and addresses of all biological and adopted children currently residing in or outside the home; ()
- o.** Adjustment and special needs of the applicant's children; ()
- p.** Interests and hobbies; ()
- q.** Reasons for applying to be a foster parent; ()
- r.** Understanding of the purpose and goals of foster care; ()
- s.** Prior and current experiences with foster care; ()
- t.** Emotional stability and maturity in dealing with the needs, challenges, and related issues associated with the placement of a child into applicant(s) home; ()
- u.** The attitudes toward foster care by immediate and extended members of the family and other persons who reside in the home; ()
- v.** The applicant's attitudes about a foster child's family and the applicant's willingness to work with the child's family and tribe; ()
- w.** Specifications of the children preferred by the family that include the number of children, age, gender, race, ethnic background, social, emotional and educational characteristics of children preferred; ()
- x.** Adequacy of the applicant's house, property, and neighborhood for the purpose of providing foster care as determined by on-site observations; ()
- y.** The applicant(s) willingness to abide by the children's agency policies and procedures for discipline; ()

- z.** Three (3) personal references, at least two (2) that are from persons not related to the applicants, reflecting the applicants to be of good character and habits; ()
- aa.** Training needs of the applicant(s); and ()
- bb.** The capacity and willingness to transport a foster child in a motor vehicle. ()

406. SUBSEQUENT EVALUATIONS.

A foster parent must comply with the following requirements for the subsequent evaluation required for a foster care license: ()

01. Reasonable Access. A foster parent will allow the children's agency reasonable access to the foster home, including interviewing each foster parent, each foster child and any member of the household to determine continued compliance with licensing standards, for child supervision purposes, and to conduct a re- certification study. ()

02. Update Information. Provide all changes to the information contained in the initial evaluation and subsequent evaluations. ()

03. Family Functioning. Provide information on any changes in family functioning and inter-relationships. ()

04. Other Circumstances. Provide the children's agency with any information regarding circumstances within the family that may adversely impact the foster child. ()

05. Written Plan of Correction. Cooperate with the children's agency in developing and carrying out a written plan required to correct any rule non-compliance identified by any evaluation conducted by the children's agency. ()

407. FOSTER PARENT DUTIES.

A foster parent must carry out the following functions: ()

01. Service Plan Implementation. Cooperate with, and assist the children's agency in, the implementation of the service plan for children and their families. ()

02. Reporting Progress and Problems. Promptly and fully disclose to the children's agency information concerning a child's progress and problems. ()

03. Termination of Placement by the Foster Family. Provide notification to the children's agency of the need for a child to be moved from the foster home not less than fourteen (14) calendar days before the move, except when a delay would jeopardize the child's care or safety or the safety of members of the foster family. ()

04. Written Policies and Procedures for Foster Families. Maintain a copy of, be familiar with, and follow these rules and any other rules, policies, or procedures which an agency may require for foster parents and foster care. ()

408. FOSTER PARENT TRAINING.

Each foster parent must comply with the following training requirements: ()

01. Orientation. Each applicant for a foster home license will receive an orientation related to the children's agency foster care program and services. ()

02. Initial Training. Complete not less than ten (10) hours of training no later than one (1) year following the issuance of an initial foster care license. ()

03. Annual Training. Complete not less than ten (10) hours of training on an annual basis following the initial training specified in these rules. ()

04. Individualized Training. Complete training identified by the children's agency as meeting the individual needs of the foster parent(s). ()

05. Required Training. Complete any additional training as required by the children's agency foster parent training plan. ()

409. -- 429. (RESERVED)

430. CHILD CARE AND SAFETY REQUIREMENTS.

The property, structure, premises, and furnishings of a foster home must be constructed and maintained in good repair, in a clean condition, free from safety hazards and dangerous machinery and equipment. Areas and equipment that present a hazard to children must not be accessible by children. ()

01. Pools, Hot Tubs, Ponds, and Other Bodies of Water. Any licensed foster home with a body of water on or adjacent to their property must provide the following safeguards: ()

a. Around any body of water, a foster child must have appropriate adult supervision consistent with the child's age, physical ability, and developmental level; ()

b. The area surrounding a body of water must be fenced and locked in a manner that prevents access by children; or ()

c. If the area surrounding a body of water is not fenced and locked, there must be a secured protective covering that will not allow access by a child; ()

i. Pool or hot tub covers must be completely removed when in use; ()

ii. When the pool or hot tub cover is in place, the cover must be free from standing water; ()

iii. Covers must be kept locked at all times when the pool or hot tub is not in use; and ()

iv. Exterior ladders on above ground pools must be removed when the pool is not in use. ()

02. Access by Children Five Years of Age and Under. Any licensed foster home that cares for children five (5) years of age and under and chooses to prevent access to a body of water by fencing must provide a fence that meets the following requirements: ()

a. The fence must be at least four (4) feet high with no vertical opening more than four (4) inches wide, be designed so that a young child cannot climb or squeeze under or through the fence, and surround all sides of the pool or pond; ()

b. The gate must be self-closing and have a self-latching mechanism in proper working order out of the reach of young children; ()

c. If the house forms one (1) side of the barrier for the pool, doors that provide unrestricted access to the pool must have alarms that produce an audible sound when the doors are opened; and ()

d. Furniture or other large objects must not be left near the fence that would enable a child to climb on the furniture and gain access to the pool. ()

03. Irrigation Canals or Similar Body of Water. A licensed foster home caring for a child five (5) years of age and under or a child who is physically or developmentally vulnerable, whose property adjoins an irrigation canal or similar body of water, must have fencing that prevents access to the canal or similar body of water by the child. ()

04. Other Safety Water Precautions. ()

- a. Wading pools must be empty when not being used; ()
- b. Children must be under direct supervision of an adult while using a wading pool; ()
- c. Toys that attract young children to the pool area must be kept picked up and away for the pool area when not in use; and ()
- d. A child who does not know how to swim must use an approved lifesaving personal flotation device. ()

431. INSTALLATION, MAINTENANCE AND INSPECTION OF FLAME AND HEAT PRODUCING EQUIPMENT.

A foster parent must assure: ()

01. Installation and Maintenance of Flame and Heat-Producing Equipment. That a furnace, fireplace, wood-burning stove, water heater and other flame or heat-producing equipment is installed and maintained as recommended by the manufacturer, and fireplaces are protected by screens or other means. ()

02. Portable Heating Devices. That portable heating devices will not be used during sleeping hours. ()

03. Fire Inspections. An inspection by a certified fire inspector may be required at the discretion of the children's agency. ()

432. SMOKE AND CARBON MONOXIDE DETECTING DEVICES.

Each foster home must meet the following standards: ()

01. Smoke Detecting Devices. That there will be at least one (1) single-station smoke detector (approved by a nationally recognized testing laboratory) that is installed and maintained as recommended by the manufacturer and as follows: ()

a. One (1) smoke detector on each floor of the home, including the basement; ()

b. One (1) smoke detector in each bedroom used by a foster child; and ()

c. One (1) smoke detector in areas of the home that contain flame or heat-producing equipment other than domestic stoves and clothes dryers. ()

02. Carbon Monoxide Detecting Devices. That there will be at least one (1) carbon monoxide detecting device (approved by a nationally recognized testing laboratory) that is installed and maintained as recommended by the manufacturer. A house that does not have equipment which produces carbon monoxide or does not have an attached garage is exempt from this requirement. ()

433. EXITS.

There must be at least two (2) exits from each floor level used by a family member that are remote from each other, one (1) of which provides a direct safe means of unobstructed travel to the outside at street or ground level. A window may be used as a second exit if it is in compliance with these rules. ()

434. DANGEROUS AND HAZARDOUS MATERIALS.

Dangerous and hazardous materials, objects or equipment, including but not limited to poisonous, explosive or flammable substances that could present a risk to a child placed in a foster home, must be stored securely and out of reach of a child, as appropriate for the age and functioning level of the child. ()

435. FIREARMS AND AMMUNITION.

Firearms at a foster home must be stored: ()

- 01. Trigger Locks.** Unloaded and equipped with a trigger lock; ()
- 02. Unassembled and Inoperable.** Unloaded, fully inoperable and incapable of being assembled and fired; ()
- 03. Locked Cabinet or Container.** Unloaded and locked in a cabinet or storage container that is inaccessible to children; or ()
- 04. Gun Safe.** Locked in a gun safe that is inaccessible to children. ()
- 436. PETS AND DOMESTIC ANIMALS.**
Any pet or domestic animal that is suspected or known to be dangerous must be kept in an area inaccessible to children. ()
- 437. ADEQUATE HEAT, LIGHT, AND VENTILATION.**
A foster home must have adequate heat, light, and ventilation and windows and doors will be screened if used for ventilation. ()
- 438. BATHROOMS, WATER SUPPLY, AND SEWAGE DISPOSAL.**
A foster home must meet the following standards: ()
- 01. Toilet Facilities.** A foster home will have a minimum of one (1) flush toilet, one (1) washbasin that has warm and cold running water, and one (1) bathtub or shower that has warm and cold running water, all of which are in good working order. ()
- 02. Water Supply.** The water supply will meet one (1) of the following requirements: ()
- a.** That it is from a source approved for a private home by the health authority according to IDAPA 58.01.08, "Idaho Rules for Public Drinking Water Systems," at the time of application and for annual renewal of such licenses; or ()
- b.** Water used for consumption at a foster home is from an acceptable source, bottled water from an acceptable source, or boiled for a period specified by the local health authority according to IDAPA 58.01.08, "Idaho Rules for Public Drinking Water Systems." ()
- 03. Sewage Disposal.** Sewage will be disposed of through a public system, or in the absence of a public system, in a manner approved by the local health authority, according to IDAPA 58.01.03 "Individual/Subsurface Sewage Disposal Rules." ()
- 439. TRANSPORTATION.**
A foster parent must comply with the requirements related to child transportation that include: ()
- 01. Legal Requirements for Transporting Children.** A foster parent, or any person acting on behalf of a foster parent, that transports a child, will possess a valid Idaho driver's license, be insured in accordance with Idaho Law, and abide by all traffic laws including the requirement that all children are in proper safety restraints while being transported. ()
- 02. Reliable Transportation.** A foster parent will arrange for safe, reliable transportation of any foster child in their care to assure the child has access to school, community services, and the children's agency. ()
- 03. Prohibitions of Foster Child Transportation.** A foster parent will not transport a foster child while impaired by any substance including alcohol, prescription medication, or any illegal substances. ()
- 440. TELEPHONE.**
Unless previously approved by the licensing agency, there must be an operating telephone in a foster home. ()
- 441. WHEELCHAIR ACCESS.**

A foster home that provides care to a child who regularly requires the use of a wheelchair, must be wheelchair accessible. ()

442. CHILD PLACEMENT REQUIREMENTS.

A foster family must accept the placement of children into the home within the terms of the foster home license or certification and the children's agency placement agreement. The following provisions will be considered for determining placement: ()

01. Determining Factors. The number and the age group of children placed in a foster home will be determined by all of the following: ()

- a. The accommodations and the space in the home; ()
- b. The interest of the foster family; and ()
- c. The experience or skill of the foster family. ()

02. Maximum Number of Children. Except as specified, the maximum number of children in care at any time, including the foster family's own children, or daycare children, will be limited to not more than six (6) children. ()

03. Children Under Two Years of Age. Except as specified in Subsection 442.04 of these rules, the maximum number of children under two (2) years of age, including those of the foster family, will be limited to not more than two (2) children. ()

04. Special Circumstances Regarding Maximum Numbers of Children. The maximum number of children in care at any time may be increased to not more than two (2) additional children, based on any of the following: ()

- a. The increased capacity would allow for siblings to remain together; or ()
- b. The increased capacity would allow a family to provide care to a child who has an established, meaningful relationship with the family; or ()
- c. The foster home offers unusual space, skill, or experience. ()

05. Continued Care. A foster child who reaches the age of eighteen (18) years may continue in foster care placement until the age of twenty-one (21) years if the safety, health and well-being of other foster children residing in the home is not jeopardized. Not more than two (2) such individuals receiving continued care may reside in the foster home at the same time. ()

443. INTERAGENCY PLACEMENT OF CHILDREN.

A foster family must only accept for placement children referred from the children's agency that licenses or certifies the foster home. A foster family may accept for placement a foster child from another children's agency only if that children's agency and the foster family have received prior approval for the placement of a child from the children's agency that licensed or certified the home. ()

444. SUBSTITUTE CARE PLACEMENT AND CHILDREN'S AGENCY NOTIFICATION.

A foster parent must: ()

01. Substitute Care. Place a child in substitute care only with the prior knowledge and consent of the children's agency. ()

02. Notification to Agency. Notify the children's agency before the beginning of any planned absence that requires substitute care of a child for a period of twenty-four (24) hours or more. ()

445. BEDROOMS.

A foster parent must comply with the following rules: ()

- 01. Sleeping Arrangements.** A bedroom occupied by a foster child will: ()
 - a.** Provide an adequate opportunity for both rest and privacy for each child; ()
 - b.** Be readily accessible to adult supervision as appropriate for the age and functioning level of each child; ()
 - c.** Have sufficient floor space to provide two (2) feet of space between beds; ()
 - d.** Have sufficient space for the storage of clothing and personal belongings; ()
 - e.** Have a finished ceiling, permanently affixed floor-to-ceiling walls, and finished flooring; ()
 - f.** Have a latchable door that leads to an exit from the foster home; ()
 - g.** Have at least one (1) outside window that complies with the following: ()
 - i.** Is readily accessible to children and the foster parent; ()
 - ii.** Is readily opened from the inside of the room; and ()
 - iii.** Is of sufficient size and design to allow for the evacuation of children and caregivers. ()
 - h.** Is free of all of the following: ()
 - i.** Household heating equipment excluding baseboard heating systems; ()
 - ii.** Water heater; and ()
 - iii.** Clothes washer and dryer. ()
- 02. Non-Ambulatory Child.** A child who is non-ambulatory and cannot readily be carried by one (1) member of the household will sleep in a bedroom located at ground level. ()
- 03. Sharing Bedroom with a Non-Parent Adult.** A child will not share a bedroom with a non-parent adult unless the child and adult are of the same gender and there is not more than four (4) years difference in age between the adult and the youngest child in the bedroom. ()
- 04. Sharing a Bedroom with a Foster Parent.** A child three (3) years of age or older will not routinely share the bedroom with a foster parent unless the child has special health or emotional needs that require the attention of the foster parent(s) during sleeping hours. ()
- 05. Maximum Number of Children in a Bedroom.** No more than four (4) children will occupy a bedroom. The placement of more than any one (1) child in a bedroom will be based on the age, behavior, functioning, individual needs of each child, and sufficient available space. ()
- 06. Children of the Opposite Gender.** Children of the opposite gender, any of whom are more than five (5) years of age, will not share the same bedroom. ()
- 07. Number of Children in a Bed.** Each child will have an individual bed, except that two (2) brothers or two (2) sisters of comparable age may share a bed if they have previously shared a bed or when there are no health, behavioral or other factors indicating this is undesirable. ()
- 08. Restrictions on Sleeping Arrangements.** The following must not be used for sleeping purposes: ()

- a. A room or area of the foster home that is primarily used for purposes other than sleeping; ()
- b. A room or space, including an attic, that is accessible only by a ladder, folding stairway, or through a trapdoor; or ()
- c. A detached building, except in the case of an older child preparing for emancipation when it can be documented that the child's needs can best be met by that arrangement. ()

09. Appropriate Bedding. A child will have a bed that is appropriate for the age and development of the child. Beds will be equipped with a clean and comfortable mattress, pillow, linens, and blankets appropriate for the weather. ()

446. BEHAVIOR MANAGEMENT AND DISCIPLINE.

Methods of behavior management and discipline for children must be positive and consistent. These methods must be based on each child's needs, stage of development, and behavior. Discipline is to promote self-control, self-esteem, and independence. ()

- 01. Prohibitions.** All of the following types of punishment of a foster child are prohibited: ()
 - a. Physical force or any kind of punishment inflicted on the body, including spanking; ()
 - b. Cruel and unusual physical exercise or forcing a child to take an uncomfortable position; ()
 - c. Use of excessive physical labor with no benefit other than for punishment; ()
 - d. Mechanical, medical, or chemical restraint; ()
 - e. Locking a child in a room or area of the home; ()
 - f. Denying necessary food, clothing, bedding, rest, toilet use, bathing facilities, or entrance to the foster home; ()
 - g. Mental or emotional cruelty; ()
 - h. Verbal abuse, ridicule, humiliation, profanity, threats or other forms of degradation directed at a child or a child's family; ()
 - i. Threats of removal from the foster home; ()
 - j. Denial of visits or communication with a child's family unless authorized by a children's agency in its service plan for the child and family; and ()
 - k. Denial of necessary educational, medical, counseling, or social services. ()

02. Restraint. A foster parent who has received specific training in the use of child restraint may use reasonable restraint methods, approved by the children's agency, to prevent a child from harming himself, other persons or property, or to allow a child to gain control of himself. ()

03. Authority. The authority for the discipline of a foster child must not be delegated by a foster parent to other members of the household. ()

04. Agency Consultation. A foster parent must consult with the children's agency prior to using any behavior management or discipline technique that exceeds the scope of these rules. ()

447. MEDICAL AND DENTAL CARE.

01. Health Care Services. A foster parent must follow and carry out the health or dental care plan for a child as directed by a qualified medical professional. ()

02. Child Injury and Illness. Follow the children's agency approved policies for medical care of a child who is injured or ill. ()

03. Dispensing of Medications. Provide prescription medication as directed by a qualified medical professional. A foster parent must not discontinue or in any way change the medication provided to a child unless directed to do so by a qualified medical professional. ()

04. Storage of Medication. A foster parent must store medications in an area that is inaccessible to a child. ()

448. PERSONAL CARE AND HYGIENE.

A foster parent must instruct the child in personal care, hygiene and grooming and provide the child with necessary personal care, hygiene and grooming products appropriate to the age, gender, and needs of the child. The foster parents will seek approval from the children's agency before altering a child's physical appearance including haircuts, body piercing and tattooing. ()

449. FOOD AND NUTRITION.

A foster parent must provide a foster child with meals that are nutritious, well-balanced, of sufficient quantity and serve the foster child the same meals as other members of the household unless a special diet has been prescribed by a medical professional, or unless otherwise dictated by differing needs based on a child's age, medical condition, or cultural or religious beliefs. A foster child is required to eat with other members of the family, unless the child's medical condition dictates a different arrangement. Perishable foods must be refrigerated. Milk provided to foster children must be pasteurized, from a licensed dairy or come from an animal that is documented to be free from tuberculosis, brucellosis, or other conditions that could be injurious to a child's health. ()

450. NECESSARY CLOTHING.

A foster parent must provide a child with sufficient, clean, properly fitting clothing appropriate for the child's age, gender, individual needs, and season with clothing reflecting cultural and community standards. ()

451. PERSONAL POSSESSIONS, ALLOWANCES, AND MONEY.

A foster parent must follow the children's agency policy regarding a child's personal possessions, allowance, and money and when a child moves from a foster home, the foster parent will provide the child or the children's agency with all of the child's possessions, including money. ()

452. CHILD TASKS.

A parent must permit a child to perform only those routine tasks that are within the child's ability, are reasonable, and are similar to the routine tasks expected of other members of the household of similar age and ability. ()

453. EDUCATION.

A foster parent must cooperate with the children's agency and applicable educational organizations to implement the education and training plan for each child. ()

454. RELIGIOUS AND CULTURAL PRACTICES.

A foster parent must provide a child in care with opportunity for spiritual development and cultural practices in accordance with the wishes of the child and the child's parent or tribe. ()

455. RECREATION.

A foster parent must provide or arrange access to a variety of indoor and outdoor recreational activities and encourage a child to participate in recreational activities that are appropriate for the child's age, interests, and ability. ()

456. MAIL.

A foster parent must permit a child to send and receive mail in accordance with the mail policy of the children's agency. ()

457. REASONABLE AND PRUDENT PARENT STANDARD.

A caregiver must follow the reasonable and prudent parent standard. ()

01. Reasonable and Prudent Parent Standard Defined. The reasonable and prudent parent standard means the standard characterized by careful and sensible parental decisions that maintain the health, safety, and best interests of a child while at the same time encouraging the emotional and developmental growth of the child that a caregiver must use when determining whether to allow a child in foster care under the responsibility of the state to participate in extracurricular, enrichment, cultural, or social activities. ()

a. “Caregiver” means a foster parent with whom a child in foster care has been placed or a designated official for a child care institution in which a child in foster care has been placed. ()

b. “Age or developmentally appropriate” means: ()

i. Activities or items that are generally accepted as suitable for children of the same chronological age or level of maturity or that are determined to be developmentally appropriate for a child, based on the development of cognitive, emotional, physical, and behavioral capacities that are typical for an age or age group; and ()

ii. In the case of specific child, activities or items that are suitable for the child based on the developmental stages attained by the child with respect to the cognitive, emotional, physical, and behavioral capacities of the child. ()

02. Training. Each caregiver will complete training to include knowledge and skills relating to the reasonable and prudent parent standard for the participation of the child in age or developmentally appropriate activities, including knowledge and skills relating to the developmental stages of the cognitive, emotional, physical, and behavioral capacities of a child, and applying the standard to decisions such as whether to allow the child to engage in social, extracurricular, enrichment, cultural, and social activities, including sports, field trips, and overnight activities lasting one (1) or more days, and involving the signing of permission slips and arranging transportation for the child to and from extracurricular enrichment and social activities. ()

458. -- 469. (RESERVED)

470. RECORD MANAGEMENT AND REPORTING REQUIREMENTS.

A foster parent must maintain a record for each child in the home that will include all written material provided to the foster home by the children's agency and additional information gathered by the foster parent that includes the following: ()

01. Personal Data. The child's name, gender, date of birth, religion, race and tribe, if applicable; ()

02. History of Abuse and Neglect. Any known history of abuse or neglect of the child; ()

03. Emotional and Psychological Needs. Any known emotional and psychological needs of the child; ()

04. Health. Any information known about the child's health; and ()

05. Behavioral Problems. Any known behavioral problems of the child; ()

471. REPORTING FOSTER HOME CHANGES.

A foster parent must report to the children's agency any significant change in the foster home by the next working day from the time a foster parent becomes aware of a change, including the following: ()

01. Illness, Injury, or Death. Serious illness, injury, or death of a foster parent or a member of the household. ()

02. Arrests, Citations, Withheld Judgments, or Criminal Convictions. Any arrests, citations, ()

withheld judgments, or criminal convictions of a foster parent or member of the household. ()

03. Parole and Probation. Initiation of court-ordered parole or probation of a foster parent or member of the household. ()

04. Admission or Release From Facilities. Admission to, or release from, a correctional facility, a hospital, or an institution for the treatment of an emotional, mental health, or substance abuse issue of a foster parent or member of the household. ()

05. Employment. A change of employment status of a foster parent. ()

06. Counseling, Treatment or Therapy. Counseling or other methods of therapeutic treatment on an outpatient basis for an emotional, mental, or substance abuse issue of a foster parent or member of the household. ()

07. Change of Residence. A foster parent will inform the children's agency of any planned change in residence and submit an application for licensure at the new address not less than two (2) weeks prior to a change in residence. ()

08. Additional Licensing Application. A foster parent will notify the children's agency within five (5) calendar days after filing an application for a certified family home, daycare, or group daycare license. ()

472. CONFIDENTIALITY.

A foster parent must maintain the confidentiality of any information and records regarding a foster child and the child's parents and relatives, and a foster parent will release information about the foster child only to persons authorized by the children's agency responsible for the foster child. ()

473. UNUSUAL INCIDENT NOTIFICATION.

The foster parent must immediately notify the responsible children's agency of any of the following incidents: ()

01. Death. Death of a child in care. ()

02. Suicide. Suicidal ideation, threats, or attempts to commit suicide by the foster child. ()

03. Missing. When a foster child is missing from a foster home. ()

04. Illness. Any illness or injury that requires hospitalization of a foster child. ()

05. Law Enforcement Authorities. A foster child's detainment, arrest, or other involvement with law enforcement authorities. ()

06. Removal of Child. Attempted removal or removal of a foster child from the foster home by any person who is not authorized by the children's agency. ()

474. -- 499. (RESERVED)

CHILDREN'S AGENCIES AND CHILDREN'S RESIDENTIAL CARE FACILITIES
(Sections 500-599)

500. GENERAL STANDARDS FOR ORGANIZATIONS KNOWN AS CHILDREN'S AGENCIES AND CHILDREN'S RESIDENTIAL CARE FACILITIES.
(Sections 500 through 599, see also Sections 000 through 299) ()

501. ACCESS BY DEPARTMENT AUTHORIZED AGENTS.

The Department's representatives must be provided access to the children's agency, children's therapeutic outdoor program, or children's residential care facility and its grounds, facilities, and records for determining compliance with

applicable rules and investigation of complaints against the organization. ()

502. COMPLIANCE REQUIRED.

Before being licensed as an organization, the applicant must comply with all applicable rules where compliance can be achieved prior to being licensed and must demonstrate intent to comply with the applicable rules where compliance can only be achieved once the program has become fully operational. ()

503. NOTIFICATION TO THE LICENSING AUTHORITY.

An organization must notify the licensing authority a minimum of thirty (30) days prior to a change in the name of the organization, type of service, type of children being served, an increase in licensed capacity of a child care facility or children's residential care facility, or the organization closes, moves or changes ownership. ()

504. NOTIFICATION TO THE LICENSING AUTHORITY NO LATER THAN ONE WORKING DAY.

An organization must notify the licensing authority no later than one (1) working day of any circumstance in Subsections 504.01 through 504.04 of this rule: ()

- 01. Fire.** There is a fire in a structure housing residents that requires the services of a fire company. ()
- 02. Injured Child.** A child is injured and requires in-patient hospital treatment. ()
- 03. Change in Administrator.** There is a change in chief administrator for the organization. ()
- 04. Employee Investigated.** An employee is the subject of an investigation for child abuse or neglect. ()

505. UNAUTHORIZED ABSENCES.

Upon an unauthorized absence of a child in care, an organization must immediately notify the parent, guardian or placing children's agency and law enforcement. Clothing and other personal belongings must be secured immediately until the child returns or other arrangements are made, according to organization standards. ()

506. DEATH OF A CHILD IN CARE NOTIFICATION.

An organization must immediately notify the parent, guardian or placing children's agency and the licensing authority upon the death of a child in care. In the event of a sudden death, or if the death occurs as a result of a crime or accident, the appropriate law enforcement agency must be contacted immediately by the organization. ()

507. -- 519. (RESERVED)

520. WRITTEN BYLAWS.

Except for an organization operated by a governmental entity, an organization must have written bylaws defining the board structure, philosophy and program. ()

521. GOVERNING BODY REQUIRED.

An organization must have an identifiable functioning governing body. The governing body must designate a person to function as the chief administrator of the organization, who is competent to administer the organization and delegate the overall day to day responsibility for the administration and operation of the organization. There must be a written plan for the delegation of authority in the absence of the chief administrator. ()

522. DELINEATION OF JOB RESPONSIBILITIES.

An organization must delineate, in writing, the job responsibilities and functions of the chief administrator. The chief administrator must adopt and implement lines of responsibility that ensure the proper and effective supervision and monitoring of employees and volunteers. ()

523. ORGANIZATIONAL CHART, POLICIES AND PROCEDURES.

An organization must have an organizational chart identifying the job positions, individuals in each position, and the lines of authority within the organization. ()

524. INSURANCE COVERAGE.

An organization must secure and maintain on file copies of current motor vehicle, fire, comprehensive general liability, and professional liability insurance. ()

525. QUALITY OF SERVICES ENVIRONMENT.

An organization must carry out its licensed programs in an environment that is safe, accessible, and appropriate for the needs of those served and with due regard for the rights and protections of those persons receiving services. ()

01. Assess Compliance. The organization's administration must assess compliance with the applicable rules annually. ()

02. Corrective Action for Non-Compliance. For each item of non-compliance, within thirty (30) days of notification by the licensing authority, the organization must have developed and implemented a plan approved by the licensing authority to correct each item within six (6) months. ()

03. Expedient Correction. The licensing authority may require a more expeditious correction when it determines there is a health and safety risk to children. Imminent risk to a child requires the corrective action be completed within twenty-four (24) hours of discovery of the non-compliance by the licensing authority. ()

04. Assess Disrupted Placement. The organization must also assess all disrupted placements and unplanned removals of children from foster homes, transitional living, adoptive homes, children's therapeutic outdoor program, and children's residential care facilities. Corrective action must be implemented to correct causes of disrupted and unplanned removals. ()

526. RESEARCH PROTECTIONS FOR PERSONS SERVED.

An organization must have a mechanism for reviewing and recommending approval and denial of research proposals involving past or present persons served. When an organization or another acting on its behalf participates in research involving its clients, the organization must maintain the privacy and right of refusal of any person to participate. ()

527. CONFIDENTIALITY AND PRIVACY PROTECTIONS OF PERSONS SERVED.

An organization must have and follow written policies and procedures governing access to, use of, and release of information about a person served. The privacy of a child and their family must be protected. The identity of a child used in any form of publicity must be given only when written consent of the child's parent or guardian has been obtained prior to using or allowing to be used a child, picture of a child, or a child's name. Written consent is not required for publicity specifically used to locate an adoptive placement for a child. ()

528. DESCRIPTION OF SERVICES.

An organization must have and follow a written description of the services and fees the organization charges including those provided by the licensee or arranged through other sources. This information must be factual and available to the public. The description must include policies governing eligibility for service, age, specific characteristics, and treatment needs of children served, accommodation of cultural sensitivity, and the geographic area served. ()

529. INTAKE POLICY.

An organization must have and follow a written intake policy that sets forth the criteria for admitting children for care or services. The policy must be in keeping with the organization's purpose and services provided. Except for an emergency placement, the intake policy must include a requirement that sufficient information on each child admitted for care or services is obtained to determine that the child can be appropriately served by the organization. For an emergency placement the policy must require that the information needed to determine the appropriateness of continuing the placement or services is obtained within seven (7) days of the child's admission or placement. ()

530. CONTINUED CARE.

Continued care is permitted as defined and authorized in the Idaho Child Care Licensing Reform Act Sections 39-1202 and 39-1213, Idaho Code, and Section 531 of these rules for individuals eighteen (18) to twenty-one (21) years of age. ()

01. Department or Department of Juvenile Corrections (DJC) Placed Individuals. Continued care is permitted for individuals receiving services by, through, or with the authorization of the Department or the Department of Juvenile Corrections (DJC) prior to their eighteenth birthday. ()

02. Individuals Not Placed by Department or DJC. Individuals who are in the care of a licensed child care program prior to turning eighteen (18) years of age may remain in the program for up to ninety (90) days after their eighteenth birthday, or, until the close of the current school year for individuals attending school. ()

531. DOCUMENTATION REQUIREMENTS FOR CONTINUED CARE.

Prior to accepting an individual into continued care the following requirements must be met: ()

01. Voluntary Agreement. A signed voluntary agreement to remain in the program, or a copy of a court order authorizing continued placement after the individual's eighteenth birthday. ()

02. Assessment for Others Safety. An assessment to assure that an individual in continued care does not jeopardize the health, safety and well being of the children in care of the organization. ()

03. Additional Continued Care Plans. A plan that prohibits individuals in continued care from sharing a bedroom or other sleeping quarters with a child as defined in Section 010 of these rules. ()

04. Documentation of Care Prior to Eighteenth Birthday. Documentation verifying the individual in continued care was in the care of the organization prior to eighteenth birthday. ()

05. Documentation of Need for Continued Care. Documentation verifying the individual in continued care needs to remain in order to complete treatment, education, or other similar needs. ()

532. -- 534. (RESERVED)

535. SUFFICIENT FINANCIAL RESOURCES.

An organization must have sufficient financial resources to implement and deliver its programs. It must initially and annually develop and implement a plan of financing to carry out its programs, to ensure that children receive safe and appropriate care and needed services, and to ensure applicable licensing requirements are met. The plan of financing must include realistic projected income and expenditures. ()

536. ANNUAL AUDIT.

An organization must provide the licensing authority a copy of an annual audit, an auditor's report, or a current federal tax return. ()

537. -- 543. (RESERVED)

544. HUMAN RESOURCES NEEDED.

An organization must determine, organize and deploy the human resources needed to provide services subject to applicable rules and to promote optimum outcomes for persons served. An organization must have an adequate number of qualified administrative, supervisory, social service, direct care staff and other staff to perform the prescribed functions required by applicable rules to provide for the needs, safety, protection and supervision of children served. ()

545. SERVICE WORKER OR SOCIAL WORKER.

An organization must employ, at a minimum, one (1) service or social worker, as defined in Section 011 of these rules, for a minimum of thirty-two (32) hours per week. ()

546. STAFF RECRUITMENT, HIRING, SUPERVISION, TRAINING, EVALUATION, PROMOTION AND DISCIPLINE.

An organization must have and follow written policies and procedures governing recruitment, screening, hiring, supervision, training, evaluation, promotion, and discipline of employees and volunteers. An organization must employ persons and use volunteers who have an understanding and respect for children and their needs, the child's

family and culture; are physically and emotionally suited to provide, services to unrelated children and the problems they present; and are capable of performing activities related to their job. ()

01. Job Descriptions. An organization must have and follow written job descriptions for every position identifying necessary qualifications, including education, experience, training, duties, and lines of authority. ()

02. Personnel Records. An organization must have a personnel record for every employee and volunteer. The record must contain the following: ()

- a. Employment application; ()
- b. Name, date of birth, current address and home phone number; ()
- c. Documents verifying education, certification, and license when the person fills a position requiring a minimum level of education, applicable certification or license; ()
- d. Verification of child care work history; ()
- e. Three (3) references from persons who are unrelated to the employee or volunteer. For a job applicant who has worked for an organization which provides care or services to children, one (1) of the references must be from a prior child care provider for whom the employee or volunteer worked; ()
- f. Verified documentation of a complete criminal history record check as required by Section 39-1210, Idaho Code; ()
- g. Verification by the employee or volunteer of receipt of the organization's behavior management policy; ()
- h. Copy of the current job description and verification that the employee has been provided a copy of their current job description; ()
- i. The date the person was employed and the date they began their current job; ()
- j. For staff and volunteers who transport children, a copy of a valid driver's license for the type of vehicle used while transporting children. If they use their own vehicle to transport children, the record must include proof that the vehicle is properly insured. ()
- k. A performance evaluation within a probationary period and annual performance evaluations thereafter; and ()
- l. Documentation of any disciplinary actions. ()

547. PERSON FILLING MORE THAN ONE POSITION.
A person filling more than one (1) position must meet the requirements for each position. ()

548. (RESERVED)

549. TUBERCULOSIS SCREENING.
Staff and volunteers who have contact with children for four (4) or more hours per week for two (2) or more consecutive weeks must have documentation in their personnel file that they are free from communicable tuberculosis. The screening and documentation must be updated every three (3) years. ()

550. VOLUNTEER SUPERVISION.
A designated employee of the organization must supervise a volunteer. ()

551. EMPLOYEE AND VOLUNTEER ORIENTATION.

An organization must document that each new employee, contractor, and volunteer participates in an orientation that includes the information described as follows in Subsections 551.01 through 551.04 of this rule: ()

- 01. Organization.** The purpose of the organization. ()
- 02. Job Function.** The policies and procedures of the organization as they relate to their job function. ()
- 03. Job Responsibilities.** The employee's, contractor's, or volunteer's role and responsibilities. ()
- 04. Child Abuse, Neglect, and Abandonment Reporting.** The requirement to report suspected incidents of child abuse, neglect, and abandonment. ()

552. EMPLOYEE AND VOLUNTEER TRAINING.

Except for a licensed professional under contract with the organization, an organization must document that each new employee and volunteer, and current employee and volunteer whose job function significantly changes, and whose primary role requires interaction with children, receive at least twenty-five (25) hours of planned training before working independently. Orientation cannot be counted toward the required training hours. The training must include specific instruction in job responsibilities, policies and procedures, emergency procedures, child safety, child abuse, neglect, or abandonment, and the applicable licensing requirements. ()

553. -- 559. (RESERVED)

560. PERMANENT REGISTER.

Child agencies and child residential care facilities must maintain a permanent register of all children admitted into care. The permanent register must include each child's full name, gender, date and place of birth, parents or guardian, and address of the parent or guardian, who placed the child, the date of placement, date of discharge, and to whom the child was discharged. ()

561. CONTENT OF CHILD'S RECORD.

At the time of a child's placement, the person admitting the child must document in the child's record the child's physical and emotional state at the time of placement. In addition, at the time of placement and if not available at the time of an emergency placement, then within seven (7) days, an organization must document complete biographical and identifying information on each child admitted into care. ()

- 01. Minimum Information.** The record must contain at a minimum the following: ()
 - a.** Child's full name; ()
 - b.** Date and place of birth; ()
 - c.** Gender; ()
 - d.** Height, weight, hair color, eye color, race, and identifying marks; ()
 - e.** Last known address and with whom the child lived; ()
 - f.** Last school attended including previous grade level, current grade level and scholastic performance; ()
 - g.** Parents' full names, marital status, and addresses and if known to be separated or divorced, proof of custody; ()
 - h.** Guardian's name and address; ()
 - i.** Date of admission; ()

- j. Name of the person who placed the child in care; ()
 - k. For children's residential care facilities which provide treatment, the child's primary diagnosis; ()
 - l. The nature of the child's problems or the reason for being served; ()
 - m. Documentation of authority to accept and care for the child; ()
 - n. Child's and parent's religious preference; ()
 - o. Where it has been determined that a child is of applicable Indian heritage, compliance with the Indian Child Welfare Act; ()
 - p. Evaluation of the child's physical, social and emotional development and any special problems and needs he has, including medical, surgical and dental care needs; ()
 - q. Reports of psychological tests and psychiatric examinations and follow-up treatment if obtained; ()
 - r. Record of the child's contacts with their family; ()
 - s. Projected discharge date; ()
 - t. Discharge date and after care plan summary; and ()
 - u. The assigned social worker or service worker. ()
- 02. Child's Health Record.** There must be a health record for each child, available to appropriate staff for emergency use and to provide for the child's routine care. The record must contain at a minimum the following: ()
- a. The child's health history and initial health screening, including known allergies; ()
 - b. A list of all medications the child is taking at the time of admission and any medication prescribed for the child while in care including the date prescribed and the prescribing physician; and ()
 - c. A copy of the child's medical provider's name, address and telephone number. ()

562. AUTHORIZATIONS REQUIRED.

Written authorization must be obtained from the parent, guardian or court of jurisdiction to obtain and provide routine medical care, emergency medical and surgical care, and mental health care for the child. ()

563. SERVICE PLANS.

An organization must develop and follow a written service plan for a child admitted into care unless otherwise provided for in Sections 564, and 790 through 794 of these rules. ()

01. Initial Service Plan. The initial service plan must be developed and recorded in the child's record within thirty (30) days after admission and must: ()

- a. Identify the needs of the child and family and provide goals and a time frame to achieve the goals; ()
- b. Document services the organization will provide to assure the safety, health, permanency, and well-being of the child; ()
- c. Establish and document criteria for discharge; ()

d. Demonstrate the service plan was developed in a process that included participation of the child's parent, guardian, or legal custodian, and the child. A child may be excluded from participation in development of the service plan if he is under nine (9) years of age or not capable of understanding the purpose of the planned services; and ()

e. Identify the persons responsible for coordinating and implementing the child's and family's treatment goals. ()

02. Updated Service Plan. A service plan must be updated every ninety (90) days and must: ()

a. Assess the appropriateness of continuing the current placement; ()

b. Document services the organization will provide to assure the safety, health, permanency, and well-being of the child; ()

c. Document progress towards achieving the goals in the service plan; ()

d. Demonstrate the service plan was developed in a process that included participation of the child's parent, guardian, or legal custodian, and the child. A child may be excluded from participation in development of the service plan if he is under nine (9) years of age or not capable of understanding the purpose of the planned services. ()

564. SHELTER CARE ADMISSION AND PLANS.

The organization must develop and follow a written plan within seven (7) days of admission to shelter care. The plan must assess the child's immediate and specific needs and identify the specific services to be provided by the organization and other resources to meet the needs. ()

01. Shelter Care in Excess of Thirty Days. The organization must re-assess and update the written plan for each child remaining in shelter care for thirty (30) days and at forty-five (45) days. The plan must include: ()

a. The reason for continued care; ()

b. Plans for other placement; and ()

c. Barriers to other placement and the plans to eliminate the barriers. ()

02. Shelter Care More Than Sixty Days. The organization must develop and follow service plans that comply with these rules, except the initial service plan must be developed after sixty (60) days of admission. The service plan must be updated every ninety (90) days thereafter. ()

565. MAINTENANCE OF RECORDS.

An organization must have and follow written policies and procedures for the maintenance and security of records. The policy and procedures must: ()

01. Record Storage. Ensure that the records are stored in a secure manner. ()

02. Record Confidentiality. Ensure confidentiality of and prevent unauthorized access to the records. ()

03. Organization of Record. Require that similar type records be maintained in a uniform and organized manner. ()

04. Record Storage for Closed Organizations. Before an organization ceases operations, it must arrange with the Department for the storage of all child and adoptive family records required to be maintained by rules. ()

566. RECORD RETENTION.

Except for an adoptive record, records must be maintained for at least seven (7) years after the child has been released from the organization's care or until the child reaches the age of twenty-five (25), which ever is longer. A record for an adopted child and adoptive parent must be kept forever. The record for each applicant for a foster care license or certification or an application to adopt where there was no adoptive placement must be maintained for at least seven (7) years after provision of services has ended. ()

567. -- 569. (RESERVED)

570. REPORTING OF CHILD ABUSE, NEGLECT, AND ABANDONMENT.

All suspected incidents of child abuse, neglect, or abandonment must be reported immediately to law enforcement or the Department as required by Section 16-1605, Idaho Code. The chief administrator or designee of the children's agency or facility must ensure the safety and protection of children when the allegation is against an organization's staff or volunteer and must initiate a thorough investigation and administer appropriate disciplinary action, when indicated. ()

571. HEALTH SERVICES.

The organization must provide a physical exam within the last year by a licensed physician when the child has been in continuous care. If a child has not been in continuous care, a physical must be done within thirty (30) days of admission by a licensed physician. Annual physical exams must be provided for a child two (2) years of age and older, and on a schedule determined by a pediatrician for a child under two (2) years of age. Documentation must be maintained of current immunizations or provisions for immunizations as required by Section 39-4801, Idaho Code, within thirty (30) days of admission. The organization must provide documentation of medical care for the treatment of illnesses, carrying out corrective measures and treatment, and for the administration of medication as ordered by the physician. ()

572. DENTAL SERVICES.

For children three (3) years of age and older, the organization must ensure and document the child has had a dental exam within the last nine (9) months or a dental exam within three (3) months of admission, a yearly dental exam and necessary dental treatment, including prophylaxis, extraction, repair and restoration. The organization must make provisions for appropriate dental care for a child under the age of three (3) when the child's dental needs indicate. Documentation of all medical treatment provided while the child is in care and documentation of applicable medical insurance provider, policy numbers and who holds the policy must be maintained. ()

573. NON-VIOLENT PHYSICAL INTERVENTION.

An organization must have written policies and procedures governing the appropriate use of non-violent physical restraint intervention strategies. The policies and procedures must be according to non-violent physical restraint intervention strategies of a nationally recognized program. Non-violent physical restraint intervention strategies must include the following: ()

01. Protection from Harm to Self or Others. Be used only when a child's behavior is out of control and could physically harm himself or others, or to prevent the destruction of property when the child fails to respond to non-physical behavior management interventions. ()

02. Intervention Time Guidelines. Be used only until the child has regained control and must not exceed fifteen (15) consecutive minutes, include written documentation of attempts made to release the child from the restraint if more than fifteen (15) minutes is required. ()

03. Intervention Training Requirements. Be used only by employees or volunteers documented to have been specifically trained in its use and authorized to apply such strategies. ()

04. Conditions Limiting Restraint Use. Prohibit the application of a non-violent physical restraint intervention if a child has a documented physical condition that would contraindicate its use, unless a qualified medical professional has previously and specifically authorized its use in writing. Documentation must be maintained in the child's record. ()

05. Prohibition of Prone Restraints. Prohibit the use of prone restraints. ()

06. Intervention Documentation. Require documentation of the behavior which required the non-violent physical restraint intervention strategy, the specific attempts to de-escalate the situation before using physical restraint, the length of time of the non-violent physical restraint intervention strategy was applied which includes documentation of the time started and completed, and the debriefing completed with the staff and child involved in the non-violent physical restraint intervention strategy. ()

07. Subsequent Review. Require that whenever the non-violent physical intervention policy and procedures have been used on a child more than two (2) times in one (1) week, there is a review by the chief administrator or their designee. Appropriate action must be taken based on the findings of the review. ()

574. CLIENT GRIEVANCE POLICY.

An organization must develop and follow a written grievance policy for clients that is written in simple and clear language, requires prompt investigation of the grievance by a person who can be objective, and provides at least one (1) level of appeal. Clients must be made aware of the grievance policy and this must be documented. The policy must be shared in a manner appropriate to the child's age and their ability to understand. The policy must require monitoring to ensure there is no retaliation against the child or the person who files a grievance. ()

575. SUICIDE PREVENTION PLAN.

An organization must develop and follow a written suicide prevention plan that addresses the needs of the population the organization serves. ()

576. CLOTHING.

An organization must ensure that each child in care has sufficient clean, properly fitting clothing, appropriate for the child's age, gender, individual needs, program and season. ()

577. VISITATION POLICY.

An organization must have and follow a written visitation policy. The policy will encourage visits between a child in care and family members and others significant to the child except when visitation is contraindicated and is documented in the child's record or a court order. The policy must require the maintenance of a log of visitation for each child in residential care which includes the name of the person visiting and the date and time of the visit. ()

578. CORRESPONDENCE POLICY.

An organization must have and follow a written correspondence policy that specifies the conditions under which the organization restricts the receipt of correspondence to or from a child. The conditions must require that the child and parent or guardian be informed of the restriction, the reason for the restriction, and that the restriction be documented in the child's record. The policy must prohibit staff and foster parents from reading children's correspondence except where there is a legitimate documented reason to do so. When staff or foster parents read a child's correspondence, the child must be present. Packages may be exempt from the prohibition against inspection. ()

579. RELIGIOUS AND CULTURE POLICY.

An organization must have and follow a written policy regarding religious participation, religious training, cultural heritage, and cultural practices of children in its care. Before placement of any child with the organization, the child's parents or guardians must receive a copy of the religious and cultural policy and acknowledge receipt of the policy with their signature and date. ()

01. Organizations That Accept State Placements. An organization providing services to a child placed by the state must include in its policy a requirement to provide reasonable attempts to accommodate the religious and cultural preferences of the child and the child's parents. The organization will also commit in policy to assurances of respect for the religious and cultural beliefs and practices of all children placed in their program. ()

02. Organizations That Accept Only Private Placements. An organization that accepts only private placements and requires each child to participate in specific religious practices must include this requirement in their written religious and cultural policy signed by the child's parents or guardians. ()

580. EDUCATION POLICY.

An organization must have and follow an education policy. The policy will require that within five (5) school days after a child's placement, each child of school age, as defined by state law, be enrolled in an appropriate school program or document why the child was unable to enroll. ()

581. PERSONAL POSSESSIONS, ALLOWANCE, AND MONEY POLICY.

An organization must have and follow a personal possessions, allowance and money policy. The policy will include: ()

01. Financial Accounting. Payment of, and accounting for any allowance, social security benefits, and other financial benefits to a child in care. ()

02. Child's Personal Possessions. Documented accounting for a child's personal possessions, including clothing with which the child came into care and items which were obtained while he is in care and documented return of all inventoried items, to the child, parent, or guardian at discharge from care, except illegal contraband and contraband prohibited by the organization in its policy which may be exempt from return. ()

03. Signature Required. The organization must obtain the signature of the parent, guardian or child over eight (8) years of age who is capable of understanding the purpose of the inventory at the time of inventory and when the items are returned. ()

582. EMERGENCY POLICIES.

An organization must have and follow an emergency policy and procedures. The policy must contain provisions for ensuring that a caregiver has and follows the organization's approved written procedures for the following emergencies: ()

01. Fire. ()

02. Natural Disasters. ()

03. Serious Accident or Injury. ()

04. Medical. ()

05. Missing Child. ()

06. Power Outage. ()

07. Bomb Threat. ()

08. Severe Weather. ()

09. Hostage Taking. ()

10. Other Dangers Unique to the Location of an Organization. ()

583. REASONABLE AND PRUDENT PARENT STANDARD FOR AN ORGANIZATION PROVIDING SERVICES TO CHILDREN PLACED BY THE DEPARTMENT.

An organization providing services to children placed by the Department's Child and Family Service Program must designate at least one (1) on-site official who is authorized to apply the reasonable and prudent parent standard as described in Section 457 of these rules. ()

584. -- 599. (RESERVED)

ADDITIONAL STANDARDS FOR CHILDREN'S AGENCIES
(Sections 600-699)

600. ADDITIONAL STANDARDS FOR CHILDREN'S AGENCIES.
(Sections 600 through 699, see also Sections 500 through 599.) ()

601. CHIEF ADMINISTRATOR POSITION AND QUALIFICATIONS.
The children's agency must employ or contract for a chief administrator who has at the time of appointment, at a minimum: ()

01. Master's Degree. A Master's degree from an accredited college or university in a field related to behavioral science, two (2) years of experience working with families or children in a social services setting, and three (3) years of experience in staff supervision and administration; or ()

02. Bachelor's Degree. A Bachelor's degree from an accredited college or university in a field related to behavioral science, five (5) years of experience working with families or children in a social services setting and three (3) years of experience in staff supervision and administration. ()

602. SERVICE WORKER SUPERVISOR POSITION.
The children's agency may employ a service worker supervisor who possesses either: ()

01. Master's Degree Provision. A Service Worker Supervisor must be a certified social worker or a person who possesses a Master's degree from an accredited college or university in a related field with appropriate licensure as required by state law, and have demonstrated experience of not less than five (5) years in adoptions or foster care; or ()

02. Bachelor's Degree Provision. A Bachelor's degree from an accredited college or university in a behavioral science, or in another major where twenty-five percent (25%) of the course credits earned toward the degree are in behavioral sciences, and five (5) years of experience working with families or children in a social service setting and three (3) years in staff supervision and administration. ()

603. (RESERVED)

604. SOCIAL WORKER POSITION AND QUALIFICATIONS.
A children's agency may employ or contract for a licensed social worker who possesses at least a bachelor's degree from an accredited college or university with a major in a social work. ()

605. SERVICE WORKER POSITION AND QUALIFICATIONS.
A children's agency that does not employ or contract for a social worker must employ or contract for a service worker. ()

01. Qualification. Qualifications of the service worker must be verified through written documentation of work experience and education. The service worker will have at a minimum: ()

a. Twenty (20) hours of completed training in adoption or foster care services specific to the assigned duties; or ()

b. One (1) year of full-time paid experience in adoption or foster care services specific to assigned duties. ()

02. Training. Service Workers must document twenty (20) hours of completed training every four (4) years in adoption or foster care services specific to the assigned duties. ()

606. SOCIAL WORKER OR SERVICE WORKER RESPONSIBILITIES.
The responsibilities of a social worker or service worker employed or contracted by a children's agency will include child assessment, service plan development, child placement, foster or adoptive home assessment, supportive services for children and families, and transitional living services. ()

607. SELF-SUPERVISION PROHIBITED.

Neither a service worker supervisor nor a social worker is allowed to supervise their own work. ()

608. STAFF WORKLOADS.

A children's agency must have identified workload standards for each staff member. ()

01. Supervisor to Staff Ratio. Service Worker Supervisors must not supervise more than eight (8) workers made up of the following: social workers, service workers, and social service aides. ()

02. Caseload Limitations. At the discretion of the supervisor, a social worker or service worker may be assigned a caseload of twenty (20) families with an adoption placement, active child foster care, or transitional living cases; or forty (40) adoptive families being studied or awaiting an adoptive placement or foster home certification cases, or a proportionate combination of these functions. ()

609. -- 614. (RESERVED)

615. ADDITIONAL PROVISIONS FOR FOSTER HOME CERTIFICATION.

A children's agency that licenses or certifies foster homes must have policies to comply with foster care rules, Sections 400 through 499 of these rules and may require that additional foster care standards be met if the agency deems appropriate. ()

616. PROGRAM DESCRIPTION.

A children's agency providing foster care must include information in their brochure and their licensing application of the types of foster care provided, the type and number of homes needed, and the type of support services provided to foster parents. ()

617. LICENSING AND CERTIFICATION AGENCY POLICIES AND PROCEDURES FOR FOSTER HOMES.

In addition to meeting the general requirements for policies in Sections 500 through 616 of these rules, a children's agency which licenses or certifies foster homes must have policies and procedures for Sections 618 through 649 of these rules. ()

618. APPLICATION REQUEST PROCESS.

A children's agency that licenses or certifies foster homes must document that a person who has requested an application has been given a copy of the foster care rules found in Sections 400 through 499 of these rules and has been provided a copy of the foster parent training requirements for children's agencies. ()

619. (RESERVED)

620. INITIAL AND SUBSEQUENT FAMILY FOSTER HOME EVALUATION STUDY PROCESS AND CONTENTS.

The children's agency must conduct an appropriate home study based on the foster care Sections 400 through 499 of these rules, to determine if the family meets required licensing standards to be issued a foster care license, and must maintain a copy of the study on file. ()

621. TRAINING.

The children's agency must have and follow a training policy that includes meeting the orientation and ongoing training requirements of Sections 400 through 499 of these rules, and must include additional information on the requirements unique to the particular agency program. All foster care training must be documented in the foster parents case file record. ()

622. PLACEMENT AGREEMENT REQUIRED CONTENTS.

The children's agency must use a placement agreement that is signed by the foster parents and the children's agency before placing a child in a foster home. The placement agreement must identify the responsibilities of the children's agency including supervision and support services for the foster family and the responsibilities of the foster family. The foster family must be informed and agree to follow the children's agency policies and procedures. A children's

agency must review the agreement with the foster family at least annually and, when needed, develop a new agreement. The children's agency must provide the foster family with a copy of the signed current placement agreement and maintain a copy in the foster home record. ()

623. COMPLAINT INVESTIGATION, BASIS, TIME REQUIREMENTS, NOTIFYING FOSTER PARENTS, CONTENTS, AND PROCESS.

When a complaint is received that relates to possible foster parent noncompliance with any provisions in Sections 400 through 499 of these rules, a children's agency must initiate a complaint investigation as soon as is indicated, based on seriousness of the allegation received, no later than seven (7) calendar days after receipt of the allegation. A children's agency must inform a foster parent that a complaint has been received, provide a clear description of the allegations, and allow a representative of the foster parent in interviews regarding the complaint before they are questioned or interviewed. ()

01. Investigation Timeline and Extension. A children's agency must complete a complaint investigation within forty-five (45) calendar days after receipt of the allegation. If additional time is required, the children's agency must inform the foster parent, in writing, of the basis for the extension. ()

02. Summary of Findings. Before completion of a written report, a children's agency must provide a verbal summary of the preliminary findings with the foster parent. ()

03. Agency Written Report. Upon completion of the investigation, a children's agency must prepare a written report that includes date and report source, identification of the source of the allegation, unless anonymous or confidential, as specified in the Child Protective Act, Title 16, Chapter 16, Idaho Code. The report must also include: ()

- a.** The specific allegations; ()
- b.** Dates and places of contacts, names of persons interviewed, and names of the interviewers. If children are interviewed, their names must be coded in the report; ()
- c.** Findings of fact, based on the investigation; ()
- d.** Conclusions regarding compliance or noncompliance with Sections 400 through 499 of these rules, based on the findings of the investigation summarized in the report; ()
- e.** Any changes in the children's agency decision regarding placement specifications that are based on the findings of the investigation summarized in the report; and ()
- f.** Recommendations regarding licensing or certification action and any required corrective action. ()

04. Conclusion of Investigation. A children's agency must provide a copy of the complaint investigation report, excluding the source of the allegation to the foster parent, within ten (10) calendar days of its completion. The foster parent must be allowed to attach their written response to the report. The children's agency must document any identified corrective action required of the foster family. ()

624. RECORDS MANAGEMENT, MAINTENANCE, AVAILABILITY TO FOSTER PARENT, AND CONTENTS.

A children's agency must maintain a foster home record for each foster home and may make copies of a record available to the applicant or licensed or certified foster parent upon request except for medical documents specifically identified as confidential, pending complaint investigation reports and documents, records of privileged communications and criminal records, police reports, and child protective service information. Social security numbers from any source cannot be provided, except a social security number needed by a foster parent to provide needed services for a foster child. ()

01. Record Contents. The record must contain all documents pertaining to licensing or certification of the home, any complaint investigation reports, and placement agreements between a foster parent and the children's

agency. ()

02. Placement Record. A complete record identifying all children placed in the foster home and removed from the home, including: full name, age, gender, and race of the child; date of the placement; date and reasons for a foster child's departure from the foster home; any written response from a foster parent to a complaint investigation or response to a cited rule compliance; and any corrective action plans. ()

625. -- 629. (RESERVED)

630. ADDITIONAL PLACEMENT CONSIDERATIONS.

A children's agency must follow the provisions of Sections 400 through 499 of these rules and have a policy on the following placement considerations. ()

01. Child Placement Preparation. Before the placement of a child, the children's agency must prepare the child for the placement consistent with the child's age, individual needs, the circumstances necessitating placement, and identified special problems presented. ()

02. Placement Emergency Change. If an emergency change in placement is necessary, within fourteen (14) days of the placement change, documentation must be included in the child's record. ()

03. Placement Service Termination. If a children's agency is no longer providing services to the child in a foster home, the following information must be documented within fourteen (14) days of the service termination that includes a summary of the services provided, the needs that remain, and provision for any continuing services with another children's agency. ()

631. EMERGENCY EVACUATION PLAN.

A children's agency must have a policy to require and approve a written evacuation plan for a foster home. ()

632. UNUSUAL INCIDENT POLICY.

The children's agency must have a policy to notify the state licensing authority within one (1) working day of the occurrence of an incident as outlined in Section 473 of these rules. The policy must require the children's agency to notify the Department immediately, the foster child's parents, and the responsible children's agency of the death of a foster child. ()

633. SERVICE PLANS AND PARTICIPANTS.

A children's agency must develop initial and updated service plans on behalf of the child through a team approach which includes the child, the child's parents or legal guardian, the foster parents, the referring children's agency, others identified in providing needed placement services and the assigned social worker or service worker, as appropriate. A service plan must include behavioral management procedures with the placing agency, if appropriate, and with the foster parents and a copy must be maintained in the child's file. ()

634. CHILDREN'S AGENCY SUPERVISION OF CHILD.

A children's agency must develop a plan of supervisory visits with a child in foster care consistent with the child's service plan, as required by these rules. The child's record must contain documentation that the assigned social worker or service worker personally visited the foster child at least once each month. A children's agency may reduce the number of social worker or service worker visits with a child to once every ninety (90) days if there is documentation and justification in the service plan that a child's placement in a foster home is a long-term planned placement. At least one-half (1/2) of the visits must occur in the foster home. ()

635. -- 649. (RESERVED)

ADDITIONAL PROVISIONS FOR TRANSITIONAL LIVING SERVICES
(Sections 650-659)

650. ADDITIONAL PROVISIONS FOR TRANSITIONAL LIVING SERVICES.

(Sections 650 through 659, see also Sections 500 through 599) ()

651. PROGRAM STATEMENT FOR TRANSITIONAL LIVING SERVICES.

A children's agency which provides transitional living services must develop a program statement describing the specific services it will provide to youth. Services are limited to those identified youth who are at least sixteen (16) years of age and for whom family reunification, placement with previous care givers or extended family, and adoption have been found and documented to be inappropriate. ()

652. POLICIES AND PROCEDURES FOR TRANSITIONAL LIVING SERVICES.

In addition to the requirements for policies in Sections 500 through 651 of these rules. The children's agency must have policies and procedures for selecting youth for placement, orientation of youth before placement, approval and oversight of living arrangements, provision of support services or arranging for these services, and termination of services. ()

653. RECORD MANAGEMENT.

In addition to the general record requirements in Section 561 of these rules, an agency record must be updated annually and include the youth's social security number, current address, telephone number, a photograph, and the names and addresses of known offspring. ()

654. SERVICE COMPONENTS.

An agency licensed to provide transitional living services must provide or arrange for the following service components as appropriate to the youth's needs: ()

- 01. Planning.** Individualized, youth-centered placement planning. ()
- 02. Counseling.** Counseling and support groups as appropriate to individual needs. ()
- 03. Skills.** Life skills, self-care, daily living skills, money management, and housing. ()
- 04. Training.** Education, vocational, or technical training. ()
- 05. Medical Care.** Health and medical care. ()
- 06. Legal.** Legal services. ()
- 07. Activities.** Socialization, cultural, religious, and recreational activities. ()
- 08. Aftercare.** Aftercare following termination of transitional services. ()

655. TRANSITIONAL LIVING PLACEMENT.

Before a youth is placed in a transitional living program, a children's agency must document in the youth's record: ()

- 01. Basis.** The basis for determining this is an appropriate program for the youth; ()
- 02. Self-Care.** That a youth exhibits self-care potential: ()
- 03. Youths Need for Supervision.** An evaluation of and a plan for a youth's need for supervision and support services; ()
- 04. Living Arrangements.** The assigned social worker or service worker has personally observed the living arrangement and determined it is safe and appropriate; and ()
- 05. Essential Services.** There are specific and essential services to provide for suitable social, physical, vocational and emotional needs of the youth as appropriate. ()

656. SUPERVISION AND SUPPORT.

A children's agency must develop and follow a plan of supervision and support services for a youth in transitional living consistent with the youth's needs as follows: ()

- 01. Plan of Supervision.** The plan will include: ()
- a.** Current documentation of financial support sufficient to meet the youth's housing, clothing, food, and miscellaneous expenses; and ()
 - b.** The date, location, documented purpose, and a summary of the findings of each contact between social worker or service worker and the youth describing the youth's adjustment, relationship with family members, and the children's agency efforts to resolve any conflicts. ()
- 02. Written Contract and Reviews.** A children's agency will have a mutually agreed upon contract between the youth and the children's agency that specifies the responsibilities of the children's agency and the youth, which is signed and dated by the youth and the assigned social worker. The contract will be reviewed and updated at least once every ninety (90) calendar days. A copy of the contract and any amendments to the contract will be maintained in the case record. ()
- 03. Monthly Contact.** There will be face-to-face contact at least monthly with the youth by the assigned social worker or service worker to assess that the youth is functioning at an acceptable level, is carrying out prescribed expectations, is managing their money, and is residing in a safe and acceptable environment. ()
- 04. Contact Documentation.** At least once every two (2) months there will be documentation of an on-site contact with the youth at their place of residence by the assigned social worker or service worker. ()
- 05. Twenty-Four Hour Agency Telephone Access.** Youth will have twenty-four (24) hour, seven (7) days-a-week telephone access to contact the children's agency. ()
- 657. TERMINATION OF TRANSITIONAL LIVING SERVICES.**
When a children's agency terminates its transitional living services for a youth, the reason for the termination, the youth's new location, a summary of the needs that have been addressed and remain to be met, and identified referral services must be documented in the youth's case record within thirty (30) days after the youth leaves the program. ()
- 658. REQUIRED INFORMATION FOR YOUTH AT SERVICE TERMINATION.**
A children's agency must document that each youth who ends transitional living services is provided with basic information on health care, housing, counseling services, and emergency resources, and will be provided their birth certificate, Social Security card, funds, and personal property held by the children's agency. ()
- 659. (RESERVED)**

ADDITIONAL PROVISIONS FOR ADOPTION SERVICES
(Sections 660-679)

- 660. ADDITIONAL PROVISIONS FOR ADOPTION SERVICES.**
(Sections 600 through 679, see also Sections 500 through 599) ()
- 661. ADOPTION SERVICES - NONPROFIT STATUS.**
A children's agency which provides adoptions services must provide documentation that it is incorporated as a non-profit corporation. ()
- 662. PROGRAM STATEMENT.**
A children's agency that provides adoption services must include in its program statement the following: ()
- 01. Description of Services Available.** A written description of services provided directly by the children's agency or through another organization for a child, a birth parent, an adoptive applicant and an adoptive family. ()
 - 02. Eligibility.** The general criteria by which the children's agency determines eligibility for adoptive ()

parenthood. ()

03. Delineation of Expenses. A clear delineation of fees, charges, and other consideration for adoption services. The delineation will include: ()

a. Specific charges for expenses and services provided within the children's agency; ()

b. Chronological itemization of fees for expenses and services provided by other identified sources; ()

c. Identification of the charges that are refundable and the charges that are not refundable; and ()

d. The manner and timing of payments. ()

663. WRITTEN POLICIES AND PROCEDURES - ADOPTION.

A children's agency must have and follow written policies and procedures for the adoption services it provides or facilitates and that these cover services for children, birth parents, adoptive applicants and parents, post placement services, and post-finalization services. ()

664. SERVICES FOR CHILDREN AS THE PRIMARY CONSIDERATION.

A child in need of adoption must be the primary consideration of adoption services provided by a children's agency. The choice of adoptive placement will be in the best interest of the child and include consideration of previous caretakers. This will include the foster parents where a child has established a bonded relationship. For children under the supervision of the children's agency and are awaiting adoptive placement, there must be a review by the agency administrator, or their designee, every month for an infant one (1) year of age or younger, and every three (3) months for a child over one (1) year of age, to determine what needs to be done to locate an adoptive placement for the child. ()

665. SERVICES FOR CHILD'S BIRTH PARENTS.

A children's agency that accepts custody of a child from a birth parent or parents must provide services for the parent or parents either directly or through cooperative arrangements. The children's agency must ensure that the legal rights of the birth parents are protected throughout the decision-making about release of records, as required by statutes governing Termination of Parental Rights and Adoptions (see Title 16, Chapter 15, Idaho Code, and Title 16, Chapter 20, Idaho Code). The children's agency will respect the expressed desires of either or both birth parents to provide for continuity of identity of the child's religious, cultural, racial, linguistic, and ethnic background, provided the desired request does not deny or delay placement of the child for adoption in accordance with the Multi-ethnic Placement Act (MEPA), P.L. 103-382 and P.L. 104-188, 42 USC, Section 622, and such considerations are legal. ()

666. SERVICES FOR ADOPTIVE APPLICANTS.

A children's agency must provide the following services to its adoptive applicant clients: ()

01. Orientation. Orientation to adoption, its meaning, the children's agency adoption process and procedures, and the availability of children for adoption; ()

02. Suitability Criteria. Information about the specific criteria by which the children's agency determines suitability as adoptive parents and the areas the children's agency assesses to determine the ability of the adoptive applicants to meet the needs of an adopted child; ()

03. Termination of Services. The children's agency procedures for termination of services for an applicant found to be unsuited for adoptive parenthood or for an applicant found suited to adopt but for whom a child cannot be found; ()

04. Selections and Services for a Specific Child. The children's agency procedures for selection of adoptive applicants to meet the needs of a specific child and, where indicated, assistance in obtaining resources and services to meet the continuing needs of the child; ()

05. Legal Assessment. The children's agency procedures for assuring that a child placed is legally free for adoption or an explanation that the placement is a legal-risk placement of the child and what efforts are made to free the child; ()

06. Preparation for Placement. The children's agency procedures for preparing an applicant for parenting and placement of a child; and ()

07. Counseling. The children's agency may provide or arrange counseling for prospective adoptive parents including assistance in understanding a child's religion, culture, ethnic, or linguistic background and the impact of leaving familiar ties and surroundings, including attachment issues and living in an institution, as appropriate to the age of the child. ()

667. RECRUITMENT OF ADOPTIVE APPLICANTS.

A children's agency must recruit adoptive applicants at a level that ensures the availability of a sufficient number and diversity of adoptive families to meet the needs of children available for adoption under the care of the children's agency. ()

668. PAYMENT LIMITATIONS IN ADOPTION.

A children's agency must prohibit the actual or promised payment or other material consideration to any party directly or indirectly involved in the administration of an adoption service, whether acting as an employee or independent contractor, except for the performance of routine professional duties necessary to complete the adoption process. ()

669. PROHIBITION OF CONTRIBUTIONS IN ADOPTIONS.

A children's agency must not accept contributions from adoptive applicants or from persons acting on the applicant's behalf during the period of application or before an adoption has been finalized, nor accept a commitment to make a contribution after an adoptive placement. ()

670. PROHIBITION OF STAFF ADOPTIONS.

A children's agency must not do an adoption study or placement for its own staff, board member, or person with whom the children's agency contracts to provide services for the agency. ()

671. (RESERVED)

672. SERVICES FOR ADOPTIVE PARENTS.

A children's agency must provide or arrange for the following services to adoptive parents served by the children's agency: ()

01. Specific Training. The children's agency will provide or arrange specific training related to the culture and race of the child who is of a different culture or race from the adoptive parents. ()

02. Disclosure of Non-Identifying Child Information. Disclosure of all non-identifying information known to the children's agency about the child, the child's birth parents, and the circumstances leading to the decision to place for adoption. ()

03. Post-Placement Services. Post-placement services related to support to the family and supervision of the placement. ()

04. Provision of Resources. Provision of resources or arranging for the provision of resources to effect a safe, stable and suitable placement for the child and the family, including information regarding the federal adoption assistance program. ()

05. Adoption Finalization Assistance. Help in finalizing the legal adoption of the child. ()

06. Post-Finalization Services. Upon request, the children's agency, either directly or by referral to a resource, will assist the family with any identified problems associated with the adoption. ()

673. SELECTION OF AN ADOPTIVE PLACEMENT.

The factors listed are in random order and are not intended to reflect relative priority. A children's agency must consider the following factors in selecting suitable adoptive parents for a child: ()

- 01. Child's Needs.** The physical, emotional, medical, and educational needs of the child. ()
- 02. Continued Contact.** The child's needs for continued contact with the birth parent(s), siblings, relatives, foster parents, and other persons significant to the child. ()
- 03. Racial, Ethnic, and Cultural Considerations.** In accordance with the Multiethnic Placement Act (MEPA), P.L. 103-382 and P.L. 104-188, 42 USC, Section 622, the child's racial, ethnic, cultural identity, heritage, and background may only be considered if a written assessment of the child indicates that such consideration is in the best interest of the child. ()
- 04. Authorized Placement on Approved Recommendations.** The children's agency must require authorization by a chief administrator after the recommendations of approval are given by a service worker supervisor. The approval or denial must be documented in the case record. ()
- 05. Placement.** A children's agency will place a child with children's agency-approved adoptive parents consistent with the recommendations specified in the adoptive family study and the needs of the child identified in these rules. ()

674. CONDITIONS FOR PLACEMENT IN AN ADOPTIVE HOME.

A children's agency may place a child in a home for the purposes of adoption if the adoptive parents have received orientation in accordance with the requirements of Sections 660 through 699 of these rules, an adoptive family study has been completed, supervisory approval of the placement has been obtained, and all applicable parties have signed the adoptive placement agreement. ()

675. ADOPTIVE PARENT INFORMATION.

A children's agency must provide adoptive parents with the following information before the placement of a child: ()

- 01. Name.** Child's name as permitted by law or disclosure agreement. ()
- 02. Date, Time, and Location of Birth.** Date, time and place of birth, including hospital, city, state, and country. ()
- 03. Racial, Ethnic, and Religious Considerations.** Child's racial, ethnic, and religious background. ()
- 04. Medical Records.** Child's physical and mental health records and where applicable, special needs. ()
- 05. Family of Origin.** Description of the child's family of origin, including age and gender of each family member, their relationship to the child, and medical and mental health history, social, and education history of each member of the family. ()
- 06. Circumstances of the Placement.** Description of the circumstances necessitating placement of the child. ()
- 07. Preparation for Placement.** Child's preparation for placement and attitude towards adoption. ()
- 08. Other Information.** Any other information to enable the adoptive parent to provide a stable, safe, and healthy environment for the child. ()

676. SUPERVISION.

A children's agency social worker or service worker must provide post placement supervision to the adoptive family at the family's home at least once every three (3) months after the placement of a child and before the final order of adoption. These supervisory contacts will include: ()

01. Documentation of Adjustment. Assessment and documentation of the child's and adoptive family's adjustment and, where indicated, plans to assist the child and adoptive family. ()

02. Results of Assessment. Keeping the adoptive parents informed of the results of the children's agency's continuing assessment of the placement at the conclusion of each supervisory contact. ()

03. Special Needs Adoption. Supervision by the children's agency for at least six (6) month duration and as frequently as needed before finalization for special needs adoptions. ()

677. -- 679. (RESERVED)

ADDITIONAL PROVISIONS FOR INTER-COUNTRY ADOPTION SERVICES
(Sections 680-699)

680. ADDITIONAL PROVISIONS FOR INTER-COUNTRY ADOPTION SERVICES.
(Sections 680 through 699, see also Sections 000 through 299) ()

681. INTER-COUNTRY ADOPTION SERVICES.
A children's agency that provides inter-country adoption services must include in its program statement a description of inter-country adoptive placement services it provides either directly or through collaboration with other agencies or individuals with proper credentials. ()

682. LEGAL REQUIREMENTS FOR INTER-COUNTRY ADOPTION SERVICES.
A children's agency that arranges or engages in inter-country adoption must provide the following: ()

01. Legal Rights Protection. Provide protection of the legal rights for the child, the child's birth parents, adoptive applicants, and adoptive parents. ()

02. Licensing Standard Compliance Requirement. Collaborate with and accept adoptive family studies and post-placement services only from other providers who comply with applicable state licensing standards and the laws from the child's country of origin. ()

03. Children's Agency, Foreign Government Agreement Review. Maintain a file and provide for review to prospective adoptive families an English-translated copy of any agreement that exists between a foreign government and the children's agency. ()

04. Adoptive Home Standards. Conduct adoptive family studies in accordance with these rules and the minimum standards established for international adoption studies by the United States Immigration and Naturalization Service. ()

05. Citizenship. Inform families about how to obtain citizenship for a foreign born adopted child. ()

683. FINANCIAL.
A children's agency must establish and follow a written schedule of fees, estimated or actual expenses of what a family will be charged for services, fees, and costs in the child's country of origin. ()

684. INTER-COUNTRY ADOPTION SERVICES TO ADOPTIVE PARENTS.
A children's agency that provides or arranges for inter-country adoption services must: ()

01. Inter-Country Adoption Orientation. Provide orientation to prospective adoptive families regarding inter-country adoption, its meaning, the adoption process, children's agency procedures, and the characteristics of children needing adoption. ()

02. Eligibility Criteria Disclosure. Disclose the general criteria by which the children's agency determines eligibility for applicants for inter-country adoption. ()

03. Determination of Adoptive Applicant's Ability. Determine the ability of adoptive applicants to meet the needs of an internationally adopted child and prepare an adoptive family study report. ()

04. Documenting Child's Legal Status. Acquire documentation that, at placement, the child is legally free for inter-country adoption. ()

05. Procedures for United States Placement. Follow Immigration and Naturalization procedures to ensure that the child is or will be authorized to enter and reside permanently in the United States. ()

06. Information Disclosure. Fully disclose all information available to the children's agency, based on a diligent effort to obtain pertinent information regarding the child's medical and social history as part of the referral information. ()

07. Post-Placement Supervision. Provide post-placement supervision as required by the adoptive child's country of origin. ()

08. Adoption Finalization. Ensure that the adoption of the child is finalized. ()

685. COLLECTING AND EXCHANGING INFORMATION ABOUT A CHILD.

A children's agency must collect and exchange information about the child's background with the prospective adoptive parents and ensure that information held by the children's agency regarding the child's origin, the identity of their birth parents, and medical history is retained. ()

686. POST-PLACEMENT AND POST-FINALIZATION ADOPTION SERVICES.

A children's agency must provide or arrange for the following post-placement and post-finalization adoption services by persons with prior experience in post finalization services and who are knowledgeable about the legal, social, cultural, and emotional issues pertinent to adoption. ()

01. Post-Placement Reports. Provide post-placement and post-finalization reports on the progress of a child when requested by the country of origin when not in conflict with laws or public policies of the United States or Idaho. ()

02. Crisis Counseling. Counseling or referral for counseling for the adoptive parents and the adoptee, when a placement or an adoption is in crisis. ()

03. Adoption Disruption Re-Placement. Re-placement of the child if the adoptive placement is disrupted before finalization. ()

04. Child Origin Information Access. Procedures as permitted by law to ensure access by the child or their representative to information regarding the child's origins that is held by the children's agency. ()

05. Post-Finalization Counseling. Post-finalization counseling when requested by the family. ()

687. -- 699. (RESERVED)

ADDITIONAL STANDARDS FOR CHILDREN'S RESIDENTIAL CARE FACILITIES
(Sections 700-769)

700. ADDITIONAL STANDARDS FOR CHILDREN'S RESIDENTIAL CARE FACILITIES.
(Sections 700 through 769, see also Sections 500 through 599.) ()

701. -- 704. (RESERVED)

705. CHIEF ADMINISTRATOR QUALIFICATIONS.

A children's residential treatment care facility must employ or contract with a full time chief administrator. At the time of appointment, the chief administrator must, at a minimum, possess at least one (1) of the following in Subsection 705.01 or 705.02 of this rule. ()

01. Bachelor's Degree. A Bachelor's degree in a relevant discipline, two (2) years of experience working with children, and three (3) years experience in staff supervision and administration. ()

02. Career Development Program. Completed a career development program which includes work-related experience, training or college credits, or a combination of these, that provide a level of achievement equivalent to the Bachelor's degree. Work experience must include two (2) years of experience working with children, and three (3) years of experience in staff supervision and administration. ()

706. SERVICE WORKER SUPERVISOR QUALIFICATIONS.

A service worker supervisor, at the time of appointment, must possess at least one (1) of the following in Subsection 706.01 or 706.02 of this rule. ()

01. Master's Degree. A Master's degree from an accredited college or university in a behavioral science and one (1) year of experience as a service worker. ()

02. Bachelor's Degree. Bachelor's degree from an accredited college or university in a behavioral science, including social work, sociology, psychology, criminal justice, counseling, or a related field, and four (4) years of experience working with children, of which two (2) years must have been as a service worker. ()

707. DIRECT CARE STAFF SUPERVISOR QUALIFICATIONS.

A direct care staff supervisor, at the time of appointment, must possess at least one (1) of the following in Subsection 707.01 through 707.03 of this rule. ()

01. Bachelor's Degree. A Bachelor's degree from an accredited college and one (1) year of full-time experience in a children's residential care facility. ()

02. Associate's Degree. An Associate's degree or a minimum of forty-eight (48) credit hours from an accredited college and two (2) years of full-time experience in a children's residential care facility. ()

03. Experience. A high school diploma or equivalent and three (3) years of full-time experience in a children's residential care facility. ()

708. (RESERVED)

709. DIRECT CARE STAFF QUALIFICATIONS.

Direct care staff must be at least nineteen (19) years of age at the time of appointment and possess a high school diploma or equivalent. ()

710. REQUIRED STAFF RATIOS.

There must be written staff ratios for direct care staff to children and service workers to children. Unless otherwise specified in these rules, staff ratios must be as described in Subsections 710.01 through 710.06 of this rule. ()

01. Supervisor-Staff Ratio. At least one (1) staff supervisor for every twenty (20) direct care staff or fraction thereof. ()

02. Staff-Child Ratio-Daytime. At least one (1) direct care staff to every eight (8) children when children are awake and present, unless the presenting problems of the children in care are such that a ratio of one (1) to eight (8) is not sufficient to provide for the safety and treatment needs of the children. In that case, the ratio of direct care staff to children ratio must be increased to ensure the safety and treatment needs of the children are met. ()

03. Staff-Child Ratio-Sleeping Hours. At least one (1) awake direct care staff to twenty (20) children

or fraction thereof during the children's normal sleeping hours in buildings housing children's sleeping quarters. If the presenting problems of the children in care are such that a ratio of one (1) to twenty (20) is not sufficient to provide for the safety and treatment needs of the children, then the ratio of direct care staff to children ratio must be increased to ensure the safety and treatment needs of the children are met. ()

04. Medical Emergency. At least one (1) staff on duty in a children's residential care facility who is certified to provide cardiopulmonary resuscitation (CPR) and first aid for the age of the children in care. ()

05. Emergency Staff Access. When only one (1) direct care worker is on duty, an additional staff person must be available within ten (10) minutes or if assistance from law enforcement is available within ten (10) minutes an additional staff person must be available within thirty (30) minutes to assist with an emergency. ()

06. Service Worker or Social Worker Ratios. Except for non-accredited children's residential schools, at least one (1) service worker or social worker as defined in Section 011 of these rules needs to be available for every twenty (20) children in care or fraction thereof. ()

711. HOUSE PARENT RELIEF STAFF.

Where house parents are used to provide direct care staff functions, they must be provided time off in accordance with the Idaho Department of Commerce and Labor requirements in Section 44-1202, Idaho Code. ()

712. STAFF TRAINING.

Unless otherwise specified in these rules, an employee or volunteer whose primary job function requires interaction with children and who works twenty-four (24) or more hours a week must receive at least twenty (20) hours of training annually. An employee or volunteer whose primary job function requires interaction with children and who works less than twenty-four (24) hours a week must receive at least ten (10) hours of training annually. The training must include cultural sensitivity and diversity, behavior management, and child development issues appropriate to the population served. Training must also include instruction in administering cardiopulmonary resuscitation (CPR) and administering first aid appropriate to the age of the children in care within ninety (90) days after employment. ()

713. -- 714. (RESERVED)

715. COMPLIANCE WITH APPLICABLE LAWS.

Children's residential care facilities must comply with the applicable Idaho state and local zoning, fire, health, construction laws, ordinances and regulations. ()

01. Sanitation Inspection. The applicant must request and obtain a sanitation inspection and written report from the applicable Idaho Public Health District. ()

02. Fire Inspection. The applicant must request and obtain a fire safety inspection and written report from the office of the Idaho State Fire Marshall, or local fire department. ()

03. Corrective Action and Fees. The applicant must correct all deficiencies noted in the sanitation and fire reports (in order to provide documentation that the applicant has passed the inspections) and is responsible to pay any fees charged. ()

04. Planning and Zoning. The applicant must provide documentation demonstrating it meets planning and zoning requirements of the applicable Idaho city or county. ()

716. CHILDREN'S RESIDENTIAL CARE FACILITY BUILDING REQUIREMENTS.

A children's residential care facility building must meet the requirements in Subsection 716.01 through 716.03 of this rule: ()

01. Access to Community Resources. The facility must have access to school facilities, hospitals, churches, recreational and other community resources. ()

02. Occupancy Restrictions. The facility must house only the number of persons for which it is rated, ()

given its type of construction and size. ()

03. Location Restrictions. The facility must not be located within three hundred (300) feet of an aboveground storage tank containing flammable liquids or gases used in connection with a bulk plant, marine terminal, aircraft refueling or bottling plant of a liquefied gas installation, or similar hazard. ()

717. NATIONAL ELECTRICAL CODE COMPLIANCE.

A building used to house children must comply with the National Electrical Code adopted by the Department of Building Safety in Section 54-1001, Idaho Code, or authorized local jurisdiction. ()

718. FIRE SAFETY REQUIREMENTS.

A building that houses children must be inspected by a state certified fire inspector before being occupied and on an annual basis thereafter for compliance with the applicable **International** Fire Code. A copy of the inspection must be maintained at the facility. ()

01. Fire Extinguishers. Each building used to house children must have a minimum of one (1) 2-A-10BC type per floor, and if there is a kitchen on the floor, a fire extinguisher must be in or immediately adjacent to the kitchen. Each fire extinguisher must be inspected annually by a fire extinguisher service agency. ()

02. Smoke Detecting Devices. There must be at least one (1) smoke detector on each floor of the facility, approved by a nationally recognized testing laboratory, installed and maintained as recommended by the manufacturer. ()

03. Carbon Monoxide Detecting Devices. There must be at least one (1) carbon monoxide detecting device that is approved by a nationally recognized testing laboratory that is installed and maintained as recommended by the manufacturer. A facility that does not have equipment which produces carbon monoxide or does not have an attached garage is exempt from this requirement. ()

719. EMERGENCY PROCEDURES.

A children's residential care facility must have and follow written policies and procedures governing the handling of emergencies which include emergency evacuation plans, telephone numbers for contacting ambulances, emergency medical personnel, fire departments, hospitals, poison control centers, police, location and use of first aid kits, and roster and telephone numbers of staff to be contacted during an emergency, and other emergency services as appropriate. ()

720. EMERGENCY DRILLS.

01. Fire Drills. Fire drills must be conducted and recorded monthly, with each work shift participating in a drill a minimum of once every three (3) months. Emergency evacuation routes must be posted in conspicuous locations on each floor of a building housing children. ()

02. Disaster Drill. A disaster drills must be conducted and recorded annually. The annual disaster drill cannot be a fire drill. ()

721. PUBLIC HEALTH DISTRICT INSPECTION.

The facility must provide documentation of an initial and annual inspection and approval by the applicable Idaho Public Health District addressing the following health and safety standards before a license for a facility used to house children will be issued. A copy of the inspection must be maintained at the children's residential care facility. ()

01. Food Safety and Sanitation Standards. The facility must comply with IDAPA 16.02.19, "Idaho Food Code." ()

02. Drinking Water Systems. The facility must comply with IDAPA 58.01.08, "Idaho Rules for Public Drinking Water Systems." ()

722. BUILDINGS, GROUNDS, FURNISHINGS AND EQUIPMENT.

Buildings used to house children must be furnished with comfortable furniture, in good repair and appropriate to the age, size and capabilities of the children. ()

723. MAINTENANCE.

Buildings, grounds, furnishings and equipment must be kept clean, free of clutter, and in good repair in a scheduled or routine manner. ()

724. EQUIPMENT STORAGE.

All facility cleaning equipment must be stored separate from the kitchen, food preparation, serving, and storage areas. Kitchen and bathroom sinks must not be used for cleaning mops, emptying mop buckets, or for any other purpose not connected with food preparation, or personal hygiene. ()

725. SERVICE SINK.

A building housing more than twelve (12) persons must have a service sink used for general maintenance purposes such as floor mopping and not used for food preparation or dish washing. ()

726. HAZARDOUS MATERIALS OR TOXINS.

Buildings used to house children must be free from hazardous materials and toxins. An organization must provide documentation of testing for radon gas, materials containing asbestos, and lead paint. Documentation must be maintained at the facility confirming any hazardous material or toxins have been removed or do not pose a threat to the children served. Hazardous materials or toxins are not limited to lead paint, asbestos, and radon. ()

727. LIGHTING.

All rooms used by children must be appropriately lighted for safety and comfort. ()

728. HEATING.

Heating and ventilation equipment must be properly installed, inspected annually, and kept in good repair. Portable fuel burning and wood burning heating appliances are prohibited. Portable electric heaters must not be used in children's residential sleeping quarters. Local fire officials must approve portable heaters used in other areas. ()

729. BATHROOM FACILITIES.

A building used to house children must have adequate, clean and easily accessible bathroom facilities. The number of toilets is one (1) per eight (8) females and one (1) per ten (10) males; bathtubs or showers is one (1) for each ten (10) individuals; washstands is one (1) for every five (5) individuals according to the International Building Code applicable for the type of building and its use. There must be separate use of bathroom facilities for boys and girls over six (6) years of age. There must be separate bathroom facilities for staff. ()

730. SLEEPING ROOMS.

Sleeping rooms in a building used to house children must meet the requirements in Subsections 730.01 through 730.03 of this rule. ()

01. Size. At least seventy (70) square feet, exclusive of closet space, in a single occupancy room. In a multiple occupancy room, there must be at least forty-five (45) square feet per occupant, exclusive of closet space. Existing multiple occupancy sleeping rooms, may be approved relative to square feet per occupant until the room is remodeled or the building is extensively remodeled. There must be a minimum of three (3) feet between the sides of beds and two (2) feet at the end of the beds. ()

02. Window Space. There must be sufficient window space for adequate natural light and ventilation. Emergency egress or rescue windows must comply with the State-adopted **International Building Code**. ()

03. Restrictions. A child and an adult cannot share a sleeping room except that a child under one (1) year of age may sleep in a room with an adult. A sleeping room must not be in a stairway, hallway, unfinished attic, unfinished basement, or in a separate building apart from staff supervision. There must be separate rooms for male and female residents. Sleeping rooms must be in close proximity to adult supervision. ()

731. BEDS.

Each child must have their own bed that has substantial support, a comfortable non-neoprene mattress and seasonally appropriate non-neoprene bedding. The bed must be equipped with railings when used for children under two (2) years of age. Over-and-under bunk beds must not be used for children under eight (8) years of age. Cribs must meet Consumer Product Safety Commission, Crib Safety Tips available at: <https://www.cpsc.gov/Regulations-Laws--Standards/Rulemaking/Final-and-Proposed-Rules/Full-Size-Cribs>. ()

732. STORAGE OF POISONOUS AND TOXIC MATERIALS.

Poisonous and toxic materials must be stored under lock and key and distinctly labeled as poisonous, toxic and stored so as not to contaminate food and not to be a hazard to children. ()

733. FLAMMABLE LIQUIDS.

Flammable liquids, including gasoline and kerosene, must be stored only in appropriate containers and kept separate from any building housing children. ()

734. FIREARMS.

Firearms are not allowed in a children's residential care facility. ()

735. SUFFICIENT RECREATIONAL SPACE.

Sufficient indoor and outdoor recreational space is needed so the number of children in care can participate in a wide range of physical and individual activities. ()

736. GENERAL SAFETY PROVISIONS.

01. Reasonable Precaution. Reasonable precautions must be taken to prevent children from having unauthorized access to machinery, tools, irrigation ditches, and hazardous materials. ()

02. Balconies and Stairways. Balconies and stairways accessible to children must have substantial railings as required by the State-adopted **International Building Code**. ()

03. Stairway Protection. Where a children's residential care facility provides care to children under three (3) years of age, stairways must be protected to prevent children from falling down the stairs. ()

04. Hazard Areas Restrictions. Based on the age and functioning level of children in care and the type of hazard, an outdoor hazard area must be restricted to prevent easy access to the hazard. ()

737. DIAPERING AND SANITATION.

A diaper-changing area must be separate from food preparation and serving areas and be easily accessible to a hand-washing sink. The area must have non-absorbent and washable surfaces, and must be disinfected between uses by different children or protected by a disposable covering discarded after each use. ()

738. -- 744. (RESERVED)

745. EDUCATION PROGRAM.

Each child of school age must attend either an on-grounds or community-based education program that is approved by the Idaho Department of Education, excluding children in a non-accredited children's residential school. When the education program is provided directly by the children's residential care facility, the education program must meet the requirements in Subsections 745.01 through 745.08 of this rule. ()

01. Teacher Ratio. At least one (1) Idaho certified teacher for every twenty (20) children or fraction thereof. ()

02. Teacher Qualifications. Teachers must possess a current Idaho certification. ()

03. Minimum Hours. Operate for at least as many school days and clock hours as are required by Section 33-512, Idaho Code. ()

04. Core Curriculum. Provide core curriculum appropriate to the population served. ()

05. Special Education. Provide special education services to a child in care who requires special education. ()

06. Written Transcripts and an Individual Education Plan (IEP). Maintain transcripts and IEP's for each child as appropriate. ()

07. Grading System. Use a uniform grading system. ()

08. Release of Records. Process for transfer and release of education records to and from other schools and children's residential care facilities. ()

746. WORK.

Children may be given a non-vocational work assignment as a constructive experience in compliance with child labor laws, which are age appropriate and within the child's capabilities. The primary purpose of work must not be to substitute for paid labor. ()

747. RECREATION, PHYSICAL EXERCISE, AND LEISURE TIME ACTIVITIES.

An organization must have a policy requiring children have the opportunity for daily participation in recreation, physical exercise and leisure time activities. The organization must document both individual and group activities, including one (1) hour of large muscle activity each day. Participation must be encouraged but not forced. ()

748. SLEEP.

A children's residential care facility must have and follow policies and procedures governing time to be set aside so that each child is given the opportunity for at least eight (8) hours of uninterrupted rest at night and more time if the service plan or health needs of the child require. ()

749. SWIMMING POOL, POND, OR OTHER BODY OF WATER.

An above-ground or in-ground swimming pool, pond, or other body of water on the premises of a children's residential care facility for use by children must comply with Section 56-1003(3)(d), Idaho Code, and applicable swimming pool construction, sanitation, water quality standards, water temperature, recreational bathing and life saving provisions of federal, state, county and municipal laws, regulations and ordinances. ()

01. Staff Person with Lifesaving or Lifeguard Certificate. The facility must maintain at least one (1) staff person who has a valid lifesaving or lifeguard certificate issued by a nationally recognized organization. This certified staff person must be on duty at all times when children are in the water. ()

02. Pools, Hot Tubs, Ponds, and Other Bodies of Water. The facility must maintain the pools, hot tubs, ponds, and other bodies of water on its property in good repair, in a clean condition, and free from safety hazards and dangerous machinery and equipment. Areas and equipment that present a hazard to children must not be accessible by children. The following safeguards must be provided: ()

a. The area surrounding a body of water must be fenced and locked in a manner that prevents access by children; or ()

b. If the area surrounding a body of water is not fenced and locked, there must be a secured protective covering that will not allow access by a child; ()

i. Pool or hot tub covers must be completely removed when in use; ()

ii. When the pool or hot tub cover is in place, the cover must be free from standing water; ()

iii. Covers must be kept locked at all times when the pool or hot tub is not in use; and ()

c. A reaching pole with a hook and a ring buoy must be accessible; and ()

d. Exterior ladders on above ground pools must be removed when the pool is not in use. ()

03. Access by Children Five Years of Age and Under. Any children's residential care facility that cares for children five (5) years of age and under, and chooses to prevent access to a body of water by fencing must provide a fence that meets the following requirements: ()

a. The fence must be at least four (4) feet high with no vertical opening more than four (4) inches wide, be designed so that a young child cannot climb or squeeze under or through the fence, and surround all sides of the pool or pond; ()

b. The gate must be self-closing and have a self-latching mechanism in proper working order out of the reach of young children; ()

c. If a building forms one (1) side of the barrier for the pool, doors that provide unrestricted access to the pool must have alarms that produce an audible sound when the doors are opened; and ()

d. Furniture or other large objects must not be left near the fence that would enable a child to climb on the furniture and gain access to the pool. ()

04. Irrigation Canals or Similar Body of Water. A children's residential care facility caring for a child five (5) years of age and under or a child who is physically or developmentally vulnerable whose property adjoins an irrigation canal must have fencing that prevents access to the canal or similar body of water by the child. ()

05. Other Water Safety Precautions. ()

a. Wading pools must be empty when not being used; ()

b. Children must be under the direct supervision of an adult while using a wading pool; ()

c. Toys that attract young children to the pool area must be kept picked up and away from the pool area when not in use; and ()

d. A child who does not know how to swim must use an approved lifesaving personal flotation device. ()

750. WATER FRONT.

At a waterfront used for swimming, there must be available a whistle, an assist pole or other appropriate reaching device, a rope attached to a ring buoy or other appropriate throwing assist device, a backboard that has appropriate rigid cervical collars and a minimum of six (6) straps, a first aid kit and a rescue tube. ()

751. SUPERVISION OF RECREATIONAL ACTIVITY.

Staff conducting or supervising a recreational activity must have knowledge of and enforce appropriate safety techniques for the activity as described in Subsections 751.01 through 751.05 of this rule. ()

01. Instruction. Instruct each participant in the appropriate safety procedures. ()

02. Safety Equipment. Ensure that each participant uses adequate and appropriate safety equipment for the activity and the child's ability. ()

03. Rescue Equipment. Ensure that there is proper rescue equipment available and easily accessible. ()

04. Cardiopulmonary Resuscitation (CPR) and First Aid. Ensure that at least one (1) staff has current cardiopulmonary resuscitation (CPR) and first aid certification appropriate to the age of the children in the facility. ()

05. Staff Coverage. Ensure that there are adequate members of staff for the activity and children ()

involved. ()

752. MEDICATION STORAGE AND ADMINISTRATION.

A children's residential care facility must have and follow policies and procedures on the storage and administration of prescription and non-prescription medication. The policy must address the requirements in Subsections 752.01 through 752.06 of this rule. ()

01. Medication Storage and Administration. Require prescription and over-the-counter medication be stored under lock and key and the keys safe guarded from children. For medications taken on field outings, storage of medication must be in the possession of a staff member qualified to administer medications. ()

02. Trained Staff. Require that staff who administer and assist with self-administration of medications be trained by a qualified medical professional. ()

03. Psychotropic Medication: ()

a. Prohibit the administration of psychotropic medication unless a qualified medical professional determines that the medication is clinically indicated; and ()

b. Prohibit the administration of psychotropic medications for disciplinary purposes, for the convenience of staff, or as a substitute for appropriate treatment services; ()

04. Documentation. Required documentation for all prescription medication issued by a qualified medical professional's valid order that includes the dosage to be given, and documentation of each dose given, including: ()

a. The child's name; ()

b. The date and time; ()

c. The amount of dosage given and whether the child did not take the medication; and ()

d. The person who administered or assisted in self-administration of the medication. ()

05. Medication Changes. Require that prescribed medication not be stopped or changed in dosage or administration without consulting with a qualified medical professional and documenting the consultation and the change. ()

06. Disposal of Unused Medication. Require that all unused and expired medication be disposed of so they are not available to children. ()

753. UNIVERSAL PRECAUTIONS.

Universal precautions must be taken for spills of body fluids such as blood, blood containing body fluids, eye discharge, feces, body tissue discharge, nasal discharge, saliva, urine, vomit, contaminated material and diapers, which must be disposed of in a plastic bag that is secured with a tie. The disinfectant solution used to clean up body fluids must be a commercially prepared spill kit or a disinfectant solution made from one-fourth (1/4) cup of household bleach to one (1) gallon of water. A person doing the cleaning and disinfecting must wear non-porous disposable gloves. Mops and other cleaning devices and fluids used to clean up body fluid spills must be disinfected, properly dried and stored. Syringes must be disposed of in accordance with Occupational Safety and Health Act (OSHA) standards and not to be accessible to children. A copy of OSHA may be obtained at the Idaho Industrial Commission, 317 Main Street., P.O. Box 83720, Boise, Idaho, 83720-0041. ()

754. FIRST AID KIT.

A first aid kit which is approved by a physician or nationally recognized accrediting body, must be readily available at all times, containing materials to sufficiently meet the needs of a child's medical needs until other medical treatment is obtained, if needed. The contents, location and use of first aid kits must be reviewed annually with all staff. The content of the kits must be inventoried monthly and restocked as needed. ()

755. NUTRITION.

Children must be provided three (3) nutritionally balanced meals in appropriate intervals and in amounts appropriate to their size and age, and that are in accordance with the Dietary Reference Intakes (DRIs) of the National Research Council [Dietary Reference Intakes Essential Guide Nutrient Requirements](#) or its equivalent. A child must be provided a qualified medical professional prescribed diet or special diet based on religious beliefs. A nutritional or dietitian professional must approve menus annually. The current menu must be readily available and any change or substitution noted on the menu. Menus must be maintained on file for at least six (6) months. ()

756. ANIMALS AND PETS.

Animals and household pets must be free from disease and cared for in a safe and clean manner. All domestic animals and pets must be vaccinated against rabies. Documentation of the vaccination against rabies must be kept on file at the children's residential care facility. ()

757. USE OF TOBACCO PRODUCTS, ALCOHOL, AND ILLEGAL DRUGS PROHIBITED.

Tobacco products, alcohol and illegal drugs must not be used by children, staff, volunteers, or visitors in any building used to house children or in the presence of children or in vehicles used to transport children. ()

758. TRANSPORTING CHILDREN.

01. Vehicle. Transportation of children in a children's residential care facility vehicle must be in a vehicle that is: ()

- a.** Properly registered; ()
- b.** Covered by insurance for personal injury and liability; ()
- c.** Driven by a person with a valid driver's license for the type of vehicle who complies with all applicable traffic laws while transporting children; ()
- d.** Maintained in a clean and safe condition; ()
- e.** Equipped with a red triangular reflector device for use in emergency; ()
- f.** Equipped with a first aid kit; and ()
- g.** Equipped with a fire extinguisher that is properly secured and not readily available to children. ()

02. Proper Seating of Children and Adults: ()

- a.** A child must ride in an age appropriate vehicle restraint seat, properly secured, or if the child is large enough, in a vehicle manufactured seat and properly use the passenger restraint device; and ()
- b.** Adults riding in the vehicle must occupy a manufactured seat and use the passenger restraint device. ()

759. CONTRABAND.

A children's residential care facility must define prohibited contraband in a written policy. Contraband found in the possession of children or staff must be confiscated by staff and secured in a location inaccessible to children. Local law enforcement must be notified in the event that illegal contraband is confiscated. It is the responsibility of the administrator or designee to dispose of all contraband not confiscated by law enforcement, in accordance with the children's residential care facility contraband policy. ()

760. SEARCHES.

If a children's residential care facility conducts searches of children, the children's residential care facility, staff or visitors, it must have and follow written policies and procedures. Searches must be completed in the least intrusive

manner possible for the type of search being conducted. All contraband will be disposed of in accordance with these rules. The policies and procedures at a minimum require the following procedures. ()

01. Pat Down Searches. Pat down searches of children may only be conducted when the children's residential care facility feels it is necessary to discourage the introduction of contraband into the children's residential care facility, or to promote the safety of staff and other children. Pat down searches are conducted as follows: ()

- a.** By staff trained in proper search techniques; ()
- b.** By a staff member of the same sex as the child being searched, and must be in the presence of another staff member; ()
- c.** The child is told he is about to be searched; ()
- d.** The child should remove all outer clothing (gloves, coat, hat and shoes) and empty all pockets; ()
- e.** The staff person must then pat the clothing of the child using only enough contact to conduct an appropriate search; ()
- f.** If the staff detects anything unusual, the child must be asked to identify the item and appropriate steps taken to remove the item for inspection; ()
- g.** If the child refuses to comply, the administrator or designee will be notified immediately and be responsible to resolve the matter; and ()
- h.** All searches must be documented in writing. ()

02. Strip Searches are Prohibited. ()

03. Body Cavity Searches are Prohibited. ()

761. BEHAVIOR MANAGEMENT AND DISCIPLINE POLICY.

01. Behavior Management. A children's residential care facility must have and follow a behavior management and discipline policy for children which identifies appropriate and specific methods of behavior management and discipline, and ensures that the methods of behavior management and discipline are positive and consistent. Individualized behavior management must be based on an assessment of the child's needs, stage of development and behavior to promote self control, self direction, self esteem, and an acceptable pattern of social behavior appropriate to the age and development level of the child. The policy must include the concept and application of least restrictive effective treatment and positive reinforcements and prohibits the following: ()

- a.** Physical force, except as permitted under the restraint Sections 766 and 767 of these rules; ()
- b.** Any kind of punishment inflicted on the body, including spanking, hitting, slapping, spitting, kicking, shaking, pulling hair, pinching skin, twisting of an arm or leg in a way that would cause pain or injury to the child, kneeling and sitting on the chest of a child, placing a choke hold on a child, bending back a finger, and shoving or pushing a child into the wall, floor or other stationary object; ()
- c.** Cruel and unusual physical exercise, including forcing the child to take an uncomfortable position; ()
- d.** Verbal abuse, ridicule, humiliation, profanity and other forms of degradation directed at a child or a child's family; ()
- e.** Locked confinement in an area except an area approved by the Department for confinement of a child as provided in these rules; ()

f. Withholding of necessary food, clothing, bedding, rest, toilet use, bathing facilities, and entrance to a children's residential care facility housing a child; ()

g. Denial of visits or communication with the child's family except as specified in the child's service plan or court order; ()

h. Denial of necessary educational, medical, counseling, and social services; ()

i. Disciplining a child or group of children for the actions of one (1) child, unless the organization's policies and procedures for group behavior management and discipline are based on a nationally recognized peer group treatment model and clearly prescribe the circumstances and safeguards under which disciplining the group is allowed and is supervised directly by staff; ()

j. The placing of anything in or on a child's mouth; and ()

k. A physical work assignment that produces unreasonable discomfort. ()

02. Documentation. An organization must document that the policy has been provided to a resident capable of reading it or is explained to the resident appropriate to their age and level of understanding and is made available to parents, guardians, and referral sources. ()

762. TIME-OUT.

A children's residential care facility must have and follow written policy and procedures governing the appropriate use of time-out, as required in Subsections 762.01 through 762.08 of this rule. ()

01. Use. Time-out is only used when a child's behavior is disruptive to the child's ability to learn, to participate appropriately, or to function appropriately with other children or the activity. ()

02. Children Under Six Years of Age. For children under six (6) years of age, the period of time for time-out is not to exceed one (1) minute for each year of the child's age and is used as a supplement to, but not a substitute for other developmentally appropriate positive methods of behavior management. ()

03. Children Six Years of Age or Older. For children six (6) years of age and older the time duration cannot exceed sixty (60) consecutive minutes. ()

04. Prohibited Locations. The time-out cannot be in a closet, bathroom, unfinished basement, or attic and cannot be in a locked area or box. ()

05. Documentation. A description in sufficient detail to provide a clear understanding of the incident which resulted in the child being placed in time-out, and the staff's attempts to help the child avoid time-out. ()

06. Observations. A staff person is designated to be responsible for visually observing the child at random intervals not to exceed fifteen (15) minutes. ()

07. Re-Introduction to the Group. The child is re-introduced to the group in a sensitive and non-punitive manner as soon as control is regained. ()

08. Review. If there are more than ten (10) time-outs for a child in a twenty-four (24) hour period, a review is conducted by the chief administrator or designee, to determine the suitability of the child remaining in the children's residential care facility, whether modifications to the child's service plan are warranted, or whether staff need additional training in alternative therapeutic behavior management techniques and appropriate action taken is based on the findings of the review. ()

763. UNLOCKED SECLUSION.

If a children's residential care facility uses seclusion there must be written policies and procedures, which at a minimum requires: ()

01. Use of Unlocked Seclusion. Unlocked seclusion must not be used as punishment or to substitute for other developmentally appropriate positive methods of behavior management. Seclusion may only be used as a means of intervention when the child's behavior is so violent or disruptive that it presents a high risk of physical or emotional harm to self or others, and less restrictive and less punitive interventions have been applied without success. ()

02. Time Needed. Seclusion must be used only for the time needed to change the behavior compelling it. ()

03. Children Under Six Years of Age. For children under six (6) years of age, the period of time is not to exceed one (1) minute for each year of the child's age and is used as a supplement to, not a substitute for, other developmentally appropriate positive methods of behavior management. For children six (6) years of age and older the time duration cannot exceed sixty (60) consecutive minutes. ()

04. Restrictions on Seclusion. The seclusion must not be in a box, closet, bathroom, unfinished basement or attic. ()

05. Staff Supervision. A staff person is designated to be responsible for visually observing the child at random intervals, which are not to exceed fifteen (15) minutes throughout the period of seclusion, and must be recorded in a log. ()

06. Supervisory Approval. Supervisory approval is required for a period of seclusion of one (1) child that exceeds two (2) hours, or the total seclusion time exceeds three (3) hours in a twenty-four (24) hour period, or more than four (4) separate seclusion incidents in a twenty-four (24) hour period. ()

07. Documentation. Each seclusion must be documented in writing and include the child's name, reason for the seclusion, date and start and end time of the seclusion and the staff assigning the seclusion. ()

08. Re-Introduction. The child is re-introduced to the group in a sensitive and non-punitive manner as soon as he can participate appropriately. ()

09. Review. If there are more than ten (10) seclusion's for a child in a twenty-four (24) hour period, there must be a review by the chief administrator or their designee. The review is to determine whether modifications to the child's service plan are warranted and whether staff needs additional training in alternative therapeutic behavior management techniques or disciplinary action. Appropriate action must be taken based on the findings of the review. ()

764. LOCKED SECLUSION.

Locked seclusion is used only when a child's behavior is so violent or disruptive that it presents a high risk of physical or emotional harm to the child or others and other less restrictive and less punitive interventions have been applied without success. Locked seclusion is prohibited for: non-violent and non-assaultive offenses and behaviors; practices designed to prevent children from running away; secluding a child who is ill; as a punishment; and facilitating supervision for the convenience of staff. No more than one (1) child can be in a locked seclusion room at a time. Supervisory staff must be notified at the time the locked seclusion begins. ()

01. Duration. Locked seclusion must be used only for the time needed to change the behavior compelling its use. Locked seclusion cannot exceed two (2) consecutive hours or a total of four (4) non-consecutive hours within any twenty-four (24) hour period, unless approved by a qualified medical professional. ()

02. Potentially Harmful Objects. A child placed in locked seclusion must not be in possession of belts, matches, weapons or any other potentially harmful objects or materials that could present a risk of harm to the child. ()

03. Observation. A child in locked seclusion must be observed by staff at random intervals, not to exceed every ten (10) minutes to assure that the child is safe. ()

- 04. Locked Seclusion Log.** A locked seclusion room log must be maintained and at a minimum includes: ()
- a.** The child’s name; ()
 - b.** The date and time of placement in locked seclusion; ()
 - c.** The name of the staff who requested the child’s locked seclusion; ()
 - d.** The name of the supervisory staff notified and the time and date notified. ()
 - e.** A description in sufficient details, to provide a clear understanding, of the incident which resulted in the child being placed in locked seclusion and the staff’s attempts to help the child avoid locked seclusion; ()
 - f.** A record of observations; and ()
 - g.** The date and time of removal from locked seclusion. ()

05. Re-Introduction. The child must be re-introduced to the group in a sensitive and non-punitive manner as soon as he has re-gained control. ()

06. Review. When a child is in locked seclusion for a total of two (2) cumulative hours or four (4) non-cumulative hours within a twenty-four (24) hour period, there must be a review by the chief administrator or their designee within one (1) working day. The review is to determine whether modifications to the child’s service plan is warranted, and whether staff need additional training in alternative therapeutic behavior management techniques or disciplinary action. Appropriate action must be taken based on the findings of the review. ()

765. LOCKED SECLUSION ROOM REQUIREMENTS.

Rooms used for locked seclusion must measure at least seventy-five (75) square feet with a ceiling height of at least seven (7) feet. They must have either natural or mechanical ventilation and be equipped with a break resistant window, or a mirror or camera that allows for full observation of the room. Locked seclusion rooms must have no hardware, equipment or furnishings that obstruct observing the child or that present a physical hazard or a suicide risk. Rooms used for locked seclusion must be inspected and approved by a fire inspector and the Department. ()

766. MECHANICAL RESTRAINT.

If a children’s residential care facility uses mechanical restraint, it must have and follow written mechanical restraint policies and procedures. The policies must at a minimum require those described in Subsections 766.01 through 766.13 of this rule. ()

01. Mechanical Restraint Use as a Last Resort. Mechanical restraint must only be used as a last resort when other therapeutic techniques have not worked and less restrictive interventions have been tried and have been found to be ineffective, and only after at least one (1) of the following has been determined: ()

- a.** The child is emotionally or physically uncontrollable and constitutes a serious and evident danger to self or others; ()
- b.** The child is causing serious property damage; or ()
- c.** An attempted escape is imminent and the child is out of control and poses a danger to self or others. ()

02. Staff Training. All staff who apply mechanical restraints must be trained in the proper and safe use of the mechanical restraint device used and training must be current and documented. ()

03. Intervention. Staff must inform the child that if their behavior continues, staff will have to intervene by placing them in mechanical restraint to help them regain control. ()

04. Administrator Approval. The administrator or designee must approve the use of mechanical restraint for the specific child for the specific behavior before each application of mechanical restraint. ()

05. Restraint Type. Restraints must be of a soft type when used to restrain the child's wrists to their side, secure the child's ankles together, or both; or be in or on a mechanical restraint device specifically designed for restraint which is recognized as safe and is made by a nationally recognized restraint device manufacturer. A restraint device must be used only in accordance with the manufacturer's written instructions for the device, except that handcuffs may not be used for more than five (5) minutes when it has been determined that the child may harm himself or others while the mechanical restraint is being applied. Handcuffs may only be used for the time needed to apply the mechanical restraints. ()

06. Used Only Until Child Has Regained Control. A mechanical restraint is used only until the child has regained control. ()

07. Prohibitions on Mechanical Restraints. Mechanical restraints are prohibited when there are specified medical reasons pursuant to a qualified medical professional's order. A child must not be mechanically restrained to a fixed object except one that was specifically designed for the purpose, meets nationally recognized standards and has been approved by the Department. Mechanical restraints must not be used for non-violent and non-assaultive offenses and behaviors as punishment to facilitate supervision for the convenience of staff or as a substitute for a treatment program. ()

08. Monitoring. A staff assigned to monitor a child placed in mechanical restraint must have no other immediate responsibility and must be in visual and auditory contact with the child at all times to ensure that all personal needs of the child are met, including access to toilet facilities as needed. ()

09. Professional Opinion. After one (1) hour has elapsed with the child in mechanical restraint, or if the child is released from mechanical restraint and has to be placed back in mechanical restraint, the supervisor must obtain a qualified medical or mental health professional's opinion regarding continuation of the restraint. The professional giving the opinion must be thoroughly familiar with the proper use of the mechanical restraint device being used. It is the qualified medical or mental health professional's responsibility to assess the problem requiring the use of restraint and amass any resources necessary to eliminate the problem. ()

10. Mechanical Restraint Log. There must be a mechanical restraint log documenting each use of mechanical restraint that includes: ()

a. The child's name; ()

b. The date and time of placement in mechanical restraint; ()

c. The name of the staff who requested the mechanical restraint of the child; ()

d. The name of the administrator or designee who approved the use of mechanical restraint of the child; ()

e. A description in sufficient details to provide a clear understanding of the incident which resulted in the child being placed in mechanical restraint and the staff's attempts to help the child avoid mechanical restraint; ()

f. Detailed observation notes by the person assigned to monitor the child while in mechanical restraint; ()

g. Documentation of the professional opinion required if a restraint lasts for more than one (1) hour or is returned to mechanical restraint; and ()

- h.** The date and time of removal from mechanical restraint. ()
- 11. Counsel.** When the child has been released from mechanical restraint, staff must counsel with the child about the behavior and problems experienced that resulted in the mechanical restraint. ()
- 12. Re-Introduction.** The child must be re-introduced to the group in a sensitive and non-punitive manner as soon as he has regained control. ()
- 13. Review.** When the child is in mechanical restraint there must be a review by the chief administrator or designee within twenty-four (24) hours. The review is to determine the suitability of the child remaining in the children's residential care facility, whether modifications to the child's service plan is warranted and if staff need further training or disciplinary action. Appropriate action must be taken based on the findings of the review. The person doing the review must be knowledgeable about the proper use of the mechanical restraint device and its impact on the child. ()

767. ALTERNATIVE FORMS OF RESTRAINT.

A children's residential facility must have and follow written policies and procedures governing the appropriate use of alternative forms of restraint. The policies and procedures must be in accordance with the restraint intervention strategies of a nationally recognized program and approved by the Department. The policies must at a minimum require those described in Subsections 767.01 through 767.11 of this rule. ()

01. Restraint Used as a Last Resort. Restraint is only to be used as a last resort when other therapeutic techniques have not worked and less restrictive interventions have been tried and have been found not to be effective and only after one (1) of the following has been determined: ()

- a.** The child is emotionally or physically uncontrollable and constitutes a serious and evident danger to self or others; ()
- b.** The child is causing serious property damage; or ()
- c.** An attempted escape is imminent and poses a serious and evident danger to self or to the community. ()

02. Staff Training. All staff who apply restraints are trained in the proper and safe use of the restraint device used and the training is current and documented, including any special certification required to apply the restraint. ()

03. Intervention. Staff informs the child that if their behavior continues, staff will have to intervene by use of restraint to help them gain control. ()

04. Restraint Approval. Administrative or designee approves the restraint for the specific child for the specific behavior before each application of restraint. ()

05. Used Only Until the Child Has Regained Control. Restraint must only be used until the child has regained control. ()

06. Restraint Is Prohibited: ()

- a.** When there are specific medical reasons pursuant to a medical professional's order; ()
- b.** For non-violent and non-assaultive behaviors; ()
- c.** As punishment; ()
- d.** To facilitate supervision for the convenience of staff; and ()
- e.** As a substitute for other more effective treatment methods. ()

07. Monitoring. A staff assigned to monitor a child in restraint must have no other immediate responsibility and must be in visual and auditory contact with the child at all times to ensure that all personal needs of the child are met, including access to toilet facilities as needed. ()

08. Restraint Log. A restraint log documenting each use of restraint which includes: ()

a. The child's name; ()

b. The time and date of initiation of the restraint; ()

c. The name of the staff who requested the restraint of the child; ()

d. The name of the administrator or designee who approved the use of the restraint of the child; ()

e. A description in sufficient details to provide a clear understanding of the incident which resulted in the child being restrained and the staff's attempts to help avoid the restraint; ()

f. Detailed observation notes by the person assigned to monitor the child while in restraint; and ()

g. The time and date of termination of the restraint. ()

09. Counsel. When a child has been released from restraint, staff must counsel with the child about behavior and problems experienced which resulted in the restraint use. ()

10. Re-Introduction. The child is re-introduced to the group in a sensitive and non-punitive manner as soon as he has regained control. ()

11. Review. When a child has been in restraint, there must be within twenty-four (24) hours a review by the chief administrator or their designee. The review is to determine the suitability of the child remaining in the children's residential care facility and whether modifications to the child's service plan is warranted and if staff need further training or disciplinary action. Appropriate action must be taken based on the findings of the review. The person doing the review must be knowledgeable about the proper use of the restraint device and its impact on the child. ()

768. TRANSPORTATION OF CHILDREN IN RESTRAINTS PROHIBITED.
A children's residential facility or its agents are prohibited from transporting children in restraints. ()

769. (RESERVED)

ADDITIONAL PROVISIONS FOR CHILDREN'S RESIDENTIAL MATERNITY CARE
(Sections 770-779)

770. ADDITIONAL PROVISIONS FOR CHILDREN'S RESIDENTIAL MATERNITY CARE.
(Sections 770 through 779, see also Sections 500 through 599 and 700 through 769.) ()

771. SERVICE WORKER AVAILABLE.
A service worker must be available to each pregnant minor and minor mother to provide information on options open to her and to assist her in making decisions that are in her best interest and her child. The decision for final plans for the minor mothers child rests with the minor parent. A pregnant minor is prohibited from signing a statement committing to any definitive plan prior to the birth of her child and must not be subject to coercion to release her child before or after the birth of her child. ()

772. PRENATAL AND POSTPARTUM CARE.
Prenatal and postpartum care for residents and newborns must be performed only by a physician licensed to practice

medicine in Idaho and include: ()

- 01. Obstetric History.** The obtaining of an obstetric history; ()
- 02. Obstetrical Exam.** Within ten (10) days of entering care, a complete obstetrical exam; ()
- 03. Ongoing Medical Care.** Ongoing medical care with examinations as prescribed by the physician; ()
- 04. Infant Medical Care Plan.** A planned program of medical and nursing care of all infants in care, approved by the physician; ()
- 05. Hospital Delivery Required.** Infants must only be delivered in a hospital licensed by the state of Idaho; and ()
- 06. Prenatal and Postnatal Education.** A pregnant resident must be provided educational information on prenatal and postnatal care as appropriate. ()

773. DISCHARGE PLANS.
Discharge plans must be developed in a timely manner with the service worker and the new parent to ensure an infant does not remain in a children’s residential maternity care facility apart from parental care and supervision. ()

774. -- 779. (RESERVED)

**ADDITIONAL PROVISIONS FOR CHILDREN’S ALCOHOL-DRUG
ABUSE RESIDENTIAL CARE FACILITIES**
(Sections 780-789)

780. ADDITIONAL PROVISIONS FOR CHILDREN’S ALCOHOL-DRUG ABUSE RESIDENTIAL CARE FACILITIES.
In addition to complying with Sections 500 through 599, 700 through 769, and 800 through 899 of these rules, children’s alcohol and drug abuse residential care facilities must be approved under IDAPA 16.07.17, “Substance Use Disorders Services”; and IDAPA 16.07.15, “Behavioral Health Programs.” ()

781. --789. (RESERVED)

ADDITIONAL PROVISIONS FOR NON-ACCREDITED CHILDREN’S RESIDENTIAL SCHOOLS
(Sections 790-793)

790. ADDITIONAL PROVISIONS FOR NON-ACCREDITED CHILDREN’S RESIDENTIAL SCHOOLS.
(Sections 790 through 793, see also Sections 500 through 599 and 700 through 769.) ()

791. APPLICATION PROCESS.
A non-accredited children’s residential school must file with the Division of Family and Community Services of the Department, an affidavit addressing the following elements and the listed attachments: ()

- 01. Affidavit Statement.** Affiant will make this affidavit based upon their own personal knowledge and belief. ()
- 02. Affiant Administrative Employees.** Affiants state that they are the administrative employees responsible for operation of the school and the head of the governing body of the named school. ()
- 03. School Administrative Description.** The school is a non-accredited children’s residential school as defined in this Chapter and as demonstrated by the attached by-laws or an attached organizational statement of purpose detailing organizational structure, philosophy, program, intake and enrollment policy, services, geographic

area served, and children served according to their legal status, physical, intellectual, and behavioral characteristics. ()

792. STAFF RATIOS REQUIRED.

Non-accredited children's residential schools must have at least one (1) staff member on duty and one (1) on call and available within (10) minutes for each twenty-five (25) children or fraction thereof, when children are awake and present. During normal sleeping hours, children in each sleeping quarters will be under close supervision and within easy call of a staff member, with one (1) on-call staff available within ten (10) minutes. The facility must at all times have a staff coverage plan to ensure the safety and needs of the children that is approved by the Department. ()

793. CHILD'S RECORD.

The school must maintain a record on each child with the following: ()

- 01. Content.** The child's record will contain the following information: ()
 - a.** Child's full name; ()
 - b.** Birth date; ()
 - c.** Gender; ()
 - d.** Height, weight, hair color, eye color, race, and identifying marks; ()
 - e.** Name, address and telephone number of responsible parent, guardian or legal custodian of the child; ()
 - f.** Documentation of authority to accept and care for the child; ()
 - g.** Medical care authorizations; ()
 - h.** School reports including grades and adjustment; ()
 - i.** Reason for referral or placement; and ()
 - j.** Special problems and needs. ()
- 02. Record Entries.** For record entries by professional and clinical staff, the entries will be signed and dated by the person providing the service. ()

794. -- 799. (RESERVED)

ADDITIONAL STANDARDS FOR CHILDREN'S THERAPEUTIC OUTDOOR PROGRAMS
(Sections 800-899)

800. ADDITIONAL STANDARDS FOR CHILDREN'S THERAPEUTIC OUTDOOR PROGRAMS.
(See sections 800 through 899, also see Sections 500 through 599.) ()

801. (RESERVED)

802. POLICIES AND PROCEDURES.

In addition to the requirements for policies in Sections 500 through 599 of these rules, a children's therapeutic outdoors program must have policies and procedures in place addressing the licensing standards required in Sections 800 through 899 of these rules. ()

803. -- 804. (RESERVED)

805. BASE CAMP REQUIREMENTS.

01. Base Camp. A children's therapeutic outdoor program must have a base camp or field office in Idaho, here after referred to as a base camp. Base camp at a minimum must: ()

- a. Be staffed and monitored twenty-four (24) hours a day when there are children in care in the base camp or on expeditions; ()
- b. Have current staff personnel files; ()
- c. Have a current list of the names of staff and children in each field group; ()
- d. Have a master map of all activity areas used by the program; ()
- e. Have copies of each group's expeditionary route with its schedule and itinerary, copies of which must be provided to the Department and local law enforcement when requested; ()
- f. Maintain current logs of all communications with each field group away from the base camp; and ()
- g. Have an emergency response plan that is developed by the organization and updated annually. ()

02. Proof of Compliance. A children's therapeutic outdoor program which operates in Idaho must comply with federal, state, and local regulations and must maintain proof of compliance at the base camp. ()

806. HIGH ADVENTURE REQUIREMENTS.

01. High Adventure Activities. High adventure activities may include the following: ()

- a. Target sports; ()
- b. Aquatics; ()
- c. Hiking; ()
- d. Adventure challenge courses; ()
- e. Climbing and rappelling; ()
- f. Winter camping; ()
- g. Soloing; ()
- h. Spelunking; ()
- i. Expeditioning; ()
- j. Swimming in a river, stream, lake, or pond; ()
- k. White water activities; and ()
- l. Animal related activities. ()

02. High Adventure Activity Policy and Procedures. For the high adventure activities identified in Subsection 806.01 of this rule and for any activity identified by the children's therapeutic outdoor program or the Department as a high adventure activity, there must be a written policy and procedure to be followed which include:

- ()
- a. Training, experience, and qualifications for leader and staff; ()
- b. Specific staff-to-participant ratios appropriate to the activity; ()
- c. Classification and limitations for each child's participation; ()
- d. Arrangement, maintenance, and inspection of the activity area; ()
- e. Appropriate equipment and the inspection and maintenance of the equipment; and ()
- f. Safety precautions to reduce the possibility of an accident or injury. ()

03. High Adventure Activities Leader. An activity leader who is at least twenty-one (21) years of age and who has documented training and experience in conducting the activity must conduct high adventure activities. ()

807. -- 809. (RESERVED)

810. STAFF QUALIFICATIONS FOR CHILDREN'S THERAPEUTIC OUTDOOR PROGRAMS.

Qualifications of staff, interns, and volunteers must be verified through written verification of a completed criminal history and background check as required by IDAPA 16.05.06, "Criminal History and Background Checks," work experience, education, and classroom instruction. A program which provides children's therapeutic outdoor programs must have the following staff: ()

01. Chief Administrator. A children's therapeutic outdoor program must have a chief administrator who is primarily responsible for ensuring that the program is at all times in compliance with applicable licensing rules and that staff are familiar with all program policies and procedures. The chief administrator may also function as the field director. The chief administrator must: ()

- a. Be at least twenty-five (25) years of age; ()
- b. Have two (2) years experience working with children and three (3) years experience in staff supervision and administration; and either; ()
 - i. At the time of appointment, at a minimum, have a Bachelor's degree in a relevant discipline; or ()
 - ii. Have completed a career development program which includes work related experience, training, or college credits that provide a level of achievement equivalent to the Bachelor's degree; and ()
- c. Have a minimum of thirty (30) semester hours or forty-five (45) quarter hours in recreational therapy or related experience, or one (1) year of outdoor youth program field experience; and ()
- d. Demonstrate or obtain proficiency in the required training criteria described in Subsection 812.02 of this rule. ()

02. Field Director. A children's therapeutic outdoor program must have a field director who is primarily responsible for the quality of the field activities, coordinates field operation, supervises direct care staff, and manages the field office. The field director is responsible for compliance with applicable licensing rules and ensure that staff are familiar with all program policies and procedures. The field director must: ()

- a. Be at least twenty-five (25) years of age; ()
- b. Have a minimum of thirty (30) semester hours or forty-five (45) quarter hours in recreational therapy or related experience, or one (1) year of outdoor youth program field experience; ()

c. Have a minimum of forty (40) twenty-four (24) hour field days of program experience or equivalent experience in outdoor programs documented in their personnel file; and ()

d. Demonstrate or obtain proficiency in the required training criteria described in Subsection 812.02 of these rules within ninety (90) days of assuming administrative responsibilities and prior to any provision of direct care to children; and ()

e. Be certified to provide cardiopulmonary resuscitation (CPR) and first aid. ()

03. Senior Field Staff. A children's therapeutic outdoor program must have a senior field staff working directly with each group of program participants. Each senior field staff must: ()

a. Be at least twenty-one (21) years of age; ()

b. Have an associate degree or high school diploma or equivalent with thirty (30) semester hours or forty-five (45) quarter hours of education and training or comparable experience and training in a field related to recreation and adventure activities; ()

c. Have a minimum of forty (40) twenty-four (24) hour field days of program experience or equivalent experience in outdoor programs documented in their personnel file; ()

d. Demonstrate or obtain proficiency in the required training criteria described in Subsection 812.02 of these rules prior to assuming direct care responsibilities; and ()

e. Be Certified to provide cardiopulmonary resuscitation (CPR) and first aid. ()

04. Field Staff. Each field staff must: ()

a. Be at least twenty-one (21) years of age; ()

b. Have a high school diploma or equivalent; ()

c. Have completed staff training and field course work as required by Subsection 812.02 of these rules prior to assuming direct care responsibilities; and ()

d. Be certified to provide cardiopulmonary resuscitation (CPR) and first aid. ()

05. Program Consultants. A children's therapeutic outdoor program must have a multidisciplinary staff or program consultants that have knowledge of the physical and emotional demands of the program and be available to program participants upon the recommendation of the field director or senior field staff. At a minimum the team must consist of: ()

a. A licensed physician; and ()

b. A licensed treatment professional including either a licensed psychologist, certified social worker, marriage and family counselor, or professional counselor. ()

06. Intern. Each intern must: ()

a. Be in a learning program to meet personal educational goals; ()

b. Be at least nineteen (19) years of age; ()

c. Have at least a high school diploma or its equivalent; ()

d. Have completed staff training and field course work as required by Subsection 812.02 of these rules

prior to assuming direct care responsibilities; and ()

e. Be under the supervision of a licensed therapist if they are in a clinical internship pursuing a professional degree or license. ()

07. Volunteers. Each volunteer must: ()

a. Be at least eighteen (18) years of age; ()

b. Be under the direct, constant supervision of qualified staff; and ()

c. Have completed the staff training and course work required by Subsection 812.02 of these rules prior to assuming direct care responsibilities. ()

811. STAFF HEALTH REQUIREMENTS.

Prior to engaging in any field activities with children, staff, interns, and volunteers must have a written statement from a licensed physician, physician's assistant or nurse practitioner verifying they are physically fit to perform the duties of the job. A new written physician's statement must be obtained at least every three (3) years. The medical professional who provides the written statement must be given a form to use which clearly describes the physical demands for the job and the environmental conditions the person being evaluated is required to work in. The administrator or designee must review the form and maintain it in the individual's personnel file. ()

812. SKILLS AND TRAINING.

Skills and training for each staff, intern, and volunteer must be documented and kept on file at the base camp. ()

01. Skills. Each staff must demonstrate specific skills to the administrator or designee, prior to assuming field supervision. The skill assessment procedures must be approved by the agency and results of the assessment must be documented and kept on file at the base camp. ()

02. Training. Training must supplement any deficiencies. The curriculum will include at a minimum: ()

a. Four (4) days of practicum field training; ()

b. Supervision of program participants; ()

c. Water, food, and shelter procurement, preparation and conservation; ()

d. Low impact wilderness expedition and environmental conservation skills and procedures; ()

e. Child management including containment control, safety, conflict resolution, and behavior management; ()

f. Instruction in safety procedures and safe equipment use of fuel, fire, and life protection; ()

g. Sanitation procedures related to food, water, and waste; ()

h. Special instruction for staff who conduct and staff who supervise high adventure activities; ()

i. Wilderness medicine, including health issues related to acclimation, exposure to the environment, and environmental elements; ()

j. First aid kit contents and use; ()

k. Navigation skills including map and compass use, contour and celestial navigation, and Global

Positioning System (GPS); ()

l. Local environmental precautions, including terrain, weather, insects, poisonous plants, wildlife, and proper response to adverse situations; ()

m. Report writing, including development and maintenance of logs and journals; ()

n. Federal, state, and local regulations including Idaho State Department of Health and Welfare, Idaho State Department of Fish and Game, Idaho Outfitters and Guides, and State and Federal land use agencies; and ()

o. Ongoing training for direct care staff to upgrade their skills, including mandatory training to maintain skills, certifications and licenses. ()

813. STAFF RATIOS AND GROUP SIZE.

01. Staffing Ratio. Each group of children must be staffed as follows: ()

a. One (1) staff for every four (4) children or fraction thereof, but where there are less than four (4) children there must be at least two (2) staff; and ()

b. Where the gender of a group is mixed, there must be at least one (1) female staff and one (1) male staff member. ()

02. Interns and Volunteers. Interns and volunteers must never be counted in the staff ratio and never have sole responsibility to supervise the youth. ()

814. STAFF USE OF ALCOHOL OR CONTROLLED SUBSTANCES PROHIBITED.

Staff engaging in field activities, whether on or off duty, are prohibited from using alcohol or controlled substances, or any other substance that impairs their ability to function and ensure the health and safety of the children in the program. ()

815. -- 820. (RESERVED)

821. ASSESSMENTS.

Preadmission and subsequent assessments must be performed for each child. ()

01. Preadmission Assessment. Admission assessments must be done for each child by a qualified treatment professional familiar with the children's therapeutic outdoor program prior to enrollment. This must include a review of the child's social and psychological history. ()

02. Subsequent Assessments. Subsequent assessments must be done at least one (1) week before the child leaves for the field portion of the program away from the main base of operations. The assessment must include: ()

a. An interview with the child by the senior field staff assigned to the child's field experience prior to entrance into the field; and ()

b. A review of the child's health history and physical examination by a medically trained field staff assigned to the child's field experience. ()

03. Psychological Problems. For a child with a history of psychological problems, a psychological evaluation must be obtained and reviewed by the multidisciplinary team prior to the child's entrance into the field portion of the program. ()

822. PHYSICAL EXAMINATION.

A child must have a physical examination within thirty (30) days prior to entrance into the children's therapeutic

outdoor program. ()

01. Standard Physical Examination Requirements. The result of the physical exam must be recorded on a standard form provided by the program. The form must clearly document the type and extent of physical activity in which the child will be engaged. The exam must be completed by a licensed physician, physician's assistant, or nurse practitioner, who signs the form, and includes: ()

a. A urinalysis; ()

b. A pregnancy test for each female participant; ()

c. A physical assessment to determine fitness given the climate and temperature in which the child will be participating, and the child's age, weight, and physical condition; and ()

d. A determination whether detoxification is indicated for the child prior to entrance into the field portion of the program. ()

02. Prior Physical Examination. A physical examination of a child who is coming into a children's therapeutic outdoor program directly from a children's residential care facility, must be acceptable provided the physical examination is current as required by Section 571 of these rules, meets the criteria provided in Subsection 822.01 of this rule, and occurred prior to entrance into the field. ()

03. Medical Special Needs. If a child is currently taking or has been taking prescribed medication within the past six (6) months prior to placement in the children's therapeutic outdoor program, a specific notation must be made on the physical examination form by the medical professional. The medical professional must also include approval for the child's participation in an outdoor, high impact environment and a description of any possible special needs due to the use of medication in said environment. ()

04. Physical Examination Availability. The physical examination form must be copied and the original maintained at the base camp and a copy carried by staff in a waterproof container when the child is away from the base camp. The physical examination form must be maintained in a manner that assures the confidentiality of all medical and identifying information. ()

823. GROUPING BY AGE.

Children must be assigned to groups according to age and ability. ()

01. Age. A child must be at least eleven (11) years of age and less than eighteen (18) years of age unless the individual meets the definition of continued care as provided in Sections 010, 530, and 531 of these rules. ()

02. Placement. A licensed treatment professional familiar with the children's therapeutic outdoor program must determine whether children eleven (11) years of age through thirteen (13) years of age are to be placed in a younger program group or in an older program group. The decision must be based upon the child's needs and level of maturity, both physical and mental. The basis for the decision must be documented in the child's record. ()

824. EXPEDITIONS.

Expeditions include any excursion that will take the children away from the base camp. ()

01. Written Description. There must be a written description of expedition programming, approved by the organization's governing body and signed by the Chief Administrator. The expedition must not expose children to unreasonable risk. ()

02. Group Size. For an expedition group, the number of participants must not exceed fifteen (15) children. ()

03. Wilderness First Responder (WFR). At least one (1) staff member per expedition group must

have a current WFR Certificate. ()

04. Global Positioning System (GPS). Each group must be equipped with a GPS system for use on all expeditions. ()

05. Staff Briefing. Staff must be briefed prior to any expedition. The briefing at a minimum must include: ()

a. The expedition route, terrain, time schedule, weather forecast and any potential hazards; ()

b. Any procedures unique to that expedition; and ()

c. Participant backgrounds and any potential problems. ()

06. Expedition Evaluations. Each expedition must be evaluated at least every seven (7) days, either in person by a field director or as detailed in the organization's approved policies and procedures. If the expedition is longer in duration than three (3) weeks, on-site visits by a field director must occur at minimum increments of three (3) weeks. ()

07. Staff De-Briefing. Staff must be de-briefed after returning from any expedition. ()

08. Participant De-Briefing. Children must be de-briefed after returning from any expedition. The de-briefing must include a written summary of the child's participation and progress achieved and be retained in the child's record. ()

09. Expedition Summary. Results of the evaluation of the conditions of the children, interactions of children and staff, briefings, de-briefings, and compliance with program policies and procedures must be summarized, documented, and records retained for seven (7) years. ()

825. SAFETY.

Each children's therapeutic outdoor program must have appropriate safety procedures and equipment. ()

01. Environmental Hazards. Each program participant must have instruction on environmental hazards and precautions. ()

02. First Aid Kit. There must be a first aid kit with sufficient supplies available at all times. The first aid kit must at a minimum: ()

a. Meet the standards of an appropriate national organization for the activity being conducted and the location and environment being used; ()

b. Be reviewed with new staff for contents and use; ()

c. Be reviewed at least annually with all staff for contents and use; and ()

d. Be inventoried after each expedition and restocked as needed. ()

826. COMMUNICATIONS.

01. Communication Support System. There must be a communication system that includes: ()

a. A reliable two (2) way radio communication with extra charged battery packs for each group away from the base camp; and ()

b. A back up plan for re-establishing communication to be implemented in the event regular communication fails. ()

02. Communication Requirements. There must be daily verbal communication between each field

group and the base camp unless alternative arrangements have been made and documented in a communications log maintained at the base camp and must never exceed seventy-two (72) hours. ()

03. Emergencies. The base camp support personnel must have immediate access to emergency telephone numbers, contact personnel and procedures for an emergency evacuation or field incident requiring emergency medical support. ()

827. EMERGENCY PLAN.

A children's therapeutic outdoor program must have and follow a written emergency plan and specific procedures for evacuations, disasters, medical emergencies, hostage situations, casualties, and missing children. ()

- 01. Written Plan.** The plan must at a minimum include: ()
 - a.** Designation of authority and staff assignments; ()
 - b.** Transportation and relocation of program participants when necessary; ()
 - c.** Instruction to all participants on how to respond in the event of an emergency; ()
 - d.** Notification to the base camp of the nature of the emergency and an accounting of each participant's location and status; ()
 - e.** Supervision of program participants after an evacuation or a relocation; and ()
 - f.** Arrangements for medical care and notification of a child's physician and identified parent or guardian. ()

02. Emergency Drills. Emergency plan drills must be conducted and recorded at least annually. ()

828. EXPEDITION AND HIKING LIMIT REQUIREMENTS.

01. Physical Capability. Hiking must not exceed the physical capability of the weakest member of the group. ()

02. Maximum Temperature. There must be no hiking when the temperature is above ninety-five (95) degrees Fahrenheit. ()

03. Inability or Refusal to Hike. When a child cannot or refuses to hike, the group cannot continue hiking unless it is necessary for obvious safety reasons, and a contingency plan, based on preapproved policies and procedures, must be used. The contingency plan must ensure there is staff coverage for each group, if the group is split, and that communication between the groups is maintained. ()

04. Maps and Itinerary. Copies of map routes, anticipated schedules including arrival and departure times must be maintained by the field staff and base camp when a group is on an outing away from the base camp. ()

05. Acclimation to Environment. Staff must closely monitor children for acclimation to the temperature, climate, altitude, environment and situation. ()

06. Log. There must be a common written log that is signed and dated by the participating staff immediately following the termination of an outing away from the base camp. The log must contain information on health problems, accidents, injuries, medications used, behavioral problems, and unusual occurrences. The log must be recorded in permanent ink with any corrections initialed and dated. ()

829. WATER REQUIREMENTS.

- 01. Water.** Children must have access to potable water while hiking. At a minimum the program must: ()
- a.** Provide each child with six (6) quarts of potable water a day, unless a child's weight exceeds one hundred fifty (150) pounds, then one (1) additional quart of potable water will be provided for every twenty-five (25) pounds of body weight over one hundred fifty (150) pounds; and ()
 - b.** Encourage each child to consume at least three (3) quarts of potable water per day. ()
- 02. Water for Cooling.** When the temperature is eighty (80) degrees Fahrenheit or higher, adequate water must be available for coating each child's body for the purpose of cooling when needed. ()
- 03. Water Caches.** When water caches are used, each water cache must be placed at predetermined sites prior to the day the group leaves the camp. Field staff must verify the water cache locations before the group leaves the base camp each day. ()
- 04. Aerial Water Drops.** An expedition group must not depend on aerial drops for its water supply. Aerial water drops must be used only in the event of an emergency. ()
- 05. Water From a Natural Source.** Water from a natural source used for drinking or cooking must be treated to eliminate health hazards. ()
- 06. Electrolyte Replacement.** Each group must have a supply of electrolyte replacement, quantities to be determined by group size and environment conditions. ()

830. NUTRITIONAL AND SANITARY REQUIREMENTS.

- 01. Menu.** There must be a written menu approved annually by a professional nutritionist or dietitian with knowledge of program activity levels and environmental factors. The menu will list the necessary or recommended food supplies and caloric intake for each group. The current menu must be readily available and any change or substitution noted on the menu. Menus must be maintained on file for six (6) months. ()
- 02. Food.** Each child must be provided a sufficient amount of food and calories based on the approved menu. The food provided must include fresh fruit and vegetables at least twice a week. ()
- 03. Special Needs.** The menu must take into consideration a child's special nutritional needs, including food allergies or religious restrictions. ()
- 04. Fasting.** There must be no imposed food fasting. ()
- 05. Cleansing of Hands.** Cleansing of hands is required after each latrine use and prior to food preparation and food consumption. ()

831. -- 834. (RESERVED)

835. HEALTH CARE.

- 01. First Aid.** First aid treatment must be provided in as prompt a manner as the location and circumstances allow. ()
- 02. Field Treatment.** A child with an illness or physical complaint needing care or treatment beyond what can be provided in the field must be immediately transported to appropriate medical care. ()
- 03. Documentation.** Complaints or reports by a child of illness and injuries must be recorded in the daily log along with any treatment provided. ()
- 04. Negative Consequences.** There must be no negative consequences imposed on a child for

reporting an injury or illness or for requesting to see a health care professional. ()

05. Daily Physical Assessment. Children’s hydration, skin condition, extremities, and general physical condition must be evaluated and recorded by field staff in the daily log on a daily basis. ()

06. Weekly Physical Assessment. At least every seven (7) days, each child’s physical condition must be assessed by a Wilderness First Responder (WFR), an Emergency Medical Technician (EMT), or a qualified medical professional. The results of the assessment must be recorded in the daily log and at a minimum includes: ()

- a. Blood pressure; ()
- b. Heart rate; ()
- c. Condition of extremities; ()
- d. Condition of skin; ()
- e. Hydration level; ()
- f. Allergies, if any; ()
- g. General physical condition; and ()
- h. Provision of appropriate medical treatment if needed. ()

836. MEDICATION STORAGE AND ADMINISTRATION.

A children’s therapeutic outdoor program must have and follow policies and procedures on the storage, administration, and disposal of prescription and nonprescription medication. ()

01. Medication Storage and Administration. Prescription and over-the-counter medication must be stored under lock and key safeguarded from children. For medications taken on field outings, all medication must be in the possession of a staff member qualified to administer medications. ()

02. Trained Staff. Staff who administer and assist with self-administration of medications must be trained by a qualified medical professional. ()

03. Prescription Medication. All prescription medications must be issued by a qualified medical professional’s valid order that includes the dosage to be given. ()

04. Psychotropic Medication. The administration of psychotropic medication is prohibited unless a qualified medical professional determines that the medication is clinically indicated. Under no circumstances will psychotropic medication be administered for disciplinary purposes, for the convenience of staff, or as a substitute for appropriate treatment services. ()

05. Documentation. There must be a written record of all medications given to the child. The record must include: ()

- a. The child’s name; ()
- b. The name of the medication; ()
- c. The date and time the medication was given; ()
- d. The dosage given and whether the child did or did not take the medication; and ()
- e. The person who administered or assisted in self-administration of the medication. ()

06. Medication Changes. Prescribed medication must not be stopped or changed in dosage or administration without consulting with the prescribing physician. If the prescribing physician is not available, a qualified medical professional must be consulted. Results of the consultation and any resulting medication changes must be recorded in the child's record. ()

07. Disposal of Unused Medication. All unused and expired medication must be disposed of so it is not available to anyone. When medication is disposed of, this must be witnessed by at least one (1) other staff member and the disposal documented in the child's record. ()

837. -- 839. (RESERVED)

840. PARTICIPANT CLOTHING, EQUIPMENT AND SUPPLIES.

Each program participant must have appropriate clothing, equipment and supplies appropriate for the types of activities and for the weather conditions likely to be encountered. ()

01. Clothing, Equipment, and Supplies Requirements. Clothing, equipment and supplies include at a minimum: ()

a. Sunscreen; ()

b. Insect repellent; ()

c. A commercially available backpack or the materials to construct a safe backpack or bedroll; ()

d. Personal hygiene items necessary for cleansing; ()

e. Appropriate feminine hygiene supplies; ()

f. Wool blankets or an appropriate sleeping bag and a tarp or poncho when the average nighttime temperature is expected to be forty (40) degrees Fahrenheit or higher; ()

g. Shelter, appropriate sleeping bag and ground pad when the average night time temperature is expected to be thirty-nine (39) degrees Fahrenheit or lower; ()

h. Clothing appropriate for temperature changes generally expected for the area; ()

i. Each child must be provided a clean change of clothing at least once a week or an opportunity to wash their clothes at least once a week; and ()

j. Each child must be provided clean undergarments and a means to clean their body at least twice a week. Additional clean undergarments must be provided to a child as may be needed for health or sanitary reasons. ()

02. Denial of Clothing, Equipment, and Supplies. Appropriate clothing, equipment, and supplies must not be removed, denied, or made unavailable for any reason. ()

841. CONTRABAND.

A children's therapeutic outdoor program must define prohibited contraband in a written policy. ()

01. Confiscation. Contraband found in the possession of children or staff must be confiscated by staff and secured in a location inaccessible to children. ()

02. Law Enforcement Notification. Local law enforcement must be notified when illegal contraband is confiscated. ()

03. Disposal. It is the responsibility of the administrator or designee to dispose of all contraband not confiscated by law enforcement, in accordance with the program's contraband policy. When contraband is disposed of, this must be witnessed by at least one (1) other staff member and the disposal documented in the child's record.

()

842. SEARCHES.

If a children's therapeutic outdoor program conducts searches of children, staff or visitors, it must have and follow written policies and procedures. Searches must be completed in the least intrusive manner possible for the type of search being conducted. All contraband will be disposed of in accordance with Section 841 of these rules. All searches must be documented, including the reasons for the search, the persons conducting the search, and any results. The policies and procedures at a minimum must include those in Subsections 842.01 and 842.02 of this rule.

()

01. Pat Down Searches. Pat down searches of children may only be conducted when the therapeutic outdoor program feels it is necessary to discourage the introduction of contraband or to promote the safety of staff and other children. Pat down searches must be conducted as follows:

()

a. Staff must be trained in proper search techniques; ()

b. There must be a staff member of the same sex as the child being searched and the presence of another staff member; ()

c. The child must be told he is about to be searched; ()

d. The child must remove all outer clothing (gloves, coat, hat, and shoes) and empty all pockets; ()

e. The staff person must pat the clothing of the child using only enough contact to conduct an appropriate search; ()

f. If the staff detects anything unusual, the child will be asked to identify the item and appropriate steps taken to remove the item for inspection; ()

g. If the child refuses to comply, the administrator or designee must be notified immediately and is responsible for resolving the matter; and ()

h. All searches must be documented in writing. ()

02. Strip Searches are Prohibited. ()

03. Body Cavity Searches are Prohibited. ()

843. BEHAVIOR MANAGEMENT AND DISCIPLINE POLICY.

01. Behavior Management. A children's therapeutic outdoor program must have and follow a behavioral management and discipline policy which identifies appropriate methods of behavioral management and ensures that any discipline is positive and consistent. Individual behavioral management must be based on an assessment of the child's needs, behavior, and stage of development with the goal of promoting self-control, self-direction, self-esteem, and an acceptable pattern of social behavior appropriate to the age and development level of the child. The policy must include the concept and application of least restrictive effective treatment and positive reinforcement and prohibit the following:

()

a. Physical force, except as permitted under Section 573 of these rules; ()

b. Any kind of punishment inflicted on the body, including spanking, hitting, slapping, spitting, kicking, shaking, pulling hair, pinching skin, twisting of an arm or leg in a way that would cause pain or injury to the child, kneeling and sitting on the chest of a child, placing a choke hold on a child, bending back a finger, and shoving

- or pushing a child into a stationary object; ()
- c. The placing of anything in or over a child's mouth; ()
 - d. Cruel or excessive physical exercise, prolonged positions, or work assignments that produce unreasonable discomfort; ()
 - e. Verbal abuse, ridicule, humiliation, profanity, and other forms of degradation directed at a child or a child's family; ()
 - f. Locked seclusion as described under Section 764 of these rules; ()
 - g. Mechanical restraint as described under Section 766 of these rules; ()
 - h. Alternative forms of restraint as described in Section 767 of these rules; ()
 - i. Withholding of necessary food, clothing, shelter, bedding, rest, medical care, and toilet use; ()
 - j. Denial of visits or communication with the child's family except as specified in the child's plan or court order; and ()
 - k. Disciplining a child or group of children for actions of one (1) child, unless the organization's policies and procedures for group behavior management and discipline are based on a nationally recognized peer group treatment model and clearly prescribe the circumstances and safeguards under which disciplining the group is allowed and is supervised by staff. ()

02. Documentation. An organization must document that the policy has been provided to a child and is made available to parents, guardians, and referral sources. ()

844. TIME-OUT.

A children's therapeutic outdoor program must have and follow written policy and procedures governing the appropriate use of time-out as required in Subsections 844.01 through 844.06 of this rule. ()

01. Use. Time-out is only used when a child's behavior is disruptive to the child's ability to learn, to participate appropriately, or to function appropriately with other children or the activity. ()

02. Duration. Time duration cannot exceed sixty (60) consecutive minutes. ()

03. Observation. A staff person is designated to be responsible for visually observing the child at random intervals at least every fifteen (15) minutes. ()

04. Documentation. A written description in sufficient detail to provide a clear understanding of the incident or behavior which resulted in the child being placed in time-out, and staff's attempts to help the child avoid time-out, and observations by staff maintained in the child's file. ()

05. Reintroduction to the Group. The child is reintroduced to the group in a sensitive and nonpunitive manner as soon as control is regained. ()

06. Review. If there are more than ten (10) time-outs for a child in a twenty-four (24) hour period, a review is conducted by the chief administrator or designee to determine the suitability of the child remaining in the program, whether modification to the child's plan is warranted, whether staff need additional training in alternative therapeutic behavior management techniques, and to ensure that appropriate action is taken as a result of the review. ()

845. WORK.

Children may be given a non-vocational work assignment as a constructive experience in compliance with child labor

laws, which are age appropriate and within the child's capabilities. The primary purpose of work cannot be used as a substitute for paid labor. ()

846. ANIMALS AND PETS.

Animals, including pets, must be free from disease and cared for in a safe and clean manner. All domestic animals and pets must be vaccinated against rabies. Documentation of the vaccination against rabies will be kept on file at the base camp. ()

847. TRANSPORTING CHILDREN.

01. Vehicle. Transportation of children in a therapeutic outdoor program must be in a vehicle that is: ()

a. Properly registered; ()

b. Covered by insurance for personal injury and liability; ()

c. Driven by a person with a valid driver's license for the type of vehicle and who complies with all applicable traffic laws while transporting children; ()

d. Maintained in a safe condition; ()

e. Equipped with a red triangle reflector device for use in an emergency; ()

f. Equipped with a first aid kit; and ()

g. Equipped with a fire extinguisher that is properly secured and not readily available to children. ()

02. Proper Seating of Children and Adults. The driver and all passengers must ride in a vehicle manufactured seat and properly use a passenger restraint device. ()

848. FIREARMS.

Firearms are not allowed in children's therapeutic outdoor programs. ()

849. (RESERVED)

850. PROGRAM SUMMARY.

The organization must provide the child's parent or guardian a written summary of the child's participation and progress upon completion of the therapeutic outdoor program. The parents or guardian and child must be given the opportunity and encouraged to submit a written evaluation of the therapeutic outdoor experience. ()

851. -- 859. (RESERVED)

**ADDITIONAL STANDARDS FOR SOLO EXPERIENCES IN
CHILDREN'S THERAPEUTIC OUTDOOR PROGRAMS**

**(See also Sections 500-599, Children's Agencies and Children's Residential Care Facilities,
and Sections 800-859, Children's Therapeutic Outdoor Programs)**

860. STANDARDS FOR SOLO EXPERIENCES IN CHILDREN'S THERAPEUTIC OUTDOOR PROGRAMS.

If a children's therapeutic outdoor program conducts a solo component for children as part of the therapeutic process during expeditions, they must have and follow written policies and procedures. Every children's therapeutic outdoor program that includes a solo component will include a written description of the solo component as required in Section 528 of these rules. ()

861. PLAN.

For a children's therapeutic outdoor program that conducts a solo component as part of the therapeutic process there must be a plan for the solo component, as well as an individual solo plan for each child. The plans will be documented and approved by the senior field staff to ensure that the children are not exposed to unreasonable risks. The plans must include the following: ()

01. Individual Solo Plan. The goals, methods, techniques to be used, and time frames will be listed for each participant and each individual plan will be reviewed with the child and signed and dated by the child and the designated staff member. ()

02. Ability. There will be consideration of the maturity level, health, physical ability, and emotional state of the child. ()

03. Preparation. The child will be instructed on the solo experience, including expectations, restrictions, communication, environment, and emergency procedures. ()

04. Back Up Plan. There will be documented instructions for a back up plan in case the child's plan does not work. ()

05. Responsible Staff. A designated staff member will be responsible for coordination and implementation of the plan. ()

862. SOLO SITES.

Staff must be familiar with the site chosen to conduct solos. The following requirements apply: ()

01. Pre-Site Investigation. A pre-site investigation will be conducted and mapped prior to the solo. The site will be checked at the time the child is placed to assure that no changes in the environment have taken place since the pre-site investigation that may put the child at risk. ()

02. Hazardous Conditions. Any hazardous conditions, including terrain, are to be considered prior to the selection of a solo site, taking into account the age, physical, developmental and psychological issues of the children served in the solo experience. ()

03. Mapping and Site Coordinates. The site selected for the solo will be mapped and the site coordinates will be recorded. The map and the site coordinates will be maintained at the solo site and communicated to the base camp prior to leaving for the solo component. ()

04. Supplies. Arrangements will be made prior to the solo for medication, food, and water drop offs if needed. ()

863. SUPERVISION.

Plans for supervision must be in place during the solo, and at a minimum require the following: ()

01. Assigned Staff. The assignment of a specific staff member to be responsible for the supervision of each solo participant. ()

02. Observation. A predetermined procedure for observation, that ensures the health, safety, and well being of the child at all times, that includes: ()

a. Placing children at a distance from each other and the central staff site to allow for appropriate supervision and emergency communication; ()

b. Placing children requiring special attention closer to the central staff site; ()

c. Clearly defining physical boundaries and any other restrictions; ()

d. Instructing children to not participate in potentially dangerous activities; ()

- e. Notification and check in systems; ()
- f. Visual checks; and ()
- g. Checking the participant's emotional and physical condition daily. ()

864. EMERGENCY PROCEDURES.

In addition to the requirements of Section 827 of these rules, solo emergency plans must include: ()

01. Instruction. Instructing the participant on the safety and emergency procedures, including evacuation routes. ()

02. Communication. Providing each participant with signaling capabilities, including a whistle, for emergency notification. ()

03. Participant Response. Instruction to all participants on how to respond if the emergency notification system is put into use, including each participants requirement to check in to the central staff site. ()

04. Check In. Provide a check-in system should an emergency occur, which includes notification to the base camp and an accounting of each participant's whereabouts and safety. ()

865. -- 869. (RESERVED)

**ADDITIONAL STANDARDS FOR STATIONARY
CHILDREN'S THERAPEUTIC OUTDOOR PROGRAMS
(Sections 870-872, see also Sections 500-599 and 800-869.)**

870. ADDITIONAL PROVISIONS FOR STATIONARY CHILDREN'S THERAPEUTIC OUTDOOR PROGRAMS.

A children's therapeutic outdoor program that maintains a designated location for the housing of children is considered stationary and must be subject to additional fire, health, and safety standards. ()

871. FIRE SAFETY REQUIREMENTS.

A stationary children's therapeutic outdoor camp must be inspected by a state certified fire inspector before being occupied and on an annual basis thereafter, and a copy of the inspection will be maintained at the children's therapeutic outdoor camp. The inspection requires: ()

01. Fire Extinguishers. One (1) 2-A-10BC type fire extinguisher must, at minimum, be in each of the following locations: ()

- a. On each floor in any building that houses children; ()
- b. In any room where cooking or heating takes place; ()
- c. In a group of tents within a seventy-five (75) foot travel distance; and ()
- d. Each fire extinguisher will be inspected annually by a fire extinguisher service agency. ()

02. Smoke Detectors. A smoke detector will be in buildings where children sleep. ()

03. Escape Routes. A minimum of two (2) escape routes from buildings where children sleep. ()

04. Flammable Liquids. Flammable liquids will not be used to start fires, be stored in structures that house children, or be stored near ignition sources. If generators are used, they will only be refueled by staff when the generator is not running and cool to the touch. ()

- 05. Electrical.** Wiring will be properly attached and fused to prevent overloads. ()

872. HEALTH SAFETY REQUIREMENTS.

A stationary children’s therapeutic outdoor camp must be inspected by the District Health Department before being occupied and on an annual basis, and a copy of the inspection maintained at the site of the camp. The inspection requires the following: ()

- 01. Food.** Food be stored, prepared, and served in a manner that is protected from contamination. ()

02. Water Supply. The water supply will be from a source that is accepted by the local health authority according to IDAPA 58.01.08, “Idaho Rules for Public Drinking Water Systems,” at the time of application and for annual renewal of such licenses. ()

03. Sewage Disposal. Sewage will be disposed of through a public system, or in absence of a public system, in a manner approved by the local health authority, according to IDAPA 58.01.03, “Individual/Subsurface Sewage Disposal Rules.” ()

873. -- 999. (RESERVED)

16.07.01 – BEHAVIORAL HEALTH SLIDING FEE SCHEDULES

000. LEGAL AUTHORITY.

Under Sections 16-2433, 19-2524, 20-511A, and 39-3137, Idaho Code, the Director is authorized to promulgate, adopt, and enforce rules for the charging of fees for services provided by mental health and substance use disorders providers. Under Section 39-309, Idaho Code, the Board of Health and Welfare is authorized to promulgate, adopt, and enforce rules for the charging of fees for services provided by mental health and substance use disorders providers. ()

001. TITLE AND SCOPE.

01. Title. These rules are titled IDAPA 16.07.01, “Behavioral Health Sliding Fee Schedules.” ()

02. Scope. These rules provide the sliding fee schedules, based on federal poverty guidelines, and fee determination process for the adult mental health, children’s mental health, and substance use disorders programs within the Department. This chapter of rules applies both to voluntary and court-ordered recipients. ()

002. -- 009. (RESERVED)

010. DEFINITIONS.

For the purposes of this chapter, the following definitions apply. ()

01. Ability to Pay. The financial capacity that is available to pay for the program services after allowable deductions in relation to gross income and family size exclusive of any liability of third party payor sources. ()

02. Adjusted Gross Income. Total family annual income less allowable annual deductions. ()

03. Adult. An individual eighteen (18) years of age or older. ()

04. Adult Mental Health Program. A program administered by the Idaho Department of Health and Welfare to serve seriously mentally ill and severely and persistently mentally ill adults. ()

05. Allowable Annual Deductions. In determining the family's ability to pay for behavioral health services, the following are allowable annual deductions: ()

a. Court-ordered obligations; ()

b. Dependent support; ()

c. Child care payments necessary for parental employment; ()

d. Medical expenses; ()

e. Transportation; ()

f. Extraordinary rehabilitative expenses; and ()

g. State and federal tax payments, including FICA taxes. ()

06. Behavioral Health Services. Services offered by the Department to improve mental health and substance use disorders issues. ()

07. Child. An individual who is under the age of eighteen (18) years. ()

08. Children’s Mental Health Program. A program as defined in IDAPA 16.07.37, “Children’s Mental Health Services,” administered by the Idaho Department of Health and Welfare. ()

09. Court-Ordered Obligations. Financial payments which have been ordered by a court of law. ()

10. Court-Ordered Recipient. A person receiving behavioral health services under Sections 19-2524, 20-520(i), and 20-511A, Idaho Code. ()

11. **Department.** The Idaho Department of Health and Welfare. ()
12. **Dependent Support.** An individual that is dependent on their family's income for over fifty percent (50%) of his financial support. ()
13. **Extraordinary Rehabilitative Expenses.** Those payments incurred as a result of the disability needs of the person receiving services. They include annual costs for items including wheelchairs, adaptive equipment, medication, treatment, or therapy which were not included in the medical payments deduction and the annual estimate of the cost of services received. ()
14. **Family.** A family is an adult, or married adults, or adult(s) with children, living in a common residence. ()
15. **Family Household.** Persons in a family related by blood, marriage, or adoption. Adult siblings who are not claimed as dependents and individuals receiving Supplemental Security Income (SSI) or Supplemental Security Disability Income (SSDI) are excluded from consideration as a member of the household for income and counting purposes. Income from minor siblings is excluded from household income. The term "family household" is synonymous with the term "family unit." ()
16. **Federal Poverty Guidelines.** Guidelines issued annually by the Federal Department of Health and Human Services establishing the poverty income limits. The federal poverty guidelines for the current year may be found online at <http://aspe.hhs.gov/poverty>. ()
17. **Management Service Contractor (MSC).** An independent contractor with whom the Department contracts to manage a statewide network of Department-approved facilities and programs to deliver substance use disorders treatment and recovery support services. ()
18. **Parent.** The person who, by birth or through adoption, is legally responsible for a child. ()
19. **Recipient.** The person receiving services. The term "recipient" is synonymous with the terms: "patient," "participant," "resident," "consumer," or "client." ()
20. **Sliding Fee Scale.** A scale used to determine an individual's financial obligation for services based on Federal Poverty Guidelines and the number of persons in the family household. ()
21. **Substance Use Disorders Program.** A program administered by the Idaho Department of Health and Welfare to serve adolescents and adults with alcohol or substance use disorders. ()
22. **Third-Party Payor.** A payor other than a person receiving services or a responsible party who is legally liable for all or part of the person's care. ()

011. -- 099. (RESERVED)

100. FINANCIAL RESPONSIBILITY OF PARENTS FOR CHILDREN'S MENTAL HEALTH SERVICES.

Parents of children eligible for services under IDAPA 16.07.37, "Children's Mental Health Services," Section 407 who receive services either directly from the Department's Children's Mental Health program or through Department contracts with private providers are responsible for paying for services provided to their child and to their family. Financial responsibility of the child's parent(s) for each service not covered by third party liable resources or payments, including private insurance and Medicaid will be established in accordance with the child's parent(s) ability to pay as determined by the sliding fee scale in Section 300 of these rules. ()

101. -- 199. (RESERVED)

200. FINANCIAL RESPONSIBILITY FOR ADULT MENTAL HEALTH SERVICES.

Adults receiving services either directly from the Department's Adult Mental Health program or through Department

contracts with private providers are responsible for paying for services they receive. Financial responsibility for each service not covered by third party liable resources or payments, including private insurance and Medicaid will be established in accordance with the individual's ability to pay as determined by the sliding fee scale in Section 300 of these rules. ()

201. -- 299. (RESERVED)

300. SLIDING FEE SCHEDULE FOR CHILDREN’S MENTAL HEALTH, ADULT MENTAL HEALTH, AND SUBSTANCE USE DISORDERS SERVICES.

Following is the sliding fee schedule for children’s mental health, adult mental health, and substance use disorders services:

TABLE 300 - SLIDING FEE SCHEDULE FOR CHILDREN’S MENTAL HEALTH, ADULT MENTAL HEALTH, AND SUBSTANCE USE DISORDERS SERVICES.	
Percent Federal of Poverty Guidelines	Percentage of Cost Sharing Responsibility of a Parent, or Adult Services Recipient
0% - 99%	0%
100%-109%	5%
110%-119%	10%
120%-129%	15%
130%-139%	20%
140%-149%	25%
150%-159%	30%
160%-169%	35%
170%-179%	40%
180%-189%	45%
190%-199%	50%
200% - 209%	55%
210% - 219%	60%
220% - 229%	65%
230% - 239%	70%
240% - 249%	75%
250% - 259%	80%
260% - 269%	85%
270% - 279%	90%
280% - 289%	95%
290% - and above	100%

()

301. -- 399. (RESERVED)

400. CALCULATING INCOME TO APPLY THE SLIDING FEE SCHEDULE FOR CHILDREN'S MENTAL HEALTH AND ADULT MENTAL HEALTH SERVICES.

The fee determination process includes consideration of the following subsections in this rule. ()

01. Application and Fee Determination Form. Prior to the delivery of behavioral health services, an application for services and a "Fee Determination" form must be completed. ()

a. A child's parent(s) must complete the application and fee determination form when requesting Children's Mental Health services. ()

b. An adult requesting Adult Mental Health services must complete the application and fee determination form. ()

02. Ability to Pay. Financial obligations are based upon the number of persons in the family household and the adjusted gross income of those persons as determined using the following: ()

a. An ability to pay determination will be made at the time of the voluntary request for services or as soon as possible, thereafter. ()

b. Redetermination of ability to pay will be made at least annually or upon request or at any time changes occur in family size, income, or allowable deductions. ()

c. In determining the family's ability to pay for services, the Department will deduct annualized amounts for the following: ()

i. Court-ordered obligations; ()

ii. Dependent support; ()

iii. Child care expenses necessary for parental employment; ()

iv. Medical expenses; ()

v. Transportation; ()

vi. Extraordinary rehabilitative expenses; and ()

vii. State and federal tax payments, including FICA taxes. ()

03. Required Information. Information regarding third-party payors and other resources, including Medicaid or private insurance, must be identified and developed in order to fully determine the child's parent(s) or adult individual's ability to pay and to maximize reimbursement for the cost of services provided. It is the responsibility of the parents, legal guardian, or adult individual to obtain and provide information not available at the time of the initial financial interview whenever that information becomes available. ()

04. Time of Payment. Payment for services will be due upon delivery of services unless other arrangements are made. ()

05. Financial Obligation. A financial obligation for each service not covered by third party liable resources or payments, including private insurance and Medicaid, will be established in accordance with Section 300 and Subsection 400.01 of these rules but in no case will the amount owed exceed the cost of the service. In no case will the annual financial obligation exceed five percent (5%) of adjusted gross income of the family household. ()

06. Fees Established by the Department. The maximum hourly fees or flat fees charged for Behavioral Health services are established by the Department of Health and Welfare. ()

a. The fees for Children's Mental Health Services and Adult Mental Health Services are based on the cost for services set in Department contracts with service providers. Current information regarding services and fee charges can be obtained from regional Children's Mental Health and Adult Mental Health offices specified online. ()

b. The fees for Substance Use Disorders Services are based on the cost for services set in Department contracts with the Management Services Contractor. Current information regarding services and fee charges can be obtained from the Department office described in Section 005 of these rules. ()

401. -- 999. (RESERVED)

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 Health and Welfare

Agency Contact: The DHW Rules Unit

Phone/Email: dhwrules@dhw.idaho.gov

Date: August 5, 2020

IDAPA, Chapter and Title Number and Chapter Name:

Licensing, Certification, Permit, or Registration Fees:

- . IDAPA 16.01.07, Emergency Medical Services (EMS) -- Personnel Licensing Requirements - Fees paid by emergency medical personnel, for licensure and renewal of licensure
- . IDAPA 16.02.13, State of Idaho Drinking Water Laboratory Certification Program - Fees paid by laboratories for certification to test drinking water
- . IDAPA 16.02.14, Construction and Operation of Public Swimming Pools - Establishes reasonable fees for services for all public swimming pools.
- . IDAPA 16.02.27, Idaho Radiation Control Rules - Establishes licensing fees for all radiation producing machines in the State.
- . IDAPA 16.03.19, Certified Family Homes - Fees paid by Certified Family Homes for application and certification.
- . IDAPA 16.06.02, Child Care Licensing - Fees paid by childcare providers for licensing.

Designation Fees:

- . IDAPA 16.02.01, Idaho Time Sensitive Emergency System Council - Fees paid by hospitals for designation under the Idaho Time Sensitive Emergency System.

Records Fees:

- . IDAPA 16.02.08, Vital Statistics Rules - Fees paid to the Department for copies of vital records, searches, and other services.

Fee for Service:

- . IDAPA 16.02.25, Fees Charged by the State Laboratory - Fees paid to the Department for laboratory testing and services.
- . IDAPA 16.02.26, The Idaho Children's Special Health Program - Fees paid by Children's Special Health Program clients for program services.
- . IDAPA 16.03.03, Child Support Services - Fees paid by clients of the Department's child support program.
- . IDAPA 16.03.22, Residential Assisted Living Facilities - Fees paid by providers for building evaluation and survey services.
- . IDAPA 16.04.07, Fees for State Hospital North and State Hospital South - Fees for services provided at State Hospitals.
- . IDAPA 16.05.06, Criminal History and Background Checks - Fees charged by the Department for criminal history and background checks.
- . IDAPA 16.06.01, Child and Family Services - Fees charged by the Department for child protection central registry checks.
- . IDAPA 16.07.01, Behavioral Health Sliding Fee Schedules - Sliding fee schedules for behavioral health services.

Premiums:

- . IDAPA 16.03.18, Medicaid Cost-Sharing - Establishes premium fee schedule for Youth Empowerment Services (YES) program participants.

Fee Rule Status: **Proposed** **Temporary**

Rulemaking Docket Number: 16-0000-2000F

STATEMENT OF ECONOMIC IMPACT:

All the aforementioned chapters contain fees that are not changing from the rules published in the April 2020 Special Edition *Idaho Administrative Bulletin*.

16.03.19, "Certified Family Homes" Fees are authorized under Idaho Code 56-264(6)(f)(iii) to cover certifying and recertifying costs. Per IDAPA 16.03.19.109, applicants are charged a one-time application fee of \$150, and providers are charged a monthly certification fee of \$25 after initial certification. The fees are unchanged from the previous year's temporary fee rule. Although this chapter contains changes from the April 2020 *Idaho Administrative Bulletin*, they do not include any changes to fees.