HEALTH & WELFARE COMMITTEE

ADMINISTRATIVE RULES REVIEW

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2010 Legislative Session

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IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE

16.02.25 - RULES GOVERNING FEES CHARGED BY THE STATE LABORATORY

DOCKET NO. 16-0225-0901 (CHAPTER REPEAL)

NOTICE OF RULEMAKING - ADOPTION OF PENDING FEE RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2010 Idaho State Legislature for final approval. Pursuant to Section 67-5224(5)(c), Idaho Code, this pending rule will not become final and effective until it has been approved, amended, or modified by concurrent resolution of the legislature because of the fees affected by this rulemaking. The rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 56-1003 and 56-1007, Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending fee rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change:

An internal Department audit of the Bureau of Laboratories conducted in the Spring of 2008 found that definitions, tests, and fees in the lab fees rule chapter were outdated and needed to be updated to reflect current practice and more fully cover the actual cost of laboratory tests.

In response to the audit, the current chapter was repealed under this docket and rewritten under companion Docket No. 16-0225-0902.

The pending rule is being adopted as proposed. The notice of rulemaking for the proposed repeal of the chapter was published in the August 5, 2009, Idaho Administrative Bulletin, Vol. 09-8, page 57.

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

No fees or charges were imposed or increased under this repeal docket. The fees for the laboratory tests performed by the Bureau of Laboratories were increased under companion Docket No. 16-0225-0902. The authority for the Department to charge these fees is found under Section 56-1007, Idaho Code. For a detailed fiscal impact of the fee changes, please refer to the notice for Docket No. 16-0225-0902.

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:

There is no impact to the state general fund as result of this rulemaking.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions

concerning this pending fee rule, contact Tamara Hogg at (208) 334-2235 x262.

DATED this 17th day of September, 2009.

Tamara Prisock
DHW - Administrative Procedures Section
450 W. State Street - 10th Floor
P.O. Box 83720, Boise, ID 83720-0036
(208) 334-5564 phone; (208) 334-6558 fax
dhwrules@dhw.idaho.gov e-mail

THE FOLLOWING NOTICE PUBLISHED WITH THE PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Section 56-1003, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than Wednesday, August 19, 2009.

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

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

An internal Department audit of the Bureau of Laboratories conducted in the Spring of 2008 found that definitions, tests, and fees in the lab fees rule chapter are outdated and need to be updated to reflect current practice and more fully cover the actual cost of laboratory tests.

In response to the audit, the current chapter is being repealed under this docket and rewritten under companion Docket No. 16-0225-0902.

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

FISCAL IMPACT: The following is a specific description, if applicable, of any fiscal impact on the state general fund greater than ten thousand dollars ($10,000) during the fiscal year. N/A

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220, Idaho Code, negotiated

rulemaking was not conducted because the chapter is being repealed (and rewritten) in response to the findings of an internal audit.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Tamara Hogg at (208) 334-2235 x262.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before Wednesday, August 26, 2009.

DATED this 6th day of July, 2009.

IDAPA 16.02.25 IS BEING REPEALED IN ITS ENTIRETY.

IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE

16.02.25 - FEES CHARGED BY THE STATE LABORATORY

DOCKET NO. 16-0225-0902 (CHAPTER REWRITE)

NOTICE OF RULEMAKING - ADOPTION OF PENDING FEE RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2010 Idaho State Legislature for final approval. Pursuant to Section 67-5224(5)(c), Idaho Code, this pending rule will not become final and effective until it has been approved, amended, or modified by concurrent resolution of the legislature because of the fees being imposed or increased through this rulemaking. The rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 56-1003 and 56-1007, Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change:

An internal Department audit of the Bureau of Laboratories conducted in the Spring of 2008 found that definitions, tests, and fees in the lab fees rule chapter were outdated and needed to be updated to reflect current practice and more fully cover the actual cost of laboratory tests.

In response to the audit, the current chapter was completely rewritten under this docket.

The pending rule is being adopted as proposed. The chapter rewrite was published as proposed in the August 5, 2009, Idaho Administrative Bulletin, Vol. 09-8, page 58 - 69.

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

The fees for the laboratory tests performed by the Bureau of Laboratories are being increased. The authority for the Department to charge these fees is found under Section 56-1007, Idaho Code. There are over 200 different tests whose fees range from $6 to $373. See below for fiscal impact.

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:

The Bureau's calculations based on SFY 2008 testing levels indicate the change in fees will result in an increase of receipts estimated at $130,000:

$77,000 in Environmental - fees mainly billed to private individuals, public water systems, the Department of Environmental Quality, and the district health departments.

$43,000 in Microbiology - fees mainly billed to private doctors, hospitals, county jails, and juvenile detention centers. $5,900 is estimated to come from Medicaid based on current reimbursement rates for new refugee parasite testing.

$10,000 in Virology - fees mainly billed to private doctors, hospitals, county jails, and juvenile detention centers.

The increase in fees will not have an impact on the Lab state general fund, but should more fully cover the actual costs of the tests. Currently, the receipts appropriation for Labs is sufficient to cover this increase.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending fee rule, contact Tamara Hogg at (208) 334-2235 x262.

DATED this 17th day of September, 2009.

Tamara Prisock
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THE FOLLOWING NOTICE PUBLISHED WITH THE PROPOSED FEE RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Section 56-1003, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than Wednesday, August 19, 2009.

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

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

An internal Department audit of the Bureau of Laboratories in the Spring of 2008 found that definitions, tests, and fees in the lab fees rule chapter are outdated and need to be updated to reflect current practice.

In response to the audit, the current chapter of rules is being completely rewritten. The current chapter is being repealed in this Bulletin under Docket No. 16-0225-0901.

The rewrite of the rules adds the standard sections required by the Office of Administrative Rules (OAR), updates chapter definitions, updates the list of laboratory tests offered by the Bureau of Laboratories and their respective fees, as well as reorganizes the chapter and revises the language to reflect the Department's plain language standards.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased: The fees for the laboratory tests performed by the Bureau of Laboratories are being increased. There are over 200 different tests whose fees range from $6 to $373. See below for fiscal impact.

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

The Bureau's calculations based on State Fiscal Year 2008 testing levels indicate the change in fees will result in an increase of receipts estimated at $130,000:

1. **$77,000 in Environmental - fees mainly billed to private individuals, public water systems, the Department of Environment Quality (DEQ), and the district health departments.**

2. **$43,000 in Microbiology - fees mainly billed to private doctors, hospitals, county jails, and juvenile detention centers. $5,900 is estimated to come from Medicaid based on current reimbursement rates for new refugee parasite testing.**

3. **$10,000 in Virology - fees mainly billed to private doctors, hospitals, county jails, and juvenile detention centers.**

The increase in fees will not have an impact on the state general fund for the state laboratories, but should more fully cover the actual costs of the tests. Currently, the receipts appropriation for the state laboratories is sufficient to cover this increase.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220, Idaho Code, negotiated rulemaking was not conducted because the chapter is being rewritten in response to the findings of an internal audit.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Tamara Hogg at (208) 334-2235 x262.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before Wednesday, August 26, 2009.

DATED this 6th day of July, 2009.

THE FOLLOWING IS THE TEXT OF THE PENDING FEE RULE

IDAPA 16
TITLE 02
CHAPTER 25

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. The title of these rules is 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. WRITTEN INTERPRETATIONS.

There are no written interpretations for this chapter of rules. ( )

003. ADMINISTRATIVE APPEALS.

Administrative appeals are governed by provisions of IDAPA 16.05.03, "Rules Governing Contested Case Proceedings and Declaratory Rulings." ( )

004. INCORPORATION BY REFERENCE.

The following are incorporated by reference in this chapter of rules: ( )

01. ASTM. *D3977-97 Standard Test Methods for Determining Sediment Concentration in Water Samples* (2002). American Society for Testing and Materials (ASTM) International. http://www.astm.org/DATABASE.CART/HISTORICAL/D3977-97R02.htm.( )

02. BAM. *Bacteriological Analytical Manual* (BAM). U.S. Department of Health and Human Services, U.S. Food and Drug Administration (FDA). http://www.fda.gov/Food/ScienceResearch/LaboratoryMethods/BacteriologicalAnalyticalManualBAM/default.htm. ( )

03. EPA. The following are analytical test methods published by the U.S. Environmental Protection Agency (EPA). ( )

a. Approved general-purpose methods. http://www.epa.gov/waterscience/methods/method/. ( )

b. Approved industry-specific methods. http://www.epa.gov/waterscience/methods/method/industry.html. ( )

c. Oil and Grease Measurements. http://www.epa.gov/waterscience/methods/method/oil/. ( )

d. EPA 8000 Series Methods. http://www.epa.gov/epawaste/hazard/testmethods/sw846/online/8_series.htm. ( )

e. Reference Method for the Determination of Fine Particulate Matter as PM 2.5 in the Atmosphere. 40 CFR Part 50, Appendix L, 2006. http://ecfr.gpoaccess.gov/cgi/t/text/text-idx?=ecfr&sid=b79c1c245012b17be65dce0e1b01e5ed&rgn=div9&view=text&node=40:2.0.1.1.1.0.1.17.12&idno=40. ( )

f. Reference Method for the Determination of Particulate Matter as PM 10 in the Atmosphere. 40 CFR Part 50, Appendix J, 1987. http://ecfr.gpoaccess.gov/cgi/t/text/text-idx?=ecfr&sid=27abb7e56d01495e1ad71e44a9d26c96&rgn=div9&view=text&node=40:2.0.1.1.1.0.1.17.10&idno=40. ( )

04. NIOSH. *NIOSH Manual of Analytical Methods* (NMAM®), 4th edition. P.C. Sclecht and P.F. O'Connor, editors. 1994. U.S. Department of Health and Human Services. http://www.cdc.gov/niosh/nmam/. ( )

05. SM. *Standard Methods for the Examination of Water and Wastewater*, 20th edition. Clesceri, Lenore S., Arnold E. Greenburg, and Ardrew D. Eaton, Eds. 1998. American Public Health Association, American Water Works Association, and Water Environment Federation. ( )

005. OFFICE HOURS -- MAILING ADDRESS -- STREET ADDRESS -- TELEPHONE -- WEBSITE.

01. Office Hours. Office hours are 8 a.m. to 5 p.m., Mountain Time, Monday through Friday, except holidays designated by the state of Idaho. ( )

02. Mailing Address. The mailing address for the business office is Idaho Department of Health and Welfare, P.O. Box 83720, Boise, Idaho 83720-0036. ( )

03. Street Address. ( )

a. The business office of the Idaho Department of Health and Welfare is located at 450 West State Street, Boise, Idaho 83702. ( )

b. The Bureau of Laboratories is located at 2220 Old Penitentiary Road, Boise, Idaho, 83712-8299. ( )

04. Telephone. ( )

a. The telephone number for the Idaho Department of Health and Welfare is (208) 334-5500. ( )

b. The telephone number for the Bureau of Laboratories is (208) 334-2235. ( )

05. Internet Website. ( )

a. The Department's internet website is found at http://www.healthandwelfare.idaho.gov. ( )

b. The internet website for the Bureau of Laboratories is found at http://www.statelab.idaho.gov. ( )

006. CONFIDENTIALITY OF RECORDS AND PUBLIC RECORDS REQUESTS.

01. Confidential Records. Any information about an individual covered by these rules and contained in the Department's records must comply with IDAPA 16.05.01, "Use and Disclosure of Department Records." ( )

02. Public Records. The Department will comply with Sections 9-337 through 9-350, Idaho Code, when requests for the examination and copying of public records are made. Unless otherwise exempted, all public records in the custody of the Department are subject to disclosure. ( )

007. -- 009. (RESERVED).

010. DEFINITIONS.
For the purposes of these rules, the following terms are used as defined below: ( )

01. ASTM. Refers to a standard analytical test method published by the American Society for Testing and Materials International. (See Section 004 of these rules.) ( )

02. BAM. Refers to a bacteriological analytical test method published by the U.S. Food and Drug Administration. (See Section 004 of these rules.) ( )

03. Clinical Laboratory Tests. Microbiological analysis for diagnosis of infectious diseases affecting human health. ( )

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

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

06. Environmental Laboratory Tests. Analysis of various samples from air, microbiological, organic, or inorganic sources. ( )

07. EPA. Refers to an analytical test method published by the U.S. Environmental Protection Agency. (See Section 004 of these rules.) ( )

08. NIOSH. Refers to an analytical test method published by the National Institute for Occupational Safety and Health. (See Section 004 of these rules.) ( )

09. SM. Refers to a standard method of water testing published in the *Standard Methods for the Examination of Water and Wastewater*. (See Section 004 of these rules.) ( )

10. 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**
16S rDNA Sequence Analysis	$70.00
Antimicrobial Susceptibility	$62.00
Biochemical Identification System	$38.00
Bordetella pertussis, Culture	$18.00
Bordetella pertussis, FA	$43.00
Bordetella pertussis, RT-PCR	$25.00
Campylobacter, Confirmation	$23.00
Campylobacter, DNA Probe	$77.00
Chlamydia trachomatis and *Neisseria gonorrhoeae* by Nucleic Acid Amplification	$16.00
Cryptosporidium/Giardia, IFA	$69.00
Cytomegalovirus, IGG Antibody, IFA	$56.00

Fees for Clinical Laboratory Tests	
Clinical Test Name	**Fee**
Cytomegalovirus, IGM Antibody, IFA	$56.00
Diphtheria, Primary Culture	$68.00
Disk Diffusion Test	$8.00
Escherichia coli/Shiga Toxin PCR	$98.00
Escherichia coli 0157 Immunocard	$30.00
Escherichia coli 0157:H7, Confirmation	$17.00
Escherichia coli O157:H7, Culture	$11.00
Escherichia coli, Serotyping	$75.00
Enteric Pathogens, Primary Culture (*Salmonella, Shigella, Campylobacter*)	$24.00
Enteric Pathogens, Primary Culture (*Aeromonas* spp., *Plesiomonas shigelloides, Bacillus cereus, Clostridium perfringens, Staphylococcus aureus, Vibrio* spp., *Yersinia* spp., *Listeria monocytogenes*)	$63.00
Enterovirus Isolation	$95.00
E Test	$28.00
Fungus, LSU rDNA Sequence Analysis	$70.00
Hantavirus, IGG & IGM Antibody, EIA	$306.00
Hemagglutination Inhibition	$80.00
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, Antibody, EIA	$15.00
HIV-1, Western Blot	$311.00
Influenza Virus, RT-PCR	$69.00
Legionella, Culture, Clinical	$120.00
Mumps, IGG Antibody, EIA	$15.00
Mumps, IGM Antibody, IFA	$56.00
Mumps, Virus Isolation	$88.00
Mycobacteria, AFS-Fluorochrome	$98.00

Fees for Clinical Laboratory Tests	
Clinical Test Name	**Fee**
Mycobacteria, Biochemical Test	$35.00
Mycobacteria, Drug Susceptibility	$373.00
Mycobacteria, Primary Culture	$15.00
Mycobacteria, Reference Culture	$19.00
Mycobacteria, Tuberculosis Quantiferon -TB Gold In Tube	$90.00
Mycobacteria, Zeihl-Neelsen Stain	$15.00
Neisseria gonorrhoeae, DNA Probe	$49.00
Neisseria gonorrhoeae, Primary Culture	$12.00
Norovirus, RT-PCR	$66.00
Nucleic Acid Probe	$142.00
Parasite Exam, Blood or Tissue	$19.00
Parasite Exam, Concentrate & Trichrome Stain	$76.00
Parasite Exam, Gross	$49.00
Parasite Exam, Microscopic	$20.00
Pulsed Field Gel Electrophoresis	$90.00
Rabies, FA	$50.00
Reference Culture, Aerobe	$28.00
Reference Culture, Anaerobe	$48.00
Reference Culture, Serotyping	$64.00
Respiratory Virus Isolation	$94.00
Rubella, IGG Antibody, EIA	$15.00
Rubella, IGM Antibody, EIA	$82.00
Rubeola (Measles), IGG Antibody, EIA	$15.00
Rubeola (Measles), IGM Antibody, EIA	$95.00
Salmonella, Serotyping	$37.00
Shiga Toxin, Immunoassay	$12.00
Shigella, Serogrouping	$30.00
Shigella flexneri, Serogrouping	$30.00
St. Louis Encephalitis, RT-PCR	$52.00
Staphylococcus aureus, Methicillin Resistant (MRSA), Identification/Confirmation	$29.00
Staphylococcus aureus, Methicillin Resistant (MRSA), PCR	$152.00
Syphilis, Treponema Pallidum Passive Agglutination	$34.00

Fees for Clinical Laboratory Tests	
Clinical Test Name	**Fee**
Syphilis, Venereal Disease Research Laboratory (VDRL)	$9.00
Syphilis, Venereal Disease Research Laboratory (VDRL), Quantitative	$6.00
Vancomycin Resistant *Enterococcus* (VRE)	$93.00
Vancomycin-Intermediate/Resistant *Staphylococcus aureus* (VISA)	$93.00
Varicella Zoster, IGG Antibody, EIA	$15.00
Varicella Zoster, IGM Antibody, IFA	$56.00
Varicella Zoster, Virus Isolation	$91.00
West Nile Virus/St. Louis Encephalitis Virus, CDC MAC ELISA	$81.00
West Nile Virus/St. Louis Encephalitis Virus IGM Antibody, Microsphere Immunoassay	$49.00
West Nile Virus/St. Louis Encephalitis Virus Plaque Reduction Neutralization Test (PRNT)	$278.00
West Nile Virus, IGG Antibody Screen, EIA	$73.00
West Nile Virus, IGM Antibody Screen, EIA	$78.00
West Nile Virus, RT-PCR	$58.00
Western Equine Encephalitis, RT-PCR	$52.00

( )

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**
PM10, EQPM-1102-150, Air	$8.00
PM25, RFPS-0499-129, Air	$20.00

( )

02. Environmental Laboratory Tests, Microbiology -- Table.

Fees for Environmental Laboratory Tests -- Microbiology	
Microbiology Test Name	**Fee**
Bacillus cereus, BAM14, Food or Vegetation	$93.00
Bacillus cereus, Enterotoxin	$96.00
Clostridium perfringens ENTER, PET-RPLA	$95.00
Campylobacter, BAM7, Food or Vegetation	$75.00
Clostridium perfringens, BAM16	$22.00
Computer Augmented Identification System	$50.00
Escherichia coli H7 Confirmation, Latex Agglutination	$20.00
Escherichia coli O157 Confirmation, Latex Agglutination	$20.00
Escherichia coli O157:H7, 9260F	$100.00
Escherichia coli O157:H7, Screen, BAM4A, Food or Vegetation	$32.00
Escherichia coli, SM 9221F, Soil	$28.00
Escherichia coli, SM 9221F, Water	$26.00
ECO, CLPP, Developmental, Water	$22.00
Fecal Coliform, SM 9221E, Soil	$25.00
Fecal Coliform, SM 9221E, Water	$25.00
Fecal Coliform, SM 9222D, Water	$22.00
Heterotrophic Plate Count, SM 9215B-R2A	$25.00
Heterotrophic Plate Count, SM 9215B-SPC	$25.00
Identification of Iron Bacteria, Water	$33.00
Identification System, Water, Food or Vegetation	$50.00
Legionella, SM 9260J, Water	$35.00
Listeria Screen, BAM10, Food or Vegetation	$75.00
Pseudomonas aeruginosa, SM 9213F, Water	$75.00
Quanti-Tray, SM 9223B	$20.00
Salmonella Screen, BAM5, Food or Vegetation, Water	$23.00
Salmonella, SM 9260B, Water	$75.00
Staphylococcus aureus Confirmation, BAM12AUX, Food or Vegetation	$47.00
Staphylococcus aureus Isolation, BAM12, Food or Vegetation, Water	$15.00
Staphylococcal Enterotoxin	$130.00
Total Coliform, SM 9221B, Water	$29.00

Fees for Environmental Laboratory Tests -- Microbiology	
Microbiology Test Name	**Fee**
Total Coliform, SM 9221BC, Drinking Water	$16.00
Total Coliform, SM 9222B, Water	$18.00
Total Coliform, SM 9223B-PA-CS	$11.00
Total Coliform, SM 9223B-PA-CT	$18.00
Total Coliform, SM 9223B-QT-CS	$15.00
Total Coliform, SM 9223B-QT-CT	$15.00

( )

03. Environmental Laboratory Tests, Inorganic -- Table.

Fees for Environmental Laboratory Tests -- Inorganic	
Inorganic Test Name	**Fee**
Alkalinity ($CaCO_3$), SM 2320B, Water	$14.00
Arsenic Speciation	$150.00
BOD-5, SM 5210B, Water	$31.00
Chlorophyll A, SM 10200H, Water and Pheophytin A, SM 10200H, Water	$100.00
Conductivity, SM 2510B, Water	$11.00
Corrosivity, Calculation, Water	$59.00
Cyanide, Total, SM 4500, Soil	$33.00
Cyanide, Total, SM 4500, Water	$33.00
Cyanide, WAD, SM 4500, Soil	$33.00
Cyanide, WAD, SM 4500, Water	$33.00
EPA 180.1, Turbidity, Water	13.00
EPA 200.2 - Metals Digestion	$19.00
EPA 200.7, Dissolved, ICP (Metals Digestion is performed and charged for when turbidity is above 1 NTU)	$13.00
EPA 200.7, Drinking Water, ICP (Metals Digestion is performed and charged for when turbidity is above 1 NTU)	$13.00
EPA 200.7, Water, ICP (Metals Digestion is performed and charged for when turbidity is above 1 NTU)	$13.00
EPA 200.8, Uranium, Water	$44.00
EPA 200.8, Water, ICPMS - Excludes Uranium (Fee is for each individual metal tested)	$13.00
EPA 200.9, Dissolved, AA	$21.00

Fees for Environmental Laboratory Tests -- Inorganic	
Inorganic Test Name	**Fee**
EPA 200.9, Water, AA	$21.00
EPA 200.9, Water, GFAA	$21.00
EPA 245.1, Mercury, Dissolved, CVAA	$29.00
EPA 245.1, Mercury, Water, CVAA	$29.00
EPA 245.7, Mercury, Water, CVAFS	$34.00
EPA 300.0, Chloride, Water	$19.00
EPA 300.0, Fluoride, Water	$19.00
EPA 300.0, Nitrate as N, Water	$19.00
EPA 300.0, Sulfate, Water	$19.00
EPA 300.1, Bromate, Water	$100.00
EPA 300.1, Bromide, Water	$32.00
EPA 300.1, Chlorate, Water	$100.00
EPA 300.1, Chlorite, Water	$150.00
EPA 350.1, Ammonia as N, Water	$18.00
EPA 351.2, Total Kjeldahl Nitrogen, Soil	$53.00
EPA 351.2, Total Kjeldahl Nitrogen, Water	$34.00
EPA 353.2, Nitrate as N, Water	$19.00
EPA 353.2, Nitrate+Nitrite as N, Water	$17.00
EPA 365.1, Total Phosphorus, Lach, Water	$24.00
EPA 376.2, Sulfide as H_2S, Water	$19.00
EPA 410.2, COD, Water	$29.00
EPA 1311, TCLP Extraction	$165.00
EPA 3005A, Metals Digestion	$19.00
EPA 3050B, Metals Digestion	$19.00
EPA 7473, Mercury	$44.00
EPA 8231, Hach, COD, Water	$29.00
Hardness, SM 2340C, Water	$22.00
Nitrite as N, SM 4500, Water	$16.00
Orthophosphate as P, SM 4500, Dissolved	$17.00
Orthophosphate as P, SM 4500, Water	$17.00
PH, SM 4500H, Water,	$10.00
Pheophytin A, SM 10200H, Water *(See Chlorophyll A, SM 10200H, Water and Pheophytin A, SM 10200H, Water)*	

Fees for Environmental Laboratory Tests -- Inorganic	
Inorganic Test Name	**Fee**
Settleable Solids, SM 2540F, Water	$16.00
SM 3111 (Pb, Co-TCLP, Cu-TCLP)	$14.00
SM 6010B, Soil, ICP	$11.00
Total Dissolved Solids, SM 2540C, Water	$15.00
Total Solids, SM 2540B, Water	$13.00
Total Suspended Sediment, ASTM 3977, Water	$14.00
Total Suspended Solids, SM 2540D, Water	$14.00
Volatile Solids, SM 2540G, Water	$24.00

( )

04. Environmental Laboratory Tests, Organic -- Table.

Fees for Environmental Laboratory Tests -- Organic	
Organic Test Name	**Fee**
ELISA, Water (Submitter provides test kit; cost is for the analysis of each test kit)	$10.00
EPA 504.1, Water, GC-ECD	$100.00
EPA 508, Water, GC-ECD	$135.00
EPA 515.4, Water, GC-ECD	$162.00
EPA 524.2(4), Water, GCMS, P&T	$187.00
EPA 525.2, Water, GCMS	$182.00
EPA 531.2, Water, HPLC	$169.00
EPA 547, Water, HPLC	$142.00
EPA 548.1, Water, GCMS	$144.00
EPA 549.2, Water, HPLC	$117.00
EPA 552.2, HAAs, GC-ECD, Water	$150.00
EPA 1664, Oil and Grease, Water	$44.00
EPA 5035/8260, BTEX	$97.00
EPA 8081 PCBs	$117.00
EPA 8260, BTEX	$97.00
EPA 8260B, Soil, GCMS, P&T	$187.00
EPA 8260B, Water, GCMS, P&T	$187.00
EPA 8270, Soil, PAH	$349.00

Fees for Environmental Laboratory Tests -- Organic	
Organic Test Name	**Fee**
Hazardous Waste Analysis	$50.00
TCE, PCE, NIOSH 1003, Air, FID	$50.00

( )

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).

IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE

16.03.05 - RULES GOVERNING ELIGIBILITY FOR AID TO THE AGED, BLIND, AND DISABLED (AABD)

DOCKET NO. 16-0305-0902

NOTICE OF RULEMAKING - ADOPTION OF PENDING FEE RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2010 Idaho State Legislature for final approval. Pursuant to Section 67-5224(5)(c), Idaho Code, this pending rule will not become final and effective until it has been approved, amended, or modified by concurrent resolution of the legislature because of the fee being imposed or increased through this rulemaking. The rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending fee rule. The action is authorized pursuant to Section 56-202, Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change:

The pending rule, implementing cost-sharing for Home Care for Certain Disabled Children (HCCDC), is being adopted as proposed. The complete text of the proposed rule was published in the July 1, 2009, Idaho Administrative Bulletin, Vol. 09-7, pages 46 and 47.

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

This fee or charge is being imposed pursuant to Section 56-1007, Idaho Code, and 2009 House Bill 322, Section 8(1): This cost-sharing measure is required to meet legislative intent language in House Bill 322 for the state fiscal year 2010.

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

There is no anticipated fiscal impact to state general funds due to this rulemaking.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning the pending fee rule, contact Susie Cummins at (208) 732-1419.

DATED this 28th day of September, 2009.

Tamara Prisock
DHW - Administrative Procedures Section
450 W. State Street - 10th Floor
P.O. Box 83720, Boise, ID 83720-0036
(208) 334-5564 phone; (208) 334-6558 fax
dhwrules@dhw.idaho.gov e-mail

THE FOLLOWING NOTICE PUBLISHED WITH THE TEMPORARY AND PROPOSED FEE RULE

EFFECTIVE DATE: The effective date of the temporary rule is July 1, 2009.

AUTHORITY: In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a temporary rule, and proposed rulemaking procedures have been initiated. The action is authorized pursuant to Section 56-202, Idaho Code.

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

WEDNESDAY JULY 8, 2009 6:00 p.m. MDT	THURSDAY JULY 9, 2009 7:00 p.m. PDT	THURSDAY JULY 16, 2009 5:00 p.m. MDT
State Office Bldg. 150 Shoup Ave. 2nd Floor Lg. Conf. Room Idaho Falls, ID	DHW - Region 1 Office 1120 Ironwood Drive Suite 102, Lg. Conf. Room Coeur d'Alene, ID	DHW - Region III Office 3402 Franklin Road Sawtooth Room Caldwell, ID

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 its supporting reasons for adopting a temporary rule and a nontechnical explanation of the substance and purpose of the proposed rulemaking:

In order to meet legislative intent for Medicaid cost containment measures in House Bill 322 for the state fiscal year 2010, the Department is implementing changes in this chapter of rule to provide provisions for cost-sharing for Home Care for Certain Disabled Children (HCCDC) also known as Katie Beckett. The premium and actual cost-sharing amounts are provided under IDAPA 16.03.18. "Medicaid Cost-Sharing," Docket No. 16-0318-0901, published in the July 1, 2009, Idaho Administrative Bulletin."

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

These rule changes are needed to meet deadlines in governing law to implement cost containment measures for the state fiscal year 2010.

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

This cost-sharing measure is required to meet 2010 Legislative intent language in House Bill 322.

FISCAL IMPACT: The following is a specific description, if applicable, of any fiscal impact on the state general fund greater than ten thousand dollars ($10,000) during the fiscal year: There is no anticipated fiscal impact to state general funds due to this rulemaking.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220, Idaho Code, negotiated rulemaking was not conducted because these cost saving measures are being required to meet legislative intent.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary and proposed rule, contact Susie Cummins at (208) 732-1419.

Anyone may submit written comments regarding the proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before July 22, 2009.

DATED this 4th day of June, 2009.

THE FOLLOWING IS THE TEXT OF THE PENDING FEE RULE

785. CERTAIN DISABLED CHILDREN.
A disabled child, not eligible for Medicaid outside a medical institution, is eligible for Medicaid if he meets the conditions in Subsections 785.01 through 785.0~~7~~8 of these rules. ~~*(3-15-02)*~~(____)

01. Age. Is under nineteen (19) years old. (7-1-99)

02. AABD Criteria. Meets the AABD blindness or disability criteria. (7-1-99)

03. AABD Resource Limit. Meets the AABD single person resource limit. (7-1-99)

04. Income Limit. Has monthly income not exceeding three (3) times the Federal SSI benefit payable monthly to a single person. (7-1-99)

05. Eligible for Long Term Care. Meets the medical conditions for long-term care in

IDAPA 16.03.10, "Medicaid Enhanced Plan Benefits." (3-30-07)

06. Appropriate Care. Is appropriately cared for outside a medical institution, under a physician's plan of care. (7-1-99)

07. Cost of Care. Can be cared for cost effectively outside a medical institution. The estimated cost of caring for the child must not exceed the cost of the child's care in a hospital, nursing facility, or ICF-MR. (3-15-02)

08. Share of Cost. The financially responsible adult of a certain disabled child, who has family income above one hundred fifty percent (150%) of the federal poverty guidelines, is required to share in the cost of the child's Medicaid benefits under the provisions in IDAPA 16.03.18, "Medicaid Cost-Sharing." ( )

IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE

16.03.18 - RULES GOVERNING MEDICAID COST-SHARING

DOCKET NO. 16-0318-0901

NOTICE OF RULEMAKING - ADOPTION OF PENDING FEE RULE

EFFECTIVE DATE: The effective date of the amendment to the temporary rule is July 1, 2009. This pending rule has been adopted by the agency and is now pending review by the 2010 Idaho State Legislature for final approval. Pursuant to Section 67-5224(5)(c), Idaho Code, this pending rule will not become final and effective until it has been approved, amended, or modified by concurrent resolution of the legislature because of the fee being imposed or increased through this rulemaking. The rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224 and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a pending fee rule and amended a temporary rule. The action is authorized pursuant to Sections 56-202, 56-239, and 56-240, Idaho Code, and Title XXI of the Social Security Act.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule and amending the temporary rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change:

The Department is amending the rules pertaining to the Home Care for Certain Disabled Children (HCCDC) promulgated to meet legislative intent language for parental cost-sharing for HCCDC participants. These changes are based on comments received during the rule promulgation process at public hearings and through written comments. The following changes were made:

1. **Separated the existing SCHIP premium requirements in Section 200 from the HCCDC premium requirements by moving the HCCDC requirements to Section 205.**

2. **Changed the implementation date for premium payments from October 1, 2009, to February 1, 2010, but the effective date of these rules remains July 1, 2009, to allow the Department time to obtain required information from families and to update automated systems;**

3. **Expanded the HCCDC sliding fee schedule to reflect a more gradual adjustment to percentages for monthly premiums;**

4. **Allowed a reduction to HCCDC premium payments for families who purchase creditable health insurance;**

5. **Limited the amount of HCCDC premiums owed for families with more than one participant;**

6. **Allowed for consideration of an HCCDC premium waiver for undue hardship to the family; and**

7. **Added definitions for creditable health insurance, family income, family size, and financially responsible adult.**

The text of the pending rule has been amended in accordance with Section 67-5227, Idaho Code, and is being republished following this notice. Rather than keep the temporary rule in place while the pending rule awaits legislative approval, the Department amended the temporary rule with the same revisions which have been made to the pending rule.

Only the sections that have changes from the proposed text are printed in this bulletin. The original text of the proposed rule was published in the July 1, 2009, Idaho Administrative Bulletin, Vol. 09-7, pages 74 through 77.

FEE SUMMARY: Pursuant to Section 67-5226(2), the Governor has found that the fee or charge being imposed or increased is justified and necessary to avoid immediate danger. This fee or charge is being imposed pursuant to Section 56-257, Idaho Code. The following is a specific description of the fee or charge imposed or increased:

This cost-sharing measure is required to meet 2009 Legislative intent language in House Bill 322.

Pursuant to Section 67-5224(5)(c), Idaho Code, this pending rule will not become final and effective until it has been approved, amended, or modified by concurrent resolution of the legislature because of the fee being imposed or increased through this rulemaking.

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

The cost savings for this rulemaking for SFY 2010 is estimated at $210,000 in state general funds.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning the pending fee rule and the amendment to temporary rule, contact Robin Pewtress at (208) 364-1892.

DATED this 2nd day of October, 2009.

Tamara Prisock
DHW - Administrative Procedures Section
450 W. State Street - 10th Floor
P.O. Box 83720, Boise, ID 83720-0036
(208) 334-5564 phone; (208) 334-6558 fax
dhwrules@dhw.idaho.gov e-mail

THE FOLLOWING NOTICE PUBLISHED WITH THE TEMPORARY AND PROPOSED FEE RULE

EFFECTIVE DATE: The effective date of the temporary rule is July 1, 2009.

AUTHORITY: In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a temporary rule, and proposed regular rulemaking procedures have been initiated. The action is authorized pursuant to Sections 56-202, 56-239, and 56-240, Idaho Code, and Title XXI of the Social Security Act.

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

WEDNESDAY JULY 8, 2009 6:00 p.m. MDT	THURSDAY JULY 9, 2009 7:00 p.m. PDT	THURSDAY JULY 16, 2009 5:00 p.m. MDT
State Office Bldg. 150 Shoup Ave. 2nd Floor Lg. Conf. Room Idaho Falls, ID	DHW - Region 1 Office 1120 Ironwood Drive Suite 102, Lg. Conf. Room Coeur d'Alene, ID	DHW - Region III Office 3402 Franklin Road Sawtooth Room Caldwell, ID

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 its supporting reasons for adopting a temporary rule and a nontechnical explanation of the substance and purpose of the proposed rulemaking:

In order to meet legislative intent for Medicaid cost containment in House Bill 322 for the state fiscal year 2010, the Department is implementing changes in this chapter to add a cost-sharing premium for Home Care for Certain Disabled Children (HCCDC) also known as Katie Beckett. These requirements implement cost-sharing in the form of a monthly payment based on family income that is remitted to the Department each month. Failure to pay will not affect the child's eligibility, but may result in collection procedures that are also being identified in these rules.

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

These rule changes are needed to meet deadlines in governing law to implement cost containment measures for the state fiscal year 2010.

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

described herein:

This cost-sharing measure is required to meet 2010 Legislative intent language in House Bill 322.

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

The cost savings for this rulemaking for SFY 2010 is estimated at $210,000 in state general funds. These savings are already reflected in the State Fiscal Year 2010 appropriation.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220, Idaho Code, negotiated rulemaking was not conducted because these cost saving measures are being required to meet legislative intent.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary and proposed rule, contact Robin Pewtress at (208) 364-1892.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before July 22, 2009.

DATED this 4th day of June, 2009.

THE FOLLOWING IS THE TEXT OF THE PENDING FEE RULE

010. DEFINITIONS.

01. Co-Payment (Co-Pay). The amount a participant is required to pay to the provider for specified services. (3-19-07)

02. Cost-Sharing. A payment the participant or the financially responsible adult is required to make toward the cost of ~~*his*~~ the participant's health care. Cost-sharing includes both co-pays and premiums. ~~*(4-6-05)*~~( )

***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.* *( )*

0~~3~~4. Department. The Idaho Department of Health and Welfare, or a person authorized to act on behalf of the Department. (3-19-07)

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.* ( )

0~~4~~7. 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 web site at http://aspe.hhs.gov/poverty/index.shtml. ~~(3-19-07)~~( )

08. ***Financially Responsible Adult****. An individual who is the biological or adoptive parent of a child and is financially responsible for the participant.* ( )

0~~5~~9. 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. (3-19-07)

~~06~~10**. Participant**. A person eligible for and enrolled in the Idaho Medical Assistance Program. (3-19-07)

~~07~~11**. Premium**. A regular and periodic charge or payment for health coverage. (4-6-05)

~~08~~12**. 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. (3-19-07)

~~09~~13**. State**. The state of Idaho. (4-6-05)

1~~0~~4. 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. ( )

1~~1~~5. 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~~*IONS*~~ FROM COST-SHARING.

01. ~~***Native American and Alaskan Native Participants***~~. Native American and Alaskan Native participants are exempt from the cost-sharing provisions of Sections 200, *205*, *215*, and 300 of these rules. The participant must declare his race to the Department to receive this exemption. ~~(3-19-07)(7-1-09)T~~( )

~~***02.*** ***Title XXI Participants****. Participants funded through Title XXI and receiving Medicaid Enhanced Plan benefits are exempt from the cost-sharing provisions of Section 200 of*~~

~~*these rules.*~~ ~~*(7-1-09)T*~~

(BREAK IN CONTINUITY OF SECTIONS)

200. PREMIUMS *FOR PARTICIPATION UNDER THE STATE CHILDREN'S HEALTH INSURANCE PROGRAM (SCHIP)*.

01. Family Income Above 133% of FPG. ~~*(7-1-09)T*~~

~~***a.***~~ Each *SCHIP* participant ~~*funded by Title XXI and*~~ with family income ~~*at or*~~ above one hundred thirty-three percent (133%) ~~*of the Federal Poverty Guideline (current FPG)*~~ 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. ~~*(3-19-07)(7-1-09)T(____)*~~

~~***b.*** *Each participant funded by Title XIX and with family income above one hundred thirty-three percent (133%) of the current FPG and equal to or less than one hundred fifty percent (150%) of the FPG is not required to pay a premium.* *(7-1-09)T*~~

02. Family Income Above 150% of FPG. Each *SCHIP* participant with family income above one-hundred fifty percent (150%) ~~*of the Federal Poverty Guideline (current FPG)*~~ 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. ~~*(3-19-07)(7-1-09)T(____)*~~

~~***03.*** ***Family Income Above 185% of FPG****. Each participant with family income above one-hundred eighty-five percent (185%) of the current FPG and equal to or less than three hundred percent (300%) of the FPG must pay a monthly premium equal to three percent (3%) of the family income to the Department.* *(7-1-09)T*~~

~~***04.*** ***Family Income Above 300% of FPG****. Each participant with family income above three-hundred percent (300%) of the current FPG must pay a monthly premium of four and a one-half percent (4.5%) of the family income to the Department.* *(7-1-09)T*~~

~~***05.*** ***Failure to Provide Information****. The family must provide the Department with information needed to determine family income and household size. Failure to provide information will subject the participant to a monthly premium equal to the average monthly cost of coverage for participants receiving Medicaid Enhanced Plan benefits.* *(7-1-09)T*~~

03~~*6*~~. Failure to Pay Premium. ~~*(7-1-09)T*~~

~~***a.*** *A participant's f*~~Failure to pay the premium can make the participant ineligible for coverage.~~ *unless the participant is eligible as a "Certain Disabled Child" described in IDAPA 16.03.05, "Rules Governing Eligibility for Aid to the Aged, Blind, and Disabled (AABD)."* *(3-19-07)(7-1-09)T(____)*~~

~~***b.*** *When a participant is eligible as a "Certain Disabled Child," failure to pay the*~~

~~*premium can result in formal collection proceedings against the parent, parents, or any other adult financially responsible for the child. The amount owed determines in which court the Department pursues the debt collection of the delinquency.* (7-1-09)T~~

~~***04**7.* **Department Responsibilities**.* (3-19-07)~~

~~***a.*** *A participant must 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.* (3-19-07)~~

~~***b.*** *A participant must not be assessed premiums for extra months of eligibility received due solely to the Department's late review of continuing eligibility.* (3-19-07)~~

~~***c.*** *A participant must not be assessed premiums for months of retroactive eligibility.* (3-19-07)~~

~~***d.*** *The Department is required to routinely notify a participant of his premium payment obligations including any delinquencies, if applicable.* (3-19-07)~~

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%*

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***
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 forego 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. -- 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 his premium payment obligations including any delinquencies, if applicable.* *( )*

2~~0~~1. -- 214. (RESERVED).

IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE

16.04.04 - EARLY INTERVENTION SERVICES FOR INFANTS AND TODDLERS

DOCKET NO. 16-0404-0901 (NEW CHAPTER)

NOTICE OF RULEMAKING - ADOPTION OF PENDING FEE RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2010 Idaho State Legislature for final approval. Pursuant to Section 67-5224(5)(c), Idaho Code, this pending rule will not become final and effective until it has been approved, amended, or modified by concurrent resolution of the legislature because of the fee being imposed or increased through this rulemaking. If the pending rule is approved, amended, or modified by concurrent resolution of the legislature, this agency requests that the effective date of July 1, 2010, be inserted into the language of the concurrent resolution rather than have the rule become effective upon adoption of the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending fee rule. The action is authorized pursuant to Sections, 16-107(g) and 56-1007, Idaho Code, and the Individuals with Disabilities Education Act (IDEA), Part C, and CFR 34, Section 303.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change:

The Department is amending the pending rules based on comments received. This new chapter provides for family cost participation in the Early Intervention Services for Infant and Toddlers program. Changes have been made in the definitions of family household and taxable income; services subject to family fees, calculation of family household income and family fee amount, and third-party payors. Changes include clarification and grammatical corrections.

The text of the pending rule has been amended in accordance with Section 67-5227, Idaho Code. Only those sections that have changes that differ from the proposed text are printed in this bulletin. The original text of the proposed rule was published in the September 2, 2009, Idaho Administrative Bulletin, Vol. 09-9, pages 157 through 166.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased. This fee or charge is being imposed pursuant to Section 56-1007, Idaho Code:

A sliding fee schedule is being implemented in this new rule chapter to establish a process to charge fees to families receiving early intervention services for eligible infants and toddlers. The sliding fee schedule is based on ability to pay for families with incomes above 200 percent of Federal Poverty Guidelines.

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:

The anticipated fiscal impact is hard to determine at this time because the Department

has no income data on families that use these services. The Department estimates approximately $15,000 to $20,000 for the state fiscal year 2010 for system enhancements for billing or processing of receipts. The Department also estimates that receipts received will offset cost of clerical support needed for processing for the state fiscal year 2011.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending fee rule, contact Mary Jones at (208) 334-5523.

DATED this 18th day of November, 2009.

Tamara Prisock
DHW - Administrative Procedures Section
450 W. State Street - 10th Floor
P.O. Box 83720, Boise, ID 83720-0036
(208) 334-5564 phone; (208) 334-6558 fax
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THE FOLLOWING NOTICE PUBLISHED WITH THE PROPOSED FEE RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Sections 16-107(g) and 56-1007, Idaho Code, and the Individuals with Disabilities Education Act (IDEA), Part C, and CFR 34, Section 303.

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

TUESDAY - SEPTEMBER 15, 2009	
6:30 p.m. PDT **Dept. of Health & Welfare-Reg. 2** **State Office Bldg. Conf. Rm.** **1118 "F" Street** **Lewiston, ID**	**6:00 p.m. MDT** **Dept. of Health & Welfare-Reg.6** **Portneuf District Library Meeting Rm.** **5210 Stuart Ave.** **Chubbuck, ID**

WEDNESDAY - SEPTEMBER 16, 2009	
6:30 p.m. MDT **Dept. of Health & Welfare-Reg.5** **601 Pole Line Road** **DHW Conf. Rm.** **Twin Falls, ID**	**6:30 p.m. MDT** **Dept. of Health & Welfare-Reg. 3** **3402 Franklin Road** **DHW Conf. Rm.** **Caldwell, ID**

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

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

The 2009 Legislature requested that the Department's Infant Toddler Program establish a process to charge fees to families receiving early intervention services for eligible infants and toddlers. This new chapter of rules provides for family cost participation in this program, with a system of sliding fees for services not covered by private insurance. The sliding fee system will be based on family income and ability to pay. It also provides policies and procedures to administer this system for fees, sets income thresholds for assessing payment obligations, and procedures for the verification of income.

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

A sliding fee schedule is being implemented in this new rule chapter to establish a process to charge fees to families receiving early intervention services for eligible infants and toddlers. The sliding fee schedule is based on ability to pay for families with incomes above 200% of Federal Poverty Guidelines.

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

The anticipated fiscal impact is hard to determine at this time because the Department has no income data on families that use these services. The Department estimates approximately $15,000 to $20,000 for the state fiscal year 2010 for system enhancements for billing or processing of receipts. The Department also estimates that receipts received will offset cost of clerical support needed for processing for the state fiscal year 2011.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(1), Idaho Code, negotiated rulemaking was conducted.

The "Notice of Intent to Promulgate Rules - Negotiated Rulemaking" was published in the June 3, 2009, Idaho Administrative Bulletin, page 47. Input was received during the negotiated meetings from families, service providers, and other stakeholders regarding the development of a cost-sharing system for families receiving early intervention services.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Mary Jones at (208) 334-5523.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 2, 2009.

DATED this 31st day of July, 2009.

THE FOLLOWING IS THE TEXT OF THE PENDING FEE RULE

IDAPA 16
TITLE 04
CHAPTER 04

16.04.04 - EARLY INTERVENTION SERVICES FOR INFANTS AND TODDLERS

000. LEGAL AUTHORITY.

The Department of Health and Welfare has the authority to establish and enforce rules for early intervention services under Section 16-107, Idaho Code. Under Section 56-1007, Idaho Code, the Department is authorized to collect fees for services. ( )

001. TITLE AND SCOPE.

01. Title. The title of this chapter is IDAPA 16.04.04, "Early Intervention Services for Infants and Toddlers." ( )

02. Scope.The Idaho Early Intervention System is a statewide, comprehensive, coordinated, multidisciplinary, interagency system of early intervention services for all infants and toddlers with disabilities and their families. The Early Intervention System is responsible to ensure early intervention services are provided to eligible infants and toddlers from birth to thirty six (36) months with developmental delays or disabilities and their families. Services are delivered through the provisions of an Individualized Family Services Plan in accordance with the statutory provisions of the Individuals with Disabilities Education Act (IDEA), Part C, and CFR 34, Section 303. This chapter provides for a sliding fee scale to be charged to families according to their ability to pay for the early intervention services received. Included in this chapter are definitions and policies related to informing families, *and for* determining and calculating family fee obligations. *( )*

002. WRITTEN INTERPRETATIONS.

In accordance with Section 67-5201(19)(b)(iv), Idaho Code, this agency may have 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 at the Department of Health and Welfare, 450 West State Street, P.O. Box 83720, Boise, Idaho, 83720-0036 or at any of the Department's Regional Offices. ( )

003. ADMINISTRATIVE APPEALS.

Appeals and proceedings for any Department actions are governed by IDAPA 16.05.03, "Rules Governing Contested Case Proceedings and Declaratory Rulings." An appeal does not stay the

action of the Department. ( )

004. INCORPORATION BY REFERENCE.
No documents are incorporated by reference into these rules. ( )

005. OFFICE -- OFFICE HOURS -- MAILING ADDRESS -- STREET ADDRESS -- INTERNET WEBSITE.

01. Office Hours. Office hours are 8 a.m. to 5 p.m., Mountain Time, Monday through Friday, except holidays designated by the State of Idaho. ( )

02. Mailing Address. The mailing address for the business office is Idaho Department of Health and Welfare, P.O. Box 83720, Boise, Idaho 83720-0036. ( )

03. Street Address. The business office of the Idaho Department of Health and Welfare is located at 450 West State Street, Boise, Idaho 83702. ( )

04. Telephone. (208) 334-5500. ( )

05. Internet Website Address. The Internet address is: http://www.healthandwelfare.idaho.gov. ( )

006. CONFIDENTIALITY OF RECORDS AND PUBLIC RECORDS REQUESTS.

01. Confidential Records. Any information about an individual covered by these rules and contained in Department records must comply with IDAPA 16.05.01, "Use and Disclosure of Department Records," and federal Public Law 103-209 and 92-544. ( )

02. Public Records. The Department of Health and Welfare will comply with Sections 9-337 through 9-350, Idaho Code, when requests for the examination and copying of public records are made. Unless otherwise exempt, as set forth in Section 9-340, Idaho Code, and other state and federal laws and regulations, all public records in the custody of the Department of Health and Welfare are subject to disclosure. ( )

007. -- 009. (RESERVED).

010. DEFINITIONS AND ABBREVIATIONS.
For purposes of this chapter of rules, the following terms and abbreviations are used as defined. ( )

01. Countable Income. The annual income of all members of the identified family household. ( )

02. Department. The Idaho Department of Health and Welfare is the lead agency for administration of the provisions of this chapter and under Title 16, Chapter 1, Idaho Code. ( )

03. Early Intervention Services. Services for eligible infants and toddlers that meet the standards of the state including the requirements of IDEA Part C and are: ( )

a. Designed to meet the developmental needs of each child eligible and the needs of the family related to enhancing the child's development in any one (1) or more of the following areas: ( )

i. Physical development; ( )

ii. Cognitive development; ( )

iii. Communication development; ( )

iv. Social or emotional development; or ( )

v. Adaptive development; ( )

b. Selected in collaboration with the parents; ( )

c. Provided under public supervision by qualified personnel in conformity with an IFSP and at no cost, unless subject to sliding fee schedule; and ( )

d. Provided in natural environments in which infants and toddlers without disabilities would participate, including home and community settings, to the maximum extent appropriate to the needs of the child. ( )

04. Eligible Infants and Toddlers. Children birth to three (3) years of age that meet the Idaho Infant Toddler Program eligibility criteria of having a developmental delay, established condition, or are eligible through informed clinical opinion as determined by a multi-disciplinary team. ( )

05. Family. A family is an adult, or married adults, or adult(s) with children, living in a common residence. ( )

06. Family Education Rights and Privacy Act (FERPA). 20 U.S.C. Section 1232g; 34 CFR Part 99 is a Federal law that protects the privacy of student education records. The law applies to all schools including early intervention programs that receive funds under an applicable program of the U.S. Department of Education. ( )

07. Family Fee. Amount the family is responsible to pay for early intervention services based on a percentage of the current Federal Poverty Guideline (FPG) level on a sliding fee scale. ( )

08. Family Household. Persons in a family related by blood, marriage, or adoption. *A*dult 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. *( )*

09. Federal Poverty Guidelines (FPG). Guidelines issued annually by the U.S.

Department of Health and Human Services. The federal poverty guidelines are available on the U.S. Health and Human Services website at http://aspe.hhs.gov/poverty/index.shtml. ( )

10. Full Charge for Service. One hundred percent (100%) of the hourly rate for each billable early intervention service. ( )

11. Habilitative and Rehabilitative Expenses. Those expenses or charges incurred as a result of the disability needs of a family household member. These expenses include annual costs for items such as wheelchairs, adaptive equipment, medication, treatment, or therapy.( )

12. Health Insurance Lifetime Coverage Cap. The total amount that the insurer will pay during the policy holder's lifetime. The lifetime cap varies for each individual's health insurance policy. ( )

13. Idaho Infant Toddler Program. A program administered by the Department of Health and Welfare to coordinate an early intervention system to identify and serve children birth to (3) three years of age that have a developmental delay or a disability. ( )

14. IDEA Part C. The Individuals with Disabilities Education Act (IDEA), a federal law, that establishes and authorizes the provision of early intervention services for eligible infants and toddlers with developmental delays or disabilities and their families. ( )

15. Individualized Family Service Plans (IFSP). A written plan for providing early intervention services to a child who is eligible for early intervention services and his family. ( )

16. Informed Parental Consent. Means: ( )

a. The parent has been fully informed of all information relevant to the activity for which consent is sought, in the parent's native language or other mode of communication; ( )

b. The parent understands and agrees in writing to the carrying out of the activity for which consent is sought, and the consent describes that activity; and ( )

c. The parent understands that the granting of consent is voluntary on the part of the parent and may be revoked at any time. ( )

17. Parent. For the purposes of informed parental consent, “parent” means a lawful mother, lawful father, guardian, person acting as a parent of the child, including a grandparent or stepparent with whom the child lives, or surrogate parent who has been appointed in accordance with federal law, IDEA 20 U.S.C. 1477. The term does not include the state if the child is a ward of the State. ( )

18. Responsible Party. Under Section 32-1002, Idaho Code, the lawful mother and lawful father of a minor child, who are financially responsible, jointly or separately, for paying for the minor child’s necessaries, including early intervention services provided to an eligible infant or toddler and his family. ( )

19. Sliding Fee Schedule. A scale used to determine financial obligations for services based on the Federal Poverty Guidelines and the number of persons in the family household. ( )

20. Taxable Income. Is the income that is subject to taxation according to the Internal Revenue Code, 26 USC 63, as amended. *( )*

21. Third-Party Payor. A person or entity other than the person receiving services, or the responsible party who is legally liable for payment for all or part of the child's or family's services. ( )

22. Title XIX. Title XIX of the Social Security Act, known as Medicaid, is a medical benefits program jointly financed by federal and state government and administered by each state. This program pays for medical assistance for certain eligible individuals and families with low income and limited resources. ( )

23. 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. -- 049. (RESERVED).

050. ACCESS TO INFANT TODDLER PROGRAM.
Early intervention services through the Idaho Infant Toddler Program can be accessed through the following seven (7) service areas. ( )

01. Region I. Serving the counties of Benewah, Bonner, Boundary, Kootenai, and Shoshone. Office Address: 2195 Ironwood Court, Coeur d'Alene, ID 83814, Phone: (208) 769-1409. ( )

02. Region II. Serving the counties of Clearwater, Idaho, Latah, Lewis, and Nez Perce. Office Address: 2604 16th Ave., P. O. Drawer B, Lewiston, ID 83501, Phone: (208) 799-3460. ( )

03. Region III. Serving the counties of Adams, Canyon, Gem, Owyhee, Payette, and Washington. Office Address: 823 Park Center Way, Nampa, ID 83651, Phone: (208) 465-8460. ( )

04. Region IV. Serving the counties of Ada, Boise, Elmore, and Valley. Office Address: 1720 Westgate Dr., Boise, ID 83704, Phone: (208) 334-0900. ( )

05. Region V. Serving the counties of Blaine, Camas, Cassia, Gooding, Jerome, Lincoln, Minidoka, and Twin Falls. Office Address: 803 Harrison St., Twin Falls, ID 83301, Phone: (208) 736-2182. ( )

06. Region VI. Serving the counties of Bannock, Bear Lake, Bingham, Caribou, Franklin, Oneida, and Power. Office Address: 421 Memorial Drive, Pocatello, ID 83201, Phone: (208) 234-7900. ( )

07. Region VII. Serving the counties of Bonneville, Butte, Clark, Custer, Fremont, Jefferson, Lemhi, Madison, and Teton. Office Address: 150 Shoup, Ste. 19, Idaho Falls, ID 83402, Phone: (208) 528-5900. ( )

051. -- 074. (RESERVED).

075. EXCLUSIONS UNDER THE INDIVIDUALS WITH DISABILITIES EDUCATION ACT, PART C.
The Idaho Infant Toddler Program services in Subsection 075.01 through 075.04 of this rule are not subject to fees: ( )

01. Child Find. Implementing the child find requirements in 34 CFR, Section 303.321. ( )

02. Evaluation and Assessment. Evaluation and assessments included in 34 CFR, Section 303.322, and including the functions related to evaluation and assessment in 34CFR, Section 303.12. ( )

03. Service Coordination. Service coordination, as included in 34 CFR, Section 303.22 and Section 303.344(g). ( )

04. Administrative and Coordinative Activities. Activities related to: ( )

a. The development, review, and evaluation of Individualized Family Service Plans in 34 CFR, Sections 303.340 through 303.346; and ( )

b. Implementation of the procedural safeguards and the other components of the statewide system of early intervention services. ( )

076. -- 099. (RESERVED).

100. EARLY INTERVENTION SERVICES.
Early Intervention Services include services in Subsections 100.01 through 100.18 of this rule when provided to eligible infants and toddlers and their families through an Individualized Family Service Plan. ( )

01. Assistive Technology Devices and Services. ( )

02. Audiology. ( )

03. Family Training, Counseling, and Home Visits. ( )

04. Early Identification, Screening, and Assessment Services. ( )

05. Health Services. Health services necessary to enable the infant or toddler to benefit from the other early intervention services. ( )

06. Medical and Dental Services. Medical and dental services for diagnostic or evaluation purposes. ( )

07. Nursing Services. ( )

08. Nutrition Services. ( )

09. Occupational Therapy. ( )

10. Physical Therapy. ( )

11. Psychological Services. ( )

12. Respite Care. ( )

13. Service Coordination. ( )

14. Social Work Services. ( )

15. Special Instruction and Developmental Therapy. ( )

16. Speech and Language Pathology. ( )

17. Transportation. Transportation and related costs that are necessary to enable an infant or toddler and the infant's or toddler's family to receive another service described in Section 100 of this rule. ( )

18. Vision Services. ( )

101. -- 149. (RESERVED).

150. EARLY INTERVENTION SERVICES SUBJECT TO FAMILY FEES.
The early intervention services identified in Subsection 150.01 through 150.07 of this rule are subject to family fees. ( )

01. Audiology. ( )

02. Occupational Therapy. ( )

03. Physical Therapy. ( )

04. Psychological Services. ( )

05. Special Instruction or Developmental Therapy. ( )

06. Speech Language Pathology. ( )

151. -- 159. (RESERVED).

160. PARTICIPANTS EXEMPT FROM FAMILY FEES.
The participants identified in Subsection 160.01 through 160.04 of this rule are exempt from being charged family fees. ( )

01. Home Care for Certain Disabled Children. A participant determined eligible for Home Care for Certain Disabled Children, also known as "Katie Beckett." ( )

02. Medicaid Eligible. A participant determined income eligible for Medicaid under Title XIX or CHIP under Title XXI. ( )

03. Foster Care or State Custody. A participant living in foster care or under state custody. ( )

04. Family Income At or Below Two Hundred Percent FPG. A participant whose family household's annual taxable income is at or below two hundred percent (200%) of Federal Poverty Guidelines (FPG). ( )

161. -- 199. (RESERVED).

200. CALCULATION OF FAMILY HOUSEHOLD INCOME AND FAMILY FEE AMOUNT.

01. Determination of Ability to Pay. Financial obligations are based upon the number of persons in the family household and the taxable income of those persons. The Department will determine the number of persons in the family based on the number of persons claimed on federal tax or income records of the identified members of the family household. The inability of a lawful mother or lawful father of an eligible child to pay for services will not result in the denial of services to the child or the child's family. ( )

a. Determination of ability to pay will be made following finding of initial eligibility, re-determined annually or upon request of the family, or at any time change is reported in the family household, income, or allowable deductions. ( )

b. Families have a financial obligation to pay any amount up to their assigned fee level which is not paid by third-party payors, including private insurance. In no case will the amount owed exceed the *full charge* of the service *provided*. *( )*

02. Taxable Income Verification. The family household will be requested to provide verification of taxable income. Information sources that may be used to verify the family household taxable income may include one (1) of the following: ( )

a. Documented eligibility for a program with a financial cap at or below two hundred percent (200%) of Federal Poverty Guidelines (FPG), such as Women, Infants and Children (WIC), Food Stamps, Idaho Child Care Program (ICCP), and Medicaid; ( )

b. Copies of the most recent federal income tax returns; ( )

03. Alternative Income Verification. In the event that the family cannot verify taxable income according to the documentation listed in Subsection 200.02 of this rule, the Department will calculate the taxable income of the family household using alternative income verification sources including one (1) of the following: ( )

a. Paycheck stubs; ( )

b. Financial statements, or ( )

c. Family declaration of taxable income. ( )

04. Submission of Requested Information. Information regarding family taxable income, third party payors and other resources, including Medicaid or private insurance, must be reviewed in order to fully determine the family's ability to pay. The responsible party must provide information not available at the time of the initial financial interview whenever that information becomes available. ( )

05. Refusal Or Failure To Provide Income Information for Fee Assessment. The family will be assessed the maximum family fee of one hundred percent (100%) of the full charge if the family refuses or fails to provide family income information. ( )

201. -- 219. (RESERVED).

220. ALLOWABLE EXCLUSIONS FROM TAXABLE INCOME.
The following items in Subsections 220.01 through 220.08 of this rule, may be deducted from the family household taxable income if not already excluded or deducted on an itemized federal income tax form. ( )

01. Health Insurance Premiums. ( )

02. Medical Expenses. Medical expenses including specialized dietary supplements, vision, and dental expenses. ( )

03. Child Care Expenses. Child care expenses necessary for parental employment. ( )

04. Habilitative and Rehabilitative Expenses. ( )

05. Non-custodial Child Support Payments. ( )

06. Supplemental Security Income (SSI). ( )

07. Supplemental Security Disability Income (SSDI). ( )

08. Income of Minor Children. ( )

221. -- 299. (RESERVED).

300. SLIDING FEE SCHEDULE.
The sliding fee schedule for early intervention services for infants and toddlers cost participation:

SLIDING FEE SCHEDULE TABLE 300	
Percent of Federal Poverty Level of Family Household (Based on Taxable Income)	**Percentage of Full Charge or Balance After Third-Party Payment**
0 - 200%	0%
201 - 300%	5%
301 - 400%	10%
401 - 500%	20%
501 - 600%	30%
601 - 700%	40%
701 - 800%	50%
801 - 900%	65%
901 - 1000%	80%
1001% and Above	100%

( )

301. CAP ON AMOUNT OF FAMILY FEE.
In no case will the annual financial obligation exceed three percent (3%) of taxable income of the family household or exceed the full charge of the service provided. ( )

302. -- 319. (RESERVED).

320. VOLUNTARY CONTRIBUTIONS.
Any individual, including families not subject to fees through exemptions in these rules, may make a voluntary contribution toward the cost of service provision through the Idaho Infant Toddler Program. ( )

321. -- 349. (RESERVED).

350. THIRD-PARTY PAYORS.
IDEA Part C funds can only be used after *available* third-party pay*ments* have been *applied*.
( )

01. Private or Public Health Insurance Payor. A family's private or public health insurance will be accessed for payment of early intervention services whenever possible, and only with informed parental consent. ( )

02. Obtaining Informed Parental Consent. To obtain informed parental consent, the parent must receive and review a copy of the Infant Toddler Program's payment policy which

includes notice that: ( )

a. The parent may incur additional costs as a result of billing early intervention services to their private health insurance. Potential costs include insurance copayments, premiums, or deductibles. ( )

b. If a family has both Medicaid and private health insurance, *the Department* will bill a family's private insurance for reimbursement. Therefore, billing early intervention services to Medicaid *may* result in subsequent billing of private insurance. *( )*

c. Early intervention services billed to their private health insurance may have financial consequences for the infant or toddler and their parents including the following: amount billed may count toward the lifetime coverage cap under their health insurance; may affect the availability of access to future health insurance; and may be the basis for increasing the health insurance premiums. ( )

351. -- 399. (RESERVED).

400. DELINQUENT PAYMENTS.
If the responsible party is sixty (60) days or more past due on their payments to the Department, the responsible party is contacted to determine the reason for the delinquency. If the family household's countable income has changed significantly from the amount used for the most recent fee determination, the family is offered a revised fee assessment. If there has been no substantial change in countable income, then a payment schedule may be negotiated by the Department and the participant will be advised of the Department fee collection policies and procedures. Early intervention services will continue regardless of payment status. ( )

401. -- 999. (RESERVED).

IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE

16.05.06 - CRIMINAL HISTORY AND BACKGROUND CHECKS

DOCKET NO. 16-0506-0901

NOTICE OF RULEMAKING - ADOPTION OF PENDING FEE RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2010 Idaho State Legislature for final approval. Pursuant to Section 67-5224(5)(c), Idaho Code, this pending rule will not become final and effective until it has been approved, amended, or modified by concurrent resolution of the legislature because of the fee being imposed or increased through this rulemaking. The rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending fee rule. The action is authorized pursuant to Section 56-1004A, Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change:

The pending rule, adding and updating the list of individuals and providers required to have criminal history and background checks and adding additional disqualifying crimes, is being adopted as proposed. The complete text of the proposed rule was published in the July 1, 2009, Idaho Administrative Bulletin, Vol.09-7, pages 85 through 90.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased. This fee or charge is being imposed pursuant to Section 56-1004A, Idaho Code:

The fee amount for providing criminal history and background checks is based on costs incurred to complete these checks. This pending fee rule adds individuals and providers that are required to have these checks and pay for the cost at $55 per check.

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:

The Department estimates that the costs of these added checks will not impact the state general funds. The estimated 300 additional criminal history and background checks will impact the dedicated funds by a total of $16,500. The remaining additional checks will increase federal fund expenditures through the Community Mental Health Block Grant by $6545.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending fee rule, contact Steve Bellomy at (208) 334-0609.

DATED this 19th day of November, 2009.

Tamara Prisock
DHW - Administrative Procedures Section
450 W. State Street - 10th Floor
P.O. Box 83720, Boise, ID 83720-0036
(208) 334-5564 phone; (208) 334-6558 fax
dhwrules@dhw.idaho.gov e-mail

THE FOLLOWING NOTICE PUBLISHED WITH THE TEMPORARY AND PROPOSED FEE RULE

EFFECTIVE DATE: The effective dates of these temporary rules are October 1, 2008, January 1, 2009, and July 1, 2009.

AUTHORITY: In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted temporary rules, and proposed rulemaking procedures have been initiated. The action is authorized pursuant to Sections 56-1004A, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than July 15, 2009.

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 its supporting reasons for adopting a temporary rule and a nontechnical explanation of the substance and purpose of the proposed rulemaking:

The Department has added certain individuals and providers who are required to have a criminal history and background checks under other Department rule chapters. This chapter of rules is being updated to add those individuals and providers to the list of those who are required to have checks, including references to the programs' rule chapters. The programs or individuals being added are: Alcohol or Substance Use Disorders Treatment Facilities and Programs for Adults, Designated Examiners and Designated Dispositioners, Idaho Child Care Program, and Nonhospital, Medically-Monitored Detoxification/Mental Health Diversion Units.

These rules are also being updated for references and amended to add additional disqualifying crimes to better protect vulnerable adults and children.

TEMPORARY RULE JUSTIFICATION: Pursuant to Sections 67-5226(1)(a) and (b), Idaho Code, the Governor has found that temporary adoption of these rules are appropriate for the following reasons:

These rules are necessary to protect the public health, safety, or welfare and to comply with governing law.

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

The fee amount for providing criminal history and background checks is based on costs incurred to complete these checks. These temporary fee rules add individuals and providers that are required to have these checks and pay for the cost at $55 per check.

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

The Department estimates that the costs of these added checks will not impact the state general funds. The estimated 300 additional criminal history and background checks will impact the dedicated funds by a total of $16,500. The remaining additional checks will increase federal fund expenditures through the Community Mental Health Block Grant by $6,545.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220, Idaho Code, negotiated rulemaking was not conducted because this rule change is necessary to protect the public health, safety, or welfare, and to comply with governing law.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary and proposed rule, contact Steve Bellomy (208) 334-0609.

Anyone may submit written comments regarding the proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before July 22, 2009.

DATED this 29th day of May, 2009.

THE FOLLOWING IS THE TEXT OF THE PENDING FEE RULE

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 program rules to complete a criminal history and background check. (3-26-08)

01. Adoptive Parent Applicants. All persons applying to the Department or petitioning the court to be an adoptive parent and all adults in the home, except stepparents applying for adoption of a stepchild, as described in IDAPA 16.06.01, "Rules Governing Family

and Children's Services," and IDAPA 16.06.02, "Rules Governing Standards for Child Care Licensing." ~~*(3-26-08)*~~(____)

02. Alcohol or ~~*Drug Abuse Prevention and*~~ Substance Use Disorders Treatment Facilities and Programs ~~*Serving Children*~~. Staff, contractors, volunteers, student interns, and others assigned to programs who have direct contact with ~~*adolescents in any alcohol/drug abuse treatment program which provides treatment for persons under the age of eighteen (18)*~~ children and vulnerable adults, as defined in Section 39-5302, Idaho Code, and as required by IDAPA 16.06.03, "Rules and Minimum Standards Governing Alcohol/Drug Abuse Prevention and Treatment Programs," ~~*Section 020*~~ or IDAPA 16.07.20, "Alcohol and Substance Use Disorders Treatment and Recovery Support Services Facilities and Programs." ~~*(3-26-08)*~~(____)

03. Certified Family Homes. Certified family home providers, all adults in the home, and substitute caregivers, as required in Section 39-3520, Idaho Code, and IDAPA 16.03.19, "Rules Governing Certified Family Homes," ~~*Sections 009, 101 and 300,*~~ and IDAPA 16.03.10, "Medicaid Enhanced Plan Benefits." ~~*Section 009.*~~ ~~*(3-26-08)*~~(____)

04. Children's Residential Care Facilities. Owners, operators, and employees of all children's residential care facilities, as required in Section 39-1210, Idaho Code, and IDAPA 16.06.02, "Rules Governing Standards for Child Care Licensing." ~~*(3-26-08)*~~(____)

05. Children's Therapeutic Outdoor Programs. Staff, volunteers, and interns working in Children's Therapeutic Outdoor Programs, as defined in IDAPA 16.06.02, "Rules Governing Standards for Child Care Licensing." ~~*Section 810.*~~ ~~*(3-26-08)*~~(____)

06. Commercial Non-Emergency Transportation Providers. Staff of commercial non-emergency transportation providers who have contact with participants, as required in IDAPA 16.03.09, "Medicaid Basic Plan Benefits." ~~*Section 009.*~~ ~~*(3-26-08)*~~(____)

07. Designated Examiners and Designated Dispositioners. Individuals seeking appointment as a designated examiner or designated dispositioner, or both, as required in IDAPA 16.07.39, "Appointment of Designated Examiners and Designated Dispositioners." (____)

0~~7~~8. Developmental Disabilities Agencies. Employees, subcontractors, agents, and volunteers of developmental disabilities agencies, as required in IDAPA 16.04.11, "Rules Governing Developmental Disabilities Agencies," ~~*Section 009,*~~ and IDAPA 16.03.10, "Medicaid Enhanced Plan Benefits." ~~*Section 009.*~~ ~~*(3-26-08)*~~(____)

0~~8~~9. Emergency Medical Services (EMS). Applicants for EMS certification, as required in IDAPA 16.02.03, "Rules Governing Emergency Medical Services." ~~*Section 501.*~~ ~~*(3-26-08)*~~(____)

~~09~~10. Home and Community-Based Services (HCBS). Providers, employees, and contractors for home and community-based services, as required in IDAPA 16.03.10, "Medicaid Enhanced Plan Benefits." ~~*Section 009.*~~ ~~*(3-26-08)*~~(____)

1~~0~~1. Home Health Agencies. Employees and contractors of home health agencies, as required in IDAPA 16.03.07, "Home Health Agencies." ~~*Section 009.*~~ ~~*(3-26-08)*~~(____)

12. Idaho Child Care Program (ICCP). ICCP applicants, providers, employees, volunteers, including those in group child care, family child care, relative child care, in-home child care, and individuals age thirteen (13) or older living in the home, who have direct contact with children, as required in IDAPA 16.06.12, "Rules Governing the Idaho Child Care Program." (____)

1~~1~~3. Intermediate Care Facilities for the Mentally Retarded (ICF/MR). Employees and contractors of intermediate care facilities for the mentally retarded, as required in IDAPA 16.03.11, "Intermediate Care Facilities for the Mentally Retarded (ICF/MR)." ~~*Section 009.*~~ ~~*(3-26-08)*~~(____)

1~~2~~4. Licensed Foster Care. All foster care applicants and other adult members of the household, as required in Section 39-1211, Idaho Code, and IDAPA 16.06.02, "Rules Governing Standards for Child Care Licensing." ~~*Section 404.*~~ ~~*(3-26-08)*~~(____)

1~~3~~5. Licensed ~~*Child*~~ Day Care. Applicants, owners, operators, employees, volunteers, and those over twelve (12) years of age who have unsupervised direct contact with the children of day care centers, group day care facilities and family day care homes, as required in Section 39-1105, Idaho Code, and IDAPA 16.06.02, "Rules Governing Standards for Child Care Licensing." ~~*Section 300.*~~ ~~*(3-26-08)*~~(____)

1~~4~~6. Mental Health Clinics. Mental health clinic's direct care staff, as required in IDAPA 16.03.10, "Medicaid Enhanced Plan Benefits," ~~*Section 009*~~ and IDAPA 16.03.09, "Medicaid Basic Plan Benefits." ~~*Sections 009 and 714.*~~ ~~*(3-26-08)*~~(____)

17. Nonhospital, Medically-Monitored Detoxification/Mental Health Diversion Units. Owners, operators, and all employees, transfers, reinstated former employees, student interns, contractors, and volunteers who provide care or services or have access to clients, as required in IDAPA 16.07.50, "Minimum Standards for Nonhospital, Medically-Monitored Detoxification/Mental Health Diversion Units." (____)

1~~5~~8. Personal Assistance Agencies. Staff of personal assistance agencies acting as fiscal intermediaries, as required in IDAPA 16.03.10, "Medicaid Enhanced Plan Benefits." ~~*Section 009.*~~ ~~*(3-26-08)*~~(____)

1~~6~~9. Personal Care Service Providers. Providers of personal care services, as required in Section 39-5604, Idaho Code, and IDAPA 16.03.10, "Medicaid Enhanced Plan Benefits." ~~*Section 009.*~~ ~~*(3-26-08)*~~(____)

~~17~~20. Psychosocial Rehabilitation Providers. Individuals providing psychosocial rehabilitation services, as required in IDAPA 16.03.10, "Medicaid Enhanced Plan Benefits." ~~*Sections 009 and 130.*~~ ~~*(3-26-08)*~~(____)

~~18~~21. Residential Care or Assisted Living Facilities in Idaho. Employees and contractors of residential care or assisted living facilities, as required in IDAPA 16.03.22, "Residential Care or Assisted Living Facilities in Idaho." ~~*Section 009.*~~ ~~*(3-26-08)*~~(____)

~~19~~22. Semi-Independent Group Residential Care Facilities for the Developmentally Disabled or Mentally Ill. Employees and contractors of semi-independent group residential care facilities for the developmentally disabled or mentally ill, as required in IDAPA 16.03.15, "Rules and Minimum Standards for Semi-Independent Group Residential Care Facilities for the Developmentally Disabled or Mentally Ill." ~~*Section 009.*~~ ~~*(3-26-08)*~~(____)

2~~0~~3. Service Coordinators and Paraprofessional Providers. Service coordinators and paraprofessionals working for an agency, as required in IDAPA 16.03.10, "Medicaid Enhanced Plan Benefits." ~~*Section 009.*~~ ~~*(3-26-08)*~~(____)

2~~1~~4. Skilled Nursing and Intermediate Care Facilities. Employees and contractors of skilled nursing and intermediate care facilities, as required in IDAPA 16.03.02, "Rules and Minimum Standards for Skilled Nursing and Intermediate Care Facilities." ~~*Section 009.*~~ ~~*(3-26-08)*~~(____)

2~~2~~5. Support Brokers and Community Support Workers. Support brokers and community support workers, as required in IDAPA 16.03.13, "Consumer-Directed Services." ~~*Section 009.*~~ ~~*(3-26-08)*~~(____)

101. DEPARTMENT INDIVIDUALS SUBJECT TO A CRIMINAL HISTORY AND BACKGROUND CHECK.
The following Department employees and contractors are subject to criminal history and background checks. (3-26-08)

01. Employees, ~~*and*~~ Contractors, and Volunteers. Employees, ~~*and*~~ 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. ~~*(3-26-08)*~~(____)

02. Employees of Bureau of Audits and Investigations. (3-26-08)

a. Fraud Investigators; (3-26-08)

b. Utilization Review Analysts; and (3-26-08)

c. Criminal History Staff. (3-26-08)

03. Employees at State Institutions. All employees of the following state funded institutions; (3-26-08)

a. Idaho State School and Hospital, Nampa, Idaho; (3-26-08)

b. State Hospital North, Orofino, Idaho; and (3-26-08)

c. State Hospital South, Blackfoot, Idaho. (3-26-08)

04. Emergency Medical Services (EMS) Employees. EMS communication specialists and managers. (3-26-08)

05. Other Employees. Other Department employees as determined by the Director. (3-26-08)

(BREAK IN CONTINUITY OF SECTIONS)

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 his record as described in Subsections 210.01 and 210.02 of this rule. (3-26-08)

01. Disqualifying Crimes. The disqualifying crimes described in Subsections 210.01.a through 210.01.v. of these rules will result in an unconditional denial being issued. (3-26-08)

a. Abuse, neglect, or exploitation of a vulnerable adult, as defined in Section 18-1505, Idaho Code; (3-26-08)

b. Aggravated, first-degree and second-degree arson, as defined in Sections 18-801 through 18-803, and 18-805, Idaho Code; (3-26-08)

c. Crimes against nature, as defined in Section 18-6605, Idaho Code; (3-26-08)

d. Forcible sexual penetration by use of a foreign object, as defined in Section 18-6608, Idaho Code; (3-26-08)

e. Incest, as defined in Section 18-6602, Idaho Code; (3-26-08)

f. Injury to a child, felony or misdemeanor, as defined in Section 18-1501, Idaho Code; (3-26-08)

g. Kidnapping, as defined in Sections 18-4501 through 18-4503, Idaho Code; (3-26-08)

h. Lewd conduct with a minor, as defined in Section 18-1508, Idaho Code; (3-26-08)

i. Mayhem, as defined in Section 18-5001, Idaho Code; (3-26-08)

j. Murder in any degree, voluntary manslaughter, assault, or battery with intent to commit a serious felony, as defined in Sections 18-4001, 18-4003, 18-4006, and 18-4015, Idaho Code; (3-26-08)

k. Poisoning, as defined in Sections 18-4014 and 18-5501, Idaho Code; (3-26-08)

l. Possession of sexually exploitative material, as defined in Section 18-1507A, Idaho Code; (3-26-08)

m. Rape, as defined in Section 18-6101, Idaho Code; (3-26-08)

n. Robbery, as defined in Section 18-6501, Idaho Code; (3-26-08)

o. Felony stalking, as defined in Section 18-7905, Idaho Code; (3-26-08)

p. Sale or barter of a child, as defined in Section 18-1511, Idaho Code; (3-26-08)

q. Sexual abuse or exploitation of a child, as defined in Sections 18-1506 and 18-1507, Idaho Code; (3-26-08)

r. Video voyeurism, as defined in Section 18-6609, Idaho Code; (3-26-08)

s. Enticing of children, as defined in Sections 18-1509 and 18-1509A, Idaho Code; (3-26-08)

t. 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; (3-26-08)

u. Any felony punishable by death or life imprisonment; or (3-26-08)

v. Attempt, conspiracy, ~~or~~ accessory after the fact, or aiding and abetting, as defined in Sections 18-205, 18-306, ~~and~~ 18-1701, and 19-1430, Idaho Code, to commit any of the disqualifying designated crimes. ~~(3-26-08)~~( )

02. Disqualifying Five-Year Crimes. The Department will issue an unconditional denial for an individual who has been convicted of the following crimes for five (5) years from the date of the conviction for the crimes listed in Subsections 210.02.a. through 210.02.~~n~~q. of this rule: ~~(4-9-09)~~( )

a. Aggravated assault, as defined in Section 18-905, Idaho Code; (3-26-08)

b. Aggravated battery, as defined in Section 18-907(1), Idaho Code; (3-26-08)

c. Arson in the third degree, as defined in Section 18-804, Idaho Code; (3-26-08)

d. Burglary, as defined in Section 18-1401, Idaho Code; (3-26-08)

e. Felony computer crimes, as defined in Section 18-2202, Idaho Code; ( )

~~e~~f. A felony involving a controlled substance; (3-26-08)

g. Felony domestic violence, as defined in Section 18-918, Idaho Code; ( )

h. Any felony lottery crime as defined in Section 67-7448, Idaho Code; ( )

~~f~~i. Felony theft, as defined in Section 18-2403, Idaho Code; (3-26-08)

~~g~~j. Forgery of and fraudulent use of a financial transaction card, as defined in Sections 18-3123 ~~*and*~~ through 18-312~~4~~8, Idaho Code; ~~*(3-26-08)*~~( )

~~h~~k. Forgery and counterfeiting, as defined in Sections 18-3601 through 18-3620, Idaho Code; (3-26-08)

~~i~~l. Grand theft, as defined in Section 18-2407(1), Idaho Code; (3-26-08)

~~j~~m. Identity theft, as defined in Section 18-3126, Idaho Code; (4-9-09)

~~k~~n. Insurance fraud, as defined in Sections 41-293 and 41-294, Idaho Code; (3-26-08)

~~l~~o. Public assistance fraud, as defined in Sections 56-227 and 56-227A, Idaho Code; (4-9-09)

~~m~~p. Attempted strangulation, as defined in Section 18-923, Idaho Code; or (4-9-09)

~~n~~q. Attempt, conspiracy, accessory after the fact, or aiding and abetting, as defined in Sections 18-205, 18-306, ~~*and*~~ 18-1701, and 19-1430, Idaho Code, to commit any of the disqualifying five (5) year crimes. ~~*(3-26-08)*~~( )

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: (3-26-08)

a. A withheld judgment; (3-26-08)

b. A dismissal, suspension, deferral, commutation, or a plea agreement where probation or restitution was or was not required; (3-26-08)

c. An order according to Section 19-2604, Idaho Code, or other equivalent state law; or (3-26-08)

d. A sealed record. (3-26-08)

IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE

16.06.02 - RULES GOVERNING STANDARDS FOR CHILD CARE LICENSING

DOCKET NO. 16-0602-0901 (FEE RULE)

NOTICE OF RULEMAKING - ADOPTION OF PENDING FEE RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2010 Idaho State Legislature for final approval. Pursuant to Section 67-5224(5)(c), Idaho Code, this pending rule will not become final and effective until it has been approved, amended, or modified by concurrent resolution of the legislature because of the fee being imposed or increased through this rulemaking. If the pending rule is approved, amended, or modified by concurrent resolution of the legislature, this agency requests that the effective date of July 1, 2010, be inserted into the language of the concurrent resolution rather than have the rule become effective upon adoption of the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending fee rule. The action is authorized pursuant to Sections 39-1111, 39-1209, 39-1210, 39-1211, 39-1213, 56-1003, 56-1004A, and 56-1005, Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change:

The Department is amending the proposed rules based on written comments received and oral comments made during public hearings held around the state. Amendments and clarifications have been made to definitions, health and safety standards for firearms, fire extinguishers, fire exits, supervision, type of licenses, employee and child records requirements, and to align these rules with statutes. The text of the pending rule has been amended in accordance with Section 67-5227, Idaho Code. Only those sections that have changes that differ from the proposed text are printed in this bulletin. The original text of the proposed rule was published in the September 2, 2009, Idaho Administrative Bulletin, Vol. 09-9, pages 183 through 214.

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

This fee or charge is being imposed pursuant to Section 39-1107, Idaho Code, that establishes a maximum licensing fee for a basic daycare license not to exceed $175 for daycare centers, and $100 for group daycare facilities. Criminal history and background checks are the responsibility of the applicant and are based on the actual cost of the check.

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

The Department estimates that the cost for the State Fiscal Year 2011 will be approximately $45,000, which is the difference for licensing fees collected and expenditures for the health and safety inspections. This cost will be covered by the Federal Child Care Development Funds.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending fee rule, contact Landis Rossi at (208) 334-5688.

DATED this 19th day of November, 2009.

Tamara Prisock
DHW - Administrative Procedures Section
450 W. State Street - 10th Floor (208) 334-5564 phone; (208) 334-6558 fax
P.O. Box 83720, Boise, ID 83720-0036 dhwrules@dhw.idaho.gov e-mail

THE FOLLOWING NOTICE PUBLISHED WITH THE PROPOSED FEE RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Sections 39-1111, 39-1209, 39-1210, 39-1211, 39-1213, 56-1003, 56-1004A, and 56-1005, Idaho Code.

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

Wednesday, September 9, 2009 7:00 p.m. MDT	Monday, September 21, 2009 7 p.m. PDT	Wednesday, September 23, 2009 7:00 p.m. MDT
Dept. of Health & Welfare Region 4 DHW - Region III Office 3402 Franklin Road Sawtooth Room Caldwell, ID	**Dept. of Health & Welfare Region 1 1120 Ironwood Drive 1st Floor Large Conference Rm. Coeur d'Alene, ID**	**Dept. of Health & Welfare Region 7 State Office Building 150 Shoup Ave. 2nd Floor Conference Room Idaho Falls, ID**

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

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

Under Senate Bill 1112, the 2009 Legislature amended the statewide system for the protection of children in daycare facilities. These changes to Title 39, Chapter 11, Idaho Code, take effect January 1, 2010. These amendments to statute necessitated corresponding changes and clarification in this chapter of rules.

These rule changes provide requirements for areas related to daycare licensing including fees, criminal history checks, safety and health standards, licensure requirements, suspension, denial, and revocation of licenses. While amending these rules for daycare standards, other updates were made for consistency in language and for clarification, deleting obsolete language and updating references. These amendments will help assure

processes that will provide protection for the health and safety of children in a daycare licensed by the Department.

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

The 2009 Legislature amended Section 39-1107, Idaho Code, establishing a maximum licensing fee for a basic daycare license not to exceed $175 for daycare centers, and $100 for group daycare facilities. Criminal history and background checks are the responsibility of the applicant and are based on the actual cost of the check.

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

The Department estimates that the cost for the State Fiscal Year 2011 will be approximately $45,000, which is the difference for licensing fees collected and expenditures for the health and safety inspections. This cost will be covered by the Federal Child Care Development Funds.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(1), negotiated rulemaking was conducted. A Notice of Negotiated Rulemaking was published in the July 1, 2009, Idaho Administrative Bulletin, Vol.09-7, page 91. The Department entered into negotiated rulemaking to seek input from families, daycare providers, and other stakeholders in the development of rules to align with changes in statute.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Landis Rossi at 334-5688.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before September 23, 2009.

DATED this 31st day of July, 2009.

THE FOLLOWING IS THE TEXT OF THE PENDING FEE RULE

000. LEGAL AUTHORITY.
Under Sections 39-1111, 39-1209, 39-1210, 39-1211, 39-1213, 56-1003, 56-1004A, and 56-1005(8), 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 licens~~*ure*~~ing ~~*or certification of*~~ daycare centers, group daycare facilities, family daycare homes, foster homes, children's agencies and children's residential care facilities in Idaho.
~~*(7-1-09)*~~( )

001. TITLE, SCOPE, ~~*AND*~~ POLICY, PURPOSE, AND EXCEPTIONS TO LICENSING.

01. **Title**. The title of this chapter of rules is IDAPA 16.06.02, "Rules Governing Standards for Child Care Licensing." (7-1-09)

02. **Scope**. These rules establish minimum standards and procedures for ~~*the*~~ licens~~*ure*~~ing ~~*or certification*~~ of: ( )

a. Daycare centers; ( )

b. Group daycare facilities; ( )

c. Family daycare homes, voluntarily; ( )

d. ~~*f*~~Foster homes~~,~~; ( )

e. ~~*c*~~Children's agencies~~*, and*~~; ( )

f. ~~*c*~~Children's residential care facilities, including non-accredited residential schools~~,~~; ( )

g. ~~*c*~~Children's camps providing child care in Idaho~~*. These standards apply*~~ for any one (1) child for more than nine (9) consecutive weeks in any one (1) year period~~,~~; ( )

h. ~~*c*~~Children's therapeutic outdoor programs~~,~~ in Idaho; ( )

i. ~~*a*~~Alcohol-drug abuse treatment facilities for adolescents certified according to IDAPA 16.06.03, "Rules and Minimum Standards Governing Alcohol/Drug Abuse Prevention and Treatment Programs"; and ( )

j. ~~*f*~~Facilities specializing in maternity care to minors~~,~~. ~~*daycare centers and group daycare facilities. Also included are standards and procedures for voluntary compliance for licensing of group daycare facilities and family daycare homes.* *(7-1-09)*~~( )

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. (7-1-09)

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

licenses does not guarantee adequacy of care, services, safety, or the well-being of any child, employee, contractor, volunteer, or visitor of a daycare facility. It is the parents 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 to *Daycare* Licensing. *Under Section 39-1103, Idaho Code, t*he minimum standards and licensing requirements in these rules do not apply to: *( )*

a. 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; ( )

b. The operation of a private school or religious school for educational purposes for children over four (4) years of age, or a religious kindergarten; ( )

c. The provision of occasional care exclusively for children o*f* parents who are simultaneously in the same building; *( )*

d. 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* *( )*

e. 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 to Child Care Licensing*. Under Sections 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.* *( )*

(BREAK IN CONTINUITY OF SECTIONS)

005. OFFICE HOURS -- MAILING ADDRESS -- STREET ADDRESS -- TELEPHONE -- WEBSITE.

01. Office Hours. Office hours are 8 a.m. to 5 p.m., Mountain Time, Monday through Friday, except holidays designated by the state of Idaho. (4-11-06)

02. Mailing Address. The mailing address for the business office is Idaho Department of Health and Welfare, P.O. Box 83720, Boise, Idaho 83720-0036. (4-11-06)

03. Street Address. The business office of the Idaho Department of Health and Welfare is located at 450 West State Street, Boise, Idaho 83702. (4-11-06)

04. Telephone. The telephone number for the Idaho Department of Health and Welfare is (208) 334-5500. (4-11-06)

05. Internet Website. The Department's internet website is found at http://www.healthandwelfare.idaho.gov. (4-11-06)

06. Child Care Licensing Authority Location. The Department's child care licensing authority for children's residential treatment facilities, children's agencies, and children's outdoor therapeutic programs is located at 450 West State Street, Boise, Idaho 83702; Phone (208) 334-5700. ~~*(7-1-09)*~~( )

07. Daycare Licensing Authority Location. The Department's daycare licensing authority for daycare centers, group daycare facilities, and family daycare homes *is located at 450 West State Street, Boise, Idaho 83702; Phone (208) 334-5700.* *( )*

006. CONFIDENTIALITY OF RECORDS AND PUBLIC RECORDS REQUESTS.

01. Confidential Records. Any information about an individual covered by these rules and contained in the Department's records must comply with IDAPA 16.05.01, "Use and Disclosure of Department Records." (4-11-06)

02. Public Records. The Department will comply with Sections 9-337 through 9-350, Idaho Code, when requests for the examination and copying of public records are made. Unless otherwise exempted, all public records in the custody of the Department are subject to disclosure. (4-11-06)

03. Licensure or Deficiencies Records. Under Section 9-340C(9), Idaho Code and IDAPA 16.05.01, "Use and Disclosure of Department Records," information referring or relating to individuals, programs, or facilities subject to this chapter of rules, IDAPA 16.06.02, "Rules Governing Standards for Child Care Licensing," will be released to the public upon written request if they are part of an inquiry into an individual's or organization's fitness to be granted or retain a license, certificate, permit, privilege, commission or position. These records will otherwise be provided in redacted form as required by law or rule. ( )

007. -- 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 ~~*providers*~~ individuals who are licensed ~~*or certified*~~ under these rules. ~~*Providers*~~ 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 ~~*these*~~ this rule~~s~~. ~~*(3-30-07)*~~(____)

02. When ~~*Certification or*~~ License is Granted. The applicant must have a completed criminal history and background check, including clearance, prior to ~~*certification or*~~ licensure. Any other adult living in the home must complete a ~~*self-declaration form*~~ criminal history application, must be fingerprinted, and must not have any ~~*designated*~~ disqualifying crimes listed in IDAPA 16.05.06, "Criminal History and Background Checks." ~~*(3-30-07)*~~(____)

03. Applicants and Providers Subject to Criminal History Check Requirements. The following applicants and providers must receive a criminal history and background check: (3-30-07)

a. Adoptive Parents. The criminal history and background check requirements applicable to adoptive parents are found in Subsection 671.02 of these rules. (3-30-07)

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. ~~*(3-30-07)*~~(____)

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. ~~*(3-30-07)*~~(____)

d. Children's Residential Care Facility~~ *Staff*~~. The criminal history and background check requirements for a children's residential care facility are found in Section 109 of these rules and in Section 39-1210(10), Idaho Code. ~~*(3-30-07)*~~(____)

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. ~~*(3-30-07)*~~(____)

f. Daycare Center, Group Daycare Facility, ~~*Staff*~~ Family Day Care Home. The criminal history and background check requirements applicable to ~~*licensed*~~ a daycare ~~*providers*~~ center, group daycare facility, and family daycare home are found in Section ~~*1*~~309 of these rules and in Sections 39-1105, 39-1113, and 39-1114, Idaho Code. ~~*(3-30-07)*~~(____)

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. (3-30-07)

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. ~~*(3-30-07)*~~(____)

a. Youth in foster care who reach the age of eighteen (18) and continue to reside in the same licensed foster home. (3-30-07)

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. (3-30-07)

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. *i*Is a *permanent* resident *of* or an adult living in a licensed foster home *or*; ( )

b. Is a resident or adult living in, employee, contractor, volunteer, or staff member of a licensed residential facility.; or *(3-30-07)*( )

c. Is a owner, operator, or employee 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. (7-1-09)

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. (3-30-01)

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 16.06.03, "Rules and Minimum Standards Governing Alcohol/Drug Abuse Prevention and Treatment Programs." *(3-30-01)*( )

03. Board. The Idaho State Board of Health and Welfare. (3-30-01)

04. 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. (7-1-09)

05. Child. ( )

a. For requirements of Title 39, Chapter 12, Idaho Code, and Sections 400 through 999 of these rules, "child" means *A*an individual less than eighteen (18) years of age, synonymous with juvenile or minor. *(3-30-01)*( )

b. For requirements of Title 39, Chapter 11, Idaho Code, and Sections 300 through 399 of these rules, "child" means a*n individual* less than thirteen (13) years of age. *( )*

06. 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. (3-30-01)

07. Child-Staff Ratio. For requirements of Title 39, Chapter 11, Idaho Code, and Sections 300 through 399 of these rules, "child-staff ratio" means the maximum number of children allowed under the care and supervision of one (1) staff person. ( )

0~~7~~8. 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. (3-30-01)

0~~8~~9. 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. (7-1-09)

~~09~~10. 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. (5-3-03)

1~~0~~1. 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: (3-30-01)

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; (3-30-01)

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 (3-30-01)

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 (5-3-03)

d. May include a children's therapeutic outdoor program whether or not that program operates out of a standard facility. (5-3-03)

1~~1~~2. 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. (5-3-03)

1~~2~~3. 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. (7-1-09)

1~~3~~4. Contraband. Goods or merchandise, the possession of which is prohibited, such as weapons and drugs. (3-30-01)

1~~4~~5. 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, ~~*or*~~ marriage, 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. (3-30-01)(____)

1~~5~~6. Daycare Center. A place or facility providing daycare for compensation ~~*for*~~ to a child or children not related by blood, marriage, or legal guardianship to the person or persons providing the care, where thirteen (13) or more children, regardless of relationship to the person or persons providing the care, are on the premises. ~~*(3-30-01)*~~(____)

1~~6~~7. Department. The Idaho Department of Health and Welfare ~~*or its designee*~~. ~~*(7-1-09)*~~(____)

1~~7~~8. 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. (3-30-01)

1~~8~~9. Director. Director of the Idaho Department of Health and Welfare ~~*or designee*~~. ~~*(3-30-01)*~~(____)

~~19~~20. Family Daycare Home. A home, place, or facility providing daycare for compensation to a child or children not related by blood, marriage, or legal guardianship to the person or persons providing the care, where six (6) or fewer children ~~*during part of a twenty-four (24) hour day*~~, regardless of relationship to the person or persons providing the care, are on the premises. ~~*(3-30-01)*~~(____)

2~~0~~1. Foster Care. The twenty-four (24) hour substitute parental care of children by persons who may or may not be related to a child. (7-1-09)

2~~1~~2. 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. (7-1-09)

2~~2~~3. Foster Parent. A person or persons residing in a private home under their direct control to whom a foster care license ~~*or certification*~~ has been issued. ~~*(3-30-01)*~~(____)

2~~3~~4. Group Daycare Facility. A home, place, or facility providing daycare for compensation to a child or children not related by blood, marriage or legal guardianship to the person or person providing the care, where seven (7) to twelve (12) children, regardless of

relationship to the person or persons providing the care, are on the premises. ~~*(3-30-01)*~~*( )*

2~~4~~5. Inter-Country Adoption. The placement of a child from one (1) country to another for the purpose of adoption. (3-30-01)

~~***25. Licensing Authority**. The Department's child care licensing unit responsible for licensure or certification of Children's Residential Treatment Facilities, Children's Agencies, and Children's Outdoor Therapeutic Program.*~~ ~~*(7-1-09)*~~

26. Mechanical Restraint. Devices used to control the range and motion of an individual, including handcuffs, restraint boards, restraint chairs, and restraint jackets. (3-30-01)

27. Medical Professionals. Persons who have received a degree in nursing or medicine and registered nurse, nurse practitioner, physician's assistant and medical doctor. (3-30-01)

28. Member of the Household. Any person, other than a foster child, who resides in, or on the property of, a foster home. (3-30-01)

011. DEFINITIONS N THROUGH Z.
For the purposes of these rules, the following terms apply. (7-1-09)

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. (3-30-01)

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. (3-30-01)

***03. Operator**. An individual who operates a daycare center, group daycare facility, family daycare home voluntarily licensed by the Department, children's residential care facility, children's agency, or children's therapeutic outdoor program licensed by the Department under Title 39, Chapters 11 or 12, Idaho Code.* *( )*

0~~3~~4. Organization. A children's agency or a children's residential care facility. (3-30-01)

0~~4~~5. Person. Any individual, group of individuals, associations, partnerships or corporations. (3-30-01)

0~~5~~6. Physical Intervention. Physical restraint utilized to control the range and motion of an individual. (3-30-01)

0~~6~~7. 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. (3-30-01)

0~~7~~*8*. **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, or children's agency into conformity with these licensing rules. ~~(3-30-01)~~*( )*

0*9*. **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. *( )*

***0~~8~~10*.** **Relative**. Individuals related to a child by blood, marriage or adoption. (3-30-01)

***0~~9~~11*.** **Representative**. An employee of the Department of Health and Welfare. (3-30-01)

1~~0~~*2*. **Residential School**. A residential facility for any number of children which: (3-30-01)

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 (3-30-01)

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 (3-30-01)

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 (3-30-01)

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 (3-30-01)

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. (3-30-01)

1~~1~~*3*. **Restraint**. Interventions to control the range and motion of a child. (3-30-01)

1~~2~~*4*. **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. (3-30-01)

1*5*. **Second Degree of Relationship**. The second degree of relationship refers to persons related consanquineally ("blood relative") and affinially ("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. ( )

1~~3~~6. **Secure**. A physically restrictive setting, as in a locked or guarded residential facility. (3-30-01)

1~~4~~7. **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. (3-30-01)

1~~5~~8. **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. (7-1-09)

1~~6~~9. **Shelter Care**. The temporary or emergency out-of-home care of children in a foster home or residential facility. (3-30-01)

~~17~~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." (7-1-09)

~~18~~21. **Soft Restraints**. Mechanical restraints made of leather, cloth or other combinations of fibers, utilized to control the range of motion of an individual. (3-30-01)

22. **Supervision**. For requirements of 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. ( )

~~19~~23. **Time-Out**. Separation of a child from group activity as a means of behavior management. (3-30-01)

2~~0~~4. **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. (3-30-01)

2~~1~~5. **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. (3-30-01)

2~~2~~6. **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. (7-1-09)

2~~3~~7. **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. (7-1-09)

012. -- 099. (RESERVED).

LICENSING AND CERTIFICATION

(Sections 100 through 299)

100. LICENSING~~ *AND CERTIFICATION*~~.
The purpose of licensing ~~*and certification*~~ 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. ~~*(7-1-09)*~~(____)

~~***01. Local Option****. If a city or county, within its respective jurisdiction, has adopted and is enforcing ordinances for regulating or licensing of daycare services which are at least as stringent as those contained in Subsections 300.01 through 300.15 of these rules, then those provisions of Section 39-1108, Idaho Code, will not apply within such city or county, unless the ordinance is subsequently repealed or is no longer enforced.*~~ ~~*(7-1-09)*~~

~~***02. Exemptions From Licensing****. Under Sections 39-1103 and 39-1211, Idaho Code, 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 is exempt from licensure requirements for daycare and foster homes. Foster homes which have been certified by a licensed children's agency are exempt from licensure requirements, provided the standards for approval by such agency are at least as stringent as the rules and standards established by the Board and that such agency is maintained and operated in conformity with the rules and standards of the Board under Section 39-1213(b), Idaho Code.*~~ ~~*(7-1-09)*~~

0~~*3*~~1. Responsibilities of the Foster Parent or Operator. A foster parent or operator must conform to the terms of the license~~ *or certification*~~. ~~*In addition:*~~ ~~*(3-30-01)*~~(____)

~~***a***~~**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 or children's agency covered by the license~~ *or certification*~~, and for conforming to them at all times; and ~~*(3-30-01)*~~(____)

~~***b***~~**03. Responsible for Agency Staff Knowledge**. The operators of child care facilities and agencies are 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, or children's agency. A copy of these rules are 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://adm.idaho.gov/adminrules/; and ~~*(7-1-09)*~~(____)

~~***c***~~**04. Return of License**. The foster parent or operator must immediately return his license ~~*or certification*~~ to the Department under any of the following circumstances: ~~*(3-30-01)*~~(____)

~~*i*~~**a.** Changes of management or address; ~~*or*~~ ~~*(3-30-01)*~~(____)

~~*ii*~~**b.** Upon suspension or revocation of the license ~~*or certification*~~ by the Department; or ~~*(3-30-01)*~~(____)

~~*iii*~~**c.** Upon voluntary discontinuation of service. (3-30-01)

101. APPLICATIONS FOR LICENSE ~~*OR CERTIFICATION*~~.
An applications for a license ~~*or certification are to*~~ must be submitted ~~*and action is to be initiated on all applications within thirty (30) days after receipt, that addresses each requirement for the particular type of home, facility or agency*~~ to the Department. Licensing ~~*and certification*~~ studies will follow the format of these rules and will contain a specific recommendation regarding the terms of the license ~~*or certification*~~. All foster homes, children's agencies, children's therapeutic outdoor programs, 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. ~~*(7-1-09)*~~(____)

01. Sanitation Inspection. The applicant must request and obtain a sanitation inspection and written report from the applicable Idaho Public Health District. (7-1-09)

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. (7-1-09)

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. (7-1-09)

04. Planning and Zoning. The applicant must provide documentation demonstrating it meets planning and zoning requirements of the applicable Idaho city or county. (7-1-09)

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. ~~*(7-1-09)*~~(____)

01. Approval of Application. A license ~~*or certification*~~ will be issued to any daycare center, group daycare facility, family daycare home voluntarily licensed by the Department, foster home, children's residential facility or children's agency found to be in conformity with these rules governing the home or facility. The license ~~*or certification*~~ is issued according to the terms specified in the licensing ~~*or certification*~~ study and will be mailed to the applicant.~~*(7-1-09)*~~(____)

02. Regular License. A regular license ~~*or certification*~~ will be issued to any daycare ~~*or*~~ center, group daycare facility, family daycare home voluntarily licensed by the Department, foster home, children's residential care facility, children's therapeutic outdoor program, or children's agency found to be in conformity with these rules governing the facility and will specify the terms of licensure ~~*or certification*~~, such as: ~~*(7-1-09)*~~(____)

a. Full time or daycare; (3-30-01)

b. The number of children who may receive care at any one (1) time; and (3-30-01)

c. Age range and gender, if there are conditions in the foster home or children's residential care facility making such limitations necessary; (3-30-01)

d. The regular license ~~*or certification*~~ for foster homes, children's agencies and twenty-four (24) hour a day child care residential facilities will be in effect for one (1) year from the date of issuance unless suspended or revoked earlier; ~~*(7-1-09)*~~(____)

e. A regular license ~~*or certification*~~ for a daycare ~~*and*~~ 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 ~~*(7-1-09)*~~(____)

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. (3-30-01)

03. Waiver. A regular license ~~*or certification*~~ may be issued to the foster home of a relative who has received a waiver of licensing rules provided: ~~*(7-1-09)*~~(____)

a. The waiver is considered on an individual case basis; (3-30-01)

b. The waiver is approved only for non-safety foster care rules; (7-1-09)

c. All other licensing ~~*or certification*~~ requirements have been met; ~~*(3-30-01)*~~(____)

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 (7-1-09)

e. The approved waiver must be reviewed for continued need and approval at regular intervals not to exceed six (6) months. (7-1-09)

04. Variance. A regular license ~~*or certification*~~ 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: ~~*(3-30-01)*~~(____)

a. The variance is considered on an individual case basis; (3-30-01)

b. The variance is approved for a non-safety licensing rules; (3-30-01)

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; (7-1-09)

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 (7-1-09)

e. The approved variance must be reviewed for continued need and approval annually. (7-1-09)

05. Provisional License ~~***or Certification***~~. A provisional license ~~*or certification*~~ may be issued to a daycare center, group daycare facility, family daycare home voluntarily licensed by

the Department, foster home, children's residential care facility, 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. ~~*(3-30-01)*~~(____)

a. A provisional license ~~*or certification*~~ will be in effect for not more than six (6) months. ~~*(3-30-01)*~~(____)

b. Only one (1) provisional license ~~*or certification*~~ will be issued to a daycare center, group daycare facility, family daycare home voluntarily licensed by the Department, foster home, ~~*or*~~ children's residential care facility, children's agency, or a children's therapeutic outdoor program in any twelve-month period of time under Sections 39-1216~~*, Idaho Code,*~~ and ~~*for daycare facilities defined in Section*~~ 39-1102, Idaho Code. ~~*(7-1-09)*~~(____)

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: (3-30-01)

a. The child is already in the home and has formed strong emotional ties with the foster parents; and (3-30-01)

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. (3-30-01)

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. ~~*(7-1-09)*~~(____)

08. Failure to Complete Application Process. (7-1-09)

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. (7-1-09)

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. (7-1-09)

103. RESTRICTIONS ON APPLICABILITY AND NONTRANSFER.

01. Issued License. A child care license ~~*or certification*~~ 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, 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, or children's agency applies

only to the services specified in the license ~~*or certification*~~. Any change in management or address renders the license ~~*or certification*~~ null and void, and the foster parent or operator must immediately return the license ~~*or certification*~~ to the licensing agency as required in Section 100 of these rules. ~~*(3-30-01)*~~( )

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. ( )

(BREAK IN CONTINUITY OF SECTIONS)

105. REVISIT~~,~~ AND RELICENSE~~ A*ND RECERTIFICATION*~~.
Revisit~~,~~ and relicense~~*, and re-certification*~~ 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, 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 ~~*or certification*~~ must be made by the operator on the form furnished by the Department, and filled out prior to the expiration date of the license ~~*or certification*~~ currently in force. When such application for renewal has been made in the proper manner and form, the existing license ~~*or certification*~~ will, unless officially revoked, remain in force until the Department has acted on the application for renewal. ~~*(7-1-09)*~~( )

106. COMPLAINTS AGAINST DAYCARE CENTERS, FOSTER HOMES, CHILDREN'S RESIDENTIAL CARE FACILITIES 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 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, 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 or children's agency will be informed of the investigation, and any action to be taken, including referral for civil or criminal action. ~~*(7-1-09)*~~( )

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, or children's agency out of conformity with Idaho law or with these rules, the license ~~*or certification*~~ must be suspended until the nonconformity is remedied. ~~*(7-1-09)*~~( )

108. SUSPENSION OR REVOCATION FOR INFRACTIONS.
A license ~~*or certification*~~ 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. ~~*(7-1-09)*~~( )

109. NON-RENEWAL, DENIAL, REVOCATION, OR SUSPENSION OF LICENSE ~~*OR CERTIFICATION*~~.
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 39-11~~*17*~~20, Idaho Code, or the Child Care Licensing Reform Act, Sections 39-120~~*8*~~1 through 39-1224, Idaho Code, or with these rules, or with any provision of the license ~~*or certification*~~, the Director may deny, suspend, revoke, or not renew a license ~~*or certification*~~. The Department may also deny, suspend, revoke, or ~~*not renew*~~ deny renewal of a license ~~*or certification*~~ 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, or foster home when any of the following in Subsection 109.01 and 109.02 of this rule is determined~~:~~. ~~*(7-1-09)*~~( )

01. Criminal Record. Anyone providing direct care or working onsite under these rules refuses to comply with the requirements in IDAPA 16.05.06, "Criminal History and Background Checks." (7-1-09)

02. Other Misconduct. The applicant, foster parent, operator, or the person proposed as chief executive officer ~~*except for daycare facilities*~~: ~~*(3-30-01)*~~( )

a. Fails to furnish any data, statistics, records or information requested by the Department without good cause or provides false information; (3-30-01)

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; (3-30-01)

c. Has been found guilty of or is under investigation for the commission of any felony; (3-30-01)

d. Has failed to exercise fiscal accountability toward a client or the Department regarding payment for services; or (3-30-01)

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, or children's agency. ~~(7-1-09)~~(____)

(BREAK IN CONTINUITY OF SECTIONS)

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, 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 will not be transported from the facility, instead the parent or legal guardian will be contacted. ~~(7-1-09)~~(____)

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 provider is not in compliance with these rules. Children in a daycare center, group daycare facility, or family daycare home 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. ~~(7-1-09)~~(____)

01. Endangers Health or Safety. Any condition that endangers the health or safety of any resident or child. ~~(7-1-09)~~(____)

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, or children's residential care facility is not in substantial compliance with these rules. ~~(7-1-09)~~(____)

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, 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. ~~(7-1-09)~~(____)

04. Repeat Violations. Repeat violations of any requirement of these rules or provisions of Title 39, Chapter 11 and Chapter 12, Idaho Code. ~~(7-1-09)~~(____)

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, or children's residential care facility has knowingly misrepresented or omitted information on the application or other documents pertinent to obtaining a certificate. ~~*(7-1-09)*~~( )

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, or children's residential care facility and its grounds facilities and records. ~~*(7-1-09)*~~( )

07. Violation of Terms of Provisional License. A children's agency, daycare center, group daycare facility, family daycare home voluntarily licensed by the Department, children's therapeutic outdoor program, or children's residential care facility that has violated any of the terms or conditions of a provisional license. ~~*(7-1-09)*~~( )

(BREAK IN CONTINUITY OF SECTIONS)

300. STANDARDS FOR DAYCARE.
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 must also meet the requirements under Title 39, Chapter 11, Idaho Code and Sections 300 through 399 of these rules. ( )

01. ~~***Purpose****. The stated legislative purpose of Sections 39-1101 through 39-1117, Idaho Code, is to provide for minimum statewide daycare licensing for children less than twelve (12) years of age. Persons with certain criminal backgrounds are prohibited from working in daycare centers. Responsibilities for regulatory authority are divided between the Board, the state fire marshal, and the public health districts. As stated in Section 39-1101, Idaho Code: "It is declared to be the policy of the state to establish a minimum statewide system for the protection of children in daycare centers. This system is intended to establish minimum standards, while still leaving primary responsibility for evaluation and selection of daycare services with parents. The minimum standards established by this chapter are not to be construed as preempting more stringent regulation by county or city ordinance."*~~ **Local Option**. If a city or county, within its respective jurisdiction, has adopted an ordinance for regulation or licensing of daycare services, then the provisions of Title 39, Chapter 11, Idaho Code, and Sections 300 through 399 of these rules will not apply within such city or county, unless the ordinance is subsequently repealed. To qualify for local option exemption, the local ordinance of a county or a city must include: ~~*(4-9-09)*~~( )

a. A criminal history check at least as stringent as the check required in Sections 39-1105 and 39-1113, Idaho Code; ( )

b. Compliance with safety standards at least as stringent as required in Section 39-1109, Idaho Code; ( )

c. Compliance with health standards at least as stringent as required in Section 39-1110, Idaho Code; ( )

d. Compliance with immunization requirements at least as stringent as required in Section 39-1118, Idaho Code; and ( )

e. Compliance with training requirements at least as stringent as required in Section 39-1119, Idaho Code. ( )

02. ~~***Fee Charged****. Fees are charged at the time of initial application for a basic daycare license or certification. The fees will be used to cover the expenses for fire inspections, health inspections and criminal history and background checks. The initial inspection fees are non-refundable. Basic daycare licenses and certifications are valid for a period of two (2) years.*~~ **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. ~~*(4-9-09)*~~( )

~~***a.*** *Fees will also be charged at the time of application for renewal of a license or certification. An application for renewal must be filed every two (2) years prior to the expiration of a current basic daycare license or certification in order for the current license or certification to remain valid, pending the completion of the appropriate inspections. Application and inspection fees for renewal are non-refundable.* *(4-9-09)*~~

~~***b.*** *Fees for initial inspection and renewal of basic daycare licenses and certifications must be paid directly to the inspecting fire and health agencies. The criminal history check fees and application fee for renewal must be paid directly to the Department.* *(4-9-09)*~~

~~***c.*** *The applicable license fee payable to the Department upon initial application or a renewal will be reduced for any daycare facility which provides evidence that at least fifty percent (50%) of its staff is certified in infant/child first aid and cardiopulmonary resuscitation.* *(4-9-09)*~~

~~*i.* *To receive such refund of monies paid to the Department for licensure or renewal, the applicant or owner/operator of such daycare facility must submit to the Department daycare licensing unit, at any time during the period of a valid license or certificate for daycare, written documentation of the number of staff in the daycare facility and that at least fifty percent (50%) of that staff is certified in infant/child first aid and cardiopulmonary resuscitation.* *(4-9-09)*~~

~~*ii.* *Upon receipt of valid documentation that fifty percent (50%) of the staff of that daycare facility is so certified, a payment equal to twenty-five percent (25%) of the licensing fee paid will be made to the applicant or owner/operator of such licensed daycare facility.* *(4-9-09)*~~

~~***03.*** ***Initial Application Fees for Basic Daycare License****. All unlicensed and previously licensed daycare centers caring for thirteen (13) or more children are required to submit an initial application for a basic daycare license. The maximum fees for both unlicensed and previously licensed centers cannot exceed one hundred dollars ($100) for a state license.* *(4-9-09)*~~

~~***a.*** *The following fees will be included with the initial application for a basic daycare license:* *(3-30-01)*~~

~~*i.* *Health Inspection - thirty-five dollars ($35) payable to the Health District;*~~

~~*(3-30-01)*~~

~~*ii. Fire Inspection - up to twenty dollars ($20) payable to fire inspector or fire inspection agency; and (3-30-01)*~~

~~*iii. Criminal History Check - forty-five dollars ($45) for the criminal history check will be charged for each licensing applicant and is separate from the application fees for health and fire inspections. The fees for criminal history checks are the responsibility of the individual or daycare center with which they are associated (4-9-09)*~~

~~***b.*** *Posting of license in a conspicuous place at the daycare center is required. (3-30-01)*~~

~~***c.*** *The Department obtains a criminal history check on only those applicants, owners, operators, employees or volunteers who have direct contact with the children in care and on all other individuals twelve (12) years of age or older who have unsupervised direct contact with children in care. "Volunteers" when used in this chapter means only those persons who have direct unsupervised contact with children in care for more than twelve (12) hours in any one (1) month. (4-9-09)*~~

~~***04. Application Fees for Renewal of Basic Daycare License****. A basic daycare license must be renewed every two (2) years. The application fee for renewal of a license cannot exceed sixty dollars ($60). The following fees will be included with an application for renewal of a basic daycare license: (4-9-09)*~~

~~***a.*** *Department - ten dollars ($10) payable to the Department; (3-30-01)*~~

~~***b.*** *Health Inspection - thirty dollars ($30) payable to the Health District; and (3-30-01)*~~

~~***c.*** *Fire Inspection - up to twenty dollars ($20) payable to fire inspector or fire inspection agency. (3-30-01)*~~

~~***d.*** *It will be the responsibility of the applicant, owner, or operator of a daycare center to ensure that a criminal history check is initiated within ten (10) days for staff having direct contact with children to include employees and volunteers and all other individuals twelve (12) years of age or older who have unsupervised direct contact with children in care. (3-30-01)*~~

~~***05. Initial Application Fees for Certification****. All unlicensed and previously licensed group daycare facilities caring for seven (7) to twelve (12) children are not required to be licensed but must be certified by obtaining a fire inspection and criminal history check for applicant and staff. (4-9-09)*~~

~~***a.*** *The following fees shall be included with the initial application for a state certification: (3-30-01)*~~

~~*i. Fire Inspection - up to twenty dollars ($20) payable to fire inspector or fire inspection agency; (3-30-01)*~~

~~*ii. Criminal History Check – fifty-five dollars ($55) will be charged for each certification applicant, owner, operator, employee or volunteer at the group daycare facility requiring a criminal history check and is separate from the application fee for a fire inspection and is the responsibility of the individual or group daycare facility. (4-9-09)*~~

~~***b.*** *The fire inspection certification and verification of the required criminal history check must be available for inspection on the premises. (4-9-09)*~~

~~***c.*** *The Department obtains a criminal history check on only those applicants, owners, operators, employees, or volunteers and all other individuals twelve (12) years of age or older who have unsupervised direct contact with children in care. (4-9-09)*~~

~~***06. Application Fee for Renewal of Certification****. A certification must be renewed every two (2) years. The application fee for renewal of a certification will not exceed thirty dollars ($30). The following fees will be included with the application for renewal of certification: (4-9-09)*~~

~~***a.*** *Department - ten dollars ($10) payable to the Department; and (3-30-01)*~~

~~***b.*** *Fire Inspection – up to twenty dollars ($20) payable to fire inspector or fire inspection agency. (3-30-01)*~~

~~***c.*** *It will be the responsibility of the applicant, owner or operator of a group daycare facility to ensure that any employees and volunteers having direct contact with children have, upon employment or assignment, a criminal history check initiated within ten (10) days for staff. (3-30-01)*~~

~~***07. Voluntary Compliance by Group Daycare Facilities for Basic Daycare License****. A group daycare facility may elect voluntarily to secure a basic daycare license and must meet the same requirements as for daycare centers. Group daycare facilities wishing to apply for a basic daycare license must comply in all cases with the requirements of a fire inspection, health inspection and criminal history check. Group daycare facilities electing to secure a basic daycare license will be charged the same fees as for daycare centers. (4-9-09)*~~

~~***08. Family Daycare Homes****. Family daycare homes caring for six (6) or fewer children are not required to have a basic daycare license or certification. A family daycare home may, however, elect voluntarily to secure a basic daycare license and must meet the same requirements as for daycare centers. Family daycare homes wishing to apply for a basic daycare license must comply with the requirements of a fire inspection, health inspection and criminal history check, when required. Family daycare homes electing to secure a basic daycare license will be charged the same fees as for daycare centers. (4-9-09)*~~

~~***09. Procedure for Criminal History Checks****. The Department is hereby authorized to obtain and submit criminal history checks with fingerprints on applicants, owners, operators, employees and volunteers of daycare centers, group daycare facilities and family daycare homes, when the home wishes to voluntarily comply with the requirements for a basic daycare license. The criminal history check is conducted under Sections 39-1113 and 56-1004A, Idaho Code, and*~~

~~*IDAPA 16.05.06, "Criminal History and Background Checks." Criminal history checks are required on employees, volunteers, and all other individuals twelve (12) years of age or older who have unsupervised direct contact with children in care. Basic daycare licenses, certifications and/or daycare provider permits will be used as a means of verifying that no record has been found under Sections 39-1113 and 39-1115(3), Idaho Code, on licensing and certification applicants, owners, operators, employees and volunteers requiring criminal history checks.* (4-9-09)~~

~~***10. Temporary Basic Daycare Licenses, Certifications, and Daycare Provider Permits****.* (3-30-01)~~

~~***a.*** *The Department may issue temporary basic daycare license, temporary certifications and temporary daycare provider permits to licensing or certification applicants pending the completion of the necessary daycare inspections or criminal history checks. The Department may also issue temporary daycare provider permits to daycare providers who are owners, operators, employees and volunteers pending the completion of the criminal history check. All temporary basic daycare licenses, temporary certifications and temporary daycare provider permits will be issued under the following conditions:* (4-9-09)~~

~~*i. Issued for a period not to exceed one hundred twenty (120) days, unless otherwise extended by the Department.* (4-9-09)~~

~~*ii. Applicants, owners, operators, employees and volunteers requiring a criminal history check properly completing and signing a notarized self-declaration certifying that they have never been found guilty of or received a withheld judgement for any of the crimes enumerated in Sections 39-1113 and 39-1115(3), Idaho Code, pending the completion of the criminal history check.* (3-30-01)~~

~~*iii. All temporary basic daycare licenses and certifications are conditional upon satisfactory daycare facility inspections and applicants' satisfactory criminal history checks.* (3-30-01)~~

~~*iv. All temporary daycare provider permits are conditional upon satisfactory criminal history checks.* (3-30-01)~~

~~***b.*** *If a criminal history check on an applicant for licensing or certification or a currently licensed or certified daycare facility discloses an owner, operator, employee or volunteer with a guilty conviction or a withheld judgement under Sections 39-1113 and 39-1115(3), Idaho Code, the individual must be suspended immediately from continued employment or volunteering. The daycare facility and individual will be in violation of these rules and subject to a misdemeanor if the individual is retained after receiving notice by certified mail from the Department that the individual has been found guilty of or received a withheld judgement for an offense under Sections 39- 1113 and 39-1115(3), Idaho Code.* (4-9-09)~~

~~***11. Responsibilities of Applicants, Owners or Operators****. It is the responsibility of the applicant, owner or operator of a daycare facility to maintain a personnel record on each employee and volunteer at the daycare facility having direct contact with children. The personnel record must include date of initial employment or assignment, date of termination or extended leave from employment or assignment, a copy of the daycare provider permit and any other*~~

~~*information which may be necessary to establish daycare facility and personnel compliance with Section 39-1105, Idaho Code. It is the responsibility of the applicant, owner or operator of a daycare facility to ensure new employees and volunteers having direct contact with children, and all other individuals twelve (12) years of age or older who have unsupervised direct contact with children, submit to the Department within ten (10) days from the date of initial employment or assigned self-declaration certifying they have not been found guilty of or received a withheld judgement for the crimes under Section 39-1115(3), Idaho Code. Two (2) fingerprint cards (FD-258) with fingerprints for personnel requiring criminal history checks must also be completed within ten (10) days from the date of initial employment or assignment.*~~ ~~*(4-9-09)*~~

~~***12. Immunizations Required****. Under Section 39-1118, Idaho Code, the immunizations required and the manner and frequency of their administration are provided in IDAPA 16.02.11, "Immunization Requirements for Children Attending Licensed Daycare Facilities in Idaho."*~~ ~~*(4-9-09)*~~

~~***13. Employee Training****. The owner operator of a daycare center must ensure through documentation that each employee receives four (4) hours of ongoing training every twelve (12) months after the employee's hire date.*~~ ~~*(4-9-09)*~~

~~***14. Preemption****. These rules do not preempt more stringent local regulation or requirements.*~~ ~~*(3-30-01)*~~

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 on the premises, 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 license is issued for a place or facility providing care and supervision for compensation to a child or children not related by blood, marriage, or legal guardianship to the person or persons providing the care, where thirteen (13) or more children, regardless of relationship to the person or persons providing the care, are on the premises. *( )*

02. Group Daycare Facility. A license is issued for a place or facility providing care and supervision for compensation to a child or children not related by blood, marriage or legal guardianship to the person or person providing the care, where seven (7) to twelve (12) children, regardless of relationship to the person or persons providing the care, are on the premises. *( )*

03. Family Daycare Home. A place or facility providing care or supervision for compensation to a child or children not related by blood, marriage, or legal guardianship to the person or persons providing the care, where six (6) or fewer children, regardless of relationship to the person or persons providing the care, are on the premises. A family daycare home is not required to be licensed; however, a family daycare home may voluntarily elect to submit an application for a license to 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 employees; ( )

b. All other individuals thirteen (13) years of age or older who have unsupervised direct contact with children or 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 his 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 owner, operator, or applicant seeking licensure of a daycare center, group daycare facility, or family daycare home is responsible for the cost of the criminal history and background check and check of the 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. LICENSING FEES.
The nonrefundable licensing fee must be paid directly to the Department at the time of initial application or at the time the application for renewal is submitted. ( )

01. Licensing Fee Amounts. The maximum fee for initial application of an unlicensed daycare or renewal must not exceed the following amounts. ( )

a. Daycare center license fee must not exceed one hundred seventy-five dollars ($175). ( )

b. Group daycare facility license fee must not exceed one hundred dollars ($100). ( )

c. Family daycare home voluntarily license fee must not exceed one hundred dollars ($100). ( )

02. Inspection Fees. Fees for fire inspections and health and safety inspections are included in *licensing* fees paid to the Department. ( )

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 include the appropriate licensing fee described in Subsection 320.01 of this rule at the time the initial application is submitted to 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 *with*in *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. ( )

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* (*6*0) 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 receive care at any one (1) time, and the length the license is in effect; ( )

b. Group Daycare Facility License, stating the type of facility, the number of children who may receive care at any one (1) time, and the length the license is in effect; or ( )

c. Family Daycare Home License, stating the type of facility, the number of children who may receive care at any one (1) time, and the length the license is in effect. ( )

03. Issuance of Provisional License. If the Department determines that a licensing standard can not be met but is expected to be corrected within six (6) months, provided this does not effect the health, safety, and well-being of any child in care at the home or facility, a provisional license may be issued for a period of time not to exceed one hundred eighty (180) days. A provisional license automatically expires after one hundred eight (180) days and can only be issued one (1) in any twelve-month period. A provisional license may be issued for: ( )

a. Daycare Center License, stating the type of facility, the number of children who may receive care at any one (1) time, and the length the license is in effect; ( )

b. Group Daycare Facility License, stating the type of facility, the number of children who may receive care at any one (1) time, and the length the license is in effect; or ( )

c. Family Daycare Home License, stating the type of facility, the number of children who may receive care at any one (1) time, and the length the license is in effect. ( )

04. 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. ( )

05. Incomplete Application. The Department is not required to take any action on an application until the application is complete. ( )

06. Notification of License Renewal. The Department will notify the licensed daycare operator at least ninety (90) days prior to expiration of the license. ( )

07. List of Licensed Daycare Facilities. The Department will maintain a list of all licensed daycare facilities for public use. ( )

326. --329. (RESERVED).

330. EMPLOYEE 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 employees and other individuals thirteen (13) years of age or older who have unsupervised direct contact with children, or are regularly on the premises, regardless of how many hours worked or volunteered. 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 on the premises 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 RATIOS AND MAXIMUM GROUP SIZES.
Each owner or operator of a daycare center, group daycare facility, or family daycare home licensed by the Department must maintain, at all times during hours of operation, or when

children are present, child-staff ratios and maximum group size according to Section 39-1109, Idaho Code. ( )

01. Computing the Child-Staff Ratio. The Department will compute the child-staff ratios as follows: ( )

a. The maximum ratio of children to staff is determined by the age of the youngest child *on the premises*; *( )*

b. Each child on the premises, regardless of relationship to the person or persons providing the care, is counted for the purposes of determining the child-staff ratio; *( )*

c. All adult *employees* providing direct supervision to the children are counted as staff for the purpose of computing the child-staff ratio; and *( )*

d. Employees sixteen (16) and seventeen (17) years of age under the supervision of an adult employee, when providing direct supervision to children, may be counted as staff for the purpose of computing the child-staff ratio. ( )

02. Computing the Maximum Group Size. The Department will compute the maximum group size as follows: ( )

a. The maximum allowable group size is determined by the age of the youngest child on the premises. *( )*

b. Each child, on the premises, regardless of relationship to the person or persons providing the care, is counted for the purpose of determining the maximum group size; *( )*

c. The maximum group size for all groups cannot exceed twice the number of children allowed for a single staff member except; ( )

i. If no more than two (2) children are in attendance under the age of *two* (2) *years*, the maximum group size is ten (10) children; or *( )*

ii. If three (3) or more children are in attendance under the age of *two* (2) *years* the maximum group size is nine (9) children. *( )*

03. Child-Staff Ratios and Maximum Group Sizes. Child-staff ratios and maximum group sizes must be maintained during all hours of operation or when children are present on the premises as described in the table below:

CHILD-STAFF RATIOS AND MAXIMUM GROUP SIZE Based on Age of Youngest Child TABLE 335.03		
Ages and Counts Based on Age of Youngest Child	**Child:Staff Ratio**	**Maximum Group Size**
1 child under the age of 2 *years*	6:1 or 12:2	12

CHILD-STAFF RATIOS AND MAXIMUM GROUP SIZE Based on Age of Youngest Child TABLE 335.03		
Ages and Counts Based on Age of Youngest Child	**Child:Staff Ratio**	**Maximum Group Size**
2 children under the age of 2 *years*	6:1 or 10:2	10
3 or more children under the age of 2 *years*	6:1 or 9:2	9
All children at least 2 years of age but less than 3 years of age	8:1 or 16:2	16
All children at least 3 years of age but less than 4 years of age	10:1 or 20.2	20
All children at least 4 years of age but less than five years of age	12:1 or 24:2	24
All children at least 5 years of age or more	18:1 or 36:2	36

( )

04. Supervision of Children. *The owner or operator and all employees 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 and maximum group size, 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 *employee is:* *( )*

a. *Awake and on duty on the premises at all times during regular business hours or when children are present, and* *( )*

b. *Currently certified in pediatric rescue breathing, infant-child CPR, and first-aid treatment.* *( )*

05. Napping Children. Napping children who are not within sight of an employee must be within easy hearing distance at all times. ( )

06. 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 employee and the employee must be able to hear the children; and ( )

b. An employee must be awake and on duty to release and receive a child. ( )

336. -- 339. (RESERVED).

340. TRAINING REQUIREMENTS.
Each owner or operator of a daycare center, group daycare facility, or family daycare home

licensed by the Department, must ensure that each employee receives four (4) hours of ongoing training every twelve (12) months after the employee'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 daycare owner or operator to ensure that employees have completed and documented four (4) hours of training each year. ( )

03. *Pediatric Rescue Breathing, Infant-Child CPR, and* First Aid *Treatment Training*. *Pediatric rescue breathing, infant-child CPR, and f*irst aid *treatment* training will not count towards the required four (4) hours of annual training. *( )*

04. Employee Training Records. Each daycare owner or operator is responsible for maintaining documentation of employee training and may be asked to produce documentation at the time of license renewal. ( )

342. -- 344. (RESERVED).

345. MANDATORY REPORTING OF ABUSE, ABANDONMENT, OR NEGLECT. Under Section 16-1605, Idaho Code, daycare personnel, including the owners, operators, employees, 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. Court Ordered Denied or Limited Visitation Rights. 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. Portable Fire Extinguisher. There must be a*n 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. A*n approved* fire extinguisher *must be present* or *a hood-type fire* suppress*ion* system must be *installed* in the kitchen area. *( )*

03. Fire *Extinguishers*. *Approved f*ire extinguishers must be maintained *properly.* *( )*

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 a 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. A fire extinguisher or flame suppressant system must be kept in the kitchen area. ( )

03. Fire Code. Fire extinguishers must be maintained as per the International Fire Code/National Fire Protection Association. ( )

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 employees and children after an evacuation is completed. ( )

02. Assembly Point. Evacuation plan and assembly point for children and employees. ( )

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 employees 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, "The 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 the 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, "The 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, "The 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 employees 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 International Building Code incorporated by reference in Section 004 of these rules. ( )

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 well that 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 *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, employees, 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 employees must ensure that no smoking or other tobacco use occurs within the facility or in outdoor areas 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 Children Attending Licensed Day Care Facilities in Idaho." ( )

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. ( )

0*2*. **Heat Producing Equipment**. A furnace, fireplace, wood-burning stove, water heater and other flame or heat-producing equipment shall be installed and maintained as recommended by the manufacturer. Fireplaces and wood burning stoves shall be protected on all surfaces by screens or other means. ( )

0*3*. **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. ( )

0*4*. **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 on the premises*. *( )*

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. ( )

0*5*. **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. ( )

0*6*. **Storage of Hazardous Materials**. Cleaning materials, flammable liquids, detergents, aerosol cans, 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 that is incorporated by reference in Section 004 of these rules. ( )

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. 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 employee 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 an employee. ( )

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. **Misdemeanor 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* post*ing* 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 come into compliance with the minimum standards set forth 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. *( )*

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.* *( )*

3~~01~~96. -- 399. (RESERVED).

IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE

16.07.20 - ALCOHOL AND SUBSTANCE USE DISORDERS TREATMENT AND RECOVERY SUPPORT SERVICES FACILITIES AND PROGRAMS

DOCKET NO. 16-0720-0901 (NEW CHAPTER - FEE RULE)

NOTICE OF RULEMAKING - ADOPTION OF PENDING FEE RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2010 Idaho State Legislature for final approval. Pursuant to Section 67-5224(5)(c), Idaho Code, this pending rule will not become final and effective until it has been approved, amended, or modified by concurrent resolution of the legislature because of the fee being imposed or increased through this rulemaking. If the pending rule is approved, amended, or modified by concurrent resolution of the legislature, this agency requests that the effective date of May 1, 2010, be inserted into the language of the concurrent resolution rather than have the rule become effective upon adoption of the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending fee rule. The action is authorized pursuant to Sections 39-305, 39-306, 39-307, 39-311, 56-1003, 56-1004, 56-1004A, 56-1007, and 56-1009, Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change:

This chapter was published as a proposed new rule chapter that updated the approval process for substance use disorder facilities and programs. Based on comments received from providers, interested persons, and Department staff, during the comment period, the following substantive changes are being made to the proposed rule:

1. **New definitions were added to clarify the rule.**

2. **Language was added stating that a private treatment facility may apply for approval on a voluntary basis.**

3. **The Commission on Accreditation of Rehabilitation Facilities (CARF) was added to the rule as acceptable for approval along with the Joint Commission.**

4. **Requirements for CPR and First Aid training were clarified.**

5. **Supervisory staff qualifications were modified as well as the qualifications for a Qualified Substance Use Disorders Professional and student/interns.**

6. **Clinical case management service requirements were added to the rule and "Basic and Intensive" case management services were modified.**

7. **Other smaller changes were made in the areas of "clients rights," "admission polices," "infection control," "criminal offenses," and "services for women."**

The text of the pending rule has been amended in accordance with Section 67-5227, Idaho Code. Only those sections that have changes that differ from the proposed text are printed in this bulletin. The original text of the proposed rule was published in the September 2, 2009, Idaho Administrative Bulletin, Vol. 09-9, pages 219 through 296.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased. This fee or charge is being imposed pursuant to Section 56-1007, Idaho Code*:*

1. **The criminal history and background check (CHC) requirement is being expanded to require a CHC for each program employee who provides services to adults. Currently, a program serving only adults is not required to have criminal background checks for its employees. This new requirement will better ensure the safety of adults being served in alcohol and drug treatment programs. The fee for a CHC is $55.**

2. **A new fee is being added for the initial approval and the renewal of a program approved under these rules.**

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

1. **The requirement for criminal history and background checks is being expanded to include employees working in provider programs serving adults. Currently, only treatment providers serving adolescents are required to pay for a Department criminal history and background check. The fees for the criminal history checks are covered under IDAPA 16.05.06, "Criminal History and Background Checks." While there is a fiscal impact to the Criminal History Unit - Indirect Services Budget, and the Provider Fee Substance Abuse Receipts (neither of which go to the general fund), there is no anticipated fiscal impact to the state general fund.**

2. **The Department is proposing a new fee for the initial approval as well as the renewal inspections of substance use disorder treatment programs. This fee will be $100 per treatment facility, $100 per facility for treatment and Recovery Support Services, and $50 per Recovery Support Services only. It is estimated that $11,600 in fees will be collected annually. This money will be used by the Division of Behavioral Health to offset the cost of contracting the inspection process with the "Application of Substance Abuse Technologies Quality Management and Certification Services (CASAT)" program. The services of CASAT have been retained in order to handle all aspects of the treatment programs approval process.**

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending fee rule, contact Sherry L. Johnson at (208) 334-5934.

DATED this 20th day of November, 2009.

Tamara Prisock
DHW - Administrative Procedures Section
450 W. State Street - 10th Floor
P.O. Box 83720, Boise, ID 83720-0036
(208) 334-5564 phone; (208) 334-6558 fax
dhwrules@dhw.idaho.gov e-mail

THE FOLLOWING NOTICE PUBLISHED WITH THE PROPOSED FEE RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Sections 39-305, 39-306, 39-307, 39-311, 56-1003, 56-1004, 56-1004A, 56-1007, and 56-1009, Idaho Code.

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

Tuesday - September 22nd 10:30am to 12:00pm	Tuesday - September 29th 10:00am to 12:00pm	Thursday - October 1st 1:00pm to 3:00pm
Dept. of Health & Welfare Grand Teton Conf. Rm. 3402 Franklin Road Caldwell, Idaho	State Office Building 3rd Floor Conf. Rm. 1118 F Street Lewiston, Idaho	Dept. of Health & Welfare 1st Floor Conf. Rm. 1070 Hiline Pocatello, Idaho

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

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

1. **In order to protect adults with alcohol and substance use disorders, the requirement for a criminal background check needs to be added for those programs serving adults.**

2. **Services for the treatment of substance abuse have been expanded under Medicaid; this chapter needs to be aligned with Medicaid rules.**

3. **Requirements that were removed from IDAPA 16.06.02, "Rules Governing Standards for Child Care Licensing" effective 7/1/09 need to be added to this chapter of rules in order to ensure there is no lapse in licensing requirements.**

4. **The current chapter, IDAPA 16.06.03, is being repealed.**

FEE SUMMARY: Pursuant to Section 67-5226(2), Idaho Code, the Governor has found that the

fee or charge being imposed or increased is justified and necessary to avoid immediate danger and the fee is described herein:

1. **The criminal history and background check (CHC) requirement is being expanded to require a CHC for each program employee who provides services to adults. Currently, a program serving only adults is not required to have criminal background checks for its employees. This new requirement will better ensure the safety of adults being served in alcohol and drug treatment programs. The fee for a CHC is $55.**

2. **A new fee is being added for the initial approval and the renewal of a program approved under this chapter of rules.**

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

1. **The requirement for criminal history and background checks is being expanded to include employees working in provider programs serving adults. Currently, only treatment providers serving adolescents are required to pay for a Department criminal history and background check. The fees for the criminal history checks are covered under IDAPA 16.05.06, "Criminal History and Background Checks." While there is a fiscal impact to the Criminal History Unit - Indirect Services Budget, and the Provider Fee Substance Abuse Receipts (neither of which go to the general fund), there is no anticipated fiscal impact to the state general fund.**

2. **The Department is proposing a new fee for the initial approval as well as the renewal inspections of substance use disorder treatment programs. This fee will be $100 per treatment facility, $100 per facility for treatment and Recovery Support Services, and $50 per Recovery Support Services only. It is estimated that $11,600 in fees will be collected annually. This money will be used by the Division of Behavioral Health to offset the cost of contracting the inspection process with the "Application of Substance Abuse Technologies Quality Management and Certification Services (CASAT)" program. The services of CASAT have been retained in order to handle all aspects of the treatment programs approval process.**

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(1), informal negotiated rulemaking was conducted.

Townhall meetings were held during the month of May 2008, in Coeur d'Alene, Boise, and Pocatello, Idaho. Additional town hall meetings were held in May, June, and July 2009, with Regional Advisory Committees (RACs) in Lewiston, Pocatello, Boise, Twin Falls, Coeur d'Alene, and Caldwell, Idaho. A teleconference was held with the Board of Occupations for Marriage and Family Therapists and Licensed Clinical Professional Counselors in June, 2009.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Sherry Johnson at (208) 334-5934. Anyone may submit written comments regarding this

proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 5, 2009.

DATED this 27th day of July, 2009.

THE FOLLOWING IS THE TEXT OF THE PENDING FEE RULE

IDAPA 16
TITLE 07
CHAPTER 20

16.07.20 - ALCOHOL AND SUBSTANCE USE DISORDERS TREATMENT AND RECOVERY SUPPORT SERVICES FACILITIES AND PROGRAMS

000. LEGAL AUTHORITY.

Under Title 39, Chapter 3, Idaho Code, the Board of Health and Welfare is authorized to adopt rules that set standards for the approval of alcohol and substance use disorders treatment and recovery support services facilities and programs in the state of Idaho. Under Sections 56-1003, 56-1004, 56-1004A, 56-1007, and 56-1009 Idaho Code, the Director of the Department is authorized to supervise and administer services dealing with the problems of alcoholism including the care and rehabilitation of persons suffering from alcoholism. ( )

001. TITLE, SCOPE, AND PURPOSE.

01. **Title**. The title of these rules is IDAPA 16.07.20, "Alcohol and Substance Use Disorders Treatment and Recovery Support Services Facilities and Programs." ( )

02. **Scope**. These rules set minimum standards for approved public and private alcohol and substance use disorders treatment or recovery support services facilities and programs in the state of Idaho. These programs treat or provide services to persons who use or are substance dependent on alcohol or drugs, including prescription drugs, to the extent that their health is impaired or endangered, or their social or economic functioning is disrupted. ( )

03. **Purpose**. The purpose of these rules is to: ( )

a. Establish requirements for the approval, denial, suspension, or revocation of certificates of approval for approved public and private alcohol and substance use disorders treatment and recovery support services facilities and programs in Idaho; ( )

b. Set fees to be charged by the Department for inspections of approved public and private alcohol and substance use disorders treatment and recovery support services facilities and programs in Idaho; ( )

c. Establish criteria for the admission and discharge of persons by approved public

and private alcohol and substance use disorders treatment and recovery support services facilities and programs in Idaho; and ( )

d. Establish requirements for health, safety, and quality of treatment, care, and services provided by approved public and private alcohol and substance use disorders treatment and recovery support services facilities and programs in Idaho. ( )

002. WRITTEN INTERPRETATIONS.
In accordance with Section 67-5201(19)(b)(iv), Idaho Code, the Department has a Minimum Case Management Standards Manual which contains forms, policies, procedures, and interpretations of these rules for the development and provision of case management services, or to the documentation of compliance with the rules of this chapter. These documents are available for public inspection as described in Sections 005 of these rules. The standards are also available by accessing the Department's website at http://healthandwelfare.idaho.gov/Medical/SubstanceUseDisorders/RecoverySupportServices/tabid/381/Default.aspx, and clicking on the links under "RSS Case Management." ( )

003. ADMINISTRATIVE APPEALS.
Administrative appeals are governed by provisions of IDAPA 16.05.03, "Rules Governing Contested Case Proceedings and Declaratory Rulings." ( )

004. INCORPORATION BY REFERENCE.
The documents listed in Subsection 004.01 through 004.08 of these rules, are incorporated by reference as provided by Section 67-5229 (a), Idaho Code. ( )

01. Americans with Disabilities Act Accessibility Guidelines. 28 CFR Part 36, Appendix A. This code is available online at http://www.ada.gov/publicat.htm. Contact phone number is 1-800-514-0301. ( )

02. ASAM PPC-2R. American Society of Addiction Medicine (ASAM) Patient Placement Criteria for the Treatment of Substance-Related Disorders, Second Edition - Revised (ASAM PPC-2R). A copy of this manual is available by mail at the American Society of Addiction Medicine, 4601 North Park Ave., Suite 101, Chevy Chase, MD 20815; by telephone and fax, (301) 656-3920 and (301) 656-3815 (fax); or on the internet at http://www.asam.org. ( )

03. DSM-IV-TR. American Psychiatric Association: Diagnostic and Statistical Manual of Mental Disorders, Fourth Edition, Text Revision (DSM-IV-TR) Washington, DC, American Psychiatric Association, 2000. Copies of the manual are available from the American Psychiatric Association, 1400 K Street, N.W., Washington, DC, 20005. A copy of the manual is also available for public review at the Department of Health and Welfare, 450 West State Street, Boise, Idaho, 83702. ( )

04. Guidelines for the Accreditation of Opioid Treatment Programs (OTP). Substance Abuse and Mental Health Services Administration, Office of Pharmacologic and Alternative Therapies, Attention: OTP Certification Program, Room 2-1086, 1 Choke Cherry Road, Rockville, MD 20857; or on the internet at http://www.dpt.samhsa.gov/regulations/certification.aspx for an overview of certification regulations, and http:// www.dpt.samhsa.gov/

pdf/OTPAccredGuidelines-2007.pdf for the specific guidelines dated July 20, 2007. A copy of the manual is also available for public review at the Department of Health and Welfare, 450 West State Street, Boise, Idaho, 83702. ( )

05. International Building Code. Edition 2003. This code is available from the International Code Council, 4051 West Flossmoor Rd., Country Club Hills, IL 60478-5795, phone: 1-888-422-7233 and online at http://www.iccsafe.org. ( )

06. The Joint Commission's 2009 Comprehensive Accreditation Manual for Behavioral Health CARE (CAMBHC). The standards for conducting "Research" are available from The Joint Commission, 2009 CAMBHC, 1 Renaissance Blvd., Oakbrook Terrence, IL 60181-4294, phone: 1-877-223-6866, and online at http://www.jcrinc.com/Accreditation-Manuals/2009-CAMBHC/1260/. ( )

07. National Fire Protection Association (NFPA) Documents. The NFPA documents referenced in this chapter of rules as the Uniform Fire Code are available from the National Fire Protection Association, 11 Tracy Drive, Avon, MA 02322-9908, phone: 1-800-344-3555, and online at http://www.nfpa.org. ( )

08. Treatment Improvement Protocol (TIP) 42. "Substance Abuse Treatment for Persons with Co-occurring Disorders." This publication is available from the Substance Abuse Mental Health Service Administration's (SAMHSA's) Health Information Network, P.O. Box 2345, Rockville, MD 20847-2345, phone: 1-877-SAMHSA-7 (1-877-726-4727), TTY: 1-800-487-4889, Fax: 1-240-221-4292, Email: SHIN@samhsa.hhs.gov, Web Site: http://www.samhsa.gov/shin. ( )

005. OFFICE -- OFFICE HOURS -- MAILING ADDRESS -- STREET ADDRESS -- TELEPHONE -- INTERNET WEBSITE.

01. Office Hours. Office hours are 8 a.m. to 5 p.m., Mountain Time, Monday through Friday, except holidays designated by the state of Idaho. ( )

02. Mailing Address. The mailing address for the business office is Idaho Department of Health and Welfare, P.O. Box 83720, Boise, Idaho 83720-0036. ( )

03. Street Address. The business office of the Idaho Department of Health and Welfare is located at 450 West State St., Boise, Idaho 83702. ( )

04. Telephone. The telephone number for the Idaho Department of Health and Welfare is (208) 334-5500. ( )

05. Internet Website. The Department's internet website is found at http://www.healthandwelfare.idaho.gov. ( )

06. Substance Use Disorders Services Website. The Substance Use Disorders Services internet website is found at http://www.substanceabuse.idaho.gov. ( )

006. CONFIDENTIALITY OF RECORDS AND PUBLIC RECORDS REQUEST.

01. Public Records. The use or disclosure of Department records must comply with IDAPA 16.05.01, "Use and Disclosure of Department Records." Unless otherwise exempted by state or federal law, all public records in the custody of the Department are subject to disclosure. ( )

02. Public Availability of Licensure or Deficiencies. In compliance with Section 9-340C(9), Idaho Code, and IDAPA 16.05.01.100.02, "Use and Disclosure of Department Records," records relating to alcohol and substance use disorders treatment and recovery support services programs will be released to the public upon written request if they are part of an inquiry into an individual's or organization's fitness to be granted or retain a license, certificate, permit, privilege, commission or position. These records will otherwise be provided in redacted form as required by law or rule. ( )

007. -- 008. (RESERVED).

009. CRIMINAL HISTORY AND BACKGROUND CHECK REQUIREMENTS.

01. Criminal History and Background Check. All owners, operators, employees, transfers, reinstated former employees, student interns, contractors and volunteers hired or contracted with after May 1, 2010, who provide direct care or service or have direct client access, must comply with the provisions of IDAPA 16.05.06 "Criminal History and Background Checks." ( )

02. Availability to Work. An individual listed in Subsection 009.01 of these rules is available to work on a provisional basis at the discretion of the employer or agency once the individual has submitted his criminal history and background check application, it has been signed and notarized, reviewed by the employer or agency, and no disqualifying crimes or relevant records are disclosed on the application. An individual must be fingerprinted within twenty-one (21) days of submitting his criminal history and background check application. An individual is allowed to work or have access to clients only under supervision until the criminal history and background check is completed. ( )

010. DEFINITIONS - A THROUGH C.
For the purposes of these rules, the following terms are used. ( )

01. Access. A client's ability to obtain alcohol or substance use disorder treatment or services that he is seeking. ( )

02. Active Client. A client who receives services from an approved alcohol and substance use disorders treatment or recovery support services program, who has had face-to-face contact with a program's qualified substance use disorders professional within the immediately preceding thirty (30) calendar days. ( )

03. Adolescent. An individual between the ages of fourteen (14) and eighteen (18). ( )

***04. Admission**. The point in an applicant's relationship with a state-approved*

substance use disorders treatment program or recovery support services program when the screening and assessment process has been completed and the applicant has been found eligible by the Department to receive the services of the program. *( )*

0*5*. **Adult**. An individual eighteen (18) years of age or older. ( )

0*6*. **Adjunct Services**. Those clinical and non-clinical services provided outside of an approved alcohol and substance use disorders treatment or recovery support services program that support client recovery. Adjunct services may include: Women, Infant and Children (WIC), welfare, mental health services, and medical services. ( )

0*7*. **Advocacy**. The act of pleading for, supporting, or recommending services, supports, treatment, or opportunities for a client. For example, a case manager advocates for the unmet needs of the client and encourages independence. Advocacy, as part of case management, can be done with or for a client. ( )

0*8*. **Alcohol and Drug Testing**. The collection and initial screening of urine, hair, or oral fluid samples for screening and detecting alcohol and substance use. ( )

0*9*. **Applicant**. A person, firm, partnership, association, corporation, agency, or organization which has filed an application with the Department to become an approved alcohol and substance use disorders treatment or recovery support services program under these rules. ( )

***10*.** **Appropriate**. A term used to indicate that a particular procedure, treatment, test, or service is suitable or compatible in quantity, and provided in the best setting to meet the client's needs. ( )

1*1*. **Approved Private Treatment Facility**. An alcohol and substance use disorders treatment program or recovery support services program meeting the standards prescribed in Section 39-305(1), Idaho Code, and approved under the provisions of Section 39-305(3), Idaho Code, and these rules. The term “facility” is synonymous with the term “program.” ( )

1*2*. **Approved Public Treatment Facility**. An alcohol and substance use disorders treatment program or recovery support services program operating under the Alcoholism and Intoxication Treatment Act (Title 39, Chapter 3, Idaho Code) through a contract with the Department and meeting the standards prescribed in Section 39-305(1), Idaho Code, and approved pursuant to Section 39-305(3), Idaho Code and these rules. The term “facility” is synonymous with the term “program.” ( )

1*3*. **ASAM PPC-2R**. Refers to the manual containing the patient placement criteria for the treatment of substance-related disorders, published by the American Society of Addiction Medicine (ASAM) as incorporated by reference in Section 004 of these rules. ( )

1*4*. **Assessment and Referral Services**. A substance use disorders program provides these services in order to treat, provide services, or refer individuals. An assessment is designed to gather and analyze information regarding a client's current substance use disorder behavioral, social, medical, and treatment history. The purpose of the assessment is to provide sufficient

information for problem identification and, if appropriate, substance abuse related treatment or referral. ( )

1*5*. **Behavioral Health Services**. Services offered by the Department to treat behavioral health issues or alcohol and substance use disorders. ( )

1*6*. **Biopsychosocial Assessment**. Those procedures by which a qualified substance use disorders professional evaluates an individual's strengths, weaknesses, problems, needs, and determines priorities so that a treatment plan can be developed. ( )

1*7*. **CARF**. The Commission on Accreditation of Rehabilitation Facilities. ( )

1*8*. **Case Management**. The administration and evaluation of an array of services that may include assessment of client and client family needs, service planning, linkage to other services, client advocacy, monitoring service provision, and coordination of services. ( )

1*9*. **Case Management Planning**. The planning process where the case manager and client, parent, guardian, spouse, or significant other, as applicable, define goals, strategies to achieve these goals, responsibilities for action, and time frames for action. It also includes community reintegration planning, and discharge planning to terminate case management services when case management is no longer required by the client, goals have been met, the client no longer wishes to participate in case management, or the client is no longer eligible for services. ( )

20. Case Management Supervision*. Case management supervision includes planning, directing, monitoring, and evaluating the work of a case manager by an individual who meets the qualifications of a case manager supervisor. A clinical supervisor of a treatment agency may fulfill this role and may incorporate case management supervision into clinical supervision activities.* *( )*

21. Case Management Supervisor*. The program staff member responsible for oversight of all case management aspects of the case management services provided. A clinical supervisor of a treatment agency may also fulfill this role.* *( )*

22. **Certificate of Approval**. A certificate issued by the Department under Section 145 of these rules to an alcohol and substance use disorders treatment or recovery support services program which the Department deems to be in compliance with these rules. ( )

23. Certified Home Inspection*. An inspection of a residential dwelling conducted by a registered, licensed, or certified home inspector to determine the quality, safety, and overall condition of the dwelling.* *( )*

2*4*. **Child**. An individual under the age of fourteen (14). ( )

2*5*. **Client**. A person receiving treatment for an alcohol or a substance use disorder or receiving recovery support services. The term “client” is synonymous with the terms “patient,” “resident,” “consumer,” “participant,” or “recipient of treatment.” ( )

2*6*. **Client Record**. All documentation of individual client treatment and related services. ( )

2*7*. **Clinical Case Management**. Clinical case management is a service that integrates mental health and substance use disorders clinical expertise with case management skills to implement comprehensive interventions that address the overall maintenance of the client's physical and social environment. Clinical case management includes: engagement of the client, assessment, planning, treatment, linkage with resources, consultation with families, collaboration with psychiatrists, client education, and crisis intervention. ( )

***28*.** **Clinical Judgment**. Refers to observations and perceptions based upon education, experience, and clinical assessment. This may include psychometric, behavioral, and clinical interview assessments that are structured, integrated, and then used to reach decisions, individually or collectively, about an individual's functional, mental, and behavioral attributes and alcohol and substance use disorders service needs. ( )

***29*.** **Clinical Supervision**. Clinical supervision includes planning, directing, monitoring, and evaluating the clinical work of another staff person by a Department-qualified clinical supervisor. ( )

***30*.** **Clinical Supervisor**. The program staff member responsible for oversight of all clinical aspects of the treatment services provided. ( )

***31*.** **Clinically Managed High-Intensity Residential Treatment**. A program that offers intensive residential treatment services, staffed twenty-four (24) hours per day, seven (7) days a week, which is designed to treat persons who have significant social and psychological problems. Individuals who are appropriate for this level of care typically have multiple deficits, which may include criminal activity, psychological problems, impaired functioning, and disaffiliation from mainstream values. This level of care is also known as long-term residential care or a Therapeutic Community. ( )

***32*.** **Clinically Managed Low-Intensity Residential Treatment**. A program that offers at least five (5) hours per week of outpatient or intensive outpatient treatment services along with a structured residential recovery environment, staffed twenty-four (24) hours per day, seven (7) days a week, which provides sufficient stability to prevent or minimize relapse or continued use. This level of care is also known as a Halfway House. ( )

***33*.** **Clinically Managed Medium-Intensity Residential Treatment**. A program that offers structured residential treatment services, staffed twenty-four (24) hours per day, seven (7) days a week, which provides intensive residential program for clients who require treatment services in a highly-structured setting. This type of program is appropriate for clients who need concentrated, therapeutic services prior to community residence. Community reintegration of residents in this level of care requires case management activities directed toward networking clients into community-based recovery support services such as housing, vocational services, or transportation assistance so that the client is able to attend mutual self-help meetings or vocational activities after discharge. This level of care is also known as residential care. ( )

***34*.** **College of Professional Psychology**. Professional certification entity of the

American Psychological Association Practice Organization. ( )

3*5*. **Competencies**. Competencies are the knowledge, skills, and attitudes required for the members of the alcohol and substance use disorders clinical staff as a prerequisite to proficiency in the professional treatment of alcohol and substance use disorders. The model of competencies is determined by the Department. ( )

3*6*. **Compliance**. Demonstration that these rules, policies and procedures, and applicable federal and state statutes and regulations are observed. Compliance is determined by the Department. ( )

3*7*. **Comprehensive Case Management Service Plan**. A written comprehensive service plan based on a current assessment as described in Section 370 of these rules, that addresses the medical, psychosocial, legal, educational, and financial needs of the client. The comprehensive service plan provides for the coordination of services across multiple need dimensions. ( )

3*8*. **Continuing Care**. Care that supports a client's progress, monitors his condition, and can respond to a return to substance use or a return of symptoms of mental disorder. It is both a process of post-treatment monitoring and a form of treatment itself. ( )

3*9*. **Contract**. A formal agreement with any organization, agency, or individual specifying the services, personnel, products or space to be provided by, to, or on behalf of the program and the consideration to be expended in exchange. ( )

40. ***Contractor****. A person or company that performs work, provide supplies, or deliver services for another under a written agreement.* *( )*

***41*.** **Contracted Intermediary**. A third party contractor of the Department who handles direct contracting with network providers for alcohol and substance use disorders treatment and recovery support services. Direct services may include network management, claims payment, data gathering per federal and state requirements, and census management. ( )

***42*.** **Co-Occurring Capable**. *The ability of a treatment provider to recognize the signs and symptoms of a co-occurring disorder and make a referral to an appropriate mental health facility.* *( )*

***43*.** **Co-Occurring Disorders (COD)**. The co-occurring diagnoses of mental health and substance use disorders. ( )

***44*.** **Criminogenic Need**. A client attribute shown by research to be correlated with criminal behavior and to be an appropriate target for treatment intervention. ( )

011. DEFINITIONS - D THROUGH H.

For the purposes of these rules, the following terms are used. ( )

01. **Department**. The Idaho Department of Health and Welfare. ( )

02. **Detoxification Services**. Services necessary to monitor individuals who are undergoing the systematic reduction of a toxic agent from the body during withdrawal. ( )

03. ***Direct Client Access****. Direct client access means an employee, contractor, or volunteer who has accessibility to a client.* *( )*

0*4*. **Director**. The Director of the Department of Health and Welfare or his designee. ( )

0*5*. **Discharge**. The point at which the client's active involvement in treatment or recovery support services is terminated and the program no longer maintains active responsibility for the care of the client. ( )

0*6*. **Discharge Plan**. The plan developed jointly by the qualified substance use disorders professional and the client that provides the client with the resources needed to support his recovery. ( )

0*7*. **Discharge Summary**. A document written by the client's provider upon discharge from treatment and contains a summary of the following: ( )

a. Assessment of client problems at admission; ( )

b. Expected treatment outcomes; ( )

c. Treatment plans and strategies; ( )

d. Client status at discharge; ( )

e. Treatment progress; ( )

f. Summaries of continuing care plans; and ( )

g. Referrals for further treatment. ( )

0*8*. **Drug Court Outpatient Treatment Program**. A Department-approved program for the treatment of alcohol and substance use disorders for individuals under the jurisdiction of a local drug court. ( )

0*9*. **Drug Court Team**. Individuals who collectively plan and evaluate services for drug court participants and determine participant compliance, progress, sanctions, movement from one (1) treatment phase to another, and continuation or termination of drug court treatment. ( )

***10*.** **Early Intervention Services**. Services that are designed to explore and address problems that appear to be related to substance use. ( )

1*1*. **Education**. Strategies that teach people critical information about alcohol and

other drugs and the physical, emotional, and social consequences of their use. ( )

12. Executive Director. The individual who is responsible for the overall management of the program or facility. The executive director is appointed by the governing body to act on its behalf. The term "executive director" is synonymous with the terms "administrator," "director," "superintendent," "president," "vice-president," and "executive vice-president."( )

13. Facility/location. The individual building or buildings, including furnishings and fixtures, or locations where persons with alcohol or substance use disorders receive services. The term "facility" is synonymous with office, clinic, or physical plant. ( )

14. Governing Body. The individual or individuals, board of directors, group, or agency that has ultimate authority and responsibility for the overall operation of an alcohol and substance use disorders treatment or recovery support services facility or program and for full compliance with these rules and minimum standards. ( )

15. Group Counseling. The application of formal counseling techniques involving interaction among members of a group of clients. ( )

16. Guardian. ( )

a. Under Title 15, Chapter 5, Part 2, Idaho Code, an individual who has been appointed by a court of law to have and exercise the powers and responsibilities of a parent who has not been deprived of custody of his minor and unemancipated child; ( )

b. Under Title 66, Chapter 3 and 4, Idaho Code, an individual who has been appointed by a court of law to have and exercise the powers and responsibilities of a guardian for a person who is mentally ill or with a developmental disability; or ( )

c. Under Title 15, Chapter 5, Part 3, Idaho Code, an individual who has been appointed by a court of law to assist any incapacitated person to the extent that he lacks sufficient understanding or capacity to make or communicate responsible decisions concerning his person. ( )

012. DEFINITIONS - I THROUGH P.
For the purposes of these rules, the following terms are used. ( )

01. Idaho Board of Alcohol/Drug Counselor Certification, Inc. (IBADCC). A ;board affiliated with the International Certification Reciprocity Consortium/Alcohol and Other Drug Abuse (ICRC). The IBADCC is the certifying entity that oversees credentialing of Idaho Student of Addiction Studies (ISAS), Certified Alcohol/Drug Counselors (CADC), Advanced Certified Alcohol/Drug Counselors (ACADC), Certified Clinical Supervisors (CCS), and Certified Prevention Specialists (CPS) in the state of Idaho. The IBADCC may be contacted at: 270 N. 27th Street, Suite B, Boise, ID 83702; phone: (208) 395-1078; http://ibadcc.org/. ( )

02. Idaho Student of Addiction Studies (ISAS). An entry-level certification for substance use disorder treatment granted by the IBADCC. ( )

03. Immediate Danger. Exposure to imminent, substantial injury, pain, harm, or loss. ( )

04. Individualized Treatment Plan. A written action plan, based on an intake eligibility screening and full clinical assessment, that identifies the applicant's clinical needs, the strategy for providing services to meet those needs, treatment goals and objectives, and the criteria for terminating the specified interventions. ( )

05. Informal Networks. Informal networks are the web of relationships that people use to exchange resources and services. The content of their exchanges can be work-related, personal, or social. Informal networks are distinct from formal networks in that they are not officially recognized or mandated by organizations. ( )

06. Intake Eligibility Screening. The collection of data, analysis, and review, which the Department or its designee, uses to screen and determine whether an applicant is eligible for adult or adolescent alcohol or substance use disorders services available through the Department. ( )

07. Intern. An individual who has a written agreement with an educational institution that requires a student practicum in a behavioral health care setting. An intern may be referred to as a “Practicum Student,” “Student,” or an “Idaho Student of Addiction Studies.” ( )

08. Intensive Outpatient Services. An organized service delivered by addiction professionals or addiction-credentialed clinicians, which provides a planned regimen of treatment consisting of regularly scheduled sessions within a structured program, for a minimum of nine (9) hours of treatment per week for adults and six (6) hours of treatment per week for adolescents. ( )

09. Inventory of Treatments. The various program activities intended to cause or support the reduction or elimination of alcohol or substance use. These activities may include: education, individual, group, or family counseling, vocational rehabilitation services, medical and psychological services, and self-help groups. These services may include activities provided by the program through contractual arrangement with an outside organization. ( )

10. Level of Service Inventory -- Revised (LSI-R). An assessment tool used to assess criminal offenders for their risk to commit further offenses and their service needs. The LSI-R is available at this web site: http://www.assessments.com/default.asp. ( )

11. Licensed Clinical Professional Counselor. An individual licensed in Idaho by the Idaho State Licensing Board of Professional Counselors and Marriage and Family Therapists under Title 54, Chapter 34, Idaho Code. ( )

12. Licensed Clinical Social Worker. An individual who has a master's decree or doctorate in social work and two (2) years of postgraduate supervised clinical experience licensed in Idaho by the State Board of Social Work Examiners under Title 54, Chapter 32, Idaho Code. ( )

13. Licensed Marriage and Family Therapist, Associate Marriage and Family

Therapist, or Registered Marriage and Family Therapist Intern. An individual licensed in Idaho by the Idaho State Licensing Board of Professional Counselors and Marriage and Family Therapists under Title 54, Chapter 34, Idaho Code. ( )

14. Licensed Masters Social Worker. An individual who has a doctorate or master's degree in social work from a college or university licensed in Idaho by the State Board of Social Work Examiners under Title 54, Chapter 32, Idaho Code. ( )

15. Licensed Professional Counselor. An individual licensed in Idaho by the Idaho State Licensing Board of Professional Counselors and Marriage and Family Therapists under Title 54, Chapter 34, Idaho Code. ( )

16. Licensed Social Worker. An individual licensed in Idaho by the State Board of Social Work Examiners under Title 54, Chapter 32, Idaho Code. ( )

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. Medical Consultant. A medical consultant provides medical advice in an advisory capacity. For the purpose of this rule a medical consultant is someone who is knowledgeable about medical detoxification procedures. A medical consultant may have worked previously as a nurse, doctor, or other healthcare specialist. ( )

19. Medical Screening. An examination performed by a licensed professional nurse, nurse practitioner, physician's assistant, or a licensed physician. ( )

20. Mental Health Services. A variety of services for treating mental health disorders that include: emergency services, medication management, assessment, clinical treatment services, case management, family support, and consumer advocacy. ( )

21. NFPA. The National Fire Protection Association. ( )

22. Network Provider. A treatment or recovery support services provider who has been approved by the Department and is contracted with the Department's Management Service Contractor. A list of network providers can be found at the Department's website given in Section 005 of these rules. ( )

23. Nurse. A professional nurse (Registered Nurse or RN) or nurse practitioner licensed in Idaho by the State Board of Nursing under Title 54, Chapter 14, Idaho Code. ( )

24. Northwest Indian Alcohol/Drug Specialist Certification Board. A board that represents the Native American Chemical Dependency programs in the state of Washington, Oregon, and Idaho and offers certification for chemical dependency counselors. Information regarding certification standards may be obtained at the following website: http://www.nwiadcb.com/NWIADCB/index.html. ( )

25. On-Site Testing. Using a device or kit at a treatment or recovery support service

facility to test for alcohol or substance use. ( )

26. Opioid Replacement Outpatient Services. This service is specifically offered to a client who has opioids as his substance use disorder. Services are offered under the guidelines of an accredited program incorporated by reference in Section 004 of these rules. ( )

27. Outpatient Services. An organized non-residential service, delivered in a variety of settings, in which addiction treatment personnel provide professionally directed evaluation and treatment for alcohol and substance use disorders. ( )

28. Physician. An individual who holds a license issued by the Idaho State Board of Medicine under Title 54, Chapter 18, Idaho Code, and IDAPA 22.01.01, "Rules of the Board of Medicine for the Licensure to Practice Medicine and Surgery and Osteopathic Medicine and Surgery in Idaho." ( )

29. Program. Refers to the organization offering substance use disorders treatment or recovery support services, or both. It includes the organization's facilities, management, staffing pattern, treatment, and related activities. The term "program" is synonymous with the term "facility." ( )

30. Program Approval. Refers to the certification under Section 145 of these rules to formally recognize the facility, program, or service as having met the requirements of these rules that pertain to specific substance use disorder treatment services. ( )

31. Program Evaluation. Processes primarily used by the program's administration to assess and monitor, on a regular or continuous basis, program operation, service delivery, quality assurance, and client outcome. ( )

32. Provisional Approval. A temporary certificate of approval issued under Section 145 of these rules to an alcohol and substance use disorders treatment or recovery support services program in operation at the time of promulgation of new rules, in order to afford reasonable time to comply with the new rules and to obtain approval, or which, while not in full compliance with rules, has no deficiencies which would endanger the health, safety and welfare of clients and is in the process of making the necessary changes to comply fully. ( )

013. DEFINITIONS - Q THROUGH Z.
For the purposes of these rules, the following terms are used. ( )

01. Qualified Substance Use Disorders Professional. A professional qualified to provide substance use disorders services under Section 218 these rules. ( )

02. Quality Assurance. An ongoing process of evaluation that ensures compliance with minimum standards and provides for continuous improvements in the quality of services. ( )

03. Recovery Support Services. Non-clinical services that may include: adult safe and sober housing that is staffed, transportation, child care, family education, life skills education, marriage education, drug testing, peer-to- peer mentoring, and case management. ( )

04. Referral. The process of linking clients to appropriate treatment and recovery support services. ( )

05. Release of Information. A signed client authorization to exchange specific treatment information with a specified person or agency. ( )

06. Residential Treatment Facility. A setting for the treatment of alcohol and substance use disorders that provides twenty-four (24) hour per day, seven (7) days a week, living accommodations for clients. ( )

07. Screening. A brief process used to determine if an individual meets the program's admission criteria. The screening process is conducted prior to admission to an approved treatment program. ( )

08. Service. The activities of a treatment or recovery support services program grouped according to a common goal or purpose. Examples of services are Treatment Services, Food Services, Social Services, Nursing Services, Vocational Rehabilitation Services, and services provided to treat an alcohol or substance use disorder. ( )

09. Staff Member. A person who is directly employed by, or assigned to, a program on either a full or part-time basis. This includes volunteers, contractors, and students of a program. ( )

10. Student Practice. A formal education or training program for a student involved in the treatment of alcohol or substance use disorders. ( )

11. Substance Dependence. Substance dependence is marked by a cluster of cognitive, behavioral, and physiological symptoms indicating that the individual continues to use alcohol or other substances despite significant related problems. The cluster of symptoms can include: ( )

a. Tolerance; ( )

b. Withdrawal or use of a substance in larger amounts or over a longer period of time than intended; ( )

c. Persistent desire or unsuccessful efforts to cut down or control effects; ( )

d. Relinquishing important social, occupational or recreational activities because of substance use; and ( )

e. Continuing alcohol or drug use despite knowledge of having a persistent or recurrent physical or psychological problem that is likely to have been caused or exacerbated by such use as defined in the DSM-IV-TR. ( )

12. Substance-Related Disorders. Substance-related disorders include disorders related to the taking of alcohol or another substance of abuse, to the side effects of a medication,

and to toxin exposures. They are divided into two (2) groups: the Substance Use Disorders and the Substance-Induced Disorders as defined in the DSM-IV-TR. ( )

13. Substance Use Disorder. Includes Substance Dependence and Substance Abuse, according to the DSM-IV-TR. Substance Use Disorders are one (1) of two (2) subgroups of the broader diagnostic category of Substance-Related Disorders. ( )

14. Supports. Formal and informal services and activities that are not paid for by the Department and that enable an individual to reside safely in the setting of his choice. ( )

15. Trainee. An individual who is acquiring the required one thousand forty (1,040) hours of clinical supervised experience in accordance with Section 223 of these rules. *( )*

16. Transitional Treatment Facility. A clinically supervised, peer-supported therapeutic environment with clinical involvement that provides twenty-four (24) hours per day, seven (7) days a week, living accommodations for clients. ( )

17. Treatment(s). The provision of individual therapy, group therapy, assessment, education, and other services to eliminate or reduce alcohol and substance use and arrest, reverse or retard problems associated with alcohol or substance abuse, or both. ( )

18. Treatment Plan Review. Documented examination of treatment plans at regular intervals throughout the course of treatment to assess client progress in relation to planned treatment outcomes and make treatment plan adjustments as necessary. ( )

19. Treatment Supervisor. The person responsible for the overall management of all aspects of the provision of a treatment service or multiple treatment services. ( )

20. Uniform Fire Code. Refers to the latest edition of the Uniform Fire Code, according to Section 41-253(1), Idaho Code, as minimum standards for the protection of life and property from fire and explosions. ( )

014. -- 099. (RESERVED).

GENERAL REQUIREMENTS FOR ALL ALCOHOL AND SUBSTANCE USE DISORDERS TREATMENT OR RECOVERY SUPPORT SERVICES FACILITIES AND PROGRAMS (Sections 100 through 129)

100. CERTIFICATE OF APPROVAL REQUIRED.

01. Certificate of Approval for Public Treatment Facilities. Under Sections 39-302(4), and 39-305(1), Idaho Code, a certificate of approval is required for each facility/location of a program in order to operate, establish, manage, conduct, or maintain, directly or indirectly, an approved public treatment facility. ( )

02. Certificate of Approval for Private Treatment Facilities Voluntarily Approved*. Under Sections 39-302(3) and 39- 305(1), Idaho Code, a certificate of approval is required for*

each facility/location of a program in order to operate, establish, manage, conduct, or maintain, directly or indirectly, an approved private treatment facility voluntarily approved. *( )*

0*3*. List of Approved Facilities. The Department will maintain a list of approved public and private treatment facilities in accordance with Section 39-305(3), Idaho Code. The issuance of a certificate of approval does not guarantee adequacy of individual care, treatment, personal safety, fire safety, or the well-being of any client employee, contractor, or volunteer or occupant of a facility. ( )

0*4*. Referral and Reimbursement. In order to receive referrals from the Department or any law enforcement officer, or receive any kind of state or federal reimbursement from the Department, a facility must be on the Department's list of approved treatment facilities and also be an approved contractor in good standing with the Department's MSC. ( )

0*5*. Injunction. Notwithstanding the existence or pursuit of any other remedy, in accordance with Section 39-305(6), Idaho Code, the Department may in the manner provided by law maintain an action in the name of the State for injunctive relief or other process against any person or entity in violation of these rules or the Alcoholism and Intoxication Treatment Act (Title 39, Chapter 3, Idaho Code). ( )

101. APPROVAL FOR A PROGRAM WITH MULTIPLE FACILITIES.
An alcohol and substance use disorders treatment or recovery support services program may have more than one (1) facility or location. Each facility/location of the program must comply with all of the requirements and minimum standards in these rules in order to operate, establish, manage, conduct, or maintain, directly or indirectly, an approved public treatment facility. ( )

01. Approval for Multiple Facilities Attached to One Program. A program with more than one (1) facility or location must submit an application for each location under Section 130 of these rules. ( )

02. Certificate of Approval for Each Location. Each facility/location of the program must receive a certificate of approval issued by the Department in order for it to operate, establish, manage, conduct, or maintain, directly or indirectly, an approved public *or private* treatment facility. *( )*

03. Failure to Receive Approval for Multiple Facilities Attached to One Program. If a program has made application for certificates of approval for multiple locations or facilities, the denial of a certificate of approval for a facility/location will not affect any of the program's other applications for certificates of approval for facilities/locations that have not been denied. ( )

102. OUT-OF-STATE PROGRAMS AND FACILITIES UTILIZED BY IDAHO RESIDENTS.
The Department may, in its discretion, accept the approval and certification by the state in which a treatment program and facility is located, if the out-of-state program and facilities are utilized by clients who are residents of the state of Idaho. A program or facility licensed or certified by another state that is located, maintained, or operated within the state of Idaho, irrespective of the program headquarters, must comply with these rules and minimum standards and receive a

certificate of approval issued by the Department in order to operate, establish, manage, conduct, or maintain, directly or indirectly, an approved public *or private* treatment facility in the state of Idaho. *( )*

103. SERVICES FOR CO-OCCURRING DISORDERS (COD).
The objectives of integrated COD treatment services are to keep the client engaged in treatment, improve client outcomes, coordinate mental health and substance use disorders treatment services, and maintain the least restrictive level of care required for successful client outcomes. All approved treatment facilities and programs must be co-occurring capable as defined in Section 010 of these rules. In addition to meeting all the rules and minimum standards contained in Sections 000 through 499 of these rules, each alcohol and substance use disorders treatment services program must meet the following requirements: ( )

01. Co-Occurring Capable. All alcohol and substance use disorders treatment programs must be co-occurring capable as defined in Section 010 of these rules. ( )

02. Co-Occurring Disorders. For clients with co-occurring disorders, coordinated services for these disorders must be provided or arranged, directly or indirectly. ( )

a. Each client must have access to a full range of services provided by qualified, trained staff. ( )

b. Each client must receive services necessary to fully address his treatment needs. The treatment program must: ( )

i. Directly provide all necessary services in accordance with the program's capabilities and certification; and ( )

ii. Provide those services within its capability and promptly arrange additional services from another program as necessary. ( )

c. Services must be continuously coordinated between programs, where applicable. Programs must: ( )

i. Ensure that services are not redundant or conflicting; and ( )

ii. Maintain communication regarding the individual's treatment plan and progress. ( )

03. Duplication of Services. Integrated COD treatment services must not duplicate services currently provided by or under any other state-funded program. ( )

04. COD Competency. All alcohol and substance use disorders treatment staff must demonstrate basic COD competencies as listed in Treatment Improvement Protocol (TIP) 42 - “Substance Abuse Treatment for Persons with Co-Occurring Disorders” incorporated by reference in Section 004 of these rules. ( )

05. Written Agreements. Alcohol and substance use treatment or recovery support

services programs that do not provide COD treatment services must maintain written agreements with other approved programs that will be providing these services. This collaboration must be documented in the client's record. ( )

104. -- 129. (RESERVED).

APPLICATION FOR APPROVAL AND RENEWAL OF AN ALCOHOL AND SUBSTANCE USE DISORDERS TREATMENT OR RECOVERY SUPPORT SERVICES PROGRAM (Sections 130 through 159)

130. INITIAL APPLICATION FOR APPROVAL OF AN ALCOHOL AND SUBSTANCE USE DISORDERS TREATMENT OR RECOVERY SUPPORT SERVICES PROGRAM.
Application for approval of a program must be made to the Department at least ninety (90) days prior to the planned opening date. *( )*

01. Initial Application for Approval. Initial application for approval forms are available upon written request or online at the Department of Health and Welfare website identified in Section 005 of these rules. The applicant must provide the following items *with the application for approval*: *( )*

a. A completed and signed Department application form. ( )

b. A non-refundable application fee for each facility being applied for as follows: ( )

i. Treatment facility - one hundred dollars ($100); ( )

ii. Treatment and Recovery Support Services facility - one hundred dollars ($100); and ( )

iii. Recovery Support Services facility only - fifty dollars ($50). ( )

c. A written statement that discloses the following with respect to the applicant, owner, or person proposed as executive director: ( )

i. Any revocation of a license, certification, or approval that is held or previously held in Idaho or any other state or jurisdiction; or ( )

ii. Other disciplinary action taken, or in the process of being taken in Idaho or any other state or jurisdiction. This includes on-going fraud, waste, and abuse investigations. ( )

d. A written statement that discloses any issues involving the Internal Revenue Service or Idaho State Tax Commission for the past five (5) years. ( )

e. A copy of the “Certificate of Assumed Business Name” from the Idaho Secretary of State. ( )

f. A detailed floor plan of the facility, including measurements of all rooms, or a copy of architectural drawings. ( )

g. Disclosure of ownership as required in Section 160 of these rules. ( )

h. Copies of current and valid certificates, permits, or licenses as appropriate which may include: ( )

i. Certificate of occupancy from the local building authority utilizing the latest edition of the Uniform Building Code according to Section 39-4109, Idaho Code, with a determination of either a Group R-1, Congregate Residence of more than ten (10) persons or a Group R-3, Congregate Residence of ten (10) persons or less for each facility site. ( )

ii. Certificate of fire inspection in accordance with the Uniform Fire Code as adopted by the state fire marshal, with authority delegated to the local fire chief. If an inspection cannot be provided by the local fire department, it is the responsibility of the program to arrange for and, if necessary, to pay for the inspection. ( )

iii. Food service permit from the district health department, if food is prepared and served at the facility. ( )

iv. Joint Commission *or CARF* certificate, if accredited. *( )*

i. Documentation that the menus have been reviewed and approved by a registered dietician within the preceding twelve (12) months if food is prepared and served at the facility. ( )

j. The written plan for an inventory of treatments as defined in Section 012 of these rules. This plan must include at a minimum: ( )

i. A statement establishing the geographic area for which the applicant intends to provide services, the proposed location of all offices and facilities; ( )

ii. A full and complete description of all services the applicant proposes to provide; ( )

iii. Specific goals and objectives*;* *( )*

*i*v. The program's plans to secure additional funding; ( )

v. A description of the fiscal and information management systems the applicant plans to use; and ( )

vi. The applicant's plan for measuring and reporting outcomes and results. ( )

k. A written statement that the applicant, owner, or person proposed as executive director have thoroughly read and reviewed the Alcoholism and Intoxication Treatment Act and

these rules and are prepared to comply with all of their respective provisions. *( )*

l. Other information that may be requested by the Department for the proper administration and enforcement of these rules. *( )*

02. Proof of Insurance. The minimum insurance required for all programs is professional liability, commercial general liability, and comprehensive liability for all program vehicles. All facilities must maintain professional liability insurance in the amount of at least five-hundred thousand dollars to one million dollars ($500,000/$1,000,000) and general liability and automobile insurance in the amount of at least one million dollars to 3 million dollars ($1,000,000/$3,000,000). Copies of the declarations face-sheet for all policies must be *provided to the Department prior to final approval and before any clients are admitted for services. ( )*

03. Electronic Version of Agency Operating Policies and Procedures. A complete electronic version of the program's operating policies and procedures based on these rules *must be provided with the application.* *( )*

04. Identification of the Executive Director, Clinical Supervisor, and Treatment Supervisor. In addition to documentation that demonstrates compliance with Sections 215, 216, 217, and 218 of these rules, the applicant must provide *to the Department prior to final approval* the following information for the staff identified as Executive Director, Clinical Supervisor, and Treatment Supervisor: *( )*

a. Current resume that includes a detailed work history with start and end dates, job descriptions, and contact information for references. ( )

b. Copies of applicable licenses and certifications. ( )

05. Copy of the Lease*. A copy of the lease must be provided prior to final approval, if the real property in which the program is located is leased.* *( )*

131. FAILURE TO COMPLETE APPLICATION PROCESS.
Failure of the applicant to cooperate with the Department or complete the application process within six (6) months of the original date of application will result in a denial of the application. If the application is denied, the applicant is barred from submitting, seeking, or obtaining another application for a certificate of approval for a period of one (1) year from the date of the original application. ( )

132. -- 134. (RESERVED).

135. RENEWAL OF APPROVAL OF AN ALCOHOL AND SUBSTANCE USE DISORDERS TREATMENT OR RECOVERY SUPPORT SERVICES PROGRAM.
Application for renewal of approval of a program must be made to the Department at least ninety (90) days prior to the expiration date on the current certificate of approval and must include the following: ( )

01. Application for Renewal. To renew a certificate of approval, the applicant must provide the following items: ( )

a. A completed and signed Department renewal application form. Application for renewal forms are available upon written request or online at the Department of Health and Welfare website identified in Section 005 of these rules. ( )

b. A non-refundable renewal application fee for each facility. The renewal application fees are as follows: ( )

i. Treatment facility is one hundred dollars ($100); ( )

ii. Treatment and recovery support services facility is one hundred dollars ($100); and ( )

iii. Recovery support services facility is fifty dollars ($50). ( )

c. A written statement that discloses the following with respect to the applicant, owner, or person proposed as executive director: ( )

i. Any revocation of a license, certification, or approval that is held or previously held by in Idaho or any other state or jurisdiction; or ( )

ii. Other disciplinary action taken or in the process of being taken in Idaho or any other state or jurisdiction. This includes on-going investigations and Medicaid investigations. ( )

d. A written statement that discloses any present or previous issues, since the previous renewal of approval, involving the Internal Revenue Service or State of Idaho Tax Commission. ( )

e. Disclosure of any changes in ownership, governing body, or administration not previously made known to the Department as required in Section 160 of these rules. ( )

f. Copies of current, valid certificates, permits, licenses, or documentation listed in Subsection 130.01 of these rules. ( )

g. The written plan for an inventory of treatments and annual review as described in Section 130.01 of these rules. ( )

h. A copy of the lease if the real property in which the program is located is leased. ( )

02. Proof of Insurance. The minimum insurance required for all programs is professional liability, commercial general liability, and comprehensive liability for all program vehicles. All facilities must maintain professional liability insurance in the amount of at least five hundred thousand dollars to one million dollars ($500,000/$1,000,000) and general liability and automobile insurance in the amount of at least one million dollars to three million dollars ($1,000,000/$3,000,000). Copies of the declarations face-sheet for all policies must be included with the application. ( )

03. Electronic Version of Agency Operating Policies and Procedures. A complete electronic version of the program's operating policies and procedures based on these rules. ( )

04. Identification of the Executive Director, Clinical Supervisor, and Treatment Supervisor. In addition to documentation that demonstrates compliance with Sections 215, 216, 217, and 218 of these rules, the applicant must provide the following information for the staff identified as Executive Director, Clinical Supervisor, and Treatment Supervisor. ( )

a. Current resume which includes a detailed work history with start and end dates, job descriptions, and contact information for references. ( )

b. Copies of applicable licenses and certifications. ( )

136. -- 137. (RESERVED).

138. JOINT COMMISSION *OR CARF* ACCREDITATION.
The Department may approve programs or renew a program's certificate of approval based upon Joint Commission *or CARF* accreditation under the following conditions: *( )*

01. Organization Chart Verifying Staffing Credentials. Organization chart with verification that staff meet minimum credential or certification standards; ( )

02. Criminal History and Background Checks. Satisfactory evidence that the owner, applicant, person proposed as executive director and all employees, transfers, reinstated former employees, student interns, contractors, volunteers, and any other persons hired or contracted with after May 1, 2010, who provide care or services or have access to clients have successfully passed a criminal history and background check as described in Section 009 of these rules; ( )

03. Tuberculosis Testing. The personnel policies and procedures must establish tuberculosis testing requirements. All staff members, volunteers, and student practice/ISAS interns, must have upon employment, or engagement, and annually thereafter, a tuberculin skin test by the Mantoux method. Staff members, volunteers, and student practice/ISAS interns who are known to be a positive reactor may have a chest x-ray examination in lieu of a required tuberculin skin test. Personnel who have active tuberculosis must be restricted from employment and attendance at the facility until it is determined by laboratory evaluation that the tuberculosis is non-infectious. Results of the testing must be documented in personnel record; and ( )

04. Application Fee. Payment of non-refundable application or renewal fee as described in Sections 130 and 135 of these rules. ( )

139. (RESERVED).

140. REVIEW OF APPLICATION AND INSPECTION PROCESS.

01. Departmental Review of Application for Approval or Renewal. Upon receipt of the completed application for approval or renewal of a program, the Department will review

and advise the applicant within sixty (60) days if the application meets the requirements of Section 130 or Section 135 of these rules, whichever is appropriate. ( )

a. If the Department determines the application meets the requirements in Sections 130 or 135 of these rules, the Department will schedule an inspection of the program's facility site(s). The Department will make reasonable efforts to schedule an inspection within thirty (30) days of its determination. ( )

b. If the Department determines the application does not meet the requirements in Section 130 or 135 of these rules, it will be returned to the applicant, with written recommendations for correction and completion of the recommendations. Failure to meet the application requirements 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 may reapply no sooner than one (1) year from the date of the denial. ( )

02. Program Facility Inspection. The inspection of the program's facility site(s) will be conducted by a person or persons appointed by the Department. The Department may use the services of any qualified person or organization, either public or private, to examine, survey, or inspect any entity requesting or holding a certificate of program approval. ( )

a. The applicant's program facility site(s) will be open to Departmental inspection at any reasonable time necessary to determine compliance with these rules and with the "Alcoholism and Intoxication Treatment Act," Sections 39-301, et seq., Idaho Code. Inspections may be made without prior notice to the applicant. ( )

b. The applicant must, in compliance with federal and state confidentiality requirements, provide for review of the following: ( )

i. Any and all client records; ( )

ii. Administrative records; ( )

iii. Financial statements; ( )

iv. Other state and local inspection reports; and ( )

v. Other such documents required by the Department to make its determination, including any information that might have changed since the time the application was submitted. ( )

c. The applicant must arrange for Departmental inspection of the premises of any of its contractors to determine compliance with applicable requirements of these rules and with the "Alcoholism and Intoxication Treatment Act," Sections 39-301, et seq., Idaho Code. ( )

03. Responsibility of the Department. Within sixty (60) days of the date of the inspection, the Department must submit a written report of findings to the applicant. Upon completion of the application and inspection process, the Department may take any of the following actions: ( )

a. Issue a certificate of approval for a period of two (2) years if a facility is in compliance with the pertinent score in each category and overall weighted score for that length of time as set forth in Subsection 145 of these rules and minimum standards; ( )

b. Issue a certificate of approval for a period of one (1) year if a facility is in compliance with the pertinent score in each category and overall weighted score for that length of time as set forth in Subsection 145 of these rules and minimum standards; ( )

c. Issue a provisional certificate of approval for a period of six (6) months contingent on an approved plan to correct all deficiencies prior to the expiration of the provisional certificate if a facility is in compliance with the pertinent score in each category and overall weighted score for that length of time as set forth in Subsection 145 of these rules and minimum standards. A facility will not be issued more than one (1) provisional certificate of approval in any two (2) year period; or ( )

d. Deny a certificate of approval or renewal. ( )

141. -- 144. (RESERVED).

145. CERTIFICATE OF APPROVAL.

01. Issuance of a Certificate of Approval. If the Department is persuaded by a preponderance of the evidence that the application and inspection demonstrates that the facility, program, or service is in substantial compliance with these rules and minimum standards, the Department will issue a certificate of approval based upon the following scoring:

TABLE 145.01 - CERTIFICATE OF APPROVAL SCORING		
Duration of Certificate of Approval	**Score in Each Category**	**Overall Weighted Score**
24 months	80% - 100%	90% - 100%
12 months	75% - 79%	75% - 89%
6 months (provisional)	65% - 74%	65% - 74%

( )

02. Limitations. A certificate of approval is issued in the name of the persons, firm, partnership, association, corporation, or governmental units identified on the application and only to the address of the facility stated in the application for the period and services specified. A certificate of approval is not transferable 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. When a change of ownership, operator, or location occurs, the program must follow the procedures set forth in Subsection 160 of these rules. ( )

03. One Provisional Certificate of Approval Per Twenty-Four Month Period. Only one (1) provisional certificate of approval per facility will be issued to a program within a

twenty-four (24) month period. ( )

a. The facility being issued the provisional certificate of approval must be clearly specified. ( )

b. The issuance of a provisional certificate of approval for a facility, will not affect the standing of any of the program's other certificates of approval that have not been issued provisionally. ( )

04. Posting of the Certificate of Approval. The certificate of approval or provisional certificate of approval must be posted in a conspicuous place at each of the program's facilities. ( )

05. Expiration. A certificate of approval issued to an alcohol and substance use disorders treatment or recovery support services program will, unless sooner suspended or revoked, expire on the date designated on the certificate of approval. ( )

06. Responsibility. The individual or governing board of the entity named on the certificate of approval is responsible for the operation of the alcohol and substance use disorders treatment or recovery support services program and compliance with these rules and minimum standards. ( )

146. -- 149. (RESERVED).

150. DENIAL, SUSPENSION, AND REVOCATION OF CERTIFICATE OF APPROVAL.

01. Denial of a Certificate of Approval or Renewal. The Department will deny a certificate of approval or renewal when a program or facility receives a score of sixty-four percent (64%) or below in any category, or an overall weighted score of sixty-four percent (64%) or below, or both. Additional causes for denial of a certificate of approval or renewal include any of the following: ( )

a. The applicant, owner, or person proposed as executive director: ( )

i. Has violated any conditions of a certificate of approval; ( )

ii. Has willfully misrepresented or omitted material information on the application or other documents pertaining to obtaining or renewing any certificate of approval; ( )

iii. Has been found guilty of fraud, gross negligence, abuse assault, battery, or exploitation of children or vulnerable adults. ( )

iv. Has been denied or has had revoked any license or certificate issued by the Department or under Title 54, Idaho Code; ( )

v. Has been convicted of operating any facility without a license; ( )

vi. Has been enjoined from operating any facility; ( )

vii. Has been convicted of a *felony or misdemeanor drug or alcohol offense* within the past five (5) years, other than a minor traffic violation or infraction; or *( )*

viii. Is directly under the control or influence of any person who is described in Subsections 150.01.a.i. through 150.01.a.vii. of these rules; or ( )

b. Any act or omission adversely affecting the welfare of any client, employee, contractor, or volunteer is being permitted, aided, performed, or abetted by the facility, applicant, owner, executive director. Such acts or omissions may include: neglect, physical abuse, mental abuse, emotional abuse, violation of civil rights, or exploitation of children or vulnerable adults. ( )

02. Immediate Revocation, Suspension and Transfer of Clients without Notice. The Department will, without prior notice, revoke or suspend a certificate of approval of any facility, program, or service and immediately transfer clients, when persuaded by a preponderance of the evidence that such conditions exist as to endanger the health or safety of any client, employee, contractor, or volunteer. ( )

03. Revocation, Suspension, or Terminate/Limit on Admissions with Written Notice. The Department will suspend, or revoke a certificate of approval, or terminate or limit admissions, by giving fifteen (15) days' written notice prior to the effective date, to any alcohol and substance use disorders treatment and recovery support services program or facility when persuaded by a preponderance of the evidence that: ( )

a. One (1) or more of a program facilities are not in compliance with applicable provisions of the Idaho Code, or these rules and minimum standards. ( )

b. The owner, applicant, or the person proposed as the Executive Director as defined in Section 011 of these rules: ( )

i. Without good cause, fails to furnish any data, statistics, records or information requested by the Department, or files fraudulent returns thereof; ( )

ii. Has been found guilty of fraud, deceit, misrepresentation or dishonesty associated with the operation of a program, regardless of the population the program serves or the services the agency provides; *( )*

iii. Has been found guilty of the commission of any felony; *( )*

iv. Has failed to exercise fiscal accountability toward a client or the Department regarding payment for services, regardless of the population the program serves or the services the agency provides; ( )

v. Has knowingly permitted, aided, or abetted the commission of any illegal act on the premises of an alcohol and substance use disorders treatment or recovery support services program; ( )

vi. Has been found guilty of federal or state tax violations; or ( )

vii. Has willfully misrepresented or omitted information on the application or other documents pertinent to obtaining a program approval. ( )

c. The program changed location from the building identified in the application. Any change in location from the building requires the program to notify the Department and submit required documentation, ninety (90) days prior to the move, so the Department can inspect the new facility. Failure to do so renders the certificate of approval null and void, and the Department will suspend it, pending submission of a new application and approval of the new facility. ( )

d. Any act adversely affecting the welfare of clients is being permitted, aided, performed, or abetted such as: neglect, physical abuse, mental abuse, emotional abuse, violation of civil rights, criminal activity, or exploitation. ( )

e. The program demonstrated or exhibited a lack of sound judgment that is essential to the operation and management of an alcohol and substance use disorders treatment or recovery support services program. ( )

f. The program is not in compliance with any of the conditions of a provisional certificate of approval. ( )

g. The program lacks personnel, as required by these rules or as directed by the Department, to properly treat or serve the number of clients in the program. ( )

h. A program, facility, or service has not complied with a facility or program requirement within thirty (30) days from the date the Department accepted their plan of correction. ( )

i. A program, facility, or service has made little or no progress in correcting deficiencies within thirty (30) days from the date the Department accepted their plan of correction. ( )

j. The Department makes a determination of repeated noncompliance with respect to a program, facility, or service. ( )

04. Return of the Certificate of Approval. The certificate of approval issued to a facility, program, or service is the property of the state of Idaho and must be immediately returned to the Department under the following circumstances: ( )

a. Upon the suspension or revocation of the certificate of approval; ( )

b. If the facility, program, or service is discontinued by the voluntary action of the facility, program, or service; or ( )

c. Upon expiration of the certificate of approval. ( )

05. Multiple Certificates of Approval. When a facility, program, or service holds multiple certificates of approval: ( )

a. The facility, program, or service having the certificate of approval denied, suspended or revoked must be clearly specified. ( )

b. If a facility, program, or service holds multiple certificates of approval, the denial, suspension or revocation of a certificate of approval will not affect the standing of any of the program's other certificates of approval that have not been denied, revoked, or suspended. ( )

151. SIX-MONTH PROVISIONAL APPROVAL.

01. Issuance of Six-Month Provisional Certificate of Approval for New Programs. Each applicant for initial approval that does not have deficiencies that would impair the health, safety, and welfare of any client, employee, contractor, or volunteer and that receives a score of sixty-five percent (65%) to seventy-five percent (75%) in every category, and an overall weighted score of sixty-five percent (65%) to seventy-five percent (75%) will be issued a six-month provisional certificate of approval. ( )

02. Issuance of Six-Month Provisional Certificate of Approval for Deficiencies. The Department may revoke a certificate of approval and issue a provisional certificate of approval for a period not to exceed six (6) months to the entire program or to one (1) of its facilities at any time if the program had been approved at its last application, but has subsequently been found by the Department to be deficient in relation to the requirements of these rules and minimum standards. ( )

03. Provisional Certificate of Approval Written Plan of Compliance. Within thirty (30) days of the issue date of the provisional certificate of approval, the program must prepare and submit a written plan of correction acceptable to the Department which sets forth the program's plan for achieving compliance with all requirements of these rules by the expiration of the provisional certificate. ( )

04. One Provisional Certificate of Approval Per Twelve Twenty-Four Month Period. Only one (1) provisional certificate of approval per facility will be issued to a program within a twenty-four (24) month period. ( )

a. The facility being issued the provisional certificate of approval must be clearly specified. ( )

b. If a facility, program, or service holds multiple certificates of approval, the issuance of a provisional certificate of approval for a facility, will not affect the standing of any of the program's other certificates of approval that have not been issued provisionally. ( )

05. Expiration of Provisional Certificate of Approval. If a facility, program, or service fails to achieve compliance within the six (6) month provisional period, the provisional certificate of approval will automatically expire at the end of the six (6) month provisional period, without further notice or Department action. The facility, program, or service cannot reapply for approval for two years (2) year after the expiration date of the provisional certificate of approval.

( )

152. NOTICE OF DENIAL, SUSPENSION, OR REVOCATION.

01. Written Notice of Determination. With the exception of any action taken under Subsection 150.02 of these rules, in the event an application or certificate of approval is denied, suspended, or revoked, the Department will, within fifteen (15) business days of making its decision, notify the applicant or the owner's designated representative, in writing, by certified mail, return receipt requested, of its determination. The written notice must include the following: ( )

a. The applicant's or owner's name and identifying information; ( )

b. A statement of the decision; ( )

c. A concise statement of the reasons for the decision; and ( )

d. The process for pursuing an administrative appeal. ( )

02. Effect of Previous Denial or Revocation. ( )

a. Denial. The Department will not accept or consider an application for a certificate of approval from any applicant, owner, executive director, related person, or entity who has had a certificate of approval denied until after two (2) years have elapsed from the date of the denial. ( )

b. Revocation. The Department will not accept or consider an application for a certificate of approval from any applicant, owner, executive director, related person, or entity who has had a certificate of approval revoked until after five (5) years have elapsed from the date of the revocation. ( )

153. CUMULATIVE ENFORCEMENT POWERS.
If the Department determines that a facility, program, or recovery support service does not meet these rules and minimum standards, it may take any of the enforcement actions described in these rules or impose any remedy, independently or in conjunction with any others authorized by law or these rules. ( )

154. -- 159. (RESERVED).

FACILITY PROGRAM REQUIREMENTS
(Sections 160 through 449)

160. DISCLOSURE OF OWNERSHIP, ADMINISTRATION, GOVERNING BODY.

01. Disclosure of Ownership. Each alcohol and substance use disorders treatment or recovery support services program must maintain a report available to the public which fully discloses ownership. The report must disclose: ( )

a. The names and addresses of all persons having an ownership interest in the facility, program, or service and whether they are individuals, partnerships, corporations, or subdivisions of other bodies, such as public agencies or religious, fraternal, or other charitable organizations; and ( )

b. In the case of corporations, the names and addresses of all officers, directors, and principal stockholders who hold ten percent (10%) or more interest in the corporation, either beneficial or of record. ( )

02. Non-Transfer of Certificate of Approval. A program's certificate of approval 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 ownership, lease or location occurs, the facility must be re-approved using the application procedures set forth in Section 130 of these rules and obtain a certificate of approval before commencing operations as an alcohol or substance use disorders treatment or recovery support services facility. For residential programs serving clients who are children or adolescents, a license granted to the program under Title 39, Chapter 12, Idaho Code and IDAPA 16.06.02, "Rules Governing Standards for Child Care Licensing," is not transferable. ( )

03. Change in Ownership or Lease of Real Property. The program must notify the Department in writing within ten (10) days of any change in ownership or any amended lease of the real property in which the treatment activities or recovery support services are provided. *( )*

04. Changes in Administration. The program must notify the Department of any change in administration. The Department may request a hearing to determine if a new application is required when the Department determines that any change in administration may result in deviation from the intent of the application for approval, renewal application, or plan for an inventory of treatments, as submitted by the program. *( )*

05. 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 certification standards, or who has had a certification revoked, must include evidence that there is a bonafide arm's-length agreement and relationship between the two (2) parties. An entity purchasing a facility with an enforcement action acquires the enforcement action. ( )

06. Change in Name of Program. The program must notify the Department in writing at a minimum of thirty (30) days prior to the change in name of business. The notification must include the effective date of change and reason for the change. ( )

161. NOTIFICATION OF PROGRAM CLOSURE.

01. Notification of Anticipated Closure. A program must notify the Department in writing within a minimum of thirty (30) days prior to an anticipated closure of any of its programs. ( )

02. Contents of Notification of Closure. The notification of closure must include:

( )

a. Location(s) of closure; ( )

b. Location(s) of where client records will be maintained; ( )

c. Explanation of the closure; ( )

d. Procedure for client care during transition; and ( )

c. Procedures to assist clients with continuation of services through another service provider. ( )

162. -- 164. (RESERVED).

165. GOVERNING BODY OF AN ALCOHOL AND SUBSTANCE USE DISORDERS TREATMENT OR RECOVERY SUPPORT SERVICES PROGRAM.
Each alcohol and substance use disorders treatment and recovery support services program must have a governing body that meets the following standards: ( )

01. Governing Body Has Overall Responsibility. The facility, program, or services must have a governing body which has overall responsibility for the operation of the program and compliance with these rules and minimum standards. ( )

a. The governing body for a program operated by a government entity must have: ( )

i. A written description of the administrative organization of the government entity within which it operates; and ( )

ii. A written description of how the lines of authority within the government entity relate to the governing body of the program. ( )

b. The governing body for a program operated by a non-governmental person or entity must have a charter or constitution, bylaws or administrative policies. ( )

02. Mission Statement, Goals and Objectives. The governing body must develop a written mission statement, goals and objectives that establish the program's philosophy and direction for treatment or recovery support services. ( )

03. Bylaws or Administrative Policies. The governing body must establish bylaws or administrative policies to guide relationships between itself and the responsible administrative and professional staffs and the community. Current copies of the bylaws or administrative policies are readily available to all members of the governing body, the Department and other persons in accordance with their responsibilities or involvement in implementing the policies of the program. ( )

166. -- 169. (RESERVED).

170. EXECUTIVE DIRECTOR.
All alcohol and substance use disorders treatment or recovery support services programs serving adults, children, and adolescents must have provisions for an executive director as follows:( )

01. Appointment and Hiring Procedure. The governing body must appoint or hire an executive director for the facility, program, or services. When more than one person in a program has executive authority from, and responsibility to, the governing body, those persons must comply with all standards that relate to the executive director. ( )

02. Qualifications for the Executive Director. The qualifications of the executive director must be stated in the governing body bylaws or administrative procedures and include the following: ( )

a. The executive director must be a qualified substance use disorders professional with previous responsibility relevant to administration of an alcohol and substance use disorders treatment program; or ( )

b. Experience may be substituted for requirements of a qualified substance use disorders professional, if carefully evaluated, justified and documented by the governing body. ( )

03. Authority of the Executive Director. The governing body bylaws *or* administrative policies must state the executive director's responsibility to the governing body for the overall operation of the program, including the control, utilization and management of its physical and financial assets and the recruitment and direction of staff. *( )*

04. Responsibilities of the Executive Director. The governing body bylaws or administrative policies must state the executive director's responsibilities in assisting the governing body in formulating policy by preparing, presenting, and reviewing with them: ( )

a. A current table of organization which sets forth lines of staff authority, responsibility and communication in accordance with policies established by the governing body. ( )

b. Policies and procedures to guide the administration and operation of the program. ( )

c. Long-term and short-terms plans for the program, including the plan for an inventory of treatments as outlined in Section 130 of these rules. ( )

d. Reports on the nature and extent of funding and other available resources. ( )

e. Reports describing the program's operations. ( )

f. Reports evaluating the efficiency and effectiveness of program activity. ( )

g. Budgets and financial statements. ( )

h. Any data, information, reports and records requested by the Department. ( )

05. Guardianship and the Executive Director. The executive director must not act as, or become guardian of, any client of the alcohol and substance use disorders treatment or recovery support services program. ( )

171. -- 174. (RESERVED).

175. FISCAL MANAGEMENT.
Alcohol and substance use disorders treatment or recovery support services programs must have a fiscal management system that meets the requirements in this section of rule. ( )

01. Fiscal Responsibility. The executive director must maintain responsibility for a fiscal system which follows generally accepted accounting principles. ( )

02. Annual Budget. All alcohol and substance use disorders treatment or recovery support services programs must prepare a written annual budget, which includes a statement of expected revenues and expenses. ( )

03. Fee Schedule. The fiscal management system of alcohol and substance use disorders treatment or recovery support services programs must include a fee schedule. ( )

04. Reporting Mechanism. The fiscal management system must include a reporting mechanism that maintains information on the program's fiscal performance. ( )

05. Policies and Procedures for Fiscal Management System. The program must maintain current, written policies and procedures for the operation of the fiscal management system. ( )

06. Safekeeping of Clients' Valuables. Any alcohol and substance use disorders treatment or recovery support services program safekeeping clients' funds or other valuables must maintain an inventory of such valuables. ( )

a. A proper accounting of clients' funds or other valuables deposited with the program for safekeeping or expenditure must be kept and made available to authorized individuals for review. Such authorized individuals include the client or his immediate family or guardian. ( )

b. At the time of depositing client funds or other valuables with the program for safekeeping, the client must sign a receipt for all such funds or valuables with one (1) copy going to the client and one (1) copy being retained by the program. ( )

176. -- 179. (RESERVED).

180. MANAGEMENT INFORMATION SYSTEM.
Alcohol and substance use disorders treatment or recovery support services programs must maintain a management information system that allows for the efficient retrieval of data needed to

measure the program's performance. Specific requirements of the management information system are as follows: ( )

01. Automated or Manual System Management Information System. The system may be an automated or manual system and must delineate the provision of the alcohol and substance use disorder treatment services as outlined in the program's plan for an inventory of treatments. ( )

02. Demonstration of Provided Services. The system must be capable of demonstrating that services are being provided to persons in need of alcohol and substance use disorders treatment in the program's plan for an inventory of treatments and recovery support services. ( )

181. -- 199. (RESERVED).

200. DESCRIPTION OF SERVICES.
All alcohol and substance use disorders treatment or recovery support services programs must prepare a written plan for the provision of services that meets the requirements in this section of rule. ( )

01. Content of Written Plan for Provision of Services. The plan must contain: ( )

a. The mission statement, goals, and objectives developed by the governing body under Section 165 of these rules. ( )

b. Goals and objectives that identify the annual and the long-range needs of the program: ( )

i. Goals and objectives that are specified for each facility; and ( )

ii. The objectives are written so that performance can be measured. ( )

c. A description of the process for developing, adopting and implementing goals and objectives. ( )

d. The client population served, including age groups and other relevant characteristics. ( )

e. The hours and days the program provides services. ( )

f. Inventory of treatment services provided. ( )

g. Description of recovery support services provided. ( )

h. Annual evaluation of the need for the services in the area, description of unmet needs, and goals for improving the unmet need. ( )

i. Annual evaluation of collaboration with other substance use disorders treatment or recovery support service providers in the achievement of a comprehensive system of care in the service area. ( )

j. The intake or admission process, including how the initial contact is made with the client and the family or significant others. ( )

k. The client assessment and evaluation procedures used by the program. ( )

02. Distribution of Written Plan for Provision of Services. The written plan for provision of services must be made known and made available to all program staff and to the executive director. ( )

03. Annual Review of Written Plan for Provision of Services. The written plan for provision of services must be reviewed at least annually, and revised as necessary, in accordance with the changing needs of clients and the community and with the overall objectives and goals of the program. The written plan must be signed and dated by the governing body when reviewed or revised. Revisions to the plan must include: ( )

a. Notation of any changes in relation to the requirements of Subsection 200.01 of these rules. ( )

b. Relevant findings from the program evaluation process, including assessment of progress toward the goals and objectives set forth in the plan and reasons for non-attainment of any objectives. ( )

c. Relevant findings from the program's quality assurance program for the purpose of improving client treatment and resolving problems in client treatment. ( )

201. -- 209. (RESERVED).

210. PERSONNEL POLICIES AND PROCEDURES.
All alcohol and substance use disorders treatment or recovery support services programs must have and adhere to personnel policies and procedures that meet the following standards: ( )

01. Required Personnel Policies and Procedures. Personnel policies and procedures must be developed, adopted and maintained to promote the objectives of the program and provide for a sufficient number of qualified substance use disorders professionals, treatment and support staff to render the services of the program and provide quality care during all hours of operation. ( )

a. All personnel policies must be written, reviewed on an annual basis by the executive director and governing body, and signed and dated when reviewed or revised. ( )

b. The personnel policies must include procedures for recruiting, selecting, promoting and terminating staff. ( )

c. The personnel policies and procedures must apply to all employees, but may differ

with respect to job classifications. ( )

d. The personnel policies and procedures must include information on the following: ( )

i. Employee benefits; ( )

ii. Recruitment and promotion; ( )

iii. Orientation; ( )

iv. Training and staff development; ( )

v. Employee grievances; ( )

vi. Safety and employee injuries; ( )

vii. Relationships with employee organizations; ( )

viii. Disciplinary systems; ( )

ix. Suspension and termination mechanisms; ( )

x. Wages, hours and salary administration; ( )

xi. Rules of conduct; ( )

xii. Lines of authority; and ( )

xiii. Performance appraisals and evaluation schedule. ( )

e. The personnel policies and procedures must include a mechanism for determining that all personnel are capable of performing assigned tasks. ( )

f. The personnel policies and procedures must ensure that personnel who have a communicable disease, infectious wound or other transmittable condition and who provide care or services to clients or have access to clients are required to implement protective infection control techniques in accordance with these rules. If protective infection control techniques are not implemented, personnel who have a communicable disease, infectious wound or other transmittable condition must not work until the infectious state is corrected and non-infectious; or be reassigned to other areas where contact with others is not expected and the likelihood of transmission of infection is absent; or seek other remedies that will avoid spreading the infection. ( )

g. The personnel policies and procedures must describe methods and procedures for supervising all personnel, including volunteers and students. ( )

h. The personnel policies and procedures must assure confidentiality of personnel

records and specify who has access to personnel information. ( )

i. There must be documentation to verify that the policies and procedures are made available to and discussed with each employee at the time of hire and are made available to others upon request. ( )

j. A mechanism must be established for notifying employees of changes in the policies and procedures. ( )

k. The personnel policies and procedures must establish tuberculosis testing requirements for all staff members. Each employee must have upon employment, and annually thereafter, a tuberculin skin test by the Mantoux method. An employee who is known to be a positive reactor may have a chest x-ray examination in lieu of a required tuberculin skin test. Personnel who have active tuberculosis must be restricted from employment and attendance at the facility until it is determined by laboratory evaluation that the tuberculosis is non-infectious. Results of the testing must be documented in personnel record. ( )

l. The personnel policies and procedures must establish the requirement for CPR training and basic first aid training. *A minimum of one (1) CPR and First Aid trained staff must be onsite during business hours*. Staff responsible for client care must complete this training within ninety (90) days of employment. Additionally, the policies and procedures must establish the methods for renewal of CPR and first aid certification so that they remain current at all times. *( )*

m. The personnel policies and procedures must establish the provision for criminal history background checks for all employees as described in Section 009 of these rules. ( )

n. The personnel policies and procedures must establish the provision of clinical supervision. ( )

o. Policy and procedures must be written that establish a drug free workplace. ( )

02. Hiring Practices. Hiring practices must be specified in the written policies and procedures and must be consistent with the needs of the program and its services. ( )

a. The selection of personnel must be based on criteria that are demonstrably related to the job under consideration. ( )

b. Qualified substance use disorders professional staff must participate in determining what training, experience, and demonstrated competence will be required for assuming specific clinical service responsibility. ( )

c. There must be documentation to verify that qualified substance use disorders professionals meet all federal, state and local requirements for licensure, registration or certification. ( )

03. Equal Employment Opportunity. No alcohol and substance use disorders treatment or recovery support services program approved under these rules will discriminate on

the basis of race, creed, color, religion, age, gender, national origin, veteran, or disability, except in those instances where bona fide occupational qualifications exist. ( )

04. Responsible Staff Member to Implement Personnel Policies and Procedures. The executive director must appoint a staff member to implement and coordinate personnel policies and procedures to accomplish the following tasks: ( )

a. Develop a written organizational plan for personnel services; ( )

b. Maintain personnel records; ( )

c. Disseminate employment information to staff; ( )

d. Develop staff orientation programs; ( )

e. Implement procedures designed to assure compliance with federal, state and local laws related to employment practices; and ( )

f. Supervise the processing of employment-related forms. ( )

05. Contents of Personnel Record for Each Staff Member. A personnel record must be kept on each staff member and must contain the following items: ( )

a. Application for employment including a record of the employee's education or training and work experience. This may be supplemented by a resume; ( )

b. A written record of all findings from verbal contacts with references, and letters of recommendation; ( )

c. Verification of licensure, certification, registration or renewals; ( )

d. A signed and dated commitment to a code of ethics appropriate for alcohol and substance use disorders treatment staff; ( )

e. Number of hours per pay period, wage and salary information, including all adjustments; ( )

f. Performance appraisals; ( )

g. Counseling actions; ( )

h. Disciplinary actions; ( )

i. Commendations; ( )

j. Employee incident reports; ( )

k. A Department criminal history check; ( )

l. Results of tuberculosis testing; ( )

m. Verification of employee and emergency orientation procedures; and ( )

n. Verification of current cardiopulmonary resuscitation (CPR) training and basic first aid training. For employees in direct care at Residential Social Detoxification Settings, verification of additional training specific to detoxification prior to being charged with the responsibility of client care. ( )

06. Job Description for a Position in the Program. For each position in the program, there must be a written job description that specifies the duties and responsibilities of the position and the minimum level of education, training or related work experience required or needed to fulfill it. ( )

a. Each job description must specify the following: ( )

i. The position title; ( )

ii. The program, department, service, or unit; ( )

iii. Direct supervisor's title; ( )

iv. Positions supervised, if any; ( )

v. Clear descriptions of job functions; and ( )

vi. Clinical, administrative, and procedural responsibility and authority. ( )

b. Each job description must accurately reflect the job and must be revised whenever a change in qualifications, duties, supervision, or any other major job-related factor is made. ( )

c. Each job description must be comprehensive enough to enable a new employee to understand the position, job functions, responsibility, chain-of-command, and authority. ( )

d. Each job description must be sufficiently detailed to serve as a basis for performance appraisals ( )

07. Performance Appraisals. Performance appraisals must be conducted and must be related to the job description and job performance. ( )

a. The criteria used to evaluate job performance must be measurable and relate to the skills, knowledge and attitudes that the job requires. ( )

b. Performance appraisals must be conducted, at a minimum, annually. ( )

c. Performance appraisals must be in writing. ( )

d. There must be documentation to verify that the employee has reviewed the evaluation and has had an opportunity to comment on it. The employee must sign the appraisal after review and comments are completed. ( )

e. The program must develop policies and procedures to follow when there is a serious discrepancy between the staff member's actual job performance and the criteria for an acceptable level of job performance. ( )

211. -- 214. (RESERVED).

215. SUPERVISORY STAFF COMPOSITION.
All alcohol and substance use disorders treatment programs must meet required staff to client ratios. Unless otherwise specified, facilities providing treatment services must provide for the following supervisory staff: ( )

01. Treatment Supervisor. The facility will provide for a Treatment Supervisor. The individual may supervise more than one (1) treatment activity. This position can also be the Clinical Supervisor. In those instances where these positions are combined, all standards must be met for all positions. ( )

02. Clinical Supervisor. The facility must provide for a Clinical Supervisor who can be the Treatment Supervisor. In those instances where these positions are combined, all standards must be met for all positions. ( )

03. Services Provided at a Satellite Location. If the treatment supervisor is not available to oversee the treatment activities at a satellite location on a full-time basis, the agency must: ( )

a. Employ a substance use disorder treatment professional who has been appointed a substance use disorder treatment professional for a minimum of two (2) years; ( )

b. Ensure the employee receives clinical supervision as required in Section 217 of these rules; ( )

c. Develop a written plan that includes an emergency contact for the treatment professional in the event of an emergency; and ( )

d. The treatment supervisor must conduct an on-site review and assessment of the services provided at the satellite location a minimum of one (1) time per month. ( )

216. SUPERVISORY STAFF QUALIFICATIONS.
Qualifications of the supervisory staff must be verified through written documentation of work experience, education, and classroom instruction. The supervisory staff must meet the requirements in Section 218 of these rules and the following requirements: ( )

01. Treatment Supervisor. The Treatment Supervisor must meet the requirements in Section 218 of this rule and have a combination of education and experience as follows: ( )

a. Equivalent of five (5) years full-time paid professional experience providing alcohol and substance use disorders treatment with at least two (2) of the five (5) years providing direct treatment in a state, federal, Joint Commission, or CARF-approved program. State approval includes other states that are approved, licensed, or certified to provide substance use disorders treatment services through their Single State Authority. This experience must be relevant for child and adolescent treatment if supervising treatment in a child and adolescent treatment program; or ( )

b. Bachelor's Degree in relevant field and four (4) years paid full-time professional experience with two (2) years in direct treatment in a state, federal, Joint Commission, or CARF-approved program. State approval includes other states that are approved, licensed, or certified to provide substance use disorders treatment services through their Single State Authority; or ( )

c. Master's Degree and three (3) years paid full-time professional experiences with two (2) years in direct treatment in a state, federal, Joint Commission, or CARF-approved program. State approval includes other states that are approved, licensed, or certified to provide substance use disorders treatment services through their Single State Authority; and ( )

d. Equivalent of one (1) year paid full-time supervision experience of alcohol and substance use disorders treatment services in a state, federal, Joint Commission, or CARF-approved program. State approval includes other states that are approved, licensed, or certified to provide substance use disorders treatment services through their Single State Authority *or have a Clinical Supervisor designation from the Idaho Bureau of Occupational Licenses*; and *( )*

e. Knowledge and experience in providing alcohol and substance use disorders treatment including client evaluation, counseling techniques, relapse prevention, case management, and family therapy. ( )

02. Clinical Supervisor. The Clinical Supervisor must meet the requirements in Section 218 of this rule and have a combination of education and experience as follows: ( )

a. Master's Degree from an accredited, approved, and recognized college or university in health and human services and the equivalent of four (4) years paid full-time professional experience with three (3) years providing direct substance use disorders treatment and one (1) year paid full-time supervision experience in a substance use disorders treatment services state, federal, Joint Commission, or CARF-approved program. State approval includes other states that are approved, licensed, or certified to provide substance use disorders treatment services through their Single State Authority *or have a Clinical Supervisor designation from the Idaho Board of Occupational Licensure*. This experience must be relevant for child and adolescent treatment if supervising treatment in child and adolescent treatment programs; *( )*

b. *IBCADCC Certified Clinical Supervisor;* *( )*

c. Knowledge and experience demonstrating competence in alcohol and substance use disorders treatment including client evaluation, counseling techniques, relapse prevention, case management, and family therapy; and ( )

d. For outpatient programs providing services to children and adolescents, the clinical supervisor must have two (2) years of experience working with families or children in an alcohol and substance use disorders treatment services setting in a state, federal, Joint Commission, or CARF-approved program. State approval includes other states that are approved, licensed, or certified to provide substance use disorders treatment services through their Single State Authority. Working knowledge of child and adolescent growth and development, and the effects of alcohol and drugs on a child's growth and development. ( )

e. A clinical supervisor must have completed the Clinical Supervision training model as identified by the Department. *The Clinical Supervision training must be completed within one hundred eighty (180) days of date of hire or date of designation as clinical supervisor.* *( )*

f. A Clinical Supervisor for Co-Occurring Disorders Enhanced Programs must meet all requirements in Subsection 216.02.b. of this rule, have a Master's Degree from an accredited, approved, and recognized college or university in health and human services, and possess a current Idaho state license to provide behavioral health clinical services. ( )

217. CLINICAL SUPERVISION.
The alcohol and substance use disorders treatment program must provide for supervision of all clinical activities by qualified substance use disorders professionals including: ( )

01. Inventory of Treatments Written Plan. A written plan for an inventory of treatments providing and defining the procedure for the supervision of all clinical activities by qualified substance use disorders professionals; ( )

02. Specific Treatment Responsibilities. All members of the treatment team who have been assigned specific treatment responsibilities must be qualified by training or experience and demonstrated competence; ( )

03. Supervision by a Clinical Supervisor. All members of the treatment team must be supervised by a clinical supervisor as defined in Section 010 of these rules; ( )

04. Evaluation of Competencies. Clinical supervision must include a documented evaluation of the competencies of the members of the clinical staff, and a plan of activities which bring those competencies to proficiency. The evaluation will be conducted within one (1) month of initial hire and annually thereafter. Documentation of the evaluation and a record of improvement activities must be present in each Clinical Supervision record. The clinical supervision record must contain at a minimum: ( )

a. Demographic information including name, date of hire, credential, and position; ( )

b. Learning plan(s); ( )

c. Observation documentation; ( )

d. Competency rating forms; ( )

e. Intensive supervision plan, if required; ( )

f. Current resume; and ( )

g. Documentation of clinical supervision activities which include date of clinical supervision, type of clinical supervision activity, length of time spent performing the clinical supervision activity. ( )

218. QUALIFIED SUBSTANCE USE DISORDERS PROFESSIONAL PERSONNEL REQUIRED.
The alcohol and substance use disorders program must employ the number and variety of staff to provide the services and treatments offered by the program as a multidisciplinary team. The program must employ at least one (1) qualified substance use disorders professional for each facility. ( )

01. Qualified Substance Use Disorders Professional. A qualified substance use disorders professional includes the following: ( )

a. IBADCC Certified Alcohol/Drug Counselor; ( )

b. IBADCC Advanced Certified Alcohol/Drug Counselor; ( )

c. Native American Certified Alcohol and Drug Abuse Counselor (NACADC); ( )

d. Northwest Indian Alcohol/Drug Specialist Certification - Counselor II or Counselor III; ( )

e. National Board for Certified Counselors (NBCC) - Master Addictions Counselor (MAC); ( )

f. "Licensed Clinical Social Worker" (LCSW) *or a "Licensed Masters Social Worker" (LMSW)* licensed under Title 54, Chapter 32, Idaho Code, *who holds* one (1) of the certifications under Subsections 218.01.a. through 218.01.e. of this rule *or has one thousand forty (1,040) hours of supervised experience providing substance use disorder treatment, in an alcohol and substance use disorders treatment services setting in a state, federal, Joint Commission, or CARF-approved program. State approval includes other states that are approved, licensed, or certified to provide substance use disorders treatment services through their Single State Authority*; *( )*

g. "Marriage and Family Therapist," "Registered Marriage and Family Therapist Intern," or "Associate Marriage and Family Therapist" licensed under Title 54, Chapter 34, Idaho Code, *who holds* one (1) of the certifications under Subsections 218.01.a. through 218.01.e. of this rule *or has one thousand forty (1,040) hours of supervised experience providing substance use disorder treatment, in an alcohol and substance use disorders treatment services setting in a state, federal, Joint Commission, or CARF-approved program. State approval includes other states that are approved, licensed, or certified to provide substance use disorders treatment services through their Single State Authority;* *( )*

h. "Nurse Practitioner" licensed under Title 54, Chapter 14, Idaho Code, may provide substance use disorder services. A nurse practitioner must have one thousand forty (1,040) hours of supervised experience providing substance use disorder treatment, in an alcohol and substance use disorders treatment services setting in a state, federal, Joint Commission, or CARF-approved program. State approval includes other states that are approved, licensed, or certified to provide substance use disorders treatment services through their Single State Authority; *( )*

i. "Clinical Nurse Specialist" licensed under Title 54, Chapter 14, Idaho Code, may provide substance use disorder services. A clinical nurse specialist must have one thousand forty (1,040) hours of supervised experience providing substance use disorder treatment in an alcohol and substance use disorders treatment services setting in a state, federal, Joint Commission, or CARF-approved program. State approval includes other states that are approved, licensed, or certified to provide substance use disorders treatment services through their Single State Authority; ( )

j. "Physician Assistant" licensed under Title 54, Chapter 18, Idaho Code, and IDAPA 22.01.03, "Rules for the Licensure of Physician Assistants" may provide substance use disorder services. A physician assistant must have one thousand forty (1,040) hours of supervised experience providing substance use disorder treatment in an alcohol and substance use disorders treatment services setting in a state, federal, Joint Commission, or CARF- approved program. State approval includes other states that are approved, licensed, or certified to provide substance use disorders treatment services through their Single State Authority; ( )

k. "Licensed Professional Counselor" (LPC) *or a "Licensed Clinical Professional Counselor" (LCPC)* licensed under Title 54, Chapter 34, Idaho Code, *who holds* one (1) of the certifications under Subsections 218.01.a. through 218.01.e. of this rule *or has one thousand forty (1,040) hours of supervised experience providing substance use disorder treatment, in an alcohol and substance use disorders treatment services setting in a state, federal, Joint Commission, or CARF-approved program. State approval includes other states that are approved, licensed, or certified to provide substance use disorders treatment services through their Single State Authority*; *( )*

l. "Psychologist*," or a "Psychologist Extender"* licensed under Title 54, Chapter 23, Idaho Code with a Certificate of Proficiency in the Treatment of Alcohol and Other Psychoactive Substance Use Disorders as issued by the College of Professional Psychology, or *who holds* one (1) of the certifications under Subsections 218.01.a. through 218.01.e. of this rule *or has one thousand forty (1,040) hours of supervised experience providing substance use disorder treatment, in an alcohol and substance use disorders treatment services setting in a state, federal, Joint Commission, or CARF-approved program. State approval includes other states that are approved, licensed, or certified to provide substance use disorders treatment services through their Single State Authority*; *( )*

m. "Physician" licensed under Title 54, Chapter 18, Idaho Code, may provide substance use disorder services. A licensed physician must have one thousand forty (1,040) hours of supervised experience providing substance use disorder treatment; ( )

n. "Professional Nurse" RN licensed under Title 54, Chapter 14, Idaho Code, may

provide substance use disorder services. An RN must have one thousand forty (1,040) hours of supervised experience providing substance use disorder treatment in an alcohol and substance use disorders treatment services setting in a state, federal, Joint Commission, or CARF-approved program. State approval includes other states that are approved, licensed, or certified to provide substance use disorders treatment services through their Single State Authority. ( )

02. Qualified Substance Use Disorders Professional Status Granted Prior to May 1, 2010. Subsections 218.01 and 218.02 of this section are applicable to all new applications for appointment as a qualified Substance Use Disorders Professional submitted to the Department after May 1, 2010. If an individual was granted an appointment prior to May 1, 2010, and met the requirements at that time, he may continue to have his appointment recognized. The appointment of this status will be given by the Department after the Department has received documentation affirming the qualified substance use disorder professional's education and experience meets standards in place prior to May 1, 2010. ( )

03. Arrangement for Provision of Counseling Services. If the program arranges for the provision of counseling services, it must maintain a valid written agreement or contract with a qualified substance use disorders professional as defined in Subsection 218.01 of this section. ( )

219. -- 220. (RESERVED).

221. VOLUNTEERS.
Alcohol and substance use disorders treatment or recovery support services programs that utilize volunteers must meet the following requirements. ( )

01. Objectives and Scope of Volunteer Services. In programs where volunteers are utilized, the objectives and scope of the volunteer services must be clearly stated in writing. The statement must be reviewed at least annually and signed and dated by the executive director or his designee. ( )

02. Orientation of Volunteers to Program Goals, Objectives, and Services. An orientation must be conducted to familiarize volunteers with the program's goals, objectives and services and to provide clinical orientation regarding the program's clients. At a minimum, the orientation must address at least the following: ( )

a. The individual responsible for supervising the volunteer; ( )

b. The requirements of maintaining confidentiality and protecting client's rights; ( )

c. The emergency policies and procedures; and ( )

d. The program's channels of communication and the distinctions between administrative and clinical authority and responsibility. ( )

03. Supervision of Volunteers. Volunteers must be under the direct supervision of the staff of the program, service or unit utilizing their services and must receive general direction and

guidance. ( )

a. When volunteers are used as members of treatment teams, they must supplement the total treatment program only under the direct supervision of qualified substance use disorders professionals and after consideration of client's needs. ( )

b. Qualified substance use disorders professionals must be available to help volunteers establish the most effective relationship with clients. ( )

c. Procedures must be established to assure that the observations of a volunteer are reported to the qualified substance use disorders professional staff member responsible for the client. These observations may be recorded in the client's record. ( )

04. Volunteer Activity Records. Volunteer activity records and reports must contain information that can be used to evaluate the effectiveness of the volunteers, based on effectiveness criteria identified by the program. ( )

05. Criminal History Check for Volunteers. Volunteers hired or contracted with after May 1, 2010, must submit to a criminal history and background check under Section 009 of these rules. ( )

06. Tuberculosis Testing Requirements. Under Section 210 of these rules, the personnel policies and procedures must establish tuberculosis testing requirements for all volunteers. ( )

222. (RESERVED).

223. STUDENT/ISAS/TRAINEE PRACTICE.
Each student/ISAS/trainee practicing in an alcohol and substance use disorders treatment program must meet the requirements in these rules. ( )

01. Written Agreement Required for Students. When the participant is involved with an educational institution to obtain their practicum, the program must have a written agreement with the educational institution that defines the nature and scope of student activities within the program. ( )

02. Supervision of Student/ISAS/Trainee. Each student/ISAS/trainee practicing in the alcohol and substance use disorders treatment program must be supervised by a qualified substance use disorders professional. There must be a qualified substance use disorders professional on duty at all times providing appropriate oversight. ( )

03. Informed of Student/ISAS/Trainee Providing Treatment. All staff, clients, their families or guardians must be informed when a student/ISAS/trainee is providing client treatment. ( )

04. Student/ISAS/Trainee Criminal History Check. A student/ISAS/trainee hired or contracted with after May 1, 2010, must submit to a criminal history check in accordance with the provisions of Section 009 of these rules. ( )

05. Student/ISAS/Trainee Job Description. Student/ISAS/trainee status must be indicated by their job description and title presented to the public and clients. The job description must include the responsibilities of receiving supervision and maintaining documentation of the supervision plan. ( )

06. Student/ISAS/Trainee Length of Appointment Status. Student/ISAS/trainee status is restricted to no more than three calendar (3) years from appointment to student/ISAS/ trainee status. A student/ISAS/trainee who has not achieved counselor status must show an increased scope of work, with increased proficiency, as documented in the clinical supervision record. ( )

07. Orientation of Student/ISAS/Trainee. An orientation must be conducted to familiarize individuals with the program's goals, objectives, and services and to provide clinical orientation regarding the program's clients. At a minimum, the orientation must address at least the following: ( )

a. Person responsible to supervise student/ISAS/trainee. ( )

b. The requirements of maintaining confidentiality and protecting client's rights; ( )

c. The emergency policies and procedures; and ( )

d. The program's channels of communication and the distinctions between administrative and clinical authority and responsibility. ( )

08. Work Qualifications for Students. Clinical staff designated as a student/ISAS/ trainee and who with intensive supervision would be allowed to gradually add the tasks of a qualified substance use disorders professional, must have one of the following levels of qualification to begin work: ( )

a. Idaho Student in Addiction Studies (ISAS); ( )

b. Formal designation from the ICRC of trainee status; ( )

c. Formal documentation as a Native American Certified Alcohol and Drug Abuse Counselor Intern; ( )

d. Formal documentation as a Northwest Indian Alcohol/Drug Specialist Counselor Intern; ( )

e. "Licensed Clinical Social Worker" (LCSW) *or a "Licensed Masters Social Worker" (LMSW)* licensed under Title 54, Chapter 32, Idaho Code, *with documentation that he is currently engaged in obtaining one thousand forty (1,040) hours of supervised experience providing substance use disorder treatment*; *( )*

f. "Marriage and Family Therapist," "Registered Marriage and Family Therapist

Intern," or "Associate Marriage and Family Therapist" licensed under Title 54, Chapter 34, Idaho Code, *with documentation that he is currently engaged in obtaining one thousand forty (1,040) hours of supervised experience providing substance use disorder treatment*; *( )*

g. "Nurse Practitioner" licensed under Title 54, Chapter 14, Idaho Code, with documentation *that he is currently engaged in* obtaining one thousand forty (1,040) hours of supervised experience providing substance use disorder treatment; *( )*

h. "Clinical Nurse Specialist" licensed under Title 54, Chapter 14, Idaho Code, with documentation *that he is currently engaged in* obtaining one thousand forty (1,040) hours of supervised experience providing substance use disorder treatment; *( )*

i. "Physician Assistant" licensed under Title 54, Chapter 18, Idaho Code, and IDAPA 22.01.03, "Rules for the Licensure of Physician Assistants" may provide substance use disorder services., with documentation *that he is currently engaged in* obtaining one thousand forty (1,040) hours of supervised experience providing substance use disorder treatment; *( )*

j. "Licensed Professional Counselor" (LPC) *or a "Licensed Clinical Professional Counselor" (LCPC)* licensed under Title 54, Chapter 34, Idaho Code, *with documentation that he is currently engaged in obtaining one thousand forty (1,040) hours of supervised experience providing substance use disorder treatment*; *( )*

k. "Psychologist" *or a "Psychologist Extender*" licensed under Title 54, Chapter 23, Idaho Code*, with documentation that he is currently engaged in obtaining one thousand forty (1,040) hours of supervised experience providing substance use disorder treatment*; *( )*

l. "Physician" licensed under Title 54, Chapter 18, Idaho Code, with documentation *that he is currently engaged in* obtaining one thousand forty (1,040) hours of supervised experience providing substance use disorder treatment; or *( )*

m. "Professional Nurse" RN licensed under Title 54, Title 14, Idaho Code, *with documentation that he is currently engaged in obtaining* one thousand forty (1,040) hours of supervised experience providing substance use disorder treatment. *( )*

n. Individuals listed in Subsection 223.08.a. through 223.08.m. of this Section, working with children and adolescents, must document coursework specific to human development and child and adolescent behavior. ( )

09. Tuberculosis Testing Requirements for Students. Under Section 210 of these rules, the personnel policies and procedures must establish tuberculosis testing requirements for all students/ISAS/trainees. ( )

224. PLAN FOR ACTIVITIES OF QUALIFIED SUBSTANCE USE DISORDERS PROFESSIONALS.

Each facility of the alcohol and substance use disorders treatment program must have a written plan for activities of qualified substance use disorders professionals that meets the requirements in these rules. ( )

01. Activities Plan. The list of treatment activities must include: ( )

a. A description of each activity; ( )

b. The measurable objectives of each activity; and ( )

c. The qualified substance use disorders professional(s) who will provide or supervise each activity. ( )

02. Activities Schedules. All treatment activities offered by the alcohol and substance use disorders treatment program must be provided and scheduled to meet the needs of clients and their families. ( )

a. Treatment activity schedules must be made known to participating clients and staff. ( )

b. There is documentation that the treatment activities of the approved program are regularly reviewed and revised to meet the changing needs of clients. ( )

225. STAFF DEVELOPMENT.
All alcohol and substance use disorders treatment programs must have a staff development program that meets the requirements in these rules. ( )

01. Staff Development Plans and Procedures. The alcohol and substance use disorders treatment program must provide staff development opportunities for administrative, professional, and support personnel. The plan must be approved by the administrator and reviewed annually. ( )

02. Employee, Contractor, and Volunteer Orientation. The alcohol and substance use disorders treatment program must provide orientation and training plans for all employees. The program must document that each new employee, contractor, and volunteer participates in an orientation that includes the information described as follows: ( )

a. Orientation must be completed during the first thirty (30) days of employment after an employee's, contractor's, or volunteer's start date. ( )

b. Orientation for new employees must include training in emergency policies and procedures and familiarize each employee with existing staff backup and support systems. ( )

c. The purpose of the program. ( )

d. The policies and procedures of the program as they relate to his job function. ( )

e. The employee's, contractor's, or volunteer's role and responsibilities. ( )

f. The requirement to report suspected incidents of child abuse, neglect, and abandonment. ( )

03. Administrative and Service Changes. Staff development plans must be provided to reflect all administrative and service changes in the program and to prepare personnel for promotions, added responsibility, and emergency situations. ( )

a. The staff development plans must include educational opportunities such as workshops, institutes, seminars, and formal continuing education courses. ( )

b. The staff development plan must provide for the participation of staff when appropriate in clinical and administrative committees and conferences. ( )

c. All program staff must receive training and must demonstrate competence in emergencies. ( )

04. Continuous Professional Education Plan. A continuous professional education plan must be provided to keep the professional staff informed of significant clinical and administrative developments and to improve skills. ( )

a. The professional staff development plan must include in-service activities. ( )

b. In-service activities must be planned, scheduled in advance and conducted on a continuing basis. ( )

05. Quality Assurance Activities. The staff development plan must address the results of quality assurance activities, including client care evaluations. ( )

a. Staff development activities must be designed to meet needs identified in the quality assurance program. ( )

b. Written documentation must demonstrate that staff development activities are influenced by the findings of the quality assurance program. ( )

06. Annual Evaluation of Plans. Staff education and in-service training plans must be evaluated at least annually and signed and dated by the reviewer. ( )

226. -- 329. (RESERVED).

330. QUALITY ASSURANCE.
All alcohol and substance use disorders treatment or recovery support services programs must have a written plan for their ongoing quality assurance program. This plan must include: ( )

01. Review Schedule. The plan must describe how clinical practices focusing on client health, safety, risk and treatment outcomes. ( )

02. Procedures to Address Deficiencies. The plan must describe the procedures to be followed in the event a practice or procedure is deficient and does not meet the program's standard of quality. ( )

03. Client Outcome Assessment. The plan must include procedures for assessing client outcome as a result of participation in the treatment program. ( )

331. -- 339. (RESERVED).

340. RESEARCH CONDUCTED WITHIN ALCOHOL AND SUBSTANCE USE DISORDERS PROGRAMS AND FACILITIES.
When an alcohol and substance use disorders treatment or recovery support services program conducts or participates in research with clients, it must be conducted in accordance with the standards set forth in the "Research" chapter of the most current edition of the Joint Commission's Comprehensive Accreditation Manual for Behavioral Health Care (CAMBHC), as incorporated by reference in Section 004 of these rules. ( )

341. -- 349. (RESERVED).

350. CLIENT RIGHTS.
All alcohol and substance use disorders treatment or recovery support services programs must have written policies and procedures to protect the fundamental human, civil, constitutional, and statutory rights of each client. ( )

01. General Rights. The client rights policies and procedures must address the following: ( )

a. The right to impartial access to treatment and services, regardless of race, creed, color, religion, gender, national origin, age, or disability; ( )

b. Respect for personal dignity in the provision of all care and treatment; ( )

c. The right to humane services, regardless of the source of financial support; ( )

d. The right to receive services within the least restrictive environment possible; ( )

e. The right to an individualized treatment plan, based on assessment of current needs; ( )

f. The right of the client to participate in planning for treatment and recovery support services; and ( )

g. The right of the client to request Department staff review the treatment plan or the services provided. ( )

02. Personal Privacy. Each client's personal privacy must be assured and protected within the constraints of the individual treatment plan. ( )

a. The client's family and significant others, regardless of their age, must be allowed to visit the client, during regular hours of visitation, unless such visits are clinically contraindicated. ( )

b. Suitable areas must be provided for clients to visit in private, unless such visits are clinically contraindicated. ( )

c. Clients *in residential settings* must be allowed to send and receive mail without hindrance, unless clinically contraindicated. *( )*

d. Clients *in residential settings* must be allowed to conduct private telephone conversations with family and friends, unless clinically contraindicated. *( )*

e. If individual therapeutic indications *in residential settings* necessitate restrictions on visitors, telephone calls or other communications, those restrictions must be evaluated for therapeutic effectiveness by a qualified substance use disorders professional at least every three (3) days. *( )*

f. Any restrictions on visitors, telephone calls or other communications must be fully explained to the client and the client's family. ( )

03. Visitation. There must be written procedures designed to protect clients' rights and privacy with respect to visitors *in outpatient and residential programs*. *( )*

a. The client must be informed in advance of educational or other individual or group visitations available through the alcohol and substance use disorders treatment program. ( )

b. Visitations to the alcohol and substance use disorders treatment program's facility must be conducted so as to limit disruption of the client's usual activities and treatment processes. ( )

04. Individualized Treatment Plan Review. Each client will have the right to request the opinion of a consultant at his own expense or to request an in-house review of the individualized treatment plan, as provided in specific procedures of the program. ( )

05. Client to Be Informed of Rights. Each client must be informed of his rights. ( )

a. Each client must be given a written statement of client rights, which includes who the client may contact with questions, concerns or complaints regarding services provided. ( )

b. Copies of the program's client rights statement must be posted in conspicuous places at all sites. ( )

06. Client and Family to Be Informed Regarding Care and Treatment. The client and, where there is a valid release of information, the client's family must be fully informed regarding: ( )

a. Client's rights; ( )

b. The name, professional status and position of staff members responsible for the

client's care; ( )

c. The nature of care, treatment and procedures that the client will receive; ( )

d. The current and future use and disposition of products of special observation and audiovisual techniques, such as one-way mirrors, tape recorders, video recorders, television, movies or photographs; ( )

e. Specific risk, benefit, or side effects of clinical care associated with their treatment plan. This informed consent will address common risk or benefits associated with treatment and is not meant to be all-inclusive to every risk, benefit, or side effect; ( )

f. Alternative treatment procedures that are available; ( )

g. The right to refuse to participate in any research project without compromising his access to program services; ( )

h. The right to refuse specific treatment procedures; ( )

i. As appropriate, the cost, itemized when possible, of services rendered; ( )

j. The source of the program's reimbursement and any limitations placed on duration of services as it relates to each client's financial circumstance; ( )

k. The reasons for any proposed change in the professional staff responsible for the client or for any transfer of the client within or outside of the program; ( )

l. The rules and policies of the program applicable to client conduct; ( )

m. The right to initiate a complaint or grievance procedure and the means to request a hearing or review of the complaint. ( )

n. The discharge plan; and ( )

o. The plans for recovery support activities following discharge. ( )

07. Informed Consent. In accordance with the requirements of any applicable law or any applicable standard contained in these rules, a written, dated, and signed informed consent form must be obtained from the client, the client's family or the client's guardian, as appropriate, for participation in any research project or other procedures or activities where informed consent is required by law. ( )

08. Client Abuse and Neglect. Every alcohol and substance use disorders treatment or recovery support services program must have written policies and procedures for handling cases of client abuse and neglect. ( )

a. The policies and procedures on client abuse and neglect must be given to all personnel and must be made available to others upon request. ( )

b. The policies and procedures must ensure the reporting within twenty-four (24) hours to the proper law enforcement agency or to the Department of any allegations of client abuse and neglect under the following: ( )

i. "Idaho Child Protective Act," Section 16-1619, Idaho Code, for minors; and ( )

ii. "Adult Abuse, Exploitation, and Abandonment Act," Section 39-5303, Idaho Code, for adults. ( )

c. Any and all alleged violations of the policies and procedures must be investigated. ( )

d. There must be documentation that the results of such investigation must be reviewed and approved by the executive director and reported to the governing body. ( )

351. -- 359. (RESERVED).

360. ADMISSION POLICIES AND PROCEDURES.
All alcohol and substance use disorders treatment or recovery support services programs must have policies and procedures governing the admission process. These must be available to clients and their families and to the general public. ( )

01. Admission Policies. The admission policies and procedures must be in writing and must specify the following: ( )

a. Criteria for determining the eligibility of individuals for admission in accordance with ASAM placement criteria; ( )

b. The information to be obtained on all applicants or referrals for admission; ( )

c. The procedures for accepting referrals from outside agencies and organizations; ( )

d. The records to be kept on all applicants; ( )

e. The statistical data, as determined by the Department's MSC, to be kept on the admission process; and ( )

f. The procedures to be followed, including alternative referrals, when an applicant is found ineligible for admission. ( )

02. ***Screening***. *Screening* must be based on the needs of clients as identified as follows: *( )*

a. The screening is conducted prior to admission to treatment to determine if the client meets the admission criteria; ( )

b. The screening *must be interpreted* by a qualified substance use disorders professional; and *( )*

c. The results of the screening must be clearly explained to the client, and family when appropriate. ( )

03. Acceptance for Treatment. Acceptance of a client for treatment must be based on an admission procedure that assures the following: ( )

a. The care provided by the program at that facility site is appropriate for the client and must be based on admission, continued stay, and discharge criteria approved by the Department; ( )

b. Assessment data is collected to develop a preliminary treatment plan; ( )

c. If the potential client is a minor or an incompetent person, a parent, guardian, or other legal representative may make application for voluntary admission to treatment; and ( )

d. No otherwise qualified individual is denied access to treatment services on the basis of race, creed, color, religion, gender, national origin, age, or disability. ( )

e. Acceptance for treatment is based on the program's scope of practice, capability, and capacity. ( )

04. Provisions for Persons Requiring Protective Custody. For persons coming voluntarily or being brought by a law enforcement officer to an alcohol and substance use disorders treatment program for protective custody, the program must comply with the provisions of Section 39-307A, Idaho Code. ( )

05. Assure Applicants Understand Rights and Responsibilities. During the admission process, every effort must be made to assure that applicants understand the following: ( )

a. The nature and goals of the treatment program; ( )

b. The hours during which services are available; ( )

c. The treatment costs, if any, to be borne by the client; and ( )

d. The rights and responsibilities of clients, including the rules governing client conduct and the types of infractions that can result in disciplinary action or discharge from the program. ( )

06. Reasonable Precautions in All Admissions. Reasonable precautions must be taken in all admissions to ensure the safety of the client, other clients, staff of the program, and members of the community. *Reasonable precautions are those that are fair, proper, or moderate under the circumstances.* *( )*

361. -- 369. (RESERVED).

370. ASSESSMENT.
All alcohol and substance use disorders treatment or recovery support services program must have an assessment process that meets the requirements in these rules. ( )

01. Assessment Tool. All approved programs must utilize an assessment tool approved by the Department. ( )

02. Assessment Required. A qualified substance use disorders professional must develop a written assessment of each client to identify the effects of alcohol or substance use on the client's life. The qualified substance use disorders professional may be on staff or arranged for by the program. ( )

03. Content of Assessment. The assessment must consist of evaluation of the client's use of alcohol and drugs, the signs and symptoms of alcohol and drug use and the consequences of alcohol and drug use in life areas such as, physical and mental health, social situation, family issues, legal issues, and the work and school situation. ( )

04. Clinical Consideration of Client Needs. Clinical consideration of each client's needs must include a determination of the type and extent of special clinical examinations, tests and evaluations necessary for a complete assessment. ( )

05. Physical Examination. In all programs, there must be policies and procedures establishing when a medical examination must be performed. ( )

371. ASSESSMENT AND REFERRAL SERVICES.
In addition to the requirements in Section 370 of these rules, all alcohol and substance use disorders treatment or recovery support services program must have an assessment and referral process that meets the requirements in these rules. ( )

01. Established Policy and Procedure. Policies and procedures to address processes for referrals must be established. ( )

02. Screening and Assessment Determines Problem Severity and Service Needs. Screening and assessment must be sufficient to determine the problem severity and service needs. ( )

03. Services Provided by a Qualified Substance Use Disorders Professional. Services must be provided by a qualified substance use disorders professional under Section 218 of these rules. ( )

04. Oversight by a Clinical Supervisor. A Clinical Supervisor must oversee services as required under Section 215 of these rules. ( )

372. -- 374. (RESERVED).

375. CLIENT RECORDS REQUIREMENTS.
Each alcohol and substance use disorders treatment or recovery support services program must meet the client records requirements set forth in these rules. ( )

01. Written Client Record Required. The alcohol and substance use disorders treatment or recovery support services program must maintain a written client record on each client. All entries in the client record must be signed and dated. Symbols and abbreviations may be used. An abbreviations legend must be available for the Department to review. The abbreviations legend must be located in the client record for reference. ( )

02. Content of Client Record. The client record must describe the client's situation at the time of admission and include the services provided, all progress notes, and the client's status at the time of discharge. At a minimum the record must contain: ( )

a. Identifying data including the client's name, home address, home telephone number, date of birth, gender, marital status, race or ethnic origin, next of kin or person to contact, educational level, type and place of employment, date of initial contact or admission to the program, source of any referral, legal status including relevant legal documents, name of personal physician, record of any known drug reactions or allergies, and other identifying data as indicated. ( )

b. The identifying data as described in Subsection 375.02.a. of these rules must be dated with the date the information was gathered and signed by the staff member gathering the information. ( )

03. Assessments Completed With the Client. All assessments completed with the client must be dated, signed by the person providing the assessment, and give a full accounting of the findings of such assessments. ( )

04. Progress Notes. Notes for each treatment session charting the client's progress must include: ( )

a. Date of session; ( )

b. Beginning and ending time of session; ( )

c. Description of the session; ( )

d. Signature of person conducting the session; ( )

e. All staffing notes pertaining to the client; ( )

f. All medical records regarding the client. These may include documentation of a medical examination, results of any medical tests, including drug and alcohol screening tests performed by the program, and results of any medical tests reported to the program which were performed outside the program; and ( )

g. Documentation that justifies the client meets criteria for admission, continued stay,

and discharge. The documentation must be based on admission, continued stay and discharge criteria approved by the Department. ( )

05. Unusual Occurrences. The client record must contain information on any unusual occurrences, such as: ( )

a. Treatment complications; ( )

b. Accidents or injuries to the client; ( )

c. Serious illness; ( )

d. Death of the client. In the event of a client's death, the person must be pronounced dead in accordance with the provisions of Idaho law and a summation statement must be entered in the record in the form of a discharge summary. ( )

06. Telephone Calls. The client record must contain correspondence concerning the client's treatment and signed and dated notations of telephone calls concerning the client's treatment. ( )

07. Discharge Plan. The client record must contain a plan for discharge. ( )

08. Discharge Summary. A discharge summary must be entered in the client record within a reasonable period of time not to exceed fifteen (15) days following discharge, as determined by the professional staff and policies or standards. ( )

376. MAINTENANCE OF CLIENT RECORDS.
Every alcohol and substance use disorders treatment or recovery support services program must maintain, control and supervise client records and is responsible for maintaining their quality in accordance with the requirements set forth in these rules. ( )

01. Active Client Records Kept at the Facility Site. The active client's records must be kept at the facility site where the client is being treated. ( )

02. Compilation, Storage, Dissemination, and Accessibility of Client Records. The program must have written policies and procedures governing the compilation, storage, dissemination, and accessibility of client records. The policies and procedures must be designed to ensure: ( )

a. The program fulfills its responsibility to safeguard and protect client records against loss, unauthorized alteration or disclosure of information; ( )

b. In the event of unauthorized release client identifying information such as theft, the Department is notified immediately; ( )

c. In the event of closure of program how and where records will be stored; ( )

d. Each client record contains all required information; ( )

e. Uniformity in the format and forms is used in client records; ( )

03. Entries in Client Records Are Dated and Signed. The policies and procedures must require entries in client records to be dated and signed. ( )

04. Storage Facilities. The program must provide facilities for the storage, processing and handling of client records, including locked and secured rooms and files. ( )

05. Electronic Storage of Client Data. When a program stores client data in electronic or other types of automated information systems, they must have security measures to prevent inadvertent or unauthorized access to such data. ( )

06. Length of Maintenance of Client Records. Client records must be maintained for a minimum of five (5) years from the date they are officially closed. ( )

07. Disposal of Client Records. The program must have a written policy governing the disposal of client records. Methods of disposal must be designed to assure the confidentiality of client information. ( )

08. Confidentiality and Disclosure of Information. The program must have written policies and procedures that protect the confidentiality of client records and govern the disclosure of information in the records under Section 006 of these rules. ( )

377. -- 379. (RESERVED).

380. INDIVIDUALIZED TREATMENT PLAN.

01. Individualized Treatment Plan. A state-approved alcohol and substance use disorder treatment program must prepare for each client an individualized treatment plan that addresses the alcohol or substance use and co-occurring mental health disorders health affects on the client's major life areas. The development of a treatment plan must be a collaborative process involving the client, family members, and other support and service systems. ( )

02. Treatment Plan Based on a Biopsychosocial Assessment. The treatment plan must be based on a *Department-approved* biopsychosocial assessment of the client's alcohol or substance use disorders treatment needs, and contributions provided by the informal support system. *( )*

03. Development and Implementation of the Treatment Plan. The assigned qualified substance use disorders professional staff member within a state approved program has overall responsibility for the development and implementation of the treatment plan. ( )

04. Timeline for Development of the Treatment Plan. A treatment plan must be developed within seventy-two (72) hours following admission to an inpatient or residential facility. A treatment plan must be developed within thirty (30) days of the completion of a state approved assessment in an outpatient setting. The treatment plan must be updated at least every seven (7) days in a residential setting and at least every ninety (90) days in an outpatient setting.

( )

05. Content of the Treatment Plan. The individualized treatment plan must include the following: ( )

a. The services deemed clinically necessary to facilitate the client's alcohol and substance use disorders recovery; ( )

b. Referrals for needed adjunct services that the alcohol and substance use disorders treatment program does not provide. ( )

c. Referrals for recovery support services that support treatment as defined in Subsection 012.03 of these rules; ( )

d. Goals that the client must complete to reduce or eliminate alcohol or substance use and support recovery; ( )

e. Objectives that relate to the goals, written in measurable terms, with targeted expected achievement dates; ( )

f. Service frequency; ( )

g. Criteria to be met for discharge from treatment; and ( )

h. A plan for including the family or *other social supports*. *( )*

06. Integrated COD Treatment Plan Development. In addition to the information in Section 380.05 of this section, the individualized treatment plan for a client with a co-occurring disorder must address the COD treatment and recovery support service needs of the client as identified in the current assessment. These additional items include the following: ( )

a. A list of COD problems and needs identified during the assessment; ( )

b. Overall goals to be achieved consistent with the client's treatment and recovery support services needs and assessment; ( )

c. Reference to all services and contributions provided by the informal support system; ( )

d. Documentation of who participated in the selection of services; ( )

e. Documentation of unmet needs and service gaps; ( )

f. References to any formal services arranged including specific providers; ( )

g. Time frames for achievement of the treatment plan goals and objectives. ( )

381. -- 384. (RESERVED).

385. REFERRALS OF CLIENTS.
All alcohol and substance use disorders treatment or recovery support services programs must have policies and procedures to facilitate the referral of clients and the provision of consultation among the program's services and between the program and other service providers in the community. ( )

386. DISCHARGE REQUIREMENTS.
All alcohol and substance use disorders treatment programs must meet the discharge standards in these rules. ( )

01. Discharge Plan. A discharge plan must be jointly developed by the qualified substance use disorders professional and the client. This discharge plan includes the resources needed to support their recovery. ( )

a. The discharge plan must be initiated within forty-eight (48) hours of admission to a residential program and completed prior to the conclusion of substance use disorders treatment and recovery support services. ( )

b. The discharge plan must be initiated within thirty (30) days of admission to an outpatient program and completed prior to the conclusion of substance use disorders treatment and recovery support services. ( )

c. A hard copy of the discharge plan must be given to the client at the time of discharge from treatment. ( )

d. The discharge plan must include: ( )

i. The recovery support services and adjunct services to be continued after discharge including the location and contact information of existing appointments; ( )

ii. Information about accessing resources to maintain gains achieved while in treatment; ( )

iii. Identification of stressors that may led to a return to the use of alcohol or drugs and methods to address the stressors; and ( )

iv. Identification of person(s) to contact if additional services are needed. ( )

02. Discharge Summary. A discharge summary must be entered in the client record within fifteen (15) days following discharge. ( )

a. The discharge summary must include the results of the initial assessment and diagnosis. ( )

b. The discharge summary must include a clinical summary of the following: ( )

i. The course and progress of the client with regard to each identified clinical

problem; ( )

ii. The clinical course of the client's treatment; ( )

iii. The final assessment, including the general observations and understanding of the client's condition initially, during treatment and at discharge; and ( )

iv. The recommendations and arrangements for further treatment as described in the discharge plan. ( )

387. -- 389. (RESERVED).

390. ENVIRONMENT REQUIREMENTS.
Each facility site of the program must have appropriate space, equipment and fixtures to meet the needs of clients. ( )

01. Fixtures and Equipment. Fixtures and equipment designated for each service must be constructed or modified in a manner that provides, insofar as possible, pleasant and functional areas that are accessible to all clients regardless of their disabilities. ( )

02. Office Space. Private space must be provided for personal consultation and counseling as well as family and group counseling sessions. All space for offices, storage, and supplies must be accessible. ( )

03. Equipment and Supplies. There must be equipment and supplies to meet the needs of the client at each facility. ( )

04. Safety, Fire, Health, and Sanitation Requirements. Space, equipment and facilities utilized by the program must meet federal, state and local requirements for safety, fire prevention, health and sanitation. ( )

05. Accessibility for Persons With Mobility and Sensory Impairments. For clients with mobility or sensory impairments, the facility must provide a physical environment which meets the needs of the person for independent mobility. New construction must meet the requirements of the American 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, reasonable accommodations. The facility must provide the following: ( )

a. Ramps for clients 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 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. Suitable hand railing must be provided on both sides of all stairs leading into and out of a building for clients who require the use of crutches, walkers, or braces. ( )

391. EMERGENCY PREPAREDNESS PLAN.
All alcohol and substance use disorders treatment or recovery support services programs must establish and maintain an Emergency Preparedness Plan designed to manage the consequences of natural disasters or other emergencies that could disrupt the program's ability to provide care. ( )

01. External and Internal Disasters. The program must have written policies and procedures to enable them to effectively prepare for both external and internal disasters that can negatively affect its environment of care. The policies and procedures must include: ( )

a. Communication plan for business hours and after hours; ( )

b. Clear chain of command which includes how to contact supervisors at all times; and ( )

c. Disaster orientation for all workers; ( )

02. The Role as a Provider of Care to the Residents of Its Community. The program must have written policies and procedures describing how the program is ready to assist as needed in case of community emergency, and as appropriate integrates its Emergency Preparedness Plan with community disaster plans to support the community's response to a disaster. ( )

03. Interruption of Utility Services. Policies and Procedures must be written describing what action to be taken in the event of interruption of utility services, such as lighting, in order that staff can perform essential functions, back up computer data, and obtain urgent medical data to provide to a primary care physician; and ( )

04. Disruption of Services. Policies and procedures must be written describing what action will be taken in the event of disruption of services and management of space, supplies, communications, and security. ( )

392. MEDICAL EMERGENCY SERVICES.
All alcohol and substance use disorders treatment or recovery support services programs must have a written plan describing the manner in which medical emergency services must be accessed. ( )

01. Medical Emergency Services Policies and Procedures. The program must have written policies and procedures describing the type of medical emergency services available and the arrangements for referring or transferring clients to a medical facility. The policies and

procedures must clearly specify the following: ( )

a. The staff of the program who are available and authorized to provide necessary emergency evaluations. ( )

b. The staff of the program who are authorized to arrange for clients to be referred or transferred to a medical facility. ( )

c. The arrangements the program has made for exchanging records with the medical facility when it is necessary for the care of the client. ( )

d. The location of the medical facility and the medical facilities contact information. ( )

e. The method of communication between the program and medical facility. ( )

f. The arrangements the program has made for transporting clients, when necessary, from the medical facility providing emergency services. ( )

g. Policies concerning notification of the client's family of emergencies and of arrangements that have been made for referring or transferring the client to another program or facility. ( )

02. Staff Training for Emergency Services. All staff must be trained in the emergency policies and procedures. ( )

03. CPR and Basic First Aid Training. *One (1) CPR/First Aid trained staff person must be onsite at all times. Staff responsible for CPR and First Aid must complete this training within ninety (90) days of employment. Additionally, the policies and procedures must establish the methods for renewal of CPR and first aid certification so that he remains current at all times.* *( )*

04. Annual Review and Revisions. There must be documentation that the policies and procedures are reviewed at least annually and revised as necessary. ( )

393. NOTIFICATION OF DEATH, SERIOUS INCIDENT, ACCIDENT, FIRE, OR LOSS OF RECORDS OR OTHER CLIENT IDENTIFYING INFORMATION.

01. Notification of Death. The program must notify the Department in writing within twenty-four (24) hours of a patient, client, or staff death where death occurs on site or in treatment-related circumstances. The program must notify the decedent's family or next of kin as soon as possible in accordance with confidentiality and HIPAA requirements. ( )

02. Notification of Serious Incident. The program must notify the Department in writing within twenty-four (24) hours of any serious incident occurring outside the normal course of treatment, involving a patient, client, or staff occurring on the premises related to the operation of the service, that requires the services of a doctor or hospital in accordance with confidentiality and HIPAA requirements. ( )

03. Notification of Fire, Accident, or Other Incident. The program must notify the Department in writing within twenty-four (24) hours of any fire, accident, or other incident resulting in significant damage to the service site in accordance with confidentiality and HIPAA requirements. ( )

04. Notification of Loss of Client Records or Other Identifying Information. The program must notify the Department in writing within twenty-four (24) hours of any situation resulting in the loss of client records or other identifying information in accordance with confidentiality and HIPAA requirements. ( )

05. Notification of Change in Executive Director. The program must notify the Department in writing within twenty-four (24) hours if there is a change of executive director. ( )

06. Notification of an Employee Investigation. The program must notify the Department in writing within twenty-four (24) hours if an employee is the subject of an investigation for client abuse or neglect. ( )

394. ADMINISTRATION OF MEDICATIONS.
Administration of medications in alcohol and substance use disorders treatment or recovery support services programs, except those located in licensed hospitals, must be by means of self-administration. ( )

01. Self-Administration of Medications. Self-administration of over-the-counter and prescription medication is permitted only under the supervision of staff. Prescription medication is permitted only when a client has a prescription from a physician, a nurse practitioner, or a physician assistant. Medication must be available to clients as prescribed. ( )

02. Storage. The program will provide secured central storage of prescribed and over-the-counter medication. ( )

03. Policies and Procedures for Storage of Medication. The program must have policies and procedures for storage and provide storage facilities for prescribed and over-the-counter medication. ( )

04. Administration of Medications in Child and Adolescent Residential Programs. State approved programs serving children and adolescents in residential programs must follow the requirements found in IDAPA 16.06.02, "Rules Governing Standards for Child Care Licensing," Subsections 752.02 through 752.06. ( )

395. FOOD SERVICE.
Alcohol and substance use disorders treatment or recovery support services programs providing services that include the preparation of meals must meet the requirements in these rules. ( )

01. Meals and Snacks. In general, wholesome and nutritionally balanced food must be provided. Three (3) meals must be served daily at regular times. Snacks of nourishing quality must be available to clients at all times. ( )

a. Menus. ( )

i. Menus must be planned in advance. ( )

ii. Menus must be reviewed and approved by a registered dietician annually. ( )

iii. Menus must be conspicuously posted in the dining room and must be dated.( )

iv. When changes in the menu are necessary, substitutions must provide equal nutritional value. Records of menus and substitutions must be retained for at least six (6) months. ( )

b. Processed food not prepared on site must be obtained from sources inspected and approved by the Department and must be protected from contamination during transport and preparation. Home canned or home processed food must not be used or served. ( )

c. Approved refrigeration and cooking appliances must be installed and maintained in operating condition. ( )

d. Shelves, counters, and cabinets for preparation of food and storage of food, dishes, and cooking utensils must be maintained in a safe and sanitary manner. ( )

e. All sink and cabinet tops must have smooth, washable, non-absorbent finishes. ( )

f. Tables and chairs or equivalent must be provided for dining purposes. ( )

02. Food Sanitation. The acquisition, preparation, storage, and serving of all food and drink in a program's facilities must comply with Idaho Department of Health and Welfare Rules, IDAPA 16.02.19, "Food Safety and Sanitation Standards for Food Establishments." ( )

396. RESIDENTIAL AND TRANSITIONAL TREATMENT FACILITY ENVIRONMENT.

All alcohol and substance use disorders treatment facilities providing twenty-four (24) hour per day care must establish an environment that enhances the positive self-image of clients and preserves their human dignity and that meets the minimum standards in these rules. ( )

01. Living Conditions. The facility must meet each of the following requirements regarding the client's therapeutic environment: ( )

a. Clients must be allowed to wear their own clothing. If clothing is provided by the program, it must be appropriate and not demeaning. ( )

b. Clients must be allowed to keep and display personal belongings, and to add personal touches to the decoration of their own room. ( )

c. The program must develop policies and procedures for storage, availability and

use of personal possessions, personal hygiene items, and other client belongings. ( )

d. Clients must be encouraged to take responsibility for maintaining their own living quarters. ( )

e. Mirrors must be placed as an aid in grooming and to enhance the client's self-awareness. ( )

f. There must be ample closet and drawer space for the storage of personal property and property provided for the resident's use. ( )

02. Resident Sleeping Rooms. The facility must assure that: ( )

a. Resident sleeping rooms are not in attics, stairs, halls, or any other room commonly used for other than bedroom purposes; ( )

b. There must be sufficient window space for natural light and ventilation. Emergency egress or rescue windows must comply with the state-adopted Uniform Building Code. ( )

c. Square footage requirements for resident sleeping rooms must provide 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. ( )

d. Window screens must be provided on operable windows; ( )

e. Ceiling heights in sleeping rooms must be at least seven (7) feet, six (6) inches. ( )

f. Doorways to sleeping areas must be provided with doors in order to provide privacy. ( )

g. Separate bedrooms and bathrooms must be provided for men and women. ( )

03. Contributions of Environment. The environment of the treatment facility must contribute to the development of therapeutic relationships in at least the following ways: ( )

a. Areas must be available for a full range of social activities for all clients, from two (2) person conversations to group activities. ( )

b. Furniture, furnishings and equipment must be available to accommodate all occupants. ( )

i. Furniture and furnishings must be comfortable and maintained in clean condition

and good repair. ( )

ii. All equipment and appliances must be maintained in good operating order. ( )

c. To promote awareness of the time and season, clocks and calendars must be provided at least in the major use areas. ( )

397. HOUSEKEEPING SERVICES.
All alcohol and substance use disorders treatment or recovery support services facilities providing twenty-four (24) hour per day care must have written policies and procedures for maintaining a clean and safe environment to meet applicable standards in these rules. ( )

01. Personnel and Equipment. Housekeeping and maintenance personnel and equipment must be provided to maintain the interior and exterior of the program's facility site in a safe, clean, orderly, and attractive manner. ( )

a. After discharge of a client, the room must be thoroughly cleaned, including the bed, bedding and furnishings. ( )

b. Storage areas, attics, basements, and grounds must be kept free from refuse, litter, weeds and other items detrimental to the health, safety or welfare of the clients. ( )

02. Clients' Personal Articles. Clients' personal care and grooming supplies, clothing and shoes must not be allowed to accumulate on the floor, impeding proper housekeeping measures. *( )*

03. Laundry Facilities. One (1) washing machine and clothes dryer must be provided unless other approved laundry facilities are available. If laundry is processed on site, the laundry equipment and processing must be located in an area separate from kitchen, dining, and living areas. ( )

04. Housekeeping Services and Equipment. Housekeeping, maintenance personnel, and equipment must be provided to maintain the interior and exterior of the facility in a clean, safe, and orderly manner. ( )

398. INFECTION CONTROL POLICIES AND PROCEDURES.
Each alcohol and substance use disorders treatment or recovery support services program must have infection control policies and procedures that meet the standards in these rules. ( )

01. Written Policies and Procedures for Infection Control. The program must have written policies and procedures pertaining to the operation of an infection control program.( )

a. Effective measures must be developed to prevent, identify and control infections. ( )

b. *A* process for implementing procedures to control the spread or eliminate the cause(s) of the infection *must be described in the policies and procedures*. *( )*

c. All new employees must be instructed in the importance of infection control and personal hygiene and in their responsibility in the infection control program. ( )

d. There must be documentation that on-going in-service education in infection prevention and control is provided to all employees. ( )

e. There must be documentation that the policies and procedures are reviewed at least annually and revised as necessary. ( )

02. Alcohol and Drug Testing. Urine samples will be collected in accordance with Section 740 of these rules. ( )

03. Universal Precautions. Universal precautions must be used in the care of clients 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/ncidod/dhqp/bp_universal_precautions.html. ( )

399. PLANT TECHNOLOGY AND SAFETY MANAGEMENT.
Alcohol and substance use disorders treatment or recovery support services programs must meet applicable standards set forth in these rules. ( )

01. Buildings. Buildings on the premises in which services are delivered must be in compliance with the requirements of the local, state and federal codes concerning access, construction, fire and life safety that are applicable. ( )

a. Prior to initial occupancy and annually thereafter, the program's site(s) must be inspected for compliance with the Uniform Fire Code. Documentation of all findings, recommendations and corrective actions must be kept on file. ( )

b. Prior to initial occupancy and at the time of any structural change in a building, it must be inspected and found to be in compliance with local building codes. Written documentation of all findings, recommendations and corrective actions must be kept on file by the program. ( )

02. Grounds. The program grounds must be maintained in a manner that is designed to provide safe access in a safe environment for clients, personnel and visitors. ( )

a. The program must have specific plans and policies for the maintenance, supervision and safe use of all its grounds and equipment. ( )

b. The premises and all buildings must be kept free from the accumulation of weeds, trash and rubbish. ( )

03. General Safety. The program must have a plan that is designed to provide a safe environment for clients, personnel and visitors, and monitors that environment. ( )

a. There must be established procedures for the development, implementation and review of safety policies for all services. ( )

b. There must be a procedure for reporting, investigating and evaluating all accidents, injuries and safety hazards. The responses and follow-up actions are to be documented. ( )

c. Safety-related policies and procedures must be included in the orientation of all new employees and in the continuing education of all employees. ( )

04. Emergency Preparedness. There must be a plan for the protection of all persons in the event of a fire or other emergency. ( )

a. 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. ( )

b. The facility must have written procedures outlining steps to be taken in the event of an emergency including: ( )

i. The individual(s) who is to respond; ( )

ii. Each person's responsibilities; ( )

iii. Where and how clients are to be evacuated; and ( )

iv. Notification of emergency agencies. ( )

c. All clients and employees must be advised of the actions required under emergency conditions. Diagrams of the building showing emergency protection areas and evacuation routes and exits must be conspicuously posted throughout the building. An outline of emergency instructions must be posted with the diagram. ( )

d. There must be a minimum of one (1) 2-A-10BC type fire extinguisher per floor, and if there is a kitchen on the floor, fire extinguisher must be in or immediately adjacent to the kitchen. Each extinguisher must be inspected annually by a fire extinguisher service agency. ( )

e. All exits must be marked with a lighted exit sign. ( )

f. There is a fire plan that includes the use and function of fire alarm and detection systems, containment and the protection of lives. ( )

i. Each work shift must have personnel trained and responsible for implementing the fire plan and the activation of the non-automatic components of the fire safety systems. ( )

ii. A minimum of one (1) fire drill must be held at least every thirty (30) days at unexpected times and under varying conditions to simulate unusual circumstances encountered in case of a fire. A record of drills must be maintained which includes the date and time of the drill, response of the personnel and clients, problems encountered and recommendations for improvements. ( )

iii. The alarm and detection system and any sprinkler system must be under the direct supervision of a staff member who must cause proper tests to be made at specified intervals and must have general charge of all alterations and additions. ( )

g. Program employees and clients must be provided with training about emergency preparedness policies and procedures. ( )

h. The emergency preparedness policies and procedures must be evaluated annually and updated as needed. ( )

05. Report of Fire. A separate report of each fire incident occurring within the program's facility must be submitted to the Department within twenty-four (24) hours of the occurrence. The "Facility Fire Incident Report," will be issued to the Department to report specific information concerning date, origin, extent of damage, method of extinguishment and injuries, if any. ( )

06. Electrically Powered Equipment. The program must have procedures to assure that electrically powered, line-operated equipment is electrically safe. ( )

a. There must be a policy that identifies types of equipment that may pose an electrical hazard during intended use and outlines conditions of safe use. ( )

b. Policies for the use and control of personal electrical equipment must be developed and implemented. ( )

i. Clients must be apprised of the policies and procedures regarding use of personal electrical equipment upon admission to the program's facility. ( )

ii. Employees must be apprised of the policies and procedures regarding use of personal electrical equipment upon employment. ( )

c. There must be a policy that outlines the action to be taken by staff to ensure client safety during a power outage. All staff must be trained in the procedure. ( )

07. Electrical Distribution. The program's facility must have an electrical distribution system that is designed, installed, operated, and maintained to provide electrical power for all required operations. ( )

a. There must be a schedule for preventive maintenance to assure that the electrical distribution system operates safely and reliably. ( )

b. Inspections and corrective actions must be documented. ( )

08. Heating, Ventilating and Air Conditioning. Where provided, the heating, ventilating, and air-conditioning (HVAC) system must be designed, installed, operated and maintained in a manner that provides a comfortable and safe environment for clients, personnel and visitors. ( )

09. Plumbing. The plumbing systems must be designed, installed, operated, and maintained in a manner that provides a safe supply of water for all required facility operations and facilitates the complete and safe removal of all storm water and waste water. The plumbing systems must comply with applicable local and state codes. ( )

10. Hazardous Materials and Wastes. The program must comply with applicable federal, state and local codes concerning hazardous materials and waste management. ( )

11. Boiler and Steam. Where provided, boiler systems must be installed, operated and maintained in a manner that is designed to provide a safe supply of steam or hot water for all required facility operations. ( )

12. Safety Devices and Practices. The program must have in place and maintain safety devices and operational practices to assure the safety of clients and personnel. ( )

a. Facility sites that do not have emergency medical care resources must have first aid kits. ( )

b. All staff must be familiar with the locations, contents, and use of the first aid kits. ( )

13. Smoking. Written regulations governing the use of smoking materials must be adopted, conspicuously posted and made known to all program clients, staff members and the public. The written regulations must include at least the requirements listed below. Nothing in this section requires that smoking be permitted by programs whose admission policies prohibit smoking. ( )

a. Designated areas must be assigned for client, staff and public smoking. ( )

b. Noncombustible ashtrays of a safe design must be provided in all areas where smoking is permitted. ( )

c. Metal containers with self-closing, tight-fitting lids or their equivalent must be provided in all areas where smoking is permitted. Containers must be twenty (20) feet from the entrance of the building. ( )

d. Tobacco products must not be used by children, adolescents, staff, volunteers, or visitors in any building used to house children or adolescents, or in the presence of children or adolescents, or in vehicles used to transport children or adolescents. ( )

14. Structure, Maintenance, Equipment to Assure Safety. The facility must be structurally sound, maintained, and equipped to assure the safety of clients, personnel, and the public including: ( )

a. Furnishings, decorations, or other objects cannot be placed so as to obstruct exit access or exits. ( )

b. All ramps, open porches, sidewalks, and open stairs must be maintained free of

snow and ice buildup. ( )

c. Wood stoves must have railings or other protection designed to prevent residents from coming into contact with the stove surfaces. ( )

d. All fireplaces must have heat tempered glass fireplace enclosures or its equivalent. ( )

e. Boilers, hot water heaters, and unfired pressure vessels must be equipped with automatic pressure relief valves. ( )

f. Portable heating devices of any kind are prohibited; portable electric space heaters and moveable fuel-fired heaters are considered portable comfort heating devices. Exceptions: Heated mattress pads, electric blankets and heating pads when ordered by an authorized provider, physician. ( )

g. Flammable and highly combustible materials cannot be stored in the facility unless the building is protected throughout by an approved automatic fire extinguishing system. ( )

400. -- 449. (RESERVED).

APPROVED FACILITY AND PROGRAM SERVICES
(Sections 450 through 454)

450. ADULT FACILITY AND PROGRAM SERVICES.
The following are adult facility and program services that may be approved by the Department: ( )

01. Assessment and Referral Services. ( )

02. Residential Social Detoxification Facility. ( )

03. Clinically Managed Medium-Intensity Residential Treatment. ( )

04. Clinically Managed Low-Intensity Residential Treatment (Halfway House). ( )

05. Level I - Outpatient, and Level II.1 - Intensive Outpatient Treatment. ( )

06. Opioid Treatment Program. ( )

07. Drug Court Outpatient Treatment Program. ( )

08. Recovery Support Services. ( )

09. Early Intervention Services. ( )

451. CHILD AND ADOLESCENT FACILITY AND PROGRAM SERVICES.
The following are child and adolescent facility and program services that may be approved by the Department: ( )

01. Clinically Managed Medium-Intensity Residential Treatment. ( )

02. Level I - Outpatient, and Level II.1 - Intensive Outpatient Treatment. ( )

03. Drug Court Outpatient Treatment Program. ( )

04. Transitional Residential Treatment Services. ( )

05. Recovery Support Services. ( )

06. Early Intervention Services. ( )

452. SERVICES FOR CHILDREN AND ADOLESCENTS.
In addition to meeting all the rules and minimum standards contained in Sections 000 through 499 of these rules, each alcohol and substance use treatment or recovery support services program seeking approval to provide services to children and adolescents must meet the requirements in Section 452 of these rules: ( )

01. Separate Services From Adults. Provide children and adolescent services separate from adult services except for "continued care" described in Subsection 452.03 of these rules. ( )

02. Residential Care as an Alternative to Parental Care. Any program which provides care, control, supervision, or maintenance of children or adolescents for twenty-four (24) hour per day as an alternative to parental care must meet the following criteria: ( )

a. Be licensed under the "Child Care Licensing Act," Title 39, Chapter 12, Idaho Code, according to IDAPA 16.06.02, "Rules Governing Standards for Child Care Licensing"; or ( )

b. Be certified by the Department of Juvenile Corrections according to IDAPA 05.01.02, "Rules and Standards for Secure Juvenile Detention Centers"; and ( )

c. Be approved under IDAPA 16.07.20, "Alcohol and Substance Use Disorders Treatment and Recovery Support Services Facilities and Programs." ( )

03. Continued Care of an Eighteen-Year-Old Adolescent. An adolescent in a state-approved outpatient or intensive outpatient treatment program who reaches the age of eighteen (18) years may remain in the program in continued care for up to ninety (90) days after his eighteenth birthday, or, until the close of the current school year for an individual attending school. Prior to accepting an individual into continued care, the following are required to be presented to the Department's MSC: ( )

a. 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. ( )

b. A written assessment to assure that an individual in continued care does not jeopardize the health, safety, and well being of other children and adolescents in the program. ( )

c. Written documentation verifying the individual in continued care was in the care of the program prior to his eighteenth birthday. ( )

d. Written documentation verifying the individual needs to remain in continued care in order to complete treatment, education, or other similar needs. ( )

04. Licensed Hospital Facilities. Facilities licensed as hospitals under Title 39, Chapter 13, Idaho Code, are exempt from the requirements in Subsections 452.01 through 452.03 of these rules. ( )

453. SERVICES FOR WOMEN WITH DEPENDENT CHILDREN.
These services for women with dependent children including women who are attempting to regain custody of their children apply to all approved treatment facilities and programs seeking *speciality status* to provide services to women with dependent children. *( )*

01. Services. In addition to meeting all the rules and minimum standards contained in Sections 000 through 499 of these rules, each alcohol and substance use disorders treatment or recovery support services program seeking approval to provide services to women with dependent children must provide the following services, either directly or indirectly: ( )

a. Primary Medical and Prenatal Care. Primary medical care, including prenatal care for women in treatment. ( )

b. Primary Pediatric Care. Primary pediatric care for the children of women in treatment, including immunizations. ( )

c. Gender Specific Treatment. Gender specific alcohol and substance use disorders treatment. ( )

d. Therapeutic Interventions for Women. Therapeutic interventions for women addressing issues such as relationships, sexual and physical abuse, and parenting. ( )

e. Therapeutic Interventions for Children. Therapeutic interventions for children in custody of women in treatment to address, among other things, developmental needs, sexual abuse, physical abuse, and neglect. ( )

f. Child Care. Child care while the women are receiving services. ( )

g. Treatment Provided as a Family Unit. Treating the family as a unit and therefore admit both women and their children into treatment, when appropriate. ( )

h. Case Management. Case management to assist in establishing eligibility for public

assistance programs provided by Federal, State, or local governments, employment, and training programs. ( )

i. Education and Special Education Programs. Education and special education programs. ( )

j. Drug-free and Safe Housing. Drug-free and safe housing for women and their children. ( )

k. Childhood Programs. Therapeutic day care, Head Start, and other early childhood programs for children. ( )

l. Sexual Harassment Training. Curriculum that covers sexual harassment training for the clients. ( )

02. Written Agreements. Alcohol and substance use treatment or recovery support services programs that do not directly provide one *(1)* or more of the services described in Subsection 453.01 of these rules directly to women with dependent children must maintain written agreements with other approved programs that will be providing these services. A copy of the written agreements must be retained in the client's record. *( )*

454. (RESERVED).

455. CLINICAL CASE MANAGEMENT SERVICES.

Clinical case management is the process in which a clinician is responsible for the direct care of a client and for coordinating other services needed by the client. In addition to meeting all the rules and minimum standards contained in Subsections 000 through 499 of these rules, each alcohol and substance use disorders treatment service program seeking approval as a clinical case management facility must meet the requirements in this rule. Clinical case management services include the following services. *( )*

01. Clinical Case Management Services. *( )*

a. *Services must include a full biopsychosocial assessment, utilizing a Department-approved assessment tool, and a case-management assessment of the client and client family strength and needs, service planning, linkage to other services, client advocacy, and monitoring service provisions.* *( )*

b. *The facility must have policies and procedures for ensuring that multiple services are delivered in a coordinated and therapeutic manner to meet the goals of treatment outcomes.* *( )*

c. *Clinical case management services must not duplicate case management, substance use disorder treatment, or service coordination services currently being provided under any other state-funded program.* *( )*

d. *Clinical case management services provided must not exceed the clinician's scope of practice as defined by the individual licensing boards.* *( )*

02. Eligibility Criteria*. To be eligible for clinical case management, the client must meet the following criteria: ( )*

a. *Meet ASAM criteria for a substance use disorder and be unstable in two (2) or more of ASAM dimensions 1, 2, 5, or 6; ( )*

b. *Have a diagnosis of serious mental illness (SMI) as defined by the American Psychiatric Association in the Diagnostic and Statistical Manual of Mental Disorders, Text Revision (DSM-IV-TR): schizophrenia; paranoia and other psychotic disorders; bipolar disorders (mixed, manic and depressive); major depressive disorders (single episode or recurrent); schizoaffective disorders; and obsessive-compulsive disorders; and ( )*

c. *Be at risk for institutionalization. ( )*

03. Clinical Case Manager Qualifications*. ( )*

a. *A clinical case manager must be a Masters-level licensed clinician and be a qualified substance use disorders professional as defined in Section 013 of these rules. ( )*

b. *A clinical case manager may not hold trainee status. ( )*

04. Caseload*. A clinical case manager's total caseload must not be so large that it cannot assure quality service delivery and client satisfaction. For clinical case managers who have other recovery support service or treatment caseloads, or both, the total caseload must not exceed thirty (30) clients at any given time. ( )*

05. Clinical Supervision*. The clinical case management program must provide and document at least one (1) hour of clinical supervision per month for each clinical case manager. ( )*

06. Limitations on Reimbursement*. ( )*

a. *Clinical case managers will not be reimbursed for more than one (1) contact during a single fifteen (15) minute time period. ( )*

b. *Clinical case managers may not bill the substance use disorders system for mental health services they provide. ( )*

456. -- 499. (RESERVED).

ALCOHOL AND SUBSTANCE USE DISORDERS
RESIDENTIAL TREATMENT COMPONENT SERVICES
(Sections 500 through 599)

500. RESIDENTIAL SOCIAL DETOXIFICATION FACILITY.
Each alcohol and substance use disorders treatment program seeking approval as a residential

social detoxification facility must meet the requirements in Section 500 of these rules, in addition to all rules and minimum standards contained in Sections 000 through 499 of these rules. ( )

01. Detoxification Services in a Residential Social Detoxification Facility. ( )

a. Residential social detoxification facilities provide living accommodations in a structured environment for individuals who require twenty-four (24) hour per day, seven (7) days a week, supervised detoxification services. ( )

b. Detoxification services must be available continuously twenty-four (24) hours per day, seven (7) days per week. ( )

c. There must be clearly written policies and procedures for the detoxification of clients, which have been reviewed and approved by a medical consultant with specific knowledge of detoxification best practice. ( )

d. Counseling services must be provided to motivate clients to accept referral into the continuum of care for alcohol or drug abuse. ( )

e. The level of monitoring of the client or the physical restrictions of the environment must be adequate to prevent the client from causing serious harm to self or others. ( )

f. Clients must be under direct observation by trained personnel who meet training requirements established in this section. ( )

g. There must be provisions for any emergency care required. ( )

h. There must be clearly written policies and procedures for the transfer of clients from one (1) detoxification program to another, when necessary. ( )

i. There must be clearly written policies and procedures for dealing with clients who leave against professional advice. ( )

02. Supervision in a Residential Social Detoxification Facility. The program must provide supervisory staff as described in Section 215 of these rules. ( )

03. Staffing in a Residential Social Detoxification Facility. There must be twenty-four (24) hour per day, seven (7) days a week, trained personnel coverage. ( )

a. A minimum staff to client ratio of one (1) trained staff to six (6) clients must be maintained twenty-four (24) hours per day, seven (7) days a week. ( )

b. All staff members responsible for direct client care during the detoxification, must have completed CPR training, the basic first-aid training course, and additional training specific to detoxification prior to being charged with the responsibility of supervising clients. ( )

04. Transfer to an Outside Program From a Residential Social Detoxification Facility. Policies and procedures for transferring a client to another program must be established.

The policies and procedures must clearly specify the following: ( )

a. The staff of the program who are authorized to arrange for clients to be referred or transferred when necessary. ( )

b. The arrangements the program has made for exchanging records with the outside program when it is necessary for the care of the client. ( )

c. The location of the outside program and the names of the appropriate personnel to contact. ( )

d. The method of communication between the programs. ( )

e. The arrangements the program has made for transporting clients, when necessary, from the facility site of detoxification services. ( )

f. The policy for transferring clients needing substance use disorders treatment after detoxification. ( )

g. Policies concerning notification of the client's family of emergencies and of arrangements that have been made for referring or transferring the client to another program. ( )

h. The policies and procedures must be known and available to all detoxification staff. ( )

501. -- 509. (RESERVED).

510. LEVEL IV - MEDICALLY MONITORED INPATIENT TREATMENT.
Each alcohol and substance use disorders treatment program seeking approval as a Level IV-Medically Monitored Inpatient Treatment Facility (Level IV) must meet the requirements in Section 510 of these rules, in addition to all rules contained in Sections 000 through 499 of these rules. ( )

01. Treatment Services for Level IV. Treatment services must be provided in a hospital licensed under Title 39, Chapter 13, Idaho Code. ( )

02. Hospital Services for Level IV. ( )

a. The program's facility must be licensed as a hospital under Title 39, Chapter 13, Idaho Code. A copy of the current license must be available for inspection. ( )

b. The full range of services offered by the hospital must be available to the client. ( )

511. -- 519. (RESERVED).

520. LEVEL III.5 - CLINICALLY MANAGED MEDIUM INTENSITY RESIDENTIAL TREATMENT FACILITY FOR CHILDREN AND ADOLESCENTS.
Each alcohol and substance use disorders treatment program seeking approval as a Level III.5 - Clinically Managed Medium Intensity Residential Treatment Facility (Level III.5) for children and adolescents, must meet the requirements in Section 520 of these rules, in addition to all rules and minimum standards contained in Sections 000 through 499 of these rules. Each treatment program must also be licensed annually under IDAPA 16.06.02, "Rules Governing Standards for Child Care Licensing." ( )

01. Admission Criteria for Child and Adolescent Level III.5. A Level III.5 treatment facility will only admit children and adolescents with a primary diagnosis of alcohol, substance, or alcohol and substance abuse or dependency. ( )

02. Treatment Focus of Child and Adolescent Level III.5. A Level III.5 treatment facility must focus primarily on alcohol and substance use disorders diagnosed problems. A child or adolescent who is likely to have a withdrawal reaction will be admitted only after stabilization of withdrawal unless the Level III.5 treatment facility has a medically supervised program specifically designed for dealing with withdrawal. A Level III.5 treatment facility must provide individual and group counseling sessions, family treatment services, and alcohol and substance use disorders education sessions. Care must include at least twenty-one (21) hours a week of treatment program hours specific to alcohol and substance use disorders treatment by clinical staff, including planned and structured education, individual and group counseling, family counseling and motivational counseling. ( )

03. Required Staff Ratios in Child and Adolescent Level III.5. There must be written staff ratios for direct care staff to children and adolescents and service workers to children and adolescents. Unless otherwise specified in these rules, staff ratios must be: ( )

a. Supervisor to Staff Ratio. At least one (1) staff supervisor for every twenty (20) direct care staff or fraction thereof. ( )

b. Staff to Child or Adolescent Ratio-Daytime. At least one (1) direct care staff to every eight (8) children or adolescents when the children or adolescents are awake and present, unless the presenting problems of the children or adolescents 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 or adolescents. In that case, the ratio of direct care staff to children or adolescents ratio must be increased to ensure the safety and treatment needs of the children are met. ( )

c. Staff to Children or Adolescents' Ratio-Sleeping Hours. At least one (1) awake direct care staff to twenty (20) children or adolescents or fraction thereof during the children or adolescent's normal sleeping hours in buildings housing children or adolescent's sleeping quarters. If the presenting problems of the children or adolescents 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 or adolescents, then the ratio of direct care staff to children or adolescents ratio must be increased to ensure the safety and treatment needs of the children or adolescents are met. ( )

d. Medical Emergency. At least two (2) staff persons on duty during working hours in a children or adolescent's residential care facility must be certified to provide cardiopulmonary

resuscitation (CPR) and first aid for the age of the children or adolescents in care. During sleeping hours, only one (1) staff person on duty must be certified to provide CPR and first aid for the age of children or adolescents in care. ( )

e. 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. ( )

f. Service Worker Ratios. Except for non-accredited children or adolescent's residential schools, at least one (1) service worker needs to be available for every twenty (20) children or adolescents in care or fraction thereof. ( )

04. Staff Training in Child and Adolescent Level III.5. Unless otherwise specified in these rules, an employee or volunteer whose primary job function requires interaction with children or adolescents 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 or adolescents 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 and adolescent development issues appropriate to the population served. Training for direct client care staff must also include instruction in administering cardiopulmonary resuscitation (CPR) and administering first aid appropriate to the age of the children or adolescents in care within ninety (90) days after employment. ( )

05. Care Provided to Children, Adolescents, and Adults in Level III.5. Level III.5 treatment facilities providing care to children, adolescents, and adults must ensure the separation of child and adolescent clients from adult clients. This includes not sharing the same wing, or the same floor for recreation, living, sleeping, and restroom facilities. Children and adolescents must not dine together with adult residents. Children and adolescents must not share treatment groups, recreation, counseling sessions, educational programs, or treatment programs with adults except through utilization of continued care in compliance with Subsections 16.06.02.530 through 532, "Rules Governing Standards for Child Care Licensing." ( )

06. After Care Plan for Child and Adolescent Level III.5. A children or adolescent's residential care facility that provides alcohol and substance use disorders treatment must develop a written plan of aftercare services for each child or adolescent that includes procedures for reintegrating the child or adolescent into the family and community as appropriate, and outpatient and other continued care services recommended. ( )

07. Alcohol-Drug Testing for Child and Adolescent Level III.5. A Level III.5 treatment facility must establish and follow written policies and procedures for drug testing of children and adolescents as described in Section 740 of these rules. ( )

521. -- 529. (RESERVED).

530. LEVEL III.5 - CLINICALLY MANAGED MEDIUM INTENSITY RESIDENTIAL TREATMENT FACILITY FOR ADULTS.

Each alcohol and substance use disorders treatment program seeking approval as a Level III.5 - Clinically Managed Medium Intensity Residential Treatment Facility (Level III.5) for adults must meet the requirements in Section 530 of these rules, in addition to all rules and minimum standards contained in Sections 000 through 499 of these rules. ( )

01. Treatment Services for Adults Level III.5. ( )

a. A Level III.5 treatment facility provides living accommodations in a structured environment for adults who require twenty-four (24) hour per day, seven (7) days a week, supervision. ( )

b. Services must include assessment, treatment, and referral components. ( )

c. At a minimum there must be thirty-six (36) hours of counseling and educational programming available to the clients each week. ( )

d. There must be policies and procedures for medical screening, care of clients requiring minor treatment or first aid, and handling of medical emergencies. These provisions must be approved by the staff and consulting physician. ( )

e. There must be written provisions for referral or transfer to a medical facility for any person who requires nursing or medical care. ( )

f. Recreational activities must be provided for the clients. ( )

i. Appropriate activities must be provided to all clients during the day, in the evening, and on the weekend. ( )

ii. The activities must be planned to provide a consistent and well-structured yet flexible framework for daily living. ( )

iii. The activities must make use of community resources. ( )

iv. Whenever possible, clients must participate in planning activities. ( )

02. Supervision of Adults Level III.5. A Level III.5 treatment facility must provide supervisory staff as described in Section 215 of these rules. ( )

03. Staffing Adult Level III.5. There must be qualified staff to maintain appropriate staff to client ratios. ( )

a. There must be one (1) qualified substance use disorders professional staff member for every ten (10) clients. ( )

b. There must be other staff sufficient to meet the ratio of one (1) staff person to twelve (12) clients continuously, twenty-four (24) hours per day. ( )

04. Care Provided to Children, Adolescents, and Adults in Level III.5. Level III.5

treatment facilities providing care to children, adolescents, and adults must ensure the separation of the child and adolescent clients from adult clients. This includes not sharing the same wing, or the same floor for recreation, living, sleeping, and restroom facilities. Children and adolescents must not dine together with adult residents. Children and adolescents but must not share treatment groups, recreation, counseling sessions, educational programs, or treatment programs with adults unless there is a documented therapeutic reason. ( )

531. -- 539. (RESERVED).

540. LEVEL III.1 - CLINICALLY MANAGED LOW-INTENSITY RESIDENTIAL TREATMENT FACILITY FOR ADULTS (HALFWAY HOUSE).
Each alcohol and substance use disorders treatment program seeking approval as a Level III.1 - Clinically Managed Low Intensity Residential Treatment Facility (Level III.1) must meet the requirements in Section 540 of these rules, in addition to all rules and minimum standards contained in Sections 000 through 499. ( )

01. Treatment Services for Adults Level III.1. ( )

a. A Level III.1 treatment facility provides living accommodations in a structured environment that encourages each adult client to assume responsibility for their own rehabilitation. ( )

b. Treatment and adjunct services *may* be provided *on-site or* arranged for by the program. *If the program chooses to provide treatment services on-site, it must also meet the requirements in Section 600 of these rules.* *( )*

c. A Level III.1 treatment facility must encourage use of community resources by persons recovering from alcohol and substance use disorders. ( )

d. There must be written provisions for medical screening, care of clients requiring minor treatment or first aid and handling of medical emergencies. ( )

02. Supervision for Adults Level III.1. A Level III.1 treatment facility must be supervised by a qualified substance use disorders professional. Section 215 of these rules does not apply to this level of care in this setting. ( )

03. Staffing for Adults Level III.1. A staff person must be available to residents twenty-four (24) hours per day, seven (7) days a week. The staff to client ratio must not exceed twelve (12) clients to one (1) staff person. The staff must be composed of: ( )

a. A house manager; and ( )

b. Other staff sufficient to meet the required staff to client ratio. ( )

541. -- 599. (RESERVED).

ALCOHOL AND SUBSTANCE USE DISORDERS

OUTPATIENT TREATMENT COMPONENT SERVICES
(Sections 600 through 699)

600. LEVEL I - OUTPATIENT, AND LEVEL II.1 - INTENSIVE OUTPATIENT TREATMENT FACILITIES FOR CHILDREN, ADOLESCENTS, AND ADULTS.
Each alcohol and substance use disorders treatment program seeking approval as a Level I - Outpatient Treatment Facility (Level I), or a Level II.1 - Intensive Outpatient Treatment Facility (Level II.1), must meet the requirements in Section 600 of these rules, in addition to all rules and minimum standards contained in Sections 000 through 499 of these rules. ( )

01. Treatment Services in Level I, and Level II.1. ( )

a. Services in outpatient facilities must be provided at specified times. ( )

b. Counseling services must be provided through the outpatient program on an individual, family, or group basis. ( )

c. The services must include educational instruction and written materials on the nature and effects of alcohol and substance use disorders and the recovery process. ( )

d. The program must provide adjunct services or refer the client to adjunct services as indicated by client need. ( )

02. Supervision in Level I, and Level II.1. The program must provide supervisory staff as described in Section 215 of these rules. ( )

03. Staffing in Level I, and Level II.1. There must be qualified staff to maintain appropriate staff to client ratios. ( )

a. Level I must employ at a minimum one (1) qualified substance use disorders professional staff person for every fifty (50) clients. Irrespective of whether the caseload is private or publicly funded, the maximum caseload for one (1) qualified substance use disorders professional is fifty (50) clients. ( )

b. Level II.I must employ at a minimum one (1) qualified substance use disorders professional staff person for every thirty (30) clients. Irrespective of whether the caseload is private or publicly funded, the maximum caseload for one (1) qualified substance use disorders professional is fifty (50) clients. ( )

04. Treatment Service Delivery Settings Offsite in Levels I and II.1. Provision of outpatient treatment services outside of an approved facility: ( )

a. Services must be provided by qualified substance use disorders professionals. ( )

b. Services must be provided in a state or federally approved institution or client's residence. ( )

c. Services must be provided in a safe setting. ( )

d. Confidentiality according to 42 CFR and HIPAA regulations must be adhered to. ( )

e. Client records must be maintained in accordance to Sections 375 and 376 of these rules. ( )

f. Individual client needs, as reflected in the treatment plan, indicate the need or appropriateness of providing treatment outside the approved facility. ( )

g. The Department has final authority over the decision of whether a site meets Subsections 600.04.a. through 600.04.f. of these rules. ( )

601. -- 609. (RESERVED).

610. OPIOID TREATMENT PROGRAM.
An Opioid Treatment Program (OTP) will be approved by the Department only if all requirements are met under 42 CFR, Section 8.12, Federal Opioid Treatment Standards. These standards have been incorporated by reference and information to access the standards is found in Section 004 of these rules. The OTP must provide documentation to the Department of their current certification under the federal standards. Any changes to the OTP certification status must be reported immediately to the Department. In addition to the above referenced requirements, all sections of these rules apply. ( )

611. -- 619. (RESERVED).

620. DRUG COURT OUTPATIENT TREATMENT PROGRAM.
Each alcohol and substance use disorders treatment program seeking approval as a drug court outpatient treatment program must meet the requirements in Sections 620 through 622 of these rules, in addition to all rules and minimum standards contained in Sections 000 through 499 of these rules. ( )

01. Governing Body for a Drug Court Outpatient Treatment Program. A drug court outpatient treatment program must have a governing body, which can be the local Drug Court Board. ( )

a. The governing body must develop a written mission statement, goals, and objectives that establish the drug court outpatient treatment program's philosophy and direction for treatment services. ( )

b. The governing body must establish bylaws and administrative policies to guide relationships between itself and the responsible administrative and professional staffs and the community. Current copies of the bylaws and administrative policies must be readily available to all members of the governing body, the Department, and other persons in accordance with their responsibilities or involvement in implementing the policies of the drug court outpatient treatment program. ( )

02. Assessment and Participation Policies and Procedures for a Drug Court Outpatient Treatment Program. The local Drug Court Board and State Drug Court Coordinating Committee are responsible for developing policies and procedures for assessment and participation in a drug court outpatient treatment program. ( )

03. Admissions and Discharge Policies and Procedures for a Drug Court Outpatient Treatment Program. The local Drug Court Board is responsible for developing policies and procedures governing the treatment admissions process which must include use of eligibility guidelines, the LSI-R, substance use disorder assessments, program capacity, acceptance, and appropriateness for treatment. The Board is also responsible for developing policies and procedures governing the treatment discharge process. ( )

621. DRUG COURT OUTPATIENT TREATMENT PROGRAM REQUIREMENTS.

01. Staff Composition in a Drug Court Outpatient Treatment Program. The drug court outpatient treatment program must have a sufficient number of treatment staff, qualified substance use disorders professionals, and administrative and support staff to provide for the care and treatment of clients. ( )

a. Unless otherwise specified, programs providing treatment services must provide for the following supervisory staff: ( )

i. The program must provide for a Program Administrator who is responsible for oversight of all services provided by the program. ( )

ii. The program must provide for a Treatment Supervisor to provide on-site supervision at the treatment facility. The individual may supervise more than one (1) treatment activity. This position can also be the Clinical Supervisor, Program Administrator, or both. In those instances where these positions are combined, requirements must be met for all positions. ( )

iii. The program must provide for a Clinical Supervisor who can be the same individual or position as the Program Administrator, Treatment Supervisor, or both. In those instances where these positions are combined, all requirements must be met for all positions. The Clinical Supervisor can be a single individual who will provide for statewide oversight of clinical activities but need not provide direct clinical supervision of staff. ( )

b. Supervisory staff, which includes the Program Administrator, Treatment Supervisor, and Clinical Supervisor, must meet the qualifications listed in Section 215 of these rules. ( )

c. The drug court treatment program must provide supervision as follows: ( )

i. Qualified substance use disorders professionals must supervise all treatment activities. ( )

ii. Procedures for supervision of all clinical activities must be established which specify frequency and type of supervisory contact, and periodic client file reviews. ( )

d. There must be qualified staff to maintain appropriate staff to client ratios as set by the State Drug Court Coordinating Committee, and staff to provide necessary support to the professional staff. ( )

e. The program must employ at least one (1) qualified substance use disorders professional for each facility; or ( )

i. If the program arranges for the provision of counseling services, it must maintain a valid written agreement or contract with a qualified substance use disorders professional. ( )

ii. When a qualified substance use disorders professional is not available or needed on a full-time basis, arrangements must be made to obtain a qualified substance use disorders professional on an attending, continuing consultative, or part-time basis. ( )

02. Policies and Procedures for Drug Court Client Expectations. Drug court outpatient treatment programs must have written policies and procedures that specify client expectations of drug court outpatient treatment program including: ( )

a. Impartial access to treatment regardless of race, creed, color, religion, age, gender, national origin, veteran, or disability that does not preclude participation in the alcohol and substance use disorders treatment program; ( )

b. Respect for personal dignity in the provision of all care and treatment; ( )

c. Humane services, regardless of the source of financial support; ( )

d. An individualized treatment plan, based on assessment of current needs; ( )

e. Client access to their treatment plan; and ( )

f. What information will be shared and the nature of communications with members of the local drug court team. ( )

03. Client to be Informed of Expectations in a Drug Court Outpatient Treatment Program. The drug court outpatient treatment program must inform each client of the drug court client expectations. The client must sign a written statement of drug court client expectations that includes who the client may contact with questions, concerns, or complaints regarding services provided. ( )

622. DRUG COURT OUTPATIENT TREATMENT PLAN AND SERVICES.

01. Individualized Treatment Plan in a Drug Court Outpatient Treatment Program. The drug court outpatient treatment program must have a written, individualized treatment plan for each client that addresses the alcohol and substance use disorders affects on the major life areas and is based on assessment of the client's clinical and criminogenic needs. ( )

a. Overall responsibility for development and implementation of the treatment plan

must be assigned to a qualified substance use disorders professional staff member. ( )

b. Beginning with the completion of the assessment process, and within time frames set by the local Drug Court Board, a detailed individualized treatment plan must be developed which meets the following requirements: ( )

i. Specifies the services necessary to meet the client's needs; ( )

ii. Includes referrals for needed services that the program does not provide; ( )

iii. Contains specific goals that the client must achieve to reduce or eliminate alcohol or drug use; ( )

iv. Contains specific objectives that relate to the goals, are written in measurable terms and includes expected achievement dates; and ( )

v. Specifies the frequency of treatments. ( )

c. When appropriate, the client must participate in the development of the treatment plan and such participation must be documented in the client's record. ( )

d. A specific plan for involving the family or significant others must be included when indicated. ( )

02. Treatment Services Provided in a Drug Court Outpatient Treatment Program. ( )

a. Services in outpatient facilities must be provided at specified times. ( )

b. Counseling services must be provided through the outpatient program on an individual, family, or group basis. ( )

c. The services must include educational instruction and written materials on the nature and effects of substance use disorders and the recovery process, as well as cognitive behavioral interventions to address the identified criminogenic needs. Assessments must include the use of the LSI-R. ( )

d. The program must provide adjunct services or refer the client to adjunct services as indicated by client need. ( )

e. Requirements for group treatment must be present for the effective delivery of education, skill training, and process groups, and must specify the maximum number of participants allowed for each type of group. ( )

623. -- 629. (RESERVED).

630. CHILD AND ADOLESCENT TRANSITIONAL RESIDENTIAL TREATMENT FACILITY.

Each alcohol and substance use disorders treatment program seeking approval as a Child and Adolescent Transitional Residential Treatment Facility must meet the requirements in Section 630 of these rules, in addition to all rules and minimum standards contained in Sections 000 through 499 of these rules. ( )

01. Licensing of a Child and Adolescent Residential Transitional Facility. A Child and Adolescent Residential Transitional Facility must meet the requirements in IDAPA 16.06.02, "Rules Governing Standards for Child Care Licensing," and be licensed annually as a Children's Residential Care Facility. ( )

02. Treatment Services in a Child and Adolescent Residential Transitional Facility. ( )

a. Child and Adolescent Transitional Residential Treatment will be provided as a Level III.1 - Clinically Managed Low-Intensity Residential Service, which *may* include outpatient for clients who have completed Level III.5, Section 520, and lack supportive recovery environments. *( )*

c. A Level III.1 facility provides living accommodations in a structured environment that encourages each child and adolescent client to assume responsibility for their own rehabilitation. ( )

d. Treatment and adjunct services must not be provided but can be arranged for by the program. ( )

e. A Level III.1 treatment facility must encourage use of community resources by persons recovering from alcohol and substance use disorders. ( )

f. Treatment under Level III.1 is directed toward applying recovery skills, preventing relapse, improving social functioning and ability for self-care, promoting personal responsibility, developing a social network supportive of recovery, and reintegrating the individual into the worlds of school, work and family life. ( )

03. Case Management in a Child and Adolescent Residential Transitional Facility. Every Child and Adolescent Transitional Residential Treatment Facility must provide case management and meet the requirements set forth in Section *745* of these rules. *( )*

631. -- 639. (RESERVED).

640. LEVEL .5 - EARLY INTERVENTION SERVICES FOR CHILDREN AND ADOLESCENTS.
Early intervention is a brief intensive service that is delivered in an approved treatment facility. ( )

01. Services in Child and Adolescent Level .5. Services must be provided by a qualified substance use disorders professional. ( )

02. Case Management in Child and Adolescent Level .5. Case Management may be

provided as set forth in Section *745* of these rules. *( )*

03. Individualized Intervention Plan in Child and Adolescent Level .5. The intervention program must prepare for each client an intervention plan that addresses the service needs of the client as identified in the current assessment. To the maximum extent possible, the development of the intervention plan must be a collaborative process involving the client, family members, and other support/service systems. A written intervention plan must be developed and implemented within fifteen (15) days of initiation of services. The intervention plan must be updated at least every ninety (90) days. The individualized intervention plan must contain at least the following: ( )

a. A list of problems describing areas of concern, and needs identified during the assessment; ( )

b. Overall goals, describing desired results to be achieved, consistent with the client's service needs and assessment; ( )

c. Identification of the nature, amount, frequency, and duration of the intervention services required by the client; ( )

d. Selection of the nature, amount, type, frequency, and duration of services will be determined with the participation of the client, the client's informal support network, and providers of services; ( )

e. Documentation of who participated in the selection of services; ( )

f. Documentation of unmet needs and service gaps; ( )

g. Concrete measurable goals, objectives, and interventions; and ( )

h. Time frames for achievement of the case management goals and objectives. ( )

04. Education in Child and Adolescent Level .5. All providers must utilize an evidence based education program from the Department's list of approved programs. ( )

05. Counseling in Child and Adolescent Level .5. Each program will provide individual and group counseling to support client's abstinence. ( )

06. Discharge from Child and Adolescent Level .5. Discharge is upon successful completion of the intervention plan or therapeutic discharge. ( )

07. Discharge Plan in Child and Adolescent Level .5. Each client must participate in the development of a discharge plan as described in Section 386 of these rules. ( )

08. Client Intervention Services in Child and Adolescent Level .5. Clients in intervention services are to be served separately from clients in other levels of care. ( )

641. -- 649. (RESERVED).

650. LEVEL .5 - EARLY INTERVENTION SERVICES FOR ADULTS.
Early intervention is a brief intensive service that is delivered in an approved treatment facility. ( )

01. Case Management in Adult Level .5. Case Management may be provided as set forth in Section *745* of these rules. *( )*

02. Individualized Intervention Plan in Adult Level .5. The intervention program must prepare for each client an intervention plan that addresses the service needs of the client as identified in the current assessment. To the maximum extent possible, the development of the intervention plan must be a collaborative process involving the client, family members, and other support/service systems. A written intervention plan must be developed and implemented within fifteen (15) days of initiation of services. The intervention plan must be updated at least every ninety (90) days. The individualized intervention plan must contain at least the following: ( )

a. A list of problems describing areas of concern, and needs identified during the assessment; ( )

b. Overall goals, describing desired results to be achieved, consistent with the client's service needs and assessment; ( )

c. Identification of the nature, amount, frequency, and duration of the intervention services required by the client; ( )

d. Selection of the nature, amount, type, frequency, and duration of services will be determined with the participation of the client, the client's informal support network, and providers of services; ( )

e. Documentation of who participated in the selection of services; ( )

f. Documentation of unmet needs and service gaps; ( )

g. Concrete measurable goals, objectives, and interventions; and ( )

h. Time frames for achievement of the case management goals and objectives. ( )

03. Education in Adult Level .5. All providers must utilize an evidence based education program from the Department's list of approved programs. ( )

04. Counseling in Adult Level .5. Each program will provide individual and group counseling to support client's abstinence. ( )

05. Discharge in Adult Level .5. Discharge is upon successful completion of the intervention plan or therapeutic discharge. ( )

06. Clients in Intervention Services in Adult Level .5. Clients in intervention services are to be served separately from clients in other levels of care. ( )

07. Discharge Plan in Adult Level .5. Each client must participate in the development of a discharge plan as described in Section 386 of these rules. ( )

651. -- 699. (RESERVED).

RECOVERY SUPPORT COMPONENT SERVICES
(Sections 700 through 799)

700. ADULT STAFFED SAFE AND SOBER HOUSING FACILITY.
Each alcohol and substance use disorders treatment or recovery support services program seeking approval as an Adult Staffed Safe and Sober Housing facility must meet the requirements in Section 700 of these rules, in addition to Sections 000 through 499 of these rules, unless otherwise specified in this section. ( )

01. Services in an Adult Staffed Safe and Sober Housing Facility. ( )

a. Adult Staffed Safe and Sober Housing facilities provide a safe, clean, and sober environment for clients who are transitioning back into the community. ( )

b. There must be written policies and procedures that establish house rules and requirements and include procedures for monitoring client compliance and consequences for violating house rules and requirements. ( )

c. Adult Staffed Safe and Sober Housing programs must allow clients to participate in daily living activities, physical activities, and leisure time activities. Section 224 of these rules does not apply to this level of care in this setting. ( )

d. Adult Staffed Safe and Sober housing facilities must encourage use of community resources by persons recovering from alcohol and substance use disorders. Sections 370 and 380 of these rules do not apply to this level of care in this setting. ( )

02. Program Fees for Expenses in an Adult Staffed Safe and Sober Housing Facility. ( )

a. An Adult Staffed Safe and Sober Housing facility must not bill rent to clients receiving state substance use disorders funding for housing but may impose a “program fee” to cover the following expenses: ( )

i. Basic utilities-electricity, gas, water, sewer, trash, etc.; ( )

ii Telephone service; ( )

iii Cable or satellite television; ( )

iv. Internet services, if available to client; ( )

v. Amenities fund covers wear and tear on home living items such as furniture, bedding, curtains, washer and dryer, cookware, dishes, appliances, etc.; ( )

vi. Cleaning supplies, if supplied by provider; ( )

b. Program fees must not exceed one hundred dollars ($100) per month. ( )

c. Program fees must be imposed equally on residents receiving state funding for housing and non-state funded residents. ( )

d. Adult Staffed Safe and Sober Housing facilities must assure that clients fully understand the purpose of an imposed program fee and what it includes. ( )

e. Adult Staffed Safe and Sober Housing facilities must disclose to the Department any program fees imposed and what is included in the fee. Changes to program fees must be reported to the Department prior to being imposed. ( )

f. The client, client's guardian, or conservator must be notified in writing of an increase in the program fee at least thirty (30) calendar days prior to such a raise taking effect. ( )

03. Termination of Housing from an Adult Staffed Safe and Sober Housing Facility. Section 386 of these rules does not apply to this subsection. The housing provider may discharge a client who violates house rules and requirements in accordance with the following: ( )

a. Client is informed verbally and in writing of reasons for discharge; ( )

b. A process is in place that recognizes the rights of the client to due process and allows the client to request a formal review of the decision; ( )

c. The reasons for discharge and any actions following are clearly documented in the client's file. ( )

04. Staffing in an Adult Staffed Safe and Sober Housing Facility. A staff person must be available to residents twenty-four (24) hours per day, seven (7) days a week, and conduct daily site visits. Sections 215 through 218 of these rules does not apply to this level of care in this setting. At a minimum, the staff must include: ( )

a. A house manager who is on-site a minimum of twenty (20) hours a week; or( )

b. A housing coordinator who is off-site, but monitors house activities on a daily basis. ( )

05. Staff Qualifications for an Adult Staffed Safe and Sober Housing Facility. A house manager and housing coordinator must have at least one (1) year of experience or training working with the substance use disorders clients. ( )

06. Certified Home Inspection in an Adult Staffed Safe and Sober Housing Facility. An Adult Staffed Safe and Sober Housing program must provide a certified home inspection in addition to the required fire inspection documentation. There must be documentation that any major health and safety issues identified in the certified home inspection have been corrected. ( )

07. Living Environment in an Adult Staffed Safe and Sober Housing Facility. Adult Staffed Safe and Sober Housing facilities must meet the requirements set forth in Section 396 of these rules. ( )

08. Facility Inspection of an Adult Staffed Safe and Sober Housing Facility. Adult Staffed Safe and Sober Housing facilities must be inspected by staff a minimum of three (3) times a week to determine if hazards or potential safety issues exist. A record of the inspection must be maintained that includes the date and time of the inspection, problems encountered, and recommendation for improvement. ( )

09. Fire Inspection of an Adult Staffed Safe and Sober Housing Facility. An Adult Staffed Safe and Sober Housing facility must provide documentation of a fire safety inspection conducted annually by the State Fire Marshall or designee. ( )

701. -- 709. (RESERVED).

710. CHILD CARE.

Each alcohol and substance use disorders treatment or recovery support services program seeking approval as a Child Care provider must meet the requirements in Section 710 of these rules, in addition to Sections 000 through 499 of these rules, unless otherwise specified in this section. ( )

01. Services in a Child Care Program. Child Care programs provide substitute care and supervision to a client's child or children while the client is participating in clinical treatment, recovery support services, or both. Sections 224, 370, 380, and 386 of these rules do not apply to this setting. ( )

a. Child Care providers must: ( )

i. Provide documentation of a current license under IDAPA 16.06.02, “Rules Governing Standards for Child Care Licensing”; or ( )

ii. Request a waiver for child care licensing. ( )

b. Child Care programs will be expected to: ( )

i. Provide services at a time and location that is suitable for the client to attend clinical treatment or recovery support services; and ( )

ii. Provide a setting that promotes and ensures the health, well-being, and safety of the child or children in care. ( )

c. There must be policies and procedures in place that address the following: ( )

i. Behavior management and discipline methods; ( )

ii. Current certification in pediatric rescue breathing and first aid; ( )

iii. Health and safety standards for hand washing are practiced before and after child care routines including: diapering, assisting children in the bathroom, wiping noses, administering first aid, preparing food, and eating meals; ( )

iv. Foods given to children are kept at proper temperatures and not subject to contamination; ( )

v. Medicines, cleaning products, and other dangerous substances and articles are kept away from children at all times; and ( )

vi. A telephone or other means of communication is working at all times and made available in the event of an emergency. ( )

02. Child Care Program Request for Waiver. ( )

a. Child Care programs may request a waiver of the child care licensing requirement in accordance with the following: ( )

i. The request for waiver must be in writing; and ( )

ii. Care is exclusively for a child or children of parent(s) who are on site. ( )

b. Child Care programs requesting a waiver must submit a written statement that the program will comply with the standards for health and safety established by the Department under IDAPA 16.06.02, "Rules Governing Standards for Child Care Licensing." ( )

03. Supervision in a Child Care Program. The program must adopt and implement lines of authority that ensure the proper and effective supervision and monitoring of employees and volunteers. Sections 215 through 218 of these rules do not apply to this setting. ( )

04. Staffing in a Child Care Program. There must be staff to provide for the needs, safety, protection, and supervision of children served. ( )

a. The minimum age for child care providers is eighteen (18) years. ( )

b. No one living in the place where child care is provided or employed in the child care program has any physical or mental condition that poses a health risk to a child receiving care. ( )

05. Child Care Program Permanent Register. The program must maintain a permanent register of all children receiving services. The permanent register must include each child's full name, gender, date of birth, parents or guardian, the date and time of services, and

name of individual(s) providing care. ( )

711. -- 719. (RESERVED).

720. LIFE SKILLS.
Each alcohol and substance use disorders treatment or recovery support services program seeking approval as Life Skills provider must meet the requirements in Section 720 of these rules, in addition to Sections 000 through 499 of these rules, unless otherwise specified in these rules. ( )

01. Services in a Life Skills Program. Life Skills programs are non-clinical services designed to enhance personal and family skills for work and home, reduce marriage and family conflict, and develop attitudes and capabilities that support the adoption of healthy, recovery-oriented behaviors and healthy re-engagement with the community. ( )

a. Services may be provided on an individual basis or in a group setting and can include activities that are culturally, spiritually, or gender-specific. Sections 370, 380, and 386 of these rules do not apply to this setting. ( )

b. Life Skills programs must have a written plan. This written plan must include the curriculum used. Section 224 of these rules does not apply to this setting. The list of activities must include: ( )

i. A description of each activity; ( )

ii. The measurable goals of each activity; and ( )

iii. The staff person responsible for providing or supervising each activity. ( )

c. Life Skills may be approved for clinical treatment providers on a case-by-case basis under the following conditions: ( )

i. The service is billable only as a recovery support service; and ( )

ii. The service is distinguishable from treatment services. ( )

iii. Clients receiving individual services from a qualified substance use disorders professional must be included in the staff-to-client ratio counts required for treatment services. ( )

02. Supervision in a Life Skills Program. The program must provide staff with supervision to ensure that services are provided effectively and appropriately. Sections 215 through 218 of these rules do not apply to this setting. ( )

03. Staffing in a Life Skills Program. Each Life Skills program must ensure services are provided by qualified staff who meet the following requirements: ( )

a. Each staff person has completed training to deliver the service or has a record of

performance in the provision of service of at least one (1) year; ( )

b. Personnel file must contain documentation that each staff person is qualified; ( )

c. There must be one (1) qualified staff person for every thirty (30) clients in a group setting; and ( )

d. The total client caseload of any qualified staff person must not exceed forty-five (45) clients. ( )

721. -- 729. (RESERVED).

730. TRANSPORTATION SERVICES.
Each alcohol and substance use disorders treatment or recovery support services program seeking approval as a transportation provider must meet the requirements in Section 730 of these rules, in addition to Sections 000 through 499 of these rules, unless otherwise specified in this section. ( )

01. Transportation Services. Transportation services are provided to clients who are engaged in alcohol and substance use disorders treatment or recovery support services, or both, and who have no other means of obtaining transportation. Reimbursement is not available for transportation services to and from employment. Sections 215, 216, 217, 218, 224, 370, 380, and 386 of these rules do not apply to this setting. Transportation services include any of the following types of transportation: ( )

a. Public Transportation. Any entity in the business of transportation that is organized to provide and actually provides transportation to the general public. ( )

b. Individual Transportation. Individual transportation is any individual providing transportation who does not meet the definition of public or Agency Transportation and provides only transportation services to an eligible client. Only individual transportation providers who are approved by the Bureau of Substance Use Disorders can be reimbursed. ( )

c. Agency Transportation. Agency transportation is an entity whose employees or agents provide transportation services in addition to one (1) or more other services to the same eligible client. ( )

02. Programs Seeking Approval for Transportation Services. Programs seeking approval for transportation services must meet the following requirements: ( )

a. Agencies must maintain documentation of a valid driver's license for each employee who transports clients; ( )

b. The program must adhere to all laws, rules, and regulations applicable to drivers and type of vehicles used; ( )

c. The minimum insurance required for all programs is professional liability,

commercial general liability, and comprehensive liability for all program vehicles. All facilities must maintain professional liability insurance in the amount of at least five hundred-thousand to one million dollars ($500,000/$1,000,000) and general liability and automobile insurance in the amount of at least one million to three million dollars ($1,000,000/$3,000,000). Copies of the declarations face-sheet for all policies must be included with the application. Individual providers must carry at least the minimum insurance required by Idaho law. If an agency permits employees to transport clients in employee's personal vehicles, the agency must ensure that insurance coverage is carried to cover those circumstances. ( )

d. The program must document that the person for whom services are billed was actually transported for all the distance billed. ( )

e. Transportation is paid on a reimbursement basis only. ( )

f. Only the least expensive, most appropriate means of transportation will be authorized. ( )

g. Transportation providers must provide the following services and perform the following tasks: ( )

i. Provide services to transport clients to and from alcohol and substance use disorders treatment or recovery support services; ( )

ii. Provide services at a time and location that is suitable for the client to attend alcohol and substance use disorders treatment or recovery support services; and ( )

i. The program must provide transportation by the most direct route practical. ( )

j. Each transportation program must ensure the safety and well-being of all clients transported. This includes maintaining and operating vehicles in a manner that ensures protection of the health and safety of the clients transported. The transportation program must meet the following requirements: ( )

i. The driver is prohibited from using a cell phone while transporting a client; ( )

ii. No smoking in the vehicle; ( )

iii. All vehicles must be equipped with a first aid kit and fire extinguisher; and ( )

iv. The vehicle must be equipped with appropriate restraints. ( )

03. Staffing for Transportation Services. The operator of a motor vehicle transporting clients must be, at a minimum, eighteen (18) years of age. ( )

731. -- 739. (RESERVED).

740. ALCOHOL AND DRUG TESTING SERVICES.
Each alcohol and substance use disorders treatment or recovery support services program seeking

approval as an Alcohol and Drug Testing provider must meet the requirements in Section 740 of these rules, in addition to Sections 000 through 499 of these rules, unless otherwise specified in this section. *Alcohol and drug testing is defined in Section 010 of these rules.* *( )*

01. Alcohol and Drug Testing Services. ( )

a. Alcohol and Drug Testing providers must have policies and procedures regarding the collection, handling, testing, and reporting of drug-testing specimens. Sections 224, 370, 380, and 386 of these rules do not apply to this setting. ( )

b. Alcohol and Drug Testing providers performing on-site testing must use alcohol and drug screening tests that are approved by the U.S. Food and Drug Administration. ( )

c. Laboratories used for lab-based confirmation or lab-based testing must meet the requirements in IDAPA 16.02.06, "Rules Governing Quality Assurance for Idaho Clinical Laboratories." ( )

d. Testing is performed at the provider level and may be administered randomly or at scheduled intervals. Frequency of testing will vary depending on the client's progress. ( )

e. The scope of testing must be sufficiently broad to detect the client's primary drug of choice as well as other drugs of abuse. ( )

f. Elements contributing to the reliability and validity of a testing process must include: ( )

i. Direct observation of specimen collection; ( )

ii. Verification temperature and measurement of creatinine levels in urine samples to determine the extent of water loading; ( )

iii. Specific, detailed, written procedures regarding all aspects of specimen collection, specimen evaluation, and result reporting; ( )

iv. A documented chain of custody for each specimen collected; ( )

v. Quality control and quality assurance procedures for ensuring the integrity of the process; and ( )

vi. Procedures for verifying accuracy when drug test results are contested. ( )

g. Each employee responsible for collection and testing of specimens must be instructed in the precautions to take when handling specimens. ( )

h. Employees responsible for collection and testing of specimens must be provided with, and wear, gloves when collecting or handling specimens. ( )

i. There must e procedures in place for storage and disposal of specimens and

chemicals used for testing. ( )

j. There must be a designated staff member who has responsibility for developing these policies and procedures and for documenting their implementation. ( )

02. Supervision of an Alcohol and Drug Testing Service. The program must adopt and implement lines of responsibility that ensure the proper and effective supervision and monitoring of employees and volunteers. Sections 215 through 218 of these rules do not apply in this setting. ( )

03. Staffing of an Alcohol and Drug Testing Service. Staff must be trained to administer alcohol and drug testing utilizing elements contributing to the reliability and validity of such testing. ( )

741. -- *744*. (RESERVED).

745. BASIC AND INTENSIVE CASE MANAGEMENT SERVICES.
In addition to meeting all the rules and minimum standards contained in Sections 000 through 499 of these rules, each alcohol and substance use disorders treatment or recovery support services program seeking approval as a Basic or Intensive case management facility must meet the requirements in Section 745 of these rules. Basic and Intensive case management services include: *( )*

01. Basic and Intensive Case Management Services. *( )*

a. *Services must include a case management assessment of the client and client family strength and needs, service planning, linkage to other services, client advocacy and monitoring service provisions.* *( )*

b. *There must be policies and procedures for ensuring that multiple services are delivered in a coordinated and therapeutic manner to meet the goals of treatment outcomes.* *( )*

c. *Case management services must not duplicate case management services currently provided under any other state-funded program.* *( )*

02. Comprehensive Service Plan Development*. The case manager must prepare for each client a comprehensive service plan that addresses the service needs of the client as identified in the current assessment. To the maximum extent possible, the development of the comprehensive service plan must be a collaborative process involving the client, family members, and other support and service systems. A written comprehensive service plan must be developed and implemented within thirty (30) days after the date the agency first sees the client. The comprehensive service plan must be updated at least every ninety (90) days. Sections 370 and 380 of these rules do not apply in this setting. The individual's comprehensive service plan is based on the Department's Minimum Case Management Standards referenced under Section 002 of these rules.* *( )*

03. Case Manager Contact and Availability*.* *( )*

a. *Basic Case Management. The case manager must have a face-to-face contact with each client, at least every month. Contact may be made more often depending upon the level of case management.* ( )

b. *Intensive Case Management. At least every thirty (30) days, depending upon the level of case management provided, case managers must have additional contact with the client, guardian, or provider who can verify the client's well being and whether services are being provided according to the written plan. The frequency, mode of contact, and person being contacted must be identified in the plan and must meet the needs of the client.* ( )

04. Case Manager Qualifications*. A case manager must have completed training in the essentials of case management as identified by the Department. A case manager providing basic or intensive case management must:* ( )

a. *Be a qualified substance use disorders professional as defined in Section 013 of these rules, an ISAS as defined in Section 012 of these rules, or a trainee as defined in Section 013 of these rules. An ISAS or trainee may provide case management services only under direct intensive clinical supervision and a learning plan.* ( )

b. *Have a bachelor's degree in a human services field from a nationally-accredited university or college and at least six (6) months, or one thousand forty (1,040) hours, of supervised experience working with the substance use disorders population; and* ( )

c. *Have a case management certificate issued by the Department after training is completed within six (6) months of hire.* ( )

05. Case Manager Status Granted Prior to May 1, 2010*. Subsections 218.01 and 218.02 of these rules are applicable to all new applications for appointment as a case manager submitted to the Department after May 1, 2010. If an individual was granted an appointment prior to May 1, 2010, and met the requirements at that time, he may continue to have his appointment recognized. The appointment of this status will be given by the Department after the Department has received documentation affirming the qualified substance use disorder professional's education and experience meets standards in place prior to May 1, 2010.* ( )

06. Staffing*. A case manager's total caseload must not be so large that it cannot assure quality service delivery and client satisfaction.* ( )

07. Supervision*. The case management program must provide and document at least one (1) hour of case management supervision per month for each case manager.* ( )

a. *Case management supervisors must:* ( )

i. Be a qualified substance use disorders professional with a Master's degree in a human services field; or ( )

ii. Have a Master's degree in a human services field and one (1) year treatment experience with at least six (6) months, or one thousand forty (1,040) hours being supervised

while working with the substance use disorders population. *( )*

b. *Case management supervision must be documented and include the following: the date supervision is provided, the times the supervision begins and ends, the topics discussed, the duration of each session, whether the supervision was to an individual or group, and the signatures and credentials of both the individual conducting the supervision and the individual(s) receiving supervision.* *( )*

08. Client Records For Case Management Program*. Department-approved case management forms must be used and can be found on the Department's website as described in Sections 002 and 005 of these rules. The case management program must maintain a written client record and documentation of services on each client utilizing the forms and procedures described in the Minimum Case Management Standards referenced in Section 002 of these rules. All entries in the client record must be signed and dated. Symbols and abbreviations may be used only if they have been approved by professional staff and only when there is an explanatory legend. Sections 375 and 386 of these rules do not apply in this setting.* *( )*

746. -- 999. (RESERVED).

IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE

16.07.50 - RULES AND MINIMUM STANDARDS GOVERNING NONHOSPITAL, MEDICALLY-MONITORED DETOXIFICATION/MENTAL HEALTH DIVERSION UNITS

DOCKET NO. 16-0750-0902 (FEE RULE)

NOTICE OF RULEMAKING - ADOPTION OF PENDING FEE RULE

EFFECTIVE DATE: The effective date of the amendment to the temporary rule is March 30, 2009. This pending rule has been adopted by the agency and is now pending review by the 2010 Idaho State Legislature for final approval. Pursuant to Section 67-5224(5)(c), Idaho Code, this pending rule will not become final and effective until it has been approved, amended, or modified by concurrent resolution of the legislature because of the fee being imposed or increased through this rulemaking. The rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224 and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a pending fee rule and amended a temporary rule. The action is authorized pursuant to Sections 39-304, 39-305, 39-311, 56-1003, 56-1004A, 56-1007, and 56-1009 Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule and amending the temporary rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change:

Through informal negotiations with stakeholders, contractors, and individuals interested in the Detox/Mental Health Diversion Units, the Department is amending the pending rule. The changes include:

1. **Defining and changing the term to "lead nurse" in place of "director of nursing" and also the term "charge nurse" to "on-duty nurse;"**
2. **Allowing a facility with both detoxification and mental health diversion units to divide an employee's time between the two units;**
3. **Amending the medical and general liability insurance to allow for an equivalent insurance;**
4. **Amending visitation policies;**
5. **Amending provisions of meals; and**
6. **Amending that beds are in good repair.**

The text of the pending rule has been amended in accordance with Section 67-5227, Idaho Code, and is being republished following this notice. Rather than keep the temporary rule in place while the pending rule awaits legislative approval, the Department amended the temporary rule with the same revisions which have been made to the pending rule. Only the sections that have changes from the proposed text are printed in this bulletin. The original text of the proposed rule was published in Book 1 of the October 7, 2009, Idaho Administrative Bulletin, Vol. 09-10, pages 472 through 533.

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

increased. This fee or charge is being imposed pursuant to Section 56-1007, Idaho Code:

The fees being imposed in this rule are necessary to avoid immediate danger to those individuals being served in a nonhospital, medically-monitored detoxification/mental health diversion unit.

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

The fiscal impact to the state general fund due to this rulemaking is $4500 for an architectural review of building plans and on-site inspection once construction is completed on the facility.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning the pending fee rule and the amendment to temporary rule, contact Scott Tiffany at (208) 332-7243.

DATED this 18th day of November, 2009.

Tamara Prisock
DHW - Administrative Procedures Section
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THE FOLLOWING NOTICE PUBLISHED WITH THE TEMPORARY AND PROPOSED FEE RULE

EFFECTIVE DATE: The effective date of these temporary rules is March 30, 2009.

AUTHORITY: In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a temporary rule, and proposed regular rulemaking procedures have been initiated. The action is authorized pursuant to Sections 39-304, 39-305, 39-311, 56-1003, 56-1004A, 56-1007, and 56-1009 Idaho Code.

PUBLIC HEARING SCHEDULE: A public hearing concerning this rulemaking will be held as follows:

Wednesday, October 14, 2009 -- 3:00 p.m.

DEPARTMENT OF HEALTH AND WELFARE
Pete T. Cenarrusa Bldg
3rd Floor, Room 3A
450 West State Street, Boise, ID

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 its supporting reasons for adopting a temporary rule and a nontechnical explanation of the substance and purpose of the proposed rulemaking:

A need has been identified for a nonhospital, medically-monitored detoxification/mental health diversion unit facility in Idaho. Currently, no standards exist for licensing or regulating these proposed facilities. This rule chapter provides the minimum standards, licensing, and regulations for a certificate of approval to operate a nonhospital, medically-monitored detoxification/mental health diversion unit in Idaho. These rules also provide requirements for:

7. **Application for a certificate of approval, renewal, and fee requirements;**

8. **Investigations, complaints, enforcement remedies, enforcement actions, and penalties, including denial, suspension, or revocation of the certificate of approval;**

9. **Standards that include policies and procedures on: client rights, medical care, services, and treatment;**

10. **Requirements for specific types of services in each detoxification unit, mental health diversion unit, and sobering station;**

11. **Staff qualifications, staffing hours, and work responsibilities; and**

12. **Minimum design and construction requirements for facilities.**

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

These rules are needed to ensure that benefits and services provided to clients in a nonhospital, medically-monitored detoxification/mental health diversion unit are regulated to protect the health, safety, and welfare of the public.

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

The fees being imposed in this rule are necessary to avoid immediate danger to those individuals being served in a nonhospital, medically-monitored detoxification/mental health diversion unit.

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

The fiscal impact to the state general fund due to this rulemaking is $4500 for an architectural review of building plans and on-site inspection once construction is completed on the facility.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220, informal negotiated rulemaking was conducted. Department staff met with interested stakeholders to discuss the changes proposed in this rulemaking.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary and proposed rule, contact Scott Tiffany at (208) 332-7243.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 28, 2009.

DATED this 17th day of August, 2009.

THE FOLLOWING IS THE TEXT OF THE PENDING FEE RULE

IDAPA 16
TITLE 07
CHAPTER 50

16.07.50 - RULES AND MINIMUM STANDARDS GOVERNING NONHOSPITAL, MEDICALLY-MONITORED DETOXIFICATION/MENTAL HEALTH DIVERSION UNITS

000. LEGAL AUTHORITY.

Under Title 39, Chapter 3, Idaho Code, the Board of Health and Welfare has authority to adopt minimum standards, rules, and regulations for the development, construction, and operation of nonhospital, medically-monitored detoxification/mental health diversion units in Idaho. The Idaho Legislature has designated the Department of Health and Welfare as the State Mental Health Authority and the State Substance Abuse Authority. The Department's responsibility is to assure that mental health and substance use disorders treatment and services are available throughout the state to individuals who need such care and who meet the eligibility criteria under the Regional Mental Health Services Act and the Alcoholism and Intoxication Treatment Act. Sections 56-1003, 56-1004, 56-1004A, 56-1007, and 56-1009, Idaho Code, authorize the Director

of the Department to adopt and enforce rules to promote safe and adequate services and treatment of individuals within nonhospital, medically-monitored detoxification/mental health diversion units. ( )

001. TITLE, SCOPE, AND RESPONSIBILITIES.

01. Title. The title of this chapter is IDAPA 16.07.50, **"**Minimum Standards for Nonhospital, Medically-Monitored Detoxification/Mental Health Diversion Units," and may also be known as "Detox/Mental Health Diversion Units." ( )

02. Scope. These rules and minimum standards apply to all detox/mental health diversion units in Idaho that provide: evaluation; observation; monitoring; care; and treatment; twenty-four (24) hours per day, seven (7) days per week, to individuals suffering from a subacute psychiatric or alcohol/drug crisis. These services are offered in a residential setting under the supervision of a physician. A detox/mental health diversion unit is designed to withdraw an individual from alcohol or other drugs and to prepare him to enter a more extensive treatment and rehabilitation program. These facilities are not intended to serve as a secure holding facility for the detention of any individual or to provide care and treatment to any individual who is the subject of involuntary commitment proceedings or detention without a hearing as provided in Sections 18-212, 66-326, 66-329, 66-406, or 66-1305, Idaho Code. The purpose of this chapter is to provide rules for: ( )

a. The approval, denial, suspension, or revocation of certification or approval of detox/mental health diversion units; ( )

b. To provide rules for the admittance of clients by detox/mental health diversion units; ( )

c. To establish minimum standards of health, safety and quality for detox/mental health diversion units; and ( )

d. To establish minimum standards for the development, construction, and operation of nonhospital, medically-monitored detoxification/mental health diversion units. ( )

03. General Facility Responsibilities. A detox/mental health diversion unit provides services and treatment to adults who are suffering from a subacute psychiatric or alcohol/drug crisis, twenty-four (24) hours per day, seven (7) days per week, in a nonhospital, medically supervised residential setting. A detox/mental health diversion unit must assure quality services and dignity in a structured regime through an administrator and staff who have the knowledge and experience required to provide safe and appropriate services to each client. A detox/mental health diversion unit must be constructed and operated consistent with these rules and applicable statutes. ( )

04. Exception for Law Enforcement Facilities. These rules and minimum standards do not apply to a facility owned, operated, or under the custody, control, or jurisdiction of the Department of Correction, Department of Juvenile Corrections, or state, city, or county law enforcement, whether the facility is utilized for the detention of any individual or for any other purpose. ( )

05. General Department Responsibilities. The Department is responsible for monitoring and enforcing the provisions in these rules and protecting clients by evaluating detox/ mental health diversion units to assure compliance with statutes and these rules. This responsibility includes: approving facilities, monitoring services provided, and inspecting and evaluating conditions in the facilities. ( )

002. WRITTEN INTERPRETATIONS.
Under Section 67-5201(19)(b)(iv), Idaho Code, the Department may have written statements that pertain to interpretations of these rules. These documents are available for public inspection as described in Sections 005 and 006 of these rules. ( )

003. ADMINISTRATIVE APPEALS.
Administrative appeals and all contested cases are governed by IDAPA 16.05.03, "Rules Governing Contested Case Proceedings and Declaratory Rulings." ( )

004. INCORPORATION BY REFERENCE.
The Department has incorporated by reference the following documents in these rules. ( )

01. AIA Guidelines for Design and Construction of Health Care Facilities, (AII) 2006. AIA Guidelines for Design and Construction of Health Care Facilities, (AII) 2006, are applicable to airborne infection isolation rooms for facilities operating a sobering station. The guidelines are available online at http://www.aia.org/. ( )

02. American National Standard Specifications for Making Buildings and Facilities Accessible to and Usable by Physically Handicapped People (ANSI/ICC A117.1-2003). These standards are available online at http://www.ansi.org/. ( )

03. Americans with Disabilities Act Accessibility Guidelines. 28 CFR Part 36, Appendix A. This code is available online at http://www.ada.gov/publicat.htm. Contact phone number is (800) 514-0301. ( )

04. ASAM PPC-2R. American Society of Addiction Medicine (ASAM) Patient Placement Criteria for the Treatment of Substance-Related Disorders, Second Edition - Revised (ASAM PPC-2R). A copy of this manual is available by mail at the American Society of Addiction Medicine, 4601 North Park Ave., Suite 101, Chevy Chase, MD 20815; by telephone and fax, (301) 656-3920 and (301) 656-3815 (fax); or on the internet at http:// www.asam.org. ( )

05. DSM-IV-TR. American Psychiatric Association: Diagnostic and Statistical Manual of Mental Disorders, Fourth Edition, Text Revision (DSM-IV-TR) Washington, DC, American Psychiatric Association, 2000. Copies of the manual are available from the American Psychiatric Association, 1400 K Street, N.W., Washington, DC, 20005. A copy of the manual is also available for public review at the Department of Health and Welfare, 450 West State Street, Boise, Idaho, 83702. ( )

06. Idaho Board of Nursing Rules. IDAPA 23.01.01, **"**Rules of the Idaho Board of Nursing.**"** These rules are available online at http://adm.idaho.gov/adminrules/idapa27/0101.pdf.

( )

07. Idaho Diet Manual. The Idaho Diet Manual, Ninth Edition, 2005, is available from the Idaho Dietetic Association, online at http://eatrightidaho.org. ( )

08. Idaho Food Code. IDAPA 16.02.19, **"**Food Safety and Sanitation Standards for Food Establishments." These rules are available online at http://adm.idaho.gov/adminrules/rules/idapa16/0219.pdf. ( )

09. International Building Code, Edition 2003. This code is available from the International Code Council, 4051 West Flossmoor Rd., Country Club Hills, IL 60478-5795, phone: (888) 422-7233, and online at http:// www.iccsafe.org. ( )

10. Life Safety Code. National Fire Protection Association Standard 101, the Life Safety Code, 2000 Edition, including mandatory references. A copy of the code is available at 1 Batterymarch Park, Quincy, Massachusetts, 02169-7471. The telephone contact number is (800) 344-3555. The code is available online at http://www.nfpa.org/catalog/product.asp?pid=10100. ( )

11. National Electric Code. National Electric Code AKA: NFPA Standard 70, the National Electric Code, 2000 Edition. A copy of the code is available online at http://www.nfpa.org/aboutthecodes/AboutTheCodes.asp?DocNum=70. ( )

12. National Fire Protection Association (NFPA) Documents. The NFPA documents referenced in this chapter of rules are available from the National Fire Protection Association, 11 Tracy Drive, Avon, MA 02322-9908, (800) 344-3555, and online at http://www.nfpa.org. ( )

13. National Sanitation Federation. The National Sanitation Federation Standards. These standards may be found online at http://www.nsf.org/business/about_NSF/. ( )

14. Occupational Safety and Health Act of 1970 (OSHA). The OSHA Construction Standards may be obtained by contacting OSHA at 200 Constitution Avenue, NW, Washington, DC 20210. The internet website is http://www.osha.gov/doc/index.html. ( )

005. OFFICE HOURS -- MAILING ADDRESS -- STREET ADDRESS -- TELEPHONE -- AND INTERNET WEBSITE.

01. Office Hours. Office hours are 8 a.m. to 5 p.m., Mountain Time, Monday through Friday, except holidays designated by the state of Idaho. ( )

02. Mailing Address. The mailing address for the business office is Idaho Department of Health and Welfare, P.O. Box 83720, Boise, Idaho 83720-0036. ( )

03. Street Address. The business office of the Idaho Department of Health and Welfare is located at 450 West State St., Boise, Idaho 83702. ( )

04. Telephone. The telephone number for the Idaho Department of Health and

Welfare is (208) 334-5500. ( )

05. Internet Website. The Department's internet website is found at http://www.healthandwelfare.idaho.gov. ( )

06. Substance Abuse Services Website. The Substance Abuse Services internet website is found at http://www.healthandwelfare.idaho.gov/Medical/SubstanceUseDisorders/tabid/105/Default.aspx. ( )

006. CONFIDENTIALITY OF RECORDS AND PUBLIC RECORDS REQUEST.

01. Confidential Records. The use and disclosure of any information about a detox/mental health diversion unit covered by these rules and contained in the Department's records must comply with IDAPA 16.05.01, "Use and Disclosure of Department Records." ( )

02. Licensure, Certification, or Approval. In compliance with Section 9-340C(9), Idaho Code and IDAPA 16.05.01, "Use and Disclosure of Department Records," records will be released if they are part of an inquiry into a detox/mental health diversion unit facility's fitness to be granted or retain a license, certificate, permit, privilege, commission, or position. These records will otherwise be provided in redacted form as required by law or rule. ( )

007. -- 008. (RESERVED).

009. CRIMINAL HISTORY AND BACKGROUND CHECK REQUIREMENTS.

01. Criminal History and Background Check. Each detox/mental health diversion unit must comply with the provisions in IDAPA 16.05.06, "Criminal History and Background Checks." Criminal history and background checks must be completed on the owner, employees, applicants, transfers, reinstated former employees, student interns, contractors, and volunteers who provide care or services, or have access to clients in a detox/mental health diversion unit. The applicant is responsible for the cost of the criminal history and background check except where otherwise provided by Department rules. ( )

02. Availability to Work. Any individual hired or contracted with, who has direct client access, must self-disclose all arrests and convictions before having access to clients. If a disqualifying crime as described in IDAPA 16.05.06, "Criminal History and Background Checks," is disclosed, the individual cannot have access to any client. An individual is allowed to work only under supervision until the criminal history and background check is completed. ( )

010. DEFINITIONS AND ABBREVIATIONS A THROUGH K.
For the purposes of this chapter of rules, the following definitions apply. ( )

01. Administrator. The person delegated the responsibility for the day-to-day operation and management of a detox/mental health diversion unit by the governing body. The administrator, owner, medical director, ~~*director of nursing*~~ *lead nurse*, or mental health program director may be the same individual. The term "administrator" is synonymous with the term "chief executive officer (CEO)." ~~*(3-30-09)T( )*~~

02. **Adult**. An individual eighteen (18) years of age, or older. ( )

03. **Applicant**. An individual, firm, partnership, association, corporation, or governmental unit, acting separately or jointly, who is planning to operate or maintain a detox/ mental health diversion unit in Idaho. ( )

04. **ASAM**. The American Society of Addiction Medicine. ( )

05. **Board**. The Idaho State Board of Health and Welfare. ( )

06. **Change of Ownership**. The sale, purchase, exchange, or lease of an existing facility by the present owner to a new owner. ( )

07. **Chemical Dependency Counselor.** A professional counselor licensed by the Idaho State Licensing Board of Professional Counselors and Marriage and Family Therapists under Title 54, Chapter 34, Idaho Code, who: ( )

a. Has specialized training, education, and experience in the treatment of persons with problems related to alcohol and drug use; and ( )

b. Meets the requirements for certification as a alcohol and drug counselor under IDAPA 16.06.03, "Rules and Minimum Standards Governing Alcohol/Drug Abuse Prevention and Treatment Programs," or IDAPA 16.07.20, "Alcohol and Substance Use Disorders Treatment and Recovery Support Services Facilities and Programs." ( )

08. **Chemical Restraint**. The use of drugs that prevents a client from doing what he might do voluntarily on his own. ( )

09. **Chief Executive Officer (CEO)**. The individual delegated the responsibility for the day-to-day operation and management of a detox/mental health diversion unit by the governing body. The chief executive officer, owner, medical director, ~~*director of nursing*~~ *lead nurse*, or mental health program director may be the same individual. The term "chief executive officer (CEO)" is synonymous with the term "administrator." ~~*(3-30-09)T*~~*( )*

10. **Client**. An adult, who is not the subject of involuntary commitment proceedings or detention without a hearing, as provided in Sections 18-212, 66-326, 66-329, 66-406, or 66-1305, Idaho Code, and who receives services at a detox/mental health diversion unit. The term "client" is synonymous with the terms: patient, participant, resident, consumer, or recipient of treatment. ( )

11. **Department**. The Idaho Department of Health and Welfare. The Department is designated as the State Mental Health Authority under Section 39-3124, Idaho Code, and as the State Substance Abuse Authority under Section 39-304, Idaho Code. ( )

12. **Director**. The Director of the Department of Health and Welfare, or his designee. ( )

~~**13.** **Director of Nursing Services**. *A qualified professional nurse (R.N.), licensed by the Idaho State Board of Nursing under Title 54, Chapter 14, Idaho Code, and IDAPA 23.01.01, "Rules of the Idaho Board of Nursing," who is so designated by the governing body. The director of nursing, administrator, or mental health program director may be the same individual. The director of nursing is responsible for nursing care provided to clients and for supervising the nursing care and services provided by staff.* *(3-30-09)T*~~

1~~4~~3. Full Accreditation Certificate of Approval. A certificate of approval issued for a period of one (1) year to a facility that is in substantial compliance with these rules and minimum standards. ( )

1~~5~~4. Governing Body. The individual or individuals, board of directors, group, agency, or entity that has ultimate authority and responsibility for the overall conduct and operation of the facility, and for full compliance with these rules and minimum standards. ( )

1~~6~~5. Governmental Unit. The state of Idaho, any county, municipality, or other political subdivision, or any department, division, board, or other agency thereof. ( )

011. DEFINITIONS AND ABBREVIATIONS L THROUGH Z.
For the purposes of this chapter of rules, the following definitions apply. ( )

01. ***Lead Nurse****. A qualified professional nurse (R.N.) licensed by the Idaho State Board of Nursing under Title 54, Chapter 14, Idaho Code, and IDAPA 23.01.01, "Rules of the Idaho Board of Nursing," who is so designated by the governing body. The lead nurse, administrator, or mental health program director may be the same individual. The lead nurse is responsible for nursing care provided to clients and for supervising the nursing care and services provided by staff.* *( )*

0~~1~~2. Level of Care Utilization System ("LOCUS"). A clinical level of care placement tool for psychiatric and addictions services, developed by the American Association of Community Psychiatrists. ( )

0~~2~~3. Licensed Clinical Social Worker (LCSW). A clinical social worker licensed by the Idaho State Board of Social Work Examiners under Title 54, Chapter32, Idaho Code, and IDAPA 24.14.01, "Rules of the Board of Social Work Examiners." ( )

0~~3~~4. Licensed Marriage and Family Therapist (LMFT). A person licensed to practice marriage and family therapy by the Idaho State Board of Professional Counselors and Marriage and Family Therapists, under Title 54, Chapter 34, Idaho Code, and IDAPA 24.14.01, "Rules of the Idaho Licensing Board of Professional Counselors and Marriage and Family Therapists." ( )

0~~4~~5. Licensed Master's Level Social Worker (LMSW). A master's level social worker licensed by the Idaho State Board of Social Work Examiners under Title 54, Chapter 32, Idaho Code, and IDAPA 24.14.01, "Rules of the Board of Social Work Examiners." ( )

0~~5~~6. Licensed Practical Nurse (L.P.N.). A practical nurse licensed by the Idaho State Board of Nursing under Title 54, Chapter 14, Idaho Code, and IDAPA 23.01.01, "Rules of the

Idaho Board of Nursing." ( )

0~~6~~7. Licensed Professional Counselor (LPC). A professional counselor licensed by the Idaho State Board of Professional Counselors and Marriage and Family Therapists, under Title 54, Chapter 32, Idaho Code, and IDAPA 24.14.01, "Rules of the Idaho Licensing Board of Professional Counselors and Marriage and Family Therapists." ( )

0~~7~~8. Licensed Professional Nurse (R.N. or Registered Nurse). A professional nurse licensed by the Idaho State Board of Nursing under Title 54, Chapter 14, Idaho Code, and IDAPA 23.01.01, "Rules of the Idaho Board of Nursing." ( )

0~~8~~9. Mechanical Restraint. Any apparatus that physically prevents a client from doing what he might do voluntarily on his own, including "safety belts." The term "mechanical restraint" is synonymous with the term "physical restraint." ( )

~~09~~10. Medical Director. A qualified physician licensed by the Idaho State Board of Medicine in accordance with Title 54, Chapter 18, Idaho Code, and IDAPA 22.01.01, "Rules of the Board of Medicine for the Licensure to Practice Medicine and Surgery and Osteopathic Medicine and Surgery in Idaho," who is so designated by the governing body. The medical director is responsible for providing medical care to clients and for supervising all of the medical care, services, and treatment provided by the medical staff. ( )

1~~0~~1. Medical Staff. Professional medical personnel employed, full-time or part-time, who are licensed under Title 54 or Title 56, Idaho Code, to provide medical care and services to clients in a Detox/Mental Health Diversion Unit. ( )

1~~1~~2. Mental Health Clinical Staff. Professional mental health personnel employed, full-time or part-time, who are licensed under Title 54, Idaho Code, to provide mental health counseling, treatment, and services to clients in a Detox/Mental Health Diversion Unit. ( )

1~~2~~3. Mental Health Program Director. A qualified psychiatrist, psychologist, licensed professional nurse, licensed clinical professional counselor, licensed clinical social worker, licensed professional counselor, licensed master's level social worker, or licensed marriage and family therapist, who is so designated by the governing body. The mental health program director is responsible for providing mental health counseling, treatment, and services provided to clients and for supervising mental health counseling, treatment, and services provided by mental health clinical staff. The mental health program director, administrator, ~~*director of nursing*~~ *lead nurse*, and medical director may be the same individual. ~~*(3-30-09)T*~~*( )*

1~~3~~4. MIS. The Department's computerized management information system designed to collect individual demographics and service information on persons who are suffering from a subacute psychiatric or alcohol/drug crisis. ( )

1~~4~~5. Nonhospital, Medically-Monitored Detoxification/Mental Health Diversion Unit. A facility referred to in this rule as a "detox/mental health diversion unit," means a freestanding residential treatment facility, approved by the Department of Health and Welfare under these rules and minimum standards. Facilities owned, operated, or under the custody,

control, or jurisdiction of the Department of Correction, Department of Juvenile Corrections, or state, city, or county law enforcement are excluded from this definition and are not required to meet these rules and minimum standards. ( )

1~~5~~6. **On-Call**. The scheduled state of availability to return to duty, work ready, within a specified period of time. ( )

1~~6~~7. **On-Duty**. Being awake, and actively carrying out assigned duties in the facility. ( )

1~~7~~8. **Owner**. An individual, firm, partnership, association, corporation, or governmental unit, acting separately or jointly, having legal ownership of the facility as an operating business, regardless of who owns the real property. ( )

1~~8~~9. **Physical Restraint**. An apparatus that physically prevents a client from doing what he might do voluntarily on his own including "safety belts." The term "physical restraint" is synonymous with the term "mechanical restraint." ( )

~~19~~20. **Physician**. An individual who holds a license issued by the Idaho State Board of Medicine under Title 54, Chapter 18, Idaho Code, and IDAPA 22.01.01, "Rules of the Board of Medicine for the Licensure to Practice Medicine and Surgery and Osteopathic Medicine and Surgery in Idaho." ( )

2~~0~~1. **Provisional Certificate of Approval**. Pending satisfactory correction of all deficiencies, a certificate of approval issued for a period not to exceed six (6) months to a facility that is not in substantial compliance with these rules and minimum standards. A facility will not be issued more than one (1) provisional certificate of approval in any two (2) year period. ( )

2~~1~~2. **Psychiatrist**. An individual licensed by the Idaho State Board of Medicine to practice medicine under Title 54, Chapter 18, Idaho Code, and IDAPA 22.01.01, "Rules of the Board of Medicine for the Licensure to Practice Medicine and Surgery and Osteopathic Medicine and Surgery," who is certified by the American Board of Psychiatry and Neurology in psychiatry. ( )

2~~2~~3. **Psychologist**. An individual licensed by the Idaho State Board of Psychology to practice psychology in Idaho under Title 54, Chapter 23, Idaho Code, and IDAPA 24.12.01, "Rules of the Idaho State Board of Psychologist Examiners." ( )

2~~3~~4. **Serious Mental Illness (SMI)**. Means any of the following psychiatric illnesses as defined by the American Psychiatric Association in the Diagnostic and Statistical Manual of Mental Disorders, Text Revision (DSM-IV-TR): ( )

a. Schizophrenia. ( )

b. Paranoia and other psychotic disorders. ( )

c. Bipolar disorders (mixed, manic and depressive). ( )

d. Major depressive disorders (single episode or recurrent). ( )

e. Schizoaffective disorders. ( )

f. Obsessive-compulsive disorders. ( )

2~~4~~5. Serious and Persistent Mental Illness (SPMI). A primary diagnosis under DSM-IV-TR of Schizophrenia, Schizoaffective Disorder, Bipolar I Disorder, Bipolar II Disorder, Major Depressive Disorder Recurrent Severe, Delusional Disorder, or Psychotic Disorder Not Otherwise Specified (NOS) for a maximum of one hundred twenty (120) days without a conclusive diagnosis. The psychiatric disorder must be of sufficient severity to cause a substantial disturbance in role performance or coping skills in at least two (2) of the following functional areas in the last six (6) months: ( )

a. Vocational or education, or both. ( )

b. Financial. ( )

c. Social relationships or support, or both. ( )

d. Family. ( )

e. Basic daily living skills. ( )

f. Housing. ( )

g. Community or legal, or both. ( )

h. Health or medical, or both. ( )

2~~5~~6. Social Worker. An individual licensed by the Idaho State Board of Social Work Examiners to practice social work in Idaho under Title 54, Chapter 32, Idaho Code, and IDAPA 24.14.01, "Rules of the Idaho State Board of Social Worker Examiners." ( )

2~~6~~7. Substantial Compliance. Substantial compliance means complying with the minimum standards and requirements of these rules, and the absence of any state or condition that could endanger the health, safety, or welfare of any client, employee, contractor, occupant, or volunteer. ( )

012. -- 099. (RESERVED).

CERTIFICATE OF APPROVAL REQUIREMENTS

(Section 100 through 199)

100. CERTIFICATE OF APPROVAL.

01. Purpose. The purpose of a certificate of approval issued by the Department is to assure, insofar as is reasonably practicable, that the care, services, treatment, and physical surroundings of each detox/mental health diversion unit are in substantial compliance with this chapter. The issuance of a certificate of approval does not guarantee adequacy of individual care, treatment, personal safety, fire safety, or the well-being of any client, employee, contractor, volunteer, or occupant of a facility. ( )

02. Valid Certificate of Approval. Under Sections 39-304, 39-305, 39-311, 39-3133, and 56-1003, Idaho Code, no individual, firm, partnership, association, corporation, or governmental unit, acting separately or jointly, can operate, establish, manage, conduct, or maintain, directly or indirectly, a detox/mental health diversion unit without a valid certificate of approval issued by the Department. ( )

a. No client may be admitted to, or cared for in, a detox/mental health diversion unit until a certificate of approval is issued by the Department. ( )

b. The application must include, at a minimum, all of the information, items, documents, and materials identified in Section 110 of these rules. ( )

03. Maximum Allowable Number of Beds. A certificate of approval will specify the maximum allowable number of beds for detoxification, sobering, and mental health. Facilities are prohibited from exceeding the maximum allowable number of beds for detoxification, sobering, and mental health as stated on the certificate of approval. ( )

04. Apply for Certificate of Approval. In addition to obtaining prior written approval of actual construction drawings, plans, and specifications in accordance with Section 600 through 699 of these rules, each individual, firm, partnership, association, corporation, or governmental unit, acting separately or jointly, planning to operate or maintain a detox/mental health diversion unit must apply for a certificate of approval on forms provided by the Department. ( )

a. The application and application fee must be submitted to the Department at least ninety (90) days prior to the planned opening date. The application must contain information required by the Department which includes affirmative evidence of the facility's ability to comply with these rules. ( )

b. Upon receipt of a completed application, the Department has up to sixty (60) days to notify the applicant of its determination. ( )

101. -- 104. (RESERVED).

105. AGREEMENTS REQUIRED FOR CERTIFICATE OF APPROVAL FOR A DETOX/MENTAL HEALTH DIVERSION UNIT FACILITY.
Each detox/mental health diversion unit must have and maintain at all times formal written agreements as provided in Subsections 105.01 through 105.05 of this rule before a certificate of approval can be issued. An individual filling more than one (1) of the following positions, must meet the qualifications under these rules for each position being filled by the individual. ( )

01. Agreement with Licensed Hospital Required. A formal written agreement must be maintained at all times for the provision of emergency medical services and ambulatory medical services with one (1) or more licensed hospitals serving the area in which the facility is located. The agreement must provide, at a minimum, for: ( )

a. Laboratory, x-ray, and other diagnostic services not otherwise available at the facility; ( )

b. Hospitalization for acutely ill clients; ( )

c. Specify hospital consents to accept all transfers for prompt medical evaluation, treatment, and admission; and ( )

d. Assurances for the exchange of information for clients. ( )

02. Agreement with CEO or Administrator. A formal written agreement must be maintained at all times with a qualified professional who is employed or contracted to serve as the CEO or administrator. The CEO or administrator is responsible for the day-to-day operations of the facility. ( )

03. Agreement with Medical Director. A formal written agreement must be maintained at all times with a qualified physician licensed in Idaho, who is employed or contracted to serve as the medical director. The medical director is responsible for the medical care provided to clients and for supervising all medical care, services, and treatment provided by the medical staff. ( )

04. Agreement with ~~*Director of Nursing Services*~~ *Lead Nurse*. A formal written agreement must be maintained at all times with a qualified R.N. licensed in Idaho, who is employed or contracted to serve as the ~~*director of nursing*~~ *lead nurse*. The ~~*director of nursing*~~ *lead nurse* is responsible for nursing care provided to clients and for supervising the nursing care, and services provided by staff. ~~*(3-30-09)T( )*~~

05. Agreement with Mental Health Program Director. A formal written agreement must be maintained at all times with a qualified professional licensed in Idaho, who is employed or contracted to serve as the Mental Health Program Director. The Mental Health Program Director is responsible for providing mental health counseling, treatment, and services to clients and for supervising mental health counseling, treatment and services provided by the mental health staff. ( )

06. Agreement with Chemical Dependency Counselor. A formal written agreement must be maintained at all times with a qualified professional counselor licensed in Idaho who is employed or contracted as a chemical dependency counselor. The chemical dependency counselor is responsible for developing an individualized treatment plan based on the treatment needs assessment for each client admitted to the detoxification unit or mental health unit, and for supervising all chemical dependency counseling provided by staff. ( )

106. -- 109. (RESERVED).

110. APPLICATION FOR CERTIFICATE OF APPROVAL.

01. Completed and Signed Application. The applicant must apply for a certificate of approval on forms provided by the Department, and must provide all of the information requested by the Department. Forms for a certificate of approval are available upon written request, or online at http://www.healthandwelfare.idaho.gov. ( )

02. Initial Application and Building Evaluation Fee. The applicant must make a request in writing for a certificate of approval and evaluation of existing buildings. The request must include: ( )

a. The physical address of the buildings that are to be evaluated; ( )

b. The name, address, and telephone number of the individual who is to receive the Department's determination and evaluation report; and ( )

c. A nonrefundable five hundred ($500) dollar application and building evaluation fee. No application will be processed until the application fee is paid. ( )

03. Statement to Comply. The applicant must provide a written statement that the applicant, owner, operator, proposed CEO or administrator, proposed medical director, proposed ~~*director of nursing services*~~ *lead nurse*, and proposed mental health program director have thoroughly read, reviewed, and are prepared to comply with the provisions in IDAPA 16.07.50, "Minimum Standards for Nonhospital, Medically-Monitored Detoxification/Mental Health Diversion Units." ~~*(3-30-09)T( )*~~

04. Statement Disclosing Revocation or Disciplinary Actions. The applicant must provide a written statement regarding the applicant, owner, proposed CEO or administrator, proposed medical director, proposed ~~*director of nursing services*~~ *lead nurse*, and proposed mental health program director that either: ~~*(3-30-09)T( )*~~

a. Discloses any revocation or other disciplinary action taken against, or in the process of being taken against any of them, in Idaho or any other jurisdiction; or ( )

b. Affirms that no revocation or other disciplinary action has been taken against, or is in the process of being taken against any of them, in Idaho or any other jurisdiction. ( )

05. Criminal History and Background Clearance. The applicant must provide satisfactory evidence that the owner, applicant, all employees, transfers, reinstated former employees, student interns, contractors, volunteers, and any other individuals who provide care or services, or have access to clients, have successfully completed and received a clearance for a criminal history and background check that complies with Section 009 of these rules. ( )

06. Electrical Inspection. The applicant must provide a written statement from a licensed electrician or the local or state electrical inspector that all wiring in the facility complies with current electrical code as incorporated by reference in Section 004 of these rules. ( )

07. Public Health District. The applicant must provide a current written statement

from the local health district that confirms the facility meets the local health codes for occupancy, and if the facility is not on a municipal water supply or sewage disposal system, that the water supply and sewage disposal system comply with these rules and are in good working order. ( )

08. Certificate of Occupancy, Fire Codes, and Building Codes. The applicant must provide a written statement from the local zoning official, local building official, and local fire official, that confirms the facility complies with local zoning, local building codes, and local fire codes for occupancy. ( )

09. Operational Policies and Procedures. The applicant must provide a complete set of operational policies and procedures as required under these rules. ( )

10. Proof of Insurance. The applicant must provide proof of insurance. Each facility must maintain medical liability insurance at a minimum of one million dollars/three million dollars ($1,000,000/$3,000,000), and general liability insurance at a minimum of one million/ three million dollars ($1,000,000/$3,000,000) *or equivalent insurance*. Copies of the declarations policy face-sheet must be included with the application. ~~*(3-30-09)T*~~*( )*

11. Floor Plan. The applicant must provide a detailed floor plan of the facility, including measurements of all rooms, or a copy of architectural drawings. ( )

12. Purchase Agreement, Lease, or Deed. The applicant must provide a copy of the purchase agreement, lease, or deed. ( )

13. Identification of CEO or Administrator, Medical Director, ~~*Director of Nursing Services*~~ *Lead Nurse*, and Mental Health Program Director. The applicant must provide a written statement that identifies the CEO or administrator, medical director, ~~*director of nursing services*~~ *lead nurse*, and mental health program director along with documentation that establishes compliance with Sections 271 through 273, and 275 of these rules. ~~*(3-30-09)T*~~*( )*

14. Other Information as Requested. The applicant must provide other information that may be requested by the Department for the proper administration and enforcement of these rules. ( )

111. -- 114. (RESERVED).

115. FAILURE TO COMPLETE APPLICATION PROCESS.
Failure of the applicant to cooperate with the Department or complete the application process within six (6) months of the original date of application will result in a denial of the application. If the application is denied, the applicant is barred from submitting, seeking, or obtaining another application for a certificate of approval for a period of three (3) years of the original date of application. ( )

116. EXPIRATION AND RENEWAL OF CERTIFICATE OF APPROVAL.

01. Existing Certificate of Approval. Each certificate of approval to operate a detox/ mental health diversion unit will expire on the date designated on the certificate of approval,

unless suspended or revoked prior to the certificate's expiration date. ( )

02. Renewal of Certificate of Approval. To renew a certificate of approval, the individual or governmental unit named on the certificate must submit a written request for renewal on a form approved by the Department at least ninety (90) days prior to the expiration of the certificate. The Department has up to thirty (30) days after receiving a completed renewal application to notify the applicant of its determination. ( )

03. Annual Renewal Fee. An annual nonrefundable fee of ninety-six ($96) dollars per bed must be submitted with the renewal application for certificate of approval. This per bed annual renewal fee will be adjusted from time-to-time to cover the cost of licensing, enforcing, and regulating in accordance with these rules and minimum standards. ( )

117. -- 119. (RESERVED).

120. ISSUANCE OF CERTIFICATE OF APPROVAL BY DEPARTMENT.
Upon completion of the application process, the Department may take any of the following actions in Subsections 120.01 through 120.03 of this rule. ( )

01. Issue Full Accreditation Certificate. Issue a full accreditation certificate of approval for a period of one (1) year if a facility is in substantial compliance with these rules and minimum standards. ( )

02. Issue Provisional Certificate. Issue a provisional certificate of approval for a period of six (6) months when a facility is not in substantial compliance with these rules and minimum standards. This provisional certificate is contingent on an approved plan to correct all deficiencies prior to the expiration of the provisional certificate being provided to the Department by the facility. A facility will not be issued more than one (1) provisional certificate of approval in any two-year period. ( )

03. Deny Certificate. Deny a certificate of approval. ( )

121. DISPLAY CERTIFICATE OF APPROVAL.
The facility must display the current certificate of approval in the facility. The certificate must be clearly visible to the general public. ( )

122. -- 124. (RESERVED).

125. NONTRANSFER OF CERTIFICATE OF APPROVAL.

01. Issued Certificate. A certificate of approval 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 stated in the application for the period and services specified. ( )

02. Nontransferable. A certificate of approval 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 detox/mental health diversion unit must reapply for a certificate of approval as required in Section 130 of these rules. The new owner or operator must obtain a certificate of approval before starting operations as a detox/mental health diversion unit. ( )

126. -- 129. (RESERVED).

130. CHANGES REQUIRING NOTIFICATION TO THE DEPARTMENT.
A detox/mental health diversion unit must notify the Department if any of the following changes in Subsections 130.01 through 130.05 of this rule occurs. ( )

01. Change of Ownership, Operator, or Location. The owner must notify the Department when there is a change of ownership, operator, or location. A new application for a certificate of approval must be submitted to the Department at least ninety (90) days prior to the proposed date of the change. ( )

02. Change of Ownership, Operator, or Location Due to Facility in Litigation. An application for a certificate of approval that is being suspended or revoked and a change of ownership, operator, or location due to a facility in litigation for failure to comply with these rules, 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. ( )

03. Change of CEO or Administrator, Medical Director, or ~~*Director of Nursing Services*~~ *Lead Nurse*. Any facility issued a certificate of approval must notify the Department in writing as soon as practicable prior to any the following changes in Subsections 130.03.a. through 130.03.c of this rule, to permit the Department to determine whether any changes in certification status are necessary: ~~*(3-30-09)T( )*~~

a. Change in CEO or administrator; ( )

b. Change in medical director; ( )

c. Change in ~~*director of nursing services*~~ *lead nurse*; or ~~*(3-30-09)T( )*~~

d. Change in mental health program director. ( )

04. Change in Services or Closure of Facility. A facility issued a certificate of approval must notify the Department in writing at least thirty (30) days prior to any of the following changes to permit the Department to determine whether any changes in certification status are necessary: ( )

a. Material change in services or program classifications provided by the facility; or ( )

b. Closure of the facility. ( )

05. Change in Maximum Allowable Number of Beds. A facility issued a certificate of approval must notify the Department in writing at least thirty (30) days prior to any proposed increase in the maximum allowable number of beds for detoxification, sobering, or mental health. ( )

131. NOTIFICATION BY THE DEPARTMENT FOR PROPOSED CHANGES SUBMITTED BY THE FACILITY.

01. Notification on Submitted Applications for Proposed Changes. The Department will notify the owner or operator of its determination with respect to a proposed change in ownership, operators, or location, within sixty (60) days of the submission of the application for the change as provided in Section 130 of these rules. ( )

02. Notification of Changes in Maximum Number of Beds. The Department will notify the owner or operator within thirty (30) days of its determination with respect to the proposed changes in the maximum allowable number of beds for detoxification, sobering, and mental health for the facility. ( )

03. Notification of Changes in Operations. The Department will notify the owner or operator within thirty (30) days of its determination with respect to any of the following proposed changes: ( )

a. Change of CEO or administrator; ( )

b. Change of medical director; ( )

c. Change of ~~*director of nursing services*~~ *lead nurse*; ~~*(3-30-09)T( )*~~

d. Change of mental health program director; and ( )

e. Material change in services or program classifications. ( )

132. -- 149. (RESERVED).

150. DENIAL OF CERTIFICATE OF APPROVAL.

01. Denial of a Certificate of Approval for Lack of Substantial Compliance. The Department may deny a certificate of approval when persuaded by a preponderance of the evidence that the facility is not in substantial compliance with these rules and minimum standards. ( )

02. Denial of a Certificate of Approval Related to Key Individuals. The Department may deny a certificate of approval when persuaded by a preponderance of the evidence that any of the following individuals: applicant, owner, operator, CEO or administrator, medical director, ~~*director of nursing services*~~ *lead nurse*, or mental health program director has: ~~*(3-30-09)T( )*~~

a. Violated any conditions of a certificate of approval; ( )

b. Willfully misrepresented or omitted material information on the application or other documents pertaining to obtaining or renewing any certificate of approval; ( )

c. Been found guilty of fraud, gross negligence, abuse assault, battery, or exploitation of children or vulnerable adults; ( )

d. Been denied or has had revoked any license or certificate issued by the Department or under Title 54, Idaho Code; ( )

e. Been convicted of operating any facility without a certificate of approval; ( )

f. Been enjoined from operating any facility; ( )

g. Been convicted of a criminal offense within the past five (5) years, other than a minor traffic violation or infraction; or ( )

h. Directly been under the control or influence of any person who is described in Subsections 150.02.a. through 150.02.g. of this rule. ( )

03. Denial of a Certificate of Approval for an Act Adversely Affecting Welfare of Client, Employee, Contractor, or Volunteer. The Department may deny a certificate of approval when persuaded by a preponderance of the evidence that any act or omission adversely affecting the welfare of any client, employee, contractor, or volunteer is being permitted, aided, performed, or abetted by the facility, applicant, owner, operator, CEO or administrator, medical director, ~~*director of nursing services*~~ *lead nurse*, or mental health program director. Such acts or omissions include neglect, physical abuse, mental abuse, emotional abuse, violation of civil rights or exploitation of vulnerable adults. ~~*(3-30-09)T( )*~~

151. -- 154. (RESERVED).

155. ENFORCEMENT ACTION FOR IMMEDIATE REVOCATION, SUSPENSION, AND TRANSFER OF CLIENTS WITHOUT NOTICE.
The Department will, without prior notice, prior warning, notice of hearing, or hearing, revoke or suspend a certificate of approval of any facility, program or service and immediately transfer clients, when persuaded by a preponderance of the evidence that states or conditions exist as to endanger the health or safety of any client, employee, contractor or volunteer. ( )

156. -- 159. (RESERVED).

160. ENFORCEMENT ACTION FOR SUSPENSION OR REVOCATION OF A CERTIFICATE AND LIMIT ON ADMISSIONS WITH NOTICE.
The Department may suspend or revoke a certificate of approval, terminate or limit admissions, with or without a referral of clients, when persuaded by a preponderance of the evidence, that the facility is not in substantial compliance with these rules and minimum standards. Additional causes for suspension or revocation of a certificate of approval, for terminating or limiting admissions, with or without a referral of clients, may be issued for any of the reasons listed in this

section of rule. ( )

01. Act Adversely Affecting Welfare of Client. Any act or omission adversely affecting the welfare of any client, employee, contractor, or volunteer is being permitted, aided, performed, or abetted by the facility, applicant, owner, operator, CEO or administrator, medical director, ~~*director of nursing services*~~ *lead nurse*, or mental health program director. Such acts or omissions may include, but are not limited to, neglect, physical abuse, mental abuse, emotional abuse, violation of civil rights or exploitation of vulnerable adults. ~~*(3-30-09)T*~~*( )*

02. Endangerment to Health and Safety. Any state or condition exists at the facility which endangers the health or safety of any client. ( )

03. Misrepresentation or Omission On Application. The applicant, owner, operator, CEO or administrator, medical director, ~~*director of nursing services*~~ *lead nurse*, or mental health program director has willfully misrepresented or omitted information on the application or other documents pertinent to obtaining or renewing a license. ~~*(3-30-09)T*~~*( )*

04. Lack of Sound Judgment in Operation or Management. The applicant, owner, operator, CEO or administrator, medical director, ~~*director of nursing services*~~ *lead nurse*, or mental health program director has demonstrated a lack of sound judgment in the operation or management of the facility. ~~*(3-30-09)T*~~*( )*

05. Substantiated Deficiencies. The facility has one (1) or more substantiated deficiencies as demonstrated by any one (1) of the following: ( )

a. Any deficiency that endangers the health and safety of any client, employee, contractor, or volunteer. ( )

b. Repeat violations of any requirement of these rules and minimum standards or of Idaho law. ( )

c. An accumulation of minor violations that when taken as a whole, would constitute a substantial deficiency. ( )

06. Lack of Adequate Staffing. The facility lacks adequate staff to properly care for the number and type of clients receiving care and treatment at the facility. ( )

07. Acts of Key Individuals. The facility, applicant, owner, CEO or administrator, medical director, ~~*director of nursing services*~~ *lead nurse*, or mental health program director: ~~*(3-30-09)T*~~*( )*

a. Has violated any conditions of a certificate of approval. ( )

b. Has been denied or has had revoked any license issued under Title 54, Idaho Code, or by the Department; ( )

c. Has been convicted of operating any facility without a license; ( )

d. Has been enjoined from operating any facility; ( )

e. Is directly under the control or influence of any person who has been subject to the proceedings described in this Subsection of these rules; ( )

f. Fails to comply with the data gathering requirements of the MIS; or ( )

g. Fails to substantially comply with these rules and minimum standards. ( )

08. Violation of Client Confidentiality. The applicant, owner, operator, CEO or administrator, medical director, ~~*director of nursing services*~~ *lead nurse*, mental health program director, or any employees, transfers, reinstated former employees, student interns, contractors, volunteers, or any other persons who provide care or services or have access to clients, violate client confidentiality. ~~*(3-30-09)T( )*~~

161. -- 164. (RESERVED).

165. WRITTEN NOTICE OF DETERMINATION AND ENFORCEMENT ACTION.

01. Written Notification. With the exception of enforcements actions for immediate revocation, suspension, and transfer of clients under Section 155 of these rules, the Department will notify the applicant, or the owner's designated representative, in writing, of its decision to deny, suspend, or revoke an application or certificate of approval. The Department will send the written notification by certified mail, return receipt requested. ( )

02. Written Notification Contents. The written notice will include the following: ( )

a. The applicant's or owner's name and identifying information; ( )

b. A statement of the decision; ( )

c. A concise statement of the reasons for the decision; and ( )

d. The process for pursuing an administrative appeal. ( )

166. -- 169. (RESERVED).

170. PENALTY FOR OPERATING A FACILITY WITHOUT A CERTIFICATE OF APPROVAL.

01. Penalty for Operating Facility Without a Certificate of Approval. Any person or entity establishing, conducting, managing, or operating a detox/mental health diversion unit without a certificate of approval issued by the Department is guilty of a misdemeanor. When a person is found guilty, the penalty is punishable by imprisonment in a county jail for a period of time not to exceed six (6) months, or by a fine not to exceed three hundred dollars ($300), or both fine and imprisonment. Each day of continuing violation constitutes a separate offense. Under Section 39-1312, Idaho Code, the attorney general is authorized to prosecute any violations in the

event the prosecuting attorney in the county where the alleged violation occurred fails or refuses to act within sixty (60) days of notification of the violation. ( )

02. Injunction to Prevent Operation Without a Certificate of Approval. Notwithstanding the existence or pursuit of any other remedy, the Department may in the manner provided by law maintain an action in the name of the State for injunctive relief or other process against any person or entity establishing, conducting, managing, or operating a detox/mental health diversion unit without a certificate of approval issued by the Department. ( )

171. PENALTY FOR OPERATING FACILITY NOT IN SUBSTANTIAL COMPLIANCE.

01. Civil Monetary Penalties. Civil monetary penalties are based upon one (1) or more deficiencies of substantial noncompliance. Nothing will prevent the Department from imposing this remedy for deficiencies which existed prior to inspection or complaint investigation through which they are identified. Actual harm to a client or clients 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 substantial compliance. The amounts below are multiplied by the total number of certified beds according to the records of the Department at the time substantial noncompliance is established. ( )

a. Initial deficiency is eight dollars ($8). See following example:

ASSESSMENT FOR CIVIL MONETARY PENALTY - INITIAL DEFICIENCY TABLE 171.02.a				
Number of Beds	**Initial Deficiency**	**Times Number of Days Out of Substantial Compliance**	**Penalty Per Day**	**Amount of Penalty**
11	$8	45 Days	$88	$3,960

( )

b. Repeat deficiency is ten dollars ($10). See following example:

ASSESSMENT FOR CIVIL MONETARY PENALTY - REPEAT DEFICIENCY TABLE 171.02.b				
Number of Beds	**Repeat Deficiency**	**Times Number of Days Out of Substantial Compliance**	**Penalty Per Day**	**Amount of Penalty**
11	$10	30 Days	$110	$3,300

( )

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. Interest accrues on all unpaid penalties at the legal rate of interest for judgments. Such interest accruement 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 timely pay the entire penalty, together with any interest, is cause for the Department to take any action described in Subsection 120 of these rules including but not limited to, revocation of the certificate of approval or offsetting and withholding any amounts due from Medicaid payments to the facility. ( )

172. -- 174. (RESERVED).

175. CUMULATIVE ENFORCEMENT POWERS, PENALTIES, OR ACTIONS.
The Department can take any of the enforcement actions or impose any of the penalties, independently or in conjunction with others, as described in Sections 150 through 164, 170 and 171 of these rules. ( )

176. -- 179. (RESERVED).

180. EFFECT OF PREVIOUS REVOCATION OR DENIAL OF A LICENSE.

01. Previous Denial of Certificate of Approval. The Department will not accept or consider an application for a certificate of approval from any applicant, owner, CEO or administrator, or medical director of a facility who has had a certificate of approval denied until after two (2) years have elapsed from the date of the denial. ( )

02. Previous Revocation of Certificate of Approval. The Department will not accept or consider an application for a certificate of approval from any applicant, owner, CEO or administrator, or medical director of a facility who has had a certificate of approval revoked until after five (5) years have elapsed from the date of the revocation. ( )

181. -- 184. (RESERVED).

185. INSPECTIONS, INVESTIGATIONS, AND CONSULTATIONS.

01. Inspections or Investigations. The Department will make or cause to be made such inspections and investigations as it deems necessary. Any holder of a certificate of approval, owner, operator, or applicant planning to alter, add to, or remodel an existing facility, to construct a new facility, or convert an existing structure is referred to Sections 600 through 699 of these rules for construction standards and review procedures that must occur prior to breaking ground or commencing any construction. ( )

02. Initial Inspection. Prior to commencing occupancy, the building or facility must be inspected and approved by the Department. The Department will make reasonable efforts to

schedule an inspection within two (2) weeks of receiving a certificate of occupancy issued by the local governing authority, a city or county in Idaho or other evidence submitted by the applicant that the building or facility is ready for final inspection. ( )

03. Intervals of Inspection Following Initial Inspection. At the Department's discretion, the intervals of the inspection following the initial inspection will be at least one (1) every twelve (12) months or more frequently as needed. ( )

04. Unannounced Inspections. At the Department's discretion, inspections and investigations following the initial inspection are made unannounced and without prior notice. ( )

05. Services of Others for Inspections and Investigations. Under the provisions in these rules, the Department may use the services of any qualified person or organization, either public or private, to examine, survey, inspect, or investigate any person or entity holding a certificate of approval issued by the Department. ( )

06. Access and Authority to Enter. The Department or its designee must have full access and has the authority to examine: quality of care, services delivery, client records, facility records, physical premises, including the condition of buildings, grounds and equipment, food service, water supply, sanitation, maintenance, housekeeping practices, and any other areas necessary to determine compliance with these rules. ( )

07. Authority to Interview. The Department or its designee has the authority to interview any individual associated with the facility or the provision of care, including persons or governmental units named in the certificate, the complainant, CEO or administrator, medical director, ~~*director of nursing services*~~ *lead nurse*, mental health program director, chemical dependency counselor, staff, clients, clients' families, service providers, authorized provider or physician or other legally responsible person. Interviews are confidential and conducted privately unless otherwise specified by the Department or its designee. ~~*(3-30-09)T*~~*( )*

08. Consultations. Consultations may be provided at the option of the Department. ( )

186. -- 189. (RESERVED).

190. COMPLAINTS.

01. Filing a Complaint. Any person who believes that a facility has failed to meet any provision of these rules may file a complaint with the Department. All complaints must have a basis in rule or statute. ( )

02. Investigation. Upon a preliminary finding that the facility is out of substantial compliance, the Department will investigate, or cause to be investigated the following: ( )

a. Any complaint alleging a violation of these rules or statute; and ( )

b. Any reportable incident which indicates there was a violation of these rules or

statute. ( )

03. Disclosure of Complaint Information. The Department will not disclose the name or identifying information of a complainant unless: ( )

a. The complainant consents in writing to the disclosure; ( )

b. The investigation results in a judicial proceeding and disclosure is ordered by the court; or ( )

c. The disclosure is essential to prosecution of a violation of these rules or statute. ( )

04. Method of Investigation. The nature of the complaint will determine the method used to investigate the complaint. ( )

05. Notification to Complainant. In compliance with Section 9-340C(9), Idaho Code, the Department will inform the complainant of the results of a completed investigation. Information will otherwise be provided in redacted form as required by law. ( )

191. -- 199. (RESERVED).

REQUIREMENTS APPLICABLE TO ALL DETOXIFICATION UNITS, SOBERING STATIONS, AND MENTAL HEALTH DIVERSION UNITS

(Sections 200 through 299)

200. GOVERNING BODY AND ADMINISTRATION.

01. Administered by a Governing Body. Each detox/mental health diversion unit issued a certificate of approval under these rules must be organized, governed, and administered by a governing body. The governing body of each detox/mental health diversion unit has ultimate authority and responsibility for the overall conduct and operation of the facility and for full compliance with these rules. ( )

02. Bylaws. The governing body must adopt bylaws which specify at least the following: ( )

a. Membership of the governing body, which consists of: ( )

i. Basis for selecting members, term of office, and duties; and ( )

ii. Designation of officers, terms of office, and duties. ( )

b. Meetings: ( )

i. Frequency of meetings; ( )

ii. Meet at regular intervals with an attendance requirement; and ( )

iii. Minutes of all governing body meetings must be maintained. ( )

c. Every client must be under the care of a physician licensed by the Idaho State Board of Medicine. ( )

d. Responsibility for operations, maintenance, and practices that can be delegated and how accountability is established. ( )

e. A mechanism for adoption and approval of the organization's bylaws, rules and regulations of the medical staff. ( )

f. An appropriate and regular means of communication with the medical staff. ( )

03. Administration. The governing body, through the CEO or administrator, must provide appropriate physical facilities and personnel that comply with these rules to meet the needs of clients and the community. ( )

201. -- 209. (RESERVED).

210. PERSONNEL POLICIES AND PROCEDURES.
Subject to the governing body's written approval, the CEO or administrator must establish the following policies, procedures, or plans. ( )

01. Written Policies and Procedures for Personnel. A written personnel policy concerning qualifications, responsibilities, and conditions of employment for each category of personnel must be maintained by the facility. The policy, procedures, or plans must contain at a minimum the following: ( )

a. The recruitment of qualified personnel, including consultants when utilized; ( )

b. Documentation of orientation of all employees to policies, procedures, and objectives of the facility; ( )

c. Competent supervision of all staff; ( )

d. Job descriptions for all categories of personnel and uniform rules for each classification concerning hours of work, paydays, overtime, and other related personnel matters; ( )

e. An ongoing, planned continuing educational program which maintains and upgrades the knowledge, skills, and abilities of the staff in relation to services provided and employee responsibilities, including the opportunity to attend outside educational programs. ( )

i. A minimum of twenty-four (24) hours of training per year must be provided to staff; and ( )

ii. Documentation of continuing education or in-service for all direct care personnel that is consistent with clients' needs and services offered. ( )

f. Employee grievance procedures. ( )

g. A written statement that the facility does not discriminate in employment in any manner prohibited by the laws of the United States or the state of Idaho. ( )

h. A written statement that describes the facility's policy and procedure for recruiting and hiring all employees and interns. ( )

i. Staff disciplinary, suspension, and termination policies and procedures. ( )

j. Those facilities using volunteers must maintain written policies and procedures concerning volunteer services. Volunteers must receive orientation in accordance with Section 215 of these rules. ( )

02. Daily Work Schedules. Daily work schedules must be maintained in writing that reflect: ( )

a. Personnel on duty at any given time for the previous twelve (12) months; ( )

b. The first and last names of each employee, including professional designation; and ( )

c. Any adjustments made to the schedule. ( )

03. Job Descriptions. Each employee must be given a current job description that is consistent with his classification, be initialed by the employee, and be retained on file in each employee's personnel record. Job descriptions must contain at a minimum the following: ( )

a. The authority, responsibilities and duties of each classification; and ( )

b. Reporting and supervisory requirements for the classification. ( )

04. Organizational Chart. An organizational chart that clearly reflects lines of authority within the facility's organizational structure must be posted or made available to all employees. ( )

05. Applicable Idaho and Federal Laws. Applicable Idaho and federal laws must be observed in relation to the employment of any individual. ( )

06. Age Limitations. No person who is under the age of eighteen (18) years can provide direct care to clients. ( )

07. Payroll Records. Payroll records must be maintained by the facility that reflect an employee's hours of work, paydays, overtime, and other related matters. ( )

08. Personnel Files. Personnel files must be maintained by the facility for each employee. This file must contain at a minimum the following: ( )

a. An application for employment signed by the employee and a resume that must include pre-employment education, training and experience; ( )

b. Copies of all certification certificates, certification identification card, and all other health care licenses or certificates related to job duties; ( )

c. Copy of completed criminal history and background check; ( )

d. Position and qualifications of the position for which the employee is hired, including education and experience; ( )

e. Letter of hire or other documentation of the terms of employment and the employee's starting and termination date; ( )

f. Orientation and training documentation reflecting what type of training the employee received and the amount of time for each program; ( )

g. Verification of a tuberculin skin test upon employment and any subsequent test results; ( )

h. Copies of the employee's annual written job performance evaluation reviews including: ( )

i. Documentation of any disciplinary actions taken against the employee; and ( )

ii. Documentation of any commendations. ( )

211. EMPLOYEE HEALTH.
Personnel policies related to employee health must include: ( )

01. Tuberculin Skin Test. The current status of a tuberculin skin test, taken immediately prior to employment or within thirty (30) days after employment, must be recorded. ( )

a. If the skin test is positive, either by history or current test, personnel must seek a medical evaluation and chest x-ray to determine the presence or absence of active disease. Personnel who have active tuberculosis must be restricted from employment and attendance at the facility until it is determined by laboratory evaluation that the tuberculosis is noninfectious. ( )

b. Personnel who have a negative reaction to the skin test, must be tested annually if

it is determined that they function in a high-risk tuberculosis area. ( )

02. Repeat Skin Text. A repeat skin test is also required if an employee is exposed to a client or other staff who develop tuberculosis. ( )

03. Report Symptoms. The facility must require that all personnel report immediately to their supervisor any signs or symptoms of personal illness. ( )

04. Policy for Communicable Disease Precautions. Personnel who have a communicable disease, infectious wound, or other transmittable condition and who provide care or services to clients or have access to clients are required to implement protective infection control techniques in accordance with these rules and as required by the facility's operator or contractor through its CEO or administrator. Personnel may be required: ( )

a. Not to work until the infectious state is corrected and noninfectious; ( )

b. To work in other areas of the facility where contact with others is not expected and the likelihood of transmission of infection is absent; or ( )

c. To seek other remedies that will avoid spreading the infection. ( )

05. Documentation in Personnel File. Documentation of compliance with health policy must be current, be initialed by each employee, and be retained on file in each employee's personnel file. ( )

212. -- 214. (RESERVED).

215. ORIENTATION AND CONTINUING EDUCATION.
The facility must provide a formalized, on-going educational program for all personnel, including a written structured orientation program designed to meet the training needs of new employees in relation to an employee's responsibilities. ( )

01. Documentation of Education Program. Documentation of compliance with orientation and continuing education program must be current, be initialed by each employee, and be retained on file in each employee's personnel file. ( )

02. Content for Orientation and Continuing Education Program. Orientation and continuing education in the facility must include at a minimum the following: ( )

a. All facility policies and procedures relevant to an employee's responsibilities; ( )

b. Basic procedures relative to client care; ( )

c. Client rights and responsibilities; ( )

d. Confidentiality; ( )

e. Facility's code of ethics; ( )

f. Use of mechanical and electrical equipment by an employee; ( )

g. Fire safety and emergency evacuation; ( )

h. Emergency procedures; ( )

i. Organizational structure; ( )

j. Measures to prevent cross infection, including aseptic and isolation techniques; ( )

k. Special needs of the client population served; ( )

l. Restorative care; ( )

m. Proper maintenance and handling of client records; ( )

n. Philosophical approach to treatment and the facility's goals; and ( )

o. Policies and procedures for reporting cases of suspected abuse or neglect of vulnerable adults. ( )

03. Continuing Education for Direct Care Staff. Each direct care staff member must annually receive twenty-four (24) hours of continuing education that includes an understanding of the nature of addiction, the withdrawal syndrome, group therapy, family therapy, and other treatment methodologies that are appropriate to the position held by each direct care staff member. Continuing education requirements may be met through in-house educational programs, outside continuing educational programs, or a combination thereof. ( )

216. -- 219. (RESERVED).

220. PHYSICIAN-APPROVED TRANSFER POLICY.
Each detox/mental health diversion unit must develop and implement written, physician-approved policies and procedures for determining when to transfer a client to a hospital for the provision of emergency inpatient and ambulatory medical services. ( )

01. Exchange of Information for Transfer of Clients. The following information must accompany the client if transferred to or from another health care facility: ( )

a. Provisional diagnosis, treatment, and clinical condition; ( )

b. Reason for transfer and destination; and ( )

c. Pertinent medical and social information that must be part of the client's record in accordance with the requirements of the Health Insurance Portability and Accountability Act (HIPAA), 45 C.F.R. Parts 160 and 164, 42 U.S.C. Sections 290 dd-3 and ee-3, and 42 C.F.R., Part

2 (June 9, 1987). ( )

02. Transfer Agreements Kept On-Site. Transfer agreements must be maintained on-site at the facility. ( )

221. -- 229. (RESERVED).

230. POLICIES AND PROCEDURES APPLICABLE TO ALL DETOXIFICATION UNITS, SOBERING STATIONS, AND MENTAL HEALTH DIVERSION UNITS.
Subject to the governing body's written approval, the CEO or administrator must develop a set of physician approved written policies and procedures in accordance with these rules that are available at all times to clients, staff, and the public. ( )

231. PHYSICIAN APPROVED ADMISSIONS POLICY, INTAKE PROCEDURES, AND DISCHARGE PLANNING.
Each detox/mental health diversion unit must have written physician-approved admission policies and procedures that at a minimum meet the following requirements in Subsections 231.01 through 231.10 of this rule. ( )

01. Admissions Policy. A client will be admitted, accepted, or retained only when the facility has the capability, capacity, and services to provide appropriate care, and the client does not require a type of service for which the facility is not approved to provide, or for which the facility does not provide or arrange for, or in which the facility does not have the personnel, appropriate in numbers and with appropriate knowledge and skills to provide such services. ( )

02. Criteria for Admissions. Written criteria for admissions, uniformly applied to all prospective clients, must be provided in accordance with these rules. ( )

03. Criteria for Rejecting Admissions. Written criteria for rejecting admission requests, uniformly applied to all prospective clients, must be provided in accordance with these rules, and that includes a statement that the following persons are not eligible for admission: ( )

a. Any person who is violent, charged with a crime, or otherwise needs a secure holding facility; ( )

b. Any person who is under the age of eighteen (18) years; ( )

c. Any person who is the subject of involuntary commitment proceedings or detention without a hearing under Sections 18-212, 66-326, 66-329, 66-406, or 66-1305, Idaho Code; ( )

d. Any person who requires specialized care not available at the facility; ( )

e. Any person who has a physical or medical condition that is unstable or can only be safely treated in a hospital; ( )

f. Any person whose primary problem is social, economic, or one of physical health such as epilepsy, mental retardation, dementia, a developmental disability, or, chronic alcoholism, drug abuse, physical disability, or aged, unless in addition to such condition, he meets the admission criteria provided in Sections 320, 420, or 520 of these rules; ( )

g. Any person who fails to meet the admission criteria in Sections 320, 420, or 520 of these rules; ( )

h. Any person who can be safely maintained and effectively treated in a less restrictive or intensive level of care; or ( )

i. Any person who does not voluntarily consent to admission or treatment. ( )

04. Intake Procedures. Written intake procedures must be provided that include a determination that the facility's services are or are not appropriate to meet the needs of the client. ( )

05. Referrals For Individuals Not Admitted. Written policies must be provided for making referrals of individuals not admitted to the facility and written policies for accepting referrals from outside facilities. ( )

06. Initial Client Assessments Procedures. Written procedures must be provided that require a completed initial client assessment on every proposed client prior to admission. ( )

07. Medical Orders. Written, verbal, and telephone orders from persons authorized to give medical orders under Idaho law and written policies and procedures established by the governing body will be accepted by the medical staff empowered to do so under Idaho law. ( )

a. Verbal and telephone orders must contain the name of the person giving the order, the first initial and last name and professional designation of the medical staff receiving the order. ( )

b. The order must be promptly signed or otherwise authenticated by the prescribing person in accordance with written policies and procedures established by the governing body. ( )

08. Services Orientation Procedures for Clients Admitted to a Detoxification Unit or Mental Health Diversion Unit. Written services orientation information must be recorded in each client's record as soon as practicable. This orientation information must include: ( )

a. The facility's philosophical approach to treatment; ( )

b. Information on client's rights and responsibilities while receiving services at the facility; ( )

c. The services available; and ( )

d. Information on the rules governing client's behavior and those infractions, if any, that may result in discharge or other disciplinary actions. ( )

09. Criteria for Appropriate Rehabilitative Services. Written criteria must be provided that assures appropriate rehabilitative services are provided whereby each client is assigned a primary addiction therapist or primary mental health professional, depending upon need, who will follow the client's progress during his admission to the detoxification or mental health unit, or both. The client's progress must be documented in the client's record. ( )

10. Criteria for Assuring Clients Remain in Program. Written criteria must be provided that assures clients will remain in a medical detoxification program, sobering program, or mental health diversion program for the period of time deemed medically necessary and documented by the attending physician. Coercion or force cannot be used to induce any client to remain in treatment. ( )

11. Discharge Criteria and Planning. Written criteria for discharge, uniformly applied to all prospective clients, must be established in accordance with these rules, including a procedure to screen each client for discharge planning needs. ( )

232. NONDISCRIMINATORY ADMISSIONS POLICY.
Each detox/mental health diversion unit, contractors, or operators must not discriminate on the grounds of race, creed, color, religion, age, gender, national origin, veteran, or disability with respect to any individual seeking admission or treatment. ( )

01. Compliance with the Americans with Disabilities Act. Each detox/mental health diversion unit must ensure that they comply with the Federal Americans with Disabilities Act, 28 U.S.C. Section 12101 et seq. and 28 C.F.R. Part 36 (July 1991). Referral services must be provided to individuals not admitted. ( )

02. Written Nondiscrimination Policies. Each detox/mental health diversion unit must develop written policies that describe how clients will receive services and be admitted on a nondiscriminatory basis in accordance with state and federal law and these rules. ( )

03. Placement Denied or Delayed. The individual seeking admission to a facility may be denied or delayed admission, if an appropriate placement is not available because of age or sex, or both. ( )

233. -- 234. (RESERVED).

235. MEDICATION POLICIES AND PROCEDURES.
Each detox/mental health diversion unit must have written policies and procedures that govern the safe storage, dispensing, and administration of medication. Written policies and procedures must include at a minimum the following requirements in Subsection 235.01 through 235.07 of this rule. ( )

01. Physician's Order. Each client of a detox/mental health diversion unit must have a written order signed by a physician, a physician's standing order, or a physician's order received by phone and signed by the physician at the earliest opportunity before any medication is

administered to a client. ( )

02. Administration of Medication. Medications can only be provided to a client by licensed nursing staff in accordance with written policies and procedures established by the governing body, which must include at least the following: ( )

a. Administered in accordance with a physician's, dentists', nurse practitioner's, or physician assistant's written orders; ( )

b. The client is identified prior to administering the medication; ( )

c. Medications are administered as soon as possible after preparation; ( )

d. Medications are administered only if properly identified; ( )

e. Medications are administered by the person preparing the mediation for delivery to the client; ( )

f. Clients are observed for reactions to medications and if a reaction occurs, it is immediately reported to the ~~*charge*~~ *on-duty* nurse and ~~*director of nursing*~~ *lead nurse*; and3 ~~*(3-30-09)T*~~*( )*

g. Each client's medication is properly recorded on his individual mediation record. ( )

03. Storage and Distribution of Medication. Storage and distribution policies and procedures must describe the following: ( )

a. Receiving of medication; ( )

b. Storage of medication, including assurances that all prescription drugs stored in the facility must be kept in a double locked container. Only those medications requiring refrigeration can be stored in a refrigerator; and ( )

c. Medication distribution system to be used including assurances that medications prescribed for one client will not be administered to or by another client or employee. ( )

04. Disposal of Unused, Outdated, or Recalled Drugs. Policy and procedures for documentation and disposal of unused drugs must provide assurances that no unused, outdated, or recalled drugs are kept in the facility. All unused, outdated, or recalled drugs must be disposed of in a manner that assures that they cannot be retrieved. ( )

05. Written Records of Disposals. A written record of all disposals of drugs must be maintained in the facility and must include at a minimum the following: ( )

a. A description of the drug, including the amount; ( )

b. The client for whom the medication was prescribed; ( )

c. The reason for disposal; and ( )

d. The method of disposal. ( )

06. Medication Policies and Procedures for Staff Response. How staff are to respond if: ( )

a. A client refuses a medication; ( )

b. A client misses a medication and the reasons; ( )

c. A client medication is not available; ( )

d. Medications are missing; ( )

e. A client receives an incorrect medication or dosage. ( )

07. Written Medication Record. Each client's medication must be properly recorded on his individual medication record by the person administering the medication. The written record must include: ( )

a. Client's name; ( )

b. Prescribing physician's name; ( )

c. Description of medication, including prescribed dosage; ( )

d. Verification in writing by staff that medication was taken, not taken, missed, not available, or refused, and the times and dates administered; ( )

e. Method of administration; ( )

f. Date and time of administration; ( )

g. Injection sites; ( )

h. Name or initial of person administering the medication; and ( )

i. Any adverse reactions to the medication. ( )

236. -- 239. (RESERVED).

240. EMERGENCY PREPAREDNESS POLICIES AND PROCEDURES.

01. Emergency Preparedness Plan. Each detox/mental health diversion unit must develop and implement a written emergency preparedness plan to follow in the event of fire, explosion, flood, earthquake, high wind, or other emergency that includes written procedures

outlining steps to be taken in the event of an emergency. ( )

02. Written Procedures. The facility must have written procedures outlining the steps to be taken in the event of an emergency including: ( )

a. Who is to respond; ( )

b. Each individual's responsibilities; ( )

c. Where and how clients are to be evacuated; and ( )

d. Notification of emergency agencies. ( )

241. -- 244. (RESERVED).

245. INFECTION CONTROL.
Each detox/mental health diversion unit must develop and implement written plans consistent with recognized standards for the prevention and control of infection for both staff and clients. ( )

01. Infection Control Program. The program must include, at minimum, the following elements: ( )

a. Methods of maintaining sanitary conditions in the facility; ( )

b. Employee infection surveillance and actions; and ( )

c. Isolation procedures; ( )

02. Report for Monitoring Infections. Specifics for monitoring the course of infections must include, at minimum, a prepared written quarterly report describing the status of each infection. This report must include: ( )

a. Diagnosis; ( )

b. Description of the infection; ( )

c. Causative organism, if identified; ( )

d. Date of onset; ( )

e. Treatment and date initiated; ( )

f. Client's progress; ( )

g. Control techniques utilized; and ( )

h. Diagnostic tests employed. ( )

03. Infection Control and Prevention Procedures. There must be a written infection control procedure that includes aseptic techniques, cleaning, sanitizing, and disinfection of all instruments, equipment, and surfaces, for all departments and services where client care is delivered. ( )

246. CONTROL OF TUBERCULOSIS.
In order to assure the control of tuberculosis in the facility, there must be a planned, organized program of prevention through written and implemented procedures that are consistent with current accepted practices and include the following in Subsections 246.01 through 246.03 of this rule. ( )

01. Tuberculin Skin Tests. The results of a tuberculin skin test, taken immediately prior to admission or within six (6) months prior to admission, must be established for each client. If the status is not known upon admission, a tuberculin skin test must be done as soon as possible. ( )

a. If the tuberculin skin test is negative, the test does not have to be repeated prior to discharge. ( )

b. If the tuberculin skin test is positive, the client must have a chest x-ray to rule out the presence of infectious pulmonary tuberculosis. ( )

02. Protective Infection Control Techniques. If any x-ray is suggestive of infectious pulmonary tuberculosis, the facility is required to implement protective infection control techniques in accordance with these rules and as required by the facility's governing body through its CEO or administrator. ( )

03. Transfer of Client Suspected or Diagnosed. Arrangements for transfer to an appropriate facility must be made for any client suspected or diagnosed with infectious pulmonary tuberculosis. These arrangements must be made in accordance with these rules and as required by the facility's governing body through its CEO or administrator. ( )

247. -- 249. (RESERVED).

250. FOOD AND NUTRITIONAL CARE POLICIES AND PROCEDURES.
Each detox/mental health diversion unit must develop written policies and procedures for providing proper nutritional care for each client that includes procedures to follow if a client refuses food or to follow the prescribed diet. The acquisition, preparation, storage, and serving of all food and drink in a facility must comply with IDAPA 16.02.19, “Food Safety and Sanitation Standards for Food Establishments.” ( )

01. Three Nutritious Meals Per Day. At least three nutritious meals per day and nutritional snacks, must be provided to each client *present at meal times in the detoxification or mental health diversion units*. No more than fourteen (14) hours may elapse between the end of an evening meal and the beginning of the morning meal. Physician approved special diets must be provided upon request by a client. Under no circumstances may food be withheld for disciplinary reasons. Menus must be reviewed and approved in advance by a registered dietitian in Idaho in

accordance with the Idaho Diet Manual from the Idaho Dietetic Association. *Nourishments must be made available to a client in a sobering station.* ~~*(3-30-09)T*~~*( )*

02. On-Site Food Service. On-site food service must comply with all provisions of IDAPA 16.02.19, "Food Safety and Sanitation Standards for Food Establishments." ( )

03. Third-Party Food Service. When food service is provided by a third-party, the provider must meet all the conditions of these rules pertaining to food service and be in compliance with IDAPA 16.02.19, "Food Safety and Sanitation Standards for Food Establishments." Each detox/mental health diversion unit must maintain a written agreement at all times with a food service provider containing assurances that the provider will meet all food service and dietary standards imposed by this rule. ( )

04. Reports for Sanitation and Food Service. Sanitation reports and food service reports must be maintained on file in the facility. ( )

251. -- 259. (RESERVED).

260. CLIENT RECORDS POLICIES AND PROCEDURES.
Each detox/mental health diversion unit must develop written policies and procedures to assure accurate and authentic records are maintained for each client in the facility. ( )

01. Complete and Accurate Records. Each facility must implement written policies and procedures to assure complete, accurate, and authentic records in accordance with professional standards and practices. ( )

02. Responsible Staff. The CEO or administrator must designate to a staff member the responsibility for the accurate maintenance of client records. If this person is not a Registered Records Administrator (RRA) or an Accredited Records Technician (ART), consultation from such a qualified individual must be provided periodically to the designated staff person. ( )

03. Individual Client Record. An individual record must be maintained for each admission with all entries kept current, dated, and signed. Client records must, at a minimum, contain the following: ( )

a. Client's name, date and time of admission; previous address; home telephone; sex; date of birth; place of birth; ethnicity; marital status; religious preference; usual occupation; Social Security number; branch and dates of military service; name, address, and telephone number of nearest relative or responsible person or agency; place admitted from; attending physician; and date and time of discharge. ( )

b. Biopsycholosocial assessment, including medical history and physical examination that evaluates an individual's strengths, weaknesses, problems, and needs. ( )

c. Transfer or referral report, where applicable. ( )

d. Special reports dated and signed by the person making the report such as laboratory, x-ray, social services, mental health, consultation, and other special reports. ( )

e. Individualized treatment plan based on a biopsychosocial assessment of the client's alcohol or substance use disorder treatment needs, including treatment goals based on client input. ( )

f. Physician's orders containing the physician's authorization for required medications, tests, treatments, and diet. Each entry must be dated and signed or counter-signed by the physician. ( )

g. Progress notes by physicians, nurses, therapists, social workers, and other health care personnel must be recorded indicating observations to provide a full descriptive, chronological picture of the client during his admission. The author must date and sign his entry. ( )

h. The final diagnosis on discharge or cause of death, condition on discharge, and disposition signed and dated by the attending physician. ( )

i. Nurses' entries must include the following information: ( )

i. Date, time and mode of admission; documentation of the client's general physical and emotional condition as well as mental attitude on admission. ( )

ii. Medication administration record. ( )

iii. Date and times of all treatments. ( )

iv. Any change in the client's physical or mental status. ( )

v. Any incident or accident occurring while the client is in the facility. ( )

vi. The signature of the ~~*charge*~~ *on-duty* nurse for each shift indicating the assumption of responsibility for all entries made by nonprofessional nursing personnel. ~~*(3-30-09)T*~~*( )*

261. ACCESS TO CLIENT RECORDS.
Each detox/mental health diversion unit must ensure that client records are protected against loss, tampering, or unauthorized disclosure of information under the Health Insurance Portability and Accountability Act (HIPAA), 45 C.F.R. Parts 160 and 164, 42 U.S.C. Sections 290 dd-3 and ee-3, and 42 C.F.R., Part 2 (June 9, 1987). Only authorized personnel may have access to client records. ( )

01. Release of Medical Information. No release of medical information can be made without written consent of the client, guardian, by court order, or as authorized by federal or state law. ( )

02. Removal of Client Records. Client records may only be removed from the facility in accordance with written policies and procedures of the facility as allowed by state and federal law. ( )

03. Retention. Records must be preserved in a safe location protected from fire, theft, and water damage for a period of time not less than seven (7) years following the date of the client's discharge. ( )

04. Electronic Records. A facility that implements an electronic record or signature must have written policies in place to assure the following: ( )

a. Proper security measures to protect the use of an electronic signature by anyone other than the person to which the electronic signature belongs; ( )

b. The privacy and integrity of the record; ( )

c. Includes which records will be maintained and signed electronically; ( )

d. How an e-signature code is assigned and the code and associated staff identities are protected; ( )

e. How passwords are assigned and the frequency for which they are changed; ( )

f. Allows clients access to their records within one (1) business day of the request; and ( )

g. Allows immediate access to records by the Department or its designees, surveyors, and others who are authorized by law. ( )

262. -- 264. (RESERVED).

265. CLIENTS' RIGHTS POLICIES AND PROCEDURES.
Each detox/mental health diversion unit must develop written policies and procedures regarding clients' rights and responsibilities. The facility must also have a policy for the development of, adherence to, and procedures for implementation of clients' rights. ( )

01. Availability of Clients' Rights. The facility must inform each client, any guardian, next of kin, and the public of its clients' rights policy. ( )

02. Staff Trained in Clients' Rights. Staff must be trained and involved in the implementation of these policies and procedures. ( )

03. Content of Clients' Rights. The clients' rights, policies, and procedures must ensure that, at a minimum, each client admitted to the facility is: ( )

a. Informed of these rights and of rules governing client conduct and responsibilities, as evidenced by the client's written acknowledgment, prior to or at the time of admission. If a client is medically or legally unable to understand these rights, policies, and procedures, the client's guardian or responsible person must be informed and acknowledge these rights on behalf of the client. An employee of the facility cannot be the one to acknowledge these rights. ( )

b. Informed of services available in the facility and of related charges prior to or at the time of admission and during his stay; ( )

c. Informed of his medical condition, unless medically contraindicated, and is given the opportunity to participate in the planning of his medical treatment and to refuse to participate in any experimental research; ( )

d. Is transferred or discharged only for medical reasons, or for his welfare or that of other clients and is given reasonable advance notice to ensure orderly transfer or discharge and such actions are documented in his medical record; ( )

e. Is encouraged and assisted, throughout his period of stay, to exercise his rights as a client and as a citizen, and to this end may voice grievances and recommend changes in policies and services to facility staff or to outside representatives of his choice, free from restraint, interference, coercion, discrimination, or reprisal. ( )

f. Is free from mental and physical abuse, and free from chemical and physical restraints except as authorized in writing by a physician for a specified and limited period of time, or when necessary to protect the client from injury to self or others; ( )

g. Is assured of confidential treatment of his medical records, and may approve or refuse their release to any individual outside of the facility, except in case of his transfer to another health care facility, or as required by law or third-party payment contract; ( )

h. Is treated with consideration, respect and full recognition of his dignity and individuality, including privacy in treatment and in care of his personal needs; ( )

i. Is not required to perform services for the facility that are not included for therapeutic purposes in his plan of care; ( )

j. May associate and communicate privately with persons of his choice, unless medically contraindicated as documented by a physician in his medical record; ( )

k. May meet with, and participate in, activities of social, religious, and community groups at his discretion, unless medically contraindicated as documented by a physician in his medical record; and ( )

l. May retain his personal possessions as space permits, unless medically contraindicated as documented by a physician in his medical record. ( )

04. Reported Allegations Investigated. The facility must develop policies and procedures to assure that allegations of abuse, neglect or exploitation are identified, reported, documented, investigated, and followed up with interventions to prevent reoccurrence and assure protection. ( )

05. Least Restrictive Intervention Procedures to Assure Safety of Clients and Staff. The facility must develop and implement policies and procedures for the use of least restrictive interventions to assure client and staff safety in unsafe situations, physically or

behaviorally caused. ( )

266. RECORD OF CLIENT'S CLOTHING AND PERSONAL PROPERTY.
An inventory and proper accounting must be kept in each client's record for all clothing and personal property entrusted to the facility for safekeeping. The status of the inventory must be made available to the client, his conservator, guardian, or representative for review upon request. ( )

267. -- 269. (RESERVED).

270. MINIMUM STAFFING POLICIES AND PROCEDURES.
Each detox/mental health diversion unit must develop, implement, and comply with written staffing policies and procedures based on the number of beds, number of clients, client needs, services provided, and configuration of the facility as described in Subsections 270.01 through 270.06 of this rule. *In a facility with both detoxification and mental health diversion units, the facility may divide a staff member's time to provide direct care in both units provided the staffing ratios for each unit are met.* ~~*(3-30-09)T( )*~~

01. Staff Trained for Emergencies. A staff member trained to respond to fires and other natural disasters, as well as to administer emergency first aid and CPR must be on duty twenty-four (24) hours per day, seven (7) days per week. Training and annual training updates in each of these areas must be documented in personnel files. ( )

02. Direct Care Staff. The facility must have adequate nursing personnel and direct care staff in sufficient numbers to plan, administer, and provide client bedside care. At a minimum, two (2) staff, one of whom must be an R.N. or L.P.N., must be on duty twenty-four (24) hours per day, seven (7) days per week. In the absence of the ~~*director of nursing*~~ *lead nurse*, an R.N. or L.P.N. must be designated to assume the ~~*director of nursing's*~~ *lead nurse's* duties. No person may be assigned nursing duties, including aides and orderlies, who has been on duty in the facility during the preceding twelve (12) hours, except in an emergency. ~~*(3-30-09)T( )*~~

03. Monthly Staffing Pattern. Monthly staffing patterns indicating daily staff, staff titles, and client census must be kept for the previous twelve (12) months. A written staffing plan must be developed to ensure appropriate and adequate staff coverage for emergency or high demand situations. ( )

04. Clinical Supervision and Consultation for Staff. A written staffing plan that specifies a minimum of one (1) hour per month of personal clinical supervision and consultation for each staff person and volunteer who is responsible for the delivery of direct care services must be maintained. The clinical supervision must relate to the individual's skill level with the objective of assisting direct care staff and volunteers to increase their treatment skill and the quality of services delivered to clients. ( )

05. Staffing of Certified Alcohol and Drug Counselor. The services of a certified alcohol and drug counselor must be available to each client. ( )

06. Staff Trained in Substance Abuse Withdrawal. The facility, at a minimum, must have at least one (1) staff member on duty twenty-four (24) hours per day, seven (7) days per

week trained in the following areas: ( )

a. Substance abuse withdrawal symptoms, including delirium tremens; and ( )

b. Symptoms of secondary complications to substance abuse. ( )

271. QUALIFICATIONS AND RESPONSIBILITIES FOR CEO OR ADMINISTRATOR.

01. CEO or Administrator. Each detox/mental health diversion unit must maintain at all times, through employment or contract, a CEO or administrator who is responsible for carrying out the policies established by the governing body and the day-to-day conduct and operations of the facility. This individual must have the qualifications required in Subsections 271.03 and 271.04 of this rule at the time of hire and throughout the duration of employment or contract. ( )

02. CEO's or Administrator's Responsibilities. The CEO or administrator is responsible for assuring that policies, procedures, conduct and operations required by Title 39, Chapter 3, Idaho Code, Title 39, Chapter 31, Idaho Code, and IDAPA 16.07.50, "Rules and Minimum Standards Governing Nonhospital, Medically-Monitored Detoxification/Mental Health Diversion Units," are developed and implemented. ( )

03. Required License or Degree. Each CEO or administrator of a Detox/Mental Health Diversion Unit must, at a minimum, have one (1) or more of the following Idaho licensures or degrees at the time of hire or contract and throughout the duration of employment or contract: ( )

a. Licensed Physician; ( )

b. Licensed Psychologist; ( )

c. Licensed Master's Level Nurse; ( )

d. Licensed Clinical Professional Counselor (LCPC); ( )

e. Licensed Clinical Social Worker (LCSW); ( )

f. Licensed Professional Counselor (LPC); ( )

g. Licensed Master's Level Social Worker (LMSW); ( )

h. Licensed Bachelor's Level Nurse; or ( )

i. Master's degree in the field of alcoholism, substance use disorders, or mental health. ( )

04. Required Experience and Abilities. Each CEO or administrator of a detox/ mental health diversion unit must, at a minimum have and demonstrate the following experience

and abilities at the time of hire or contract: ( )

a. At least two (2) years of paid full-time experience must be in the field of alcoholism, substance use disorders and mental health. ( )

b. At least one (1) year of the two (2) years' full-time experience must be in an administrative capacity that includes knowledge and experience demonstrating competence in planning and budgeting, fiscal management, supervision, personnel management, employee performance assessment, data collection, and reporting. ( )

05. Availability of CEO or Administrator. The facility's CEO or administrator must, at a minimum, be full-time forty (40) hours per week to provide for safe and adequate care of clients and staff. The facility's CEO or Administrator, or his designee must be available to be on-site at the facility within two (2) hours and must be on-call at all times. ( )

272. QUALIFICATIONS AND RESPONSIBILITIES FOR MEDICAL DIRECTOR.

01. Medical Director. Each detox/mental health diversion unit must maintain at all times through employment, or contract a medical director who is responsible for providing medical care to clients and for supervising all medical care, services, and treatment provided by the medical staff. This individual must have the qualifications required in Subsections 272.03 and 272.04 of this rule at the time of hire and throughout the duration of employment or contract. ( )

02. Medical Director's Responsibilities. The medical director's responsibilities include, at a minimum, the following: ( )

a. The provision of advice on health related policies and issues; ( )

b. The provision of emergency medical care to admitted clients; ( )

c. The supervision of the performance of the medical examination and laboratory tests required upon the client's admission and the evaluation of the resultant test results; and ( )

d. The supervision of the medical treatment provided to clients. ( )

03. Required License. Each medical director of a detox/mental health diversion unit must be a licensed physician by the Idaho Board of Medicine at the time of hire or contract and throughout the duration of employment or contract. ( )

04. Required Experience and Abilities. Each medical director of a detox/mental health diversion unit must, at a minimum, have and demonstrate the following experience and abilities at the time of hire or contract: ( )

a. At least two (2) years of paid full-time experience in the field of alcoholism, substance use disorders and mental health. ( )

b. At least one (1) of the two (2) years' full-time experience must be in a clinical mental health setting which includes: ( )

i. Assessment of the likelihood of danger to self or others, grave disability, capacity to give informed consent, and capacity to understand legal proceedings; ( )

ii. Diagnosis using DSM-IV-TR criteria; and ( )

iii. Treatment of mental health disorders including knowledge of treatment modalities and experience applying treatment modalities in a clinical setting. ( )

d. At least one (1) of the two (2) years' full-time experience must be in an administrative capacity that includes: ( )

i. Knowledge and experience demonstrating competence in planning and budgeting, fiscal management, supervision, personnel management, employee performance assessment, data collection, and reporting; and ( )

ii. An understanding of and adherence to the ethical standards of the respective license adopted by the governing board for licensure. ( )

05. Availability of Medical Director. The facility's medical director or his designee must be available to be on-site at the facility within two (2) hours and must be on-call at all times. ( )

273. QUALIFICATIONS AND RESPONSIBILITIES FOR ~~*DIRECTOR OF NURSING SERVICES*~~ *LEAD NURSE*.

01. ~~*Director of Nursing Services*~~ *Lead Nurse*. Each detox/mental health diversion unit must maintain at all times, through employment or contract, an R.N. licensed in Idaho to serve as the ~~*director of nursing services*~~ *lead nurse*. This individual must have the qualifications required in Subsections 273.03 and 273.04 of this rule at the time of hire and throughout the duration of employment or contract. ~~*(3-30-09)T( )*~~

02. ~~*Director of Nursing Services*~~ *Lead Nurse's* Responsibilities. The ~~*director of nursing services*~~ *lead nurse* is responsible for all nursing services provided to clients and for supervising all of the nursing services provided by staff. The ~~*director of nursing services's*~~ *lead nurse's* responsibilities include, at a minimum, the following: ~~*(3-30-09)T( )*~~

a. To organize, coordinate, and evaluate nursing service functions and staff; ( )

b. To be responsible for development and implementation of client care policies and procedures; ( )

c. To select, supervise, direct, promote, and terminate nursing staff; ( )

d. To establish procedures to insure that staff licenses are valid and current; and

( )

e. To participate with the CEO or administrator and medical director in planning and budgeting for nursing care. ( )

03. Required License. Each ~~*director of nursing services*~~ *lead nurse* must be an R.N. licensed by the Idaho Board of Nursing at the time of hire or contract and throughout the duration of employment or contract. ~~*(3-30-09)T( )*~~

04. Required Experience and Abilities. Each ~~*director of nursing services*~~ *lead nurse* must, at a minimum, have and demonstrate the following experience and abilities at the time of hire or contract ~~*(3-30-09)T( )*~~

a. At least two (2) years of paid full-time experience in the field of alcoholism, substance use disorders, and mental health. ( )

b. At least one (1) of the two (2) years' full-time experience must be in a clinical mental health setting. ( )

c. At least one (1) of the two (2) years' full-time experience must be in an administrative capacity that includes: ( )

i. Knowledge and experience demonstrating competence in planning and budgeting, fiscal management, supervision, personnel management, employee performance assessment, data collection, and reporting; and ( )

ii. An understanding of and adherence to the ethical standards of the respective license adopted by the governing board for licensure. ( )

05. Availability of ~~*Director of Nursing Services*~~ *Lead Nurse*. The facility's ~~*director of nursing services*~~ *lead nurse* must, at a minimum, be full-time forty (40) hours per week. ~~*(3-30-09)T( )*~~

274. QUALIFICATIONS AND RESPONSIBILITIES FOR CHEMICAL DEPENDENCY COUNSELORS.

01. Chemical Dependency Counselor. Each detox/mental health diversion unit must maintain at all times through employment or contract a chemical dependency counselor. This individual must have the qualifications required in Subsections 274.03 and 274.04 of this rule at the time of hire and throughout the duration of employment or contract. ( )

02. Chemical Dependency Counselor's Responsibilities. A chemical dependency counselor's responsibilities include at a minimum, the following: ( )

a. Case staffing; ( )

b. Individual case supervision; ( )

c. Consultation with other clinical professionals; ( )

d. Review of case record maintenance; and ( )

e. Other clinically appropriate services determined by the facility. ( )

03. Chemical Dependency Counselor License or Certification. Each chemical dependency counselor must be certified in Idaho to meet the standards and requirements under IDAPA 16.06.03, "Rules and Minimum Standards Governing Alcohol/Drug Abuse Prevention and Treatment Programs," or IDAPA 16.07.20, "Alcohol and Substance Use Disorders Treatment and Recovery Support Services Facilities and Programs," at the time of hire or contract and throughout the duration of employment or contract. ( )

04. Required Experience and Abilities. Each chemical dependency counselor must, at a minimum, have and demonstrate the following experience and abilities at the time of hire or contract: ( )

a. At least two (2) years of paid full-time experience in the field of alcoholism, substance use disorders, and mental health. ( )

b. At least one (1) of the two (2) years' full-time experience must be in a clinical mental health setting. ( )

c. At least one (1) of the two (2) years' full-time experience must be in an administrative capacity that includes: ( )

i. Knowledge and experience demonstrating competence in planning and budgeting, fiscal management, supervision, personnel management, employee performance assessment, data collection, and reporting; and ( )

ii. An understanding of and adherence to the ethical standards of the respective license adopted by the governing board for licensure. ( )

05. Availability of Chemical Dependency Counselor. The facility must have at least one (1) chemical dependency counselor, at a minimum, be full-time forty (40) hours per week. ( )

275. QUALIFICATIONS AND RESPONSIBILITIES FOR MENTAL HEALTH PROGRAM DIRECTOR.

01. Mental Health Program Director. Each detox/mental health diversion unit must maintain at all times, through employment or contract, a mental health program director who is responsible for providing mental health counseling, treatment and services to clients and for supervising mental health counseling, treatment, and services provided by mental health clinical staff. This individual must have the qualifications required in Subsections 275.03 and 275.04 of this rule at the time of hire and throughout the duration of employment or contract. ( )

02. Mental Health Program Director's Responsibilities. A mental health program

director's responsibilities include, at a minimum, the following: ( )

a. Case staffing; ( )

b. Individual case supervision; ( )

c. Consultation with other mental health clinical professionals; ( )

d. Review of case record maintenance; and ( )

e. Other clinically appropriate services determined by the facility. ( )

03. Required License or Certification. Each *mental health* program director must, at a minimum, have one (1) of the following Idaho licensures at the time of hire or contract and throughout the duration of employment or contract: ~~*(3-30-09)T*~~*( )*

a. Licensed Clinical Professional Counselor (LCPC): ( )

b. Licensed Clinical Social Worker (LCSW); ( )

c. Licensed Professional Counselor (LPC); ( )

d. Licensed Master's Level Social Worker (LMSW); ( )

e. Licensed Marriage and Family Therapist (LMFT); ( )

f. Licensed Psychologist; ( )

g. Licensed Psychiatrist; or ( )

h. Licensed Professional Nurse. ( )

04. Required Experience and Abilities. The mental health program director must, at a minimum, have and demonstrate the following experience and abilities at the time of hire or contract: ( )

a. At least two (2) years of paid full-time experience in the field of alcoholism, substance use disorders, and mental health. ( )

b. At least one (1) of the two (2) years' full-time experience must be in a clinical mental health setting. ( )

c. At least one (1) of the two (2) years' full-time experience must be in an administrative capacity that includes: ( )

i. Knowledge and experience demonstrating competence in planning and budgeting, fiscal management, supervision, personnel management, employee performance assessment, data collection, and reporting; and ( )

ii. An understanding of and adherence to the ethical standards of the respective license adopted by the governing board for licensure. ( )

04. Availability of Mental Health Program Director. The facility's mental health program director must, at a minimum, be full-time forty (40) hours per week. ( )

276. -- 279. (RESERVED).

280. SMOKING PROHIBITED.
Each detox/mental health diversion unit, issued a certificate of approval under these rules, must prohibit smoking in the facility. ( )

281. VISITING HOURS.
Each detox/mental health diversion unit, must establish and post daily visiting hours that are readily observable by the public. ~~*(3-30-09)T*~~

~~***01. Clergy Members**. A facility must allow clergy members to visit at any hour.*~~ ~~*(3-30-09)T*~~

~~***02. Critically Ill Clients**. Relatives or guardians must be allowed to visit critically ill clients at any time.*~~ ~~*(3-30-09)T*~~

~~***03. Privacy Available for Visitations**.*~~ The facility must have places or rooms available to clients for privacy for client visits with relatives, friends, clergy, social workers, and guardians *during the established and posted visiting hours*. ~~*(3-30-09)T( )*~~

282. -- 289. (RESERVED).

290. QUALITY ASSURANCE.
Each detox/mental health diversion unit, through the CEO or administrator, medical and nursing staff must ensure that there is an effective, facility-wide, quality assurance program to monitor, protect, and enhance the quality and appropriateness of client care and to identify qualitative problems and recommend and implement plans for correcting them. ( )

01. Quarterly Review. Each quarter at least five percent (5%) of the open cases for each clinical staff member must be randomly selected and reviewed to determine if: ( )

a. The diagnosis and the problems identified for treatment are supported in the assessment; ( )

b. The treatment plan is appropriate for the diagnosis and the problems identified; and ( )

c. The progress notes in the case record describe the clinical course of the client's treatment. ( )

02. Corrective Action. The facility must take and document appropriate remedial

actions and outcomes to address deficiencies found through its quality assurance program. Corrective action may include: ( )

a. Education or training; ( )

b. New or revised policies and procedures; or ( )

c. Staffing changes that may include a corrective work plan, reassignment, or discharge. ( )

03. Quarterly Reporting to Governing Body. The CEO or administrator, must report to the facility's governing body each quarter the findings of the quality of care review for the previous quarter. A summary of those findings must be documented in the governing body's minutes. ( )

291. -- 294. (RESERVED).

295. AVAILABILITY OF ON-SITE ALCOHOL AND DRUG TESTING.

01. On-Site Testing. Each facility must have testing available on-site for the purpose of detecting the presence of alcohol or any controlled substances in clients. ( )

02. Quality of Tests. The facility must use tests that are widely recognized as possessing sufficient sensitivity to detect the presence of substances in low quantities. ( )

03. Policies for Collection and Handling Specimens. The facility must establish and enforce policies to govern the collection and handling of urine specimens when such testing is indicated. ( )

04. Documentation of Test Results. All test results must be documented in the client's record according to the requirements of the Health Insurance Portability and Accountability Act (HIPAA), 45 C.F.R. Parts 160 and 164, 42 U.S.C. Sections 290 dd-3 and ee-3, and 42 C.F.R., Part 2 (June 9, 1987). ( )

296. -- 299. (RESERVED).

ADDITIONAL REQUIREMENTS APPLICABLE TO DETOXIFICATION UNITS

(Sections 300 through 399)

300. REQUIRED MINIMUM POLICY STANDARDS APPLICABLE TO DETOXIFICATION UNITS.

Nonhospital, medically-monitored detoxification units issued a certificate of approval under these rules must offer intensive residential detoxification treatment services, twenty-four (24) hours per day, seven (7) days per week, to persons eighteen (18) years of age or older who are diagnosed with substance abuse or addiction disorders. Detoxification units are focused on short-term stabilization of three (3) to five (5) days' duration. ( )

301. REQUIRED MINIMUM STAFFING STANDARDS APPLICABLE TO DETOXIFICATION UNITS.
Each detoxification unit must develop and implement policies and procedures to provide necessary and qualified staff in sufficient numbers to assure the health and safety of clients. The program's policies must define the types and numbers of clinical, direct care, and managerial staff needed to provide clients with treatment services in a safe and therapeutic environment. Each detoxification unit must, at a minimum, meet the following standards for staffing in the detoxification unit for direct care staff. ~~(3-30-09)T~~( )

01. Nurse. At least one (1) R.N. or L.P.N. must be on duty twenty-four (24) hours per day, seven (7) days per week. ( )

02. Direct Care Staff. ( )

a. A detoxification unit with one (1) through six (6) clients must have one (1) direct care staff member on duty twenty-four (24) hours per day, seven (7) days per week. ( )

b. A detoxification unit with seven (7) through twelve (12) clients must have two (2) direct care staff members on duty twenty-four (24) hours per day, seven (7) days per week.( )

c. A detoxification unit with thirteen (13) through eighteen (18) clients must have three (3) direct care staff members on duty twenty-four (24) hours per day, seven (7) days per week. ( )

d. A detoxification unit with nineteen (19) clients or more must have one (1) additional direct care staff member on duty twenty-four (24) hours per day, seven (7) days per week, beyond the three (3) staff required in Subsection 301.02.c of this rule for each additional six (6) clients or fraction thereof. ( )

03. Physician Supervision. The treatment of each client must be under the supervision of a physician. ( )

302. -- 309. (RESERVED).

310. REQUIRED MINIMUM SERVICE STANDARDS APPLICABLE TO DETOXIFICATION UNIT.
Each detoxification unit may provide its clients with a variety of services, but must, at a minimum, provide detoxification treatment services in Subsections 310.01 through 310.09 of this rule. ( )

01. Assessment and Treatment Planning Services. The initial assessment and treatment planning in accordance with these rules, must also include an evaluation relative to the client's treatment potential and a determination of the appropriate level of treatment. ( )

02. Skilled Nursing Care. On-site skilled nursing care must be provided twenty-four (24) hours per day, seven (7) days per week. ( )

03. Physician, Physician's Assistant, or Nurse Practitioner's Services. Services of a physician, physician's assistant, or nurse practitioner must be available twenty-four (24) hours per day, seven (7) days per week. ( )

04. Counseling Services. Daily on-site counseling services including: ( )

a. Individual and group counseling sessions that provide: ( )

i. Encouragement to remain in treatment for appropriate duration as determined in the detoxification treatment plan; and ( )

ii. Encouragement to enter programs for ongoing recovery. ( )

b. Case Management Services; and ( )

c. Client Advocacy Services. ( )

05. Continued Care Planning Services. Continued care planning must be provided and a system for referral of clients for identified treatment needs when such services are not available at the detoxification unit. ( )

06. Discharge Criteria and Planning Services. According to physician-approved written discharge criteria, policies, and procedures, the facility must provide a procedure to screen each client for discharge planning needs. ( )

07. Other Services. A detoxification unit may provide other services not identified in this section of rule, if the provision of such services are consistent with the effective treatment of a client's crisis mental health or alcohol and drug related conditions. ( )

08. Recreation and Leisure Time Activities. ( )

09. Documentation of Services. Services received by the client through the detoxification unit must be recorded and documented in each client's record. ( )

311. -- 319. (RESERVED).

320. REQUIRED MINIMUM ADMISSION CRITERIA TO DETOXIFICATION UNITS.
According to physician-approved written admission criteria, policies, and procedures, each detoxification unit must develop and implement written admission criteria that are uniformly applied to all clients. ( )

01. Admission to Detoxification Unit. A prospective client will be admitted or retained only if he meets the following admission criteria: ( )

a. Must be eighteen (18) years of age or older; ( )

b. Demonstrates a need for detoxification services; ( )

c. Has alcohol or other addictive controlled substance intake of sufficient amount and duration to create a reasonable expectation of withdrawal upon cessation of use; ( )

d. Is medically stable prior to admission and if seeking detoxification from alcohol has a blood alcohol level no greater than 200mg/100cc; ( )

e. Meets admission criteria specifications that do not exceed ASAM Level III.7-D; and ( )

f. Demonstrates the capacity to benefit from short-term stabilization and the services available at the facility may reduce the prospective client's acute symptoms and may prevent the client from detoxification hospitalization. ( )

02. Detoxification Unit Able to Provide Services. The detoxification unit must have the capability, capacity, personnel, and services to provide appropriate care to the prospective client. The client cannot require a type of service for which the detoxification unit is not approved to provide. ( )

03. Monitoring Clients in Detoxification Unit. The level of monitoring in the detoxification unit of the client or the physical restrictions of the environment must be adequate to prevent the client from causing serious harm to self or others. ( )

04. Notification of Admission of Opiate/Methadone Client. The ~~*director of nursing*~~ *lead nurse* must be notified that an opiate/methadone client was admitted to the detoxification unit. The name of the clinic where the client received the methadone must be documented in the client's record. ~~*(3-30-09)T( )*~~

321. -- 324. (RESERVED).

325. REQUIRED MINIMUM NURSING ASSESSMENT FOR CLIENTS OF DETOXIFICATION UNITS.
Each detoxification unit must complete a nursing assessment on each person who applies for admission to the detoxification unit prior to admission. ( )

326. -- 329. (RESERVED).

330. REQUIRED MINIMUM TREATMENT NEEDS ASSESSMENT FOR CLIENTS OF DETOXIFICATION UNITS.

01. Client Treatment Needs Assessment. A chemical dependency counselor, within twenty-four (24) hours of admission, or as soon as a client is able, must complete a treatment needs assessment for each client admitted to the detoxification unit. The assessment must establish the historical development and dysfunctional nature of the client's alcohol and drug abuse or dependence and must evaluate the client's treatment needs. ( )

02. Treatment Needs Assessment Content. The treatment needs assessment must be recorded in the client's record and must include, at a minimum, the following: ( )

a. A summary of the client's alcohol or drug abuse history including substances used, date of last use, amounts used, frequency, duration, age of first use, patterns, and consequences of use; types of and responses to previous treatment, periods of sobriety, and any other information supporting any diagnostic recommendations or diagnosis made; ( )

b. A summary of the client's family, including family background, current family composition, substance use and abuse by family members, supportive or dysfunctional relationships, and other family-related issues; ( )

c. A summary of the client's educational background, including current educational status, levels of achievement, and educational problems or difficulties; ( )

d. A summary of the client's vocational and employment status including skills or trades learned, work record, and current vocational or employment problems; ( )

e. A summary of the client's past and current involvement with the criminal justice system; ( )

f. A general summary of the client's medical history including past or current major illnesses or injuries, afflictions with communicable diseases, or known health problems or needs; ( )

g. A summary of the client's financial status, including current income sources, family income, ability to pay for services, and insurance coverage; ( )

h. A social assessment of the client, including a summarization of the nature of and problems with the client's social relationships outside the family unit; ( )

i. Any history of emotional or behavioral problems, including any history of psychological or psychiatric treatment; ( )

j. A master problem list developed from client input and identified clinical problems; and ( )

k. A diagnostic summary and master problem list. ( )

331. -- 334. (RESERVED).

335. MINIMUM REQUIREMENTS FOR INDIVIDUALIZED DETOXIFICATION TREATMENT PLAN FOR CLIENTS OF DETOXIFICATION UNITS.

01. Develop Detoxification Treatment Plan. A chemical dependency counselor must develop an individualized treatment plan based upon the treatment needs assessment for each client admitted to the detoxification unit. ( )

02. Written Detoxification Treatment Plan. The individualized detoxification treatment plan must be signed and dated by both the client and the chemical dependency

counselor. The signature of the counselor must be followed by the counselor's credentials. ( )

03. Client Records for Detoxification Treatment. The treatment plan must be recorded in the client's record and must include at a minimum the following: ( )

a. A statement of the client's current strengths. ( )

b. A statement of specific clinical problems to be addressed during treatment. ( )

c. A diagnostic statement and a statement of measurable treatment goals based on client input that relate to the problems identified. ( )

d. Measurable short-term objectives based on client input leading to the completion of goals including: ( )

i. Time frames for the anticipated dates of achievement or completion of each objective, or for reviewing progress towards objectives; and ( )

ii. Specification and description of the indicators to be used to assess progress based on client input. ( )

e. A description of the methods or treatment procedures proposed to assist the client in achieving the objectives, including: ( )

i. Type and frequency of services or assigned activities to be provided; ( )

ii. Referrals for needed services that are not provided directly by the facility; and ( )

f. A statement identifying the staff member responsible for facilitating the methods or treatment procedures. ( )

04. Detoxification Treatment Plan Review. The detoxification treatment plan must be reviewed by a chemical dependency counselor every three (3) days and documented in each client's record. The treatment plan review must include, at a minimum, the following: ( )

a. A statement of the client's progress or regress as it relates to the measurable goals and measurable objectives identified in the client's individualized treatment plan. ( )

b. Any additional clinical problems identified. ( )

c. A statement of the planned actions to be taken to address the identified clinical problems. ( )

336. -- 339. (RESERVED).

340. REQUIRED MINIMUM DISCHARGE PLANNING FOR CLIENTS OF DETOXIFICATION UNIT.

According to physician-approved written discharge criteria, policies, and procedures, each detoxification unit must provide each client with a discharge plan that must include, at a minimum, the following. ( )

01. Discharge Criteria. A client with stable vital signs and stable laboratory results can be discharged from a detoxification unit when the client meets the discharge criteria specifications of the dimensions in Level III.2-D of the Patient Placement Criteria for the Treatment of Psychoactive Substance Use Disorders of the American Society of Addiction Medicine incorporated by reference in Section 004 of these rules. ( )

02. Client Referral. Each client must be referred to the appropriate level of care upon discharge which may include community resources or state substance use disorders programs. ( )

03. Discharge Summary Content. The discharge summary must include: ( )

a. The reason for admission and original diagnosis; ( )

b. A summary of the client's clinical problems, course of treatment, and progress toward planned goals and objectives identified in the treatment plan; ( )

c. The reason for discharge and diagnoses at discharge; ( )

d. A continued care treatment plan and documentation of referrals made; and ( )

e. An inventory and proper accounting for all clothing and personal property returned to the client upon discharge. ( )

341. -- 400. (RESERVED).

ADDITIONAL REQUIREMENTS APPLICABLE TO SOBERING STATIONS

(Sections 400 through 499)

401. REQUIRED MINIMUM STAFFING STANDARDS APPLICABLE TO SOBERING STATIONS.

Each detox/mental health diversion unit that chooses to maintain or operate a sobering station must, at a minimum, meet the following standards for staffing in the sobering station for direct care staff. ( )

01. Nurse. At least one (1) R.N. or L.P.N. must be on duty during posted hours of operation. ( )

02. Direct Care Staff. ( )

a. A sobering station with one (1) through eight (8) clients must have one (1) direct care staff member on duty during posted hours of operation. ( )

b. A sobering station with nine (9) through eighteen (18) clients must have two (2) direct care staff members on duty during posted hours of operation. ( )

c. A sobering station with nineteen (19) through thirty (30) clients must have three (3) direct care staff members on duty during posted hours of operation. ( )

d. A sobering station with more than thirty (30) clients must have one (1) additional direct care staff member beyond the three (3) staff required in Subsection 401.02.c of this rule for each additional ten (10) clients or fraction thereof during posted hours of operation. ( )

03. Physician Supervision. The services provided to each client must be under the supervision of a physician. ( )

402. -- 409. (RESERVED).

410. REQUIRED MINIMUM SERVICES APPLICABLE TO SOBERING STATIONS.
Each detox/mental health diversion unit that chooses to maintain or operate a sobering station must provide the following services. ( )

01. Services to Reduce Acute Symptoms and to Monitor. A sobering station must provide services that reduce the client's acute symptoms in a safe structured setting. ( )

02. Planning Services on Release. A sobering station must provide a procedure to screen each client for planning needs on release. ( )

411. -- 419. (RESERVED).

420. REQUIRED MINIMUM INTAKE CRITERIA APPLICABLE TO SOBERING STATIONS.
Each detox/mental health diversion unit that maintains or operates a sobering station must develop and implement physician-approved written intake criteria, policies, and procedures that are uniformly applied to all clients. ( )

01. Intake to Sobering Station. A prospective client will be accepted into or retained only if he meets the following intake criteria: ( )

a. Must be brought to the sobering station by law enforcement or referred by a hospital or other medical care provider. ( )

b. Must be eighteen (18) years of age or older; and ( )

c. Demonstrates the capacity to benefit from sobering; ( )

d. The services available in the sobering station may reduce the prospective client's acute symptoms and may prevent the client from detoxification hospitalization. ( )

02. Sobering Station Able to Provide Services. Yhe sobering station must have the

capability, capacity, personnel, and services to provide appropriate care to the prospective client. ( )

a. The client does not require a type of service for which the facility is not approved to provide; and ( )

b. The level of monitoring of the client in the unit or the physical restrictions of the environment of the facility are adequate to prevent the patient from causing serious harm to self or others. ( )

03. Monitoring Clients in Sobering Station. A client admitted to a sobering station must be closely monitored. ( )

a. *Qualified staff must check each client's* vital signs *upon entry and throughout the* client*'s stay in the sobering station according to the written policies and procedures approved and signed by the medical director*. ~~*(3-30-09)T*~~*( )*

b. The ~~*director of nursing*~~ *lead nurse* must be notified that an opiate/methadone client was admitted to the sobering station~~.~~ ~~*(3-30-09)T*~~

~~**c.**~~ ~~*Documentation of*~~ *and* the name of the clinic where the client received the methadone *must be documented*. ~~*(3-30-09)T*~~*( )*

~~**d.**~~ ~~*The R.N. or L.P.N. on duty will determine when it is safe to remove the client from the fifteen (15) minute checks. If removed, the client must be checked every thirty (30) minutes for the remainder of his stay in the sobering station.*~~ ~~*(3-30-09)T*~~

421. -- 424. (RESERVED).

425. REQUIRED MINIMUM PLANNING ON RELEASE APPLICABLE TO SOBERING STATIONS.
According to physician-approved written criteria, policies, and procedures, each sobering station must provide each client with a plan on release that must include, at a minimum, the following. ( )

01. Planning on Release. The facility must provide a procedure to screen each client for planning needs on release. ( )

a. A client must be released from a sobering station according to the criteria in Subsection 425.02 of this rule. ( )

b. A client must be referred to the appropriate level of care upon release which may include community resources and state substance use disorders programs. ( )

02. Summary on Release Content. The summary on release must include: ( )

a. Documented signs of being sober such as clear speech, steady gait, clear thinking, and appropriate behavior, including stable vital signs and stable laboratory results. ( )

b. Documented signs that the client is able to care for self or released as sober and responsible to a third party adult. ( )

c. A release executed by a sober third party adult into whose care the client has been discharged, if the client is not sober, and the sober third party adult has requested and agreed to assume responsibility for the client's well-being. ( )

d. Documentation that the client was encouraged to enter programs for ongoing recovery. ( )

e. An inventory and proper accounting for all clothing and personal property returned to the client upon discharge. ( )

426. -- 499. (RESERVED)

ADDITIONAL REQUIREMENTS APPLICABLE TO MENTAL HEALTH DIVERSION UNITS

(Sections 500 through 599)

500. REQUIRED MINIMUM POLICY STANDARDS APPLICABLE TO MENTAL HEALTH DIVERSION UNITS.

01. Crisis Stabilization for Mental Health Diversion Unit. Each mental health diversion unit issued a certificate of approval under these rules must offer intensive mental health services twenty-four (24) hours per day, seven (7) days per week, to persons with an urgent or emergent need for crisis stabilization services in a safe, structured setting. ( )

02. Focus of Mental Health Diversion Unit. Mental health diversion units are focused on short-term stabilization for up to a maximum of seven (7) days. In order to assure that adequate arrangements are in place to allow for a safe discharge of a client, the length of stay may be extended up to twenty-four (24) hours. ( )

03. Alternative to Inpatient Hospitalization. Services at this level of care are used as an alternative to inpatient hospitalization and include crisis stabilization, initial and continuing biopsychosocial assessment, care management, medication management, and mobilization of family or significant other support, and community resources. ( )

04. Initial Assessment. This level of care provides for an initial assessment by a licensed mental health professional followed by a face-to-face psychiatric evaluation within twenty-four (24) hours of admission or as soon as a client is able. ( )

05. Primary Diagnoses. The primary diagnoses treated in a mental health diversion unit are active symptomatology consistent with a DSM-IV-TR diagnosis (Axes I-V) as the principle diagnosis however, patients may have additional physical, medical, or co-dependency issues. ( )

501. REQUIRED MINIMUM STAFFING APPLICABLE TO MENTAL HEALTH DIVERSION UNITS.
Each mental health diversion unit must develop and implement policies and procedures to provide necessary and qualified staff in sufficient numbers to assure the health and safety of clients. The program*'s* policies must define the types and numbers of clinical*, direct care,* and managerial staff needed to provide clients with treatment services in a safe and therapeutic environment. *Each mental health diversion unit must, at a minimum, meet the following standards for staffing in the mental health diversion unit for direct care staff.* ~~(3-30-09)T~~*( )*

01. Nurse. At least one (1) R.N. or L.P.N. must be on duty twenty-four (24) hours per day, seven (7) days per week. ( )

02. Direct Care Staff. At least one (1) direct care staff must be assigned direct-care responsibility for every four (4) clients. ( )

03. Psychiatrist. At least one (1) psychiatrist must be on call twenty-four (24) hours per day, seven (7) days per week. The psychiatrist must make daily rounds. Back up coverage for a psychiatrist may be a physician who must consult with the psychiatrist. ( )

04. Physician Supervision. The treatment of each client must be under the supervision of a physician. ( )

502. -- 509. (RESERVED).

510. REQUIRED MINIMUM SERVICES APPLICABLE TO MENTAL HEALTH DIVERSION UNITS.
Each mental health diversion unit may provide its clients with a variety of services, but must, at a minimum, provide the mental health crisis treatment services in Subsections 510.01 through 510.13 of this rule. ( )

01. Psychological or Psychiatric Assessment Services. Psychological or psychiatric assessment services and planning that must include an evaluation relative to the client's treatment potential and a determination of the appropriate level of treatment sufficient to diagnose psychiatric disorders and organic brain impairment, and to determine the level of intellectual functioning; ( )

02. Social and Psychological Services. ( )

03. Counseling Services. Provide on-site counseling services, including individual and group counseling sessions that provide: ( )

a. Encouragement to remain in treatment for appropriate duration as determined in the treatment plan; and ( )

b. Encouragement to enter programs for ongoing treatment. ( )

04. Medical and Nursing Care Services. On-site medical and nursing care, including

ongoing assessment and care of acute psychiatric problems. ( )

05. Vocational Evaluation and Counseling Services. ( )

06. Case Management Services. ( )

07. Client Advocacy Services. ( )

08. Educational Services. Education services regarding: ( )

a. Acute psychological or psychiatric disorders and the importance of care and treatment in the recovery process; and ( )

b. Tuberculosis and the human immunodeficiency virus; ( )

i. How each is transmitted; and ( )

ii. How to safeguard against transmission. ( )

09. Continued Care Planning Services. Provide continued care planning and a system for referral of clients for identified treatment needs if such services are not available at the mental health diversion unit. ( )

10. Discharge Criteria and Planning Services. According to physician-approved written discharge criteria, policies, and procedures, the facility must provide a procedure to screen each client for discharge planning needs. ( )

11. Other Services. A mental health diversion unit may provide other services not identified in this section of rule, if the provision of such services are consistent with the effective treatment of a client's crisis mental health or alcohol and drug related conditions. ( )

12. Recreation and Leisure Time Activities. ( )

13. Documentation of Services. Services received by the client through the mental health diversion unit must be recorded and documented in each client’s record. ( )

511. -- 519. (RESERVED).

520. MINIMUM REQUIREMENTS FOR ADMISSION CRITERIA APPLICABLE TO MENTAL HEALTH DIVERSION UNITS.
According to physician-approved written admission criteria, policies, and procedures, each mental health diversion unit must develop and implement written admission criteria that are uniformly applied to all clients. ( )

01. Admission to Mental Health Diversion Unit. A prospective client will be admitted or retained only if he meets the following admission criteria: ( )

a. Demonstrates active symptomatology consistent with a DSM-IV-TR diagnosis

(Axes I-V) as the principle diagnosis and demonstrates significant functional impairment related to his diagnosis such as self-injurious behavior or threats, current suicidal ideation with expressed intentions or a past history of self destructive, impulsive, or parasuicidal behavior, or grave disability; ( )

b. His symptoms do not exceed Level V of LOCUS Criteria; ( )

c. Must be eighteen (18) years of age or older; and ( )

d. Demonstrates the capacity to benefit from short-term stabilization and the services available at the facility may reduce the prospective client's acute symptoms and may prevent the client from psychiatric hospitalization. ( )

02. Mental Health Diversion Unit Able to Provide Services. The mental health diversion unit must have the capability, capacity, personnel, and services to provide appropriate care to the prospective client. The client cannot require a type of service for which the mental health diversion unit is not approved to provide. ( )

03. Monitoring Clients in Mental Health Diversion Unit. The level of monitoring the client in the mental health diversion unit or the physical restrictions of the environment of the unit must be adequate to prevent the client from causing serious harm to self or others. ( )

521. -- 529. (RESERVED).

530. MINIMUM REQUIREMENTS FOR TREATMENT NEEDS ASSESSMENT FOR CLIENTS OF MENTAL HEALTH DIVERSION UNITS.

01. Client Treatment Needs Assessment. Within twenty-four (24) hours of admission, or as soon as a client is able, a psychiatrist must complete a treatment needs assessment for each client admitted to the mental health diversion unit. The assessment must establish the historical development and diagnosis of the client's psychiatric disorders, organic brain impairment, and must evaluate the client's treatment needs. ( )

02. Treatment Needs Assessment Content. The treatment needs assessment must be recorded in the client's record and must include, at a minimum, the following: ( )

a. A summary of the client's alcohol or drug abuse history including substances used, date of last use, amounts used, frequency, duration, age of first use, patterns, and consequences of use; types of and responses to previous treatment, periods of sobriety, and any other information supporting any diagnostic recommendations or diagnosis made; ( )

b. A summary of the client's family including family background, current family composition, substance use and abuse by family members, supportive or dysfunctional relationships, and other family-related issues; ( )

c. A summary of the client's educational background including current educational status, levels of achievement, and educational problems or difficulties; ( )

d. A summary of the client's vocational and employment status including skills or trades learned, work record, and current vocational or employment problems; ( )

e. A summary of the client's past and current involvement with the criminal justice system; ( )

f. A general summary of the client's medical history including past or current major illnesses or injuries, afflictions with communicable diseases, or known health problems or needs; ( )

g. A summary of the client's financial status including current income sources, family income, ability to pay for services, and insurance coverage; ( )

h. A social assessment of the client including a summarization of the nature of and problems with the client's social relationships outside the family unit; ( )

i. Any history of emotional or behavioral problems including any history of psychological or psychiatric treatment; ( )

j. A master problem list developed from client input and identified clinical problems; and ( )

k. A diagnostic summary and master problem list that must be dated and signed psychiatrist followed by the psychiatrist’s credentials. ( )

531. -- 534. (RESERVED).

535. MINIMUM REQUIREMENTS FOR INDIVIDUALIZED MENTAL HEALTH TREATMENT PLAN FOR CLIENTS OF MENTAL HEALTH DIVERSION UNITS.

01. Develop Mental Health Treatment Plan. A psychiatrist must develop an individualized treatment plan based upon the treatment needs assessment for each client admitted to the mental health diversion unit. ( )

02. Written Mental Health Treatment Plan. The individualized mental health treatment plan must be signed and dated by both the client and the psychiatrist. The signature of the psychiatrist must be followed by the psychiatrist's credentials. ( )

03. Client Records for Mental Health Treatment. The treatment plan must be recorded in the client's record and must include, at a minimum, the following: ( )

a. A statement of the client's current strengths. ( )

b. A statement of specific clinical problems to be addressed during treatment. ( )

c. A diagnostic statement and a statement of measurable treatment goals that relate to the problems identified. ( )

d. Measurable short-term objectives leading to the completion of goals including: ( )

i. Time frames for the anticipated dates of achievement or completion of each objective, or for reviewing progress towards objectives; and ( )

ii. Specification and description of the indicators to be used to assess progress. ( )

e. A description of the methods or treatment procedures proposed to assist the client in achieving the objectives, including: ( )

i. Type and frequency of services or assigned activities to be provided; ( )

ii. Referrals for needed services that are not provided directly by the facility; and ( )

f. A statement identifying the staff member responsible for facilitating the methods or treatment procedures. ( )

04. Mental Health Treatment Plan Review. The mental health treatment plan must be reviewed by a psychiatrist every three (3) days and documented in each client's record. The treatment plan review must include, at a minimum, the following: ( )

a. A statement of the client's progress or regress as it relates to the measurable goals and measurable objectives identified in the client's individualized treatment plan. ( )

b. Any additional clinical problems identified. ( )

c. A statement of the planned actions to be taken to address the identified clinical problems. ( )

536. -- 539. (RESERVED).

540. MINIMUM REQUIREMENTS FOR DISCHARGE PLANNING FOR CLIENTS OF MENTAL HEALTH DIVERSION UNIT.
According to physician-approved written discharge criteria, policies, and procedures, each mental health diversion unit must provide a procedure to screen each client for discharge planning needs. ( )

01. Discharge Planning. A client must be discharged from a mental health diversion unit under the criteria provided in his discharge plan and the discharge criteria in Subsection 540.03 of this rule. ( )

02. Client Referral. Each client must be referred to the appropriate level of care upon discharge and to the extent available in the local community. ( )

03. Discharge Criteria. A client with stable vital signs and stable laboratory results

may be discharged from this level of care when any of the following occurs. ( )

a. The client's documented treatment plan goals and objectives have been substantially met or a safe, continuing care program can be arranged at an alternative level of care; ( )

b. The client no longer meets admission criteria or meets criteria for a less or more intensive level of care; ( )

c. The client voluntarily withdraws from treatment and does not meet criteria for involuntary treatment at another facility according to Sections 18-212, 66-326, 66-329, 66-406, or 66-1305, Idaho Code; ( )

d. Support systems that allow the client to be maintained in a less restrictive treatment environment have been thoroughly explored and secured; ( )

e. The client, family, guardian, or custodian, are competent but nonparticipatory in treatment or following program rules and regulations. Nonparticipation is of such a degree that treatment at this level of care is rendered ineffective or unsafe, despite multiple, documented attempts to address nonparticipation issues and it has been determined that he does not meet criteria for involuntary treatment at another facility under Sections 18-212, 66-326, 66-329, 66-406 or 66-1305, Idaho Code; or ( )

f. The client is not making progress toward treatment goals and there is no reasonable expectation of progress at this level of care and it has been determined that he does not meet criteria for involuntary treatment at another facility under Sections 18-212, 66-326, 66-329, 66-406, or 66-1305, Idaho Code. ( )

04. Discharge Summary Content. The discharge summary must include: ( )

a. The reason for admission and original diagnosis; ( )

b. A summary of the client's clinical problems, course of treatment, and progress toward planned goals and objectives identified in the treatment plan; ( )

c. The reason for discharge and diagnoses at discharge; ( )

d. A continued care treatment plan and documentation of referrals made; and ( )

e. An inventory and proper accounting for all clothing and personal property returned to the client upon discharge. ( )

541.--599. (RESERVED).

BUILDING CONSTRUCTION AND PHYSICAL STANDARDS REQUIREMENTS

(Sections 600 through 699)

600. REQUIREMENTS FOR BUILDING CONSTRUCTION AND PHYSICAL STANDARDS.

01. Applicability. These rules apply to: ( )

a. All new construction of any building or facility for use as a Detox/Mental Health Diversion Unit. ( )

b. Conversion of any existing building or facility for use as a Detox/Mental Health Diversion Unit. ( )

c. All modifications, additions, alterations, upgrades, deletions, conversions, modernization, remodels, or significant, major and material changes to any existing buildings or facilities that affect the structural integrity of the building or facility, that change functional operation, that affect fire safety, or that add beds, departments, or services over those for which the Detox/Mental Health Diversion Unit is currently approved. ( )

02. Design Development Plans, Working Drawings, and Specifications. ( )

a. Prior to breaking ground and commencing any construction, a complete set of actual construction drawings, plans, and specifications must be submitted to and approved by the Department to assure compliance with these rules and regulations. The Department has up to sixty (60) days, after receiving a complete set of actual construction drawings, plans, and specifications, to notify the applicant of its determination. ( )

b. Ground breaking and actual construction must not be commenced until actual construction drawings, plans, and specifications have been approved by the Department. Any deviations from the approved actual construction drawings, plans, and specifications must be authorized in writing by the Department prior to breaking ground or commencing any work. Ground breaking and any actual construction commenced prior to Department approval is at the applicant's sole risk. All construction is subject to final visual inspection and systems testing. The requirement of Department approval may be waived in writing by the Department in connection with minor alterations provided the alterations comply with all applicable local standards, codes, rules and regulations. ( )

c. The actual construction drawings, plans, and specifications must be prepared by, or executed under, the immediate supervision of a licensed architect or engineer in Idaho. The requirement of a licensed architect or engineer may be waived in writing by the Department, if the Department determines the size of the project does not necessitate involvement of an architect or engineer, provided the alterations comply with all applicable local standards, codes, rules and regulations. ( )

d. The actual construction drawings, plans, and specifications must include, at a minimum, the following: ( )

i. The size and shape of the entire site. ( )

ii. The footprint showing orientation and location of all proposed buildings. ( )

iii. The location and description of any existing structures, adjacent streets, highways, sidewalks, railroads, etc., properly designated. ( )

iv. The size, characteristics, and location of all existing public utilities, including information concerning water supply available for fire protection, distance to nearest fire hydrant, parking, and any hazardous areas, e.g. cliffs, roads, hills, pools, etc. ( )

v. Floor plans and the assignment of all spaces, size of areas and rooms, and indicated in outline, the fixed and movable equipment and furniture, including overall dimensions of buildings. ( )

vi. The location and size of doors, windows, and other openings with swing of doors properly indicated. ( )

vii. A Life Safety Plan showing all fire walls, exits, exit calculations, locations of smoke barriers if required, fire rated walls, locations of stairs, elevators, dumbwaiters, vertical shafts, and chimneys. ( )

viii. The location and size of all fixed equipment. ( )

ix. Outline specifications that include a general description of construction, including interior finishes and mechanical systems acoustical material, its extent and type of heating, electrical, and ventilation systems. ( )

e. The actual construction drawings, plans, and specifications must be drawn at a scale sufficiently large to clearly present the proposed design, but not less than a scale of one-eighth (1/8) inch equals one (1) foot. ( )

f. A plan for each floor, including the basement or ground floor, and approach or site plan, showing roads, parking areas, sidewalks, etc. ( )

g. The total floor area and number of beds shall be computed and noted on the development drawings, plans, and specifications. ( )

h. The actual construction drawings, plans, and specifications must be well prepared so that clear, distinct prints may be obtained, accurately dimensioned, and must include all necessary explanatory notes, schedules, legends, and be stamped with a licensed architect's or engineer's seal. ( )

i. The actual construction drawings, plans, and specifications must be complete and adequate for contract purposes and should include separate drawings for each of the following branches of work: architectural, mechanical, and electrical. ( )

j. Prior to commencing occupancy, the building or facility must be inspected and approved by the Department. The Department will make reasonable efforts to schedule an inspection within two (2) weeks of receiving a certificate of occupancy issued by the local

governing authority, a city or county in Idaho or other evidence submitted by the applicant that the building or facility is ready for final inspection. ( )

601. CODES AND STANDARDS.
Each detox/mental health diversion unit must comply with all state and local building, fire, electrical, plumbing, zoning, heating, or other applicable codes in which the facility is located and that are in effect when construction is begun. Written evidence of compliance must be kept in the facility. ( )

01. Code Conflict. In the event of a conflict between codes, the most restrictive code requirements will apply. ( )

02. Compliance with Codes and Standards. Each detox/mental health diversion unit must be in compliance with the applicable provisions of the following codes and standards in Subsection 601.02.a. through 601.02.h. of this rule. ( )

a. 2000 Edition of the Life Safety Code, including mandatory references. ( )

b. American National Standard Specifications for Making Buildings and Facilities Accessible to and Usable by Physically Handicapped People (ANSI/ICC A117.1-2003). ( )

c. Idaho Department of Health and Welfare Rules, IDAPA 16.02.19, "Food Safety and Sanitation Standards for Food Establishments," also known as the Idaho Food Code. ( )

d. National Electric Code. ( )

e. International Fire Code. ( )

f. Occupational Safety and Health Act of 1970 (OSHA). ( )

g. National Sanitation Federation. ( )

h. For facilities operating a sobering station, at least one (1) airborne infection isolation room must comply with (AII) 2006 AIA Guidelines for Design and Construction of Health Care Facilities. ( )

03. Evidence of Compliance with Local Building Codes. No facility will be approved unless the applicant provides evidence to the Department that responsible local officials (planning, zoning, and building) have approved the facility/building for code compliance. ( )

602. -- 609. (RESERVED).

610. SITE LOCATION REQUIREMENTS.
The location of each detox/mental health diversion unit in Idaho is governed by the following Subsections 610.01 through 610.07 of this rule. ( )

01. All Weather Road. The facility must be adjacent to an all-weather road, kept open to motor vehicles at all times of the year. ( )

02. Physician and Medical Facilities. The facility must be accessible to physician's services and medical facilities. ( )

03. Public Utilities. The facility must be accessible to public utilities. ( )

04. Fire District. The facility must be in a lawfully constituted fire district. ( )

05. Parking Space. The facility must have parking space to satisfy the minimum needs of clients, employees, staff, and visitors. In the absence of a local requirement, each facility will provide not less than one (1) space for each day shift staff member and employee, plus one (1) space for each five (5) client beds. This ratio may be reduced in areas convenient to a public transportation system or to public parking facilities provided that prior written approval of any reduction is obtained from the Department. Space must be provided for emergency and delivery vehicles. ( )

06. Natural or Man-Made Hazards. If natural or man-made hazards are present on the facility property or border the property, reasonable precautions such as suitable fences, guards, railings or a combination thereof must be taken for the protection of clients. ( )

07. Mitigation of Adverse Effects. If railroads, factories, airports or similar facilities, are located in close proximity to the facility, reasonable precautions must be taken to mitigate adverse effects of noise, odor, smoke, dust, and other nuisances. ( )

611. -- 619. (RESERVED).

620. BEDS AND SLEEPING AREAS FOR MEDICALLY-MONITORED RESIDENTIAL DETOXIFICATION UNIT.
Each medically-monitored residential detoxification unit must be in compliance with Subsections 620.01 through 620.11 of this rule. ( )

01. Number of Approved Beds for Detoxification Unit. The number of approved beds for detoxification is limited to the number stated on the certificate of approval. ( )

a. Each approved bed for detoxification must have, at a minimum, a ~~*comfortable*~~ single bed mattress *in good repair* with moisture-proof cover, sheets, blankets, bedspread, pillow and pillow cases. ~~*(3-30-09)T*~~*( )*

b. Roll-away type beds, cots, bunk-beds, and folding beds cannot be used and will not be approved. ( )

02. Location of Beds. Client beds for medical detoxification may be located within an area suitable for multiple beds (“suite”), provided the suite is surrounded by solid walls, floor to ceiling, and is constructed and maintained in accordance with Chapter 18 of the 2000 Edition of the Life Safety Code. ( )

03. Cubicle Curtains. Cubicle curtains of fire retardant material, capable of enclosing each approved bed must be provided in multiple-bed rooms or suites to ensure privacy for clients.

( )

04. Unacceptable Location of Beds. Client beds for detoxification must not be located in hallways, closets, attics, corridors, trailer houses, or in any room other than one approved for clients. ( )

05. Numbered Beds. Client beds for detoxification must be numbered. ( )

06. Square Footage Requirements. Square footage requirements for client sleeping areas must, at a minimum, provide not less than sixty (60) square feet of floor space per client. ( )

07. Visibility of Client Beds. Client beds for detoxification must be visible at all times to staff in the staff station. ( )

08. Occupants of Sleeping Areas. Solid walls or moveable partitions, floor to ceiling, must be used to ensure that sleeping areas and suites for detoxification are only occupied by individuals of the same sex. ( )

09. Safe and Secure Sleeping Areas. Sleeping areas for detoxification must be free of safety hazards, and appropriately lighted with no items or articles that a client might use to injure self or others. ( )

10. Separate and Distinct Client Areas. Solid walls, floor to ceiling, must be used to ensure that client areas for medically-monitored detoxification are separate and distinct from client areas for sobering and mental health. ( )

11. Prior Approval Needed for Reallocated or Relocated Beds. Once the Department has approved the actual construction drawings, plans, and specifications, approved beds for detoxification cannot be reallocated or relocated unless prior written approval has been obtained from the Department. ( )

621. -- 629. (RESERVED).

630. BEDS AND BEDROOMS FOR MENTAL HEALTH DIVERSION UNIT.
Each mental health diversion unit must be in compliance with the following Subsections 630.01 through 630.14 of this rule. ( )

01. Number of Approved Beds for Mental Health Diversion Unit. The number of approved beds for mental health diversion is limited to the number stated on the certificate of approval. ( )

a. Each approved bed for mental health diversion treatment must have, at a minimum, a ~~*comfortable*~~ single bed mattress *in good repair* with moisture-proof cover, sheets, blankets, bedspread, pillow and pillowcases. ~~*(3-30-09)T( )*~~

b. Roll away type beds, cots, bunk beds, and folding beds cannot be used and will not be approved. ( )

02. Cubicle Curtains. Cubicle curtains of fire retardant material, capable of enclosing each approved bed must be provided in multiple-bed rooms to ensure privacy for clients. ( )

03. Maximum Room Capacity. The maximum room capacity in each bedroom is two (2) clients. ( )

04. Staff Calling System. A staff calling system for each client must be installed in each bedroom and in each toilet, bath, and shower room. A staff call must be considered an emergency call and must register at the staff station. The staff calling system must be designed so that a signal light activated by the client will remain lit until turned off by a staff member at the client's calling station - bed, bath, or shower room. The staff calling system is not a substitute for supervision. ( )

05. Location of Client Beds. Client beds must not be located in hallways, closets, attics, corridors, trailer houses, or in any room other than one approved for clients. ( )

06. Numbered Bedrooms and Beds. Client bedrooms and beds must be numbered. ( )

07. Size of Client Sleeping Areas. Square footage requirements for client sleeping areas must provide for not less than sixty (60) square feet of floor space per client. ( )

08. Entrances to Client Bedrooms. Entrances to each client bedroom must be visible at all times to staff in the staff station. ( )

09. Ceiling Height. Ceiling heights must be a minimum of seven (7) feet, six (6) inches. ( )

10. Occupants of Bedrooms. A client bedroom used for mental health diversion must only be occupied by individuals of the same sex. ( )

11. Bedroom Door Requirements. Each client bedroom must have a ninety-degree (90º) swinging door, at a minimum, that will not block any corridor or hallway, that is no less than thirty-two (32) inches in width, with a vision window, and that opens out directly into a corridor visible at all times to staff in the staff station. ( )

12. Safe and Secure Client Bedrooms. Each client bedroom must be free of safety hazards, and appropriately lighted with no items or articles that a client might use to injure self or others. ( )

13. Separate and Distinct Client Areas. Solid walls, floor to ceiling, must be used to ensure that client areas for mental health diversion are separate and distinct from client areas for sobering and medically-monitored detoxification. ( )

14. Prior Approval Needed for Reallocated or Relocated Beds. Once the Department has approved the actual construction drawings, plans, and specifications, approved beds for mental health diversion cannot be reallocated or relocated unless prior written approval

has been obtained from the Department. ( )

631. -- 639. (RESERVED).

640. SOBERING STATION.
A sobering station is an optional service that may be provided in a detox/mental health diversion unit. When a sobering station is provided it must be in compliance with Subsections 640.01 through 640.16 of this rule. ( )

01. Number of Clients in a Sobering Station. The number of clients that may be housed in the sobering station is limited to the number stated on the certificate of approval.( )

02. Visible Client Areas. Client areas for sobering must be visible at all times to staff at the staff station. If vision windows are used they must provide for one-way vision into client areas for staff at the staff station and must be made of tempered, shatterproof glass. The Department will consider alternative design solutions to one-way vision which will accommodate the requirements for client area accessibility and monitoring. ( )

03. Disease Protection of Clients. Client areas must provide for disease protection and be maintained in a clean sanitary condition at all times. ( )

04. Furniture. Furniture located in client areas must be weighted or secured to the floor to ensure safety of staff and clients. ( )

05. Location of Client Areas. Client areas in a sobering station must not be located in hallways, closets, attics, corridors, trailer houses, or in any room other than one approved for clients. ( )

06. Numbered Rooms. Client rooms for a sobering station must be numbered. ( )

07. Size of Client Rooms. Square footage requirements for client rooms in a sobering station must provide for not less than thirty (30) square feet of floor space per client. ( )

08. Entrances to Client Rooms. Entrances to all sobering station client rooms must be visible at all times to staff at the staff station. ( )

09. Ceiling Height of Client Rooms. Ceiling heights for client rooms must be a minimum of seven (7) feet, six (6) inches. ( )

10. Floor Drain in Client Room. Client rooms in a sobering station must have at least one tamper resistant floor drain installed. ( )

11. Doors on Client Rooms. Client rooms in a sobering station must have a ninety-degree (90º) swinging door, at a minimum, that will not block any corridor or hallway, that is no less than thirty-two (32) inches in width, with a vision window, and that opens out directly into a corridor visible at all times to staff at the staff station. The Department will consider alternative design solutions to one-way vision which will accommodate the requirements for client area accessibility and monitoring. ( )

12. Utilities in Client Rooms. Client rooms in a sobering station must have a toilet and hand-washing sink with solid walls or partitions to separate the toilet from the sleeping area, and have mechanical ventilation to the outside. ( )

13. Client Rooms Free of Hazards. Client rooms and areas in a sobering station must be free of safety hazards, and appropriately lighted with no items or articles that a client might use to injure self or others. ( )

14. Airborne Infection Isolation Room. Each sobering station must have at least one (1) private airborne infection isolation room with a toilet, hand-washing sink, and other accessory facilities that complies with (AII) 2006 AIA Guidelines for Design and Construction of Health Care Facilities. Private airborne infection isolation rooms must have no hardware, equipment, or furnishings that obstruct observation of a client, or that present a physical hazard, or a suicide risk. Private airborne infection isolation rooms must have at least sixty (60) square feet of floor space and a ceiling height of seven (7) feet, six (6) inches. ( )

15. Separate and Distinct Client Areas. Solid walls, floor to ceiling, must be used to ensure that client areas for sobering are separate and distinct from client areas for medically-monitored detoxification and mental health diversion. ( )

16. Prior Approval Needed for Reallocated or Relocated Beds. Once the Department has approved the actual construction drawings, plans, and specifications, approved beds for a sobering station cannot be reallocated or relocated unless prior approval has been obtained from the Department. ( )

641. -- 649. (RESERVED).

650. CLIENT TOILET AND BATHING FACILITIES.

01. Client Toilet Facilities. Client toilet facilities, must be in compliance with the following: ( )

a. Be conveniently located with solid walls or partitions to separate each toilet and bathroom from all adjoining rooms with at least one (1) flush toilet for every six (6) clients. ( )

b. Have mechanical ventilation to the outside from all inside toilets and bathrooms not provided with an operable exterior window. ( )

c. Have one (1) hand washing sink with a mirror convenient to every toilet. ( )

d. Have permanently wired light fixtures located and maintained so as to give adequate light to all parts of the room. ( )

e. Have arrangements for individual privacy for clients. ( )

f. Provide a privacy screen at each window. ( )

g. The minimum dimensions of a room containing only a toilet are three (3) feet by six (6) feet. Toilets must be accessible for use by persons with mobility and sensory impairments. ( )

02. Client Bathing Facilities. Client bathing facilities must comply with the following: ( )

a. Each tub, shower, and lavatory must have hot and cold running water with at least one (1) tub or shower for every eight (8) clients, not otherwise served by bathing facilities located in a client's room. ( )

b. Each tub or shower room or enclosure must provide space for private use of the bathing fixture, for drying and dressing and for a wheelchair and attendant. ( )

651. -- 654. (RESERVED).

655. ADMINISTRATIVE AREAS.
The following administrative areas must be located in the facility, or readily available to staff. The size and disposition of each administrative area will depend upon the number and types of approved beds to be served. Depending on the size of the facility and the number of clients served, there may be a need for more than one of the administrative areas listed below. Although identifiable spaces are required to be provided for each of the indicated functions, consideration will be given to design solutions which would accommodate some functions without specific designation of areas or rooms. Details of such proposals must be submitted to the Department for prior approval. Each administrative area must be in compliance with Subsections 655.01 through 655.10 of this rule. ( )

01. Staff Station. The facility must have one (1) or more staff stations centrally located in each distinct service area for the sobering station, the medically-monitored detoxification unit, and the mental health diversion unit, with adequate space for charting and storage for administrative supplies. ( )

02. Lounge and Toilets for Staff. The facility must have lounge and toilet rooms for staff. The toilet rooms may be unisex. ( )

03. Closets and Compartments. Individual closets or compartments, for the safekeeping of coats and personal effects of personnel, must be located convenient to the staff station or in a central location close to personnel. ( )

04. Clean Workroom or Clean Holding Room. If the room is used for work, it must contain a counter and hand-washing facilities. When the room is used only for storage as part of a system for distributing clean and sterile supplies, the work counter and hand-washing facilities can be omitted. ( )

05. Soiled Workroom and Soiled Holding Room. The soiled workroom must contain a clinical sink or equivalent flushing rim fixture and a sink for hand-washing, towel dispenser, work counter, waste receptacle, and soiled linen receptacle. ( )

06. Drug Distribution Station. The drug distribution station must be secure and convenient, with prompt twenty-four (24) hour availability of medicine. A secure medicine preparation area must be available and under the nursing staff's visual control and contain a work counter, refrigerator, and locked storage for controlled drugs, convenient to hand washing station and have a minimum area of fifty (50) square feet. A medicine dispensing unit can be located at the staff station, in the clean workroom, or in an alcove or other space convenient to staff and under staff control. ( )

07. Nourishment Station. The nourishment station must contain a sink equipped for hand-washing, towel dispenser, equipment for serving nourishment between scheduled meals, refrigerator, and storage cabinets. Ice for clients' must be provided only by icemaker-dispenser units. ( )

08. Equipment Storage Rooms. Rooms must be available for storage of equipment. ( )

09. Janitor's Closet. Rooms must be available for storage of janitorial supplies and equipment. ( )

10. Lockable Storage Area. A storage area of at least sixty-four (64) cubic feet (4x4x4), with segregated lockable storage compartments for client personal effects, must be maintained on-site. This storage area for client personal effects may be located in a separate area inside or outside of the facility's buildings. ( )

656. -- 659. (RESERVED).

660. ADDITIONAL ROOM AND AREA REQUIREMENTS.
The facility must comply with Subsections 660.01 through 660.05 of this rule for room and area requirements. ( )

01. Day Room. The following minimum requirements apply to day room areas: ( )

a. The facility must have an adequately ventilated separate day room or area for the exclusive use of clients, employees, and invited guests. ( )

b. The total area set aside for day use purposes must be at least twenty (20) square feet per approved bed with a minimum total area of at least two hundred twenty-five (225) square feet. The same area can be used for dining and day room space. ( )

02. Dietary Facilities. Food service, facilities, and equipment on-site and food service prepared by off-site contractors, must comply with Idaho Department of Health and Welfare Rules, IDAPA 16.02.19, “Food Safety and Sanitation Standards for Food Establishments,” also know as the Idaho Food Code. ( )

03. Dining Room. The following minimum requirements apply to dining areas: ( )

a. The facility must have an adequately ventilated separate dining room or area for the exclusive use of clients, employees, and invited guests. ( )

b. The total area set aside for dining purposes must be at least twenty (20) square feet per approved bed with a minimum total area of at least two hundred twenty-five (225) square feet. ( )

04. Program Areas. The following program areas must be located in the facility, or readily available to staff. Although identifiable spaces are required to be provided for each of the indicated functions, consideration will be given to design solutions which would accommodate some functions without specific designation of areas or rooms. Details of such proposals must be submitted to the Department for prior approval: ( )

a. Sufficient general or individual offices to assure privacy for interviews, client counseling and business transactions. ( )

b. One (1) or more multipurpose rooms for client social activities, meetings, group counseling. and health education purposes. ( )

c. One (1) or more medical examination rooms. ( )

d. Provision for secure and convenient on-site storage of medical records. ( )

e. Quiet social area for clients. ( )

05. Public Areas. Each Detox/Mental Health Diversion Unit must provide: ( )

a. Entrance at grade level, sheltered from the weather and able to accommodate persons with mobility and sensory impairments. ( )

b. Lobby space, including: ( )

i. Reception and information counter or desk; ( )

ii. Waiting area; ( )

iii. Public toilet facility; ( )

iv. Public telephone; and ( )

v. Drinking fountain. ( )

c. Outdoor areas that are secure and safe. ( )

661. -- 664. (RESERVED).

665. LINEN AND LAUNDRY FACILITIES AND SERVICES.

The facility must comply with Subsections 665.01 through 665.07 of this rule for linen and laundry facilities and services. ( )

01. Available Linen. Every Detox/Mental Health Diversion Unit must have available at all times a quantity of linen essential to the proper care and comfort of clients. ( )

02. Clean Linen. Linen must be of good quality, not thread-bare, torn or badly soiled or stained. ( )

03. Laundry Processing Area. If linen is processed on-site, the laundry processing area must have commercial type equipment with which a seven-days' supply can be processed within a regularly scheduled work week. ( )

04. Separate and Distinct Soiled Linen Processing Area. Separate and distinct soiled linen processing, receiving, holding, and sorting area with hand-washing facilities that maximize disease protection and clean sanitary conditions at all times. ( )

05. Separate and Distinct Clean Linen Inspection Area. Separate and distinct clean linen inspection, mending, processing, receiving, storage, issuing, and holding area that maximize disease protection and clean sanitary conditions at all times. ( )

06. Adequate Storage. Adequate storage must be provided for laundry supplies. ( )

07. Janitor's Closet. A Janitor's closet containing a floor receptor or service sink and storage space for housekeeping equipment and supplies must be provided. ( )

666. -- 679. (RESERVED).

670. DETAILS AND FINISHES FOR WALLS AND FLOOR SURFACES.
Walls and floors must be of such character to permit cleaning which meet the interior finish requirements of the 2000 Edition of the Life Safety Code. Walls and ceiling in kitchens, bathrooms, and utility rooms must have washable surfaces. ( )

671. -- 674. (RESERVED).

675. WATER.
Each detox/mental health diversion unit must have an adequate supply of running hot and cold water, installed and maintained in compliance with the local plumbing code. There must be a sufficient amount of water under adequate pressure to meet the sanitary requirements of the facility at all times. The water supply must meet the following minimum requirements in this rule. ( )

01. Approved Water Supply. An approved public or municipal water supply must be used whenever available. ( )

02. Private Water Supply. In areas where an approved public or municipal water supply is not available, a private water supply must be provided, and it must meet the standards

approved by the Department. ( )

03. Requirements for Public or Private Water Supplies. Public or private water supplies must meet the Idaho Department of Environmental Quality Rules, IDAPA 58.01.08, "Idaho Rules for Public Drinking Water Systems." ( )

04. Water Samples from Private Supply. If water is from a private supply, water samples must be submitted to an approved laboratory for bacteriological examination at least quarterly. Copies of laboratory reports must be kept on file in the facility. ( )

676. -- 679. (RESERVED).

680. LIGHTING.

The facility must provide adequate and appropriate lighting in all client sleeping areas, dining rooms, living rooms, common and private areas, bathrooms and hallways. Adequate artificial light must be provided to include sufficient illumination for reading, observation, and activities. There must be a minimum of three hundred seventy-six (376) lumens in areas used for reading, study, or close work. Lighting in work areas must be a minimum of three hundred twenty-three (323) lumens. ( )

681. -- 684. (RESERVED).

685. VENTILATION.

01. Detox/Mental Health Diversion Unit Ventilation. Each detox/mental health diversion unit must be adequately ventilated and precautions must be taken to prevent offensive odors in compliance with the minimum requirements of the Uniform Mechanical Code. ( )

02. Sobering Station Ventilation. A facility with a sobering station, must have private airborne infection isolation rooms that are adequately ventilated and precautions must be taken to prevent offensive odors in compliance with the following minimum requirements of the 2006 AIA Guidelines for Design and Construction of Health Care Facilities:

TABLE 685.02 - MINIMUM REQUIREMENTS OF THE 2006 AIA GUIDELINES FOR DESIGN AND CONSTRUCTION OF HEALTH CARE FACILITIES - VENTILATION PRECAUTIONS FOR SOBERING STATIONS				
Area	Air Movement/ Relation	Minimum Outdoor Air Changes/Hr	Total Air Changes/ Hr	Exhausted
Isolation Room	In	2	12	Yes

( )

686. -- 689. (RESERVED).

690. UTILITY REQUIREMENTS.

01. Plumbing. All plumbing in the facility must comply with state and local codes.

All plumbing fixtures must be easily cleanable and maintained in good repair. The temperature of hot water at plumbing fixtures used by clients must be between one hundred five degrees (105ºF) Fahrenheit and one hundred twenty degrees (120ºF) Fahrenheit. Hot water capacity must be at least three (3) gallons per client bed per hour. ( )

02. Heating and Cooling. A heating and cooling system must be provided for the facility that is capable of maintaining a minimum temperature of seventy degrees (70ºF) Fahrenheit during the day and a minimum of sixty-two degrees (62ºF) Fahrenheit during the night. Wood stoves 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 wood stove. ( )

03. Sewage Disposal. All sewage and liquid wastes must be discharged into a municipal sewerage system where such a system is available. Where a municipal sewerage system is not available, sewage and liquid wastes must be collected, treated, and disposed of in a manner approved by the Department. ( )

691. -- 694. (RESERVED).

695. ACCESSIBILITY FOR PERSONS WITH MOBILITY AND SENSORY IMPAIRMENTS.

For clients with mobility or sensory impairments, the facility must provide a physical environment which meets the requirements of the Americans with Disabilities Act Accessibility Guidelines (ADAAG) and must provide the necessary accommodations. ( )

01. Ramps. Ramps for clients who require assistance with ambulation must comply with the requirements of the ADAAG 4.8. ( )

02. Bathrooms and Doors. Bathrooms and doors large enough to allow the easy passage of a wheelchair as provided for in the ADAAG 4.13. ( )

03. Grab Bars. Grab bars in client toilet and bathrooms must be in compliance with ADAAG 4.26. ( )

04. Toilet Facilities. Toilet facilities must be in compliance with ADAAG 4.19.( )

05. Hand Railing. Suitable hand railing must be provided on both sides of all stairs leading into and out of a building for clients who require the use of crutches, walkers, or braces. ( )

696. -- 999. (RESERVED).

IDAPA 24 - BUREAU OF OCCUPATIONAL LICENSES

24.06.01 - RULES FOR THE LICENSURE OF OCCUPATIONAL THERAPISTS AND OCCUPATIONAL THERAPY ASSISTANTS

DOCKET NO. 24-0601-0901

NOTICE OF RULEMAKING - ADOPTION OF PENDING FEE RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2010 Idaho State Legislature for final approval. Pursuant to Section 67-5224(5)(c), Idaho Code, this pending rule will not become final and effective until it has been approved, amended, or modified by concurrent resolution of the legislature because of the fee being imposed or increased through this rulemaking. The rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending fee rule. The action is authorized pursuant to Section 54-3717, Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change:

The pending rule is being adopted as proposed. The complete text of the proposed rule was published in Book 2 of the October 7, 2009 Idaho Administrative Bulletin, Vol. 09-10, pages 126 through 139.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased. This fee or charge is being imposed pursuant to Section 54-3712, Idaho Code:

The 2009 Legislature passed House Bill 261 which amended Title 54, Chapter 37 of Idaho Code. Per 54-3712, Idaho Code, the Board of Occupational Therapists is setting fees in its rules for a license, a renewal, and an application.

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: None.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Cherie Simpson at 208 334-3233.

DATED this 28th day of October, 2009.

Tana Cory
Bureau Chief
Bureau of Occupational Licenses
1109 Main St. Ste. 220
Boise, ID 83702
(208) 334-3233 Ph. (208) 334-3945 fax

THE FOLLOWING NOTICE PUBLISHED WITH THE TEMPORARY AND PROPOSED FEE RULE

EFFECTIVE DATE: The effective date of the temporary rule is August 24, 2009.

AUTHORITY: In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a temporary rule, and proposed rulemaking procedures have been initiated. The action is authorized pursuant to Section 54-2305, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 21, 2009.

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 its supporting reasons for adopting a temporary rule and a nontechnical explanation of the substance and purpose of the proposed rulemaking:

House Bill 261 moved the licensing of Occupational Therapists and Occupational Therapy Assistants from the Board of Medicine to the Bureau of Occupational Licenses. IDAPA 22 is being changed to IDAPA 24 and the rules are being amended to comply with amendments to Chapter 37 and to protect the public health, safety and welfare.

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

These rules are necessary to protect the public health, safety, and welfare and to comply with deadlines in amendments to governing law.

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

The 2009 Legislature passed House Bill 261 which amended Title 54, Chapter 37 of Idaho Code. Per 54-3712, Idaho Code, the Board of Occupational Therapists is setting fees in its rules for a license, a renewal, and an application.

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:

The proposed rules establish fees which will be deposited in the Bureau of Occupational Licenses dedicated fund. The fees will be used by the Board of Occupational Therapy to

administer its act. Since all self governing boards are expected to be self-supporting, these fees are based on the estimated costs and the 560 current licensees.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220, Idaho Code, negotiated rulemaking was not conducted because the change is due to amendments in Title 54, Chapter 37.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary and proposed rule, contact Cherie Simpson at (208) 334-3233.

Anyone may submit written comments regarding the proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 28, 2009.

DATED this 17th day August, 2009.

THE FOLLOWING IS THE TEXT OF THE PENDING FEE RULE

000. LEGAL AUTHORITY.
Pursuant to Section 54-371~~4~~7(2), Idaho Code, the Occupational Therapy Licensure Board of Idaho is authorized to promulgate rules ~~*to govern the licensure of persons practicing occupational therapy in Idaho*~~ that implement the provisions of Chapter 37, Title 54, Idaho Code.
~~*(7-1-93)*~~(____)

(BREAK IN CONTINUITY OF SECTIONS)

002. WRITTEN INTERPRETATIONS -- AGENCY GUIDELINES.
Written interpretations of these rules in the form of explanatory comments accompanying the notice of proposed rulemaking that originally proposed the rules and review of comments submitted in the rulemaking process in the adoption of these rules are available for review and copying at cost from the Bureau of Occupational Licenses, 1109 Main Street, Suite 220, Box 83720, Boise, Idaho 83702-0063. ~~*(4-2-03)*~~(____)

(BREAK IN CONTINUITY OF SECTIONS)

004. INCORPORATION BY REFERENCE.
~~*There are no documents incorporated by reference into this rule.*~~ The "PDU Activities Chart" on pages 14-17 of the document titled National Board for Certification in Occupational Therapy (NBCOT), Inc. Certification Renewal Handbook, 2009, as published by the NBCOT, Inc. and copyrighted to NBCOT, Inc. in 2009, which is referenced in Subsection 250.1.b. of these rules. All documents incorporated by reference are available at the Board's office and through the

Board's website. ~~*(4-2-03)*~~( )

005. ~~*OFFICE—OFFICE HOURS—MAILING*~~ ADDRESS AND STREET ADDRESS OF THE OCCUPATIONAL THERAPY LICENSURE BOARD OF IDAHO.
~~*The central office of the Bureau of Occupational Licenses is in Boise, Idaho.*~~ The office of the Occupational Therapy Licensure Board of Idaho is located within the Bureau of Occupational Licenses, Owyhee Plaza, 1109 Main Street, Suite 220, Boise, Idaho 83702-5642. The phone number of the Board is (208) 334-3233. The Board's FAX number is (208) 334-3945. The Board's e-mail address is oct@ibol.idaho.gov. The Board's official web site address can be found at www.ibol.idaho.gov. ~~*(4-2-03)*~~( )

~~***01. Address****. The Board's mailing address, unless otherwise indicated, will be the Idaho Bureau of Occupational Licenses, Statehouse Mail, Boise, Idaho 83720-5642. The Board's street address is 1109 Main Street, Suite 220, Boise, Idaho 83702.*~~ ~~*(4-2-03)*~~

~~***02. Telephone****. The telephone number of the Board is (208) 334-3233.*~~ ~~*(4-2-03)*~~

~~***03. FAX****. The Board's facsimile (FAX) number is 334-3945.*~~ ~~*(4-2-03)*~~

~~***04. Office Hours****. The Board's office hours for filing documents are 8 a.m. to 5 p.m. MST.*~~ ~~*(4-2-03)*~~

(BREAK IN CONTINUITY OF SECTIONS)

~~***007. FILING OF DOCUMENTS—NUMBER OF COPIES.***~~
~~*All documents in rulemaking or contested case proceedings must be filed with the office of the Board. The original and ten (10) copies of all documents must be filed with the office of the Board.*~~ ~~*(4-2-03)*~~

00~~8~~7. -- 009. (RESERVED).

010. DEFINITIONS.

01. Association. The Idaho Occupational Therapy Association. (1-5-88)

02. Board. The Occupational Therapy Licensure Board of Idaho. (1-5-88)

03. Bureau. The Idaho Bureau of Occupational Licenses. (7-1-09)

04. Occupational Therapy. ~~*The use of purposeful, goal-oriented activity with individuals who are limited by physical injury or illness, psychological dysfunction, developmental or learning disabilities or deficits, poverty or cultural difficulties or the aging process in order to achieve optimum functional performance, independence, prevent further disability and maintain health. The practice of occupational therapy encompasses the evaluation, consultation and treatment of individuals whose abilities to cope with the tasks of daily living are threatened or impaired by physical injury or illness, psychosocial dysfunction, developmental or*~~

~~*learning disabilities or deficits, poverty or cultural difficulties or the aging process and includes a treatment program through the use of specific techniques which enhance functional performance and includes the evaluation or assessment of the patient or clients self-care, work and leisure skills, cognition, perception; sensory and motor performance; play skills; vocational and prevocational capacities; need for adaptive equipment; application of selected prosthetic or orthotic devices; and the administration of standardized and non-standardized assessments*~~ The care and services provided by or under the direction and supervision of an occupational therapist. ~~*(1-5-88)*~~(____)

05. Occupational Therapist. A person licensed to practice occupational therapy. (4-2-03)

06. Occupational Therapy Assistant. A person licensed to ~~*assist in the*~~ practice ~~*of*~~ occupational therapy, and who works under the supervision of an occupational therapist. ~~*(4-2-03)*~~(____)

~~***a.*** *Occupational Therapy Assistant Supervision. The occupational therapist shall be responsible for the supervision of the occupational therapy assistant. The supervising and consulting therapist need not be physically present or on the premises at all times the occupational therapy assistant is performing the service. The mode and extent of the communication between the supervising or consulting occupational therapist and the occupational therapy assistant shall be determined by the competency of the assistant, the treatment setting and the diagnostic category of the client.* *(7-1-99)*~~

07. Graduate Occupational Therapist. A person who holds a certificate of graduation from an approved occupational therapy curriculum, who has submitted a completed application for ~~*licensure*~~ certification by examination, and who may practice occupational therapy in association with and under the supervision of an occupational therapist and under authority of a Limited Permit. ~~*(4-2-03)*~~(____)

~~***a.*** *Graduate OT Supervision. Supervision of a "Graduate Occupational Therapist" shall require the supervising licensed occupational therapist to review and countersign all patient documentation.* *(7-1-99)*~~

08. Graduate Occupational Therapy Assistant. A person who holds a certificate of graduation from an approved occupational therapy assistant curriculum, has submitted a completed application for licensure by examination and is performing the duties of occupational therapy assistant in association with and under the supervision of an occupational ~~*therapy*~~ therapist and under the authority of a Limited Permit. ~~*(4-2-03)*~~(____)

~~***a.*** *Graduate OTA Supervision. Supervision of a "Graduate Occupational Therapy Assistant" shall require the supervising licensed occupational therapist to review and countersign all patient documentation.* *(7-1-99)*~~

~~***09. Occupational Therapy Aide****. An unlicensed person who aids a licensed occupational therapist or occupational therapy assistant in the practice of occupational therapy, whose activities require an understanding of occupational therapy but do not require professional or advanced training in the basic anatomical, biological, psychological, and social sciences*~~

~~*involved in the practice of occupational therapy.* *(7-1-99)*~~

~~***a.*** *Supervision. Supervision of an occupational therapy aide shall require supervision by a person licensed to practice as an occupational therapist or as an occupational therapy assistant and shall be consistent with Section 033 of these rules.* *(4-2-03)*~~

09. **Aide in the Delivery of Occupational Therapy Services**. Also referred to in these rules as an "aide," is a person who is not licensed by the Board and who provides supportive services to occupational therapists and occupational therapy assistants. An aide shall function only under the guidance, responsibility and direct line of sight supervision of the licensed occupational therapist or an occupational therapy assistant who is appropriately supervised by an occupational therapist. The aide provides only specifically selected client related or non-client tasks for which the aide has been trained and has demonstrated competence.

10. **Good Standing**. The individual's license, certification, or registration is not currently suspended or revoked by any state regulatory entity. ( )

11. **NBCOT**. The National Board for Certification in Occupational Therapy, Inc., is a not-for-profit credentialing agency that provides certification for the occupational therapy profession. ( )

011. SUPERVISION.
An occupational therapist shall supervise and be responsible for the patient care given by occupational therapy assistants, graduate occupational therapists, graduate occupational therapy assistants, student occupational therapists, student occupational therapy assistants, and aides. ( )

01. **Skill Levels**. The following skill levels apply to occupational therapy assistants, graduate occupational therapists, graduate occupational therapy assistants, student occupational therapy, student occupational therapy assistants and aides: ( )

a. Entry Level - Working on initial skill development (zero to one (0-1) year experience) or working in a new area of practice; ( )

b. Intermediate Level - Increased independence and mastery of basic roles and functions. Demonstrates ability to respond to new situations based on previous experience (generally one to five (1-5) years' experience); ( )

c. Advanced Level - Refinement of skills with the ability to understand complex issues and respond accordingly. ( )

02. **Supervision Levels**. The following supervision levels apply to occupational therapy assistants, graduate occupational therapists, graduate occupational therapy assistants, student occupational therapy, student occupational therapy assistants and aides: ( )

a. Direct Line of Site Supervision - An occupational therapist or occupational therapy assistant must provide direct line of site supervision to an aide; ( )

b. Direct Supervision - Daily, direct contact at the site of work with the supervisor physically present at all times within the facility when the supervisee renders care and requires the supervisor to co-sign all documentation that is completed by the supervisee. This supervision is the minimal level of supervision required for students and for occupational therapy assistants applying deep thermal and electrotherapeutic modalities; ( )

c. Close Supervision - Daily, direct contact at the site of work. The occupational therapist provides direction in developing the plan of treatment and periodically inspects the actual implementation of the plan. This supervision is the minimal level of supervision required for entry level occupational therapy assistants and occupational therapy assistants who are working under a temporary license; ( )

d. Routine Supervision - Requires direct contact at least every two (2) weeks at the site of work, with interim supervision occurring by other methods, such as by telephone or written communication. This supervision is the minimal level of supervision required for a temporary occupational therapist or for an intermediate level occupational therapy assistant; ( )

e. General Supervision - Initial direction and periodic review of the following: service delivery, update of treatment plans, and treatment outcomes. The supervisor need not at all times be present at the premises where the occupational therapy assistant is performing the professional services. However, not less than monthly direct contact must be provided, with supervision available as needed by other methods. This supervision is the minimal level of supervision required for an intermediate to advanced occupational therapy assistant. ( )

03. **Supervision Ratios**. An occupational therapist may supervise up to three (3) full-time occupational therapy assistants, but never more than two (2) entry level occupational therapy assistants. The total number of supervised occupational therapy assistants and non-licensed occupational therapy personnel (including any graduate occupational therapists, graduate occupational therapy assistants, student occupational therapy, student occupational therapy assistants, and aides) may not exceed five (5) without prior Board approval. The Board may permit the supervision of a greater number by an occupational therapist if, in the Board's opinion, there would be adequate supervision and the public's health and safety would be served. It is the supervising occupational therapist's responsibility to notify the Board of any circumstances requiring approval of a greater number and to submit a written plan for resolution of the situation. ( )

04. **Record Keeping**. The occupational therapy assistant, graduate occupational therapist, and graduate occupational therapy assistant must maintain on file at the job site signed documentation reflecting supervision activities. This supervision documentation must contain the following: date of supervision, means of communication, and information discussed. Both the supervising occupational therapist and the occupational therapy assistant /limited permit licensee must sign each entry. ( )

05. **Occupational Therapy Assistants**. Occupational Therapy Assistants may deliver occupational therapy services under the supervision of occupational therapists as follows. The occupational therapy assistant: ( )

a. May only select, implement, and modify therapeutic activities and interventions

that are consistent with client goals, the requirements of the practice setting, and the occupational therapy assistant's demonstrated competency levels; ( )

b. Must not initiate a treatment program until the occupational therapist has evaluated the client and planned treatment for the client, or discharge the client from a treatment program without supervision from the occupational therapist; ( )

c. Must not perform an evaluation, but may contribute to the evaluation process with the supervision of the occupational therapist; ( )

d. May participate in the screening process by collecting data, such as records, by general observation and by conducting a general interview, and may communicate the information gathered to the occupational therapist; ( )

e. May track the need for reassessment, report changes in status that might warrant reassessment or referral, and administer the reassessment under the supervision of the occupational therapist; ( )

f. Must immediately discontinue any specific treatment procedure which appears ;harmful to the client, and so notify the occupational therapist; ( )

g. Is responsible for knowing about the client's targeted occupational therapy outcomes and for providing information and documentation related to outcome achievement; ( )

h. May implement outcome measurements and provide needed client discharge resources. ( )

06. **Aides**. Aides do not provide skilled occupational therapy services. An aide is trained by an occupational therapist or an occupational therapy assistant to perform specifically delegated tasks. The occupational therapist is responsible for the overall use and actions of the aide. An aide first must demonstrate competency to be able to perform the assigned, delegated client and non-client tasks. The occupational therapist must oversee the development, documentation, and implementation of a plan to supervise and routinely assess the ability of the occupational therapy aide to carry out non-client and client-related tasks. The occupational therapy assistant may contribute to the development and documentation of this plan. An aide shall function only under the direct line of sight supervision of an occupational therapist or occupational therapy assistant. An aide may provide: ( )

a. Non-client-related tasks, including clerical and maintenance activities and preparation of the work area or equipment. ( )

b. Client-related, routine tasks during which the aide may interact with the client. The following conditions must exist when an occupational therapist or occupational therapy assistant delegates a selected client-related task to the aide: ( )

i. The outcome anticipated for the delegated task is predictable. ( )

ii. The client and environment are stable and will not require that judgment, interpretations, or adaptations be made by the aide. ( )

iii. The client has demonstrated some previous performance ability in executing the task. ( )

iv. The task routine and process have been clearly established. ( )

v. The aide has been trained and is able to demonstrate competency in carrying out the task and in using any necessary equipment. ( )

vi. The aide has been instructed on how to specifically carry out the delegated task with the specific client. ( )

vii. The aide knows the precautions, signs, and symptoms for the particular client that would indicate the need to seek assistance from the occupational therapist or occupational therapy assistant. ( )

c. The supervision of the aide needs to be documented for every client-related activity performed by an aide. Documentation must include information about frequency and methods of supervision used, the content of supervision, and the names and credentials of all persons participating in the supervisory process. ( )

012. DEEP THERMAL AND ELECTROTHERAPEUTIC MODALITIES, AND WOUND CARE.

01. Qualifications. Except as provided in Paragraph 012.01.b. i. of these rules, a person may not utilize occupational therapy techniques involving deep thermal, electrotherapeutic modalities or perform wound care management unless the person: ( )

a. Is licensed by the Board as an occupational therapist; and ( )

i. Is certified by the Hand Therapy Commission; or ( )

ii. Has successfully completed three (3) continuing education units in the application of deep thermal and electrotherapeutic modalities and one and one half (1.5) continuing education units in wound care management, along with one hundred sixty (160) hours of supervised, on-the-job or clinical internship or affiliation training, pertaining to each area of deep thermal, electrotherapeutic modalities and wound care management. ( )

b. A certified occupational therapy assistant may apply deep thermal and electrotherapeutic modalities only while the occupational therapy assistant is working under the direct supervision of a qualified occupational therapist. ( )

01~~1~~3. -- 019. (RESERVED).

020. GENERAL QUALIFICATIONS FOR LICENSURE.

01. **Applicant**. An applicant must be of good moral character. The Board may refuse licensure if it finds the applicant has engaged in conduct prohibited by Section 54-371~~2~~3, Idaho Code; provided, the Board shall take into consideration the rehabilitation of the applicant and other mitigating circumstances. ~~*(1-5-88)*~~(____)

02. **Education**. Each applicant shall provide evidence of successful completion of the academic requirements of an educational program in occupational therapy that is accredited by the American Occupational Therapy Association's Accreditation Council for Occupational Therapy Education (ACOTE), or ~~*an accrediting agency*~~ by a predecessor or successor organization recognized by the United States Secretary of Education, the Council for Higher Education Accreditation, or both. ~~*(4-2-03)*~~(____)

03. **Experience**. Each applicant shall submit evidence of having successfully completed a period of supervised fieldwork experience acceptable to the board, which fieldwork shall be: (4-2-03)

a. For an occupational therapist, a minimum of six (6) months of supervised fieldwork experience; or (4-2-03)

b. For an occupational therapy assistant, a minimum of four (~~2~~4) months of supervised fieldwork experience. ~~*(4-2-03)*~~(____)

04. **Examination**. Each applicant shall either pass an examination required by the Board or shall be entitled to apply for licensure by endorsement or limited permit. (1-5-88)

a. The written examination shall be the examination conducted by the National Board for Certification in Occupational Therapy, Inc. (NBCOT) and the passing score shall be the passing score established by the NBCOT. (4-2-03)

b. An applicant for licensure by examination who fails to pass the examination on two (2) attempts must submit a new application as specified in Subsection 021.01. ~~*(4-30-93)*~~(____)

~~***c.*** *An applicant for licensure by examination who has failed to pass the examination on two (2) separate occasions will be denied eligibility to reapply; however his or her application may be considered on an individual basis if he or she submits proof of additional training.* *(1-5-88)*~~

~~***d.*** *An applicant may obtain his examination scores and may review his papers in accordance with Section 54-3707(3), Idaho Code.* *(4-2-03)*~~

05. **Good Standing**. An applicant must be in good standing as defined in these rules. (____)

0~~5~~6. **Application Expiration**. An application upon which the applicant takes no further action will be held for no longer than one (1) year. (1-5-88)

021. APPLICATION FOR LICENSURE.

01. Licensure by Examination. Each applicant for licensure by examination shall submit a completed written application to the Board, on forms prescribed by the Board, together with the application fee. The application shall be verified and under oath and shall require the following information: (7-1-99)

a. A certificate of graduation from an approved occupational therapy curriculum; or an approved occupational therapy assistant's curriculum accredited by the American Occupational Therapy Association's Accreditation Council for Occupational Therapy Education, or an accrediting agency recognized by the United States Secretary of Education, the Council for Higher Education Accreditation, or both; (4-2-03)

b. The disclosure of any criminal conviction or charges against the applicant other than minor traffic offenses; (1-5-88)

c. The disclosure of any disciplinary action against the applicant by any state professional regulatory agency or professional organization; (1-5-88)

d. The disclosure of the issuance or denial of registration or licensure by any state or district regulatory body; (4-2-03)

e. Not less than two (2) certificates of recommendation from persons having personal knowledge of the applicant's character; (1-5-88)

f. ~~*Two*~~ One (~~*2*~~1), three by four inch (3" x 4") or smaller unmounted photograph~~*s*~~ of the applicant's head and shoulders, ~~*no larger than three by four inch (3" x 4") (head and shoulders),*~~ taken not more than one (1) year ~~*prior to*~~ before the application date ~~*of the application*~~; ~~*(1-5-88)*~~(____)

g. Such other information as deemed necessary for the Board to identify and evaluate the applicant's credentials; and (1-5-88)

h. A copy of the application to write the qualifying exam and the date the examination is scheduled. (1-5-88)

02. Licensure by Endorsement. An applicant may be eligible for licensure without examination if he or she meets all of the other qualifications prescribed in Section 54-370~~*8*~~9, Idaho Code, and also holds a current valid license or registration from some other state, territory or district of the United States, or certified by the National Board for Certification in Occupational Therapy providing they meet Idaho standards and are equivalent to the requirements for licensure pursuant to these rules. ~~*(7-1-99)*~~(____)

a. Each applicant for licensure by endorsement shall submit a completed written application to the Board on forms prescribed by the Board, together with the application fee. The application shall be verified, under oath, and contain the specific information in Subsection 021.01.a. through 021.01.g. of these rules. ~~*(1-5-88)*~~(____)

b. Proof of such licensure or registration shall be verified in a manner acceptable to

the Board. (1-5-88)

03. Limited Permit. The Board may issue a Limited Permit to a graduate occupational therapist or graduate occupational therapy assistant who meets the requirements set forth by Sections 54-3706(1) and 54-3706(2), Idaho Code, who has not yet passed the examination as required in ~~*Subsection*~~ Paragraph 020.04.a. of these rules. ~~*(4-2-03)*~~( )

a. Each person applying for a limited permit must submit a completed written application to the Board on forms prescribed by the Board, together with the required fee. ( )

~~*a*~~b. A Limited Permit shall only allow a person to practice occupational therapy in association with and under the supervision of a licensed occupational therapist. (1-5-88)

~~*b*~~c. A Limited Permit shall be valid only until the person is granted or denied a license under Section 54-37~~*09*~~10, Idaho Code, or until the results of the examination are available to the Board, whichever occurs first; provided however, a Limited Permit shall not be effective for more than six (6) months from the date of issue. ~~*(1-5-88)*~~( )

~~*c*~~d. A Limited Permit may only be renewed once. (1-5-88)

04. Temporary License. The Board may issue a temporary license to a person applying for licensure as an occupational therapist or an occupational therapy assistant if the person is currently licensed and in good standing to practice in another jurisdiction and meets that jurisdiction's requirements for licensure by endorsement. ( )

a. Each person applying for temporary licensure must submit a completed written application to the Board on forms prescribed by the Board, together with the required fee. ( )

b. A temporary license shall automatically expire once the Board has processed the person's application for licensure and issued or denied the applied-for license, or in six (6) months after the date on which the Board issued the temporary license, whichever is sooner. ( )

0~~*4*~~5. Personal Interview. The Board may, at its discretion, require the applicant to appear for a personal interview. (1-5-88)

0~~*5*~~6. Occupational Therapists Practicing in Idaho on Effective Date of These Rules. All persons practicing occupational therapy in Idaho and holding American Occupational Therapy Certification Board (AOTCB) registration on January 5, 1988, shall qualify for license by endorsement~~*, providing completed application is submitted within the six (6) months following January 5, 1988*~~. ~~*(4-2-03)*~~( )

022. LICENSE EXPIRATION AND RENEWAL.
~~*All licenses to practice as an occupational therapist or occupational therapy assistant shall expire on June 30 following issuance or renewal and shall become invalid after that date unless renewed. The Board may condition the issuance of such license for the full term upon the occurrence of events specified by the Board and the Board may extend such certification for an intermediate period of time.*~~ ~~*(4-2-03)*~~

~~***01.*** ***Annual Renewal****. Each license shall be renewed annually before July 1 by submitting a completed request for renewal accompanied by payment of the renewal fee to the Board. Licenses not renewed by the expiration date shall be canceled. (4-2-03)*~~

~~***02.*** ***Reinstatement****. Licenses canceled for nonpayment of yearly renewal fees may be reinstated by filing a completed request for renewal with the Board and paying reinstatement fees. (1-5-88)*~~

~~***03.*** ***Reapply****. A person whose license has been canceled or has lapsed for a period of more than five (5) years shall be required to reapply as a new applicant by examination. (1-5-88)*~~

~~***04.*** ***Continuing Education****. A summary of continuing education activities during the preceding year may be submitted with the renewal application to document this effort by the therapist. Appropriate continuing professional education activities include but are not limited to, the following: (1-5-88)*~~

~~***a.*** *Reading of professional books and journals. (1-5-88)*~~

~~***b.*** *Attending or presenting at conferences, seminars or inservice programs. (1-5-88)*~~

~~***c.*** *Supervision of clinical students. (1-5-88)*~~

~~***d.*** *Holding state or national office in professional organizations. (1-5-88)*~~

~~***e.*** *Formal course work in occupational therapy related subjects. (4-2-03)*~~

~~***f.*** *Presentation of occupational therapy related information to allied professional or community groups. (4-2-03)*~~

~~***g.*** *Conduct of occupational therapy related research or grant supported activity. (4-2-03)*~~

~~***h.*** *Publication of an original article, review or report of clinical experience in an appropriate professional publication. (1-5-88)*~~

01. **Expiration Date**. An individual's license expires on the individual's birth date. The individual must annually renew the license before the individual's birth date in accordance with Section 67-2614, Idaho Code. Licenses not so renewed will be cancelled in accordance with Section 67-2614, Idaho Code. ( )

02. **Reinstatement**. A license cancelled for failure to renew may be reinstated in accordance with Section 67-2614, Idaho Code. ( )

03. **Application for Renewal**. In order to renew a license, a licensee must submit a timely, completed, Board-approved renewal application form and pay the required renewal fees. ( )

023. -- 02~~9~~4. (RESERVED).

025. CONTINUING EDUCATION.
In order to protect public health and safety and promote the public welfare, the Board has adopted the following continuing education requirement consisting of both continuing education units (CEUs) and professional development units (PDUs): ( )

01. Requirement. Every two (2) years, a licensee must complete at least two (2) CEUs recommended by the Idaho Occupational Therapy Association and approved by the Board, along with at least ten (10) Board-approved professional development units (PDUs). The licensee's initial two (2) year period shall begin on the date on which this Board issues the licensee a license and end on the date on which the licensee submits the licensee's second renewal application. Thereafter, the two-year (2) period shall begin to run from the date of each renewal application in which the licensee was required to verify the completion of continuing education. ( )

a. A CEU is a measurement of the licensee's participation in a Board-approved continuing education activity. One (1) CEU requires ten (10) contact hours of participation in a Board-approved continuing education program, excluding meals and breaks. One (1) contact hour equals one (1) clock hour for purpose of obtaining CEUs. ( )

b. A PDU is a measurement of the licensee's participation in a professional development activity. One (1) contact hour of participation in Board-approved professional development activity equals one (1) PDU, one (1) academic credit equals ten (10) PDUs, and one (1) CEU equals ten (10) PDUs. If a licensee counts a CEU towards fulfilling the PDU requirement in a given two-year (2) period, the CEU unit will not count towards fulfilling the CEU requirement. Accepted PDU activities and their associated PDU values are set forth in the PDU Activities Chart at pages 14-17 of the NBCOT Certification Renewal Handbook, 2009 edition as incorporated by reference in Section 004. ( )

02. Verification. The licensee must verify to the Board, as part of the annual license renewal process, that the licensee is in compliance with the continuing education requirement. ( )

03. Courses and Activities. At least one (1) CEU and five (5) PDUs must directly relate to the delivery of occupational therapy services. The remaining PDUs and CEUs must be germane to the practice of occupational therapy and relate to other areas of a licensee's practice. A licensee may take online or home study courses, as long as a course completion certificate is provided. ( )

a. CEUs and PDUs acceptable to the Board include, but are not limited to, programs or activities sponsored by the American Occupational Therapy Association (AOTA) or the Idaho Occupational Therapy Association (IOTA); post-professional coursework completed through any approved or accredited educational institution that is not part of a course of study leading to an academic degree; or otherwise meet all of the following criteria: ( )

i. The program or activity contributes directly to professional knowledge, skill, and ability; ( )

ii. The program or activity relates directly to the practice of occupational therapy; and ( )

iii. The program or activity must be objectively measurable in terms of the hours involved. ( )

b. Partial credit will not be given for CEUs and PDUs. ( )

c. The delivery of occupational therapy services may include: models, theories or frameworks that relate to client/patient care in preventing or minimizing impairment, enabling function within the person/environment or community context. ( )

d. Other activities may include, but are not limited to, occupation based theory assessment/interview techniques, intervention strategies, and community/environment as related to one's practice ( )

04. **Carry Over and Duplication**. CEUs and PDUs cannot be carried over to the next reporting period. The same course taken more than once during a reporting cycle will only be counted once. ( )

05. **Documentation**. A licensee need not submit documentation of CEUs and PDUs when the licensee renews a license. However, a licensee must maintain documentation verifying that the licensee has completed the continuing education requirement for a period of four (4) years. A licensee must submit the verification documentation to the Board if the licensee is audited by the Board. A percentage of occupational therapists and certified occupational therapy assistants will be audited every year. ( )

a. Documentation for all activities must include licensee's name, date of activity or when course was completed, provider name, course title, description of course/activity, and number of PDUs and CEUs. ( )

b. Records showing participation in each professional development activity must be maintained by the licensee. Acceptable documentation for specific activities includes: ( )

i. Continuing education course work. The required documentation for this activity is a certificate or documentation of attendance. ( )

ii. In-service training. The required documentation for this activity is a certificate or documentation of attendance. ( )

iii. Professional conference or workshop. The required documentation for this activity is a certificate or documentation of attendance. ( )

iv. Course work offered by an accredited college or university, provided that the course work is taken after the licensee has obtained a degree in occupational therapy, and the course work provides skills and knowledge beyond entry-level skills or knowledge. The required documentation for this activity is a transcript. ( )

v. Publications. The required documentation for this activity is a copy of the publication. ( )

vi. Presentations. The required documentation for this activity is a copy of the presentation or program listing. Any particular presentation may be reported only once per reporting period. ( )

vii. Interactive online courses. The required documentation for this activity is a certificate or documentation of completion. ( )

viii. Development of instructional materials incorporating alternative media such as video, audio and/or software programs to advance professional skills of others. The required documentation for this activity is a program description. The media/software materials must be available if requested during audit process. ( )

ix. Professional manuscript review. The required documentation for this activity is a letter from publishing organization verifying review of manuscript. A maximum of ten (10) hours is allowed per reporting period for this category. ( )

x. Guest lecturer for occupational therapy related academic course work (academia not primary role). The required documentation for this activity is a letter or other documentation from instructor. ( )

xi. Serving on a professional board, committee, disciplinary panel, or association. The required documentation for this activity is a letter or other documentation from the organization. A maximum of ten (10) hours is allowed per reporting period for this category. ( )

xii. Self study of cassette, tape, video tape, or other multimedia device, or book. The required documentation for this activity is a two (2) page synopsis of each item written by the licensee. A maximum of ten (10) hours is allowed per reporting period for this category. ( )

xiii. Level II fieldwork direct supervision of an occupational therapy student or occupational therapy assistant student by site designated supervisor(s). The required documentation for this activity is a name of student(s), letter of verification from school, and dates of fieldwork. A maximum of ten (10) hours per supervisor is allowed per reporting period for this category. ( )

06. **Exemptions**. A licensee may request an exemption from the continuing education requirement for a particular two-year (2) period under the following circumstances. The licensee must provide any information requested by the Board to assist in substantiating the licensee's need for a claimed exemption: ( )

a. During the continuing education period the licensee was residing in another country for one (1) year or longer, reasonably preventing completion of the continuing competency requirements; ( )

b. The licensee was absent from Idaho because of military service for a period of one (1) year or longer during the continuing education period, preventing completion of the

continuing competency requirements; or ( )

c. The licensee should be exempt from the continuing competency requirements for reasons of health or other good cause. ( )

026. -- 029. (RESERVED).

(BREAK IN CONTINUITY OF SECTIONS)

032. DENIAL OR REFUSAL TO RENEW, SUSPENSION OR REVOCATION OF LICENSE.

01. Disciplinary Authority. A new application may be denied or renewal refused, and every person licensed pursuant to Title 54, Chapter 37, Idaho Code and these rules is subject to discipline, pursuant to the procedures and powers established by and set forth in Section 54-371~~2~~3, Idaho Code, IDAPA 04.11.01, "Idaho Rules of Administrative Procedure of the Attorney General," and the Administrative Procedure Act, Title 67, Chapter 52, Idaho Code.~~*(4-2-03)*~~( )

02. Grounds for Discipline. In addition to the grounds set forth in Section 54-371~~2~~3, Idaho Code, applicants may be denied or refused licensure and licensees are subject to discipline upon the following grounds, including but not limited to: ~~*(4-2-03)*~~( )

a. Obtaining a license by means of fraud, misrepresentation, or concealment of material facts; (1-5-88)

b. Being guilty of unprofessional conduct or violating the Code of Ethics governing said licensees, including the provision of health care which fails to meet the standard of health care provided by other qualified licensees in the same community or similar communities, taking into account the licensee's training, experience and the degree of expertise to which he holds himself out to the public; (1-5-88)

c. Being convicted of a felony by a court or competent jurisdiction; (1-5-88)

d. The unauthorized practice of medicine; (1-5-88)

e. Violating any provisions of this act or any of the rules promulgated by the Board under the authority of the act; or (1-5-88)

f. Failure to properly supervise ~~*the activities of occupational therapy assistants or occupational therapy aides*~~ persons as required in these rules. ~~*(4-2-03)*~~( )

03. Penalties. In addition to any other disciplinary sanctions the Board may impose against a licensee, the Board may impose a fine of up to one thousand dollars ($1,000) per violation, or in such greater amount as the Board may deem necessary to deprive the licensee of any economic advantage gained by the licensee through the conduct that resulted in discipline and that reimburses the Board for costs of the investigation and disciplinary proceedings. ( )

~~***033. OCCUPATIONAL THERAPY AIDE.***~~

~~***01. Evaluation of Patient/Client Before Task Assignment****. The occupational therapist shall evaluate each patient/client before tasks are assigned to an occupational therapy aide. Only the occupational therapist or the occupational therapy assistant shall determine, assign, and modify those tasks that can be safely and effectively performed by an occupational therapy aide.*~~
~~*(7-1-99)*~~

~~***02. What Aids Cannot Do****. The occupational therapist and occupational therapy assistant shall not assign or permit aides to:*~~ ~~*(7-1-99)*~~

~~***a.*** *Interpret referrals or prescriptions for occupational therapy services;*~~ ~~*(7-1-99)*~~

~~***b.*** *Interpret or analyze evaluation data;*~~ ~~*(7-1-99)*~~

~~***c.*** *Develop, plan, or modify treatment plans;*~~ ~~*(7-1-99)*~~

~~***d.*** *Act independently without the supervision of an occupational therapist or occupational therapy assistant;*~~ ~~*(7-1-99)*~~

~~***e.*** *Perform or document services represented as occupational therapy unless the occupational therapy aide is under the supervision of an occupational therapist or occupational therapy assistant. All documentation must be countersigned by the occupational therapist.*~~
~~*(7-1-99)*~~

~~***03. Professional Supervision of an Occupational Therapy Aide****. Professional supervision of an occupational therapy aide shall be provided by a licensed occupational therapist or occupational therapy assistant and shall include:*~~ ~~*(4-2-03)*~~

~~***a.*** *Documented training by the occupational therapist or occupational therapy assistant of the occupational therapy aide in each specific occupational therapy technique for each specific client and the training shall be performed on the client.*~~ ~~*(4-2-03)*~~

~~***b.*** *Face to face meetings between the occupational therapy aide and the occupational therapist or an occupational therapy assistant under the direction of the occupational therapist occurring at such intervals as determined by the occupational therapist to meet the client's needs, but shall occur at least once every two (2) weeks:*~~ ~~*(7-1-99)*~~

~~***c.*** *The occupational therapist or occupational therapy assistant shall observe the occupational therapy aide perform on the client the specific techniques for which the aide was trained at intervals as determined by the occupational therapist to meet the client's need, but shall occur at least once a month.*~~ ~~*(4-2-03)*~~

~~***d.*** *Meetings and client contacts will be documented in the client's record.*~~ ~~*(7-1-99)*~~

03~~4~~3. -- 040. (RESERVED).

041. FEES.
~~*Actual fees shall be set to reflect costs of Board administration.* *(1-5-88)*~~

01. Fees. Necessary fees shall accompany applications. Fees shall not be refundable. ~~*In those situations where the processing of an application requires extraordinary expenses, the Board will charge the applicant with reasonable fees to cover all or part of the extraordinary expenses.* *(4-2-03)*~~(____)

02. Initial Licensure. The fee for initial licensure of occupational therapists shall be one hundred ~~*ten*~~ fifteen dollars ($11~~*0*~~5) and the fee for occupational therapy assistants shall be eighty-five dollars ($8~~*0*~~5). ~~*(4-2-03)*~~(____)

03. Limited Permit or Temporary License. The fee for a limited permit or temporary license shall be ~~*twenty-five*~~ thirty dollars ($~~*25*~~30) ~~*for occupational therapists and for occupational therapy assistants*~~. ~~*(4-2-03)*~~(____)

04. Renewal Fee. The annual renewal fee shall be ~~*sixty-five*~~ seventy dollars ($~~*65*~~70) for occupational therapists and ~~*forty-five*~~ fifty dollars ($~~*4*~~50) for occupational therapy assistants. ~~*The failure of any licensee to renew his or her license shall not deprive such person of the right to renewal, except as provided for in Sections 54-3710 and 54-3712, Idaho Code.* *(4-2-03)*~~(____)

05. Reinstatement Fee. The ~~*reinstatement*~~ fee ~~*for*~~ to reinstate a lapsed license shall be ~~*the annual renewal fee for each year not licensed plus a fee of*~~ thirty-five dollars ($35). ~~*(1-5-88)*~~(____)

06. Inactive Fee. The fee for inactive licensure shall be ~~*forty-five*~~ fifty dollars ($~~*4*~~50) for occupational therapists and occupational therapy assistants. ~~*(4-2-03)*~~(____)

07. Inactive to Active License Fee. An inactive license may be converted to an active license by application to the Board and payment of required fees. (4-2-03)

a. The fee for converting an inactive to an active license shall be ~~*a fee of thirty-five*~~ forty dollars ($~~*35*~~40) and the annual renewal fee for each year not actively licensed minus inactive fees previously paid. ~~*(4-2-03)*~~(____)

b. Before the license will be converted the applicant must account for the time during which an inactive license was held. The Board may, in its discretion, require a personal interview. (4-2-03)

~~***042. – 049. (RESERVED).***~~

~~***050. EFFECTIVE DATE.***~~
~~*These rules shall be effective January 5, 1988. Fee increases shall be effective April 2, 1993.* *(7-1-93)*~~

0~~*51*~~42. -- 999. (RESERVED).

IDAPA 24 - BUREAU OF OCCUPATIONAL LICENSES

24.12.01 - RULES OF THE IDAHO STATE BOARD OF PSYCHOLOGIST EXAMINERS

DOCKET NO. 24-1201-0901

NOTICE OF RULEMAKING - ADOPTION OF PENDING FEE RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2010 Idaho State Legislature for final approval. Pursuant to Section 67-5224(5)(c), Idaho Code, this pending rule will not become final and effective until it has been approved, amended, or modified by concurrent resolution of the legislature because of the fee being imposed or increased through this rulemaking. The rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending fee rule. The action is authorized pursuant to Section 54-2305, Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change:

The pending rule is being adopted as proposed. The complete text of the proposed rule was published in Book 2 of the October 7, 2009 Idaho Administrative Bulletin, Vol. 09-10, pages 151 through 156.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased. This fee or charge is being imposed pursuant to Sections 54-2307, 54-2312, and 54-2312A, Idaho Code:

The proposed set of rules increases certain fees to assist the Board of Psychologist Examiners with its cash balance and creates an inactive status. Annual renewal fee for inactive license will be $150. Original application fee for licensure by exam will be $200. Original application fee for licensure by endorsement/senior psychologist will be $300.

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: None.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending fee rule, contact Cherie Simpson at 208 334-3233.

DATED this 28th day of October, 2009.

Tana Cory, Bureau Chief
Bureau of Occupational Licenses
1109 Main St. Ste. 220, Boise, ID 83702
(208) 334-3233 Ph. (208) 334-3945, fax

THE FOLLOWING NOTICE PUBLISHED WITH THE PROPOSED FEE RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Section 54-2305, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 21, 2009.

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

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

It creates an inactive status as allowed in House Bill 45 which was passed by the 2009 Legislature. It establishes and clarifies the Board's ability to require a licensee complete a rehabilitation program as part of discipline for their violation which will assist the Board in protecting the public. It will also allow the Board to waive a licensee's continuing education in a hardship circumstance. Finally, these rules will allow additional activities to qualify for a licensee's continuing education and clarify the continuing education requirements.

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

The proposed set of rules increases certain fees to assist the Board of Psychologist Examiners with its cash balance and creates an inactive status. Annual renewal fee for inactive license will be $150. Original application fee for licensure by exam will be $200. Original application fee for licensure by endorsement/senior psychologist will be $300.

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

The fiscal impact to dedicated funds would depend on the number of licensees who choose to change their license from active to inactive. There is no fee change for an original application for licensure by exam so there would be no impact. Based on an average of seven endorsement applications per year, the increase in the original application fee for licensure by endorsement could have a positive impact of approximately $700 per year.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220, Idaho Code, negotiated rulemaking was not conducted because the changes were discussed in noticed open meetings.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN

COMMENTS: For assistance on technical questions concerning the proposed rule, contact Cherie Simpson at (208) 334-3233.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 28, 2009.

DATED this 17th day of August, 2009.

THE FOLLOWING IS THE TEXT OF THE PENDING FEE RULE

005. ADDRESS OF THE IDAHO BOARD OF PSYCHOLOGIST EXAMINERS (RULE 5).
The office of the Board of Psychologist Examiners is located within the Bureau of Occupational Licenses, Owyhee Plaza, 1109 Main Street, Suite 220, Boise, Idaho 83702-5642. The phone number of the Board is (208) 334-3233. The Board's FAX number is (208) 334-3945. The Board's e-mail address is psy@ibol.idaho.gov. The Board's official web site ~~is~~ can be found at http://www.ibol.idaho.gov/. ~~(3-19-07)~~( )

(BREAK IN CONTINUITY OF SECTIONS)

150. FEES (RULE 150).

01. Annual Renewal Fee. Annual renewal fee -- three hundred dollars ($300). (3-19-07)

02. Annual Renewal Fee for Inactive License. Annual renewal fee - one hundred fifty dollars ($150). ( )

03. Original Application Fee For Licensure by Exam. Application fee - two hundred dollars ($200). ( )

0~~2~~4. Original Application Fee For Licensure by Endorsement/Senior Psychologist. Original ~~A~~application fee for licensure by endorsement/senior psychologist fee - ~~two~~ three hundred dollars ($~~2~~300). ~~(7-1-93)~~( )

0~~3~~5. Service Extender Application Fee. Application fee - one hundred dollars ($100). (3-19-07)

0~~4~~6. Service Extender Annual Renewal Fee. Annual renewal fee - one hundred dollars ($100). (3-19-07)

0~~5~~7. Examination and Reexamination Fee. Examination and reexamination fees are those charged by the national examining entity plus a processing fee of twenty-five dollars ($25). (5-3-03)

0~~6~~8. Examination and Reexamination in Addition to Application Fee. The examination or reexamination fee are in addition to the application fee and must accompany the application. (3-19-07)

09. Reinstatement Fee. Any license cancelled for failure to renew may be reinstated upon payment of twenty-five dollars ($25), together with the renewal fee for each year thereafter up to the time of reinstatement. ( )

10. Fees are Non-Refundable. All fees are non-refundable. ( )

(BREAK IN CONTINUITY OF SECTIONS)

261. -- 2~~99~~74. (RESERVED).

275. INACTIVE STATUS (RULE 275).

01. Request for Inactive Status. Persons requesting an inactive status during the renewal of their active license must submit a written request and pay the established fee. ( )

02. Inactive License Status. ( )

a. All continuing education requirements will be waived for any year or portion thereof that a licensee maintains an inactive license and is not actively practicing or supervising in Idaho. ( )

b. Inactive license renewal notices and licenses will be marked **"**Inactive**"**. ( )

c. When the licensees desire active status, they must show fulfillment of continuing education requirements within the previous twelve (12) months and submit a fee equivalent to the difference between the current inactive and active renewal fee. ( )

d. Licensees may not practice in Idaho while on inactive status. ( )

276. -- 299. (RESERVED).

(BREAK IN CONTINUITY OF SECTIONS)

376. -- 3~~9~~79. (RESERVED).

380. REHABILITATION GUIDELINES (RULE 380).
In the event of a violation of Board laws or rules, the Board, in its discretion, may implement a plan of rehabilitation. Completion of the plan may lead to consideration of submission of an application for re-licensure, the removal of suspension, or the removal of supervision requirements. In the event the licensee has not met the Board's criteria for rehabilitation, the plan may be revised, expanded, or continued depending upon the progress of the rehabilitation program. The rehabilitation guidelines listed in this Section should be considered illustrative, but not exhaustive, of the potential options available to the Board. In each instance, rehabilitation guidelines will be tailored to the individual needs of the licensee. ( )

01. Options in Devising Rehabilitation Program. The Board may follow one (1) or more options in devising a rehabilitation program: ( )

a. The individual may be supervised in all or selected areas of activities related to his practice as a licensee by a licensed psychologist approved by the Board for a specified length of time. ( )

i. The Board may specify the focus of the supervision. ( )

ii. The Board may specify the number of hours per week required in a face-to-face supervisory contract. ( )

iii. The Board may require the supervisor to provide periodic and timely reports to the Board concerning the progress of the supervisee. ( )

iv. Any fees for supervision time will be the responsibility of the supervisee. ( )

02. Educational Programs. The individual may be expected to successfully complete a variety of appropriate educational programs. Appropriate educational formats may include, but are not limited to, workshops, seminars, courses in regionally accredited universities, or organized pre- or post-doctoral internship settings. Workshops or seminars that are not held in a setting of academic review (approved continuing education) need prior approval of the Board. Any course of study must be approved by the Board prior to enrollment if it is to meet the criteria of a rehabilitation plan. ( )

03. Additional Requirements. The Board may require of the individual: ( )

a. Psychodiagnostic evaluations by a psychologist approved by the Board; ( )

b. A physical examination that may include an alcohol and drug screen by a physician approved by the Board; ( )

c. Psychotherapy on a regular basis from a psychologist approved by the Board; ( )

d. Take or retake and pass the appropriate professional examination; or ( )

e. Any other requirement that seems appropriate to the individual case. ( )

381. -- 399. (RESERVED).

(BREAK IN CONTINUITY OF SECTIONS)

401. CONTINUING EDUCATION REQUIREMENTS FOR RELICENSURE IN PSYCHOLOGY (RULE 401).

01. Number of Hours Required. All licensed psychologists, in order to renew their license, must have accumulated twenty (20) hours per year of continuing education credits. At the time of renewal of the psychologists' licenses, they will certify that they are aware of the requirements for continuing education and that they have met those requirements for the preceding year. A minimum of four (4) hours credit in ethics, standards of care, and/or review of laws pertaining to the practice of psychology is required every three (3) years. Areas covered may include practice, consultation, research, teaching, and/or supervision. These units may be used as part of the continuing education credit required. (5-8-09)

02. Professional Level of Continuing Education -- Time Period Records Kept - Audit. This continuing education experience must be at an appropriate level for professional training in psychology. The licensees have responsibility for demonstrating the relevance and adequacy of the educational experience they select. The licensees are also responsible for keeping an accurate record of their own personal continuing education hours for a period of five (5) years. A random audit may be conducted to insure compliance. (7-1-93)

03. Newly Licensed Individuals. Newly licensed individuals will be considered to have satisfied the continuing education requirements for the remainder of the year in which their license is granted. (7-1-93)

04. Certificates of Satisfactory Attendance and Completion. Certificates of satisfactory attendance and completion, cancelled checks, participant lists, transcripts from universities, letters of certification on instructor's letterhead, and other reasonably convincing proof of the submitted activities may serve as documentation when persons audited are required to submit proof of continuing education. (7-1-93)

05. Licensees Who Do Not Fulfill the Continuing Education Requirements. Licensees who do not fulfill the continuing education requirements may be subject to disciplinary action. (7-1-93)

06. Carryover of Continuing Education Hours. Continuing education courses not claimed for CE credit in the current renewal year, may be credited for the next renewal year. A maximum of twenty (20) hours may be carried forward from the immediately preceding year. (5-3-03)

07. Special Exemption. The Board has the authority to make exceptions for reasons

of individual hardship including health, when certified by a medical doctor, or other good cause. The licensee must provide any information requested by the Board to assist in substantiating hardship cases. This exemption is granted at the sole discretion of the Board. Request for special exemption must be made prior to licensure renewal. (____)

402. GUIDELINES FOR APPROVAL OF CONTINUING EDUCATION CREDITS (RULE 402).

01. Continuing Education Credit. Continuing education credit will be given to formally organized workshops or classes with an attendance roster and preassigned continuing education credit offered in association with or under the auspices of: (7-1-93)

a. Regionally accredited institutions of higher education. (7-1-93)

b. The American Psychological Association. (7-1-93)

c. A Regional Psychological Association. (7-1-93)

d. A State Psychological Association. (7-1-93)

e. Credit will be given for the number of credit hours preauthorized by the sponsoring agency with no upper limit on the number of hours. (7-1-93)

02. Credit for International, National and Regional Meetings of Psychological Organizations. Six (6) hours of continuing education credit will be allowed for documented attendance at international, national and regional meetings of psychological organizations. (7-1-93)

03. Credit for Other Relevant Workshops, Classes or Training Experiences. Other relevant workshops, classes or training experiences may receive up to six (6) hours of credit per experience provided they are conducted by a licensed or reputable psychologist or other mental health professional. Each documented hour of training experience counts as one (1) hour of continuing education experience. A maximum of six (6) hours of this type of experience may be approved. (7-1-93)

04. Presentation of Papers. Presentation of papers at international, national, regional or state psychological or other professional associations may be counted as equivalent to six (6) hours per event. Only actual presentation time may be counted; preparation time does not qualify for credit. The licensee must provide the Board with a letter from a sponsor, host organization, or professional colleague, copy of the program, and a summary of the evaluations from the event. ~~(7-1-93)~~(____)

05. Self-Study, Lectures or Public or Professional Publications and Presentations. The Board also recognizes the value of self-study, lectures or public or professional publications and presentations (including for example, in the case of the university faculty, preparation of a new course). Therefore, the Board will allow credit for six (6) hours of individual study per year. (7-1-93)

a. Self study. The reading of a publication may qualify for credit with proper documentation verifying completion. A licensee seeking credit for reading a publication must submit results from a test on the information contained within the publication. If a test is not available, the licensee must seek pre-approval of the Board. ( )

b. Professional publications. Publication activities are limited to articles in professional journals, a chapter in an edited book, or a published book. The licensee must provide the Board with a copy of the cover page of the article or book in which the licensee has been published. For chapters of an edited book, licensees must submit a copy of the table of contents. ( )

06. Board Assessment of Continuing Education Activities. The Board of Psychologist Examiners may avail itself of help and consultation from the American Psychological Association or the Idaho Psychological Association in assessing the appropriateness of continuing education activities. ~~*(7-1-93)*~~( )

07. On-Line Education. A maximum of ten (10) on-line continuing education hours relevant to the practice of psychology may be counted during each reporting period. ( )

a. On-line continuing education hours must be offered by or obtained from regionally accredited institutions of higher education or approved by the American Psychological Association. ( )

b. The licensee must provide the Board with a copy of the certification, verified by the authorized signatures from the course instructors, providers, or sponsoring institution, substantiating any hours completed by the licensee. ( )

08. Teleconferences. A maximum of six (6) continuing education hours may be counted through teleconference education during each reporting period. To qualify for credit, teleconferences must feature an interactive format. Interactive conferences are those that provide the opportunity for participants to communicate directly with the instructor or that have a facilitator present at the conference site. The licensee must provide the Board with a copy of the certificate, or a letter signed by course instructors, providers, or sponsoring institution, substantiating any hours attended by licensee. ( )

IDAPA 24 - BUREAU OF OCCUPATIONAL LICENSES

24.17.01 - RULES OF THE STATE BOARD OF ACUPUNCTURE

DOCKET NO. 24-1701-0901

NOTICE OF RULEMAKING - ADOPTION OF PENDING FEE RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2010 Idaho State Legislature for final approval. Pursuant to Section 67-5224(5)(c), Idaho Code, this pending rule will not become final and effective until it has been approved, amended, or modified by concurrent resolution of the legislature because of the fee being imposed or increased through this rulemaking. The rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending fee rule. The action is authorized pursuant to Section 54-4705, Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change:

The pending rule is being adopted as proposed. The complete text of the proposed rule was published in Book 2 of the October 7, 2009 Idaho Administrative Bulletin, Vol. 09-10, pages 172 and 173.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased. This fee or charge is being imposed pursuant to Section 54-1115A, Idaho Code:

This change would reduce the following fees: application fee from $200 to $100; annual renewal fees for licensure and certification from $200 to $125; and annual renewal fees for technician certification from $150 to $75.

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 fee change would reduce the amount of fees collected for the Board of Acupuncture by approximately $13,250 per year based on the number of licensees.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending fee rule, contact Cherie Simpson at 208 334-3233.

DATED this 28th day of October, 2009.

Tana Cory
Bureau Chief
Bureau of Occupational Licenses
1109 Main St. Ste. 220, Boise, ID 83702
(208) 334-3233 Ph. (208) 334-3945 fax

THE FOLLOWING NOTICE PUBLISHED WITH THE PROPOSED FEE RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Section 54-4705, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 21, 2009.

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

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

The Board of Acupuncture operates on fees paid by its licensees. This change would decrease the application fee, and the annual renewal fees for licensure, certification, and technician certification. The Board is also updating their website address.

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

This fee or charge is being imposed pursuant to Section 54-1115A, Idaho Code. This change would reduce the following fees: application fee from $200 to $100; annual renewal fees for licensure and certification from $200 to $125; and annual renewal fees for technician certification from $150 to $75.

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

This fee change would reduce the amount of fees collected for the Board of Acupuncture by approximately $13, 250 per year based on the number of licensees.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220, Idaho Code, negotiated rulemaking was not conducted because the changes were discussed in noticed open meetings.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Cherie Simpson at (208) 334-3233.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 28, 2009.

DATED this 3rd day of August, 2009.

THE FOLLOWING IS THE TEXT OF THE PENDING FEE RULE

005. ADDRESS OF THE IDAHO STATE BOARD OF ACUPUNCTURE (RULE 5).
The office of the Board of Acupuncture is located within the Bureau of Occupational Licenses, Owyhee Plaza, 1109 Main St., Suite 220, Boise, ID 83702. The phone number of the Board is (208) 334-3233. The Board's FAX number is (208) 334-3945. The Board's e-mail address is acu@ibol.idaho.gov. The Board's official web site ~~*is*~~ can be found at www.ibol.idaho.gov~~/*acu.htm*~~. ~~*(3-21-07)*~~(____)

(BREAK IN CONTINUITY OF SECTIONS)

300. FEES (RULE 300).

01. Application Fee. Application fee for any original license or certification - ~~*two*~~ one hundred dollars ($~~2~~100). ~~*(3-21-07)*~~(____)

02. Original License Fee. (3-30-01)

a. Original license fee - two hundred dollars ($200). (3-21-07)

b. Original fee for certification - two hundred dollars ($200). (3-21-07)

c. Original fee for technician certification - one hundred fifty dollars ($150). (3-30-01)

03. Annual Renewal Fee. (3-10-00)

a. Annual renewal fee for licensure - ~~*two*~~ one hundred twenty-five dollars ($~~*200*~~ 125). ~~*(3-21-07)*~~(____)

b. Annual renewal fee for certification - ~~*two*~~ one hundred twenty-five dollars ($~~*200*~~ 125). ~~*(3-21-07)*~~(____)

c. Annual renewal fee for technician certification - ~~*one hundred fifty*~~ seventy-five dollars ($~~*150*~~ 75). ~~*(3-10-00)*~~(____)

04. Inactive License. Inactive license or certification fee - fifty dollars ($50). (3-30-01)

05. Non-refundable. All fees are non-refundable. (3-10-00)

06. Yearly Fees. With the exception of Subsection 300.01 and 300.02, all fees provided under these rules are yearly fees. (3-10-00)

IDAPA 24 - BUREAU OF OCCUPATIONAL LICENSES

24.23.01 - RULES OF THE SPEECH AND HEARING SERVICES LICENSURE BOARD

DOCKET NO. 24-2301-0901 (FEE RULE)

NOTICE OF RULEMAKING - ADOPTION OF PENDING FEE RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2010 Idaho State Legislature for final approval. Pursuant to Section 67-5224(5)(c), Idaho Code, this pending rule will not become final and effective until it has been approved, amended, or modified by concurrent resolution of the legislature because of the fee being imposed or increased through this rulemaking. The rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending fee rule. The action is authorized pursuant to Section 54-2910, Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change:

The Board of Speech and Hearing Services is updating the web address for the Board as it has changed. This rule increases the renewal fee by $25, and clarifies that exam fees for unexcused applicants are non refundable. To ensure competency, it clarifies the need for continuing education when reinstating a license. It adds provision to carry over continuing education and adds a special exemption for continuing education for the benefit of licensees. It clarifies when a provisional permit can be issued and how many permit holders can be supervised at a time. It clarifies what records must be maintained by the supervisor of a hearing aid dealer and fitter. It clarifies the quarterly report for audiology and hearing aid dealer and fitter and what needs to be included. It changes the text submitted as a proposed rule in Section 175.02 by deleting the reference to endorsement fee and deletes proposed section 310 as endorsement requirements are not provided in Title 54, Chapter 29, Idaho Code.

The text of the pending rule has been amended in accordance with Section 67-5227, Idaho Code. Only those sections that have changes that differ from the proposed text are printed in this bulletin. The complete text of the proposed rule was published in Book 2 of the October 7, 2009 Administrative Bulletin, Vol. 09-10, pages 192 through 195.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased. This fee or charge is being imposed pursuant to Section 54-2921, Idaho Code:

Rule 175 increases the renewal fees from $100 to $125.

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:

There is no impact to the general fund.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending fee rule, contact Cherie Simpson at 208 334-3233.

DATED this 8th day of December, 2009.

Tana Cory
Bureau Chief
Bureau of Occupational Licenses
1109 Main St. Ste. 220
Boise, ID 83702
(208) 334-3233 Ph. (208) 334-3945,fax

THE FOLLOWING NOTICE PUBLISHED WITH THE PROPOSED FEE RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Section 54-2910, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 21, 2009.

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

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

The Board of Speech and Hearing Services is updating the web address for the Board as it has changed. The rule is establishing the endorsement fee the same as the original license fee. It increases the renewal fee by $25, and clarifies that exam fees for unexcused applicants are non refundable. To ensure competency, it clarifies the need for continuing education when reinstating a license. To benefit out of state applicants, it adds a section that clarifies the requirements for endorsement. It adds provision to carry over continuing education and adds a special exemption for continuing education for the benefit of licensees. It clarifies when a provisional permit can be issued and how many permit holders can be supervised at a time. It clarifies what records must be maintained by the supervisor of a hearing aid dealer and fitter. It clarifies the quarterly report for audiology and hearing aid dealer and fitter and what needs to be included.

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

Rule 175 increases the renewal fees from $100 to $125.

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

The Board of Speech and Hearing Services is raising the license renewal fee from $100 to $125. This could have a positive impact of approximately $15,625 on dedicated funds based on the 625 licensees.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220, Idaho Code, negotiated rulemaking was not conducted because the changes were discussed in noticed open meetings.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Cherie Simpson at (208) 334-3233.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 28, 2009.

DATED this 17th day of August, 2009.

THE FOLLOWING IS THE TEXT OF THE PENDING FEE RULE

005. ADDRESS OF IDAHO SPEECH AND HEARING SERVICES LICENSURE BOARD (RULE 5).
The office of the Idaho Speech and Hearing Services Licensure Board is located within the Bureau of Occupational Licenses, Owyhee Plaza, 1109 Main Street, Suite 220, Boise, Idaho 83702-5642. The phone number of the Board is (208) 334-3233. The Board's FAX number is (208) 334-3945. The Board's e-mail address is shs@ibol.idaho.gov. The Board's official web site ~~*is*~~ can be found at http://www.ibol.idaho.gov~~*/shs.htm*~~. ~~*(3-30-06)*~~( )

(BREAK IN CONTINUITY OF SECTIONS)

175. FEES (RULE 175).
Applications should not be filed unless the applicant can meet all requirements. (3-30-06)

01. Application Fee. Application Fee - Thirty dollars ($30). (3-30-06)

02. Original License Fee. The original license fee is one hundred dollars ($100) to be accompanied by the completed application. (3-30-06)

03. Examination/Reexamination Fee. Examination fee shall be that charged by the examination provider plus an administration fee of fifty dollars ($50) when the examination is administered by the Board. (3-30-06)

04. Provisional Permit. Provisional permit fee is one hundred dollars ($100). (3-30-06)

05. Annual Renewal Fee. Annual renewal fee is one hundred twenty-five dollars ($1~~00~~25). ~~(3-30-06)~~( )

06. Refund of Fees. No refund of fees shall be made to any person who has paid such fees for application or reinstatement of a license or examination fees for unexcused applicants. ~~(3-30-06)~~( )

176. -- 199. (RESERVED).

200. RENEWAL OF LICENSE (RULE 200).

01. Expiration Date. All licenses expire and must be renewed annually on forms approved by the Board on the birth date of an individual licensee in accordance with Section 67-2614, Idaho Code. Licenses not so renewed will be cancelled in accordance with Section 67-2614, Idaho Code. (3-30-06)

02. Reinstatement. Any license cancelled for failure to renew may be reinstated in accordance with Section 67-2614, Idaho Code, and the applicant must submit proof of having obtained the required continuing education in the twelve (12) months prior to reinstatement. ~~(3-30-06)~~( )

(BREAK IN CONTINUITY OF SECTIONS)

400. CONTINUING EDUCATION (RULE 400).
Every person holding an Idaho license pursuant to this act must annually complete ten (10) contact hours of continuing education prior to license renewal. (3-30-06)

01. Contact Hours. The contact hours of continuing education shall be obtained in areas of study germane to the practice for which the license is issued as approved by the Board. (3-30-06)

02. Documentation of Attendance. It shall be necessary for the applicant to provide documentation verifying attendance by securing authorized signatures or other documentation from the course instructors, providers, or sponsoring institution substantiating any hours attended by the applicant. This documentation must be maintained by the applicant and provided to the

Board upon request by the Board or its agent. (3-30-06)

03. Compliance Audit. The Board may conduct random continuing education audits of those persons required to obtain continuing education in order to renew a license and require that proof acceptable to the Board of meeting the continuing education requirement be submitted to the Bureau. Failure to provide proof of meeting the continuing education upon request of the Board shall be grounds for disciplinary action in accordance with section 54-2923, Idaho Code. (3-30-06)

04. Initial Compliance. Licensees shall not be required to meet the continuing education requirement for the first renewal. (3-30-06)

05. Equivalence. One (1) continuing education hour shall equal one (1) clock hour. (3-30-06)

06. Carryover of Continuing Education (CE) Hours. Continuing education courses not claimed for CE credit in the current renewal year may be credited for the next renewal year. A maximum of five (5) hours may be carried forward from the immediately preceding year. (____)

07. Special Exemption. The Board shall have authority to make exceptions for reasons of individual hardship, including health, when certified by a medical doctor, or other good cause. The licensee must provide any information requested by the Board to assist in substantiating hardship cases. This exemption is granted at the sole discretion of the Board. Requests for special exemption must be received by the Bureau fifteen (15) business days prior to expiration of the license. (____)

401. -- 449. (RESERVED).

450. PROVISIONAL PERMIT (RULE 450).

01. Issuance of a Provisional Permit. The Board may issue a provisional permit in the following instances: (____)

a. To allow a person to engage in the practice of audiology or speech-language pathology while completing either the required postgraduate experience or a comparable experience as part of a doctoral program in audiology~~*. The Board may issue a provisional permit*~~; or (____)

b. To allow a person to engage in fitting and dealing hearing aids~~ *pursuant to rules adopted by the Board*~~. (____)

c. The holder of a provisional permit may practice only while under the supervision of a person fully licensed under this chapter. ~~*(3-30-06)*~~(____)

0~~1~~2. Adequate Personal Contact -- Requirements. (3-30-06)

a. The supervisor and provisional permit holder must make contact in person each work day to review any assignments, client contacts, diagnoses, therapies, and hearing aid fittings

for the first sixty (60) days of employment. The nature of the supervision and contact must allow for immediate feedback and includes audio/visual, in person, or telephone contacts. (4-2-08)

b. After the first sixty (60) days of employment, contact in person, described in Subsection 450.0~~1~~2.a., must be made no less than once in each calendar week throughout the remaining period of the permit. ~~(4-2-08)~~(____)

c. In the event a permit holder fails the licensing examination two (2) consecutive times, and is eligible to maintain a permit, the supervisor and permit holder must reinstate contact in person each work day as set forth in Subsection 450.0~~1~~2.a. ~~(3-30-06)~~(____)

d. All client and supervisor contacts shall be recorded in the permit holder's quarterly report. (3-30-06)

0~~2~~3. Supervisor -- Responsibilities -- Restrictions. (3-30-06)

a. The supervisor must be familiar with Section 54-290~~8~~5 and 54-2907, Idaho Code. ~~(3-30-06)~~(____)

b. The supervisor is responsible for all practice and the ethical conduct of each permit holder under supervision. (3-30-06)

c. A supervisor may not supervise more than ~~one~~ two (~~1~~2) permit holders at a time. ~~(3-30-06)~~(____)

d. The supervisor must have an established business site within the state of Idaho which he regularly utilizes as a base of operation. The supervisor and the permit holder shall be required to work within the same facility. ~~(3-30-06)~~(____)

e. The supervisor must provide the permit holder with adequate training and client contact necessary to prepare for the required examination. (3-30-06)

f. The supervisor of a hearing aid dealer and fitter permit holder must record with the Board a plan of training that encompasses all ten sections covered in the license examination. The plan must be accepted and approved by the Board or its agent prior to issuance of the permit. The supervisor shall document, by the quarterly report, the permit holder's progress. ~~(3-30-06)~~(____)

g. A supervisor may terminate his supervision of a permit holder by a written notice to the Bureau and the permit holder by certified mail at least ten (10) calendar days prior to the termination. (3-30-06)

0~~3~~4. Application -- Quarterly Reports. (3-30-06)

a. Application for permit must include completed application, examination fee, permit fee, supervisor statement and plan of training and supervision. (3-30-06)

b. A permit is not valid unless an unrevoked statement accepting supervisory responsibility by a qualified licensee is on file with the Bureau. Upon termination of supervision,

a new permit may be applied for in accordance with these rules, provided that the expiration date of the new permit is adjusted to not exceed the date of the third licensure examination following the original application. (3-30-06)

c. Eighteen (18) months is the maximum time allowed for any combination of new or renewed permits. (3-30-06)

d. Every permit holder must submit a quarterly report of his activities on forms furnished by the Bureau together with supplemental attachments as may be necessary, attested to and signed by the permit holder and the supervisor of record. All sales or fittings made by the person holding a permit ~~*holder*~~ to practice audiology or a permit to engage in the dealing and fitting of hearing aids will be indicated on the quarterly report forms supplied by the Bureau. Supplemental attachments to be submitted with this form include: ~~*(3-30-06)*~~(____)

i. Log of client and supervisor contacts as specified in Subsection 450.0~~1~~2.d. of these rules. ~~*(3-30-06)*~~(____)

ii. Supervisor's statement of completion of training assignments by permit holder as specified in Subsection 450.0~~2~~3.f. ~~*(3-30-06)*~~(____)

iii. Copy of test results for all persons tested by the permit holder whether or not a sale occurred. (3-30-06)

iv. Copy of hearing aid order for all fittings including specifications of instruments ordered. Hearing aid dealers and fitters and audiologists must provide a copy of hearing aid order. ~~*(3-30-06)*~~(____)

e. Quarterly reports are due on or before April 10th, July 10th, October 10th and January 10th for the three (3) months preceding the month due. If the permit has not been in effect for the entire quarter, the report is due for that portion of the quarter in which the permit was in effect. If quarterly reports are not received by the specified due date, the permit ~~*will*~~ may be revoked. A new permit may be applied for in accordance with Subsection 450.03.a. ~~*(3-30-06)*~~(____)

0~~4~~5. Exemptions. (3-30-06)

a. A permit holder who possesses the Certificate of Clinical Competence in Audiology from American Speech-Language-Hearing Association (ASHA) or who is Board Certified by National Board for Certification in Hearing Instrument Sciences (NBC-HIS) shall be exempt from Subsections 450.0~~1~~2.a., 450.0~~2~~3.d., and 450.0~~2~~3.f. from the date of issuance of the permit until the date of the next offered licensing examination. ~~*(3-30-06)*~~(____)

b. Failure of the licensing examination or failure to take the next offered licensing examination rescinds this exemption. (3-30-06)

IDAPA 24 - BUREAU OF OCCUPATIONAL LICENSES

24.26.01 - RULES OF THE IDAHO BOARD OF MIDWIFERY

DOCKET NO. 24-2601-0901 (NEW CHAPTER)

NOTICE OF RULEMAKING - ADOPTION OF PENDING FEE RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2010 Idaho State Legislature for final approval. Pursuant to Section 67-5224(5)(c), Idaho Code, this pending rule will not become final and effective until it has been approved, amended, or modified by concurrent resolution of the legislature because of the fee being imposed or increased through this rulemaking. The rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections [54-5505]54-5404 and [54-5505]54-5405, Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change:

The pending rule is being adopted as proposed. The complete text of the proposed rule was published in Book 2 of the October 7, 2009 Idaho Administrative Bulletin, Vol. 09-10, pages 196 through 210.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased. This fee or charge is being imposed pursuant to Section [54-5509]54-5409, Idaho Code:

The proposed rules establish the following fees: initial application processing fee of $50; license fee of $550; annual renewal fee of $550; and reinstatement fee of $50.

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: None.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending fee rule, contact Cherie Simpson at 208 334-3233.

DATED this 28th day of October, 2009.

Tana Cory
Bureau Chief
Bureau of Occupational Licenses
1109 Main St. Ste. 220
Boise, ID 83702
(208) 334-3233 Ph. (208) 334-3945 fax

THE FOLLOWING NOTICE PUBLISHED WITH THE PROPOSED FEE RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Sections [54-5504]54-5404 and [54-5505] 54-5405, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 21, 2009.

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

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

The 2009 legislature passed House Bill 185 which created the State Board of Midwifery. The proposed rules are necessary in order to implement the provisions of Title 54, Chapter [55] 54, Idaho Code.

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

The proposed rules establish the following fees: initial application processing fee of $50; license fee of $550; annual renewal fee of $550; and reinstatement fee of $50.

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

The proposed rules establish fees which will be deposited in the Bureau of Occupational Licenses dedicated fund. The fees will be used by the Board of Midwifery to administer the act. Since all self governing boards are expected to be self-supporting, these fees are based on the estimated costs and the anticipated number of licensees.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220, Idaho Code, negotiated rulemaking was not conducted because the changes were discussed in noticed open meetings.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Cherie Simpson at (208) 334-3233.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 28, 2009.

DATED this 25th day of August, 2009.

THE FOLLOWING IS THE TEXT OF THE PENDING FEE RULE

IDAPA 24
TITLE 26
CHAPTER 01

24.26.01 - RULES OF THE IDAHO BOARD OF MIDWIFERY

000. LEGAL AUTHORITY (RULE 0).
In accordance with Section [54-5504] 54-5404, Idaho Code, the Idaho Board of Midwifery shall promulgate rules that implement the provisions of [Chapter 55, Title 54] Chapter 54, Title 54, Idaho Code. ( )

001. TITLE AND SCOPE (RULE 1).

01. Title. These rules are cited as IDAPA 24.26.01, "Rules of the Idaho Board of Midwifery." ( )

02. Scope. These rules establish the framework for licensure of midwives and the provisions for what midwives are allowed to do, what they may not do, when they shall advise their clients to seek other medical advice and when to transport a client. ( )

002. WRITTEN INTERPRETATIONS (RULE 2).
The Board may have written statements pertaining to the Board's interpretation of these rules. Such interpretations, if any, are available for public inspection and copying at cost at the Board's office. ( )

003. ADMINISTRATIVE APPEALS (RULE 3).
Administrative appeals are governed by the Administrative Procedure Act, Title 67, Chapter 52, Idaho Code. ( )

004. INCORPORATION BY REFERENCE (RULE 4).
The following documents are incorporated by reference into these rules, and are available at the Board's office and through the Board's website: ( )

01. Prevention of Perinatal Group B Streptococcal Disease. Published by the Centers for Disease Control and Prevention, MMWR 2002;51 (No. RR 11), dated August 16, 2002, referenced in Paragraph 350.01.d. ( )

02. Essential Documents of the National Association of Certified Professional

Midwives. Copyright date 2004, referenced in Subsection 356.01. ( )

03. Analysis of the 2001 Job Analysis Survey. Published by the North American Registry of Midwives (NARM). ( )

005. OFFICE -- ADDRESS AND CONTACT INFORMATION (RULE 5).
The Board's office is located within the Bureau of Occupational Licenses, Owyhee Plaza, 1109 Main Street, Suite 220, Boise, Idaho 83702-5642. The Board's phone number is (208) 334-3233. The Board's FAX number is (208) 334-3945. The Board's e-mail address is mid@ibol.idaho.gov. The Board's official website can be found at http://www.ibol.idaho.gov. ( )

006. PUBLIC RECORDS (RULE 6).
The Board's records are subject to the Idaho Public Records Act, Title 9, Chapter 3, Idaho Code. ( )

007. -- 009. (RESERVED).

010. DEFINITIONS (RULE 10).

01. Board. The Idaho Board of Midwifery as created in Section [54-5503] 54-5403, Idaho Code. ( )

02. Bureau. The Idaho Bureau of Occupational Licenses as prescribed in Section 67-2602, Idaho Code. ( )

03. Client. A woman under the care of a licensed midwife, as well as the woman's fetus and newborn child. ( )

04. CPM. A certified professional midwife; in other words, a person who is certified by NARM or any successor organization. ( )

05. Licensed Midwife. A person who holds a current license issued by the Board, who shall be designated "L.M." ( )

06. MEAC. The Midwifery education accreditation council, the organization established in 1991 and recognized by the U.S. department of education as an accrediting agency for midwifery education programs and institutions. ( )

07. NARM. The North American Registry of Midwives, the international certification agency that establishes and administers certification for the CPM credential. ( )

08. NACPM. The National Association of Certified Professional Midwives, the national organization for certified professional midwives. ( )

09. Practice of Midwifery. Providing maternity care for women and their newborns during the antepartum, intrapartum and postpartum periods. The postpartum period for both maternal and newborn care may not exceed six (6) weeks from the date of delivery. ( )

011. -- 019. (RESERVED).

020. ORGANIZATION (RULE 20).

01. Meetings. The Board shall meet at least annually and at other such times and places as designated by the Chairman or upon the written request of any two (2) members of the Board. ( )

a. All meetings shall be held in accordance with the Idaho Open Meeting Law, Chapter 23, Title 67, Idaho Code. ( )

b. A minimum of three (3) Board members shall constitute a quorum and may exercise all powers and authority conferred on the Board in order to hold a meeting of the Board. A majority vote of the Board members present at a meeting shall be considered the action of the Board as a whole. ( )

02. Organization of the Board. At the first meeting of each fiscal year, the Board shall elect from its members a Chairman, who shall assume the duty of the office immediately upon such selection. ( )

a. The Chairman shall when present, preside at all meetings, appoint with the consent of the Board, all committees, and shall otherwise perform all duties pertaining to the office of Chairman. The Chairman shall be an ex-officio member of all committees. ( )

b. The Bureau shall provide such services as may be authorized by Chapter 26, Title 67, Idaho Code, and as defined under contract between the Bureau and the Board. The Chief of the Bureau shall act as an agent of the Board and shall be the custodian of all records of the Board. ( )

021. -- 099. (RESERVED).

100. QUALIFICATIONS FOR LICENSURE (RULE 100).

01. Applications. Applications for licensure must be submitted on Board-approved forms. ( )

02. Qualifications. Applicants for licensure must submit a completed application, required application and licensing fees, and documentation, acceptable to the Board, establishing that the applicant: ( )

a. Currently is certified as a CPM by NARM or a successor organization. ( )

b. Has successfully completed Board-approved, MEAC-accredited courses in pharmacology, the treatment of shock/IV therapy, and suturing specific to midwives. ( )

03. Waiver of Current CPM Certification Requirement. The Board may waive the current CPM certification requirement, specified here in Paragraph 100.02.a., for any applicant who has continuously practiced midwifery in Idaho for at least five (5) years prior to July 1, 2009.

To qualify for the waiver, the applicant must apply for licensure before July 1, 2010 and submit with the application documentation, acceptable to the Board, of the following: ( )

a. The applicant's primary attendance at seventy-five (75) births within the past ten (10) years, ten (10) of which occurred in the two (2) years immediately preceding the applicant's application for licensure; ( )

b. Current certification in adult, infant, and child cardiopulmonary resuscitation and in neonatal resuscitation obtained through completion of American Heart Association approved cardiopulmonary resuscitation courses and American Academy of Pediatrics approved neonatal resuscitation courses; and ( )

c. Complete practice data, as referenced in Subsection 200.04, for the two (2) years preceding the application for licensure. The complete practice data documentation must be submitted on a Board-approved form. ( )

04. Incomplete or Stalled Applications. The applicant must provide or facilitate the provision of any supplemental third party documents that may be required by the Board. If an applicant fails to respond to a Board request or an application has lacked activity for twelve (12) consecutive months, the application on file with the Board shall be deemed denied and it shall be terminated upon thirty (30) days written notice, unless good cause is established to the Board. ( )

101. -- 174. (RESERVED).

175. FEES (RULE 175).

01. Initial Application Processing Fee. A fifty dollar ($50) application processing fee must accompany initial licensure applications. ( )

02. License Fee. The initial license fee is five hundred fifty dollars ($550). This initial, one-time fee will be refunded if the Board does not issue the license for which application has been made. ( )

03. Annual Renewal Fee. The annual license renewal fee is five hundred fifty dollars ($550). The annual license renewal fee will be refunded if the license is not renewed by the Board. ( )

04. Reinstatement Fee. The fee to reinstate a license that has been cancelled for failure to renew is fifty dollars ($50). ( )

05. Refund of Fees. Unless otherwise provided for in this Rule, all fees are non-refundable. ( )

176. -- 199. (RESERVED).

200. RENEWAL OF LICENSE (RULE 200).

01. Expiration Date. A licensed midwife's license expires on the licensed midwife's birth date. The license must be annually renewed before the licensed midwife's birth date in accordance with Section 67-2614, Idaho Code. Licenses that are not renewed as required will be cancelled pursuant to Section 67-2614, Idaho Code. ( )

02. Reinstatement. A license that has been cancelled for failure to renew may be reinstated in accordance with Section 67-2614, Idaho Code. ( )

03. Application for Renewal. In order to renew a license a licensed midwife must submit a timely, completed, Board-approved renewal application form and pay the required application and renewal fees. ( )

04. Complete Practice Data. The information submitted by the licensed midwife on the Board-approved application form must include complete practice data for the twelve (12) months immediately preceding the date of the renewal application. Such information shall include: ( )

a. The number of clients to whom the licensed midwife has provided care; ( )

b. The number of deliveries, including; ( )

i. The number of cesareans; ( )

ii. The number of vaginal births after cesarean (VBACs); ( )

c. The average, oldest, and youngest maternal ages; ( )

d. The number of primiparae; ( )

e. All APGAR scores below five (5) at five (5) minutes; ( )

f. The number of prenatal transfers and transfers during labor, delivery and immediately following birth, including: ( )

i. Transfers of mothers; ( )

ii. Transfers of babies; ( )

iii. Reasons for transfers; ( )

iv. Transfers of all newborns being admitted to the neonatal intensive care unit (NICU) for more than twenty four (24) hours. ( )

g. Any perinatal deaths occurring up to six weeks post-delivery, broken out by: ( )

i. Weight; ( )

ii. Gestational Age; ( )

iii. Age of the baby; ( )

iv. Stillbirths, if any; ( )

h. Any significant neonatal or perinatal problem, not listed above, during the six (6) weeks following birth. ( )

05. Continuing Education Verification. When a licensed midwife submits a renewal application, the licensed midwife must certify by signed affidavit that the annual continuing education requirements set by the Board have been met. The Board may conduct such continuing education audits and require verification of attendance as deemed necessary to ensure compliance with continuing education requirements. ( )

201. -- 299. (RESERVED).

300. CONTINUING EDUCATION REQUIREMENT (RULE 300).
In order to protect the public health and safety and promote the public welfare, the Board has adopted the following rules for continuing education. ( )

01. Annual Continuing Education Requirement. A licensed midwife must successfully complete a minimum of ten (10) continuing education hours per year. Two (2) of these hours must be in peer review participation as described in Subsection 300.06. One (1) continuing education hour equals one (1) clock hour. A licensed midwife is considered to have satisfied the annual continuing education requirement for the first renewal of the initial license. ( )

02. Subject Material. The subject material of the continuing education must be germane to the practice of midwifery and either acceptable to NARM as counting towards recertification of a licensed midwife as a CPM or otherwise approved by the Board. ( )

03. Verification of Attendance. Each licensed midwife must maintain verification of attendance by securing authorized signatures or other documentation from the course instructors or sponsoring institution substantiating any hours attended. This verification must be maintained by the licensed midwife for no less than seven (7) years and provided to the Board upon request by the Board or its agent. ( )

04. Distance Learning and Independent Study. The Board may approve a course of study for continuing education credit that does not include the actual physical attendance of the licensed midwife in a face-to-face setting with the course instructor. Distance Learning or Independent Study courses will be eligible for continuing education credits if approved by NARM or upon approval of the Board. ( )

05. Requests for Board Approval. All requests for Board approval of educational programs must be made to the Board in writing at least sixty (60) days before the program is scheduled to occur. Requests must be accompanied by a statement that includes: ( )

a. The name of the instructor or instructors; ( )

b. The date and time and location of the course; ( )

c. The specific agenda for the course; ( )

d. The number of continuing education credit hours requested; and ( )

e. A statement of how the course is believed to be germane to the practice of midwifery. ( )

06. Peer Review System. As part of the Board's annual continuing education requirement, each licensed midwife must participate in peer review activities for a minimum of two (2) hours per year. ( )

a. The purpose of peer review is to enable licensed midwives to retrospectively present and review cases in an effort to further educate themselves about the appropriateness, quality, utilization, and ethical performance of midwifery care. ( )

b. Licensed midwives are responsible for organizing their own peer review sessions. At least three (3) licensed midwives or CPMs must participate in a peer review session in order for the session to count towards a licensed midwife's annual two-hour peer review activity requirement. ( )

c. Each licensed midwife must make a presentation, that must include, without limitation, the following information: ( )

i. Total number of clients currently in the licensed midwife's care; ( )

ii. The number of upcoming due dates for clients in the licensed midwife's practice; ( )

iii. The number of women in the licensed midwife's practice that are postpartum; ( )

iv. The number of births the licensed midwife has been involved with since the last peer review session; and ( )

v. One (1) or more specific cases arising since the licensed midwife's last peer review session. The licensed midwife must present any cases involving serious complications or the transport of a mother or baby to the hospital. ( )

d. The information presented in a peer review session is confidential. The identities of the client, other health care providers, and other persons involved in a case may not be divulged during the peer review session. ( )

07. Carryover Hours. A licensed midwife may carryover a maximum of five (5) hours of continuing education to meet the next year's continuing education requirement. ( )

08. Hardship Waiver. The Board may waive a licensed midwives annual continuing education requirement for reasons of individual hardship, including health or other good cause. The licensed midwife must request the waiver and provide the Board with any information requested to assist the Board in substantiating the claimed hardship. This waiver is granted at the sole discretion of the Board. ( )

301. -- 324. (RESERVED).

325. INFORMED CONSENT (RULE 325).

01. Informed Consent Required. A licensed midwife must obtain and document informed consent from a client before caring for that client. The informed consent must be documented on an informed consent form, signed and dated by the client, in which the client acknowledges, at a minimum, that the following information has been provided to the client by the midwife: ( )

a. The licensed midwife's training and experience; ( )

b. Instructions for obtaining a copy of the Board's rules; ( )

c. Instructions for obtaining a copy of the Essential Documents of the NACPM and Analysis of the 2001 Job Analysis Survey, published by NARM; ( )

d. Instructions for filing complaints with the Board; ( )

e. Notice that the licensed midwife does or does not have professional liability insurance coverage; ( )

f. A written protocol for emergencies, including hospital transport that is specific to each individual client; and ( )

g. A description of the procedures, benefits and risks of out-of-hospital birth, primarily those conditions that may arise during delivery. ( )

02. Record of Informed Consent. All licensed midwives must maintain a record of all signed informed consent forms for each client for a minimum of nine (9) years after the last day of care for such client. ( )

326. -- 349. (RESERVED).

350. FORMULARY (RULE 350).

01. Midwifery Formulary. A licensed midwife may obtain and administer, during the practice of midwifery, the following: ( )

a. Oxygen; ( )

b. Oxytocin as a postpartum antihemorrhagic agent; ( )

c. Injectable local anesthetic for the repair of lacerations that are no more extensive than second degree; ( )

d. Antibiotics for group b streptococcus prophylaxis consistent with the guidelines set forth in Prevention of Perinatal Group B Streptococcal Disease, published by the Centers for Disease Control and Prevention; ( )

e. Epinephrine administered via a metered dose auto-injector; ( )

f. Intravenous fluids for stabilization of the woman; ( )

g. Rhoo (D) immune globulin; ( )

h. Vitamin K1; and ( )

i. Eye prophylactics to the baby. ( )

02. Other Legend Drugs. During the practice of midwifery a licensed midwife may not obtain or administer legend drugs that are not listed in the midwifery formulary. Drugs of a similar nature and character may be used if determined by the Board to be consistent with the practice of midwifery and provided that at least one hundred twenty (120) days' advance notice of the proposal to allow the use of such drugs is given to the Board of Pharmacy and the Board of Medicine and neither Board objects to the addition of such drugs to the midwifery formulary. ( )

351. USE OF FORMULARY DRUGS (RULE 351).
A licensed midwife may use the drugs described in the midwifery formulary according to the following protocol describing the indication for use, dosage, route of administration and duration of treatment:

Drug	Indication	Dose	Route of Administration	Duration of Treatment
Oxygen	Maternal/Fetal Distress	10-12 L/min. 10 L/min.	Bag and mask Mask	Until maternal/fetal stabilization is achieved or transfer to hospital is complete
	Neonatal Resuscitation	10-12 L/min. 10 L/min.	Bag and mask Mask	Until stabilization is achieved or transfer to a hospital is complete
Oxytocin (Pitocin)	Postpartum hemorrhage only	10 Units/ml	Intramuscularly only	1-2 doses Transport to hospital required if more than two doses are administered

Drug	Indication	Dose	Route of Administration	Duration of Treatment
Lidocaine HCl 2%	Local anesthetic for use during postpartum repair of lacerations or episiotomy	Maximum 50 ml	Percutaneous infiltration only	Completion of repair
Penicillin G (Recommended)	Group B Strep Prophylaxis	5 million units initial dose, then 2.5 million units every 4 hours until birth	IV in ≥ 100 ml LR, NS or D_5LR	Birth of baby
Ampicillin Sodium (Alternative)	Group B Strep Prophylaxis	2 grams initial dose, then 1 gram every 4 hours until birth	IV in ≥100 ml NS or LR	Birth of baby
Cefazolin Sodium (drug of choice for penicillin allergy with low risk for anaphylaxis)	Group B Strep Prophylaxis	2 grams initial dose, then 1 gram every 8 hours	IV in ≥ 100 ml LR, NS or D_5LR	Birth of baby
Clindamycin Phosphate (drug of choice for penicillin allergy with high risk for anaphylaxis)	Group B Strep Prophylaxis	900 mg every 8 hours	IV in ≥100 ml NS (not LR)	Birth of baby
Epinephrine HCl 1:1000 (EpiPen)	Treatment or post-exposure prevention of severe allergic reactions	0.3 ml pre-metered dose	Subcutaneously or intramuscularly	Every 20 minutes or until emergency medical services arrive Administer first dose then immediately request emergency services
Lactated Ringer's (LR) 5% Dextrose in Lactated Ringer's solution (D_5LR) 0.9% Sodium Chloride (NS) Sterile Water	To achieve maternal stabilization Reconstitution of antibiotic powder	I - 2 liter bags First liter run in at a wide-open rate, the second liter titrated to client's condition As directed	Intravenously with ≥18 gauge catheter As directed	Until maternal stabilization is achieved or transfer to a hospital is complete Birth of Baby

Drug	Indication	Dose	Route of Administration	Duration of Treatment
RH_0(D) Immune Globulin	Prevention of RH_0(D) sensitization in RH_0(D) negative women	300 mcg	Intramuscularly	Single dose at any gestation for RH_0(D) negative, antibody negative women within 72 hours of spontaneous bleeding or abdominal trauma. Single dose at 26-28 weeks gestation for RH_0(D) negative, antibody negative women Single dose for RH_0(D) negative, antibody negative women within 72 hours of delivery of RH_0(D) positive infant, or infant with unknown blood type
Vitamin K_1	Prophylaxis for Vitamin K Deficiency Bleeding	1 mg	Intramuscularly	1 dose
0.5% Erythromycin Ophthalmic Ointment	Prophylaxis of Neonatal Ophthalmia	1 cm ribbon in each eye	Topical	1 dose

( )

352. OBTAINING, STORING, AND DISPOSING OF FORMULARY DRUGS (RULE 352).
A licensed midwife must adhere to the following protocol for obtaining, storing, and disposing of formulary drugs during the practice of midwifery. ( )

01. Obtaining Formulary Drugs. A licensed midwife may obtain formulary drugs as allowed by law, including, without limitation, from: ( )

a. A person or entity that is licensed as a Wholesale Distributor by the Idaho State Board of Pharmacy; and ( )

b. A retail pharmacy, in minimal quantities for office use. ( )

02. Storing Formulary Drugs. A licensed midwife must store all formulary drugs in secure areas suitable for preventing unauthorized access and for ensuring a proper environment for the preservation of the drugs. However, licensed midwives may carry formulary drugs to the home setting while providing care within the course and scope of the practice of midwifery. The licensed midwife must promptly return the formulary drugs to the secure area when the licensed midwife has finished using them for patient care. ( )

03. Disposing of Formulary Drugs. A licensed midwife must dispose of formulary

drugs using means that are reasonably calculated to guard against unauthorized access by persons and harmful excretion of the drugs into the environment. The means that may be used include, without limitation: ( )

a. Transferring the drugs to a reverse distributor who is registered to destroy drugs with the U.S. Drug Enforcement Agency; ( )

b. Removing the drugs from their original containers, mixing them with an undesirable substance such as coffee grounds or kitty litter, putting them in impermeable, non-descript containers such as empty cans or sealable bags, and throwing the containers in the trash; or ( )

c. Flushing the drugs down the toilet if the accompanying patient information instructs that it is safe to do so. ( )

353. -- 354. (RESERVED).

355. MEDICAL WASTE (RULE 355).
A licensed midwife must dispose of medical waste during the practice of midwifery according to the following protocol: ( )

01. Containers for Non-Sharp, Medical Waste. Medical waste, except for sharps, must be placed in disposable containers/bags which are impervious to moisture and strong enough to preclude ripping, tearing or bursting under normal conditions of use. The bags must be securely tied so as to prevent leakage or expulsion of solid or liquid waste during storage, handling or transport. The containment system must have a tight-fitting cover and be kept clean and in good repair. All bags used for containment of medical waste must be clearly identified by label or color, or both. ( )

02. Containers for Sharps. Sharps must be placed in impervious, rigid, puncture-resistant containers immediately after use. Needles must not be bent, clipped or broken by hand. Rigid containers of discarded sharps must either be labeled or colored like the disposable bags used for other medical waste, or placed in such labeled or colored bags. ( )

03. Storage Duration. Medical waste may not be stored for more than seven (7) days, unless the storage temperature is below thirty-two (32) degrees Fahrenheit. Medical waste must never be stored for more than ninety (90) days. ( )

04. Waste Disposal. Medical waste must be disposed of by persons knowledgeable in handling of medical waste. ( )

356. SCOPE AND PRACTICE STANDARDS.
A licensed midwife must adhere to the following scope and practice standards when providing antepartum, intrapartum, postpartum, and newborn care. ( )

01. NACPM Scope and Practice Standards. The Board adopts the Essential Documents of the National Association of Certified Professional Midwives as scope and practice standards for licensed midwives. All licensed midwives must adhere to these scope and practice

standards during the practice of midwifery to the extent such scope and practice standards are consistent with the Board's enabling law, [Chapter 55, Title 54] Chapter 54, Title 54, Idaho Code. ( )

02. Conditions for Which a Licensed Midwife May Not Provide Care. A licensed midwife may not provide care for a client with: ( )

a. A current history of any of the following disorders, diagnoses, conditions, or symptoms: ( )

i. Placental abnormality; ( )

ii. Multiple gestation; ( )

iii. Noncephalic presentation at the onset of labor or rupture of membranes, whichever occurs first; ( )

iv. Birth under thirty-seven (37) weeks and after forty-two (42) completed weeks' gestational age; or ( )

v. A body mass index of forty (40.0) or higher at the time of conception; ( )

b. A past history of any of the following disorders, diagnoses, conditions, or symptoms: ( )

i. More than one (1) cesarean section, a cesarean section within eighteen (18) months of the current delivery or any cesarean section that was surgically closed with a classical or vertical uterine incision; ( )

ii. Rh or other blood group or platelet sensitization, hematological or coagulation disorders; ( )

iii. Prior chemotherapy or radiation treatment for a malignancy; ( )

iv. Previous pre-eclampsia resulting in premature delivery; ( )

v. Cervical insufficiency; or ( )

vi. HIV positive status. ( )

03. Conditions for Which a Licensed Midwife May Not Provide Care Without Physician Involvement. A licensed midwife may not provide care for a client with a history of the disorders, diagnoses, conditions, or symptoms listed here in Subsection 356.03 unless such disorders, diagnoses, conditions or symptoms are being treated, monitored or managed by a physician licensed under Chapter 18, Title 54, Idaho Code. Before providing care to such a client, the licensed midwife must notify the client in writing that the client must obtain the described physician care as a condition to the client's eligibility to obtain maternity care from the licensed midwife. The licensed midwife must, additionally, obtain the client's signed acknowledgement

that the client has received the written notice. The disorders, diagnoses, conditions, and symptoms are: ( )

a. Diabetes; ( )

b. Thyroid disease; ( )

c. Epilepsy; ( )

d. Hypertension; ( )

e. Cardiac disease; ( )

f. Pulmonary disease; ( )

g. Renal disease; ( )

h. Gastrointestinal disorders; ( )

i. Previous major surgery of the pulmonary system, cardiovascular system, urinary tract or gastrointestinal tract; ( )

j. Current abnormal cervical cytology; ( )

k. Sleep apnea; ( )

l. Previous bariatric surgery; ( )

m. Hepatitis; or ( )

n. History of illegal drug use or excessive prescription drug use. For purposes of this Paragraph, "history" means a "current history," and "illegal drug use" means "illegal drug abuse or addiction." ( )

04. Conditions for Which a Licensed Midwife Must Recommend Physician Involvement. Before providing care for a client with a history of any of the disorders, diagnoses, conditions or symptoms listed in this Subsection 356.04, a licensed midwife must provide written notice to the client that the client is advised to see a physician licensed under Chapter 18, Title 54, Idaho Code, during the client's pregnancy. Additionally, the licensed midwife must obtain the client's signed acknowledgement that the client has received the written notice. The disorders, diagnoses, conditions, and symptoms are: ( )

a. Previous complicated pregnancy; ( )

b. Previous cesarean section; ( )

c. Previous pregnancy loss in second or third trimester; ( )

d. Previous spontaneous premature labor; ( )

e. Previous pre-term rupture of membranes; ( )

f. Previous pre-eclampsia; ( )

g. Previous hypertensive disease of pregnancy; ( )

h. Parvo; ( )

i. Toxo; ( )

j. CMV; ( )

k. HSV; ( )

l. Previous maternal/newborn group b streptococcus infection; ( )

m. A body mass index of at least thirty-five (35.0) but less than forty (40.0) at the time of conception; ( )

n. Underlying family genetic disorders with potential for transmission; or ( )

o. Psychosocial situations that may complicate pregnancy. ( )

05. Conditions for which a Licensed Midwife must Facilitate Hospital Transfer. ( )

a. Conditions. A licensed midwife must facilitate the immediate transfer of a client to a hospital for emergency care if the client has any of the following disorders, diagnoses, conditions or symptoms: ( )

i. Maternal fever in labor of more than 100.6 degrees Fahrenheit, in the absence of environmental factors; ( )

ii. Suggestion of fetal jeopardy, such as frank bleeding before delivery, any abnormal bleeding (with or without abdominal pain), evidence of placental abruption, meconium with non-reassuring fetal heart tone patterns where birth is not imminent, or abnormal fetal heart tones with non-reassuring patterns where birth is not imminent; ( )

iii. Noncephalic presentation at the onset of labor or rupture of membranes, whichever occurs first; ( )

iv. Second stage labor after two (2) hours of initiation of pushing when the mother has had a previous cesarean section; ( )

v. Current spontaneous premature labor; ( )

vi. Current pre-term premature rupture of membranes; ( )

vii. Current pre-eclampsia; ( )

viii. Current hypertensive disease of pregnancy; ( )

ix. Continuous uncontrolled bleeding; ( )

x. Bleeding that necessitates the administration of more than two (2) doses of oxytocin or other antihemorrhagic agent; ( )

xi. Delivery injuries to the bladder or bowel; ( )

xii. Grand mal seizure; ( )

xiii. Uncontrolled vomiting; ( )

xiv. Coughing or vomiting of blood; ( )

xv. Severe chest pain; or ( )

xvi. Sudden onset of shortness of breath and associated labored breathing. ( )

b. Plan for Emergency Transfer and Transport. When facilitating a transfer under Subsection 356.05, the licensed midwife must notify the hospital when the transfer is initiated, accompany the client to the hospital, if feasible, or communicate by telephone with the hospital if the licensed midwife is unable to be present personally. The licensed midwife must also ensure that the transfer of care is accompanied by the client's medical record, which must include:( )

i. The client's name, address, and next of kin contact information; ( )

ii. A list of diagnosed medical conditions; ( )

iii. A list of prescription or over the counter medications regularly taken; ( )

iv. A history of previous allergic reactions to medications; and ( )

v. If feasible, the licensed midwife's assessment of the client's current medical condition and description of the care provided by the licensed midwife before transfer. ( )

357. -- 449. (RESERVED).

450. DISCIPLINE (RULE 450).

01. Grounds for Discipline. The Board may discipline a licensed midwife for unprofessional conduct, including, without limitation, any of the following: ( )

a. Disregarding a client's dignity or right to privacy as to her person, condition,

possessions, or medical record; ( )

b. Breaching any legal requirement of confidentiality with respect to a client, unless ordered by a court of law; ( )

c. Submitting a birth certificate known by the licensed midwife to be false or fraudulent, or willfully making or filing false or incomplete reports or records in the practice of midwifery; ( )

d. Failing to provide information sufficient to allow a client to give fully informed consent; ( )

e. Engaging in the practice of midwifery while impaired because of the use of alcohol or drugs; ( )

f. Violating any standards of conduct set forth in these rules, whether or not specifically labeled as such, and including without limitation any scope and practice standards, record-keeping requirements, notice requirements, or requirements for documenting informed consent. ( )

02. Discipline to Be Imposed. If the Board determines that grounds for discipline exist, it may impose discipline on a licensed midwife that includes, without limitation, the following: ( )

a. Require that a licensed midwife practice midwifery under the supervision of another health care provider. The Board may specify the nature and extent of the supervision and may require the licensed midwife to enter into a consultation, collaboration, proctoring, or supervisory agreement, written or otherwise, with the other health care provider; ( )

b. Suspend or revoke a license; ( )

c. Impose a civil fine not to exceed one thousand dollars ($1,000) for each violation of the Board's laws and rules; and ( )

d. Order payment of the costs and fees incurred by the Board for the investigation and prosecution of the violation of the Board's laws and rules. ( )

451. -- 999. (RESERVED).

IDAPA 27 - BOARD OF PHARMACY

27.01.01 - RULES OF THE IDAHO STATE BOARD OF PHARMACY

DOCKET NO. 27-0101-0902

NOTICE OF RULEMAKING - ADOPTION OF PENDING FEE RULE

EFFECTIVE DATE: The effective date of the amendment to the temporary rule is July 1, 2009. This pending rule has been adopted by the agency and is now pending review by the 2010 Idaho State Legislature for final approval. Pursuant to Section 67-5224(5)(c), Idaho Code, this pending rule will not become final and effective until it has been approved, amended, or modified by concurrent resolution of the legislature because of the fee being imposed or increased through this rulemaking. The rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Sections 67-5224 and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a pending fee rule and amended a temporary rule. The action is authorized pursuant to Section 54-1717, Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule and amending the temporary rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change:

In response to the public comment that was received, the Board has determined to adopt the pending rule which includes a change in text from the temporary and proposed rule. The change in text is necessary to clarify procedures required by institutional and central pharmacies.

The text of the pending rule has been amended in accordance with Section 67-5227, Idaho Code. Rather than keep the temporary rule in place while the pending rule awaits legislative approval, the Board amended the temporary rule with the same revisions that have been made to the pending rule. Only the sections that have changes differ from the proposed text are printed in this bulletin. The original text of the proposed rule was published in Book 2 of the October 7, 2009 Idaho Administrative Bulletin, Vol. 09-10, pages 233 through 243.

FEE SUMMARY: Pursuant to Section 67-5226(2), Idaho Code, the Governor has found that the fee or charge being imposed or increased is justified and necessary to avoid immediate danger. This fee or charge is being imposed pursuant to Section 54-1723A, Idaho Code. The following is a specific description of the fee or charge imposed or increased:

Temporary status regarding the imposition of the fee to be paid by out-of-state pharmacists who must be registered by the Board in order to provide telepharmacy across state lines services to a patient in Idaho would avoid the immediate danger of delaying the start of the practice of telepharmacy across state lines. No pharmacist who is not licensed to practice pharmacy within the state of Idaho may engage in the practice of telepharmacy across state lines unless registered by the Board pursuant to the terms of Section 54-1723A, Idaho Code. The statute provides that in addition to the mandatory requirements in

subsection (2)(a)(b) and (d) of the foregoing Section, the applicant "shall. . .(c) Pay the fee(s) specified by the board for the issuance of the registration. . ." The use of the word "shall" in a statute indicates a mandatory act. Additionally, Section 54-1729(2)(b), Idaho Code, requires that all employees or personnel of a telepharmacy drug outlet across state lines "be registered by the board pursuant to section 54-1723A, Idaho Code." An institution engaged in the practice of telepharmacy across state lines must be registered by the Board as a telepharmacy drug outlet across state lines. Section 54-1729(5), Idaho Code, however, specifies the exact registration fee to be paid for registration by an institution applying for registration as a telepharmacy. Thus, there is the incongruity of the drug outlet registration fee being fixed by statute, the pharmacist employees of such drug outlets being mandatorily required to obtain registration in order to engage in the practice of telepharmacy across state lines, and the registrant being mandatorily required as a condition of obtaining registration to "pay the fee(s) specified by the board for issuance of the registration." That incongruity creates the danger of potentially delaying the operation of telepharmacy drug outlets across state lines since the nature of the statutory framework is such that they can only provide telepharmacy services into Idaho through a pharmacist who is either licensed by the Board to practice pharmacy in Idaho or who is licensed in another state and registered by the Board in Idaho to practice telepharmacy across state lines. Permitting the pharmacist registration fee to proceed as both a temporary and proposed rule avoids the danger that the effective operation of telepharmacy across state lines would be delayed until the legislature could approve, amend, or modify by concurrent resolution a fee rule. Delay of full implementation of the statute also carries a risk of potential danger to public health, safety, or welfare in that institutions within Idaho having legitimate patient care needs which could be serviced by outsourcing certain pharmacy services to a telepharmacy drug outlet across state lines could be effectively delayed in obtaining such care for several months.

Pursuant to Section 54-1723A, the fee for registration to engage in the practice of telepharmacy across state lines will be two hundred fifty dollars ($250) and the annual registration renewal fee will be two hundred fifty dollars ($250).

Pursuant to Section 67-5224(5)(c), Idaho Code, this pending rule will not become final and effective until it has been approved, amended, or modified by concurrent resolution of the legislature because of the fee being imposed or increased through this rulemaking.

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: N/A

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning the pending fee rule, contact Mark Johnston, R.Ph., Executive Director, (208) 334-2356.

DATED this 4th day of November, 2009.

Mark Johnston, R.Ph.
Executive Director
Board of Pharmacy
3380 Americana Terrace, Ste. 320
P. O. Box 83720, Boise, ID 83720-0067
Phone: (208) 334-2356 / Fax: (208) 334-3536

THE FOLLOWING NOTICE PUBLISHED WITH THE TEMPORARY AND PROPOSED FEE RULE

EFFECTIVE DATE: The effective date of the temporary rule is July 1, 2009.

AUTHORITY: In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a temporary rule, and proposed rulemaking procedures have been initiated. The action is authorized pursuant to Section 54-1717, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 21, 2009.

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 its supporting reasons for adopting a temporary rule and a nontechnical explanation of the substance and purpose of the proposed rulemaking:

The proposed rules are necessary to implement provisions of House Bill No. 306, which was passed by the 2009 Idaho Legislature, signed by the Governor, and which became effective on July 1, 2009. The statute provides authorization for the practice of telepharmacy across state lines. It further provides that "institutions, as defined in the rules of board, engaged in the practice of telepharmacy across state lines" are "drug outlets" which are required to be registered by the Board of Pharmacy. The statute states that the Board "shall establish by rule . . . the criteria" which an institution engaged in the practice of telepharmacy across states "must meet to qualify for registration" as a "[t]elepharmacy drug outlet across state lines." The statute provides that out-of-state pharmacists who are not licensed to practice pharmacy in Idaho but who are licensed to practice pharmacy in another state, must be registered by the Idaho Board of Pharmacy before they can provide telepharmacy services for a patient located in Idaho. The statue states that the fee for such pharmacist registration is to be "the fee(s) specified by the board for the issuance of the registration." In contrast, the fee for registration of telepharmacy drug outlets across states lines is specified in the statute as "the same fee as those registering under subsection (2(a)(ii) of this section," which is the institutional drug outlet registration category. The statute also adds to Chapter 17, Title 54, Idaho Code, definitions of "practice of telepharmacy" and

"practice of telepharmacy across lines," which definitions each end with the phrase "as defined in the rules of the board."

The proposed rules establish the criteria for registration of drug outlets engaged in the practice of telepharmacy across state lines and of pharmacists engaged in the practice of telepharmacy across state lines. The proposed rules provide a necessary regulatory framework for the practice of telepharmacy across state lines in order to meet its statutory charge under the Idaho Pharmacy Act to promulgate regulations necessary to promote, preserve, and protect the health, safety, and welfare of the public by and through the effective control of the practice of pharmacy and of the registration of drug outlets. The proposed rules establish, as required by the new statute, a registration fee for registration of out-of-state pharmacists engaged in the practice of telepharmacy across state lines. The proposed registration fee is two hundred fifty dollars ($250) and the proposed annual renewal fee is the same. The fee for registration of telepharmacy drug outlets across state lines is contained in the statute. The proposed rules also repeal existing rules regarding the Telepharmacy Pilot Project (Board Rules 261 through 264), which rules deal exclusively with telepharmacy solely within Idaho on a pilot basis, and amend other Board rules to provide rules applicable to both telepharmacy across state lines and telepharmacy within Idaho. The proposed rules authorize outsourcing, under certain circumstances, of "central prescription processing or filling" to a "central pharmacy" and define those terms. Registered telepharmacy drug outlets are included within the "central pharmacy" definition. The proposed rules establish the criteria to be met in order to outsource central prescription processing or filling. The section of the rules regarding registration of telepharmacy drug outlets across state lines includes definitions of "institution engaged in the practice of telepharmacy across state lines," "central order entry pharmacy," and "hospital system."

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

Temporary and proposed status is sought for the rule change. Since the statute went into effect July 1, 2009, and since the statue in several places alludes to board rulemaking regarding several specific subjects, temporary status confers a benefit in that the practice of telepharmacy across state lines can begin immediately within an articulated regulatory context. That not only confers a benefit on those entities providing and receiving telepharmacy services across state lines services and on the patients of the receiving entities, but it results in protection of the public health, safety, or welfare by allowing the practice of telepharmacy across state lines to begin in Idaho with appropriate regulatory oversight having been established from the outset. Justification for temporary status for the pharmacist registration fee portion of the rule is provided below.

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

Temporary status regarding the imposition of the fee to be paid by out-of-state pharmacists who must be registered by the Board in order to provide telepharmacy across

state lines services to a patient in Idaho would avoid the immediate danger of delaying the start of the practice of telepharmacy across state lines. No pharmacist who is not licensed to practice pharmacy within the state of Idaho may engage in the practice of telepharmacy across state lines unless registered by the Board pursuant to the terms of Section 54-1723A, Idaho Code. The statute provides that in addition to the mandatory requirements in subsection (2)(a)(b) and (d) of the foregoing Section, the applicant "shall. . .(c) Pay the fee(s) specified by the board for the issuance of the registration. . ." The use of the word "shall" in a statute indicates a mandatory act. Additionally, Section 54-1729(2)(b), Idaho Code, requires that all employees or personnel of a telepharmacy drug outlet across state lines "be registered by the board pursuant to section 54-1723A, Idaho Code." An institution engaged in the practice of telepharmacy across state lines must be registered by the Board as a telepharmacy drug outlet across state lines. Section 54-1729(5), Idaho Code, however, specifies the exact registration fee to be paid for registration by an institution applying for registration as a telepharmacy. Thus, there is the incongruity of the drug outlet registration fee being fixed by statute, the pharmacist employees of such drug outlets being mandatorily required to obtain registration in order to engage in the practice of telepharmacy across state lines, and the registrant being mandatorily required as a condition of obtaining registration to "pay the fee(s) specified by the board for issuance of the registration." That incongruity creates the danger of potentially delaying the operation of telepharmacy drug outlets across state lines since the nature of the statutory framework is such that they can only provide telepharmacy services into Idaho through a pharmacist who is either licensed by the Board to practice pharmacy in Idaho or who is licensed in another state and registered by the Board in Idaho to practice telepharmacy across state lines. Permitting the pharmacist registration fee to proceed as both a temporary and proposed rule avoids the danger that the effective operation of telepharmacy across state lines would be delayed until the legislature could approve, amend, or modify by concurrent resolution a fee rule. Delay of full implementation of the statute also carries a risk of potential danger to public health, safety, or welfare in that institutions within Idaho having legitimate patient care needs which could be serviced by outsourcing certain pharmacy services to a telepharmacy drug outlet across state lines could be effectively delayed in obtaining such care for several months.

Pursuant to Section 54-1723A, the fee for registration to engage in the practice of telepharmacy across state lines will be two hundred fifty dollars ($250) and the annual registration renewal fee will be two hundred fifty dollars ($250).

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: N/A

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220, Idaho Code, negotiated rulemaking was not conducted because of the need for temporary rulemaking.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Mark Johnston, R.Ph., Executive Director, (208) 334-2356.

Anyone may submit written comments regarding this proposed rulemaking. All written

comments must be directed to the undersigned and must be delivered on or before October 28, 2009.

DATED this 28th day of August, 2009.

THE FOLLOWING IS THE TEXT OF THE PENDING FEE RULE

252. PHARMACY PRACTICE IN INSTITUTIONS.

01. Definitions. For purposes of these rules the following apply: (7-1-93)

a. Institutional Facility is a hospital, skilled nursing care facility, intermediate care facility, extended care facility, long-term care facility, and any other such facility or institution, including those operated by the state of Idaho, whose primary purpose is to provide a physical environment for patients to obtain health care services, except those places where physicians, dentists, veterinarians, osteopaths, or other licensed practitioners of the healing arts engage in private practice. (5-8-09)

b. Long-Term Care Facility is a nursing home, retirement care, mental care, or other facility or institution that provides extended health care to resident patients. (5-8-09)

c. Institutional Pharmacy is the portion of an institutional facility that is engaged in the distribution, prepackaging, or manufacture, production or sale of drugs, medications, devices and other materials used in the diagnosis and treatment of injury, illness, and disease (hereinafter referred to as "drugs") and that shall be registered with the Board pursuant Title 54, Chapter 17, Idaho Code. (5-8-09)

d. Centralized Prescription Filling is the filling by a pharmacy of a request from another pharmacy to fill or refill a prescription drug order. (5-8-09)

e. Centralized Prescription Processing is defined as the processing by a pharmacy of a request from another pharmacy to fill or refill a prescription drug order <u>or to perform processing functions such as dispensing and drug regimen review</u>. ~~*(5-8-09)*~~<u>( )</u>

f. Chart Order is a lawful order entered on the chart or a medical record of an inpatient or resident of an institutional facility by a practitioner or his designated agent for a drug or device and shall be considered a prescription drug order provided that it contains: (5-8-09)

i. The full name of the patient; (5-8-09)

ii. Date of issuance; (5-8-09)

iii. Name, strength, and dosage form of the drug prescribed; (5-8-09)

iv. Directions for use; and (5-8-09)

v. If written, the prescribing practitioner's signature or the signature of the practitioner's agent, including the name of the prescribing practitioner; or, if electronically submitted, the prescribing practitioner's electronic or digital signature. (5-8-09)

g. Prepackaging is the act of transferring a drug, manually or by use of an automated pharmacy system, from a manufacturer's or distributor's original container to another container in advance of receiving a prescription drug order or for a patient's immediate need for dispensing by a pharmacy or practitioner authorized to dispense in the establishment in which the prepackaging occurred. (5-8-09)

h. Central Pharmacy is defined as a pharmacy within the state of Idaho or a registered telepharmacy drug outlet across state lines to which centralized prescription processing or filling services have been outsourced pursuant to these rules. (____)

i. Continuous Quality Improvement Program is defined as a system of standards and procedures to identify and evaluate quality-related events, and to constantly enhance the efficiency and effectiveness of the structures and processes of a pharmacy system that determine the outcomes of medication use. (____)

j. Drug Regimen Review is defined as including, but is not limited to, the following activities: (____)

i. Evaluation of the prescription drug order and patient records for known allergies; (____)

ii. Rational therapy contraindications; (____)

iii. Reasonable dose, duration of use, and route of administration, considering age, gender, and other patient factors; (____)

iv. Reasonable directions for use; (____)

v. Potential or actual adverse drug reactions; (____)

vi. Drug-drug interactions; (____)

vii. Drug-food interactions; (____)

viii. Drug-disease contraindications; (____)

ix. Therapeutic duplication; (____)

x. Proper utilization (including over- or under-utilization), and optimum therapeutic outcomes; and (____)

xi. Abuse or misuse. (____)

02. Purpose. Pursuant to Section 54-1703, Idaho Code, these rules implement the provisions of the Idaho Pharmacy Act concerning registration of facilities as specified in Section 54-1729, Idaho Code. (7-1-93)

03. Applicability. These rules apply to all institutions and institutional pharmacies as defined in these rules. (5-8-09)

04. Registration of Institutional Pharmacies. All institutional pharmacies shall register annually with the Board. Certificates of registration shall be issued only to those institutional pharmacies that satisfy the provisions of Section 54-1729, Idaho Code, and Subsection 251.05 through Section 259 of these rules. (7-1-93)

05. Directors ~~***of Institutional Pharmacy***~~. Each institutional pharmacy ~~*shall*~~ and each central pharmacy must be directed by a pharmacist (hereinafter referred to as "the director") who is licensed ~~*to engage in the practice of pharmacy*~~ or registered in this state and who is knowledgeable in, and thoroughly familiar with the specialized functions of institutional pharmacies. ~~*He shall*~~ Each director will be responsible for all activities of ~~*the*~~ his respective institutional pharmacy or central pharmacy and for meeting the requirements of ~~*the Idaho Pharmacy Act and these rules*~~ state and federal law and regulations. ~~*(7-1-93)*~~( )

06. Supportive Personnel. The director of an institutional pharmacy shall be assisted by a sufficient number of additional licensed pharmacists and ancillary personnel as may be required to operate the pharmacy competently, safely, and adequately to meet the needs of the patients of the facility. (7-1-93)

a. Trained technical personnel may be employed. The director shall develop and implement written policies and procedures to specify the duties to be performed by technical personnel. (7-1-93)

b. The policies and procedures shall, at a minimum, specify that ancillary technical personnel are personally and directly supervised by a licensed pharmacist and that ancillary technical personnel may not be assigned duties that may only be performed by a licensed pharmacist. (7-1-93)

c. Secretarial and clerical assistance and support may be utilized as required to assist with recordkeeping, report submission, and other administrative duties; however, such personnel may not perform any technical duties. (7-1-93)

07. Supervision by Director. All activities and operations of an institutional pharmacy shall be personally and directly supervised by its director. (7-1-93)

08. Ancillary Personnel. All functions and activities of ancillary personnel shall be personally and directly supervised by a sufficient number of licensed pharmacists to ensure that all such functions and activities are performed competently, safely, and without risk of harm to patients. (7-1-93)

09. Pharmacist Absence. During times that an institutional pharmacy is anticipated to

be unattended by a licensed pharmacist, the director shall make arrangements in advance for the provision of drugs to the medical staff and other authorized personnel of the institutional facility. (7-1-93)

10. **Access to Pharmacy**. Only one (1) supervisory, registered nurse in any eight-hour (8) shift may be allowed access to the pharmacy and may remove drugs there from. (7-1-93)

11. **Designated Nurse**. The supervisory nurse shall be designated in writing by the director or the appropriate committee of the institutional facility and shall, prior to being permitted to obtain access to the pharmacy, receive thorough education and training in the proper methods of access, removal of drugs, and recordkeeping and other required procedures. Such education and training shall be given by the director who shall require, at a minimum, the following records and procedures: (7-1-93)

a. Removal of any drugs from the pharmacy by an authorized nurse must be recorded on a suitable form showing the name and strength of the drug, the amount, the date and time, and signature of the nurse; and (7-1-93)

b. Only prepackaged drugs in amounts sufficient for the immediate therapeutic needs shall be removed from the pharmacy when a pharmacist is not available. (7-1-93)

(BREAK IN CONTINUITY OF SECTIONS)

257. ***~~DRUGS FROM OUTSIDE SOURCES~~*** **OUTSOURCING.**

01. **Institutional Pharmacies**. An institutional pharmacy may outsource centralized prescription processing or filling services to a central pharmacy for the limited purpose of assuring that drugs or devices are attainable to meet the immediate needs of patients and residents of the institutional facility or when the institutional pharmacy cannot provide services on an ongoing basis, provided that the institutional pharmacy: ( )

a. Has obtained approval from the institutional facility to outsource centralized prescription processing or filling services for its inpatients and residents; ( )

b. Has a written contract with the central pharmacy outlining the services to be provided by the central pharmacy and the responsibilities and accountabilities of each party in fulfilling the terms of said contract in compliance with federal and state laws and regulations; ( )

c. Provides a valid chart order *and patient profile* to the central pharmacy it has contracted with for the centralized prescription processing or filling services; and ~~*(7-1-09)T*~~*( )*

d. Shares a common electronic file or has appropriate technology to allow access by the central pharmacy to sufficient information necessary or required to fill or refill a prescription

order. ( )

02. Policies, Procedures, and Documentation for Institutional Pharmacies and Central Pharmacies. Each party performing or contracting for centralized prescription processing or filling services under Subsection 257.01 of these rules must: ( )

a. Maintain a policies and procedures manual and documentation that implementation of such policies and procedures is occurring. The manual and documentation must include, but are not limited to, the following: ( )

i. A copy of the outsourcing approval required under Paragraph 257.01.a. of these rules; ( )

ii. A copy of the contract required under Paragraph 257.01.b. of these rules; ( )

iii. The maintenance of appropriate records to identify the pharmacists providing centralized prescription processing or filling services; ( )

iv. The maintenance of a mechanism for tracking the prescription drug order during each step in the dispensing process; ( )

v. The provision of adequate security to protect the privacy of protected health information; ( )

vi. The protocol for accessing prescription drugs in the institutional pharmacy outsourcing centralized prescription processing or filling services and for maintaining the security of such drugs; ( )

vii. The protocol to assure that the central pharmacy maintains sufficient Board licensed or registered pharmacists to meet the centralized processing or filling needs of the institutional facility outsourcing such services to the central pharmacy; ( )

viii. Identification of the director of the central pharmacy and of the institutional pharmacy contracting with the central pharmacy; and ( )

ix. The maintenance of a continuous quality improvement program for centralized processing or filling services designed to objectively and systematically monitor and evaluate the quality and appropriateness of patient care, pursue opportunities to improve patient care, and resolve identified problems. ( )

x. A mechanism for the licensed or registered pharmacist within the central pharmacy to readily communicate with the practitioners within the institutional facility that has outsourced centralized processing or filling services. *( )*

xi. A training and orientation program that ensures that licensed or registered pharmacists who are providing centralized prescription processing or filling services are competent to review and approve medication orders. *( )*

xii. Essential information utilized by the institutional facility, such as its therapeutic interchange list, formulary, standard drip concentrations, standard medication administration times, standardized or protocol orders, pharmacokinetic dosing policies, and renal dosing policies, as well as protocols for ensuring timely and complete communication of changes to said information. *( )*

xiii. Protocol for the central pharmacy to perform a review of the patient's profile, including but not limited to performing a drug regimen review. *( )*

b. Implementation documentation must be retained for a period of two (2) years. ( )

c. Make the policy and procedures manual and implementation documentation available to the Board for review upon request. ( )

0~~1~~3. ~~Outside Pharmacies~~ Institutional Facilities. Whenever an institutional facility without an institutional pharmacy obtains drugs, devices, or ~~pharmaceutical~~ other pharmacy services ~~are obtained~~ from outside ~~of~~ the institutional facility, arrangements ~~shall~~ must be made to ensure that such outside pharmacist provides his services with sufficient professionalism, quality, and availability to adequately protect the safety of the patients and to properly serve the needs of the facility. The arrangements shall be made in writing and shall, at a minimum, specify that: ~~(7-1-93)~~( )

a. The outside pharmacist is to act in the capacity of a part-time director and therefore, is subject to these rules; (7-1-93)

b. The pharmacist shall provide on-call service at all times; (7-1-93)

c. Adequate storage facilities for drugs will be provided; (7-1-93)

d. All prescription drugs in oral solid dosage form supplied to a licensed skilled nursing care facility, whether from an outside source or in-house pharmacy, shall be limited to no more than an eight (8) day supply except where USP indicates the drug shall be dispensed in the original container. Up to a thirty-four (34) day supply will be allowed if provided in "Unit Dose," as defined in Subsection 156.05 of these rules; (3-20-04)

e. All drugs in liquid form will be supplied in amounts not to exceed sixteen (16) ounces or a thirty-four (34) day supply; (3-20-04)

f. All drugs housed in long term care facilities will be labeled according to Section 159 of these rules; (8-4-94)

g. Automatic refilling of medications is prohibited, except where unit dose is used in a daily delivery system. Any continuation of medications must be reordered by the licensed skilled nursing care facility pursuant to a current physician's order; and (7-01-94)

h. All drugs supplied shall be labeled so as to ensure that recalls can be effected and that proper control and supervision of the drugs may be exercised. (7-1-93)

0~~2~~4. ***~~Centralized Prescription Processing or Filling for Immediate Need~~*** **Limited Outsourcing by Outside Pharmacy**. An outside pharmacy that provides prescription processing or filling services for an institutional facility ~~*which*~~ that does not have an institutional pharmacy may outsource, pursuant to a contract, prescription processing or filling services to another pharmacy, and the other pharmacy may perform the prescription processing or filling services outsourced to it, if all of the following conditions are met: ~~*(5-8-09)*~~( )

a. The outsourcing of prescription processing or filling services shall be only for the limited purpose of ensuring that drugs or devices are attainable to meet the immediate needs of patients and residents of the institutional facility or when the pharmacy outsourcing those services cannot provide services for the institutional facility on an ongoing basis; (5-8-09)

b. The outsourcing pharmacy has obtained approval from the Institutional Facility to outsource centralized prescription processing or filling services for its inpatients and residents; (5-8-09)

c. The outsourcing pharmacy provides a valid chart order to the pharmacy it has contracted with for the centralized prescription processing or filling services; and (5-8-09)

d. The contract between the outsourcing pharmacy and the pharmacy with which it has contracted for centralized prescription processing or filling services is in writing. (5-8-09)

0~~3~~5. Patient's Own Drugs. (7-1-93)

a. Whenever patients bring drugs into an institutional facility, the drugs shall not be administered unless they can be precisely identified and only pursuant to a physician's order, including chart order. (5-8-09)

b. If the patient's drugs are not to be administered, then the director shall, according to procedures specified in writing, have the patient's drugs turned in to the pharmacy, which shall package, seal, and return them to an adult member of the patient's immediate family or store and return them to the patient upon discharge. (7-1-93)

(BREAK IN CONTINUITY OF SECTIONS)

~~261. TELEPHARMACY PILOT PROJECT.~~
~~The Board, through its executive director, may authorize specific institutional facilities and the institutional pharmacies located therein to participate in a telepharmacy program. The following rules shall apply to institutions so authorized by the Board for the telepharmacy practiced in the institution. The purpose of the Telepharmacy Pilot Project is to allow the provision of pharmaceutical care through the use of telecommunications and information technologies to patients at a distance from the pharmacy and pharmacist providing the pharmaceutical care. During the pilot project phase of the telepharmacy program, designation to participate in the telepharmacy program shall be at the discretion of the Board and the executive director. (4-6-05)~~

~~262. DEFINITIONS.~~

~~01. Central Pharmacy~~. *~~An institutional pharmacy authorized by the Board to participate in a telepharmacy program.~~* *~~(4-6-05)~~*

~~02. Consulting Pharmacists~~. *~~Pharmacists employed at a central pharmacy who provide pharmaceutical care to patients at a rural institutional facility.~~* *~~(4-6-05)~~*

~~03. Rural Institutional Facility~~. *~~An institutional facility authorized by the Board to participate in a telepharmacy program. Rural institutional facilities are those facilities federally designated as critical access hospitals or other facilities operating in a health professional shortage area and that are unable to otherwise obtain pharmaceutical care on a timely basis twenty-four (24) hours per day.~~* *~~(4-6-05)~~*

~~04. Rural Institutional Pharmacy~~. *~~The institutional pharmacy located within a rural institutional facility.~~* *~~(4-6-05)~~*

~~05. Telepharmacy Program~~. *~~The pilot project adopted by the Board to allow selected central pharmacies and selected rural institutional facilities to engage in the provision of pharmaceutical care through the use of telecommunications and information technologies to patients at a distance from the pharmacy and pharmacist providing the pharmaceutical care.~~* *~~(4-6-05)~~*

~~263. CONTRACT FOR TELEPHARMACY PROGRAM.~~
~~A central pharmacy may contract with a rural institutional facility for operation of a telepharmacy program as specified herein.~~ *~~(4-6-05)~~*

~~01. Contract Matters~~. *~~The contract shall address the following matters:~~* *~~(4-6-05)~~*

~~a.~~ *~~Identify the director of pharmacy of the central pharmacy and the director of pharmacy of the rural institutional pharmacy and provide for notice to the parties and to the Board in the event of a change in either director.~~* *~~(4-6-05)~~*

~~b.~~ *~~Contain a description of the telepharmacy services to be performed by the central pharmacy for the rural institutional pharmacy, including:~~* *~~(4-6-05)~~*

~~i.~~ *~~Protocols for communication of orders for prescription drugs from the practitioners at the rural institutional pharmacy to the pharmacists at the central pharmacy.~~* *~~(4-6-05)~~*

~~ii.~~ *~~Protocols for the central pharmacy to accomplish dispensing of prescription drugs at the rural institutional facility and to ensure that the central pharmacy has sufficient consulting pharmacists and support staff to meet the pharmacy needs of the institutional facility where the central pharmacy is located as well as performing the pharmacy functions for the rural institutional pharmacy as are contemplated under the contract.~~* *~~(4-6-05)~~*

~~iii.~~ *~~A description of the access to prescription drugs in the rural institutional~~*

~~*pharmacy under the program and protocol for maintaining the security of prescription drugs in the rural institutional pharmacy.* *(4-6-05)*~~

~~*iv. Contain a provision for the orderly transition of pharmaceutical services for the rural institutional pharmacy in the event the central pharmacy elects to terminate its participation in the telepharmacy program, such transition to include an adequate time for the rural institutional pharmacy to locate appropriate pharmaceutical services from another source.* *(4-6-05)*~~

~~*v. The term of the contract shall not exceed two (2) years and shall be subject to the right of the Board and its executive director to conduct an annual review of the operations under the contract and of the telepharmacy program.* *(4-6-05)*~~

~~***02. Additional Contract Matters**. The contract may address additional matters regarding the Telepharmacy Program between the central pharmacy and the rural institutional facility.* *(4-6-05)*~~

~~***03. Contract Approval**. The contract must be approved by the executive director of the Board prior to the commencement of telepharmacy services between the central pharmacy and the rural institutional facility. In reviewing the contract, the executive director shall evaluate the proposed terms in the light of:* *(4-6-05)*~~

~~***a.** Promoting, preserving, and protecting the health, safety, and welfare of the public;* *(4-6-05)*~~

~~***b.** Maintaining appropriate professional standards for the practice of pharmacy; and* *(4-6-05)*~~

~~***c.** Maintaining appropriate safeguards for the protection of prescription drug inventories, especially controlled substance inventories, at the Rural Institutional Pharmacy.* *(4-6-05)*~~

~~***264. SPECIAL RULES FOR DIVISION OF RESPONSIBILITY FOR TELEPHARMACY.** Notwithstanding anything in these rules to the contrary, for rural institutional pharmacies and central pharmacies, and the pharmacists practicing under an approved contract for telepharmacy services, the following rules shall apply.* *(4-6-05)*~~

~~***01. Responsibility of Director of Central Pharmacy**. The director of pharmacy of the central pharmacy shall be responsible for all telepharmacy services performed by the central pharmacy under the approved contract and for meeting the requirements of the Idaho Pharmacy Act and these rules with respect to such services. The telepharmacy activities and operations performed by the central pharmacy under the approved contract and the ancillary personnel of the central pharmacy engaged in such activities and operations shall be personally and directly supervised by the director of pharmacy in the same fashion as all other activities and operations at the central pharmacy.* *(4-6-05)*~~

~~***02. Responsibility of Director of Rural Institutional Pharmacy**. The director of pharmacy of the rural institutional pharmacy shall remain responsible for all other aspects of the*~~

~~*rural institutional pharmacy but shall not be responsible for the services performed by the central pharmacy under the approved contract. Where ancillary personnel are directed or supervised in telepharmacy activities by the central pharmacy, responsibility for such direction and supervision shall lie with the central pharmacy and the director thereof.* *(4-6-05)*~~

261. -- 264. (RESERVED).

(BREAK IN CONTINUITY OF SECTIONS)

292. REGISTRATION, DRUG OUTLET.

01. Annual Renewal of Registration of Drug Outlet. (7-1-93)

a. Annually each drug outlet shall renew its registration no later than July 1 on a form provided by the Board and accompanied by the required fee. (7-1-93)

b. Each facility may be inspected by an inspector of the Board to ascertain that proper procedures are being carried out in regard to distribution of drugs. (7-1-93)

02. Retail Drug Outlet. (7-1-93)

a. A Retail Pharmacy Drug Outlet is a community pharmacy or any other pharmacy managed by an Idaho licensed pharmacist. (7-1-93)

b. A Retail Non-Pharmacy Drug Outlet includes any grocery store, bar, hotel, department store, vending machine, etc., not registered as a pharmacy that sells non-legend drugs, devices, or medical supplies to be sold at retail. (7-1-93)

03. Registrations and Renewals of Retail Non-Pharmacy Drug Outlet. For the issuing of registrations and renewals required by Section 54-1729, Idaho Code, the fee for each retail non-pharmacy drug outlet registration shall be determined as follows: (7-1-93)

a. "B" registration for those stocking not more than fifty (50) drug items; (8-4-94)

b. "A" registration for those stocking more than fifty (50) drug items; and (7-1-93)

c. "V" registration for vending machines, annual fee of five dollars ($5). (8-4-94)

d. Reinstatement of a non-pharmacy registration shall be a minimum of five dollars ($5) or one-half (1/2) the annual fee. (7-1-93)

04. Institutional Pharmacy Outlet. A hospital pharmacy, nursing home pharmacy, state institution pharmacy, and any other institutional outlet having a pharmacy within the facility. (7-1-93)

05. Institutional Non-Pharmacy Drug Outlet. A hospital, nursing home, state institution, shelter home, convalescent home, extended care facility, drug abuse treatment center, family planning clinic, and any other outlet not having a pharmacy within the facility. (7-1-93)

06. Manufacturing Drug Outlet. A manufacturer manufacturing pharmaceuticals within the state, or a manufacturer located outside the state but doing business within the state of Idaho. (7-1-93)

07. Wholesale Drug Outlet. A company located within the state or outside the state but doing business within the state of Idaho. (7-1-93)

08. Vending Machines. Machines used for non-prescription drugs not otherwise restricted for over-the-counter sale will be considered a separate drug outlet and must be registered with the Board. (7-1-93)

a. Application for registration must be made on forms provided by the Board, accompanied by a reasonable registration fee for each machine that shall have a registration number issued by the Board. (7-1-93)

b. Registration must be renewed annually on or before June 30. (7-1-93)

c. Drugs and medical supplies stored in vending machines are subject to inspection by the Board upon reasonable notice. (7-1-93)

09. Durable Medical Equipment (DME) Outlet. (7-1-98)

a. All entities holding for sale legend or non-legend devices to be sold at retail or wholesale must be registered with the Board. Said legend devices may only be sold or delivered at retail upon the lawful order of a practitioner. DME outlets may hold non-legend drugs for sale. (7-1-98)

b. Registered DME outlets may hold for sale at retail only upon the order of a practitioner the following legend drugs: (7-1-98)

i. Pure oxygen for human application; (7-1-98)

ii. Nitrous oxide; (7-1-98)

iii. Sterile sodium chloride; and (7-1-98)

iv. Sterile water for injection. (7-1-98)

10. Telepharmacy Drug Outlet Across State Lines. ( )

a. "Institution engaged in the practice of telepharmacy across state lines" means an out-of-state hospital with an institutional pharmacy licensed or registered in another state, or a central order entry pharmacy licensed or registered in another state and that is part of a hospital system. ( )

b. "Central order entry pharmacy" means an out-of-state pharmacy that processes information related to the practice of pharmacy, that engages solely in centralized prescription processing but from which drugs are not dispensed, and that is physically located outside the institutional pharmacy of a hospital. ( )

c. "Hospital system" means one (1) or more hospitals under common ownership, where at least one (1) of the hospitals has within it a licensed or registered institutional pharmacy. A hospital system may also include, under the same common ownership, one (1) or more licensed or registered central order entry pharmacies. ( )

d. For registration as a telepharmacy drug outlet across state lines, an institution engaged in the practice of telepharmacy across state lines must satisfy the requirements of Section 54-1729, Idaho Code. ( )

1~~0~~1. Registration Issued at Specific Location. A registration will be issued to an applicant at a specific location and is not transferable as to person or place. (7-1-93)

(BREAK IN CONTINUITY OF SECTIONS)

294. REGISTRATION OF PHARMACISTS TO ENGAGE IN THE PRACTICE OF TELEPHARMACY ACROSS STATE LINES.

01. Registration. To engage in the practice of telepharmacy across state lines, a pharmacist who is not licensed to practice pharmacy within the state of Idaho must be registered by the Board. ( )

02. Requirements and Registration Fee. In order to be registered to engage in the practice of telepharmacy across state lines, the pharmacist must satisfy all the requirements of Section 54-1723A, Idaho Code, and pay a registration fee of two hundred fifty dollars ($250). ( )

03. Renewal and Renewal Fee. The renewal of registration to engage in the practice of telepharmacy across state lines will be as specified in Section 54-1723A(5), Idaho Code, and the annual renewal fee shall be two hundred fifty dollars ($250). ( )

29~~4~~5. -- 320. (RESERVED).