Dear Senators HEIDER, Nuxoll, Bock, and
Representatives WOOD, Perry, Rusche:

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

IDAPA 16.02.01 - Rules Pertaining To The Idaho Time Sensitive Emergency System Council (New Chapter) - Negotiated Rulemaking (Docket No. 16-0201-1401);

IDAPA 16.02.08 - Rules Pertaining To Vital Statistics (Fee Rule) - Proposed Rule (Docket No. 16-0208-1401);

IDAPA 16.02.10 - Rules Pertaining To Reportable Diseases - Proposed Rule (Docket No. 16-0210-1401);

IDAPA 16.02.27 - Rules Pertaining To Radiation Control (Chapter Repeal) - Proposed Rule (Docket No. 16-0227-1401);

IDAPA 16.02.27 - Rules Pertaining To Radiation Control (Chapter Rewrite - Fee Rule) - Proposed Rule (Docket No. 16-0227-1402);

IDAPA 16.03.11 - Rules Pertaining To Intermediate Care Facilities for People with Intellectual Disabilities (ICF/ID) (Chapter Repeal) - Proposed Rule (Docket No. 16-0311-1401);

IDAPA 16.03.11 - Rules Pertaining To Intermediate Care Facilities for People with Intellectual Disabilities (ICF/ID) (Chapter Rewrite) - Proposed Rule (Docket No. 16-0311-1402);

IDAPA 16.05.01 - Rules Pertaining To The Use and Disclosure of Department Records - Proposed Rule (Docket No. 16-0501-1401);

IDAPA 16.06.01 - Rules Pertaining To Child and Family Services - Proposed Rule (Docket No. 16-0601-1401).

Pursuant to Section 67-454, Idaho Code, a meeting on the enclosed rules may be called by the cochairmen or by two (2) or more members of the subcommittee giving oral or written notice to Research and Legislation no later than fourteen (14) days after receipt of the rules' analysis from Legislative Services. The final date to call a meeting on the enclosed rules is no later than 10/01/2014. If a meeting is called, the subcommittee must hold the meeting within forty-two (42) days of receipt of the rules' analysis from Legislative Services. The final date to hold a meeting on the enclosed rules is 10/30/2014.

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

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

Eric Milstead
Director

Legislative Services Office
Idaho State Legislature

Serving Idaho's Citizen Legislature

MEMORANDUM

TO: Rules Review Subcommittee of the Senate Health & Welfare Committee and the House Health & Welfare Committee

FROM: Legislative Research Analyst - Elizabeth Bowen

DATE: September 12, 2014

SUBJECT: Department of Health and Welfare

IDAPA 16.02.01 - Rules Pertaining To The Idaho Time Sensitive Emergency System Council (New Chapter) - Negotiated Rulemaking (Docket No. 16-0201-1401)

IDAPA 16.02.08 - Rules Pertaining To Vital Statistics (Fee Rule) - Proposed Rule (Docket No. 16-0208-1401)

IDAPA 16.02.10 - Rules Pertaining To Reportable Diseases - Proposed Rule (Docket No. 16-0210-1401)

IDAPA 16.02.27 - Rules Pertaining To Radiation Control (Chapter Repeal) - Proposed Rule (Docket No. 16-0227-1401)

IDAPA 16.02.27 - Rules Pertaining To Radiation Control (Chapter Rewrite - Fee Rule) - Proposed Rule (Docket No. 16-0227-1402)

IDAPA 16.03.11 - Rules Pertaining To Intermediate Care Facilities for People with Intellectual Disabilities (ICF/ID) (Chapter Repeal) - Proposed Rule (Docket No. 16-0311-1401)

IDAPA 16.03.11 - Rules Pertaining To Intermediate Care Facilities for People with Intellectual Disabilities (ICF/ID) (Chapter Rewrite) - Proposed Rule (Docket No. 16-0311-1402)

IDAPA 16.05.01 - Rules Pertaining To The Use and Disclosure of Department Records - Proposed Rule (Docket No. 16-0501-1401)

IDAPA 16.06.01 - Rules Pertaining To Child and Family Services - Proposed Rule (Docket No. 16-0601-1401)

The Department of Health and Welfare submits notice of intent to promulgate rules at IDAPA 16.02.01. The Department intends to develop rules for a Time Sensitive Emergency system of care that will address several of the top causes of death in Idaho, including trauma, stroke, and heart attack. Negotiated rulemaking will be conducted at a meeting to be held at 9:00 AM on September 23, 2014, at Oxford Suites, 1426 S. Entertainment Avenue, Boise. The Department will also consider written recommendations and comments submitted on or before October 17, 2014. More information on negotiated rulemaking can be found at the website www.tse.idaho.gov.

The Department also submits notice of several proposed rules.

At IDAPA 16.02.08, the proposed rule would increase fees for certain records and records-related services. The purpose of the fee increase would be to cover costs for the Bureau of Vital Statistics. There is no negative fiscal impact on the state general fund. Negotiated rulemaking was not conducted due to the simple nature of the rule change. The rule is consistent with the Department's authority under Section 39-242, Idaho Code.

At IDAPA 16.02.10, the proposed rule would update language in rules relating to reportable diseases. The purpose of the rule is to be consistent with current public health practices. There is no negative fiscal impact on the state general fund. Negotiated rulemaking was not conducted; however, the Department did consult with stakeholders about the rule changes. The rule is consistent with the Department's authority under Sections 56-1003 and 56-1005, Idaho Code.

At IDAPA 16.02.27, the proposed rules would repeal the current chapter of IDAPA on Idaho Radiation Control Rules and replace it with a rewritten chapter. The purpose of the rewrite is to align the rules with Section 56-1043, Idaho Code, which requires the Department to license x-ray producing devices. The rewrite establishes licensure requirements, incorporates references to current standards and federal regulations, and creates licensure fees. Increased administrative costs associated with the rule would be offset by the fees. Negotiated rulemaking was conducted. The rule is consistent with the Department's authority under Sections 56-1003, 56-1007, 56-1041, 56-1043, 56-1044, and 56-1046, Idaho Code.

At IDAPA 16.03.11, the proposed rule would repeal and rewrite language relating to intermediate care facilities for people with intellectual disabilities. The purpose of the rewrite is to conform the rule to current practices and procedures. There is no negative fiscal impact on the state general fund. Negotiated rulemaking was conducted. The rule is consistent with the Department's authority under Sections 39-1303a and 39-1307, Idaho Code.

At IDAPA 16.05.01, the proposed rule would clarify the Department's authority to make a "fact of death" verification to state agencies, insurance companies, and other entities seeking to verify a person's death. There is no negative fiscal impact on the state general fund. Negotiated rulemaking was not conducted due to the simple nature of the rule change. The rule is consistent with the Department's authority under Sections 39-242, 39-5403, 56-221, 56-222, 56-1003, and 56-1004, Idaho Code.

At IDAPA 16.06.01, the proposed rule would allow the Department to cover the costs of driver's training and driver's permits and licenses for foster children. The rule would also reimburse foster parents for the cost of car insurance for a foster child. The purpose of the rule is to improve the Department's chances of recruiting foster parents, increase the number of placement options for older children, and encourage the development of practical life skills for eligible children. No negative fiscal impact to the state general fund is anticipated, as the costs would be paid from the existing Independent Living appropriation. Negotiated rulemaking was not conducted, because the proposed rule confers a benefit. The rule is consistent with the Department's authority under Sections 16-1629, 16-2102, 39-1209 through 32-1211, 39-5603, 39-7501, 56-202(b), 56-204A, 56-803, 56-1003, 56-1004, 56-1004A, and 56-1007, Idaho Code.

cc: Department of Health and Welfare - Child and Family Services
Beverly Barr and Frank Powell

IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE

16.02.01 - RULES OF THE IDAHO TIME SENSITIVE EMERGENCY SYSTEM COUNCIL

DOCKET NO. 16-0201-1401 (NEW CHAPTER)

NOTICE OF INTENT TO PROMULGATE RULES - NEGOTIATED RULEMAKING

AUTHORITY: In compliance with Sections 67-5220(1) and 67-5220(2), Idaho Code, notice is hereby given that this agency intends to promulgate rules and desires public comment prior to initiating formal rulemaking procedures. This negotiated rulemaking action is authorized pursuant to Section 56-1028, Idaho Code.

MEETING SCHEDULE: The Idaho Time Sensitive Emergency System Council (TSE) holds public meetings on a regular basis for Council business. Each scheduled meeting has an agenda posted on the TSE Council's web page at: **www.tse.idaho.gov**. Anyone wishing to attend the negotiated rulemaking portion of the meeting needs to check the agenda to see the scheduled time for rules. TSE Council meetings scheduled in September are:

Thursday, September 4th & Tuesday, September 23rd, 2014
9:00 a.m. MDT (or as scheduled on agenda)

Oxford Suites Boise
1426 S. Entertainment Ave.
Boise, Idaho 83709

METHOD OF PARTICIPATION: Persons wishing to participate in the negotiated rulemaking may do any of the following:

1) Attend scheduled TSE Council meeting at times on Agenda for rule discussions to participate in the rules process;
2) Provide oral or written recommendations, or both, at the TSE Council's scheduled time for rules;
3) Submit written recommendations and comments to this address on or before October 17, 2014:

TSE Council - Attn: Wayne Denny
Idaho Department of Health and Welfare
2224 E Old Penitentiary Road
Boise, ID 83712-8249

DESCRIPTIVE SUMMARY: The following is a statement in nontechnical language of the substance and purpose of the intended negotiated rulemaking and the principle issues involved:

The 2014 Idaho Legislature adopted a plan to develop a statewide Time Sensitive Emergency (TSE) system of care that will include three of the top five causes of death in Idaho: trauma, stroke, and heart attack. Studies show that organized systems of care improve patient outcomes, reduce the frequency of preventable death, and improve the quality of life of the patient. The TSE Council has been appointed by the Governor and is tasked with developing rules for this statewide system of care for time sensitive emergencies.

CONTACT INFORMATION, WEB ADDRESS, ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning this negotiated rulemaking, contact Wayne Denny at (208) 334-4000. Agenda and materials pertaining to the TSE Council meetings and this rulemaking may be found on the TSE web page: **www.tse.idaho.gov**

All written comments on the negotiated rules must be directed to the contact person above and must be delivered on or before October 17, 2014.

DATED this 7th Day of August, 2014.

Tamara Prisock
DHW - Administrative Rules Unit
450 W. State Street - 10th Floor
Boise, ID 83720-0036

P.O. Box 83720
Tel: (208) 334-5564 phone / Fax: (208) 334-6558
E-mail: **dhwrules@dhw.idaho.gov**

COST/BENEFIT ANALYSIS FORM
Department of Health and Welfare
Administrative Procedures Section (APS)

Docket Number: 16-0208-1401

Agency Contact: James Aydelotte
Phone: (208) 334-4969

Rules Specialist: Frank Powell
Phone: (208) 334-5775

Date Analysis Completed: 6/05/2014

IDAPA Chapter Number and Title: IDAPA 16.02.08, "Vital Statistics Rules"

Fee Rule Status: ☒ **Proposed** ☐ **Temporary Effective date:** July 1, 2015

Instructions:

Section 67-5223(3), Idaho Code, adopted by the 2010 Legislature, requires that all proposed rules in which a fee or charge is imposed or increased must include a cost/benefit analysis of the rule change at the time the rule text is submitted for publication. This analysis needs to include an estimated cost to the agency to implement the rule and an estimated cost to be borne by citizens, or the private sector, or both. This statute change is effective July 1, 2010, and must be completed for fee rules published in the *Idaho Administrative Bulletin* after that date.

Cost/Benefit Analysis For This Rule Change:

- Estimated cost to the Department to implement the fees: $2,500 (one-time)
    - Estimated $1,000 printing new forms
    - Estimated $1,500 for staff time

- Revenues accrued to the Department which will come from fees paid by Idaho citizens and citizens of other states:
    - Estimated $344,900/annually

Explanation:
In the fiscal years 2008 to 2012, revenue from receipts in Vital Records has decreased an average of 3.4% per year. This represents a total decrease of $254,000. We experienced a modest increase of 0.44% (just under $7,500) in fiscal year 2013 and a 2% increase ($29,000) in fiscal year 2014. At the same time our data storage fees increased dramatically. From fiscal year 2007 to fiscal year 2014 they have increased 143% ($88,000). These trends have resulted in the Bureau's inability to support itself as it has done in the past.

In 2014, the Bureau had to rely on one-time help from others to support automated systems changes, printing, and data storage fees for a total of nearly $100,000. These are core to our functionality. For example, we received a great deal of financial support for our new Electronic Birth Certificate System. Absent that, we would have risked system failure and returned to a paper system. This would have made it impossible to meet our contractual requirements with the National Centers for Health Statistics (which supplies us with funding). It would have also resulted in a need for additional data entry staff to data enter the paper certificates. Additionally, the Bureau lost an FTE from the inability to fund it and had to hold open an FTE. These and many other actions were taken to minimize costs. The proposed fee increase will allow the Bureau to restore its lost capacity, as well as anticipate costs for automated systems support and development. The last fee increase the Bureau requested was in 2002. Even with the fee increase, Idaho's birth certificates will still be less expensive than 4 of the 6 surrounding states.

IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE

16.02.08 - VITAL STATISTICS RULES

DOCKET NO. 16-0208-1401

NOTICE OF RULEMAKING - 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 39-242 and 39-252, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than September 17, 2014.

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:

Revenue from existing Vital Statistics fees does not cover the current costs. This rulemaking increases fees in order to cover current costs and make the Bureau of Vital Statistics self-sustaining and not require continued subsidization by other Department programs. The Bureau of Vital Statistics receives no state general funds, only federal monies and fees for the services and documents it provides.

Specifically, this rulemaking increases the fees for certified copies, searches for certified copies, verifications, establishing new birth certificates for adoptions, establishing delayed certificates, amending certificates, and other related services. Also, a new fee for corrections is being established.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased under this docket. These fees are levied under the authority of Section 39-252, Idaho Code.

In order to cover the current costs of services provided, the Department's Bureau of Vital Statistics is increasing the fees for the services listed above. Further, a new fee structure for the verification of vital events by the Department's automated data system is being introduced and is based on a national pricing model.

It should be noted that the last fee increase by the Bureau of Vital Statistics was in 2002. Even with the proposed fee increase, Idaho's birth certificates and other vital documents will still be less expensive than 4 of the 6 surrounding states.

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 anticipated fiscal impact to the state general fund related to this rulemaking. The cost to implement these changes is minimal (estimated at $2,500) and will be paid out of current operating funds. It is estimated that $344,900 of annual revenue will be generated.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not conducted. Negotiated rulemaking was deemed not feasible as this rule change is simple in nature.

INCORPORATION BY REFERENCE: No materials are being incorporated by reference into these rules.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact James Aydelotte (208) 334-4969.

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 September 24, 2014.

DATED this 7th Day of August, 2014.

Tamara Prisock
DHW - Administrative Rules Unit
450 W. State Street - 10th Floor
P.O. Box 83720
Boise, ID 83720-0036
Tel: (208) 334-5564 phone / Fax: (208) 334-6558
E-mail: **dhwrules@dhw.idaho.gov**

THE FOLLOWING IS THE PROPOSED TEXT OF FEE DOCKET NO. 16-0208-1401
(Only those Sections being amended are shown.)

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

01. Certified Copies. The fee for the issuance of a certified copy of a certificate of death is ~~*four*~~six**teen** dollars ($1~~4~~6) per copy. This fee incorporates the additional one dollar ($1) coroner training and education fund fee in accordance with Section 39-252(2), Idaho Code. The fee for the issuance of a certified copy of any other vital record is ~~*thir*~~six**teen** dollars ($1~~3~~6) per copy. ~~*(4-7-11)*~~( )

02. Searches. The fee for ~~*each*~~ a search of the files for a ~~*death*~~ record of any vital event when no record is found ~~*or*~~, no copy is made, or a special document search is requested, is ~~*four*~~six**teen** dollars ($1~~4~~6). ~~*The fee for each search of the files for any other vital event when no record is found or no copy is made is thirteen dollars ($13).*~~
~~*(4-7-11)*~~( )

03. Verifications. ( )

a. Except for Idaho state ~~*executive*~~ agencies and public health districts, the fee for manual or written verification of data from a certificate~~s~~ is ~~*nine*~~ ten dollars ($~~9~~10). ~~*(4-7-11)*~~( )

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

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

( )

c. The fee for electronic fact of death verification by the Department's automated systems is three dollars ($3.00). Fact of death verification involves comparing administrative data to Idaho death data and returning an indication of death. ( )

04. Statistical, Research, or Public Health Services. The State Registrar assesses the fee for statistical, research or public health services. The costs are calculated based upon the costs of retrieving the data and the costs of compiling, organizing, and printing the data. Cost may be reduced on a prorated basis to reflect the number of expected requests for the same information or service. (4-7-11)

05. Fees for Other Services. (4-7-11)

a. The fee for ~~establishing a new birth certificate pursuant to~~ filing a report, certificate, or decree of adoption is ~~thirteen~~ twenty dollars ($~~13~~20). ~~(4-7-11)~~( )

b. The fee for establishing a delayed certificate of any vital event is ~~thirteen~~ twenty-five dollars ($~~13~~25). ~~(4-7-11)~~( )

c. The fee for establishing a new or amended ~~birth~~ certificate ~~pursuant to~~ of any vital event due to a court order, a paternity affidavit or rescission, or a subsequent marriage affidavit is ~~thirteen~~ twenty dollars ($~~13~~20). ~~(4-7-11)~~( )

d. A service fee of three dollars ($3), in addition to the ~~four~~sixteen dollars ($1~~4~~6) for a certified copy of a death or stillbirth certificate ~~and thirteen ($13) dollars for a certified copy of a stillbirth certificate,~~ must be paid to the local deputy state registrar for securing each expedited certified copy of a vital record. ~~(4-7-11)~~( )

e. The fee for filing a copy of "Request and Consent for Artificial Insemination" as required by Section 39-5403, Idaho Code, is ten dollars ($10). (4-7-11)

f. The fee for ~~copies~~ a copy of ~~death~~ a certificate~~s~~ of any vital event provided upon written request to local, states other than Idaho, or federal government agencies in accordance with Section 39-270(b), Idaho Code, is ~~four~~sixteen dollars ($1~~4~~6). ~~The fee for any other vital event is thirteen dollars ($13).~~ ~~(4-7-11)~~( )

g. Fees for correction of a certificate~~s~~ of ~~death or stillbirth~~ any vital event. ~~(4-7-11)~~( )

~~i. When a funeral director must correct an error on a certificate of death for which certified copies have been issued, and a replacement copy has been requested, the correction fee is fourteen dollars ($14) and must include issuance of one (1) certified copy of the corrected death record.~~ ~~(4-7-11)~~

~~ii. When a funeral director must correct an error on a certificate of stillbirth for which certified copies have been issued, and a replacement copy has been requested, the correction fee is thirteen dollars ($13) and must include issuance of one (1) certified copy of the corrected stillbirth record.~~ ~~(4-7-11)~~

i~~i~~. The fee for ~~additional (~~a replacement~~) copies~~ certified copy of a certificate~~s~~ of ~~death or stillbirth issued at the time~~ any vital event when the incorrect certified copy is returned for exchange within sixty (60) days of a correction of an error is ~~two~~ five dollars ($~~2~~5) per certified copy. ~~(4-7-11)~~( )

i~~v~~i. ~~When a correction is requested for~~There is no charge for a correction of an error or errors on a certificate of ~~death or stillbirth, but no replacement copy is requested, there is no charge to the requestor~~ any vital event when the required documentation is received within the first year after the date of the event. ~~(4-7-11)~~( )

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

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

i. A service fee of ~~five~~ ten dollars ($~~5~~10) per certificate or document will be added for priority ~~mailing~~ processing or special handling, ~~including additional document requests~~ of a request for a certified copy or copies of a certificate of any vital event, a request for a disinterment permit, a request to file a registry form, or a request regarding another vital event related form or document, other than those identified in Subsection 251.05.h.ii.

of this rule. This fee will be in addition to the current fee~~(s)~~ or fees for ~~the requested~~ each certified copy~~(ies), or~~ search~~(es)~~, or ~~both~~ filing requested, or any combination thereof. This fee is forfeited and a new service fee must be paid for priority processing or special handling in the event that the requestor takes longer than ninety (90) days to respond to a request for additional information, or documentation, or both. ~~(4-7-11)~~( )

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

iii. A hard copy fee of five dollars ($5) per certificate will be added to the certified copy fee for issuance of a non-computer generated certified photocopy of a certificate of any vital event. Additional certified photocopies of the same certificate requested at the same time will be issued at the sixteen dollar ($16) certified copy fee. ( )

06. Waiver of Fee Requirement. Fees may be waived for Idaho state ~~executive~~ agency and public health district administrative use requests. Statistical information prepared for public health planning purposes may be published and distributed without charge whenever the Director determines that the publication and distribution is in the public interest. ~~(12-26-83)~~( )

IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE

16.02.10 - IDAHO REPORTABLE DISEASES

DOCKET NO. 16-0210-1401

NOTICE OF RULEMAKING - PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency and the Board of Health and Welfare have initiated proposed rulemaking procedures. The action is authorized pursuant to Sections 56-1003, and 56-1005, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than September 17, 2014.

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

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

These rules are being updated and language is being amended for clarity and consistency, and for the protection of public health and safety. These changes will align language in these rules with current taxonomy and public health practices. Echinococcosis is being added to the list of reportable diseases to improve surveillance for this disease. Updates are being made to clarify reportable disease restrictions at facilities, daycares, food establishments, and other areas of concern when the public health may be at risk.

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

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

There is no anticipated fiscal impact to state general funds, or any other funds except the costs of the rule promulgation which includes printing and publication.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not feasible because these rules are for the protection of the public, and the nature of these amendments do not require negotiations. However, stakeholders have been consulted concerning the proposed rule changes.

INCORPORATION BY REFERENCE: Pursuant to Section 67-5229(2)(a), Idaho Code, documents are being incorporated by reference into these rules to give them the force and effect of law. The documents are not being reprinted in this chapter of rules due to their length, format, and the cost for republication. The incorporated documents are in the current chapter, but are being updated to newer versions: Nationally Notifiable Diseases Surveillance System - Case Definitions; Human Rabies Prevention - United States, 2008; Compendium of Animal Rabies Control, 2011; and Standards for Cancer Registries, Eighteenth Edition.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Kathryn Turner, at (208) 334-5939.

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 24, 2014.

DATED this 7th Day of August, 2014.

Tamara Prisock
DHW - Administrative Rules Unit
450 W. State Street - 10th Floor
Boise, ID 83720-0036

P.O. Box 83720
Tel: (208) 334-5564 phone / Fax: (208) 334-6558
E-mail: **dhwrules@dhw.idaho.gov**

THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 16-0210-1401
(Only those Sections being amended are shown.)

004. DOCUMENTS INCORPORATED BY REFERENCE.
The documents referenced in Subsections 004.01 through 004.06 of this rule are used as a means of further clarifying these rules. These documents are incorporated by reference and are available at the Idaho State Law Library or at the Department's main office listed in Section 005 of these rules. (4-2-08)

01. Guideline for Isolation Precautions in Hospitals. Siegel, J.D., et al., "Guideline for Isolation Precautions in Hospitals." Health Care Infection Control Practices Advisory Committee, Atlanta, GA: Centers for Disease Control and Prevention, 2007. (4-2-08)

02. ~~***Case Definitions for Infectious Conditions Under Public Health Surveillance, 2010**. Morbidity and Mortality Weekly Report, 2010 Edition. Centers for Disease Control and Prevention. Division of Integrated Surveillance Systems at, http://www.cdc.gov/ncphi/disss/nndss/phs/infdis.htm.~~**Nationally Notifiable Diseases Surveillance System - Case Definitions**. http://wwwn.cdc.gov/nndss/script/casedefDefault.aspx. ~~*(3-29-10)*~~( )

a. A person, who has been diagnosed as having a specific disease or condition by a physician or other health care provider, is considered a case. The diagnosis may be based on clinical judgment, on laboratory evidence, or on both criteria. Individual case definitions are described in "National Notifiable Disease Surveillance System Case Definitions," incorporated in Section 004 of these rules. ( )

b. A laboratory detection of a disease or condition as listed in Section 050 of these rules and as further outlined in Sections 100 through 949 of these rules. ( )

03. Human Rabies Prevention -- United States, ~~*1999*~~ **2008**. Morbidity and Mortality Weekly Report, ~~*January 8, 1999*~~ May 23, 2008, Vol.~~*48, RR-1*~~ 57.RR-3. Centers for Disease Control and Prevention. ~~*(4-2-08)*~~( )

04. Updated U.S. Public Health Service Guidelines for the Management of Occupational Exposures to HIV and Recommendations for Postexposure Prophylaxis. Morbidity and Mortality Weekly Report, September 30, 2005, Vol. 54, RR09. Centers for Disease Control and Prevention. These guidelines are found online at http://aidsinfo.nih.gov/contentfiles/HealthCareOccupExpoGL.pdf. (3-29-10)

05. Compendium of Animal Rabies Control, 20~~**08**~~**11**. National Association of State Public Health Veterinarians, Inc., Morbidity and Mortality Weekly Report,~~*April 6, 2007* *November 4, 2011*~~, Vol.~~*58, RR-3*~~ 60.RR-6. Centers for Disease Control and Prevention. This document is found online at http://www.nasphv.org/Documents/RabiesCompendium.pdf. ~~*(3-29-10)*~~( )

06. Standards for Cancer Registries, Volume II, Data Standards and Data Dictionary. North American Association of Central Cancer Registries,~~*Twelfth*~~ Eighteenth Edition, Record Layout Version~~*11.2*~~ 14, ~~*April 2007*~~ September 2013. ~~*(4-2-08)*~~( )

(BREAK IN CONTINUITY OF SECTIONS)

010. DEFINITIONS A THROUGH K.
For the purposes of this chapter, the following definitions apply. (4-2-08)

01. Airborne Precautions. Methods used to prevent airborne transmission of infectious agents, as described in "Guideline for Isolation Precautions in Hospitals," incorporated in Section 004 of these rules. (4-2-08)

02. Approved Fecal Specimens. Specimens of feces obtained from the designated person who has not taken any antibiotic orally or parenterally for two (2) days prior to the collection of the fecal specimen. The specimen

must be collected and transported to the laboratory in a manner appropriate for the test to be performed. (4-2-08)

03. Bite or Other Exposure to Rabies. Bite or bitten means that the skin of the person or animal has been nipped or gripped, or has been wounded or pierced, including scratches, and includes probable contact of saliva with a break or abrasion of the skin. The term "exposure" also includes contact of saliva with any mucous membrane. In the case of bats, even in the absence of an apparent bite, scratch, or mucous membrane contact, exposure may have occurred, as described in "Human Rabies Prevention -- United States, ~~1999~~ 2008," incorporated in Section 004 of these rules. ~~(4-2-08)~~( )

04. Board. The Idaho State Board of Health and Welfare as described in Section 56-1005, Idaho Code. (4-2-08)

05. Cancer Data Registry of Idaho (CDRI). The agency performing cancer registry services under a contractual agreement with the Department as described in Section 57-1703, Idaho Code. (4-2-08)

06. Cancers. Cancers that are designated reportable include the following as described in Section 57-1703, Idaho Code: (4-2-08)

a. In-situ or malignant neoplasms, but excluding basal cell and squamous cell carcinoma of the skin unless occurring on a mucous membrane and excluding in-situ neoplasms of the cervix. (4-2-08)

b. Benign tumors of the brain, meninges, pineal gland, or pituitary gland. (4-2-08)

07. Carrier. A carrier is a person who can transmit a communicable disease to another person, but may not have symptoms of the disease. (4-2-08)

08. Case. (4-2-08)

a. A person, who has been diagnosed as having a specific disease or condition by a physician or other health care provider, is considered a case. The diagnosis may be based on clinical judgment, on laboratory evidence, or on both criteria. Individual case definitions are described in "National Notifiable Disease Surveillance System Case Definitions ~~for Infectious Conditions Under Public Health Surveillance~~," incorporated in Section 004 of these rules. ~~(4-2-08)~~( )

b. A laboratory detection of a disease or condition as listed in Section 050 of these rules and as further outlined in Sections 100 through 949 of these rules. (4-2-08)

09. Cohort System. A communicable disease control mechanism in which cases having the same disease are temporarily segregated to continue to allow supervision and structured attendance in a daycare or health care facility. (4-2-08)

10. Communicable Disease. A disease which may be transmitted from one (1) person or an animal to another person either by direct contact or through an intermediate host, vector, inanimate object, or other means which may result in infection, illness, disability, or death. (4-2-08)

11. Contact. A contact is a person who has been exposed to a case or a carrier of a communicable disease ~~and could possibly contract~~ while the disease was communicable, or a person by whom a case or carrier of a communicable disease could have been exposed to the disease ~~or infection~~. ~~(4-2-08)~~( )

12. Contact Precautions. Methods used to prevent contact transmission of infectious agents, as described in the "Guideline for Isolation Precautions in Hospitals," incorporated in Section 004 of these rules. (4-2-08)

13. Daycare. Care and supervision provided for compensation during part of a twenty-four (24) hour day, for a child or children not related by blood or marriage to the person or persons providing the care, in a place other than the child's or children's own home or homes as described by Section 39-1102, Idaho Code. (4-2-08)

14. **Department**. The Idaho Department of Health and Welfare or its designee. (4-2-08)

15. **Director**. The Director of the Idaho Department of Health and Welfare or his designee as described under Sections 56-1003 and 39-414(2), Idaho Code, and Section 950 of these rules. (4-2-08)

16. **Division of Public Health Administrator**. A person appointed by the Director to oversee the administration of the Division of Public Health, Idaho Department of Health and Welfare, or his designee. (4-2-08)

17. **Droplet Precautions**. Methods used to prevent droplet transmission of infectious agents, as described in the "Guideline for Isolation Precautions in Hospitals," incorporated in Section 004 of these rules. (4-2-08)

18. **Exclusion**. An exclusion for a food service facility means a person is prevented from working as a food employee or entering a food establishment except for those areas open to the general public as outlined in the IDAPA 16.02.19, "The Idaho Food Code." (4-2-08)

19. **Extraordinary Occurrence of Illness Including Clusters**. Rare diseases and unusual outbreaks of illness which may be a risk to the public are considered an extraordinary occurrence of illness. Illnesses related to drugs, foods, contaminated medical devices, contaminated medical products, illnesses related to environmental contamination by infectious or toxic agents, unusual syndromes, or illnesses associated with occupational exposure to physical or chemical agents may be included in this definition. (4-2-08)

20. **Fecal Incontinence**. A condition in which temporarily, as with severe diarrhea, or long-term, as with a child or adult requiring diapers, there is an inability to hold feces in the rectum, resulting in involuntary voiding of stool. (4-2-08)

21. **Foodborne Disease Outbreak**. An outbreak is when two (2) or more persons experience a similar illness after ingesting a common food. (4-2-08)

22. **Food Employee**. An individual working with unpackaged food, food equipment or utensils, or food-contact surfaces as defined in IDAPA 16.02.19, "The Idaho Food Code." (4-2-08)

23. **Health Care Facility**. An establishment organized and operated to provide health care to three (3) or more individuals who are not members of the immediate family. This definition includes hospitals, intermediate care facilities, residential care and assisted living facilities. (4-2-08)

24. **Health Care Provider**. A person who has direct or supervisory responsibility for the delivery of health care or medical services. This includes: licensed physicians, nurse practitioners, physician assistants, nurses, dentists, chiropractors, and administrators, superintendents, and managers of clinics, hospitals, and licensed laboratories. (4-2-08)

25. **Health District**. Any one (1) of the seven (7) public health districts as established by Section 39-409, Idaho Code, and described in Section 030 of these rules. (4-2-08)

26. **Health District Director**. Any one (1) of the public health districts' directors appointed by the Health District's Board as described in Section 39-413, Idaho Code, or his designee. (4-2-08)

27. **Idaho Food Code**. Idaho Administrative Code that governs food safety, IDAPA 16.02.19, "Food Safety and Sanitation Standards for Food Establishments," also known as "The Idaho Food Code." These rules may be found online at http://adminrules.idaho.gov/rules/current/16/0219.pdf. (4-2-08)

28. **Isolation**. The separation of a person known or suspected to be infected with an infectious agent, or contaminated from chemical or biological agents, from other persons to such places, under such conditions, and for such time as will prevent transmission of the infectious agent or further contamination. The place of isolation will be designated by the Director under Section 56-1003(7), Idaho Code, and Section 065 of these rules. (4-2-08)

011. DEFINITIONS L THROUGH Z.

For the purposes of this chapter, the following definitions apply. (4-2-08)

01. Laboratory Director. A person who is directly responsible for the operation of a licensed laboratory or his designee. (4-2-08)

02. Laboratory. A medical diagnostic laboratory which is inspected, licensed, or approved by the Department or licensed according to the provisions of the Clinical Laboratory Improvement Act by the United States Health Care and Financing Administration. Laboratory may also refer to the Idaho State Public Health Laboratory, and to the United States Centers for Disease Control and Prevention. (4-2-08)

03. Livestock. Livestock ~~*includes cattle, swine, horses, mules, asses, native and non-native ungulates, and other animals determined by the Department*~~ as defined by the Idaho Department of Agriculture in IDAPA 16.04.03, "Rules Governing Animal Industry." ~~*(4-2-08)*~~( )

04. Medical Record. Hospital or medical records are all those records compiled for the purpose of recording a medical history, diagnostic studies, laboratory tests, treatments, or rehabilitation. Access will be limited to those parts of the record which will provide a diagnosis, or will assist in identifying contacts to a reportable disease or condition. Records specifically exempted by statute are not reviewable. (4-2-08)

05. Outbreak. An outbreak is an unusual rise in the incidence of a disease. An outbreak may consist of a single case. (4-2-08)

06. Personal Care. The service provided by one (1) person to another for the purpose of feeding, bathing, dressing, assisting with personal hygiene, changing diapers, changing bedding, and other services involving direct physical contact. (4-2-08)

07. Physician. A person legally authorized to practice medicine and surgery, osteopathic medicine and surgery, or osteopathic medicine in Idaho as defined in Section 54-1803, Idaho Code. (4-2-08)

08. Quarantine. The restriction placed on the entrance to and exit from the place or premises where an infectious agent or hazardous material exists. The place of quarantine will be designated by the Director or Health District Board. (4-2-08)

09. Rabies Post-Exposure Prophylaxis (rPEP). The administration of a rabies vaccine series with or without the antirabies immune globulin, depending on pre-exposure vaccination status, following a documented or suspected rabies exposure, as described in "Human Rabies Prevention--United States, ~~*1999*~~ 2008," incorporated in Section 004 of these rules. ~~*(4-2-08)*~~( )

10. Rabies-Susceptible Animal. Any animal capable of being infected with the rabies virus. (4-2-08)

11. Residential Care Facility. A commercial or non-profit establishment organized and operated to provide a place of residence for three (3) or more individuals who are not members of the same family, but live within the same household. Any restriction for this type of facility is included under restrictions for a health care facility. (4-2-08)

12. Restriction. (4-2-08)

a. To limit the activities of a person to reduce the risk of transmitting a communicable disease. Activities of individuals are restricted or limited to reduce the risk of disease transmission until such time that they are no longer considered a health risk to others. (4-2-08)

b. A food employee who is restricted must not work with exposed food, clean equipment, utensils, linens, and unwrapped single-service or single-use articles. A restricted employee may still work at a food establishment as outlined in the IDAPA 16.02.19, "The Idaho Food Code." (4-2-08)

13. Restrictable Disease. A restrictable disease is a communicable disease, which if left unrestricted, may have serious consequences to the public's health. The determination of whether a disease is restrictable is based

upon the specific environmental setting and the likelihood of transmission to susceptible persons. (4-2-08)

14. Severe Reaction to Any Immunization. Any serious or life-threatening condition which results directly from the administration of any immunization against a communicable disease. (4-2-08)

15. Significant Exposure to Blood or Body Fluids. Significant exposure is defined as a percutaneous injury, contact of mucous membrane or non-intact skin, or contact with intact skin when the duration of contact is prolonged or involves an extensive area, with blood, tissue, or other body fluids as defined in "Updated U.S. Public Health Service Guidelines for the Management of Occupational Exposures to HIV and Recommendations for Postexposure Prophylaxis," incorporated in Section 004 of these rules. (3-29-10)

16. Standard Precautions. Methods used to prevent transmission of all infectious agents, as described in the "Guideline for Isolation Precautions in Hospitals," incorporated in Section 004 of these rules. (4-2-08)

17. State Epidemiologist. A person employed by the Department to serve as a statewide epidemiologist or his designee. (4-2-08)

18. Suspected Case. A person diagnosed with or thought to have a particular disease or condition by a licensed physician or other health care provider. The suspected diagnosis may be based on signs and symptoms, or on laboratory evidence, or both criteria. Suspected cases of some diseases are reportable as described in Section 050 of these rules. (4-2-08)

19. Vaccination of an Animal Against Rabies. Vaccination of an animal by a licensed veterinarian with a rabies vaccine licensed or approved for the animal species and administered according to the specifications on the product label or package insert as described in the "Compendium of Animal Rabies Control, ~~2008~~ 2011," incorporated in Section 004 of these rules. ~~(3-29-10)~~( )

20. Veterinarian. Any licensed veterinarian as defined in Section 54-2103, Idaho Code. (4-2-08)

21. Waterborne Outbreak. An outbreak is when two (2) or more persons experience a similar illness after ~~ingesting~~ exposure to water from a common ~~supply~~ source and an epidemiological analysis implicates the water as the source of the illness. ~~(4-2-08)~~( )

22. Working Day. A working day is from 8 a.m. to 5 p.m., Monday through Friday, excluding state holidays. (4-2-08)

012. -- 019. (RESERVED)

020. PERSONS REQUIRED TO REPORT REPORTABLE DISEASES, CONDITIONS, AND SCHOOL CLOSURES.

01. Physician. A licensed physician who diagnoses, treats, or cares for a person with a reportable disease or condition must make a report of such disease or condition to the Department or Health District as described in these rules. The physician is also responsible for reporting diseases and conditions diagnosed or treated by physician assistants, nurse practitioners, or others under the physician's supervision. (4-2-08)

02. Hospital or Health Care Facility Administrator. The hospital or health care facility administrator must report all persons who are diagnosed, treated, or receive care for a reportable disease or condition in his facility unless the attending physician has reported the disease or condition. (4-2-08)

03. Laboratory Director. The laboratory director must report to the Department or Health District the identification of, or laboratory findings suggestive of, the presence of the organisms, diseases, or conditions listed in Section 050 of these rules. (4-2-08)

04. School Administrator. A school administrator must report diseases and conditions to the Department or Health District as indicated in Section 050 of these rules. A school administrator must report the closure of any public, parochial, charter, or private school within one (1) working day when, in his opinion, such

closing is related to a communicable disease. (4-2-08)

05. Persons in Charge of Food Establishments. ~~*If the*~~ A person in charge of ~~*the*~~ an eating or drinking establishment ~~*has reason to suspect that any employee has a disease listed in Section 050 of these rules that is in a communicable form, he*~~ must ~~*immediately notify*~~ report diseases and conditions to the Department or Health District as indicated in Section 050 of these rules and obtain guidance on proper actions needed to protect the public.
~~*(4-2-08)*~~( )

06. Others Required to Report Reportable Diseases. In addition to licensed physicians, reports must also be made by physician assistants, certified nurse practitioners, registered nurses, school health nurses, infection surveillance staff, public health officials, and coroners. (4-2-08)

(BREAK IN CONTINUITY OF SECTIONS)

030. WHERE TO REPORT REPORTABLE DISEASES AND CONDITIONS.
Subsections 030.01 through 030.09 of this rule provide where information for reporting of suspected, identified, and diagnosed diseases and conditions are to be reported. The diseases and conditions in Sections 100 through 949 of these rules are reportable to the agencies listed in Subsections 030.01 through 030.09 of this rule. (4-2-08)

01. Department of Health and Welfare, Bureau of Communicable Disease Prevention Epidemiology Program. (4-2-08)

a. Main Office Address: 450 West State Street, 4th Floor, Boise, ID 83720. (4-2-08)

b. Phone: (208) 334-5939 and FAX: (208) 332-7307. (4-2-08)

02. Health District I - Panhandle Health District. The Panhandle Health District covers the counties of Benewah, Bonner, Boundary, Kootenai, and Shoshone. (4-2-08)

a. Main Office Address: 8500 N. Atlas Road, Hayden, ID 83835. (4-2-08)

b. Phone: (208) 772-3920 and FAX: 1-866-716-2599 Toll Free. (4-2-08)

03. Health District II - Public Health Idaho North Central District. The North Central District covers the counties of Clearwater, Idaho, Latah, Lewis, and Nez Perce. (4-2-08)

a. Main Office Address: 215 10th Street, Lewiston, ID 83501. (4-2-08)

b. Phone: (208) 799-3100 and FAX: (208) 799-0349. (4-2-08)

04. Health District III - Southwest District Health. Southwest District Health covers the counties of Adams, Canyon, Gem, Owyhee, Payette, and Washington. (4-2-08)

a. Main Office Address: 13307 Miami Lane, Caldwell, ID 83607. (4-2-08)

b. Phone: (208) 455-5362 and FAX: (208) 455-5350. (4-2-08)

05. Health District IV - Central District Health Department. The Central District Health Department covers the counties of Ada, Boise, Elmore and Valley. (4-2-08)

a. Main Office Address: 707 N. Armstrong Place, Boise, ID 83704. (4-2-08)

b. Phone: (208) 327-8625 and FAX: (208) 327-7100. (4-2-08)

06. Health District V - South Central Public Health District. The South Central Public Health

District covers the counties of Blaine, Camas, Cassia, Gooding, Jerome, Lincoln, Minidoka, and Twin Falls. (4-2-08)

a. Main Office Address: 1020 Washington Street N., Twin Falls, ID 83301. (4-2-08)

b. Phone: (208) 737-5929 and FAX: (208) 736-3009. (4-2-08)

07. Health District VI - Southeastern Idaho Public Health. The Southeastern Idaho Public Health District covers the counties of Bannock, Bear Lake, Bingham, Butte, Caribou, Franklin, Oneida, and Power. (4-2-08)

a. Main Office Address: 1901 Alvin Ricken Drive, Pocatello, ID 83201. (4-2-08)

b. Phone: (208) 233-9080 and FAX: (208) 233-1916. (4-2-08)

08. Health District VII - Eastern Idaho Public Health District. The Eastern Idaho Public Health District covers the counties of Bonneville, Clark, Custer, Fremont, Jefferson, Lemhi, Madison and Teton. (4-2-08)

a. Main Office Address: 1250 Hollipark Drive, Idaho Falls, ID 83401. (4-2-08)

b. Phone: (208) 533-3152 and FAX: (208) 523-4365. (4-2-08)

09. Cancer Data Registry of Idaho (CDRI). (4-2-08)

a. Main Office Address: 615 N. 7th Street, P.O. Box 1278, Boise, ID 83701. (4-2-08)

b. Phone: (208) 338-5100. (4-2-08)

10. Inter-Agency Notification. The Health District must notify the Department of reportable diseases and conditions as ~~*provided*~~ listed in Section 050 of these rules. ~~*(4-2-08)*~~( )

a. The Department and the Health District will exchange reported information within one (1) working day on any reported case or suspected case of a reportable disease or condition when required in Sections 100 through 949 of these rules. (4-2-08)

b. The Department and the Health District will exchange reported information no later than weekly of all other cases of reportable diseases and conditions ~~*as specified under each disease or condition*~~. ~~*(4-2-08)*~~( )

c. The Department will notify the Idaho Department of Agriculture of any identified or suspected source of an animal related disease when required in Sections 100 through 949 of these rules. (4-2-08)

031. -- 039. (RESERVED)

040. REPORT CONTENTS AND METHOD OF REPORTING.

01. Report Contents. Each report of a reportable disease or condition must include: (4-2-08)

a. The identity and address of the attending licensed physician or the person reporting; (4-2-08)

b. The diagnosed or suspected disease or condition; (4-2-08)

c. The name, current address, telephone number, birth date, age, race, ethnicity, and sex of the individual with the disease or other identifier from whom the specimen was obtained; (4-2-08)

d. The date of onset of the disease or the date the test results were received; and (4-2-08)

e. In addition, laboratory directors must report the identity of the organism or other significant test result. (4-2-08)

02. How To Report. A report of a case or suspected case may be made to the Department or Health District by telephone, mail, fax, or through electronic-disease reporting systems as listed in Sections 005 and 030 of these rules. (4-2-08)

03. After Hours Notification. ~~*To*~~An after hours report of a disease ~~*after hours use*~~ or condition may be made through the Idaho State EMS Communications ~~*public health paging system*~~ Center (State Comm) at (800) 632-8000. A public health official will be ~~*paged immediately to assist you*~~ contacted regarding the report. ~~*(4-2-08)*~~( )

041. -- 049. (RESERVED)

050. REPORTABLE OR RESTRICTABLE DISEASES, CONDITIONS AND REPORTING REQUIREMENTS.
Reportable diseases and conditions must be reported to the Department or Health District by those required under Section 020 of these rules. The table below identifies the reportable and restrictable diseases and conditions, the timeframe for reporting, and the person or facility required to report.

REQUIREMENTS FOR REPORTABLE AND RESTRICTABLE DISEASES AND CONDITIONS
TABLE 050

Reportable or Restrictable Diseases and Conditions	Section in Rule	Reporting Timeframe	Restrictable for DC = Daycare FS = Food Service HC = Health Care Facility S = School	Which Facilities Must Report in Addition to Health Care Providers, Laboratory Directors, & Hospital Administrators (Section 020)
Acquired Immune Deficiency Syndrome (AIDS), (including CD-4 lymphocyte counts <200 cells/mm3 blood or < 14%)	100	Within 3 working days	None	
Amebiasis and Free-living Amebae	110	Within 3 working days	DC, FS, HC	Food Service Facility
Anthrax (*Bacillus anthracis*)	120	Immediately	None	
Biotinidase Deficiency	130	Within 1 working day (in newborn screening)	None	
Botulism	140	Immediately	None	
Brucellosis (*Brucella* species)	150	Within 1 working day	None	
Campylobacteriosis (*Campylobacter* species)	160	Within 3 working days	DC, FS, HC	Food Service Facility
Cancer	170	Report to Cancer Data Registry of Idaho within 180 days of diagnosis or recurrence (including suspected cases)	None	
Chancroid	180	Within 3 working days	None	

REQUIREMENTS FOR REPORTABLE AND RESTRICTABLE DISEASES AND CONDITIONS TABLE 050				
Reportable or Restrictable Diseases and Conditions	**Section in Rule**	**Reporting Timeframe**	**Restrictable for DC = Daycare FS = Food Service HC = Health Care Facility S = School**	**Which Facilities Must Report in Addition to Health Care Providers, Laboratory Directors, & Hospital Administrators (Section 020)**
Chlamydia trachomatis Infections	190	Within 3 working days	HC - ophthalmi~~c~~a neonatorum only	
Cholera (*Vibrio cholerae*)	200	Within 1 working day	FS, HC, DC	Food Service Facility
Congenital Hypothyroidism	210	Within 1 working day (in newborn screening)	None	
Conjunctivitis	080, 090	No reporting required	DC, S	
Cryptosporidiosis (*Cryptosporidium* species)	220	Within 3 working days	FS, HC, DC	
Cutaneous Fungal Infections	080, 090	No reporting required	DC, S	
Diarrhea (until common communicable diseases have been ruled out)	085	No reporting required	FS	
Diphtheria (*Corynebacterium diphtheriae*)	230	Immediately	DC, FS, HC, S	School
Echinococcosis	235	Within 3 working days	None	
Encephalitis, Viral or Aseptic	240	Within 3 working days	None	
Escherichia coli O157:H7 and other Shiga-Toxin Producing *E. coli* (STEC)	250	Within 1 working day	DC, FS, HC	Food Service Facility School
Extraordinary Occurrence of Illness, including Clusters	260	Within 1 working day	None	
Fever	085	No reporting required	FS	
Food Poisoning, Foodborne Illness, and Waterborne Illnesses	270	Within 1 working day	None	
Galactosemia	280	Within 1 working day (in newborn screening)	None	
Giardiasis (*Giardia lamblia*)	290	Within 3 working days	DC, FS, HC	Food Service Facility
Haemophilus influenzae Invasive Disease	300	Within 1 working day	DC, S	School
Hantavirus Pulmonary Syndrome	310	Within 1 working day	None	

REQUIREMENTS FOR REPORTABLE AND RESTRICTABLE DISEASES AND CONDITIONS TABLE 050				
Reportable or Restrictable Diseases and Conditions	**Section in Rule**	**Reporting Timeframe**	**Restrictable for DC = Daycare FS = Food Service HC = Health Care Facility S = School**	**Which Facilities Must Report in Addition to Health Care Providers, Laboratory Directors, & Hospital Administrators (Section 020)**
Hemolytic-Uremic Syndrome (HUS) or Thrombotic thrombocytopenic purpura-HUS (TTP-HUS)	320	Within 1 working day	None	
Hepatitis A	330	Within 1 working day	DC, FS, HC	Food Service Facility
Hepatitis B	340	Within 1 working day	None	
Hepatitis C	350	Within 3 working days	None	
Human Immunodeficiency Virus (HIV)	360	Within 3 working days	None	
Human T-Lymphotropic Virus	370	Within 3 working days	None	
Jaundice	085	No reporting required	FS	
Lead ~~*Levels of Ten Micrograms or more per Deciliter of Whole Blood (ug/dL)*~~ Poisoning	380	Within 3 working days	None	
Legionellosis	390	Within 3 working days	None	
Leprosy (Hansen's Disease)	400	Within 3 working days	None	
Leptospirosis	410	Within 3 working days	None	
Listeriosis (*Listeria* species)	420	Within 3 working days	None	
Lyme Disease	430	Within 3 working days	None	
Malaria (*Plasmodium* species)	440	Within 3 working days	None	
Maple Syrup Urine Disease	450	Within 1 working day (in newborn screening)	None	
Measles (Rubeola)	460	Within 1 working day	DC, HC, S	School
Meningitis, Viral or Aseptic	470	Within 3 working days	None	
Methicillin-resistant *Staphylococcus aureus* (MRSA) Invasive Disease	475	Within 3 working days	None	**Note:** Only Laboratory Directors need to report.
Methicillin-resistant *Staphylococcus aureus* (MRSA) Non-Invasive Disease	475, 080, 090	No reporting required	DC, FS, HC, S	
Mumps	480	Within 3 working days	DC, S, HC	School
Myocarditis, Viral	490	Within 3 working days	None	

REQUIREMENTS FOR REPORTABLE AND RESTRICTABLE DISEASES AND CONDITIONS TABLE 050				
Reportable or Restrictable Diseases and Conditions	**Section in Rule**	**Reporting Timeframe**	**Restrictable for DC = Daycare FS = Food Service HC = Health Care Facility S = School**	**Which Facilities Must Report in Addition to Health Care Providers, Laboratory Directors, & Hospital Administrators (Section 020)**
Neisseria gonorrhoeae Infections	500	Within 3 working days	~~*None*~~HC-ophthalmia neonatorum only	
Neisseria meningitidis Invasive Disease	510	Within 1 working day	DC, HC, S	School
Norovirus	520	Within 1 working day	DC, FS, HC, S	
Novel Influenza A Virus	522	Within 1 working day	DC, FS, HC, S	
Pediculosis	080, 090	No reporting required	DC, S	
Pertussis (*Bordetella pertussis*)	530	Within 1 working day	DC, HC, S	School
Phenylketonuria (PKU)	540	Within 1 working day (in newborn screening)	None	
Plague (*Yersinia pestis*)	550	Immediately	HC, S	School
Pneumococcal Invasive Disease in Children less than Eighteen (18) Years of Age *(Streptococcus pneumoniae)*	560	Within 3 working days	DC, S	School
Pneumocystis Pneumonia (PCP)	570	Within 3 working days	None	
Poliomyelitis	580	Within 1 working day	DC	School
Psittacosis	590	Within 3 working days	None	
Q Fever	600	Within 1 working day	None	
Rabies - Human, Animal, and Post-Exposure Prophylaxis (rPEP)	610	Immediately (human), Within 1 working day (animal or rPEP)	None	
Relapsing Fever, Tick-borne and Louse-borne	620	Within 3 working days	None	
Respiratory Syncytial Virus (RSV)	630	Within 1 working day	None	**Note:** Only Laboratory Directors need to report.
Reye Syndrome	640	Within 3 working days	None	
Rocky Mountain Spotted Fever	650	Within 3 working days	None	
Rubella (including Congenital Rubella Syndrome)	660	Within 1 working day	DC, HC, S	School

REQUIREMENTS FOR REPORTABLE AND RESTRICTABLE DISEASES AND CONDITIONS TABLE 050				
Reportable or Restrictable Diseases and Conditions	**Section in Rule**	**Reporting Timeframe**	**Restrictable for DC = Daycare FS = Food Service HC = Health Care Facility S = School**	**Which Facilities Must Report in Addition to Health Care Providers, Laboratory Directors, & Hospital Administrators (Section 020)**
Salmonellosis (including Typhoid Fever) (*Salmonella* species)	670	Within 1 working day	DC, FS, HC	Food Service Facility
Scabies	080, 090	No reporting required	DC, S	
Severe Acute Respiratory Syndrome (SARS)	680	Within 1 working day	DC, S	School
Severe Reaction to Any Immunization	690	Within 1 working day	None	
Shigellosis (*Shigella* species)	700	Within 1 working day	DC, FS, HC, S	Food Service Facility School
Smallpox	710	Immediately	DC, HC, S	School
Sore Throat with Fever	085	No reporting required	FS	
Staphylococcal Infections other than MRSA	080, 085, 090	No reporting required	DC, FS, S	
Streptococcal Pharyngeal Infections	080, 090	No reporting required	DC, S	
Streptococcus pyogenes (Group A Strep), Invasive or Resulting in Rheumatic Fever	720	Within 3 working days	DC, HC, S	School
Syphilis	730	Within 3 working days	None	
Taeniasis	085	No reporting required	FS	
Tetanus	740	Within 3 working days	None	
Toxic Shock Syndrome	750	Within 3 working days	None	
Transmissible Spongiform Encephalopathies (TSE), including Creutzfeldt-Jakob Disease (CJD) and Variant CJD (vCJD)	760	Within 3 working days	None	
Trichinosis	770	Within 3 working days	None	
Tuberculosis (*Mycobacterium tuberculosis*)	780	Within 3 working days	DC, FS, HC, S	School Food Service Facility

REQUIREMENTS FOR REPORTABLE AND RESTRICTABLE DISEASES AND CONDITIONS TABLE 050				
Reportable or Restrictable Diseases and Conditions	**Section in Rule**	**Reporting Timeframe**	**Restrictable for DC = Daycare FS = Food Service HC = Health Care Facility S = School**	**Which Facilities Must Report in Addition to Health Care Providers, Laboratory Directors, & Hospital Administrators (Section 020)**
Tularemia (*Francisella tularensis*)	790	Immediately; Identification of *Francisella tularensis* - within 1 working day	None	
Uncovered and Open or Draining Skin Lesions with Pus, such as a Boil or Open Wound	085	No reporting required	FS	
Varicella (chickenpox)	080, 090	No reporting required	DC, S	
Vomiting (until noninfectious cause is identified)	085	No reporting required	FS	
West Nile Virus (WNV)	800	Within 3 working days	None	
Yersiniosis (*Yersinia enterocolitica* and *Yersinia pseudotuberculosis*)	810	Within 3 working days; Identification of *Yersinia pestis* - immediately	FS	

~~*(3-29-10)*~~( )

(BREAK IN CONTINUITY OF SECTIONS)

080. DAYCARE FACILITY - REPORTING AND CONTROL MEASURES.

01. Readily Transmissible Diseases. Daycare reportable and restrictable diseases are those diseases that are readily transmissible among children and staff in daycare facilities as listed under Section 050 of these rules. (4-2-08)

02. Restrictable Disease -- ~~*Employee*~~ Work. A person who is diagnosed to have a daycare restrictable disease must not work in any occupation in which there is direct contact with children in a daycare facility, as long as the disease is in a communicable form. ~~*(4-2-08)*~~( )

03. Restrictable Disease -- ~~*Child*~~ Attendance. A child who is diagnosed to have a daycare restrictable disease must not attend a daycare facility as long as the disease is in a communicable form. This restriction may be removed by the written certification of a licensed physician, public health nurse or school nurse that the person's disease is no longer communicable. ~~*(4-2-08)*~~( )

04. Prevention of the Transmission of Disease. When satisfactory measures have been taken to prevent the transmission of disease, the affected child or employee may continue to attend or to work in a daycare facility if approval is obtained from the Department or Health District. (4-2-08)

081. -- 084. (RESERVED)

085. FOOD SERVICE FACILITY - REPORTING AND CONTROL MEASURES.

01. Food or Beverage Transmitted Disease in a Communicable Form. Under Section 050 of these rules, a person who is ~~*diagnosed*~~ determined to have one (1) or more of the diseases or conditions listed as restrictable for food establishments must not work as a food employee as long as the disease is in a communicable form. ~~*(4-2-08)*~~( )

02. Food Employee Health Examination. The Division of Public Health Administrator may require a food employee to submit to an examination to determine the presence of a disease that can be transmitted by means of food when there is reasonable cause to believe the food employee is afflicted with a disease listed in Section 050 of these rules as restrictable for food establishments and that disease is in a communicable form. (4-2-08)

03. Notification of Disease in a Communicable Form. If the person in charge of an eating or drinking establishment has reason to suspect that any employee has a disease listed in Section 050 of these rules as restrictable for food establishments, and that disease is in a communicable form, the person in charge must immediately notify the Department or Health District and obtain guidance on proper actions needed to protect the public. (4-2-08)

086. -- 089. (RESERVED)

090. SCHOOL - REPORTING AND CONTROL MEASURES.

01. Restrictable Diseases. School reportable and restrictable diseases are those diseases that are readily transmissible among students and staff in schools as listed under Section 050 of these rules. (4-2-08)

02. Restrictions - Work. Any person who is diagnosed to have a school restrictable disease must not work in any occupation that involves direct contact with students in a private, parochial, charter, or public school as long as the disease is in a communicable form. (4-2-08)

03. Restrictions - Attendance. Any person who is diagnosed with or reasonably suspected to have a school restrictable disease must not attend a private, parochial, charter, or public school as long as the disease is in a communicable form. (4-2-08)

04. Determination Disease Is No Longer Communicable. A licensed physician, public health nurse, school nurse or other person designated by the Department or Health District may determine when a person with a school restrictable disease ~~*can*~~ is no longer ~~*transmit the disease to others*~~ communicable. ~~*(4-2-08)*~~( )

05. School Closure. A school administrator must report the closure of any public, parochial, charter, or private school within one (1) working day when, in his opinion, such closing is related to a communicable disease. (4-2-08)

(BREAK IN CONTINUITY OF SECTIONS)

110. AMEBIASIS AND FREE-LIVING AMEBAE.

01. Reporting Requirements. Each case of amebiasis or infection with free-living amebae (*Ancanthamoeba spp.*, *Balamuthia mandrillaris*, or *Naegleria fowleri*) must be reported to the Department or Health District within three (3) working days of identification. ~~*(4-2-08)*~~( )

02. Investigation. Each reported case of infection with free-living amebae must be investigated to determine the source of infection. Each reported case of amebiasis must be investigated to determine whether the person with amebiasis is employed as a food employee, provides personal care at a health care or daycare facility, or is a child attending a daycare facility. ~~*(4-2-08)*~~( )

03. Restrictions - Daycare Facility. A person excreting *Entamoeba histolytica* must not attend a daycare facility while fecally incontinent and must not work in any occupation in which they provide personal care to

children in a daycare facility, unless an exemption is made by the Department or Health District. (4-2-08)

a. This restriction may be withdrawn if an effective therapeutic regimen is completed; or (4-2-08)

b. At least two (2) successive approved fecal specimens collected at least twenty-four (24) hours apart fail to show *Entamoeba histolytica* upon testing by a licensed laboratory. ~~(4-2-08)~~( )

04. Restrictions - Food Service Facility. A symptomatic person excreting *Entamoeba histolytica* is restricted from working as a food employee. (4-2-08)

a. This restriction may be withdrawn if an effective therapeutic regimen is completed; or (4-2-08)

b. At least two (2) successive approved fecal specimens collected at least twenty-four (24) hours apart fail to show *Entamoeba histolytica* upon testing by a licensed laboratory. ~~(4-2-08)~~( )

05. Restrictions - Health Care Facility. A person excreting *Entamoeba histolytica* must not work in any occupation in which they provide personal care to persons confined to a health care facility, unless an exemption is made by the Department or Health District. (4-2-08)

a. This restriction may be withdrawn if an effective therapeutic regimen is completed; or (4-2-08)

b. At least two (2) successive approved fecal specimens collected at least twenty-four (24) hours apart fail to show *Entamoeba histolytica* upon testing by a licensed laboratory. ~~(4-2-08)~~( )

06. Restrictions - Household Contacts. A member of the household in which there is a case of amebiasis may not work in any occupations in Subsections 110.03 through 110.05 of this rule, unless approved by the Department or Health District. The household member must be asymptomatic and have at least one (1) approved fecal specimen found to be negative for ova and parasites on examination by a licensed laboratory prior to being approved for work. (4-2-08)

111. -- 119. (RESERVED)

120. ANTHRAX.

01. Reporting Requirements. Each case or suspected case of anthrax in humans must be reported to the Department or Health District immediately, at the time of identification, day or night. (4-2-08)

02. Investigation. Each reported case of anthrax must be investigated to confirm the diagnosis, ~~*determine the extent of the*~~ identify clusters or outbreaks of the infection, and identify the source of infection. ~~(4-2-08)~~( )

03. Handling of Report. The Department and Health District will exchange reported information within one (1) working day of any reported case of anthrax. The Department will notify the Idaho Department of Agriculture of any identified source or suspected source of anthrax. (4-2-08)

(BREAK IN CONTINUITY OF SECTIONS)

160. CAMPYLOBACTERIOSIS.

01. Reporting Requirements. Each case of campylobacteriosis must be reported to Department or Health District within three (3) working days of identification. (4-2-08)

02. Investigation. Each reported case of campylobacteriosis must be investigated to ~~*determine the extent of the*~~ confirm the diagnosis, identify clusters or outbreaks of the infection and identify the source of the disease. ~~(4-2-08)~~( )

03. Restrictions - Daycare Facility. A person excreting *Campylobacter* must not provide personal care in a daycare and an fecally incontinent person excreting *Campylobacter* must not attend a daycare facility unless an exemption is obtained from the Department or Health District. Before returning to work or daycare, the person must provide at least two (2) successive approved fecal specimens, collected at least twenty-four (24) hours apart, that fail to show *Campylobacter* upon testing by a licensed laboratory. ~~*(4-2-08)*~~

04. Restrictions - Food Service Facility. A symptomatic person excreting *Campylobacter* is restricted from working as a food employee. (4-2-08)

05. Restrictions - Health Care Facility. A person excreting *Campylobacter* must not provide personal care to persons in a health care facility unless an exemption is obtained from the Department or Health District. Before returning to work, the person must provide at least two (2) successive approved fecal specimens, collected at least twenty-four (24) hours apart, that fail to show *Campylobacter* upon testing by a licensed laboratory. ~~*(4-2-08)*~~

(BREAK IN CONTINUITY OF SECTIONS)

180. CHANCROID.

01. Reporting Requirements. Each case of chancroid must be reported to the Department or Health District within three (3) working days of identification. (4-2-08)

02. Investigation and Notification of Contacts. Each reported case of chancroid must be investigated to determine the source and extent of contact follow-up that is required. Each person diagnosed with chancroid is required to inform ~~*his*~~ all sexual contacts that they have been exposed to a sexually transmitted infection, or to provide specific information to health officials in order to locate these contacts. The contacts must be notified of the disease in order to be examined and treated according to Section 39-605, Idaho Code. ~~*(4-2-08)*~~( )

181. -- 189. (RESERVED)

190. CHLAMYDIA TRACHOMATIS.

01. Reporting Requirements. Each case of *Chlamydia trachomatis* infection must be reported to the Department or Health District within three (3) working days of identification. (4-2-08)

02. Investigation. Each reported case of *Chlamydia trachomatis* pelvic inflammatory disease ~~*must*~~ may be investigated to determine the extent of contact follow-up that is required. ~~*(4-2-08)*~~( )

03. Prophylaxis of Newborns. Prophylaxis against *Chlamydia trachomatis* ophthalmia neonatorum is required in IDAPA 16.02.12, "Rules Governing Procedures and Testing To Be Performed on Newborn Infants." (4-2-08)

04. Restrictions - Health Care Facility. Cases of *Chlamydia trachomatis* ophthalmia neonatorum in a health care facility will be placed under contact isolations. (4-2-08)

191. -- 199. (RESERVED)

200. CHOLERA.

01. Reporting Requirements. Each case or suspected case of cholera must be reported to the Department or Health District within one (1) working day. (4-2-08)

02. Investigation. Each reported case of cholera must be investigated to confirm the diagnosis, ~~*determine the extent of the*~~ identify clusters or outbreaks of the infection, and identify contacts, carriers, and the source of the infection. ~~*(4-2-08)*~~( )

03. Handling of Report. The Department and the Health District will exchange reported information within one (1) working day on any reported case of cholera. (4-2-08)

04. Restrictions - Daycare Facility. A person excreting *Vibrio cholerae* must not attend a daycare facility while fecally incontinent and must not work in any occupation that provides personal care to children in a daycare facility while the disease is in a communicable form, unless an exemption is obtained from the Department or Health District. (4-2-08)

05. Restrictions - Food Service Facility. A symptomatic person excreting *Vibrio cholerae* ~~*is restricted from working as a food employee*~~ must be managed under IDAPA 16.02.19, "The Idaho Food Code." ~~*(4-2-08)*~~( )

06. Restrictions - Health Care Facility. A person excreting *Vibrio cholerae* must not work in any occupation that provides personal care to persons confined in a health care or residential facility while in a communicable form, unless an exemption is obtained from the Department or Health District. A person in a health care facility who has cholera must be managed under the "Guideline for Isolation Precautions in Hospitals," as incorporated in Section 004 of these rules. (4-2-08)

07. Restrictions - Household Contacts. A member of the household in which there is a case of cholera may not work in any occupations listed in Subsections 200.04 through 200.06 of this rule, unless approved by the Department or Health District. The household member must be asymptomatic and provide at least one (1) approved fecal specimen found to be negative on a culture by a licensed laboratory prior to being approved for work. (4-2-08)

(BREAK IN CONTINUITY OF SECTIONS)

220. CRYPTOSPORIDIOSIS.

01. Reporting Requirements. Each case of cryptosporidiosis must be reported to the Department or Health District within three (3) working days of identification. (4-2-08)

02. Investigation. Each reported case must be investigated to ~~*determine the extent of the*~~ identify clusters or outbreaks of the infection, and identify the source of the infection. ~~*(4-2-08)*~~( )

03. Restrictions - Daycare Facility. A fecally incontinent person excreting *Cryptosporidium* must not attend a daycare facility. A person excreting *Cryptosporidium* must not provide personal care in a daycare facility, unless an exemption is obtained from the Department or Health District. This restriction will be withdrawn when: (3-29-10)

a. At least two (2) ~~*approved*~~ successive fecal specimens collected at least twenty-four (24) hours apart fail to show *Cryptosporidium* upon testing by a licensed laboratory; or ~~*(4-2-08)*~~( )

b. Diarrhea has ceased for twenty-four (24) hours. (4-2-08)

04. Restrictions - Food Service Facility. A symptomatic person excreting *Cryptosporidium* is restricted from working as a food employee. (3-29-10)

05. Restrictions - Health Care Facility. A person excreting *Cryptosporidium* must not provide personal care in a custodial institution, or health care facility while fecally incontinent, unless an exemption is obtained from the Department or Health District. This restriction will be withdrawn when: (3-29-10)

a. At least two (2) ~~*approved*~~ successive fecal specimens collected at least twenty-four (24) hours apart fail to show *Cryptosporidium* upon testing by a licensed laboratory; or ~~*(4-2-08)*~~( )

b. Diarrhea has ceased for twenty-four (24) hours. (4-2-08)

221. -- 229. (RESERVED)

230. DIPHTHERIA.

01. Reporting Requirements. Each case or suspected case of diphtheria must be reported to the Department or Health District immediately, at the time of identification, day or night. (4-2-08)

02. Investigation and Response. Each reported case of diphtheria must be investigated to determine if the illness is caused by a toxigenic strain of *Corynebacterium diphtheriae*, ~~*the extent of the*~~ identify clusters or outbreaks of the infection, and identify contacts, carriers, and the source of the infection. Contacts of a person with toxigenic diphtheria will be offered immunization against diphtheria. ~~*(4-2-08)*~~( )

03. Handling of Report. The Department and the Health District will exchange reported information within one (1) working day on any reported case or suspected case of diphtheria. (4-2-08)

04. Restrictions - Daycare Facility. A person diagnosed with diptheria must be managed under Section 080 of these rules. ( )

0~~4~~5. Restrictions - Health Care Facility. (4-2-08)

a. A person with oropharyngeal toxigenic diphtheria in a health care facility must be managed under the "Guideline for Isolation Precautions in Hospitals," as incorporated in Section 004 of these rules. The Department or Health District may withdraw this isolation requirement after two (2) cultures of the nose and two (2) cultures from the throat, taken at least twenty-four (24) hours apart and at least twenty-four (24) hours after the completion of antibiotic therapy, fail to show toxigenic *Corynebacterium diphtheriae* upon testing by a licensed laboratory. (4-2-08)

b. A person with cutaneous toxigenic diphtheria must be placed under contact precautions. The Department of Health District may withdraw these precautions after two (2) cultures from the wound fail to show toxigenic *Corynebacterium diphtheriae* upon testing by a licensed laboratory. (4-2-08)

0~~5~~6. Restrictions - Contacts. Contacts of a person with toxigenic diphtheria are restricted from working as food employees, working in health care facilities, or from attending or working in daycare facilities or schools until they are determined not to be carriers by means of a nasopharyngeal culture or culture of other site suspected to be infected. These restrictions may be withdrawn by the Department or Health District. (4-2-08)

231. -- 23~~9~~4. (RESERVED)

235. ECHINOCOCCOSIS.

01. Reporting Requirements. Each case of echinococcosis must be reported to the Department or Health District within three (3) working days of identification. ( )

02. Investigation. Each reported case of echinococcosis must be investigated to confirm the diagnosis and to identify possible sources of the infection. ( )

236. -- 239. (RESERVED)

240. ENCEPHALITIS, VIRAL OR ASEPTIC.

01. Reporting Requirements. Each case of viral or aseptic encephalitis, including meningoencephalitis, must be reported to the Department or Health District within three (3) working days of identification. ~~*(4-2-08)*~~( )

02. Investigation. Each reported case of viral or aseptic encephalitis~~ *and meningitis*~~ meningoencephalitis must be investigated to confirm the diagnosis, identify clusters or outbreaks of the infection, and identify the agent or source of the infection. ~~*(4-2-08)*~~( )

241. -- 249. (RESERVED)

250. ESCHERICHIA COLI O157:H7 AND OTHER SHIGA-TOXIN PRODUCING E. COLI (STEC).

01. Reporting Requirements. Each case or suspected case of *Escherichia coli* O157:H7 or other Shiga-toxin producing *E. coli* (STEC) must be reported to the Department or Health District within one (1) working day of identification. (4-2-08)

02. Investigation. Each reported case must be investigated to determine if the person is employed as a food employee, provides personal care at a health care or daycare facility, or is a child attending a daycare facility. The investigation ~~*determines the extent of the*~~ identifies clusters or outbreaks of the infection, and ~~*identifies*~~ the most likely source of the infection. ~~*(4-2-08)*~~( )

03. Handling of Report. The Department and the Health District will exchange reported information within one (1) working day on any reported case of *E. coli* O157:H7 or other Shiga-toxin producing *E. coli* (STEC). (4-2-08)

04. Restrictions - Daycare Facility. A person who is excreting *E. coli* O157:H7 or other STEC must not attend daycare facilities while fecally incontinent or provide personal care to children in a daycare facility while the disease is present in a communicable form without the approval of the Department or Health District. Before returning to work, the person must provide ~~T~~two (2) successive approved fecal specimens ~~*negative for*~~ collected at least twenty-four (24) hours apart, that fail to show *E. coli* O157:H7 or other STEC ~~*are sufficient to remove this restriction*~~. ~~*(4-2-08)*~~( )

05. Restrictions - Food Service Facility. A person diagnosed to have *E. coli* O157:H7 or other STEC which can be transmitted from one (1) person to another through food or beverage must not work as a food employee as long as the disease is in a communicable form. Food employees must be managed under IDAPA 16.02.19, "The Idaho Food Code." (4-2-08)

06. Restrictions - Health Care Facility. A person who is excreting *E. coli* O157:H7 or other STEC must not provide personal care to persons in a health care facility while the disease is present in a communicable form without the approval of the Department or Health District. Before returning to work, the person must provide ~~T~~two (2) successive approved fecal specimens ~~*negative for*~~ collected at least twenty-four (24) hours apart, that fail to show *E. coli* O157:H7 or other STEC ~~*are sufficient to remove this restriction*~~. ~~*(4-2-08)*~~( )

251. -- 259. (RESERVED)

260. EXTRAORDINARY OCCURRENCE OF ILLNESS, INCLUDING CLUSTERS.

01. Reporting Requirements. Cases, suspected cases, and clusters of extraordinary or unusual illness must be reported to the Department or Health District within one (1) working day by the diagnosing person. (4-2-08)

a. ~~*Extraordinary or u*~~Unusual outbreaks include illnesses which may be a significant risk to the public, may involve a large number of persons, or are a newly described entity. ~~*(4-2-08)*~~( )

b. Even in the absence of a defined etiologic agent or toxic substance, clusters of unexplained acute illness and early-stage disease symptoms must be reported to the Department or Health District within one (1) working day and investigated. (4-2-08)

02. Investigation. Each reported case of extraordinary occurrence of illness, including clusters, must be investigated to confirm the diagnosis, determine the extent of the cluster or outbreak, identify the source of infection or exposure, and determine whether there is a risk to the public warranting intervention by a public health agency. Evaluation and control measures will be undertaken in consultation with the Department and other appropriate agencies. The Department may elect to investigate by conducting special studies as outlined in Section 070 of these rules. ~~*(4-2-08)*~~( )

03. Handling of Report. The Department and the Health District will exchange reported information within one (1) working day on any reported case or suspected case. (4-2-08)

261. -- 269. (RESERVED)

270. FOOD POISONING, FOODBORNE ILLNESS, AND WATERBORNE ILLNESS.

01. Reporting Requirements. Each case, ~~*or*~~ suspected case, or outbreak of food poisoning, foodborne illness, or waterborne illness must be reported to the Department or Health District within one (1) working day of identification. ~~*(4-2-08)*~~( )

02. Investigation. Each reported case or outbreak of food poisoning, foodborne illness, or waterborne illness must be investigated to confirm the diagnosis, determine the extent of ~~*the outbreak*~~ transmission, identify the source, and determine if actions need to be taken to prevent additional cases. ~~*(4-2-08)*~~( )

03. Handling of Report. The Department and the Health District will exchange reported information within one (1) working day of any reported case or suspected case. (4-2-08)

(BREAK IN CONTINUITY OF SECTIONS)

290. GIARDIASIS.

01. Reporting Requirements. Each case of giardiasis must be reported to the Department or Health District within three (3) working days of identification. (4-2-08)

02. Investigation. Each reported case of giardiasis must be investigated to determine if the person is employed as a food employee, provides personal care at a health care or daycare facility, or is a child attending a daycare facility. The investigation ~~*determines the water sources used by the person with giardiasis, the extent of the*~~ identifies clusters or outbreaks of the infection, and the most likely source of the infection. ~~*(4-2-08)*~~( )

03. Restrictions - Daycare Facility. A person with diarrhea who is excreting *Giardia lamblia* must not attend daycare while fecally incontinent or provide personal care to children in a daycare facility while the disease is present in a communicable form or until therapy is completed. An asymptomatic person may provide these services or attend daycare with specific approval of the Department or Health District. (4-2-08)

04. Restrictions - Food Service Facility. A symptomatic person who is excreting *Giardia lamblia* ~~*is restricted from working as a food employee*~~ must be managed under IDAPA 16.02.19, "The Idaho Food Code." ~~*(4-2-08)*~~( )

05. Restrictions - Health Care Facility. A person with diarrhea who is excreting *Giardia lamblia* must not provide personal care to persons in a health care facility while the disease is present in a communicable form or until therapy is completed. An asymptomatic person may provide these services with specific approval of the Department or Health District. (4-2-08)

291. -- 299. (RESERVED)

300. HAEMOPHILUS INFLUENZAE INVASIVE DISEASE.

01. Reporting Requirements. Each case or suspected case of *Haemophilus influenzae* invasive disease, including, but not limited to, meningitis, septicemia, bacteremia, epiglottitis, pneumonia, osteomyelitis and cellulitis, must be reported to the Department or Health District within one (1) working day of identification. ~~*(4-2-08)*~~( )

02. Investigation. Each reported case of *Haemophilus influenzae* invasive disease must be investigated to confirm the diagnosis, ~~*determine the extent of the*~~ identify clusters or outbreaks of the infection, identify contacts,

and determine the need for antimicrobial prophylaxis of close contacts. ~~(4-2-08)~~( )

03. Handling of Report. The Department and the Health District will exchange reported information within one (1) working day on any reported case of *Haemophilus influenzae* invasive disease. (4-2-08)

04. Restrictions - Daycare Facility. A person who is diagnosed with ~~a~~ invasive disease caused by ~~*invasive*~~ *Haemophilus influenzae* must not work in an occupation providing personal care to children, or attend a daycare facility as long as the disease is in a communicable form. ~~(4-2-08)~~( )

05. Restrictions - School. A person who is diagnosed with ~~a~~ invasive disease caused by ~~*invasive*~~ *Haemophilus influenzae* must not work in any occupation where there is direct contact with students or attend a private, parochial, charter, or public school as long as the disease is in a communicable form. ~~(4-2-08)~~( )

(BREAK IN CONTINUITY OF SECTIONS)

380. LEAD POISONING.

01. Reporting Requirements. Each case of lead poisoning ~~*determined by symptoms or a blood lead level of ten (10) micrograms or more per deciliter (10 ug/dL) of whole blood,*~~ must be reported to the Department or Health District within three (3) working days of the identification of the case~~.~~ when determined by symptoms or a blood level of: ~~(4-2-08)~~( )

a. Ten (10) micrograms or more per deciliter (10 ug/dL) of whole blood in adults eighteen (18) years and older; or ( )

b. Five (5) micrograms or more per deciliter (5 ug/dL) of whole blood in children under eighteen (18) years of age. ( )

02. Investigation. Each reported case of lead poisoning or excess lead exposure ~~*must*~~ may be investigated to confirm blood lead levels, determine the source, and whether actions need to be taken to prevent additional cases. ~~(4-2-08)~~( )

(BREAK IN CONTINUITY OF SECTIONS)

460. MEASLES (RUBEOLA).

01. Reporting Requirements. Each case or suspected case of measles must be reported to the Department or Health District within one (1) working day of identification. (4-2-08)

02. Investigation. Each reported case of measles must be investigated to confirm the diagnosis, ~~*determine the extent of the*~~ identify clusters or outbreaks of the infection, identify the source of the infection, and to identify susceptible contacts. ~~(4-2-08)~~( )

03. Handling of Report. The Department and the Health District will exchange reported information within one (1) working day on any reported case of measles. (4-2-08)

04. Restrictions - Daycare Facility and School. (4-2-08)

a. A child diagnosed with measles must not attend a daycare facility or school as long as the disease is in a communicable form. (4-2-08)

b. In the event of a case of measles in a daycare or school, susceptible children must be excluded until adequate immunization is obtained, or the threat of further spread of the disease is contained, as provided in Sections 33-512(7) and 39-1118, Idaho Code. (4-2-08)

c. A person who is diagnosed as having measles must not work in any occupation in which there is direct contact with children, as long as the disease is in a communicable form. (4-2-08)

05. Restrictions - Health Care Facility. A person diagnosed with measles in a health care facility must be managed under the "Guideline for Isolation Precautions in Hospitals," as incorporated by reference in Section 004 of these rules. (4-2-08)

461. -- 469. (RESERVED)

470. MENINGITIS, VIRAL OR ASEPTIC.

01. Reporting Requirements. Each case of viral or aseptic meningitis must be reported to the Department or Health District within three (3) working days of identification. ~~(4-2-08)~~( )

02. Investigation. Each reported case of viral or aseptic meningitis must be investigated to confirm the diagnosis, identify clusters or outbreaks of the infection, and identify the agent or source of the infection. ( )

(BREAK IN CONTINUITY OF SECTIONS)

480. MUMPS.

01. Reporting Requirements. Each case of mumps must be reported to the Department or Health District within three (3) working days of identification. (4-2-08)

02. Investigation. Each reported case of mumps must be investigated to ~~determine the immunization history or if the cause for an~~ confirm the diagnosis, identify clusters or outbreaks ~~is unusual~~ of the infection, identify the source of the infection, and to identify susceptible contacts. ~~(4-2-08)~~( )

03. Restrictions. A person with mumps must be restricted from daycare, school, or work for five (5) days after the onset of parotid swelling. (3-29-10)

(BREAK IN CONTINUITY OF SECTIONS)

500. NEISSERIA GONORRHOEAE.

01. Reporting Requirements. Each case of *Neisseria gonorrhoeae* infection must be reported to the Department or Health District within three (3) working days of identification. (4-2-08)

02. Investigation. A person diagnosed with urethral, cervical, oropharyngeal, or rectal gonorrhea is required to inform ~~his~~ all sexual contacts or provide sufficient information to health officials in order to locate these contacts. The contacts must be advised of their exposure to a sexually transmitted infection and informed they should seek examination and treatment. ~~(4-2-08)~~( )

03. Prophylaxis of Newborns. Prophylaxis against gonococcal ophthalmia neonatorum is described in IDAPA 16.02.12, "Rules Governing Procedures and Testing To Be Performed on Newborn Infants." (4-2-08)

04. Isolation - Health Care Facility. A person with gonococcal ophthalmia neonatorum in a health care facility must be managed under the "Guideline for Isolation Precautions in Hospitals," as incorporated in Section 004 of these rules. (4-2-08)

501. -- 509. (RESERVED)

510. NEISSERIA MENINGITIDIS INVASIVE DISEASE.

01. Reporting Requirements. Each case or suspected case of *Neisseria meningitidis* invasive disease, including meningitis and septicemia, must be reported to the Department or Health District within one (1) working day of identification. (4-2-08)

02. Investigation. Each reported case of *Neisseria meningitidis* invasive disease must be investigated to confirm the diagnosis, ~~*to determine the extent of the*~~ identify clusters or outbreaks of the infection, identify contacts, and determine the need for antimicrobial prophylaxis or immunization of close contacts. ~~*(4-2-08)*~~( )

03. Handling of Report. The Department and the Health District will exchange reported information within one (1) working day on any reported case of *Neisseria meningitidis* invasive disease. (4-2-08)

04. Restrictions - Daycare Facility. A person who is diagnosed with a disease caused by *Neisseria meningitidis* must not provide personal care to children, or attend a daycare facility, as long as the disease is present in a communicable form. (4-2-08)

05. Restrictions - Health Care Facility. A person with *Neisseria meningitidis* in a health care facility or residential care facility must be placed under respiratory isolation until twenty-four (24) hours after initiation of effective therapy. (4-2-08)

06. Restrictions - School. A person who is diagnosed with a disease caused by *Neisseria meningitidis* must not work in any occupation that involves direct contact with students, or attend a private, parochial, charter, or public school as long as the disease is present in a communicable form. (4-2-08)

511. -- 519. (RESERVED)

520. NOROVIRUS.

01. Reporting Requirements. Each case or suspected case of norovirus must be reported to the Department or Health District within one (1) working day of identification. (4-2-08)

02. Investigation. Each reported case of norovirus must be investigated to confirm the diagnosis, ~~*determine the extent of the*~~ identify clusters or outbreaks of the infection, and identify the source of the infection. ~~*(4-2-08)*~~( )

03. Restrictions - Daycare Facility. A person excreting norovirus must not attend or provide personal care in a daycare while symptomatic, unless an exemption is obtained from the Department or Health District. This restriction will be withdrawn once asymptomatic, unless hygienic practices are insufficient. (4-2-08)

04. Exclusions - Food Service Facility. A person suspected of infection with, or diagnosed with, norovirus is excluded from working as a food employee while symptomatic, unless an exemption is made by the Department or Health District. This exclusion will be withdrawn once the person is asymptomatic, unless hygienic practices are insufficient. ~~*(4-2-08)*~~( )

05. Restrictions - Health Care Facility. A person excreting norovirus must not provide personal care in a health care facility, unless an exemption is obtained from the Department or Health District. This restriction will be withdrawn once asymptomatic, unless hygienic practices are insufficient. (4-2-08)

06. Restrictions - School. A person excreting norovirus must not attend or work in a private, parochial, charter, or public school while symptomatic, unless an exemption is obtained from the Department or Health District. This restriction will be withdrawn once asymptomatic, unless hygienic practices are insufficient. (4-2-08)

(BREAK IN CONTINUITY OF SECTIONS)

530. PERTUSSIS.

01. Reporting Requirements. Each case or suspected case of pertussis must be reported to the Department or Health District within one (1) working day of identification. (4-2-08)

02. Investigation. Each reported case of pertussis must be investigated to confirm the diagnosis, ~~*determine the extent of the*~~ identify clusters or outbreaks of the infection, identify susceptible contacts, and identify the source of the infection. ~~*(4-2-08)*~~( )

03. Restrictions - Daycare Facility. A person who is diagnosed with pertussis must not work in any occupation in which there is direct contact with children, or attend a daycare facility, as long as the disease is in a communicable form. (4-2-08)

04. Restrictions - Health Care Facility. A person who is diagnosed with pertussis must not work in any occupation in which there is direct contact with other persons in a health care facility as long as the disease is in a communicable form. (4-2-08)

05. Restrictions - School. A person diagnosed with pertussis must not attend or work in a private, parochial, charter, or public school as long as the disease is in a communicable form. (4-2-08)

(BREAK IN CONTINUITY OF SECTIONS)

550. PLAGUE.

01. Reporting Requirements. Each case or suspected case of plague must be reported to the Department or Health District immediately, at the time of identification, day or night. (4-2-08)

02. Investigation. Each reported case of plague must be investigated to confirm the diagnosis, determine the source, ~~*the extent of the*~~ identify clusters or outbreaks of the infection, and whether there has been person-to-person transmission. ~~*(4-2-08)*~~( )

03. Handling of Report. Each case of plague reported to the Department is reported to the Idaho Department of Agriculture if animals are involved. (4-2-08)

04. Restrictions - Health Care Facility. (4-2-08)

a. A person with or suspected of having pneumonic plague in a health care facility must be managed under the "Guideline for Isolation Precautions in Hospitals," as incorporated in Section 004 of these rules. (4-2-08)

b. A person with or suspected of having bubonic plague in health care facility must be managed under the "Guideline for Isolation Precautions in Hospitals," as incorporated in Section 004 of these rules. (4-2-08)

05. Prophylaxis of Contacts. Household members and face-to-face contacts of a person with pneumonic plague must be placed on chemoprophylaxis and placed under surveillance for seven (7) days. A person who refuses chemoprophylaxis must be maintained under droplet precautions with careful surveillance for seven (7) days. (4-2-08)

551. -- 559. (RESERVED)

560. PNEUMOCOCCAL INVASIVE DISEASE IN CHILDREN LESS THAN EIGHTEEN YEARS OF AGE.

01. Reporting Requirements. Each case of pneumococcal invasive disease in children under eighteen (18) years of age including, but not limited to, meningitis, septicemia, and bacteremia~~, *and pneumonia*~~, must be reported to the Department or Health District within three (3) working days of identification. ~~*(4-2-08)*~~( )

02. Investigation. Each reported case of pneumococcal invasive disease in children must be

investigated to confirm the diagnosis and determine relevant vaccine history. (4-2-08)

03. Restrictions - Daycare Facility. A person who is diagnosed with pneumococcal invasive disease must not attend daycare or work in any occupation in which there is direct contact with children in a daycare facility as long as the disease is in a communicable form. (4-2-08)

04. Restrictions - School. A person diagnosed with pneumococcal invasive disease must not attend or work in any occupation in which there is direct contact with children in a private, parochial, charter, or public school as long as the disease is in a communicable form. (4-2-08)

(BREAK IN CONTINUITY OF SECTIONS)

580. POLIOMYELITIS.

01. Reporting Requirements. Each case or suspected case of poliomyelitis infection must be reported to the Department or Health District within one (1) working day of identification. (4-2-08)

02. Investigation. Each reported case of poliomyelitis infection must be investigated to confirm the diagnosis, to determine whether the case is polio vaccine associated or wild virus associated, ~~*to determine the extent of the*~~ identify clusters or outbreaks of the infection, whether there has been person-to-person transmission, and to identify susceptible contacts, carriers, and source of the infection. ~~*(4-2-08)*~~( )

03. Immunization of Personal Contacts. The immunization status of personal contacts is determined and susceptible contacts are offered immunization. (4-2-08)

581. -- 589. (RESERVED)

590. PSITTACOSIS.

01. Reporting Requirements. Each case of psittacosis must be reported to the Department or Health District within three (3) working days of identification. (4-2-08)

02. Investigation. Each reported case must be investigated to confirm the diagnosis, ~~*determine the extent of the*~~ identify clusters or outbreaks of the infection, and identify possible sources of the infection. ~~*(4-2-08)*~~( )

03. Handling of Report. Any identified sources or suspected sources of infection must be reported to the Department which will notify the Idaho Department of Agriculture if birds or other animals are involved. (4-2-08)

591. -- 599. (RESERVED)

600. Q FEVER.

01. Reporting Requirements. Each case or suspected case of Q fever must be reported to the Department or Health District within one (1) working day of identification. (4-2-08)

02. Investigation. Each reported case of Q fever must be investigated to confirm the diagnosis, ~~*determine the extent of the*~~ identify clusters or outbreaks of the infection, and identify the source of the infection. ~~*(4-2-08)*~~( )

03. Handling of Report. Any identified or suspected sources of infection must be reported to the Department which will notify the Idaho Department of Agriculture if animals are involved. (4-2-08)

601. -- 609. (RESERVED)

610. RABIES - HUMAN, ANIMAL, AND POST-EXPOSURE PROPHYLAXIS (rPEP).

01. Reporting Requirements. (4-2-08)

a. Each case or suspected case of rabies in humans must be reported to the Department or Health District immediately, at the time of identification, day or night. (4-2-08)

b. Each case of rabies in animals must be reported to the Department or Health District within one (1) working day of identification. Each case of rabies in animals must also be reported to the Department of Agriculture as required in IDAPA 02.04.03, "Rules Governing Animal Industries." (3-29-10)

c. Each instance of rabies post-exposure prophylaxis (rPEP) series initiation must be reported to the Department or Health District within one (1) working day. (4-2-08)

02. Investigation. (4-2-08)

a. Each reported case or suspected case of rabies in humans must be investigated to confirm the diagnosis, identify the source and other persons or animals that may have been exposed to the source, and identify persons who may need to undergo rPEP. (3-29-10)

b. Each suspected or confirmed case of rabies in animals will be investigated to determine if potential human or animal exposure has occurred and identify persons who may need to undergo rPEP. (3-29-10)

c. Each reported rPEP series initiation must be investigated to determine if additional individuals require rPEP and identify the source of possible rabies exposure. (3-29-10)

03. Handling of Report. The Health District must notify the Department ~~*and the Idaho Department of Agriculture*~~ within one (1) working day of each reported case of this disease. ~~*(4-2-08)*~~( )

04. Management of Exposure to Rabies. All exposures to a suspected or confirmed rabid animal must be managed under the guidelines in the "Compendium of Animal Rabies Control, ~~*2008*~~ 2011," incorporated by reference in Section 004 of these rules. In the event that a human or animal case of rabies occurs, any designated representative of the Department, Health District, or Idaho Department of Agriculture, will establish such isolation and quarantine of animals involved as deemed necessary to protect the public health. ~~*(3-29-10)*~~( )

a. The handling of a rabies-susceptible animal that has bitten a person must be as follows: (4-2-08)

i. Any livestock which has bitten a person must be managed by the Idaho Department of Agriculture. (4-2-08)

ii. Any healthy domestic dog, cat, or ferret that has bitten a person must be observed for ten (10) days following the bite under the supervision of a licensed veterinarian or other person designated by the Idaho Department of Agriculture, Health District, or the Department. Such observation must be within an enclosure or with restraints deemed adequate to prevent contact with any member of the public or other animals. (4-2-08)

iii. It is the animal owner's responsibility to carry out the quarantine of the biting animal and to follow instructions provided for the quarantine of the animal. (4-2-08)

iv. Any domestic dog, cat, or ferret that has not been vaccinated against rabies by a licensed veterinarian and can not be quarantined, must be destroyed by a means other than shooting in the head. The head must be submitted to an approved laboratory for rabies analysis. (4-2-08)

v. Rabies susceptible animals other than domestic dogs, cats, ferrets, or livestock must be destroyed and the head submitted to an approved laboratory for rabies analysis, unless an exemption is given by the Department or Health District. (3-29-10)

vi. No person will destroy, or allow to be destroyed, the head of a rabies-susceptible animal that has bitten a person without authorization from the Department or Health District. (4-2-08)

b. The handling of a rabies-susceptible animal that has not bitten a person, but has within the past one hundred eighty (180) days been bitten, mouthed, mauled by, or closely confined in the same premises with a known rabid animal must be as follows: (4-2-08)

i. Any domestic dog, cat, ferret, or livestock which has not been vaccinated as recommended by the American Veterinary Medical Association, must be placed in quarantine for a period of six (6) months under the observation of a licensed veterinarian or a person designated by the Idaho Department of Agriculture, Health District, or the Department and vaccinated according to the Rabies Compendium. An animal with current vaccinations, including livestock, should be revaccinated immediately with an appropriate rabies vaccine and quarantined for forty-five (45) days. These provisions apply only to animals for which an approved rabies vaccine is available. (4-2-08)

ii. The quarantine of such animal must be within an enclosure deemed adequate by a person designated by the Idaho Department of Agriculture, the Department, or Health District to prevent contact with any person or rabies-susceptible animal. (4-2-08)

iii. The owner of the animal is financially responsible for the cost of isolating and quarantining the animal and for specimen collection and testing. (4-2-08)

iv. Destruction of such animal is permitted as an alternative to quarantine. (4-2-08)

c. Any rabies-susceptible animal other than domestic dogs, cats, ferrets, or livestock that are suspected of having rabies, or which have been in close contact with an animal known to be rabid, must be destroyed. The animal must be tested by an approved laboratory for rabies if a person has been bitten or has had direct contact with the animal which might result in the person becoming infected unless an exemption is granted by the Department or Health District. (3-29-10)

05. City or County Authority. Nothing in these rules is intended or will be construed to limit the power of any city or county in its authority to enact more stringent requirements to prevent the transmission of rabies. (4-2-08)

611. -- 619. (RESERVED)

620. RELAPSING FEVER, TICK-BORNE AND LOUSE-BORNE.

01. Reporting Requirements. Each case of tick-borne or louse-borne relapsing fever must be reported to the Department or Health District within three (3) working days of identification. (4-2-08)

02. Investigation. Each reported case of tick-borne or louse-borne relapsing fever must be investigated to confirm the diagnosis, ~~*determine the extent and source of the*~~ identify clusters or outbreaks of the infection, and whether transmission was from lice or ticks. ~~*(4-2-08)*~~( )

(BREAK IN CONTINUITY OF SECTIONS)

660. RUBELLA - INCLUDING CONGENITAL RUBELLA SYNDROME.

01. Reporting Requirements. Each case or suspected case of rubella or congenital rubella syndrome must be reported to the Department or Health District within one (1) working day of identification. (4-2-08)

02. Investigation. Each reported case of rubella or congenital rubella syndrome must be investigated to confirm the diagnosis, ~~*determine the extent of the*~~ identify clusters or outbreaks of the infection, identify any contacts who are susceptible and pregnant, and document the presence of the congenital rubella syndrome. ~~*(4-2-08)*~~( )

03. Restrictions - Daycare Facility. A person who is diagnosed with rubella must not attend daycare, ~~be present,~~ or work in any occupation in which there is close contact with children in a daycare facility as long as the disease is in a communicable form. ~~(4-2-08)~~( )

04. Restrictions - Health Care Facility. A person who is diagnosed with rubella must not work in any occupation in which there is close contact with other persons in a health care facility as long as the disease is in a communicable form. ~~(4-2-08)~~( )

05. Restrictions - Schools. A person who is diagnosed with rubella must not attend, be present, or work in any occupation in which there is close contact with children or other persons in a private, parochial, charter, or public school as long as the disease is in a communicable form. ~~(4-2-08)~~( )

06. Restrictions - Personal Contact. A person who is diagnosed with rubella must not work in occupations in which there is close contact with women likely to be pregnant as long as the disease is in a communicable form. ~~(4-2-08)~~( )

661. -- 669. (RESERVED)

670. SALMONELLOSIS - INCLUDING TYPHOID FEVER.

01. Reporting Requirements. Each case or suspected case of salmonellosis or typhoid fever must be reported to the Department or Health District within one (1) working day of identification. (4-2-08)

02. Investigation. Each reported case of salmonellosis or typhoid fever must be investigated to confirm the diagnosis, ~~to determine the extent of the~~ identify clusters or outbreaks of the infection, and to identify contacts, carriers, and the source of ~~contamination~~ infection. ~~(4-2-08)~~( )

03. Handling of Report. The Department and the Health District will exchange reported information within one (1) working day on any suspected or reported case. (4-2-08)

04. Restrictions - Chronic Carrier. Chronic carriers, which are those who excrete *Salmonella* for more than one (1) year after onset, are restricted from working as food employees. Chronic carriers must not work in any occupation in which they provide personal care to children in daycare facilities, or to persons who are confined to health care facilities or residential care facilities, until *Salmonella* is not identified by a licensed laboratory in any of three (3) successive approved fecal specimens collected at least seventy-two (72) hours apart. (4-2-08)

05. Restrictions - Non-Typhi Salmonella. (4-2-08)

a. A fecally incontinent person excreting non-Typhi *Salmonella* must not attend a daycare facility. (4-2-08)

b. A person excreting non-Typhi *Salmonella* must not work in any occupation in which they provide personal care to children in a daycare facility or provide personal care to persons confined to a health care facility, unless an exemption is obtained from the Department or Health District. (4-2-08)

c. A symptomatic food employee excreting non-Typhi *Salmonella* must be managed under the IDAPA 16.02.19, "The Idaho Food Code." (4-2-08)

d. If hygienic practices are insufficient, before a person can attend or work in a daycare facility or a health care facility, or work as a food employee, the person must provide two (2) successive approved fecal specimens ~~which are negative for~~ collected at least twenty-four (24) hours apart, that fail to show *Salmonella* ~~upon testing by a licensed laboratory, collected not less than twenty-four (24) hours apart and forty-eight (48) hours after the last dose of antimicrobials~~. ~~(4-2-08)~~( )

e. The Department may withdraw this restriction on a case of non-Typhi *Salmonella* provided that the person is asymptomatic. (4-2-08)

f. Any member of a household in which there is a case of non-Typhi salmonellosis must not work as a food employee until ~~*he produces*~~ the member provides at least one (1) ~~*negative*~~ approved fecal specimen ~~*for*~~ that fails to show *Salmonella* upon testing by a licensed laboratory. ~~*(4-2-08)*~~( )

06. Restrictions - Salmonella Typhi. (4-2-08)

a. Any person with typhoid fever will remain subject to the supervision of the Department until *Salmonella Typhi* is not isolated by a licensed laboratory from three (3) successive approved fecal specimens~~. *These specimens are to be*~~ collected at least twenty-four (24) hours apart and not earlier than one (1) month after onset. ~~*(4-2-08)*~~( )

b. A food employee excreting *Salmonella Typhi* must be managed under IDAPA 16.02.19, "The Idaho Food Code." (4-2-08)

c. Any member of a household in which there is a case of *Salmonella Typhi* must not work in the occupations described in Subsection 670.05.d. of this rule until the member provides at least two (2) ~~*fecal specimens*~~ successive approved fecal specimens ~~*are negative for*~~ collected twenty-four (24) hours apart that fail to show *Salmonella* upon testing by a licensed laboratory. ~~*(4-2-08)*~~( )

d. All chronic carriers of *Salmonella Typhi* must abide by a written agreement called a typhoid fever carrier agreement. This agreement is between the chronic carrier and the Department or Health District. Failure of the carrier to abide by the carrier agreement may cause the carrier to be isolated under Section 065 of these rules. The carrier agreement requires: (4-2-08)

i. The carrier cannot work as a food employee; (4-2-08)

ii. Specimens must be furnished for examination in a manner described by the Department or Health District; and (4-2-08)

iii. The Department or Health District must be notified immediately of any change of address, occupation, and cases of illness suggestive of typhoid fever in his family or among immediate associates. (4-2-08)

e. Chronic carriers of typhoid fever may be released from carrier status when *Salmonella Typhi* is not identified by a licensed laboratory in any of six (6) consecutive approved fecal and urine specimens collected at least one (1) month apart. (4-2-08)

(BREAK IN CONTINUITY OF SECTIONS)

700. SHIGELLOSIS.

01. Reporting Requirements. Each case or suspected case of shigellosis must be reported to the Department or Health District within one (1) working day of identification. (4-2-08)

02. Investigation. Each reported case of shigellosis must be investigated to confirm the diagnosis and ~~*determine the extent of the*~~ identify clusters or outbreaks of the infection. An attempt must be made to identify contacts, carriers, and the source of the infection. ~~*(4-2-08)*~~( )

03. Handling of Report. The Department and the Health District will exchange reported information within one (1) working day on any suspected or reported case. (4-2-08)

04. Restrictions - Daycare Facility. (4-2-08)

a. A person excreting *Shigella* must not attend a daycare facility while fecally incontinent. (4-2-08)

b. A person excreting *Shigella* must not work in any occupation in which he provides personal care to

children in a daycare facility while the disease is present in a communicable form, unless an exemption is obtained from the Department or Health District. During an outbreak in a daycare facility, a cohort system may be approved. (4-2-08)

c. The Department or Health District may withdraw the daycare restriction when the person has provided ~~that~~ two (2) successive approved fecal specimens collected at least twenty-four (24) hours apart ~~are negative for~~ that fail to show *Shigella* upon testing by a licensed laboratory. ~~(4-2-08)~~( )

05. Exclusions - Food Service Facility. (4-2-08)

a. A food employee excreting *Shigella* must be managed under IDAPA 16.02.19, "The Idaho Food Code." (4-2-08)

b. The Department or Health District may withdraw the food service restriction when the employee has provided ~~that~~ two (2) successive approved fecal specimens collected at least twenty-four (24) hours apart ~~are negative for~~ that fail to show *Shigella* upon testing by a licensed laboratory. ~~(4-2-08)~~( )

06. Restrictions - Health Care Facility. A person excreting *Shigella* must not work in any occupation in which he provides personal care to persons who are confined to a health care facility while the disease is present in a communicable form, unless an exemption is obtained from the Department or Health District. During an outbreak in a facility, a cohort system may be approved. (4-2-08)

07. Restrictions - Household Contacts. No member of a household, in which there is a case of shigellosis, may work in any occupations in Subsections 700.04 through 700.06 of this rule, unless the Department or Health District approves and at least one (1) fecal specimen is negative for *Shigella* upon testing by a licensed laboratory. (4-2-08)

701. -- 709. (RESERVED)

710. SMALLPOX.

01. Reporting Requirements. Each case or suspected case of smallpox must be reported to the Department or Health District immediately, at the time of identification, day or night. (4-2-08)

02. Investigation. Each reported case of smallpox must be investigated promptly to confirm the diagnosis, ~~determine the extent of the~~ identify clusters or outbreaks of the infection, and identify the source of the infection and susceptible contacts. ~~(4-2-08)~~( )

03. Restrictions - Daycare Facility. (4-2-08)

a. A person diagnosed with smallpox must not attend a daycare facility as long as the disease is in a communicable form. (4-2-08)

b. In the event of an outbreak, the Department or Health District may exclude susceptible children and employees from daycare facilities where a case has been identified until adequate immunization is obtained or the threat of further spread is contained. (4-2-08)

04. Restrictions - Health Care Facility. A person diagnosed or suspected of having smallpox in a health care facility must be managed under the "Guideline for Isolation Precautions in Hospitals," as incorporated in Section 004 of these rules. (4-2-08)

05. Restrictions - Public Gatherings. A person diagnosed with smallpox must not attend public gatherings as long as the disease is in a communicable form. (4-2-08)

06. Restrictions - School. (4-2-08)

a. A person diagnosed with smallpox, regardless of age, must not attend a private, parochial, charter,

or public school as long as the disease is in a communicable form.(4-2-08)

b. In the event of an outbreak, the Department or Health District may exclude susceptible children and employees from schools where a case has been identified until adequate immunization is obtained or the threat of further spread is contained under Section 33-512(7), Idaho Code. (4-2-08)

07. Restrictions - Working. A person diagnosed with smallpox must not work in any occupation as long as the disease is in a communicable form. (4-2-08)

711. -- 719. (RESERVED)

720. STREPTOCOCCUS PYOGENES (GROUP A STREP) INFECTIONS ~~*WHICH ARE INVASIVE OR RESULT IN RHEUMATIC FEVER.*~~

01. Reporting Requirements. Each case of *Streptococcus pyogenes* (group A Strep) infection which is invasive or results in rheumatic fever or necrotizing fasciitis must be reported to the Department or Health District within three (3) working days of identification. ~~*(4-2-08)*~~( )

02. Investigation. Each reported case of *Streptococcus pyogenes* (group A Strep) infection which is invasive or results in rheumatic fever or necrotizing fasciitis must be investigated to confirm the diagnosis, to determine if the infection is part of an outbreak, and to identify the source of the infection. ~~*(4-2-08)*~~( )

03. Restrictions - Daycare Facility. An infected person must not attend or work in a daycare until twenty-four (24) hours has elapsed after treatment is initiated or until he is no longer infectious as determined by a physician, the Department or Health District. (4-2-08)

04. Restrictions - Health Care Facility. An infected person must not work in a health care facility until twenty-four (24) hours has elapsed after treatment is initiated or until he is no longer infectious as determined by a physician, the Department or Health District. (4-2-08)

05. Restrictions - School. An infected person must not attend or work in a private, parochial, charter, or public school until twenty-four (24) hours has elapsed after treatment is initiated or until the patient is no longer infectious as determined by a physician, the Department or Health District. (4-2-08)

721. -- 729. (RESERVED)

730. SYPHILIS.

01. Reporting Requirements. Each case or suspected case of syphilis must be reported to the Department or Health District within three (3) working days of identification. (4-2-08)

02. Investigation. Each reported case of primary, secondary, or early latent syphilis must be investigated by the Department or Health District. Each person diagnosed with infectious syphilis is required to inform ~~*his*~~ all sexual contacts that they may have been exposed to a sexually transmitted infection, or provide sufficient information to public health officials so they may locate contacts and assure that each is offered prompt diagnosis and treatment under Section 39-605, Idaho Code. ~~*(4-2-08)*~~( )

03. Testing Without an Informed Consent. A physician may order blood tests for syphilis when an informed consent is not possible and there has been, or is likely to be, significant exposure to a person's blood or body fluids by a person providing emergency or medical services. (4-2-08)

(BREAK IN CONTINUITY OF SECTIONS)

770. TRICHINOSIS.

01. Reporting Requirements. Each case of trichinosis must be reported to the Department or Health District within three (3) working days of identification. (4-2-08)

02. Investigation. Each reported case of trichinosis must be investigated to confirm the diagnosis, ~~*determine the extent of the*~~ identify clusters or outbreaks of the infection, and identify the source of the infection. ~~*(4-2-08)*~~( )

03. Handling of Report. The Department will notify the Idaho Department of Agriculture and other regulatory agencies as applicable. (4-2-08)

(BREAK IN CONTINUITY OF SECTIONS)

810. YERSINIOSIS, OTHER THAN PLAGUE.

01. Reporting Requirements. Each case of yersiniosis, other than plague, must be reported to the Department or Health District within three (3) working days of identification. Plague must be reported immediately as described in Section 550 of these rules. (4-2-08)

02. Investigation. Each reported case of yersiniosis must be investigated to confirm the diagnosis, identify carriers, and the source of the infection. (4-2-08)

03. Restrictions - Food Service Facility. A symptomatic person ~~*excreting Yersinia is restricted from working as a food employee*~~ must be managed under IDAPA 16.02.19, "The Idaho Food Code." ~~*(4-2-08)*~~( )

IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE

16.02.27 - IDAHO RADIATION CONTROL RULES

DOCKET NO. 16-0227-1401 (CHAPTER REPEAL)

NOTICE OF RULEMAKING - PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Sections 56-1003, 56-1007, 56-1041, 56-1043, 56-1044, and 56-1046, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than September 17, 2014.

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:

This chapter of rules is being repealed in its entirety. Companion Docket No. 16-0227-1402 to rewrite the current chapter of rules is published simultaneously in this Idaho Administrative Bulletin.

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

FISCAL IMPACT: The following is a specific description, if applicable, of any 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 the state general fund as a result of this rulemaking. Please see the fiscal impact statement under Docket No. 16-0227-1402 for the fiscal impact related to the rewrite of this chapter.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(1), Idaho Code, negotiated rulemaking was conducted. A Notice of Intent to Promulgate Rules - Negotiated Rulemaking was published in the June 4, 2014, Idaho Administrative Bulletin, **Vol. 14-6, pages 59 and 60**. A follow-up Notice of Intent to Promulgate Rules - Negotiated Rulemaking was published in the July 2, 2014, Idaho Administrative Bulletin, **Vol. 14-7, page 47**.

INCORPORATION BY REFERENCE: No materials are being incorporated by reference into these rules.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Katey Anderson at (208) 334-2235, ext. 245.

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 24, 2014.

DATED this 7th Day of August, 2014.

Tamara Prisock
DHW - Administrative Rules Unit
450 W. State Street - 10th Floor
P.O. Box 83720
Boise, ID 83720-0036
Tel: (208) 334-5564
Fax: (208) 334-6558
E-mail: **dhwrules@dhw.idaho.gov**

IDAPA 16.02.27 IS BEING REPEALED IN ITS ENTIRETY

COST/BENEFIT ANALYSIS FORM
Department of Health and Welfare
Administrative Procedures Section (APS)

Docket Number: 16-0227-1402

Agency Contact: Katey Anderson
Phone: (208) 334-2235 x245

Rules Specialist: Frank Powell
Phone: (208) 334-5775

Date Analysis Completed: 7/09/14

IDAPA Chapter Number and Title: IDAPA 16.02.27, "Idaho Radiation Control Rules"

Fee Rule Status: ☒ **Proposed** ☐ **Temporary** **Effective date:** Sine Die, 2015

Instructions:

Section 67-5223(3), Idaho Code, adopted by the 2010 Legislature, requires that all proposed rules in which a fee or charge is imposed or increased must include a cost/benefit analysis of the rule change at the time the rule text is submitted for publication. This analysis needs to include an estimated cost to the agency to implement the rule and an estimated cost to be borne by citizens, or the private sector, or both. This statute change is effective July 1, 2010, and must be completed for fee rules published in the *Idaho Administrative Bulletin* after that date.

Cost/Benefit Analysis For This Rule Change:

Estimated cost to the Department to implement the rule

- Laboratory Improvement administrative costs for the Laboratory Improvement Manager and Technical Records Specialist 1. $33,700
- Third-party contractor costs to support 143 licensure inspections via mail. $ 10,725
- Data infrastructure costs for the Laboratory Information Management System (LIMS) and Quality Assurance Costs $26,500

Estimated cost to be borne by citizens, or the private sector, or both

The proposed licensing fees will be $50 application fee plus $25 per x-ray tube. To implement the proposed rule, the licensing and associated fees will be implemented on a staggered basis according to the proposed renewal periods. The staggering of what entities are to be inspected or reviewed for licensure first will be based on those with the longest time since last inspection or contact. The following table provides additional information used for calculating the proposed fiscal impact.

(see Table below →)

Estimated Annual Receipts for Laboratory Improvement X-Ray Licensing Fees

Type of Facility	Estimated Number of Facilities in Idaho with X-Ray Machines	Proposed Renewal Period	Estimated Number of Idaho Facilities to License in a 1-Year Period	Estimated Annual Application Fee Receipts ($50 per Facility)	Tubes		**Estimated Total Receipts Per Year**
					Estimated Average Number of Tubes Per X-Ray Machine	Estimated Annual Tube Fee Receipts ($25 per Tube)	
Dental, Chiropractic, Podiatric, Veterinary Practice	1,000	4 years	270	$ 13,500	3	$ 20,250	**$ 33,750**
Hospital*, Clinic, Medical Practice	400	2 years	190	$ 9,500*	5	$ 23,750	**$ 33,250**
Industrial, research, educational, or security	100	10 years	12	$ 600	15	$ 4,500	**$ 5,100**
Estimated Total Receipts Per Year				$ 3,600		$ 48,500	**$ 72,100**

*Several hospitals have in-house radiation safety programs and may choose to pay the annual flat $1000 fee in lieu of base application and per tube fees.

IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE

16.02.27 - IDAHO RADIATION CONTROL RULES

DOCKET NO. 16-0227-1402 (CHAPTER REWRITE - FEE RULE)

NOTICE OF RULEMAKING - PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Sections 56-1003, 56-1007, 56-1041, 56-1043, 56-1044, and 56-1046, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than September 17, 2014.

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:

This chapter of rules is being rewritten in its entirety. This rule rewrite will align this chapter of rules with the requirement under Section 56-1043, Idaho Code, for the Department to license (rather than register) x-ray producing devices. These rules:

1. Establish x-ray licensure requirements, including the specification of standard licensure cycles for the various types of x-ray producing devices;
2. Update and streamline the rules by incorporating by reference current standards and federal regulations that will reduce the length, complexity, and publication costs, and will ensure the chapter contains current terminology, best practices, and safety standards; and
3. Add x-ray licensure fees, including for the administration, information-technology infrastructure, and quality improvement associated with the licensure requirements and inspection processes throughout the program.

Companion Docket No. 16-0227-1401 to repeal the current chapter of rules is published simultaneously in this Idaho Administrative Bulletin.

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

The Department is authorized under Sections 56-1007, and 56-1041, Idaho Code, to collect fees for services provided by the Department. This proposed rulemaking includes a $50 license application fee and a $25 per tube fee for all devices licensed within the state of Idaho. Fee estimates from the licensure of different types of radiation equipment are as follows:

1. Hospital, Clinic, and Medical Practice - $33,250
2. Dental, Chiropractic, Podiatric, and Veterinary Practice - $33,750
3. Industrial, Research, Educational, or Security agency - $5,100.

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 proposed licensure fees will increase receipts to the Department by approximately $72,100. This fee will cover the increased administrative cost associated with the licensure and inspection requirements, IT infrastructure, and implementation of a remote evaluation by mail process.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(1), Idaho Code, negotiated rulemaking was conducted. A Notice of Intent to Promulgate Rules - Negotiated Rulemaking was published in the June 4, 2014, Idaho Administrative Bulletin, **Vol. 14-6, pages 59 and 60**. A followup Notice of Intent to Promulgate Rules - Negotiated Rulemaking was published in the July 2, 2014, Idaho Administrative Bulletin, **Vol. 14-7, page 47**.

INCORPORATION BY REFERENCE: Pursuant to Section 67-5229(2)(a), Idaho Code, documents are being incorporated by reference into these rules to give them the force and effect of law. The documents are not being reprinted in this chapter of rules due to their length, format, and the cost for republication. The incorporated documents are:

National Council of Radiation Protection (NCRP) Report No. 147, entitled: "Structural Shielding Design and Evaluation for Medical Use of X-rays and Gamma Rays of Energies up to Ten (10) MeV," issued November 19, 2004.

U.S. Food and Drug Administration, Mammography Quality Standards Act Regulations, Part 900--Mammography.

Suggested State Regulations for Control of Radiation, Volume 1, published by the Conference of Radiation Control Program Directors.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Katey Anderson at (208) 334-2235, ext. 245.

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 24, 2014.

DATED this 7th Day of August, 2014.

Tamara Prisock
DHW - Administrative Rules Unit
450 W. State Street - 10th Floor
P.O. Box 83720
Boise, ID 83720-0036
Tel: (208) 334-5564
Fax: (208) 334-6558
E-mail: **dhwrules@dhw.idaho.gov**

THE FOLLOWING IS THE PROPOSED TEXT OF FEE DOCKET NO. 16-0227-1402

IDAPA 16
TITLE 02
CHAPTER 27

16.02.27 - IDAHO RADIATION CONTROL RULES

000. LEGAL AUTHORITY.
The Idaho Legislature, under the following Sections of statute has granted authority to the Board of Health and Welfare and the Director of the Department to adopt rules related to x-ray producing machines in order to protect the health of the people of Idaho. Sections 56-1041 and 56-1043, Idaho Code, grant authority to the Board of Health and Welfare to adopt radiation control rules. Section 56-1041, Idaho Code, establishes the Department as the designated agency to regulate, license, and control radiation associated with x-ray machines. Section 56-1044, Idaho Code, requires that radiation machines for mammography be registered with the Department, as provided in rule. Section 56-1046, Idaho Code, grants authority to the Department to establish record-keeping and reporting requirements for those who possess or use an x-ray machine. Section 56-1003, Idaho Code, grants authority to the Director to supervise and administer laboratories. Section 56-1007, grants authority to the Department to charge and collect fees established by rule. ( )

001. TITLE.
The title of these rules is IDAPA 16.02.27, "Idaho Radiation Control Rules." Except as otherwise specifically

provided, these rules apply to all persons who possess, use, transfer, own or acquire any radiation machine. ( )

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

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

004. INCORPORATION BY REFERENCE.
The documents referenced in Subsections 004.01 through 004.03 of this rule are used as a means of further clarifying these rules. These documents are incorporated by reference and are available online as provided, or may be reviewed at the Department of Health and Welfare, Idaho Bureau of Laboratories at 2220 Old Penitentiary Road, Boise, Idaho 83712-8299. ( )

01. National Council of Radiation Protection (NCRP) Report No. 147. National Council of Radiation Protection (NCRP) Report No. 147, entitled: "Structural Shielding Design and Evaluation for Medical Use of X-rays and Gamma Rays of Energies up to Ten (10) MeV," issued November 19, 2004, by the National Council on Radiation Protection and Measurement. This document may be obtained from: NCRP Publications, 7910 Woodmont, Bethesda, MD 20814, e-mail: NCRPpubs@NCRPonline.org, phone: 1-301-657-2652, Ext. 14. ( )

02. Mammography Quality Standards Act Regulations, Part 900. The Mammography Quality Standards Act Regulations, Part 900, located at 21 CFR 900.12 as authorized by 21 U.S.C. 360i, 360nn, 374(e); and 42 U.S.C. 263b. A copy of these regulation may be ordered from the U.S. Food and Drug Administration, 10903 New Hampshire Avenue, Silver Spring, MD 20993, phone: 1-888-INFO-FDA (1-888-463-6332). These regulations are available online at http://www.fda.gov/Radiation-EmittingProducts/MammographyQualityStandardsActandProgram/Regulations/ucm110906.htm#s9001. ( )

03. Suggested State Regulations for Control of Radiation, Volume 1. This publication is being adopted with the exclusions, modifications, and additions listed below in Subsections 004.03.a through 004.03.k of this rule. Suggested State Regulations for Control of Radiation, Volume 1, is published by the Conference of Radiation Control Program Directors, Inc., 1030 Burlington Lane, Suite 4B, Frankfort, Kentucky 40601. It is also available online at http://www.crcpd.org/SSRCRs/default.aspx. ( )

a. Part A -- General Provisions (March 2003). Modifications have been made to this Part. See Sections 100 - 199 of these rules. ( )

b. Part B -- Registration [Licensure] of Radiation Machine Facilities, [Services] - And Associated Healthcare Professionals (February 2009). Exclusions and modifications have been made to this Part. See Sections 200 - 299 of these rules. ( )

c. Part C -- Licensing of Radioactive Material (March 2010). This Part is excluded from incorporation. ( )

d. Part D -- Standards for Protection Again Radiation (March 2003). The following Sections of this Part are incorporated: 1101a, 1101b, 1101c, 1201a, 1201b, 1201c, 1201f, 1206, 1207, 1208, 1301, 1501, 1502, 1503, 1601, 1602, 1901, 1902, 1903, 1904c, 2102, 2103a, 2104, 2105, 2106, 2107a, 2110, 2201, 2202, 2203, 2204, 2205, and 2207b. ( )

e. Part E -- Radiation Safety Requirements for Industrial Radiographic Operations (February 1999). Exclusions have been made to this Part. See Sections 400 - 499 of these rules. ( )

f. Part F -- Diagnostic X-rays and Imaging Systems in the Healing Arts (May 2009). This Part is incorporated with no exclusions, modifications, or additions. ( )

g. Part G -- Use of Radionuclides in the Healing Arts (March 2003). This Part is excluded from incorporation. ( )

h. Part H -- Radiation Safety Requirements for Analytical X-ray Equipment (January 1991). This Part is incorporated with no exclusions, modifications, or additions. ( )

i. Part I -- Radiation Safety Requirements For Particle Accelerators (January 1991). This Part is excluded from incorporation. ( )

j. Part J -- Notices, Instructions and Reports to Workers; Inspections (March 2003). This Part is incorporated with no exclusions, modifications, or additions. ( )

k. Parts M through Z. These Parts are excluded from incorporation. ( )

005. 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. ( )

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

b. The Idaho Bureau of Laboratories is located at 2220 East Old Penitentiary Road, Boise, ID 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 Idaho Bureau of Laboratories is (208) 334-2235. ( )

05. Internet Websites. ( )

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

b. The Idaho Bureau of Laboratories internet website 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. -- 049. (RESERVED)

050. LICENSING.
Sections 050 through 099 provide for the licensing of radiation machines. ( )

051. SCOPE.
Radiation producing machines, unless exempt under Section B.4 of the Suggested State Regulations for Control of

Radiation incorporated under Section 004 of these rules, must be licensed with the Radiation Control Agency in accordance with the requirements of Sections B.6 through B.9, of the Suggested State Regulations for Control of Radiation, as applicable. ( )

052. FEES.

01. Radiation Licensing Fees. Radiation facility fees apply to each person or facility owning, leasing, storing, or using radiation-producing machines. This fee is assessed on the same cycle as inspections and consists of a base licensing fee and a per tube charge. Fees are due within thirty (30) calendar days of the renewal date. A late charge of fifty ($50) dollars will be assessed at thirty-one (31) days past the renewal date. If the fees are not paid by day ninety-one (91) past the renewal date, licensure will be terminated.

X-Ray Renewal Cycle and Facility Fees			
Facility Type	**Renewal Cycle**	**Facility Fee**	**Per Tube Fee**
Hospital, Clinic, Medical Practice	2 Years	$50	$25
Dental, Chiropractic, Podiatric, Veterinary Practice	4 Years		
Industrial, research, academic/educational, or security	10 Years		

( )

02. X-Ray Shielding Plan Review and Fee. Facilities housing X-ray producing devices and regulated under these rules must obtain a review of their shielding plan by a qualified expert. A copy of this review, to include a floor plan and site specific shielding calculations, must be submitted to the Radiation Control Agency within thirty (30) days of receipt. Facilities may request a departmental review of the X-ray shielding calculations and floor plan by the Radiation Control Agency. A $350 fee will be charged for this service. ( )

03. Radiation Safety Program Fee. If a facility or group of facilities under one administrative control employs one or more full-time individuals whose positions are entirely devoted to in-house radiation safety, the facility may pay a flat annual facility fee of $1000 instead of the licensing fees required in Subsection 052.01 of this rule. In addition, annual submittal of documentation of evidence of an ongoing and functioning quality control program must be submitted for review and approval. ( )

053. APPLICATION FOR LICENSE.
In addition to the requirements detailed in the incorporated reference, Section B, the following is required with application for use of x-ray producing devices. ( )

01. Responsible Authority. All applications must be signed by the responsible authority (RA) over the x-ray producing device. Required qualifications of the RA can be found in Section B.6c of the SSRCR. ( )

02. Application For License. Application for license must be on forms furnished by the Radiation Control Agency and must contain: ( )

a. Name of the owner, organization or person having administrative control and responsibility for use (responsible authority); and ( )

b. Address and telephone number where the machine is located; and if the radiation producing machine is used as a mobile device, a central headquarters must be used. ( )

c. A designation of the general category of use, such as dental, medical, industrial, veterinary, and research; and ( )

d. The manufacturer, model number, and type of machine; and ( )

e. Name of the radiation machine supplier, installer, and service agent. ( )

f. Name of an individual to be responsible for radiation protection, when applicable. ( )

03. Qualifications for Authorized Operation, Service, and Repair of X-ray Machines. The responsible authority must prohibit any person from operating, performing maintenance, or furnishing servicing or services to an x-ray producing machine under his authority that is not properly trained, certified, or licensed to do so. The responsible authority must obtain and retain documentation for a minimum of 2 years that all operation, service, repair, and maintenance of x-ray producing machine(s) under their authority are done so by a qualified individual or entity. ( )

04. Operator Qualifications. No individual will be permitted to act as an operator of a particular machine until such individual has received an acceptable amount of training in radiation safety as it applies to that machine and is approved by the Radiation Protection Supervisor or Radiation Safety Officer. Operators will be responsible for: ( )

a. Keeping radiation exposure to himself and to others as low as is practical; and ( )

b. Being familiar with safety procedures as they apply to each machine; and ( )

c. Wearing of personnel monitoring devices, if applicable; and ( )

d. Notifying the Radiation Protection Supervisor or Radiation Safety Officer of known or suspected excessive radiation exposures to himself or others. ( )

05. Minimum Safety Requirements. Unless otherwise specified within these or the incorporated rules, the following are the minimum safety requirements for personnel acting as radiographers or radiographers assistants. ( )

a. Licensees must not permit any individuals to act as radiographers as defined in these rules until such individuals: ( )

i. Have received copies of and instructions in the licensee’s operating and emergency procedures; and have demonstrated understanding thereof; and ( )

ii. Have been instructed in the subjects outlined in Subsection 06. of this rule, and have demonstrated understanding thereof; and ( )

iii. Have received copies of and instruction in the correct execution of these rules and have demonstrated understanding thereof; and ( )

iv. Have demonstrated competence to use the specific radiation machine(s), related handling tools, and survey instruments which will be employed in their assignment. ( )

v. Have demonstrated an understanding of the instructions in this section by successful completion of a written test and a field examination on the subjects covered. ( )

b. Licensees must not permit any individuals to act as a radiographer's assistant as defined in these rules until such individuals: ( )

vi. Have received copies of and instructions in the licensee’s operating and emergency procedures; and have demonstrated understanding thereof; and ( )

vii. Have demonstrated competence to use under the personal supervision of the radiographer the radiation machine(s) and radiation survey instrument(s) which will be employed in their assignment. ( )

viii. Have demonstrated an understanding of the instructions in this section by successfully completing a written or oral test and a field examination on the subjects covered. ( )

c. Records of the above training, including copies of written tests and dates of oral tests and field examinations, must be maintained for inspection by the Radiation Control Agency for three (3) years following termination of employment. ( )

d. Each licensee must conduct an internal audit program to ensure that the Radiation Control Agency's conditions and the licensee's operating and emergency procedures are followed by each radiographer and radiographer's assistant. These internal audits must be performed at least quarterly, and each radiographer must be audited at least annually. Records of internal audits must be maintained for inspection by the Agency for two (2) years from the date of the audit. ( )

06. Subjects to Be Covered During the Instruction of Radiographers. ( )

a. Fundamentals of Radiation Safety, to include at least: ( )

i. Characteristics of gamma and x-radiation; and ( )

ii. Units of radiation dose (millirem); and ( )

iii. Bioeffects of excessive exposure of radiation; and ( )

iv. Levels of radiation from radiation machines; and ( )

v. Methods of controlling radiation dose, including: ( )

(1) Working time; and ( )

(2) Working distances; and ( )

(3) Shielding; and ( )

vi. Radiation Protection Standards; and ( )

b. Radiation Detection Instrumentation, to include at least: ( )

i. Use of radiation surveys instruments, including: ( )

(1) Operation; and ( )

(2) Calibration; and ( )

(3) Limitations; and ( )

ii. Survey techniques; and ( )

iii. Use of Personnel Monitoring Equipment, including: ( )

(1) Film badges, TLDs; and ( )

(2) Pocket dosimeters; and ( )

(3) Pocket chambers; and ( )

c. Radiographic Equipment, to include at least: ( )

i. Operation and control of x-ray equipment; and ( )

d. The Requirements of Pertinent Federal regulations and State rules; and ( )

e. The Licensee's Written Operating and Emergency Procedures; and ( )

f. Case histories of radiography accidents. ( )

07. Modification, Revocation, and Termination of Licensees. Pursuant to amendments to the Act, departmental rules or regulations, or orders issued by the Radiation Control Agency, the terms and conditions of all licenses are subject to amendment, revision, or modification, and are subject to suspension or revocation. ( )

a. Any license can be revoked, suspended, modified, or denied, in whole or in part. ( )

i. For any materially false statement: ( )

(1) In the application; or ( )

(2) In any statement of fact required under provisions of the Act or under these rules; or ( )

ii. Because of conditions revealed: ( )

(1) Within the application; any report, record, or inspection; or ( )

(2) By any other means which would warrant the Radiation Control Agency to refuse to grant a license on an original application; or ( )

iii. For violations of or failure to observe any of the terms and conditions: ( )

(1) Of the Act; or ( )

(2) Of the license; or ( )

(3) Of any rule; or ( )

(4) Of any regulation; or ( )

(5) Of an order of the Radiation Control Agency. ( )

b. Except in cases of willful violation or in which the public health, interest or safety requires otherwise, no license can be modified, suspended, or revoked unless such issues have been called to the attention of the licensee in writing and the licensee afforded the opportunity to demonstrate or achieve compliance with all lawful requirements. ( )

08. Emergency Action. If the Radiation Control Program Director finds the public health, safety or welfare requires emergency action, the Director will incorporate findings in support of such action in a written notice of emergency revocation issued to the licensee. Emergency revocation is effective upon receipt by the licensee. Thereafter, if requested by the licensee in writing, the Director will provide the licensee a revocation hearing and prior notice thereof. Such hearings are conducted in accordance with IDAPA 16.05.03, "Rules Governing Contested Case Proceedings and Declaratory Rulings." ( )

054. -- 099. (RESERVED)

100. GENERAL PROVISIONS.
Sections 100 through 199 of these rules will be used for exclusions, modifications, and additions to Part A of the Suggested State Regulations for Control of Radiation, Volume 1, as incorporated in Section 004 of these rules.( )

101. SCOPE.
Modification to Part A, Section A.1. Except as otherwise specifically provided, these regulations apply to all persons who receive, possess, use, transfer, own, or acquire any source of radiation; provided that nothing in these regulations applies to any person to the extent such person is subject to regulation by the Nuclear Regulatory Commission. ( )

102. DEFINITIONS.
Additions to Part A, Section A.2. ( )

01. Act. "Act" means Section 56-1053, Idaho Code. ( )

02. Agency. "Agency" means the Idaho Department of Health and Welfare. ( )

103. VIOLATIONS.
Modification to Part A, Section A.8. Any person who willfully violates any provision of the Act is subject to penalties under Section 56-1053, Idaho Code. ( )

104. IMPOUNDING.
Modification to Part A, Section A.9. Sources of radiation are subject to impounding under Section 56-1052, Idaho Code. ( )

105. COMMUNICATIONS.
Modification to Part A, Section A.12. All communications and reports concerning these rules, and applications filed under these rules, must be addressed to the Agency at Radiation Control Section, Idaho Department of Health and Welfare, Bureau of Laboratories, 2220 Old Penitentiary Road, Boise, Idaho 83712-8299. ( )

106. -- 199. (RESERVED)

200. LICENSURE OF RADIATION MACHINE FACILITIES, (SERVICES) - AND ASSOCIATED HEALTHCARE PROFESSIONALS.
Sections 200 through 299 of these rules will be used for exclusions, modifications, and additions to Part B of the Suggested State Regulations for Control of Radiation, Volume 1, as incorporated in Section 004 of these rules.( )

201. LICENSURE OF RADIATION MACHINE FACILITIES.
Exclusion to Part B, Section B.6. Subsection B.6.b is excluded from incorporation. ( )

202. RECIPROCAL RECOGNITION OF OUT-OF-STATE RADIATION MACHINES.
Modifications and additions to Part B, Section B.16. ( )

01. Modification to Part B, Section B.16.a.iv. States in which this machine is registered or licensed. ( )

02. Addition to Part B, Section B.16 -- New Subsection d. The owner or person having possession of any radiation producing machine registered or licensed by a federal entity or state other than Idaho, or both, planning to establish regular operations in Idaho, must complete registration of the machine with the Agency within thirty (30) days after taking residence and prior to operation of the machine. Thirty (30) days prior to the expiration date of any out-of-state license for any radiation producing machine, the owner must apply to the Agency for a machine license. ( )

203. -- 400. (RESERVED)

400. RADIATION SAFETY REQUIREMENTS FOR INDUSTRIAL RADIOGRAPHIC OPERATIONS.
Sections 400 through 499 of these rules will be used for exclusions, modifications, and additions to Part E of the

Suggested State Regulations for Control of Radiation, Volume 1, as incorporated in Section 004 of these rules.( )

401. LICENSING AND REGISTRATION REQUIREMENTS FOR INDUSTRIAL RADIOGRAPHY OPERATIONS.
Exclusions to Part E, Section E.5. Subsections E.5.b.i and E.5.b.ii, are excluded from incorporation. ( )

402. LEAK TESTING AND REPLACEMENT OF SEALED SOURCES.
Part E, Section E.10 is excluded from incorporation. ( )

403. QUARTERLY INVENTORY.
Part E, Section E.11 is excluded from incorporation. ( )

404. LABELING, STORAGE, AND TRANSPORTATION.
Exclusions to Part E, Section E14. Subsections E.14.a, E.14.b, and E.14.d, are excluded from incorporation. ( )

405. CONDUCTING INDUSTRIAL RADIOGRAPHIC OPERATIONS.
Exclusion to Part E, Section E.15. Subsection E.15.d is excluded from incorporation. ( )

406. RECORDS OF LEAK TESTING OF SEALED SOURCES AND DEVICES CONTAINING DU.
Part E, Section E.27 is excluded from incorporation. ( )

407. RECORDS OF QUARTERLY INVENTORY.
Part E, Section E.28 is excluded from incorporation. ( )

408. UTILIZATION LOGS.
Part E, Section E.29 is excluded from incorporation. ( )

409. LOCATION OF DOCUMENTS AND RECORDS.
Exclusions to Part E, Section E37. Subsections E.37.b.iii, E.37.b.xi, and E.37.b.xii are excluded from incorporation. ( )

410. NOTIFICATIONS.
Exclusions to Part E, Section E38. Subsections E.38.a.i, and E.38.a.ii are excluded from incorporation. ( )

411. APPLICATION AND EXAMINATIONS.
Part E, Section E.39 is excluded from incorporation. ( )

412. CERTIFICATION IDENTIFICATION (ID) CARD.
Part E, Section E.40 is excluded from incorporation. ( )

413. RECIPROCITY.
Part E, Section E.41 is excluded from incorporation. ( )

414. SPECIFIC REQUIREMENTS FOR RADIOGRAPHIC PERSONNEL PERFORMING INDUSTRIAL RADIOGRAPHY.
Part E, Section E.42 is excluded from incorporation. ( )

415. -- 599. (RESERVED)

600. NOTICES, INSTRUCTIONS AND REPORTS TO WORKERS; INSPECTIONS.
Sections 600 through 699 of these rules will be used for exclusions, modifications, and additions to Part J of the Suggested State Regulations for Control of Radiation, Volume 1, as incorporated in Section 004 of these rules.( )

601. -- 999. (RESERVED)

IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE

16.03.11 - RULES GOVERNING INTERMEDIATE CARE FACILITIES FOR PEOPLE WITH INTELLECTUAL DISABILITIES (ICF/ID)

DOCKET NO. 16-0311-1401 (CHAPTER REPEAL)

NOTICE OF RULEMAKING - PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. This action is authorized pursuant to Sections 39-1303a, and 39-1307, Idaho Code.

PUBLIC HEARING SCHEDULE: A public hearing concerning this rulemaking will be held as follows:

Friday, September 12, 2014, 9:00 a.m. MDT

Licensing & Certification Central Office
3232 Elder Street, Conference Rm. D-East
Boise, Idaho 83705

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 ICF/ID rules in this chapter have not been updated for quite some time. Changes in treatment and intervention strategies for individuals with intellectual disabilities have progressed substantially making these rules obsolete and no longer applicable to current best practices and procedures. This chapter is being repealed in its entirety and rewritten under Docket No. 16-0311-1402 that is published in this same bulletin.

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

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

There is no anticipated fiscal impact to the state general fund or to any other funds due to this rulemaking.

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 May 7, 2014, Idaho Administrative Bulletin, **Vol. 14-5, pages 62 and 63**.

INCORPORATION BY REFERENCE: No materials are being incorporated by reference into these rules.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Debby Ransom at (208) 334-6626.

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 24, 2014.

DATED this 7th Day of August, 2014.

Tamara Prisock
DHW - Administrative Rules Unit
450 W. State Street - 10th Floor
Boise, ID 83720-0036

P.O. Box 83720
Tel: (208) 334-5564 phone / Fax: (208) 334-6558
E-mail: **dhwrules@dhw.idaho.gov**

IDAPA 16.03.11 IS BEING REPEALED IN ITS ENTIRETY

IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE

16.03.11 - INTERMEDIATE CARE FACILITIES FOR PEOPLE WITH INTELLECTUAL DISABILITIES (ICFS/ID)

DOCKET NO. 16-0311-1402 (CHAPTER REWRITE)

NOTICE OF RULEMAKING - PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. This action is authorized pursuant to Sections 39-1303a, and 39-1307, Idaho Code.

PUBLIC HEARING SCHEDULE: A public hearing concerning this rulemaking will be held as follows:

Friday, September 12, 2014, 9:00 a.m. MDT

Licensing & Certification Central Office
3232 Elder Street, Conference Rm. D-East
Boise, Idaho 83705

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 ICF/ID rules in this chapter have not been updated for quite some time. Changes in treatment and intervention strategies for individuals with intellectual disabilities have progressed substantially making these rules obsolete and no longer applicable to current practices and procedures. The rewrite of this chapter updates the licensing and enforcement areas of these rules, and incorporates by reference several documents needed for health and safety standards. These rules allow for best practice, active treatment, and intervention strategies for individuals with intellectual disabilities and related conditions. The repeal of this chapter is published in this same bulletin under Docket No. 16-0311-1401.

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

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

There is no anticipated fiscal impact to the state general fund or to any other funds due to this rulemaking.

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 May 7, 2014, Idaho Administrative Bulletin, **Vol. 14-5, pages 62 and 63**.

INCORPORATION BY REFERENCE: Pursuant to Section 67-5229(2)(a), Idaho Code, documents are being incorporated by reference into these rules to give them the force and effect of law. The documents are not being reprinted in this chapter of rules due to their length, format, and the cost for republication. The incorporated documents are:

Code of Federal Regulations (CFR), 42 CFR Part 48, 42 CFR 1001.1301, and 42 CFR 442.101; IDAPA 07.03.01, "Rules of Building Safety;" and National Fire Protection Association (NFPA) Standard 101, The Life Safety Code, (Edition 2000).

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Debby Ransom at (208) 334-6626.

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 24, 2014.

DATED this 7th day of August, 2014.

Tamara Prisock
DHW - Administrative Rules Unit
450 W. State Street - 10th Floor
P.O. Box 83720
Boise, ID 83720-0036
Tel: (208) 334-5500 / Fax: (208) 334-6558
E-mail: **dhwrules@dhw.idaho.gov**

THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 16-0311-1402

IDAPA 16
TITLE 03
CHAPTER 11

16.03.11 - INTERMEDIATE CARE FACILITIES FOR PEOPLE WITH INTELLECTUAL DISABILITIES (ICFS/ID)

000. LEGAL AUTHORITY.

The Board of Health and Welfare is authorized under Sections 39-1301 through 39-1314, Idaho Code, to adopt, amend, and enforce rules, regulations, and standards for licensure that promote safe and adequate treatment, and to protect the health and safety of individuals being cared for in intermediate care facilities for people with intellectual disabilities defined in Section 39-1301(c), Idaho Code. The Department is authorized under 42 CFR Part 483 to set conditions of participation for intermediate care facilities for individuals with intellectual disabilities (ICFs/ID). Under Sections 56-1002, 56-1003, 56-1004, 56-1004A, 56-1005, 56-1007, and 56-1009, Idaho Code, the Department and the Board of Health and Welfare have prescribed powers and duties to provide for the administration and enforcement of Department programs and rules. ( )

001. TITLE, SCOPE, AND PURPOSE.

01. Title. The title of this chapter of rules is IDAPA 16.03.11, "Intermediate Care Facilities for People with Intellectual Disabilities (ICFs/ID)." ( )

02. Scope. These rules include the licensing standards and requirements for the administration of intermediate care facilities for the active treatment of individuals with intellectual disabilities and related conditions. This service delivery system provides care through small community-based facilities with the least restrictive alternatives including deinstitutionalization, normalization, and individual programming to enhance each individual's self-sufficiency for personal development and health needs. ( )

002. WRITTEN INTERPRETATIONS.

In accordance with Section 67-5201(19)(b)(iv), Idaho Code, the Department may have written statements that pertain to the interpretation of this chapter, or to the documentation of compliance with these rules. ( )

003. ADMINISTRATIVE APPEALS.
Administrative appeals and contested cases are governed by the 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. Code of Federal Regulations (CFR). The Board has adopted by reference certain Codes of Federal Regulations (CFR), Standards and Certification, Part 483, in this chapter. 42 CFR Part 483 may be found online at **http://www.ecfr.gov/cgi-bin/text-idx?SID=f030c6d2c3e752bba7d12ce1015a4e7a&node=42:5.0.1.1.2.9&rgn=div6**. Modifications and additions to the "Conditions of Participation for Intermediate Care Facilities for Individuals with Intellectual Disabilities" are made in Subsections 004.02 through 004.13 of this rule. ( )

02. 42 CFR 483.400 - Basis and Purpose. No additions or modifications have been adopted for this subpart. ( )

03. 42 CFR 483.405 - Relationship to Other Health and Human Services (HHS) Regulations. No additions or modifications have been adopted for this subpart. ( )

04. 42 CFR 483.410 - Condition of Participation: Governing Body and Management. Additions and modifications for this subpart are found in Sections 100-199 of these rules. ( )

05. 42 CFR 483.420 - Condition of Participation: Client Protections. Additions and modifications for this subpart are found in Sections 200-299 of these rules. ( )

06. 42 CFR 483.430 - Condition of Participation: Facility Staffing. Additions and modifications for this subpart are found in Sections 300-399 of these rules. ( )

07. 42 CFR 483.440 - Condition of Participation: Active Treatment Services. No additions or modifications have been adopted for this subpart. ( )

08. 42 CFR 483.450 - Condition of Participation: Client Behavior and Facility Practices. Additions and modifications for this subpart are found in Sections 500-599 of these rules. ( )

09. 42 CFR 483.460 - Condition of Participation: Health Care Services. No additions or modifications have been adopted for this subpart. ( )

10. 42 CFR 483.470 - Condition of Participation: Physical Environment. Additions and modifications for this subpart are found in Sections 700-799 of these rules. ( )

11. 42 CFR 483.480 - Condition of Participation: Dietetic Services. Additions and modifications for this subpart are found in Sections 800-899 of these rules. ( )

12. 42 CFR 1001.1301 - Failure to Grant Immediate Access. No additions or modifications have been adopted for this subpart. ( )

13. 42 CFR 442.101 - Obtaining Certification. No additions or modifications have been adopted for this subpart. ( )

14. IDAPA 07.03.01, Rules of Building Safety. IDAPA 07.03.01, "Rules of Building Safety," as adopted by the Division of Building Safety, Building Code Advisory Board. The rules are available online at: **http://adminrules.idaho.gov/rules/current/07/0301.pdf**. The Building Safety rules adopt The International Building Code that may be obtained from the International Code Council, Western Regional Office, 5360 Workman Mill Road, Whittier, CA 90601-2298, phone: (888) 422-7233, and online at **http:// www.iccsafe.org**. ( )

15. National Fire Protection Association (NFPA) Standard 101, The Life Safety Code, (edition

2000). The following document is incorporated by reference in these rules: National Fire Protection Association (NFPA) Standard 101, The Life Safety Code, (2000), published by the National Fire Protection Association, 1 Batterymarch Park, Quincy, MA 02169-7471. A copy is available for review at the Department's Division of Licensing and Certification located at 3232 Elder Street, Boise, Idaho 83705. The NFPA 101: Life Safety Code may be accessed online at: **http://www.nfpa.org/codes-and-standards/document-information-pages?mode=code&code=101.** ( )

005. OFFICE -- OFFICE HOURS -- MAILING ADDRESS -- STREET ADDRESS -- TELEPHONE NUMBER -- 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. ( )

a. The mailing address of the Idaho Department of Health and Welfare, P.O. Box 83720, Boise, Idaho 83720-0036. ( )

b. The mailing address of the Division of Licensing and Certification, P.O. Box 83720, Boise, Idaho 83720-0009. ( )

03. Street Address. ( )

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

b. The street address of the Division of Licensing and Certification is located at 3232 Elder Street, Boise, Idaho 83705. ( )

04. Telephone. ( )

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

b. The telephone number of the Division of Licensing and Certification, Bureau of Facility Standards is (208) 334-6626. ( )

05. Internet Websites. ( )

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

b. The Division of Licensing and Certification, Bureau of Facility Standards internet website is found at **http://www.facilitystandards.idaho.gov**. ( )

006. CONFIDENTIALITY OF RECORDS AND PUBLIC RECORDS ACT COMPLIANCE AND REQUESTS.

01. Confidentiality of Records. Any disclosure of confidential information used or disclosed in the course of the Department's business is subject to the restrictions in state or federal law, and must comply with IDAPA 16.05.01, "Use and Disclosure of Department Records." ( )

02. Public Records Act. 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. ( )

03. Disclosure of an Individual's Identity. Under Section 39-1310, Idaho Code, information received by the Department through filed reports, inspections, or as required by law, will not be disclosed publicly in such a manner as to identify individuals except as necessary in a proceeding involving a question of licensure. ( )

04. Public Availability of Survey Reports. The Department will post on the Division of Licensing and Certification's website, survey reports and findings of complaint investigations relating to a facility at **http://www.facilitystandards.idaho.gov**. ( )

007. -- 008. (RESERVED)

009. CRIMINAL HISTORY AND BACKGROUND CHECK REQUIREMENTS.

01. Criminal History and Background Check. An intermediate care facility for people with intellectual disabilities (ICF/ID) must comply with the Department's criminal history and background check rules in IDAPA 16.05.06, "Criminal History and Background Checks." ( )

02. Individuals Subject to Criminal History Checks. Owners, administrators, employees, and contractors, hired or contracted with after October 1, 2007, who have direct access to individuals residing in an ICF/ID must complete and receive a Department criminal history and background check clearance as provided in IDAPA 16.05.06, "Criminal History and Background Checks." ( )

010. DEFINITIONS AND ABBREVIATIONS -- A THROUGH K.
For the purposes of this chapter of rules, the following terms apply. ( )

01. Active Treatment. Aggressive, consistent implementation of a program of specialized and generic training, treatment, health, and related services directed toward the acquisition of skills necessary for the individual to function with as much self-determination and independence as possible. It includes the prevention or deceleration of regression or loss of current optimal functional status. ( )

02. Administrator. The person delegated the responsibility for management of a facility. ( )

03. Advocate. A person who assists the individual in exercising their rights within the facility and as a citizen of the United States. ( )

04. Alteration. Any change or modification to the building or property that does affect Life Safety Code compliance or a change in space usage or utilization of the facility, including additions, remodeling or systems modifications. ( )

05. Board. The Idaho State Board of Health and Welfare. ( )

06. Certification. Federal program approval (Medicare, Medicaid, etc.) of the facility to participate in the delivery of program care to eligible individuals under applicable federal requirements. ( )

07. Client. A term used in the Code of Federal Regulations (CFR) for an "individual" residing in an intermediate care facility for individuals with intellectual disabilities who requires active treatment. A "client" is synonymous with the terms "individual" and "resident" in this chapter. ( )

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

09. Director. The Director of the Idaho Department of Health and Welfare, or his designee. ( )

10. Discharge. The permanent movement of an individual to another facility or setting that operates independently from the ICF/ID. ( )

11. Enclosure. Any barrier designed, constructed, or used to contain an individual's within a designated area for the purposes of behavior modification, and does not meet the definition of a "time out" room as stated in 42 CFR 483.450(c)(1). ( )

12. Governmental Unit. The State of Idaho, any county, municipality, or other political subdivision, or any department, division, board, or other agency thereof. ( )

13. Individual. A term used in the Code of Federal Regulations (CFR) for an "individual" residing in an intermediate care facility for individuals with intellectual disabilities who requires active treatment. An "individual" is synonymous with the terms "client" and "resident" in this chapter. ( )

14. Individual Program Plan (IPP). A written plan developed by the interdisciplinary team for each individual in the ICF/ID. The IPP is based on a completed, thorough review of the individual's preferences, lifestyle, cultural background, strengths, needs, and capabilities in all major life areas essential to increasing independence and ensuring rights. Each individual's IPP addresses what an individual needs in order to function with as much independence as possible by stating: ( )

a. The desired outcomes the individual is trying to achieve; ( )

b. The specific steps and actions that will be taken to reach the desired outcomes; and ( )

c. Any additional adaptive equipment, assistive technology, services, and supports required to meet the individual's needs. ( )

15. Initial License. The first license issued to a facility. ( )

16. Interdisciplinary Team (IDT). Professionals, paraprofessionals, and non-professionals who possess the knowledge, skills, and expertise necessary to accurately identify the comprehensive array of the individual's needs and design a program which is responsive to those needs. The IDT must include the individual unless inability or unwillingness is documented, his parent, guardian, or representative unless documented to be inappropriate or unobtainable, a physician, a social worker, and other appropriate professional and non-professional staff, at least one (1) of whom is a Qualified Intellectual Disabilities Professional. ( )

17. Intermediate Care Facility for Individuals with Intellectual Disabilities (ICF/ID). An institution that meets federal conditions of participation and has as its primary purpose the provision of health or rehabilitation services to individuals with intellectual disabilities or related conditions receiving care and services under the Medicaid program, which is organized and operated to provide services to four (4) or more individuals, not related to the owner. ( )

011. DEFINITIONS AND ABBREVIATIONS -- L THROUGH Z.
For the purposes of this chapter of rules, the following terms apply. ( )

01. Legal Guardian. A court-appointed surrogate designated to advocate on behalf of the individual. The guardian's role is to encourage self-reliance and independence as well as make decisions on behalf of the individual. ( )

02. Licensee. Any person, firm, partnership, corporation, company, association, joint stock association, governmental unit, legal entity, legal successor thereof, or organization to whom a license is issued. ( )

03. National Fire Protection Association (NFPA). The National Fire Protection Association, from whom copies of applicable safety standards referenced herein are available at cost. Requests should be addressed to NFPA Publication Department, 1 Batterymarch Park, Quincy, Massachusetts 02169-7471 or www.NFPA.org. ( )

04. Noxious Stimuli. A startling, unpleasant, or painful action used in response to an individual's behavior that has a potentially aversive or harmful effect. ( )

05. On Duty. Personnel are considered "on duty" when working with, or available to meet an individual's needs. ( )

06. Outside Service. Any service provided at a location other than the premises for which the license was issued, pursuant to Section 39-1305, Idaho Code. Includes off-site treatment locations regardless of ownership or operating party, schools, vocational programs, and separately licensed Developmental Disabilities Agencies per Section 39-4605, Idaho Code. ( )

07. Owner. Any recognized legal entity, governmental unit, or person having legal ownership of an ICF/ID. ( )

08. Parent. A person who by birth, through adoption, or through fostering is considered legally responsible for a child under the age of eighteen (18), unless otherwise ordered by a court of competent jurisdiction. ( )

09. Participate. To provide input through whatever means necessary to ensure an individual's IPP is responsive to the individual's needs. ( )

10. Physician. An individual licensed to practice medicine and surgery by the Idaho State Board of Medicine or the Idaho State Board of Podiatry under Section 39-1301(h), Idaho Code. ( )

11. Provisional License. A license issued to a facility that conforms substantially with these rules, during which time the facility is to correct deficiencies, or to implement administrative or major structural changes. ( )

12. Qualified Intellectual Disabilities Professional (QIDP). An individual who has at least one (1) year of experience working directly with individuals with intellectual disabilities or developmental disabilities; and meets the requirements in 42 CFR 483.430 (a). ( )

13. Related to Owner. An individual who is related to an owner of an intermediate care facility by blood, marriage, adoption, fostering, or legal guardianship. ( )

14. Renovations, Minor. Changes or modifications to the building or property that do not affect the structural integrity of the building, the fire safety, the physical spaces within the building, or the functional operation for which the facility is licensed. ( )

15. Resident. A term used in the International Building Code for an "individual" residing in an intermediate care facility for individuals with intellectual disabilities who requires active treatment. A "resident" is synonymous with the terms "individual" and "client" in this chapter. ( )

16. Sufficient Staff. Sufficient numbers of staff to meet each individual's needs and to implement the active treatment program defined in each individual's IPP. ( )

17. Transfer. A transfer means any of the following: ( )

a. The temporary movement of an individual between facilities; ( )

b. The temporary movement from an ICF/ID to a psychiatric or medical hospital for medical reasons; ( )

c. The permanent movement of an individual between living units of the same facility; or ( )

d. The permanent movement of an entire facility to a new location, including individuals served, staff and records. ( )

18. Waiver. Provision by the Department to allow for an exception to rule on a case-by-case basis. ( )

012. -- 019. (RESERVED)

020. LICENSE REQUIRED.
An intermediate care facility for people with intellectual disabilities (ICF/ID) cannot be established, maintained, or operated within Idaho without obtaining a license from the Department as required in Sections 39-1301 through 39-1314, Idaho Code. An ICF/ID must be in compliance with Idaho statutes, federal regulations, and this chapter of rules

in order to hold a license. ( )

021. ICF/ID LICENSURE REQUIREMENTS.

01. Facility Name. Each ICF/ID must use a distinctive name for the facility which is registered with the Secretary of State of Idaho. The facility cannot change its name without written notification to the Department at least thirty (30) days prior to the date the proposed name change is to be effective. ( )

02. Physical Location. Each ICF/ID must meet the requirements under Sections 67-6530 through 67-6532, Idaho Code, for local planning and zoning laws or ordinances. Facilities serving eight (8) or fewer individuals with intellectual disabilities is not required to secure conditional use permits, zoning variances, or zoning clearance. ( )

03. Size Limitations. The maximum size of an ICF/ID must be no more than fifteen (15) beds. An ICF/ID that has continuously operated under current ownership since July 1, 1980, or before, and continues to operate under that ownership, is exempt from this requirement. ( )

04. Compliance with Water and Sanitation Rules. Each ICF/ID must have a statement from the Public Health District indicating that the water supply and sewage disposal systems meet the Department requirements in Sections 700 through 799 of these rules. ( )

05. Approval of Facility Construction Plans. Each ICF/ID must obtain written Department approval prior to any proposed construction of a facility or alterations to an ICF/ID. Construction or alteration plans must be provided to the Department prior to licensing of the facility. ( )

022. INSPECTION OF FACILITY.

01. Representatives of the Department. The Department is authorized to enter an ICF/ID, or its buildings associated with its operation, at all reasonable times for the purpose of inspection. The Department may, at its discretion, utilize the services of any legally qualified person or organization, either public or private, to examine and inspect any ICF/ID for licensing requirements. ( )

02. Accessible With or Without Prior Notification. The Department or its representatives may enter a facility for the purpose of inspections with or without prior notification to the facility. ( )

03. Inspection of Records. For the purposes of these rules, the Department is authorized to inspect all records required by the Department to be maintained by the facility. ( )

04. Inspection of Outside Services. The Department is authorized to inspect any outside services that a licensed facility uses for its individuals. ( )

023. -- 024. (RESERVED)

025. INITIAL APPLICATION FOR LICENSURE.
Each person or entity planning to operate an ICF/ID must apply to the Department for an initial license. ( )

01. Form of Application. The applicant must complete an initial application form provided by the Department. The application and documents required in Subsection 025.02 of this rule must be submitted to the Department at least ninety (90) days prior to the planned opening date. ( )

02. Documents Required. In addition to the application form, the following documents must be submitted with the application prior to approval of a license: ( )

a. A certificate of occupancy from the local building and fire authority. ( )

b. Acceptable policies and procedures governing the facility, including a sample of an individual record, as required by the Department. ( )

c. If the facility is owned by a corporation, the names and addresses of all officers and stockholders having more than five percent (5%) ownership. ( )

026. CHANGE OF OWNERSHIP (CHOW).
A new owner must submit a new application for licensure, and must receive the license from the Department before operating the facility. A "change in ownership" is a change in the person or legal organization that has final decision-making authority over the daily operation of an existing ICF/ID. ( )

01. CHOW of ICF/ID. An ICF/ID must apply for a change of ownership when: ( )

a. The form of legal organization of the facility changes, such as when a sole proprietorship becomes a partnership or corporation; ( )

b. Title of the ICF/ID is transferred from the current licensee to another party; ( )

c. The ICF/ID is leased to another party, or the facility's existing lease is terminated; ( )

d. An event occurs that terminates or dissolves a partnership or sole proprietorship; or ( )

e. The licensee is a corporation; and ( )

i. The corporation is dissolved; or ( )

ii. A new corporation is formed through consolidation or merger with one (1) or more other corporations, and the licensed corporation no longer exists. ( )

02. No CHOW. Ownership does not change when: ( )

a. The licensee contracts with another party to manage the facility and to act as the licensee's agent. The licensee must retain final decision-making authority over daily operating decisions; or ( )

b. When the licensee is a corporation, some or all of its corporate stock is transferred, and the corporation continues to exist. ( )

03. Application for Change of Ownership. An ICF/ID must apply to the Department for a change of ownership at least ninety (90) days prior to the proposed date of the change, using an initial licensing application form. ( )

027. -- 029. (RESERVED)

030. ISSUANCE OF LICENSE.
An ICF/ID license is issued when the Department finds that the applicant has demonstrated compliance with the requirements in Idaho statutes and these rules. ( )

01. License Issued Only to Named Applicant and Location. Each license is issued only for the premises and persons or governmental units named in the application, as required in Section 39-1305, Idaho Code. ( )

02. License Specifies Maximum Allowable Beds. Each license specifies the maximum allowable number of beds in each facility, which may be exceeded only on an emergency basis, for the minimum amount of time required to address the emergency. This emergency exception must be authorized by the Department. ( )

03. Initial License. When the Department determines that all required application information has been received and demonstrates compliance, a license is issued. The initial license expires at the end of the calendar year in which the license was issued. ( )

04. Provisional License. A provisional license issued to an ICF/ID is valid for a period not to exceed six (6) months from the date of issuance by the Department. A provisional license may be issued in order for the facility to: ( )

a. Implement administrative changes; ( )

b. Implement structural changes to a facility's premises; or ( )

c. Work on correcting deficiencies to bring the facility into compliance with statutory requirements and these rules. ( )

031. EXPIRATION AND RENEWAL OF LICENSE.
An ICF/ID license issued by the Department is valid until the end of the calendar year in which it is issued. The license is renewed annually unless the license is revoked or suspended. ( )

032. -- 039. (RESERVED)

040. DISPLAY OF LICENSE.
Under Section 39-1305, Idaho Code, an ICF/ID must post its license in a conspicuous place on the premises visible to the general public. ( )

041. -- 049. (RESERVED)

050. DENIAL OR REVOCATION OF LICENSE.
Under Section 39-1306, Idaho Code, the Department may deny an application for an ICF/ID license or revoke an existing license. ( )

01. Notice to Deny or Revoke. The Department will send a written notice to the applicant or licensee by certified mail, registered mail, or personal delivery service, to deny or revoke a license or application. The notice will inform the applicant or licensee of the opportunity to request a hearing as provided in IDAPA 16.05.03, "Rules Governing Contested Case Proceedings and Declaratory Rulings." ( )

02. Major Deficiency. The Department may deny an application for a license or revoke an existing license if a major deficiency exists in the compliance of the ICF/ID with the provisions of Idaho Code, federal regulations, or of these rules. A major deficiency is: ( )

a. Any violation of ICF/ID requirements contained in Idaho Code, federal regulations, or these rules that would endanger the health, safety, or welfare of any individual; ( )

b. Any repeated violations of any requirements in Idaho Code, federal regulations, or these rules; or ( )

c. The accumulation of minor violations at the facility that, taken as a whole, would endanger the health, safety, or welfare of any individual. ( )

03. Prior Record Related to Licensure. The Department may deny an application for a license or revoke an existing license when the owner or administrator has: ( )

a. Had any health or personal care license denied or revoked; ( )

b. Been found to have operated any health or personal care facility without a license; or ( )

c. Been enjoined from operating any health or personal care facility in an action related to improper operation of a facility. ( )

04. Personnel Inadequacies. The Department may deny an application for a license or revoke an existing license when the owner or administrator lacks sufficient staff in number or qualification to properly care for

the proposed or actual number and needs of individuals. ( )

05. Inadequate or False Disclosure. The Department may deny an application for a license or revoke an existing license when the owner or administrator has misrepresented, or failed to fully disclose, any facts or information or any items in any application or any other document requested by the Department, when such facts and information were required to have been disclosed. ( )

06. Prior Criminal Record. The Department may deny an application for a license or revoke an existing license when the owner or administrator has been convicted of any crime or infraction associated with the operation of a licensed health or personal care facility. ( )

051. -- 059. (RESERVED)

060. SUMMARY SUSPENSION OF LICENSE.
The Director may summarily suspend any ICF/ID license in the event of any emergency endangering the health, safety, or welfare of an individual in the facility. The Director will provide an opportunity for a contested case hearing under IDAPA 16.05.03, "Rules Governing Contested Case Proceedings and Declaratory Rulings." ( )

061. -- 069. (RESERVED)

070. RETURN OF SUSPENDED, REVOKED, OR RELINQUISHED LICENSE.
Each ICF/ID license is the property of the State of Idaho and must be returned to the Department immediately upon its suspension, revocation, or the voluntary closure of the facility. ( )

071. -- 079. (RESERVED)

080. WAIVER.
Under Section 39-1306, Idaho Code, a temporary or permanent waiver to these rules and minimum standards, either in whole or in part, may be granted by the Department to an ICF/ID on a case-by-case basis under the following conditions: ( )

01. Waiver for Good Cause. The Department finds good cause to grant a waiver and no individual's health, safety, or welfare is endangered by the waiver being granted. ( )

02. No Precedent. Precedent will not be set by granting the requested waiver, and such waiver will have no force or effect in any other proceeding. ( )

081. -- 099. (RESERVED)

100. GOVERNING BODY AND MANAGEMENT.
The requirements of Sections 100 through 199 of these rules are modifications or additions to the requirements in 42 CFR 483.410 - 483.410(e), Condition of Participation: Governing Body and Management incorporated in Section 004 of these rules. ( )

101. GOVERNING BODY DUTIES.

01. Unrelated to Owner. The governing body of each ICF/ID must assure that individuals residing at the ICF/ID are unrelated to the owner. ( )

02. Appointment of Administrator. The governing body of each licensed ICF/ID must appoint an administrator. ( )

102. ADMINISTRATOR.

01. Administrator Requirements. Each ICF/ID must have an administrator who: ( )

a. Is at least twenty-one (21) years of age; ( )

b. Is responsible and accountable for implementation of the policies established by the governing body; ( )

c. Has a minimum three (3) years direct experience working in an ICF/ID setting; and ( )

d. Meets all other qualifications required by the facility's governing body. ( )

02. Administrator Duties. The administrator's responsibilities and duties are to: ( )

a. Implement and monitor written policies and procedures for each service of the ICF/ID and the operation of its physical plant. The administrator must see that these policies and procedures are adhered to and must make them available to authorized representatives of the Department. ( )

b. Implement and monitor written policies and procedures for the recruitment and employment of sufficient staff and personnel in number and qualification to perform each service and for the operation of the ICF/ID. The administrator must see that the policies and procedures for administration of personnel requirements in Section 120 of these rules are adhered to and available to authorized representatives of the Department. ( )

c. Compile, complete, and submit all reports and records required by the Department. ( )

d. Notify the Department immediately of an anticipated or actual termination of any service vital to the continued safe operation of the ICF/ID or the health, safety, and welfare of its individuals and personnel. ( )

e. When not on duty, delegate the necessary authority to an administrator designee who is competent to handle the administrator's duties. Delegation of authority must occur according to the ICF/ID policies and procedures set by the facility's governing body. In the event of an emergency, the administrator designee must know how to contact the administrator. ( )

103. -- 109. (RESERVED)

110. FACILITY RECORDS.

01. Records Available Upon Request. Each ICF/ID must be able to print and provide paper copies of electronic records upon the request of the individual who is the subject of the requested records, the individual's legal guardian, payer, or the Department. ( )

02. Census Register. Each ICF/ID must maintain a census register that lists: ( )

a. The name of each individual residing in the facility; ( )

b. The individual's date of admission and discharge; and ( )

c. A daily census of each individual who is in the facility on any given day. ( )

111. -- 119. (RESERVED)

120. ADMINISTRATIVE REQUIREMENTS -- PERSONNEL.
Each ICF/ID must employ personnel sufficient in number and qualifications to meet, at a minimum, the quality of care mandated by law and these rules for all individuals' needs in the facility. ( )

01. Job Descriptions. Current job descriptions outlining the authority, responsibilities, and duties of all personnel in the facility, including the administrator, must be established and maintained as required by the governing body. A copy of an employee's particular job description must be provided to each employee. ( )

02. Policies and Procedures. The facility must ensure that explicit and uniform policies and procedures are established for each employment position concerning hours of work, overtime, and related personnel

matters. A statement of these policies must be provided to each employee. ( )

03. Daily Work Schedules. Daily work schedules must be maintained that show the personnel on duty at any given time for the previous three (3) month period. These schedules must be kept up to date and identify the employee as follows: ( )

a. First and last names; ( )

b. Professional designations such as registered nurse (RN), licensed practical nurse, (LPN), QIDP; and ( )

c. Employment position in the facility. ( )

04. Organizational Chart. A current organizational chart that clearly indicates lines of authority within the facility's organizational structure must be available at the facility to be viewed by all employees, or kept in each employees' possession while on duty. ( )

05. Personnel Records. A separate personnel record must be maintained for each employee of the facility that contains the following information: ( )

a. The employee's name, current address, and telephone number; ( )

b. The employee's Social Security Number; ( )

c. The employee's educational background; ( )

d. The employee's work experience; ( )

e. The employee's other qualifications to provide ICF/ID care. If licensure is required to provide a service the employee was hired to provide, the facility must have written verification of the original license number and date the current license expires; ( )

f. The employee's criminal history and background check (CHC) clearance must be printed and on file, when a CHC is required; ( )

g. The employee's date of employment; ( )

h. The employee's date of termination including the reason for termination. ( )

i. The employee's position in the facility and a description of that position; and ( )

j. The employee's hours and work schedule, paydays, overtime, and related personnel matters.( )

06. Health and Age Requirements. All personnel employed by an ICF/ID must meet and observe the following requirements: ( )

a. Each employee must be free of communicable disease and infected skin lesions while on duty; and ( )

b. At the time of employment, each employee must have a tuberculin skin test consistent with current tuberculosis control procedures. ( )

c. No employee who is less than eighteen (18) years of age can provide direct individual care in an ICF/ID. ( )

07. Training Requirements. Each ICF/ID must have and follow structured written training programs designed to train each employee in the responsibilities specified in the written job description, and to provide for

quality of care and compliance with these rules. Signed evidence of personnel training, indicating dates, hours, and topic, must be retained at the facility. This training must include at a minimum: ( )

a. Initial orientation for new employees; and ( )

b. Continuing in-service training designed to, at a minimum, meet the quality of care mandated by law and these rules for individuals residing in the facility. ( )

121. -- 199. (RESERVED)

200. CLIENT PROTECTIONS.
The requirements of Sections 200 through 299 of these rules are modifications and additions to the requirements in 42 CFR 483.420 - 483.420(d)(4), Condition of Participation: Client Protections incorporated in Section 004 of these rules. ( )

201. INDIVIDUAL ADVOCATE.
An individual advocate is a person whose primary responsibility is to help assure the individual's rights are not violated and to act in the best interest of the individual. ( )

202. APPOINTED ADVOCATE.
The administrator of an ICF/ID must appoint an advocate for an individual with input from the individual's IDT when the following exists: ( )

01. Parent or Legal Guardian Unable to Participate. The individual's parent or legal guardian is unable or unwilling to participate, or is unavailable after reasonable efforts to contact them for participation have been made. ( )

02. Individual Unable to Make Informed Decisions. An individual "lacks capacity to make informed decisions" as defined in Section 66-402(9), Idaho Code. The IDT must determine and document in the individual's record the specific impairment that has rendered the individual incapable of understanding his own rights. ( )

03. Requested by Individual, Parent, or Guardian. An advocate is requested by the individual, his parent, or his guardian. ( )

04. Advise Individual of Rights. The fact that an individual has been determined to be incompetent or incapable does not absolve the facility from advising the individual of his rights to the extent that the individual is able to understand them. ( )

05. Advocate Selection. The administrator must assure that all individuals are represented only by persons who are not employed by the facility. The priority for selection of advocates will be in the following order: ( )

a. Parent(s); ( )

b. An interested family member; or ( )

c. Other interested parties. ( )

203. ADVOCATES' RIGHTS.
Each advocate has the following rights: ( )

01. Be Informed. To be informed of activities related to the individual that may be of interest to them or of significant changes in the individual's condition. ( )

02. Visitation Rights. To visit the individual and all parts of the facility that provide services to the individual at any reasonable hour and without prior notice, unless contraindicated by the individual's needs or such practice infringes upon the privacy and rights of others. ( )

03. Prompt Communications. To receive prompt replies to any communication sent to the facility regarding the individual. ( )

04. Written Interpretation of Evaluations. To be given within thirty (30) days of admission to the facility, a written interpretation of the evaluation that is conducted for the individual. The administrator of the facility must provide a written interpretation of any and all subsequent evaluations. ( )

05. Discharge Counseling. To be counseled as to the advantages and disadvantages of discharging the individual from the facility, including admission to another facility. ( )

06. Prompt Notification of Significant Events. To be notified promptly in the event of any unusual occurrence, including serious illness or accident, impending death, and/or death; and in the case of death, to be told of autopsy findings if an autopsy is performed. ( )

07. Access to Individual's Records. To be given access to all of the individual's records that pertain to their active treatment, subject to the requirements specified in IDAPA 16.05.01, "Use and Disclosure of Department Records." ( )

204. -- 299. (RESERVED)

300. FACILITY STAFFING.
The requirements of Sections 300 through 399 of these rules are modifications and additions to the requirements in 42 CFR 483.430 - 483.430(e)(4), Condition of Participation: Facility Staffing incorporated in Section 004 of these rules. ( )

301. INTERNS AND VOLUNTEERS.
Volunteers and interns must be under the direct supervision of facility staff during all times of direct contact with individuals. ( )

302. -- 399. (RESERVED)

400. ACTIVE TREATMENT SERVICES.
The requirements of Sections 400 through 499 of these rules are modifications and additions to the requirements in 42 CFR 483.440 - 483.440(f)(4), Condition of Participation: Active Treatment Services incorporated in Section 004 of these rules. ( )

401. -- 499. (RESERVED)

500. CLIENT BEHAVIOR AND FACILITY PRACTICES.
The requirements of Sections 500 through 599 of these rules are modifications and additions to the requirements in 42 CFR 483.450 - 483.450(e)(4)(iii), Condition of Participation: Client Behavior and Facility Practices incorporated in Section 004 of these rules. ( )

501. MANAGEMENT OF INAPPROPRIATE INDIVIDUAL BEHAVIOR.
The application of painful or noxious stimuli and the use of enclosures are prohibited. ( )

502. -- 599. (RESERVED)

600. HEALTH CARE SERVICES.
The requirements of Sections 600 through 699 of these rules are for modifications and additions to the requirements in 42 CFR 483.460 - 483.460(n)(2), Condition of Participation: Health Care Services incorporated in Section 004 of these rules. ( )

601. -- 699. (RESERVED)

700. PHYSICAL ENVIRONMENT.
The requirements of Sections 700 through 799 of these rules are modifications and additions to the requirements in 42

CFR 483.470 - 483.470(1)(4), Condition of Participation: Physical Environment, incorporated in Section 004 of these rules. Other documents incorporated in Section 004 of these rules related to an ICF/ID physical environment are the NFPA's Life Safety Code and IDAPA 07.03.01, "Rules of Building Safety." ( )

701. ENVIRONMENTAL SANITATION STANDARDS.
Each ICF/ID must ensure that its environment promotes the health, safety, independence, and learning of each individual in the facility. ( )

702. ENVIRONMENTAL STANDARDS -- WATER, SEWER, AND GARBAGE.

01. Water Supply. Each ICF/ID must have a water supply that is adequate, safe, and of a sanitary quality. The water supply must: ( )

a. Be from an approved public or municipal water supply; or ( )

b. Be from a private water supply that meets the standards approved by the Department, when an approved public or municipal water supply is not available. ( )

02. Private Water Supply. An ICF/ID using a private water supply must: ( )

a. Submit water samples to the local Public Health District Laboratory for bacteriological examination at least once every three (3) months; and ( )

b. Keep copies of the Public Health District laboratory reports on file at the facility and available to authorized representatives of the Department. ( )

03. Adequate Water Supply. Each ICF/ID must have a sufficient amount of water under adequate pressure to meet sanitary and fire sprinkler system requirements of the facility at all times, according to the requirements in IDAPA 07.02.06, "Rules Concerning Idaho State Plumbing Code," and the NFPA Life Safety Code incorporated in Section 004 of these rules. ( )

04. Sewage Disposal. Each ICF/ID must discharge all sewage and liquid wastes into a municipal sewage system where such a system is available. Where a municipal sewage system is not available, sewage and liquid wastes must be collected, treated, and disposed of in a manner approved by the Department. ( )

05. Garbage and Refuse Disposal. Each ICF/ID must provide garbage and refuse disposal at its facility that meets the following requirements: ( )

a. The premises and all buildings must be kept free from accumulation of weeds, trash, and rubbish; ( )

b. Materials not directly related to the maintenance and operation of the facility must not be stored on the premises; ( )

c. All containers used for storage of garbage and refuse must be constructed of durable, nonabsorbent material, and must not leak. Containers must be provided with tight-fitting lids unless stored in a vermin-proof room or enclosure; ( )

d. Garbage containers must be maintained in a sanitary manner. Sufficient containers must be afforded to hold all garbage and refuse that accumulates between periods of removal from the facility; and ( )

e. Storage areas must be kept clean and sanitary. ( )

703. ENVIRONMENTAL STANDARDS -- CHEMICALS AND PESTICIDES.

01. Rodent and Pest Control. Each ICF/ID must be maintained free from insects, rodents, vermin, and other pests. ( )

a. Chemicals and pesticides must be selected on the basis of the pest involved and used only in the manner prescribed by the manufacturer that is registered with the Idaho Department of Agriculture; and ( )

b. Chemicals and pesticides used in the facility's pest control program must be used and stored to meet local, state, and federal requirements. ( )

02. Chemical Storage. All toxic chemicals must be properly labeled and stored according to the manufacturer's instructions. Toxic chemicals must not be stored in individual areas, with drugs, or in any area where food is stored, prepared, or served. ( )

704. ENVIRONMENTAL STANDARDS -- LINENS AND LAUNDRY SERVICES.

01. Linens Provided. Each ICF/ID must have available at all times a quantity of linens sufficient for the proper care and comfort of its individuals. The linens must: ( )

a. Be of good quality, not thread-bare, torn, or badly stained; and ( )

b. Be handled, processed, and stored in an appropriate manner that prevents contamination. ( )

02. Laundry Facilities. Unless a laundry service is used as described in Subsection 704.03 of this rule, each ICF/ID must have adequate laundry facilities for the sanitary washing and drying of the linens and other washable goods laundered in the facility. An individual's personal laundry must be collected, sorted, washed, and dried in a sanitary manner, and must not be washed with the general linens. The laundry area must: ( )

a. Be situated in an area separate and apart from where food is stored, prepared, or served; ( )

b. Be well-lighted and ventilated; ( )

c. Be adequate in size for the needs of the facility; ( )

d. Be maintained in a sanitary manner; and ( )

e. Be kept in good repair. ( )

03. Laundry Services. When an ICF/ID sends its linens and individuals' personal laundry out for laundry services, the facility must ensure that: ( )

a. Soiled linens and clothing are handled in a proper manner to prevent cross-contamination and material damage prior to sending out; ( )

b. Clean linens and clothing received from a laundry service are stored in a proper manner to prevent potential re-contamination or material damage; and ( )

c. Each individual's personal laundry is collected, transported, sorted, washed, and dried in a sanitary manner and is not washed with general linens. ( )

705. ENVIRONMENTAL STANDARDS -- HOUSEKEEPING SERVICES.
Each ICF/ID must have sufficient housekeeping and maintenance personnel and equipment to maintain the interior and exterior of the facility in a safe, clean, orderly, and attractive manner. ( )

01. Facility Interior. Floors, walls, ceilings, and other interior surfaces, equipment, and furnishings must be maintained in a clean and sanitary manner. ( )

02. Housekeeping Procedures. Each ICF/ID must have written procedures for cleaning surfaces and equipment that is explained to each person engaged in housekeeping duties. An individual in the facility who is engaged in facility housekeeping duties as part of his training program must be supervised by the facility's program personnel according to the individual's assessed needs. ( )

03. Requirements After Individual Discharged. After discharge of an individual the facility must ensure that the individual's room is thoroughly cleaned, including the bed, bedding, linens, and furnishings. ( )

04. Deodorizers. Deodorizers and other products must not be used to cover odors caused by poor housekeeping or unsanitary conditions. ( )

05. Housekeeping Equipment. All housekeeping equipment must be in good repair and maintained in a clean and sanitary manner. ( )

706. -- 709. (RESERVED)

710. PHYSICAL FACILITY STANDARDS -- EXISTING GENERAL REQUIREMENTS.
Each ICF/ID must meet the minimum standards related to physical construction and maintenance for all of its buildings used for ICF/ID services as required in Sections 711 through 712 of these rules. All buildings are subject to approval by the Department. ( )

711. PHYSICAL FACILITY STANDARDS -- EXISTING CONSTRUCTION.
Each ICF/ID must use buildings that are of such character and quality to be suitable for the services and usage provided in its buildings. Other requirements for existing buildings are: ( )

01. Good Repair. Each building used by the ICF/ID and its equipment must be in good repair. ( )

a. The walls and floors must be of such character as to permit frequent cleaning. ( )

b. Walls and ceilings in kitchens, bathrooms, and utility rooms must have smooth, cleanable surfaces. ( )

c. The building must be kept clean and sanitary, and every reasonable precaution must be taken to prevent the entrance of insects and rodents. ( )

02. Stairways. Each stairway in an ICF/ID must have sturdy handrails on both sides of the stairs, and all open stairwells must be protected with guardrails. Each stairway must have a nonskid tread covering the entire surface of the stair. ( )

03. Porches and Verandas. Each open porch and veranda must be protected by sturdy guardrails of a height measuring a minimum of forty-two (42) inches. ( )

04. Telephone. Each ICF/ID must have telephone access that provides a reliable means of communication to each individual in the facility for private conversations and to contact emergency services. ( )

05. Dining Areas. Each ICF/ID must provide one (1) or more attractively furnished, multi-purpose areas of an adequate size for individuals' dining, diversional, and social activities. Each area must be: ( )

a. Well-lighted; ( )

b. Ventilated; and ( )

c. Equipped with tables and chairs that have easily cleanable surfaces. ( )

06. Storage Areas. Each ICF/ID must provide general storage areas and medical storage areas. ( )

a. For each licensed bed in the facility there must be a minimum of ten (10) square feet of general storage area; ( )

b. In addition, each individual's bedroom must have suitable storage for personal clothing, possessions, and individual adaptive equipment; and ( )

c. The facility must provide safe and adequate storage space for medical supplies and an area appropriate for the preparation of medications. ( )

07. Lighting. Each ICF/ID must meet the following lighting requirements: ( )

a. In addition to natural lighting, artificial lighting is required to provide an average illumination of ten (10) foot-candles (107 lux) over the area of a room at thirty (30) inches (standard household lighting level) above the floor level. ( )

b. With the exception of emergency egress lighting, all artificial lighting must be controllable by switches. ( )

c. Task lighting and reading lights must be available to meet each individual's needs. ( )

08. Ventilation. Each ICF/ID must be ventilated and precautions must be taken to prevent offensive odors. ( )

09. Heating and Air Conditioning. Each ICF/ID must provide heating and air conditioning systems throughout each building that are capable of maintaining a temperature range between sixty-eight (68°F) degrees and eighty-one (81°F) degrees Fahrenheit in all weather conditions. An ICF/ID cannot use any of the following: oil space heaters, recessed gas wall heaters, or floor furnaces. ( )

10. Plumbing. Each ICF/ID must meet the following plumbing requirements: ( )

a. All plumbing fixtures must be clean and in good repair. ( )

b. Vacuum breakers must be installed where necessary to prevent backsiphonage. ( )

c. The temperature of hot water at plumbing fixtures used by individuals in the facility must be between one hundred (100°F) degrees and one hundred twenty (120°F) degrees Fahrenheit. ( )

712. PHYSICAL FACILITY STANDARDS -- INDIVIDUAL ACCOMMODATIONS FOR EXISTING CONSTRUCTION.
Each ICF/ID must provide accommodations for each individual that meet the following requirements: ( )

01. Multi-Bedroom. No more than two (2) individuals can be housed in any multi-bedroom. ( )

02. Windows. Each individual's room window area must be no less than one-eighth (1/8) of the floor area and must be able to open. ( )

a. Suitable window shades or drapes must be provided to control lighting in the room. ( )

b. Windows must be located to permit an individual to have a view through the windows from a sitting position, allow for natural light, and room ventilation. ( )

c. Windows must be constructed to prevent any drafts when closed. ( )

03. Location of Bedroom. Each individual's bedroom must be an approved room that is not located: ( )

a. In a way that its outside walls are below grade; ( )

b. In any attic story; ( )

c. In any trailer house; ( )

d. In any other room not approved; or ( )

e. In a way that it can only be reached by passing through another individual's room, a utility room, or any other similar rooms. ( )

04. Room Size. Each individual's room must have dimensions that allow for no less than three (3) feet between beds. ( )

05. Ceilings. Each individual's room must have a ceiling height of seven and one-half (7 1/2) feet or more. ( )

06. Bathrooms. Each ICF/ID must have toilet rooms and hand washing facilities that are constructed as follows: ( )

a. Toilet rooms and bathrooms for individuals and personnel must not open directly into any room in which food, drink, or utensils are handled or stored. Toilet rooms or bathrooms may open into great rooms containing kitchen and dining areas if the doors are equipped with self-closures and ventilation is activated automatically with lighting. ( )

b. Toilet rooms and bathrooms must be separated from all rooms by solid walls or partitions. Adequate provisions to insure an individual's privacy must be made. ( )

c. Toilet rooms and bathrooms must be constructed for ease of cleaning. ( )

d. When an individual in an ICF/ID requires the use of a wheelchair, there must be at least one (1) toilet room and one (1) bathing area large enough to accommodate wheelchairs. ( )

e. Inside bathrooms and toilet rooms with no exterior window, must have forced ventilation to the outside. ( )

f. Toilet rooms must be so arranged that it is not necessary for an individual to pass through another individual's room to reach the toilet facilities. ( )

g. When an ICF/ID serves an individual with physical impairments, handrails or grab-bars must be provided in the individual's toilet rooms and bathrooms, and must be located so as to be functionally adequate.( )

07. Bath Linens. Each individual must be provided with an individual towel and washcloth. ( )

08. Beds. Each individual must be provided with his own bed that is thirty-six (36) inches wide or more, substantially constructed, and in good repair. Roll-away beds, cots, and folding beds cannot be used. Each individual's bed must be clean and: ( )

a. Have satisfactory springs in good repair; ( )

b. Have a comfortable mattress that is standard in size for the bed; and ( )

c. Each mattress must be maintained, and for individuals known to be incontinent, water repellent. ( )

09. Interior Design. The interior design of each ICF/ID must provide the functional arrangement of a home to encourage a personalized atmosphere for its individuals. ( )

10. Furnishings and Equipment. Each ICF/ID must have furniture and equipment that is maintained in a sanitary manner, kept in good repair, and is located to permit convenient use by its individuals. ( )

11. Corridors and Hallways. Each ICF/ID must ensure corridors and hallways are free of accessory equipment that projects into such areas or otherwise poses a hazard or impedes easy passage. ( )

713. -- 729. (RESERVED)

730. PHYSICAL FACILITY STANDARDS -- NEW CONSTRUCTION.
Each ICF/ID must comply with IDAPA 07.03.01, "Rules of Building Safety," incorporated in Section 004 of these rules, or with locally adopted code when more stringent. In addition to the construction and the physical facility standards for new construction, a facility must also comply with Sections 730 through 732 of these rules. Additions to existing facilities, conversions of an existing building to a facility, and portions of facilities undergoing remodeling or alterations other than repairs, must meet these required standards. ( )

731. PHYSICAL FACILITY STANDARDS -- NEW CONSTRUCTION REQUIREMENTS.

01. New Facility Life Safety Code Requirements. Each new ICF/ID must meet the provisions of the National Fire Protection Association (NFPA) Standard 101, The Life Safety Code, as incorporated in Section 004 of these rules, applicable to an ICF/ID, as specified below: ( )

a. Each new facility housing sixteen (16) individuals or less on the first floor only, must meet the requirements of Chapter 32, New Residential Board and Care Occupancies, Small Facilities, Impractical Evacuation Capabilities, specifically the sections found within 32.1, 32.2 and 32.7, and the applicable provisions of chapters 1 through 10. ( )

b. Each new facility housing individuals on other than the first floor must meet the requirements of NFPA 101, the Life Safety Code, Chapter 18, New Health Care Occupancies, Limited Care Facility. ( )

02. Plans, Specifications, and Inspections. Plans, specifications, and inspections of each new ICF/ID construction or any addition, alteration, conversion, or remodeling of an existing structure are governed by the following rules: ( )

a. Plans for new construction of an ICF/ID must be prepared by an architect licensed in the state of Idaho; ( )

b. Employment of an architect can be waived by the Department in connection with certain minor alterations. ( )

03. Approved by Department. Each ICF/ID must submit plans and specifications to the Department prior to beginning any work on the construction of new buildings, additions, or structural changes to existing facilities, or conversion of existing buildings to be used as an ICF/ID. The Department will review and approve plans and specifications to assure compliance with the applicable construction standards, codes, rules, and regulations. ( )

04. Preliminary Plans. Preliminary plans must be submitted and must include: ( )

a. The assignment of all spaces, size of areas and rooms, and indication in outline of the fixed and movable equipment and furniture; ( )

b. Drawings of each floor, attic, and basement; ( )

c. The total floor area and number of beds; ( )

d. Drawings of approaches or site plans, roads, parking areas, and sidewalks; ( )

e. An outline describing the general construction, including interior finishes, acoustical materials, heating, electrical, and ventilation systems; and ( )

f. Plans drawn to scale of sufficient size to clearly present the proposed design, but not less than a scale of one-eighth (1/8) inch to one (1) foot. ( )

05. Working Drawings. Each ICF/ID must develop working drawings in close cooperation with the Department and other appropriate agencies and receive written Department approval prior to beginning construction. The drawings and specifications must: ( )

a. Be well-prepared with accurate dimensions; ( )

b. Include all necessary explanatory notes, schedules, and legends; ( )

c. Be complete and adequate for contract purposes; and ( )

d. Be stamped with the architect's seal. ( )

06. Inspection. Each ICF/ID must be inspected and approved by the Department prior to occupancy. The Department must be notified at least six (6) weeks prior to completion of construction to schedule a final inspection. ( )

07. ICF/ID Regulations. Each ICF/ID being constructed must meet or exceed construction features that are applicable for all local, state, and national codes. In the event of a conflict in requirements between codes, the most restrictive will apply. ( )

08. Site Requirements. Each ICF/ID site location must: ( )

a. Be served by an all-weather road kept open to motor vehicles at all times of the year; ( )

b. Be accessible to physician, professional, and habilitation services, medical facilities, shopping centers, and population centers where employees may be recruited and retained; ( )

c. Be remote from railroads, factories, airports, and similar noise, odor, smoke, dust, or other nuisances; ( )

d. Be accessible to public utilities and services such as electrical power, telephone service, and fire protection; ( )

e. Have adequate off-street parking available; and ( )

f. Comply with homeowner association covenants, conditions, and restrictions. ( )

732. PHYSICAL FACILITY STANDARDS -- INDIVIDUAL ACCOMODATIONS FOR NEW CONSTRUCTION.
Each ICF/ID must provide accommodations for each individual that meets the following requirements: ( )

01. Bedrooms. Each individual bedroom must be of sufficient size to allow for the following: ( )

a. Eighty (80) square feet or more of usable floor space per bed in a multiple-occupancy bedroom; and ( )

b. One hundred (100) square feet or more of usable floor space for a single occupancy bedroom. ( )

02. Multi-Bedrooms. No more than two (2) individuals can be housed in any multi-bedroom. ( )

03. Windows. Each individual's room window area must be no less than eight percent (8%) of the floor area and must be able to open. ( )

a. Suitable window shades or drapes must be provided to control lighting in the room. ( )

b. Windows must be located to permit an individual to have a view through the windows from a

sitting position, allow for natural light, and room ventilation. ( )

c. Windows must be constructed to prevent any drafts when closed. ( )

04. Location of Bedroom. Each individual's bedroom must be an approved room that is not located: ( )

a. In a way that its outside walls are below grade; ( )

b. In any attic story; ( )

c. In any trailer house; ( )

d. In any other room not approved; or ( )

e. In a way that it can only be reached by passing through another individual's room, a utility room, or any other similar rooms. ( )

05. Bathrooms. Each ICF/ID must have one (1) toilet, one (1) tub or shower, and one (1) lavatory bowl for every four (4) licensed beds in the facility. Tubs, showers, and lavatory bowls must be connected to hot and cold running water. Toilet and bathing rooms must not be accessed through another individual's sleeping room. ( )

06. Living and Dining Areas. Each ICF/ID must provide a minimum of thirty (30) square feet per licensed bed for living, dining, and recreational activities. This area must be for the sole use of individuals, and under no circumstances can these rooms be used as bedrooms by an individual or personnel. A hall or entry is not acceptable as a living room or recreation room. ( )

07. Closets. Each individual must have closet space provided in his bedroom that is four (4) square feet or more per licensed bed. When a common closet is used for two (2) individuals, there must be a physical separation for the clothing of each individual. ( )

733. -- 739. (RESERVED)

740. FIRE AND LIFE SAFETY STANDARDS -- EXISTING FACILITY.
All buildings on the premises of an ICF/ID must meet all the requirements of local, state, and national codes concerning fire and life safety standards that are applicable to ICFs/ID. ( )

01. General Requirements. Each ICF/ID must meet the following general requirements for the fire and life safety standards: ( )

a. The facility must be structurally sound and must be maintained and equipped to assure the safety of the individuals who reside there, employees, and the public. ( )

b. On the premises of each facility where natural or man-made hazards are present, suitable fences, guards, and railings must be provided to protect the individuals who reside there, employees, and the public. ( )

02. Existing Life Safety Code Requirements. Each ICF/ID must meet provisions of the National Fire Protection Association (NFPA) Standard 101, The Life Safety Code, incorporated in Section 004 of these rules, applicable to an ICF/ID, as specified below: ( )

a. Each existing facility housing sixteen (16) or fewer individuals on a single story must meet the requirements of Chapter 33, Existing Residential Board and Care Occupancies, Small Facilities, Impractical Evacuation Capabilities, specifically the sections found within 33.1, 33.2 and 33.7, and the applicable provisions of Chapters 1 through 10 of the NFPA Standard 101, The Life Safety Code. ( )

b. Existing fire sprinkler systems in a facility are permitted to continue in service until building footprint modifications are made, or a change of ownership, provided the lack of conformity with these standards

does not present a serious hazard to the occupants as determined by the authority having jurisdiction. ( )

c. Sprinkler systems for a facility must be connected to the building fire alarm system and be supervised. ( )

d. Sprinkler systems installed in a newly constructed or converted facility must be designed to the standards of NFPA 13, NFPA 13-R or NFPA 13-D. Multipurpose sprinkler and domestic piping systems are prohibited. ( )

03. Existing Licensed Facilities. Each existing ICF/ID housing seventeen (17) or more individuals, or any number of individuals residing in multiple story buildings, must meet the requirement of Chapter 19, Existing Health Care Occupancies, Limited Care Facilities, and the applicable provision of Chapters 1 through 10 of the NFPA Standard 101, The Life Safety Code, incorporated in Section 004 of these rules. ( )

04. Portable Fire Extinguishers. Each ICF/ID must have portable fire extinguishers installed throughout the facility in accordance with applicable provisions of NFPA Standard 10, "Portable Fire Extinguishers." ( )

05. Portable Comfort Space Heating Devices Prohibited. The use of portable comfort space heating devices of any kind is prohibited in an ICF/ID. ( )

06. Emergency Battery Operated Lighting. Each ICF/ID must provide emergency battery-operated lighting for at least the exit passageway lighting, hall lighting, and the fire alarm system, in accordance with NFPA 101, The Life Safety Code, Section 7.9, as incorporated in Section 004 of these rules. ( )

741. FIRE AND LIFE SAFETY STANDARDS -- EMERGENCY PLANS.

01. Emergency Plans for Protection and Evacuation of Individuals. In cooperation with the local fire authority, the administrator of each ICF/ID must develop a prearranged written plan for employee response for protection of the individuals who reside there and for orderly evacuation of these individuals in case of an emergency. These plans must include procedures to meet all potential emergencies and disasters relevant to the facility, such as fire, severe weather, and missing individuals. ( )

a. The written emergency plan for each facility must contain a diagram of the building showing emergency protection equipment, evacuation routes, and exits. This diagram must be conspicuously posted in a common area within the facility. An outline of emergency instructions must be posted with the diagram. ( )

b. The facility must communicate the written emergency plan to staff and train staff in the use of the written emergency plan. ( )

c. The facility must periodically review the written emergency plan and thoroughly test it to assure rapid and efficient function of the plan. ( )

d. The facility must hold unannounced evacuation drills at least quarterly for each shift of personnel for a total of no less than twelve (12) per year. The evacuation drills must be irregularly scheduled throughout all shifts and under varied conditions. At least one (1) drill per shift must be held on a Sunday or holiday. The facility must actually evacuate individuals during at least one (1) drill each year on each shift. ( )

e. The facility must document evacuation drills, cite the problems investigated, and take the appropriate corrective action for the identified problems. ( )

02. Report of Fire. Each ICF/ID must submit to the Department a separate report of each fire incident that occurs within the facility within thirty (30) days of the occurrence. The facility must use the Department's reporting form, "Facility Fire Incident Report," available online at: **http://www.facilitystandards.idaho.gov**. The facility must provide all specific data concerning the fire including the date, origin, extent of damage, method of extinguishment, and injuries, if any, for each fire incident. A reportable fire incident is when a facility has an incident: ( )

a. That causes staff to activate the facility emergency plan in whole or in part; ( )

b. That causes an alarm throughout, causing staff or residents to activate the facility emergency plan, in whole, or in part; ( )

c. That causes a response by the fire department or emergency services to investigate an alarm or incident; ( )

d. That is unplanned in which residents are evacuated, prepared to evacuate, partially evacuated, or protected in place, due to smoke, fire, unknown gases/odors, or other emergency; or ( )

e. That results in an injury, burn, smoke inhalation, death, or other fire or emergency-related incident. ( )

03. Maintenance of Equipment. Each ICF/ID must establish routine test, check, and maintenance procedures for alarm systems, extinguishment systems, and all essential electrical systems. Each facility must meet the following requirements: ( )

a. The use of any defective equipment on the premises of any facility is prohibited. ( )

b. The administrator of the ICF/ID must have all newly acquired equipment and appliances inspected for safe condition and function prior to use by any individual residing there, employee, or visitor to the facility. ( )

c. The administrator of the ICF/ID must show written evidence of adequate preventive maintenance procedures for equipment directly related to the health and safety of the individuals who reside there. ( )

d. The facility must have the fire alarm system and smoke detection system serviced at least annually by an authorized servicing agency. Servicing must be in accordance with the applicable provision of NFPA Standard 72, The National Fire Alarm Code. ( )

e. The facility's automatic sprinkler systems, if installed, must be serviced at least annually by an authorized servicing agency. Servicing must be in accordance with the applicable provisions of NFPA Standard 25, "Standard for the Inspection, Testing, and Maintenance of Water-Based Fire Protection Systems." Facilities protected by an NFPA 13D sprinkler system must be serviced and tested annually by an authorized servicing agency to include a visual inspection of all heads, testing of all water flow and tamper devices at a minimum. ( )

f. The facility must have all portable fire extinguishers serviced annually in accordance with the applicable provisions of NFPA Standard 10, "Portable Fire Extinguishers." ( )

g. The facility must establish routine in-house test and check procedures covering alarm systems, extinguishment systems, and essential electrical systems. ( )

742. -- 749. (RESERVED)

750. VEHICLES.
Each ICF/ID that transports individuals must have a vehicle safety policy that meets the following: ( )

01. Vehicle Safety Policy Content. Each ICF/ID must develop, implement, monitor, and maintain a written vehicle safety policy for each vehicle owned, leased, or used that includes: ( )

a. The establishment of a preventative maintenance program for each vehicle; ( )

b. Vehicle inspections and other regular maintenance needed to ensure individuals' safety; and ( )

c. Inspection of wheelchair lifts, securing devices, and other devices necessary to ensure individuals' safety. ( )

02. Motor Vehicle Licensing Requirements. Each ICF/ID must meet and adhere to all laws, rules, and regulations, including licensing, registration, and insurance requirements applicable to drivers and vehicles for each vehicle type used. ( )

751. -- 799. (RESERVED)

800. DIETETIC SERVICES.
The requirements of Sections 800 through 899 of these rules are modifications and additions to the requirements of 42 CFR 483.480 - 483.480(d)(5), Condition of Participation: Dietetic Services incorporated in Section 004 of these rules. ( )

801. PURCHASING AND STORAGE OF FOOD.
Each ICF/ID must purchase and store food as follows: ( )

01. Food Source. Each ICF/ID must obtain all food and drink from an approved source identified in IDAPA 16.02.19, "The Idaho Food Code." ( )

02. Record of Food Purchases. At a minimum, each ICF/ID must keep a record of food purchases that includes invoices for the preceding thirty (30) day period. ( )

03. Food Supply. Each ICF/ID must maintain on its premises the following food supplies: ( )

a. Staple food items sufficient for a one (1) week period; and ( )

b. Perishable food items sufficient for a two (2) day period. ( )

04. Temperature Requirements. Each refrigerator and freezer must be equipped with a reliable, easily read thermometer to ensure the following guidelines are met: ( )

a. Refrigerators must be maintained at forty-one (41°F) degrees Fahrenheit or below; and ( )

b. Freezers must be maintained at ten (10°F) degrees Fahrenheit or below. ( )

802. -- 999. (RESERVED)

Westlaw

Code of Federal Regulations Currentness
Title 42. Public Health
Chapter IV. Centers for Medicare & Medicaid Services, Department of Health and Human Services
Subchapter G. Standards and Certification
Part 483. Requirements for States and Long Term Care Facilities
Subpart I. Conditions of Participation for Intermediate Care Facilities for Individuals with Intellectual Disabilities

Source: 56 FR 48918, Sept. 26, 1991, unless otherwise noted.

C. F. R. T. 42, Ch. IV, Subch. G, Pt. 483, Subpt. I, Refs & Annos, CFR T. 42, Ch. IV, Subch. G, Pt. 483, Subpt. I, Refs & Annos

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Part 483. Requirements for States and Long Term Care Facilities (Refs & Annos)
Subpart I. Conditions of Participation for Intermediate Care Facilities for Individuals with Intellectual Disabilities (Refs & Annos)
→ **§ 483.400 Basis and purpose.**

This subpart implements section 1905 (c) and (d) of the Act which gives the Secretary authority to prescribe regulations for intermediate care facility services in facilities for individuals with intellectual disabilities or persons with related conditions.

SOURCE: 53 FR 20496, June 3, 1988; 54 FR 5359, Feb. 2, 1989; 54 FR 29717, July 17, 1989; 54 FR 53611, Dec. 29, 1989; 56 FR 48867, 48918, Sept. 26, 1991; 56 FR 48918, Sept. 26, 1991; 56 FR 54546, Oct. 22, 1991; 57 FR 7136, Feb. 28, 1992; 57 FR 8202, March 6, 1992; 57 FR 43924, Sept. 23, 1992; 57 FR 56506, Nov. 30, 1992; 59 FR 56237, Nov. 10, 1994; 60 FR 50443, Sept. 29, 1995; 64 FR 66279, Nov. 24, 1999; 71 FR 71334, Dec. 8, 2006; 76 FR 9511, Feb. 18, 2011; 77 FR 29028, May 16, 2012; 78 FR 16805, March 19, 2013, unless otherwise noted.

AUTHORITY: Secs. 1102, 1128I and 1871 of the Social Security Act (42 U.S.C. 1302, 1320a–7j, and 1395hh).

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Subpart I. Conditions of Participation for Intermediate Care Facilities for Individuals with Intellectual Disabilities (Refs & Annos)
§ 483.405 Relationship to other HHS regulations.

In addition to compliance with the regulations set forth in this subpart, facilities are obliged to meet the applicable provisions of other HHS regulations, including but not limited to those pertaining to nondiscrimination on the basis of race, color, or national origin (45 CFR Part 80), nondiscrimination on the basis of handicap (45 CFR Part 84), nondiscrimination on the basis of age (45 CFR Part 91), protection of human subjects of research (45 CFR Part 46), and fraud and abuse (42 CFR Part 455). Although those regulations are not in themselves considered conditions of participation under this Part, their violation may result in the termination or suspension of, or the refusal to grant or continue, Federal financial assistance.

SOURCE: 53 FR 20496, June 3, 1988; 54 FR 5359, Feb. 2, 1989; 54 FR 29717, July 17, 1989; 54 FR 53611, Dec. 29, 1989; 56 FR 48867, 48918, Sept. 26, 1991; 56 FR 48918, Sept. 26, 1991; 56 FR 54546, Oct. 22, 1991; 57 FR 7136, Feb. 28, 1992; 57 FR 8202, March 6, 1992; 57 FR 43924, Sept. 23, 1992; 57 FR 56506, Nov. 30, 1992; 59 FR 56237, Nov. 10, 1994; 60 FR 50443, Sept. 29, 1995; 64 FR 66279, Nov. 24, 1999; 71 FR 71334, Dec. 8, 2006; 76 FR 9511, Feb. 18, 2011; 77 FR 29028, May 16, 2012; 78 FR 16805, March 19, 2013, unless otherwise noted.

AUTHORITY: Secs. 1102, 1128I and 1871 of the Social Security Act (42 U.S.C. 1302, 1320a–7j, and 1395hh).

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Part 483. Requirements for States and Long Term Care Facilities (Refs & Annos)
Subpart I. Conditions of Participation for Intermediate Care Facilities for Individuals with Intellectual Disabilities (Refs & Annos)
§ 483.410 Condition of participation: Governing body and management.

(a) Standard: Governing body. The facility must identify an individual or individuals to constitute the governing body of the facility. The governing body must--

(1) Exercise general policy, budget, and operating direction over the facility;

(2) Set the qualifications (in addition to those already set by State law, if any) for the administrator of the facility; and

(3) Appoint the administrator of the facility.

(b) Standard: Compliance with Federal, State, and local laws. The facility must be in compliance with all applicable provisions of Federal, State and local laws, regulations and codes pertaining to health, safety, and sanitation.

(c) Standard: Client records.

(1) The facility must develop and maintain a recordkeeping system that includes a separate record for each client and that documents the client's health care, active treatment, social information, and protection of the client's rights.

(2) The facility must keep confidential all information contained in the clients' records, regardless of the form or storage method of the records.

(3) The facility must develop and implement policies and procedures governing the release of any client information, including consents necessary from the client, or parents (if the client is a minor) or legal guardian.

(4) Any individual who makes an entry in a client's record must make it legibly, date it, and sign it.

(5) The facility must provide a legend to explain any symbol or abbreviation used in a client's record.

(6) The facility must provide each identified residential living unit with appropriate aspects of each client's record.

(d) Standard: Services provided under agreements with outside sources.

(1) If a service required under this subpart is not provided directly, the facility must have a written agreement with an outside program, resource, or service to furnish the necessary service, including emergency and other health

care.

(2) The agreement must--

(i) Contain the responsibilities, functions, objectives, and other terms agreed to by both parties; and

(ii) Provide that the facility is responsible for assuring that the outside services meet the standards for quality of services contained in this subpart.

(3) The facility must assure that outside services meet the needs of each client.

(4) If living quarters are not provided in a facility owned by the ICF/IID, the ICF/IID remains directly responsible for the standards relating to physical environment that are specified in § 483.470 (a) through (g), (j) and (k).

(e) Standard: Licensure. The facility must be licensed under applicable State and local law.

[57 FR 43925, Sept. 23, 1992]

SOURCE: 53 FR 20496, June 3, 1988; 54 FR 5359, Feb. 2, 1989; 54 FR 29717, July 17, 1989; 54 FR 53611, Dec. 29, 1989; 56 FR 48867, 48918, Sept. 26, 1991; 56 FR 48918, Sept. 26, 1991; 56 FR 54546, Oct. 22, 1991; 57 FR 7136, Feb. 28, 1992; 57 FR 8202, March 6, 1992; 57 FR 43924, Sept. 23, 1992; 57 FR 56506, Nov. 30, 1992; 59 FR 56237, Nov. 10, 1994; 60 FR 50443, Sept. 29, 1995; 64 FR 66279, Nov. 24, 1999; 71 FR 71334, Dec. 8, 2006; 76 FR 9511, Feb. 18, 2011; 77 FR 29028, May 16, 2012; 78 FR 16805, March 19, 2013, unless otherwise noted.

AUTHORITY: Secs. 1102, 1128I and 1871 of the Social Security Act (42 U.S.C. 1302, 1320a–7j, and 1395hh).

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Subpart I. Conditions of Participation for Intermediate Care Facilities for Individuals with Intellectual Disabilities (Refs & Annos)

→ § 483.420 Condition of participation: Client protections.

(a) Standard: Protection of clients' rights. The facility must ensure the rights of all clients. Therefore, the facility must--

(1) Inform each client, parent (if the client is a minor), or legal guardian, of the client's rights and the rules of the facility;

(2) Inform each client, parent (if the client is a minor), or legal guardian, of the client's medical condition, developmental and behavioral status, attendant risks of treatment, and of the right to refuse treatment;

(3) Allow and encourage individual clients to exercise their rights as clients of the facility, and as citizens of the United States, including the right to file complaints, and the right to due process;

(4) Allow individual clients to manage their financial affairs and teach them to do so to the extent of their capabilities;

(5) Ensure that clients are not subjected to physical, verbal, sexual or psychological abuse or punishment;

(6) Ensure that clients are free from unnecessary drugs and physical restraints and are provided active treatment to reduce dependency on drugs and physical restraints;

(7) Provide each client with the opportunity for personal privacy and ensure privacy during treatment and care of personal needs;

(8) Ensure that clients are not compelled to perform services for the facility and ensure that clients who do work for the facility are compensated for their efforts at prevailing wages and commensurate with their abilities;

(9) Ensure clients the opportunity to communicate, associate and meet privately with individuals of their choice, and to send and receive unopened mail;

(10) Ensure that clients have access to telephones with privacy for incoming and outgoing local and long distance calls except as contraindicated by factors identified within their individual program plans;

(11) Ensure clients the opportunity to participate in social, religious, and community group activities;

(12) Ensure that clients have the right to retain and use appropriate personal possessions and

clothing, and ensure that each client is dressed in his or her own clothing each day; and

(13) Permit a husband and wife who both reside in the facility to share a room.

(b) Standard: Client finances.

(1) The facility must establish and maintain a system that--

(i) Assures a full and complete accounting of clients' personal funds entrusted to the facility on behalf of clients; and

(ii) Precludes any commingling of client funds with facility funds or with the funds of any person other than another client.

(2) The client's financial record must be available on request to the client, parents (if the client is a minor) or legal guardian.

(c) Standard: Communication with clients, parents, and guardians. The facility must--

(1) Promote participation of parents (if the client is a minor) and legal guardians in the process of providing active treatment to a client unless their participation is unobtainable or inappropriate;

(2) Answer communications from clients' families and friends promptly and appropriately;

(3) Promote visits by individuals with a relationship to the client (such as family, close friends, legal guardians and advocates) at any reasonable hour, without prior notice, consistent with the right of that client's and other clients' privacy, unless the interdisciplinary team determines that the visit would not be appropriate;

(4) Promote visits by parents or guardians to any area of the facility that provides direct client care services to the client, consistent with the right of that client's and other clients' privacy;

(5) Promote frequent and informal leaves from the facility for visits, trips, or vacations; and

(6) Notify promptly the client's parents or guardian of any significant incidents, or changes in the client's condition including, but not limited to, serious illness, accident, death, abuse, or unauthorized absence.

(d) Standard: Staff treatment of clients.

(1) The facility must develop and implement written policies and procedures that prohibit mistreatment, neglect or abuse of the client.

(i) Staff of the facility must not use physical, verbal, sexual or psychological abuse or punishment.

(ii) Staff must not punish a client by withholding food or hydration that contributes to a nutritionally adequate diet.

(iii) The facility must prohibit the employment of individuals with a conviction or prior employment history of child or client abuse, neglect or mistreatment.

(2) The facility must ensure that all allegations of mistreatment, neglect or abuse, as well as in-

juries of unknown source, are reported immediately to the administrator or to other officials in accordance with State law through established procedures.

(3) The facility must have evidence that all alleged violations are thoroughly investigated and must prevent further potential abuse while the investigation is in progress.

(4) The results of all investigations must be reported to the administrator or designated representative or to other officials in accordance with State law within five working days of the incident and, if the alleged violation is verified, appropriate corrective action must be taken.

SOURCE: 53 FR 20496, June 3, 1988; 54 FR 5359, Feb. 2, 1989; 54 FR 29717, July 17, 1989; 54 FR 53611, Dec. 29, 1989; 56 FR 48867, 48918, Sept. 26, 1991; 56 FR 48918, Sept. 26, 1991; 56 FR 54546, Oct. 22, 1991; 57 FR 7136, Feb. 28, 1992; 57 FR 8202, March 6, 1992; 57 FR 43924, Sept. 23, 1992; 57 FR 56506, Nov. 30, 1992; 59 FR 56237, Nov. 10, 1994; 60 FR 50443, Sept. 29, 1995; 64 FR 66279, Nov. 24, 1999; 71 FR 71334, Dec. 8, 2006; 76 FR 9511, Feb. 18, 2011; 77 FR 29028, May 16, 2012; 78 FR 16805, March 19, 2013, unless otherwise noted.

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Part 483. Requirements for States and Long Term Care Facilities (Refs & Annos)
Subpart I. Conditions of Participation for Intermediate Care Facilities for Individuals with Intellectual Disabilities (Refs & Annos)
§ 483.430 Condition of participation: Facility staffing.

(a) Standard: Qualified intellectual disability professional. Each client's active treatment program must be integrated, coordinated and monitored by a qualified intellectual disability professional who--

(1) Has at least one year of experience working directly with persons with intellectual disability or other developmental disabilities; and

(2) Is one of the following:

(i) A doctor of medicine or osteopathy.

(ii) A registered nurse.

(iii) An individual who holds at least a bachelor's degree in a professional category specified in paragraph (b)(5) of this section.

(b) Standard: Professional program services.

(1) Each client must receive the professional program services needed to implement the active treatment program defined by each client's individual program plan. Professional program staff must work directly with clients and with paraprofessional, nonprofessional and other professional program staff who work with clients.

(2) The facility must have available enough qualified professional staff to carry out and monitor the various professional interventions in accordance with the stated goals and objectives of every individual program plan.

(3) Professional program staff must participate as members of the interdisciplinary team in relevant aspects of the active treatment process.

(4) Professional program staff must participate in on-going staff development and training in both formal and informal settings with other professional, paraprofessional, and nonprofessional staff members.

(5) Professional program staff must be licensed, certified, or registered, as applicable, to provide professional services by the State in which he or she practices. Those professional program staff who do not fall under the jurisdiction of State licensure, certification, or registration requirements, specified in § 483.410(b), must meet the following qualifications:

(i) To be designated as an occupational therapist, an individual must be eligible for certification as an occupational therapist by the American Occupational Therapy Association or another comparable body.

(ii) To be designated as an occupational therapy assistant, an individual must be eligible for certification as a certified occupational therapy assistant by the American Occupational Therapy Association or another comparable body.

(iii) To be designated as a physical therapist, an individual must be eligible for certification as a physical therapist by the American Physical Therapy Association or another comparable body.

(iv) To be designated as a physical therapy assistant, an individual must be eligible for registration by the American Physical Therapy Association or be a graduate of a two year college-level program approved by the American Physical Therapy Association or another comparable body.

(v) To be designated as a psychologist, an individual must have at least a master's degree in psychology from an accredited school.

(vi) To be designated as a social worker, an individual must--

(A) Hold a graduate degree from a school of social work accredited or approved by the Council on Social Work Education or another comparable body; or

(B) Hold a Bachelor of Social Work degree from a college or university accredited or approved by the Council on Social Work Education or another comparable body.

(vii) To be designated as a speech-language pathologist or audiologist, an individual must--

(A) Be eligible for a Certificate of Clinical Competence in Speech–Language Pathology or Audiology granted by the American Speech–Language–Hearing Association or another comparable body; or

(B) Meet the educational requirements for certification and be in the process of accumulating the supervised experience required for certification.

(viii) To be designated as a professional recreation staff member, an individual must have a bachelor's degree in recreation or in a specialty area such as art, dance, music or physical education.

(ix) To be designated as a professional dietitian, an individual must be eligible for registration by the American Dietetics Association.

(x) To be designated as a human services professional an individual must have at least a bachelor's degree in a human services field (including, but not limited to: sociology, special education, rehabilitation counseling, and psychology).

(xi) If the client's individual program plan is being successfully implemented by facility staff, professional program staff meeting the qualifications of paragraph (b)(5) (i) through (x) of this section are not required--

(A) Except for qualified intellectual disability professionals;

(B) Except for the requirements of paragraph (b)(2) of this section concerning the facility's provision of enough qualified professional program staff; and

(C) Unless otherwise specified by State licensure and certification requirements.

(c) Standard: Facility staffing.

(1) The facility must not depend upon clients or volunteers to perform direct care services for the facility.

(2) There must be responsible direct care staff on duty and awake on a 24–hour basis, when clients are present, to take prompt, appropriate action in case of injury, illness, fire or other emergency, in each defined residential living unit housing--

(i) Clients for whom a physician has ordered a medical care plan;

(ii) Clients who are aggressive, assaultive or security risks;

(iii) More than 16 clients; or

(iv) Fewer than 16 clients within a multi-unit building.

(3) There must be a responsible direct care staff person on duty on a 24 hour basis (when clients are present) to respond to injuries and symptoms of illness, and to handle emergencies, in each defined residential living unit housing--

(i) Clients for whom a physician has not ordered a medical care plan;

(ii) Clients who are not aggressive, assaultive or security risks; and

(iii) Sixteen or fewer clients,

(4) The facility must provide sufficient support staff so that direct care staff are not required to perform support services to the extent that these duties interfere with the exercise of their primary direct client care duties.

(d) Standard: Direct care (residential living unit) staff.

(1) The facility must provide sufficient direct care staff to manage and supervise clients in accordance with their individual program plans.

(2) Direct care staff are defined as the present on-duty staff calculated over all shifts in a 24–hour period for each defined residential living unit.

(3) Direct care staff must be provided by the facility in the following minimum ratios of direct care staff to clients:

(i) For each defined residential living unit serving children under the age of 12, severely and profoundly retarded clients, clients with severe physical disabilities, or clients who are aggressive, assaultive, or security risks, or who manifest severely hyperactive or psychotic-like behavior, the staff to client ratio is 1 to 3.2.

(ii) For each defined residential living unit serving moderately retarded clients, the staff to client ratio is 1 to 4.

(iii) For each defined residential living unit serving clients who function within the range of mild retardation, the staff to client ratio is 1 to 6.4.

(4) When there are no clients present in the living unit, a responsible staff member must be available by telephone.

(e) Standard: Staff training program.

(1) The facility must provide each employee with initial and continuing training that enables the employee to perform his or her duties effectively, efficiently, and competently.

(2) For employees who work with clients, training must focus on skills and competencies directed toward clients' developmental, behavioral, and health needs.

(3) Staff must be able to demonstrate the skills and techniques necessary to administer interventions to manage the inappropriate behavior of clients.

(4) Staff must be able to demonstrate the skills and techniques necessary to implement the individual program plans for each client for whom they are responsible.

SOURCE: 53 FR 20496, June 3, 1988; 54 FR 5359, Feb. 2, 1989; 54 FR 29717, July 17, 1989; 54 FR 53611, Dec. 29, 1989; 56 FR 48867, 48918, Sept. 26, 1991; 56 FR 48918, Sept. 26, 1991; 56 FR 54546, Oct. 22, 1991; 57 FR 7136, Feb. 28, 1992; 57 FR 8202, March 6, 1992; 57 FR 43924, Sept. 23, 1992; 57 FR 56506, Nov. 30, 1992; 59 FR 56237, Nov. 10, 1994; 60 FR 50443, Sept. 29, 1995; 64 FR 66279, Nov. 24, 1999; 71 FR 71334, Dec. 8, 2006; 76 FR 9511, Feb. 18, 2011; 77 FR 29028, May 16, 2012; 78 FR 16805, March 19, 2013, unless otherwise noted.

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Subchapter G. Standards and Certification (Refs & Annos)
Part 483. Requirements for States and Long Term Care Facilities (Refs & Annos)
Subpart I. Conditions of Participation for Intermediate Care Facilities for Individuals with Intellectual Disabilities (Refs & Annos)
→ § 483.440 Condition of participation: Active treatment services.

(a) Standard: Active treatment.

(1) Each client must receive a continuous active treatment program, which includes aggressive, consistent implementation of a program of specialized and generic training, treatment, health services and related services described in this subpart, that is directed toward--

(i) The acquisition of the behaviors necessary for the client to function with as much self determination and independence as possible; and

(ii) The prevention or deceleration of regression or loss of current optimal functional status.

(2) Active treatment does not include services to maintain generally independent clients who are able to function with little supervision or in the absence of a continuous active treatment program.

(b) Standard: Admissions, transfers, and discharge.

(1) Clients who are admitted by the facility must be in need of and receiving active treatment services.

(2) Admission decisions must be based on a preliminary evaluation of the client that is conducted or updated by the facility or by outside sources.

(3) A preliminary evaluation must contain background information as well as currently valid assessments of functional developmental, behavioral, social, health and nutritional status to determine if the facility can provide for the client's needs and if the client is likely to benefit from placement in the facility.

(4) If a client is to be either transferred or discharged, the facility must--

(i) Have documentation in the client's record that the client was transferred or discharged for good cause; and

(ii) Provide a reasonable time to prepare the client and his or her parents or guardian for the transfer or discharge (except in emergencies).

(5) At the time of the discharge, the facility must--

(i) Develop a final summary of the client's developmental, behavioral, social, health and nutritional status and, with the consent of the cli-

ent, parents (if the client is a minor) or legal guardian, provide a copy to authorized persons and agencies; and

(ii) Provide a post-discharge plan of care that will assist the client to adjust to the new living environment.

(c) Standard: Individual program plan.

(1) Each client must have an individual program plan developed by an interdisciplinary team that represents the professions, disciplines or service areas that are relevant to--

(i) Identifying the client's needs, as described by the comprehensive functional assessments required in paragraph (c)(3) of this section; and

(ii) Designing programs that meet the client's needs.

(2) Appropriate facility staff must participate in interdisciplinary team meetings. Participation by other agencies serving the client is encouraged. Participation by the client, his or her parent (if the client is a minor), or the client's legal guardian is required unless that participation is unobtainable or inappropriate.

(3) Within 30 days after admission, the interdisciplinary team must perform accurate assessments or reassessments as needed to supplement the preliminary evaluation conducted prior to admission. The comprehensive functional assessment must take into consideration the client's age (for example, child, young adult, elderly person) and the implications for active treatment at each stage, as applicable, and must--

(i) Identify the presenting problems and disabilities and where possible, their causes;

(ii) Identify the client's specific developmental strengths;

(iii) Identify the client's specific developmental and behavioral management needs;

(iv) Identify the client's need for services without regard to the actual availability of the services needed; and

(v) Include physical development and health, nutritional status, sensorimotor development, affective development, speech and language development and auditory functioning, cognitive development, social development, adaptive behaviors or independent living skills necessary for the client to be able to function in the community, and as applicable, vocational skills.

(4) Within 30 days after admission, the interdisciplinary team must prepare for each client an individual program plan that states the specific objectives necessary to meet the client's needs, as identified by the comprehensive assessment required by paragraph (c)(3) of this section, and the planned sequence for dealing with those objectives. These objectives must--

(i) Be stated separately, in terms of a single behavioral outcome;

(ii) Be assigned projected completion dates;

(iii) Be expressed in behavioral terms that provide measurable indices of performance;

(iv) Be organized to reflect a developmental progression appropriate to the individual; and

(v) Be assigned priorities.

(5) Each written training program designed to implement the objectives in the individual program plan must specify:

(i) The methods to be used;

(ii) The schedule for use of the method;

(iii) The person responsible for the program;

(iv) The type of data and frequency of data collection necessary to be able to assess progress toward the desired objectives;

(v) The inappropriate client behavior(s), if applicable; and

(vi) Provision for the appropriate expression of behavior and the replacement of inappropriate behavior, if applicable, with behavior that is adaptive or appropriate.

(6) The individual program plan must also:

(i) Describe relevant interventions to support the individual toward independence.

(ii) Identify the location where program strategy information (which must be accessible to any person responsible for implementation) can be found.

(iii) Include, for those clients who lack them, training in personal skills essential for privacy and independence (including, but not limited to, toilet training, personal hygiene, dental hygiene, self-feeding, bathing, dressing, grooming, and communication of basic needs), until it has been demonstrated that the client is developmentally incapable of acquiring them.

(iv) Identify mechanical supports, if needed, to achieve proper body position, balance, or alignment. The plan must specify the reason for each support, the situations in which each is to be applied, and a schedule for the use of each support.

(v) Provide that clients who have multiple disabling conditions spend a major portion of each waking day out of bed and outside the bedroom area, moving about by various methods and devices whenever possible.

(vi) Include opportunities for client choice and self-management.

(7) A copy of each client's individual program plan must be made available to all relevant staff, including staff of other agencies who work with the client, and to the client, parents (if the client is a minor) or legal guardian.

(d) Standard: Program implementation.

(1) As soon as the interdisciplinary team has formulated a client's individual program plan, each client must receive a continuous active treatment program consisting of needed interventions and services in sufficient number and frequency to support the achievement of the objectives identified in the individual program plan.

(2) The facility must develop an active treat-

ment schedule that outlines the current active treatment program and that is readily available for review by relevant staff.

(3) Except for those facets of the individual program plan that must be implemented only by licensed personnel, each client's individual program plan must be implemented by all staff who work with the client, including professional, paraprofessional and nonprofessional staff.

(e) Standard: Program documentation.

(1) Data relative to accomplishment of the criteria specified in client individual program plan objectives must be documented in measureable terms.

(2) The facility must document significant events that are related to the client's individual program plan and assessments and that contribute to an overall understanding of the client's ongoing level and quality of functioning.

(f) Standard: Program monitoring and change.

(1) The individual program plan must be reviewed at least by the qualified intellectual disability professional and revised as necessary, including, but not limited to situations in which the client--

(i) Has successfully completed an objective or objectives identified in the individual program plan;

(ii) Is regressing or losing skills already gained;

(iii) Is failing to progress toward identified objectives after reasonable efforts have been made; or

(iv) Is being considered for training towards new objectives.

(2) At least annually, the comprehensive functional assessment of each client must be reviewed by the interdisciplinary team for relevancy and updated as needed, and the individual program plan must be revised, as appropriate, repeating the process set forth in paragraph (c) of this section.

(3) The facility must designate and use a specially constituted committee or committees consisting of members of facility staff, parents, legal guardians, clients (as appropriate), qualified persons who have either experience or training in contemporary practices to change inappropriate client behavior, and persons with no ownership or controlling interest in the facility to--

(i) Review, approve, and monitor individual programs designed to manage inappropriate behavior and other programs that, in the opinion of the committee, involve risks to client protection and rights;

(ii) Insure that these programs are conducted only with the written informed consent of the client, parent (if the client is a minor), or legal guardian; and

(iii) Review, monitor and make suggestions to the facility about its practices and programs as they relate to drug usage, physical restraints, time-out rooms, application of painful or noxious stimuli, control of inappropriate behavior, protection of client rights and funds, and any other area that the committee believes need to

be addressed.

(4) The provisions of paragraph (f)(3) of this section may be modified only if, in the judgment of the State survey agency, Court decrees, State law or regulations provide for equivalent client protection and consultation.

SOURCE: 53 FR 20496, June 3, 1988; 54 FR 5359, Feb. 2, 1989; 54 FR 29717, July 17, 1989; 54 FR 53611, Dec. 29, 1989; 56 FR 48867, 48918, Sept. 26, 1991; 56 FR 48918, Sept. 26, 1991; 56 FR 54546, Oct. 22, 1991; 57 FR 7136, Feb. 28, 1992; 57 FR 8202, March 6, 1992; 57 FR 43924, Sept. 23, 1992; 57 FR 56506, Nov. 30, 1992; 59 FR 56237, Nov. 10, 1994; 60 FR 50443, Sept. 29, 1995; 64 FR 66279, Nov. 24, 1999; 71 FR 71334, Dec. 8, 2006; 76 FR 9511, Feb. 18, 2011; 77 FR 29028, May 16, 2012; 78 FR 16805, March 19, 2013, unless otherwise noted.

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Title 42. Public Health
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Part 483. Requirements for States and Long Term Care Facilities (Refs & Annos)
Subpart I. Conditions of Participation for Intermediate Care Facilities for Individuals with Intellectual Disabilities (Refs & Annos)
§ 483.450 Condition of participation: Client behavior and facility practices.

(a) Standard: Facility practices--Conduct toward clients.

(1) The facility must develop and implement written policies and procedures for the management of conduct between staff and clients. These policies and procedures must--

(i) Promote the growth, development and independence of the client;

(ii) Address the extent to which client choice will be accommodated in daily decision-making, emphasizing self-determination and self-management, to the extent possible;

(iii) Specify client conduct to be allowed or not allowed; and

(iv) Be available to all staff, clients, parents of minor children, and legal guardians.

(2) To the extent possible, clients must participate in the formulation of these policies and procedures.

(3) Clients must not discipline other clients, except as part of an organized system of self-government, as set forth in facility policy.

(b) Standard: Management of inappropriate client behavior.

(1) The facility must develop and implement written policies and procedures that govern the management of inappropriate client behavior. These policies and procedures must be consistent with the provisions of paragraph (a) of this section. These procedures must--

(i) Specify all facility approved interventions to manage inappropriate client behavior;

(ii) Designate these interventions on a hierarchy to be implemented, ranging from most positive or least intrusive, to least positive or most intrusive;

(iii) Insure, prior to the use of more restrictive techniques, that the client's record documents that programs incorporating the use of less intrusive or more positive techniques have been tried systematically and demonstrated to be ineffective; and

(iv) Address the following:

(A) The use of time-out rooms.

(B) The use of physical restraints.

(C) The use of drugs to manage inappropriate behavior.

(D) The application of painful or noxious stimuli.

(E) The staff members who may authorize the use of specified interventions.

(F) A mechanism for monitoring and controlling the use of such interventions.

(2) Interventions to manage inappropriate client behavior must be employed with sufficient safeguards and supervision to ensure that the safety, welfare and civil and human rights of clients are adequately protected.

(3) Techniques to manage inappropriate client behavior must never be used for disciplinary purposes, for the convenience of staff or as a substitute for an active treatment program.

(4) The use of systematic interventions to manage inappropriate client behavior must be incorporated into the client's individual program plan, in accordance with § 483.440(c) (4) and (5) of this subpart.

(5) Standing or as needed programs to control inappropriate behavior are not permitted.

(c) Standard: Time-out rooms.

(1) A client may be placed in a room from which egress is prevented only if the following conditions are met:

(i) The placement is a part of an approved systematic time-out program as required by paragraph (b) of this section. (Thus, emergency placement of a client into a time-out room is not allowed.)

(ii) The client is under the direct constant visual supervision of designated staff.

(iii) The door to the room is held shut by staff or by a mechanism requiring constant physical pressure from a staff member to keep the mechanism engaged.

(2) Placement of a client in a time-out room must not exceed one hour.

(3) Clients placed in time-out rooms must be protected from hazardous conditions including, but not limited to, presence of sharp corners and objects, uncovered light fixtures, unprotected electrical outlets.

(4) A record of time-out activities must be kept.

(d) Standard: Physical restraints.

(1) The facility may employ physical restraint only--

(i) As an integral part of an individual program plan that is intended to lead to less restrictive means of managing and eliminating the behavior for which the restraint is applied;

(ii) As an emergency measure, but only if abso-

lutely necessary to protect the client or others from injury; or

(iii) As a health-related protection prescribed by a physician, but only if absolutely necessary during the conduct of a specific medical or surgical procedure, or only if absolutely necessary for client protection during the time that a medical condition exists.

(2) Authorizations to use or extend restraints as an emergency must be:

(i) In effect no longer than 12 consecutive hours; and

(ii) Obtained as soon as the client is restrained or stable.

(3) The facility must not issue orders for restraint on a standing or as needed basis.

(4) A client placed in restraint must be checked at least every 30 minutes by staff trained in the use of restraints, released from the restraint as quickly as possible, and a record of these checks and usage must be kept.

(5) Restraints must be designed and used so as not to cause physical injury to the client and so as to cause the least possible discomfort.

(6) Opportunity for motion and exercise must be provided for a period of not less than 10 minutes during each two hour period in which restraint is employed, and a record of such activity must be kept.

(7) Barred enclosures must not be more than three feet in height and must not have tops.

(e) Standard: Drug usage.

(1) The facility must not use drugs in doses that interfere with the individual client's daily living activities.

(2) Drugs used for control of inappropriate behavior must be approved by the interdisciplinary team and be used only as an integral part of the client's individual program plan that is directed specifically towards the reduction of and eventual elimination of the behaviors for which the drugs are employed.

(3) Drugs used for control of inappropriate behavior must not be used until it can be justified that the harmful effects of the behavior clearly outweigh the potentially harmful effects of the drugs.

(4) Drugs used for control of inappropriate behavior must be--

(i) Monitored closely, in conjunction with the physician and the drug regimen review requirement at § 483.460(j), for desired responses and adverse consequences by facility staff; and

(ii) Gradually withdrawn at least annually in a carefully monitored program conducted in conjunction with the interdisciplinary team, unless clinical evidence justifies that this is contraindicated.

SOURCE: 53 FR 20496, June 3, 1988; 54 FR 5359, Feb. 2, 1989; 54 FR 29717, July 17, 1989; 54 FR 53611, Dec. 29, 1989; 56 FR 48867, 48918, Sept. 26, 1991; 56 FR 48918, Sept. 26, 1991; 56 FR 54546, Oct. 22, 1991; 57 FR 7136, Feb. 28, 1992; 57 FR 8202, March 6, 1992; 57 FR 43924, Sept. 23, 1992; 57 FR 56506, Nov. 30, 1992; 59 FR 56237,

Nov. 10, 1994; 60 FR 50443, Sept. 29, 1995; 64 FR 66279, Nov. 24, 1999; 71 FR 71334, Dec. 8, 2006; 76 FR 9511, Feb. 18, 2011; 77 FR 29028, May 16, 2012; 78 FR 16805, March 19, 2013, unless otherwise noted.

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Part 483. Requirements for States and Long Term Care Facilities (Refs & Annos)
Subpart I. Conditions of Participation for Intermediate Care Facilities for Individuals with Intellectual Disabilities (Refs & Annos)
§ 483.460 Condition of participation: Health care services.

(a) Standard: Physician services.

(1) The facility must ensure the availability of physician services 24 hours a day.

(2) The physician must develop, in coordination with licensed nursing personnel, a medical care plan of treatment for a client if the physician determines that an individual client requires 24–hour licensed nursing care. This plan must be integrated in the individual program plan.

(3) The facility must provide or obtain preventive and general medical care as well as annual physical examinations of each client that at a minimum include the following:

(i) Evaluation of vision and hearing.

(ii) Immunizations, using as a guide the recommendations of the Public Health Service Advisory Committee on Immunization Practices or of the Committee on the Control of Infectious Diseases of the American Academy of Pediatrics.

(iii) Routine screening laboratory examinations as determined necessary by the physician, and special studies when needed.

(iv) Tuberculosis control, appropriate to the facility's population, and in accordance with the recommendations of the American College of Chest Physicians or the section of diseases of the chest of the American Academy of Pediatrics, or both.

(4) To the extent permitted by State law, the facility may utilize physician assistants and nurse practitioners to provide physician services as described in this section.

(b) Standard: Physician participation in the individual program plan. A physician must participate in--

(1) The establishment of each newly admitted client's initial individual program plan as required by § 456.380 of this chapter that specified plan of care requirements for ICFs; and

(2) If appropriate, physicians must participate in the review and update of an individual program plan as part of the interdisciplinary team process either in person or through written report to the interdisciplinary team.

(c) Standard: Nursing services. The facility must

provide clients with nursing services in accordance with their needs. These services must include--

(1) Participation as appropriate in the development, review, and update of an individual program plan as part of the interdisciplinary team process;

(2) The development, with a physician, of a medical care plan of treatment for a client when the physician has determined that an individual client requires such a plan;

(3) For those clients certified as not needing a medical care plan, a review of their health status which must--

(i) Be by a direct physical examination;

(ii) Be by a licensed nurse;

(iii) Be on a quarterly or more frequent basis depending on client need;

(iv) Be recorded in the client's record; and

(v) Result in any necessary action (including referral to a physician to address client health problems).

(4) Other nursing care as prescribed by the physician or as identified by client needs; and

(5) Implementing, with other members of the interdisciplinary team, appropriate protective and preventive health measures that include, but are not limited to--

(i) Training clients and staff as needed in appropriate health and hygiene methods;

(ii) Control of communicable diseases and infections, including the instruction of other personnel in methods of infection control; and

(iii) Training direct care staff in detecting signs and symptoms of illness or dysfunction, first aid for accidents or illness, and basic skills required to meet the health needs of the clients.

(d) Standard: Nursing staff.

(1) Nurses providing services in the facility must have a current license to practice in the State.

(2) The facility must employ or arrange for licensed nursing services sufficient to care for clients health needs including those clients with medical care plans.

(3) The facility must utilize registered nurses as appropriate and required by State law to perform the health services specified in this section.

(4) If the facility utilizes only licensed practical or vocational nurses to provide health services, it must have a formal arrangement with a registered nurse to be available for verbal or onsite consultation to the licensed practical or vocational nurse.

(5) Non-licensed nursing personnel who work with clients under a medical care plan must do so under the supervision of licensed persons.

(e) Standard: Dental services.

(1) The facility must provide or make arrangements for comprehensive diagnostic and treatment services for each client from qualified personnel, including licensed dentists and dental hygienists either through organized dental services in-house or through arrangement.

(2) If appropriate, dental professionals must participate, in the development, review and update of an individual program plan as part of the interdisciplinary process either in person or through written report to the interdisciplinary team.

(3) The facility must provide education and training in the maintenance of oral health.

(f) Standard: Comprehensive dental diagnostic services. Comprehensive dental diagnostic services include--

(1) A complete extraoral and intraoral examination, using all diagnostic aids necessary to properly evaluate the client's oral condition, not later than one month after admission to the facility (unless the examination was completed within twelve months before admission);

(2) Periodic examination and diagnosis performed at least annually, including radiographs when indicated and detection of manifestations of systemic disease; and

(3) A review of the results of examination and entry of the results in the client's dental record.

(g) Standard: Comprehensive dental treatment. The facility must ensure comprehensive dental treatment services that include--

(1) The availability for emergency dental treatment on a 24–hour-a-day basis by a licensed dentist; and

(2) Dental care needed for relief of pain and infections, restoration of teeth, and maintenance of dental health.

(h) Standard: Documentation of dental services.

(1) If the facility maintains an in-house dental service, the facility must keep a permanent dental record for each client, with a dental summary maintained in the client's living unit.

(2) If the facility does not maintain an in-house dental service, the facility must obtain a dental summary of the results of dental visits and maintain the summary in the client's living unit.

(i) Standard: Pharmacy services. The facility must provide or make arrangements for the provision of routine and emergency drugs and biologicals to its clients. Drugs and biologicals may be obtained from community or contract pharmacists or the facility may maintain a licensed pharmacy.

(j) Standard: Drug regimen review.

(1) A pharmacist with input from the interdisciplinary team must review the drug regimen of each client at least quarterly.

(2) The pharmacist must report any irregularities in clients' drug regimens to the prescribing physician and interdisciplinary team.

(3) The pharmacist must prepare a record of each client's drug regimen reviews and the facility must maintain that record.

(4) An individual medication administration record must be maintained for each client.

(5) As appropriate the pharmacist must participate in the development, implementation, and review of each client's individual program plan either in person or through written report to the interdisciplinary team.

(k) Standard: Drug administration. The facility must have an organized system for drug administration that identifies each drug up to the point of administration. The system must assure that--

(1) All drugs are administered in compliance with the physician's orders;

(2) All drugs, including those that are self-administered, are administered without error;

(3) Unlicensed personnel are allowed to administer drugs only if State law permits;

(4) Clients are taught how to administer their own medications if the interdisciplinary team determines that self administration of medications is an appropriate objective, and if the physician does not specify otherwise;

(5) The client's physician is informed of the interdisciplinary team's decision that self-administration of medications is an objective for the client;

(6) No client self-administers medications until he or she demonstrates the competency to do so;

(7) Drugs used by clients while not under the direct care of the facility are packaged and labeled in accordance with State law; and

(8) Drug administration errors and adverse drug reactions are recorded and reported immediately to a physician.

(l) Standard: Drug storage and recordkeeping.

(1) The facility must store drugs under proper conditions of sanitation, temperature, light, humidity, and security.

(2) The facility must keep all drugs and biologicals locked except when being prepared for administration. Only authorized persons may have access to the keys to the drug storage area. Clients who have been trained to self administer drugs in accordance with § 483.460(k)(4) may have access to keys to their individual drug supply.

(3) The facility must maintain records of the receipt and disposition of all controlled drugs.

(4) The facility must, on a sample basis, periodically reconcile the receipt and disposition of all controlled drugs in schedules II through IV (drugs subject to the Comprehensive Drug Abuse Prevention and Control Act of 1970, 21 U.S.C. 801 et seq., as implemented by 21 CFR part 308).

(5) If the facility maintains a licensed pharmacy, the facility must comply with the regulations for controlled drugs.

(m) Standard: Drug labeling.

(1) Labeling of drugs and biologicals must--

(i) Be based on currently accepted professional principles and practices; and

(ii) Include the appropriate accessory and cautionary instructions, as well as the expiration date, if applicable.

(2) The facility must remove from use--

(i) Outdated drugs; and

(ii) Drug containers with worn, illegible, or missing labels.

(3) Drugs and biologicals packaged in containers designated for a particular client must be immediately removed from the client's current medication supply if discontinued by the physician.

(n) Standard: Laboratory services.

(1) If a facility chooses to provide laboratory services, the laboratory must meet the requirements specified in part 493 of this chapter.

(2) If the laboratory chooses to refer specimens for testing to another laboratory, the referral laboratory must be certified in the appropriate specialties and subspecialities of service in accordance with the requirements of part 493 of this chapter.

[55 FR 9576, March 14, 1990; 55 FR 33907, Aug. 20, 1990; 57 FR 7136, Feb. 28, 1992]

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(3) The facility must provide or obtain preventive and general medical care as well as annual physical examinations of each client that at a minimum include the following:

(i) Evaluation of vision and hearing.

(ii) Immunizations, using as a guide the recommendations of the Public Health Service Advisory Committee on Immunization Practices or of the Committee on the Control of Infectious Diseases of the American Academy of Pediatrics.

(iii) Routine screening laboratory examinations as determined necessary by the physician, and special studies when needed.

(iv) Tuberculosis control, appropriate to the facility's population, and in accordance with the recommendations of the American College of Chest Physicians or the section of diseases of the chest of the American Academy of Pediatrics, or both.

(4) To the extent permitted by State law, the facility may utilize physician assistants and nurse practitioners to provide physician services as described in this section.

(b) Standard: Physician participation in the individual program plan. A physician must participate in--

(1) The establishment of each newly admitted client's initial individual program plan as required by § 456.380 of this chapter that specified plan of care requirements for ICFs; and

(2) If appropriate, physicians must participate in the review and update of an individual program plan as part of the interdisciplinary team process either in person or through written report to the interdisciplinary team.

(c) Standard: Nursing services. The facility must

provide clients with nursing services in accordance with their needs. These services must include--

(1) Participation as appropriate in the development, review, and update of an individual program plan as part of the interdisciplinary team process;

(2) The development, with a physician, of a medical care plan of treatment for a client when the physician has determined that an individual client requires such a plan;

(3) For those clients certified as not needing a medical care plan, a review of their health status which must--

(i) Be by a direct physical examination;

(ii) Be by a licensed nurse;

(iii) Be on a quarterly or more frequent basis depending on client need;

(iv) Be recorded in the client's record; and

(v) Result in any necessary action (including referral to a physician to address client health problems).

(4) Other nursing care as prescribed by the physician or as identified by client needs; and

(5) Implementing, with other members of the interdisciplinary team, appropriate protective and preventive health measures that include, but are not limited to--

(i) Training clients and staff as needed in appropriate health and hygiene methods;

(ii) Control of communicable diseases and infections, including the instruction of other personnel in methods of infection control; and

(iii) Training direct care staff in detecting signs and symptoms of illness or dysfunction, first aid for accidents or illness, and basic skills required to meet the health needs of the clients.

(d) Standard: Nursing staff.

(1) Nurses providing services in the facility must have a current license to practice in the State.

(2) The facility must employ or arrange for licensed nursing services sufficient to care for clients health needs including those clients with medical care plans.

(3) The facility must utilize registered nurses as appropriate and required by State law to perform the health services specified in this section.

(4) If the facility utilizes only licensed practical or vocational nurses to provide health services, it must have a formal arrangement with a registered nurse to be available for verbal or onsite consultation to the licensed practical or vocational nurse.

(5) Non-licensed nursing personnel who work with clients under a medical care plan must do so under the supervision of licensed persons.

(e) Standard: Dental services.

(1) The facility must provide or make arrangements for comprehensive diagnostic and treatment services for each client from qualified personnel, including licensed dentists and dental hygienists either through organized dental services in-house or through arrangement.

(2) If appropriate, dental professionals must participate, in the development, review and update of an individual program plan as part of the interdisciplinary process either in person or through written report to the interdisciplinary team.

(3) The facility must provide education and training in the maintenance of oral health.

(f) Standard: Comprehensive dental diagnostic services. Comprehensive dental diagnostic services include--

(1) A complete extraoral and intraoral examination, using all diagnostic aids necessary to properly evaluate the client's oral condition, not later than one month after admission to the facility (unless the examination was completed within twelve months before admission);

(2) Periodic examination and diagnosis performed at least annually, including radiographs when indicated and detection of manifestations of systemic disease; and

(3) A review of the results of examination and entry of the results in the client's dental record.

(g) Standard: Comprehensive dental treatment. The facility must ensure comprehensive dental treatment services that include--

(1) The availability for emergency dental treatment on a 24–hour-a-day basis by a licensed dentist; and

(2) Dental care needed for relief of pain and infections, restoration of teeth, and maintenance of dental health.

(h) Standard: Documentation of dental services.

(1) If the facility maintains an in-house dental service, the facility must keep a permanent dental record for each client, with a dental summary maintained in the client's living unit.

(2) If the facility does not maintain an in-house dental service, the facility must obtain a dental summary of the results of dental visits and maintain the summary in the client's living unit.

(i) Standard: Pharmacy services. The facility must provide or make arrangements for the provision of routine and emergency drugs and biologicals to its clients. Drugs and biologicals may be obtained from community or contract pharmacists or the facility may maintain a licensed pharmacy.

(j) Standard: Drug regimen review.

(1) A pharmacist with input from the interdisciplinary team must review the drug regimen of each client at least quarterly.

(2) The pharmacist must report any irregularities in clients' drug regimens to the prescribing physician and interdisciplinary team.

(3) The pharmacist must prepare a record of each client's drug regimen reviews and the facility must maintain that record.

(4) An individual medication administration record must be maintained for each client.

(5) As appropriate the pharmacist must participate in the development, implementation, and review of each client's individual program plan either in person or through written report to the interdisciplinary team.

(k) Standard: Drug administration. The facility must have an organized system for drug administration that identifies each drug up to the point of administration. The system must assure that--

(1) All drugs are administered in compliance with the physician's orders;

(2) All drugs, including those that are self-administered, are administered without error;

(3) Unlicensed personnel are allowed to administer drugs only if State law permits;

(4) Clients are taught how to administer their own medications if the interdisciplinary team determines that self administration of medications is an appropriate objective, and if the physician does not specify otherwise;

(5) The client's physician is informed of the interdisciplinary team's decision that self-administration of medications is an objective for the client;

(6) No client self-administers medications until he or she demonstrates the competency to do so;

(7) Drugs used by clients while not under the direct care of the facility are packaged and labeled in accordance with State law; and

(8) Drug administration errors and adverse drug reactions are recorded and reported immediately to a physician.

(l) Standard: Drug storage and recordkeeping.

(1) The facility must store drugs under proper conditions of sanitation, temperature, light, humidity, and security.

(2) The facility must keep all drugs and biologicals locked except when being prepared for administration. Only authorized persons may have access to the keys to the drug storage area. Clients who have been trained to self administer drugs in accordance with § 483.460(k)(4) may have access to keys to their individual drug supply.

(3) The facility must maintain records of the receipt and disposition of all controlled drugs.

(4) The facility must, on a sample basis, periodically reconcile the receipt and disposition of all controlled drugs in schedules II through IV (drugs subject to the Comprehensive Drug Abuse Prevention and Control Act of 1970, 21 U.S.C. 801 et seq., as implemented by 21 CFR part 308).

(5) If the facility maintains a licensed pharmacy, the facility must comply with the regulations for controlled drugs.

(m) Standard: Drug labeling.

(1) Labeling of drugs and biologicals must--

(i) Be based on currently accepted professional principles and practices; and

(ii) Include the appropriate accessory and cautionary instructions, as well as the expiration date, if applicable.

(2) The facility must remove from use--

(i) Outdated drugs; and

(ii) Drug containers with worn, illegible, or missing labels.

(3) Drugs and biologicals packaged in containers designated for a particular client must be immediately removed from the client's current medication supply if discontinued by the physician.

(n) Standard: Laboratory services.

(1) If a facility chooses to provide laboratory services, the laboratory must meet the requirements specified in part 493 of this chapter.

(2) If the laboratory chooses to refer specimens for testing to another laboratory, the referral laboratory must be certified in the appropriate specialties and subspecialities of service in accordance with the requirements of part 493 of this chapter.

[55 FR 9576, March 14, 1990; 55 FR 33907, Aug. 20, 1990; 57 FR 7136, Feb. 28, 1992]

SOURCE: 53 FR 20496, June 3, 1988; 54 FR 5359, Feb. 2, 1989; 54 FR 29717, July 17, 1989; 54 FR 53611, Dec. 29, 1989; 56 FR 48867, 48918, Sept. 26, 1991; 56 FR 48918, Sept. 26, 1991; 56 FR 54546, Oct. 22, 1991; 57 FR 7136, Feb. 28, 1992; 57 FR 8202, March 6, 1992; 57 FR 43924, Sept. 23, 1992; 57 FR 56506, Nov. 30, 1992; 59 FR 56237, Nov. 10, 1994; 60 FR 50443, Sept. 29, 1995; 64 FR 66279, Nov. 24, 1999; 71 FR 71334, Dec. 8, 2006; 76 FR 9511, Feb. 18, 2011; 77 FR 29028, May 16, 2012; 78 FR 16805, March 19, 2013, unless otherwise noted.

AUTHORITY: Secs. 1102, 1128I and 1871 of the Social Security Act (42 U.S.C. 1302, 1320a–7j, and 1395hh).

42 C. F. R. § 483.460, 42 CFR § 483.460

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Title 42. Public Health
Chapter IV. Centers for Medicare & Medicaid Services, Department of Health and Human Services (Refs & Annos)
Subchapter G. Standards and Certification (Refs & Annos)
Part 483. Requirements for States and Long Term Care Facilities (Refs & Annos)
Subpart I. Conditions of Participation for Intermediate Care Facilities for Individuals with Intellectual Disabilities (Refs & Annos)
§ 483.470 Condition of participation: Physical environment.

<In Allina Health Services v. Sebelius, --- F.3d ----, 2014 WL 1284834 (C.A.D.C.,2014), the court held that "the Secretary did not provide adequate notice and opportunity to comment before promulgating its 2004 rule, and so affirm the portion of the district court's opinion vacating the rule".>

(a) Standard: Client living environment.

(1) The facility must not house clients of grossly different ages, developmental levels, and social needs in close physical or social proximity unless the housing is planned to promote the growth and development of all those housed together.

(2) The facility must not segregate clients solely on the basis of their physical disabilities. It must integrate clients who have ambulation deficits or who are deaf, blind, or have seizure disorders, etc., with others of comparable social and intellectual development.

(b) Standard: Client bedrooms.

(1) Bedrooms must--

(i) Be rooms that have at least one outside wall;

(ii) Be equipped with or located near toilet and bathing facilities;

(iii) Accommodate no more than four clients unless granted a variance under paragraph (b)(3) of this section;

(iv) Measure at least 60 square feet per client in multiple client bedrooms and at least 80 square feet in single client bedrooms; and

(v) In all facilities initially certified, or in buildings constructed or with major renovations or conversions on or after October 3, 1988, have walls that extend from floor to ceiling.

(2) If a bedroom is below grade level, it must have a window that--

(i) Is usable as a second means of escape by the client(s) occupying the room; and

(ii) Is no more than 44 inches (measured to the window sill) above the floor unless the facility is surveyed under the Health Care Occupancy Chapter of the Life Safety Code, in which case the window must be no more than 36 inches (measured to the window sill) above the floor.

(3) The survey agency may grant a variance from the limit of four clients per room only if a physician who is a member of the interdisciplinary team and who is a qualified intellectual disability professional--

(i) Certifies that each client to be placed in a bedroom housing more than four persons is so severely medically impaired as to require direct and continuous monitoring during sleeping hours; and

(ii) Documents the reasons why housing in a room of only four or fewer persons would not be medically feasible.

(4) The facility must provide each client with--

(i) A separate bed of proper size and height for the convenience of the client;

(ii) A clean, comfortable, mattress;

(iii) Bedding appropriate to the weather and climate; and

(iv) Functional furniture appropriate to the client's needs, and individual closet space in the client's bedroom with clothes racks and shelves accessible to the client.

(c) Standard: Storage space in bedroom. The facility must provide--

(1) Space and equipment for daily out-of-bed activity for all clients who are not yet mobile, except those who have a short-term illness or those few clients for whom out-of-bed activity is a threat to health and safety; and

(2) Suitable storage space, accessible to clients, for personal possessions, such as TVs, radios, prosthetic equipment and clothing.

(d) Standard: Client bathrooms. The facility must--

(1) Provide toilet and bathing facilities appropriate in number, size, and design to meet the needs of the clients;

(2) Provide for individual privacy in toilets, bathtubs, and showers; and

(3) In areas of the facility where clients who have not been trained to regulate water temperature are exposed to hot water, ensure that the temperature of the water does not exceed 110 °Fahrenheit.

(e) Standard: Heating and ventilation.

(1) Each client bedroom in the facility must have--

(i) At least one window to the outside; and

(ii) Direct outside ventilation by means of windows, air conditioning, or mechanical ventilation.

(2) The facility must--

(i) Maintain the temperature and humidity within a normal comfort range by heating, air conditioning or other means; and

(ii) Ensure that the heating apparatus does not constitute a burn or smoke hazard to clients.

(f) Standard: Floors. The facility must have--

(1) Floors that have a resilient, nonabrasive, and slip-resistant surface;

(2) Nonabrasive carpeting, if the area used by clients is carpeted and serves clients who lie on the floor or ambulate with parts of their bodies, other than feet, touching the floor; and

(3) Exposed floor surfaces and floor coverings that promote mobility in areas used by clients, and promote maintenance of sanitary conditions.

(g) Standard: Space and equipment. The facility must--

(1) Provide sufficient space and equipment in dining, living, health services, recreation, and program areas (including adequately equipped and sound treated areas for hearing and other evaluations if they are conducted in the facility) to enable staff to provide clients with needed services as required by this subpart and as identified in each client's individual program plan.

(2) Furnish, maintain in good repair, and teach clients to use and to make informed choices about the use of dentures, eyeglasses, hearing and other communications aids, braces, and other devices identified by the interdisciplinary team as needed by the client.

(3) Provide adequate clean linen and dirty linen storage areas.

(h) Standard: Emergency plan and procedures.

(1) The facility must develop and implement detailed written plans and procedures to meet all potential emergencies and disasters such as fire, severe weather, and missing clients.

(2) The facility must communicate, periodically review, make the plan available, and provide training to the staff.

(i) Standard: Evacuation drills.

(1) The facility must hold evacuation drills at least quarterly for each shift of personnel and under varied conditions to--

(i) Ensure that all personnel on all shifts are trained to perform assigned tasks;

(ii) Ensure that all personnel on all shifts are familiar with the use of the facility's fire protection features; and

(iii) Evaluate the effectiveness of emergency and disaster plans and procedures.

(2) The facility must--

(i) Actually evacuate clients during at least one drill each year on each shift;

(ii) Make special provisions for the evacuation of clients with physical disabilities;

(iii) File a report and evaluation on each evacuation drill;

(iv) Investigate all problems with evacuation drills, including accidents, and take corrective action; and

(v) During fire drills, clients may be evacuated to a safe area in facilities certified under the Health Care Occupancies Chapter of the Life Safety Code.

(3) Facilities must meet the requirements of paragraphs (i)(1) and (2) of this section for any live-in and relief staff they utilize.

(j) Standard: Fire protection--

(1) General. Except as otherwise provided in this section--

(i) The facility must meet the applicable provisions of either the Health Care Occupancies Chapters or the Residential Board and Care Occupancies Chapter of the 2000 edition of the Life Safety Code of the National Fire Protection Association. The Director of the Office of the Federal Register has approved the NFPA 101® 2000 edition of the Life Safety Code, issued January 14, 2000, for incorporation by reference in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. A copy of the Code is available for inspection at the CMS Information Resource Center, 7500 Security Boulevard, Baltimore, MD or at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202–741–6030, or go to: http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_ locations.html. Copies may be obtained from the National Fire Protection Association, 1 Batterymarch Park, Quincy, MA 02269. If any changes in this edition of the Code are incorporated by reference, CMS will publish notice in the Federal Register to announce the changes.

(ii) Chapter 19.3.6.3.2, exception number 2 of the adopted LSC does not apply to a facility.

(2) The State survey agency may apply a single chapter of the LSC to the entire facility or may apply different chapters to different buildings or parts of buildings as permitted by the LSC.

(3) A facility that meets the LSC definition of a residential board and care occupancy must have its evacuation capability evaluated in accordance with the Evacuation Difficulty Index of the Fire Safety Evaluation System for Board and Care facilities (FSES/BC).

(4) If CMS finds that the State has a fire and safety code imposed by State law that adequately protects a facility's clients, CMS may allow the State survey agency to apply the State's fire and safety code instead of the LSC.

(5) Beginning March 13, 2006, a facility must be in compliance with Chapter 19.2.9, Emergency Lighting.

(6) Beginning March 13, 2006, Chapter 19.3.6.3.2, exception number 2 does not apply to a facility.

(7) Facilities that meet the LSC definition of a health care occupancy.

(i) After consideration of State survey agency recommendations, CMS may waive, for appropriate periods, specific provisions of the Life Safety Code if the following requirements are met:

(A) The waiver would not adversely affect the health and safety of the clients.

(B) Rigid application of specific provisions would result in an unreasonable hardship for the facility.

(ii) Notwithstanding any provisions of the 2000 edition of the Life Safety Code to the contrary, a facility may install alcohol-based hand rub dispensers if--

(A) Use of alcohol-based hand rub dispensers does not conflict with any State or local codes that prohibit or otherwise restrict the placement of alcohol-based hand rub dispensers in health care facilities;

(B) The dispensers are installed in a manner that minimizes leaks and spills that could lead to falls;

(C) The dispensers are installed in a manner that adequately protects against inappropriate access;

(D) The dispensers are installed in accordance with chapter 18.3.2.7 or chapter 19.3.2.7 of the 2000 edition of the Life Safety Code, as amended by NFPA Temporary Interim Amendment 00–1(101), issued by the Standards Council of the National Fire Protection Association on April 15, 2004. The Director of the Office of the Federal Register has approved NFPA Temporary Interim Amendment 00–1(101) for incorporation by reference in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. A copy of the amendment is available for inspection at the CMS Information Resource Center, 7500 Security Boulevard, Baltimore, MD and at the Office of the Federal Register, 800 North Capitol Street NW., Suite 700, Washington, DC. Copies may be obtained from the National Fire Protection Association, 1 Batterymarch Park, Quincy, MA 02269; and

(E) The dispensers are maintained in accordance with dispenser manufacturer guidelines.

(k) Standard: Paint. The facility must--

(1) Use lead-free paint inside the facility; and

(2) Remove or cover interior paint or plaster containing lead so that it is not accessible to clients.

(l) Standard: Infection control.

(1) The facility must provide a sanitary environment to avoid sources and transmission of infections. There must be an active program for the prevention, control, and investigation of infection and communicable diseases.

(2) The facility must implement successful corrective action in affected problem areas.

(3) The facility must maintain a record of incidents and corrective actions related to infections.

(4) The facility must prohibit employees with symptoms or signs of a communicable disease from direct contact with clients and their food.

[68 FR 1387, Jan. 10, 2003; 69 FR 49271, Aug. 11, 2004; 70 FR 15239, March 25, 2005; 71 FR 55340, Sept. 22, 2006]

SOURCE: 53 FR 20496, June 3, 1988; 54 FR 5359,

Feb. 2, 1989; 54 FR 29717, July 17, 1989; 54 FR 53611, Dec. 29, 1989; 56 FR 48867, 48918, Sept. 26, 1991; 56 FR 48918, Sept. 26, 1991; 56 FR 54546, Oct. 22, 1991; 57 FR 7136, Feb. 28, 1992; 57 FR 8202, March 6, 1992; 57 FR 43924, Sept. 23, 1992; 57 FR 56506, Nov. 30, 1992; 59 FR 56237, Nov. 10, 1994; 60 FR 50443, Sept. 29, 1995; 64 FR 66279, Nov. 24, 1999; 71 FR 71334, Dec. 8, 2006; 76 FR 9511, Feb. 18, 2011; 77 FR 29028, May 16, 2012; 78 FR 16805, March 19, 2013, unless otherwise noted.

AUTHORITY: Secs. 1102, 1128I and 1871 of the Social Security Act (42 U.S.C. 1302, 1320a–7j, and 1395hh).

42 C. F. R. § 483.470, 42 CFR § 483.470

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Code of Federal Regulations Currentness
Title 42. Public Health
Chapter IV. Centers for Medicare & Medicaid Services, Department of Health and Human Services (Refs & Annos)
Subchapter G. Standards and Certification (Refs & Annos)
Part 483. Requirements for States and Long Term Care Facilities (Refs & Annos)
Subpart I. Conditions of Participation for Intermediate Care Facilities for Individuals with Intellectual Disabilities (Refs & Annos)
→ § 483.480 Condition of participation: Dietetic services.

(a) Standard: Food and nutrition services.

(1) Each client must receive a nourishing, well-balanced diet including modified and specially-prescribed diets.

(2) A qualified dietitian must be employed either full-time, part-time, or on a consultant basis at the facility's discretion.

(3) If a qualified dietitian is not employed full-time, the facility must designate a person to serve as the director of food services.

(4) The client's interdisciplinary team, including a qualified dietitian and physician, must prescribe all modified and special diets including those used as a part of a program to manage inappropriate client behavior.

(5) Foods proposed for use as a primary reinforcement of adaptive behavior are evaluated in light of the client's nutritional status and needs.

(6) Unless otherwise specified by medical needs, the diet must be prepared at least in accordance with the latest edition of the recommended dietary allowances of the Food and Nutrition Board of the National Research Council, National Academy of Sciences, adjusted for age, sex, disability and activity.

(b) Standard: Meal services.

(1) Each client must receive at least three meals daily, at regular times comparable to normal mealtimes in the community with--

(i) Not more than 14 hours between a substantial evening meal and breakfast of the following day, except on weekends and holidays when a nourishing snack is provided at bedtime, 16 hours may elapse between a substantial evening meal and breakfast; and

(ii) Not less than 10 hours between breakfast and the evening meal of the same day, except as provided under paragraph (b)(1)(i) of this section.

(2) Food must be served--

(i) In appropriate quantity;

(ii) At appropriate temperature;

(iii) In a form consistent with the developmental level of the client; and

(iv) With appropriate utensils.

(3) Food served to clients individually and uneaten must be discarded.

(c) Standard: Menus.

(1) Menus must--

(i) Be prepared in advance;

(ii) Provide a variety of foods at each meal;

(iii) Be different for the same days of each week and adjusted for seasonal changes; and

(iv) Include the average portion sizes for menu items.

(2) Menus for food actually served must be kept on file for 30 days.

(d) Standard: Dining areas and service. The facility must--

(1) Serve meals for all clients, including persons with ambulation deficits, in dining areas, unless otherwise specified by the interdisciplinary team or a physician;

(2) Provide table service for all clients who can and will eat at a table, including clients in wheelchairs;

(3) Equip areas with tables, chairs, eating utensils, and dishes designed to meet the developmental needs of each client;

(4) Supervise and staff dining rooms adequately to direct self-help dining procedure, to assure that each client receives enough food and to assure that each client eats in a manner consistent with his or her developmental level: and

(5) Ensure that each client eats in an upright position, unless otherwise specified by the interdisciplinary team or a physician.

SOURCE: 53 FR 20496, June 3, 1988; 54 FR 5359, Feb. 2, 1989; 54 FR 29717, July 17, 1989; 54 FR 53611, Dec. 29, 1989; 56 FR 48867, 48918, Sept. 26, 1991; 56 FR 48918, Sept. 26, 1991; 56 FR 54546, Oct. 22, 1991; 57 FR 7136, Feb. 28, 1992; 57 FR 8202, March 6, 1992; 57 FR 43924, Sept. 23, 1992; 57 FR 56506, Nov. 30, 1992; 59 FR 56237, Nov. 10, 1994; 60 FR 50443, Sept. 29, 1995; 64 FR 66279, Nov. 24, 1999; 71 FR 71334, Dec. 8, 2006; 76 FR 9511, Feb. 18, 2011; 77 FR 29028, May 16, 2012; 78 FR 16805, March 19, 2013, unless otherwise noted.

AUTHORITY: Secs. 1102, 1128I and 1871 of the Social Security Act (42 U.S.C. 1302, 1320a–7j, and 1395hh).

42 C. F. R. § 483.480, 42 CFR § 483.480

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Westlaw.

42 C.F.R. § 1001.1301

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Code of Federal Regulations Currentness
Title 42. Public Health
Chapter V. Office of Inspector General--Health Care, Department of Health and Human Services (Refs & Annos)
Subchapter B. Oig Authorities
Part 1001. Program Integrity--Medicare and State Health Care Programs (Refs & Annos)
Subpart C. Permissive Exclusions
§ 1001.1301 Failure to grant immediate access.

(a) Circumstance for exclusion.

(1) The OIG may exclude any individual or entity that fails to grant immediate access upon reasonable request to--

(i) The Secretary, a State survey agency or other authorized entity for the purpose of determining, in accordance with section 1864(a) of the Act, whether--

(A) An institution is a hospital or skilled nursing facility;

(B) An agency is a home health agency;

(C) An agency is a hospice program;

(D) A facility is a rural health clinic as defined in section 1861(aa)(2) of the Act, or a comprehensive outpatient rehabilitation facility as defined in section 1861(cc)(2) of the Act;

(E) A laboratory is meeting the requirements of section 1861(s) (15) and (16) of the Act, and section 353(f) of the Public Health Service Act;

(F) A clinic, rehabilitation agency or public health agency is meeting the requirements of section 1861(p)(4) (A) or (B) of the Act;

(G) An ambulatory surgical center is meeting the standards specified under section 1832(a)(2)(F)(i) of the Act;

(H) A portable x-ray unit is meeting the requirements of section 1861(s)(3) of the Act;

(I) A screening mammography service is meeting the requirements of section 1834(c)(3) of the Act;

(J) An end-stage renal disease facility is meeting the requirements of section 1881(b) of the Act;

(K) A physical therapist in independent practice is meeting the requirements of section 1861(p) of the Act;

(L) An occupational therapist in independent practice is meeting the requirements of section 1861(g) of the Act;

(M) An organ procurement organization meets the requirements of section 1138(b) of the Act; or

(N) A rural primary care hospital meets the requirements of section 1820(i)(2) of the Act;

(ii) The Secretary, a State survey agency or other authorized entity to perform the reviews and surveys required under State plans in accordance with sections 1902(a)(26) (relating to inpatient mental hospital services), 1902(a)(31) (relating to intermediate care facilities for individuals with intellectual disabilities), 1919(g) (relating to nursing

facilities), 1929(i) (relating to providers of home and community care and community care settings), 1902(a)(33) and 1903(g) of the Act;

(iii) The OIG for the purposes of reviewing records, documents and other data necessary to the performance of the Inspector General's statutory functions; or

(iv) A State Medicaid fraud control unit for the purpose of conducting its activities.

(2) For purposes of paragraphs (a)(1)(i) and (a)(1)(ii) of this section, the term--

Failure to grant immediate access means the failure to grant access at the time of a reasonable request or to provide a compelling reason why access may not be granted.

Reasonable request means a written request made by a properly identified agent of the Secretary, of a State survey agency or of another authorized entity, during hours that the facility, agency or institution is open for business.

The request will include a statement of the authority for the request, the rights of the entity in responding to the request, the definition of reasonable request and immediate access, and the penalties for failure to comply, including when the exclusion will take effect.

(3) For purposes of paragraphs (a)(1)(iii) and (a)(1)(iv) of this section, the term--

Failure to grant immediate access means:

(i) Except where the OIG or State Medicaid fraud control unit reasonably believes that requested documents are about to be altered or destroyed, the failure to produce or make available for inspection and copying requested records upon reasonable request, or to provide a compelling reason why they cannot be produced, within 24 hours of such request;

(ii) Where the OIG or State Medicaid fraud control unit has reason to believe that requested documents are about to be altered or destroyed, the failure to provide access to requested records at the time the request is made.

Reasonable request means a written request for documents, signed by a designated representative of the OIG or the State Medicaid fraud control unit, and made by a properly identified agent of the OIG or a State Medicaid fraud

control unit during reasonable business hours, where there is information to suggest that the individual or entity has violated statutory or regulatory requirements under titles V, XI, XVIII, XIX or XX of the Act. The request will include a statement of the authority for the request, the rights of the individual or entity in responding to the request, the definition of reasonable request and immediate access, and the effective date, length, and scope and effect of the exclusion that would be imposed for failure to comply with the request, and the earliest date that a request for reinstatement would be considered.

(4) Nothing in this section shall in any way limit access otherwise authorized under State or Federal law.

(b) Length of exclusion.

(1) An exclusion of an individual under this section may be for a period equal to the sum of:

(i) The length of the period during which the immediate access was not granted, and

(ii) An additional period of up to 90 days.

(2) The exclusion of an entity may be for a longer period than the period in which immediate access was not granted based on consideration of the following factors--

(i) The impact of the failure to grant the requested immediate access on Medicare or any of the State health care programs, beneficiaries or the public;

(ii) The circumstances under which such access was refused;

(iii) The impact of the exclusion on Medicare, Medicaid or any of the other Federal health care programs, beneficiaries or the public; and

(iv) Whether the entity has a documented history of criminal, civil or administrative wrongdoing (The lack of any prior record is to be considered neutral).

(3) For purposes of paragraphs (b)(1) and (b)(2) of this section, the length of the period in which immediate access was not granted will be measured from the time the request is made, or from the time by which access was required to be granted, whichever is later.

(c) The exclusion will be effective as of the date immediate access was not granted.

[58 FR 40753, July 30, 1993; 63 FR 46689, Sept. 2, 1998; 64 FR 39427, July 22, 1999]

SOURCE: 57 FR 3330, Jan. 29, 1992; 57 FR 52729, Nov. 5, 1992; 58 FR 40753, July 30, 1993; 60 FR 32917, June 26, 1995; 61 FR 2135, Jan. 25, 1996; 63 FR 46685, Sept. 2, 1998; 71 FR 45136, Aug. 8, 2006, unless otherwise noted.

AUTHORITY: 42 U.S.C. 1302, 1320a–7, 1320a–7b, 1395u(j), 1395u(k), 1395w–104(e)(6), 1395y(d), 1395y(e), 1395cc (b)(2)(D), (E) and (F), and 1395hh; and sec. 2455, Pub.L. 103–355, 108 Stat. 3327 (31 U.S.C. 6101 note).

42 C. F. R. § 1001.1301, 42 CFR § 1001.1301

Current through July 31, 2014, 79 FR 44317.

END OF DOCUMENT

Westlaw.

42 C.F.R. § 442.101

C

Effective: July 11, 2014

Code of Federal Regulations Currentness

Title 42. Public Health

Chapter IV. Centers for Medicare & Medicaid Services, Department of Health and Human Services (Refs & Annos)

Subchapter C. Medical Assistance Programs

Part 442. Standards for Payment to Nursing Facilities and Intermediate Care Facilities for Individuals with Intellectual Disabilities (Refs & Annos)

Subpart C. Certification of Icfs/IID (Refs & Annos)

→ **§ 442.101 Obtaining certification.**

(a) This section states the requirements for obtaining notice of an ICF/IID's certification before a Medicaid agency executes a provider agreement under § 442.12.

(b) The agency must obtain notice of certification from the Secretary for an ICF/IID located on an Indian reservation.

(c) The agency must obtain notice of certification from the survey agency for all other ICFs/IID.

(d) The notice must indicate that one of the following provisions pertains to the ICF/IID:

(1) An ICF/IID meets the conditions of participation set forth in subpart I of part 483 of this chapter.

(2) The ICF/IID has been granted a waiver or variance by CMS or the survey agency under subpart I of part 483 of this chapter.

(3) An ICF/IID has been certified with standard-level deficiencies and

(i) All conditions of participation are found met; and

(ii) The facility submits an acceptable plan of correction covering the remaining deficiencies.

(e) The failure to meet one or more of the applicable conditions of participation is cause for termination or non-renewal of the ICF/IID provider agreement.

[53 FR 20495, June 3, 1988; 54 FR 5358, Feb. 2, 1989; 54 FR 29717, July 14, 1989; 54 FR 37467, Sept. 11, 1989; 54 FR 53611, Dec. 29, 1989; 56 FR 48866, Sept. 26, 1991; 57 FR 43924, Sept. 23, 1992; 59 FR 56236, Nov. 10, 1994; 79 FR 27153, May 12, 2014]

SOURCE: 43 FR 45233, Sept. 29, 1978; 50 FR 33033, Aug. 16, 1985; 51 FR 21558, June 13, 1986; 51 FR 41338, Nov. 14, 1986; 53 FR 1993, Jan. 25, 1988; 53 FR 20495, June 3, 1988; 77 FR 29028, May 16, 2012, unless otherwise noted.

AUTHORITY: Sec. 1102 of the Social Security Act (42 U.S.C. 1302).

42 C. F. R. § 442.101, 42 CFR § 442.101

Current through July 31, 2014, 79 FR 44317.

END OF DOCUMENT

IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE

16.05.01 - USE AND DISCLOSURE OF DEPARTMENT RECORDS

DOCKET NO. 16-0501-1401

NOTICE OF RULEMAKING - PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Sections 39-242, 39-5403, 56-221, 56-222, 56- 1003, and 56-1004, Idaho Code (Joint rules).

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than September 17, 2014.

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:

This rule change will clarify the ability of the Department's Bureau of Vital Statistics to provide state agencies with "fact of death" information to prevent communications needlessly being sent to a decedent's family. Second, the Social Security Administration (SSA) realized that it was disclosing information from death records in violation of federal law (Section 205(r) of the Social Security Act). For example, it was providing "fact of death" information to pension and life insurance companies who use this information to distribute benefits to the proper recipient. Since SSA can no longer provide comprehensive death verification data, the only other source for this information is the states. This rule change will also clarify the Department's ability to provide such verification under very limited circumstances.

Specifically, this rule change will allow the Department to make a "fact of death" verification to other state agencies. For example, if another state agency needs to verify that an individual has passed away so that no further communication is sent to that decedent's family, the Department will have clear authority in rule to do so. This will also allow companies such as life insurance and pension companies to do this type of verification to facilitate the receipt of benefits by Idaho citizens.

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

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

There is no anticipated fiscal impact to the state general fund as a result this rulemaking.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not conducted. Negotiated rulemaking was deemed not feasible as this rule change is simple in nature.

INCORPORATION BY REFERENCE: No materials are being incorporated by reference into these rules.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact James Aydelotte (208) 334-4969.

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 September 24, 2014.

DATED this 7th Day of August, 2014.

Tamara Prisock
DHW - Administrative Rules Unit
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P.O. Box 83720
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THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 16-0501-1401
(Only those Sections being amended are shown.)

280. VITAL STATISTICS -- VERIFICATION OF DATA.

01. Verifications. The Registrar will ~~only~~ confirm or deny the presence and accuracy of data already known to a governmental agency that requests information from a vital record. Such verifications may be conducted by telephone for Idaho state agencies. Other requests for verification require a signed application on forms provided or approved by the Registrar, and a copy of the front and back of signed photo identification or such other information as the Registrar requests. Verifications may also be conducted via Department automated systems approved by the Registrar. ~~(3-20-04)~~( )

02. Administrative Fact of Death Verifications. Upon agreement in writing to such conditions as the Registrar may impose, the Registrar may compare Idaho state agency administrative data to Idaho death data and return an indication of death, also known as fact of death verification, for administrative purposes only. ( )

03. Verifications to Protect a Person's Property Right. The State Registrar may approve electronic fact of death verification by entities seeking to determine or protect a person's property right. ( )

IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE

16.06.01 - CHILD AND FAMILY SERVICES

DOCKET NO. 16-0601-1401

NOTICE OF RULEMAKING - PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Sections 16-1629, 16-2102, 39-1209 through 1211, 39-5603, 39-7501, 56-202(b), 56-204A, 56-803, 56-1003, 56-1004, 56-1004A, and 56-1007, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than September 17, 2014.

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

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

These rule changes will allow the Department to cover the costs of driver's training, permit, and license for an eligible foster child, as well as reimburse foster parents for the cost of car insurance for the foster child.

It is anticipated these rule changes will:

1. Improve the Department's chances of recruiting and retaining foster parents;
2. Increase the number of placement options for older youth; and
3. Encourage life skills and normalization of eligible children in foster care.

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

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

There is no anticipated fiscal impact to the state general fund. Costs will be paid from the existing Independent Living appropriation. Approximately 100 foster children will be eligible each year in Idaho. The cost for adding a foster child to a foster parent's auto insurance in the minimum statutory amounts is estimated to be $1320 per child per year, for a total estimated annual cost of $132,000.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not conducted because this rule simply confers a benefit, subject to the availability of funding.

INCORPORATION BY REFERENCE: No materials are being incorporated by reference into these rules.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Falen LeBlanc at (208) 334-4932.

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 September 24, 2014.

DATED this 7th Day of August, 2014.

Tamara Prisock
DHW - Administrative Rules Unit
450 W. State Street - 10th Floor
Boise, ID 83720-0036

P.O. Box 83720
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THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 16-0601-1401
(Only those Sections being amended are shown.)

451. DRIVERS' TRAINING, ~~AND~~ DRIVERS' LICENSES, AND PERMITS FOR CHILDREN IN ALTERNATE CARE.

No Department employee or foster parent is allowed to sign for any foster child's driver's license or permit without written authorization from the Child and Family Services Program Manager. Any Department employee or foster parent signing for a foster child's driver's license or permit without the approval of the Child and Family Services Program Manager assumes full personal responsibility and liability for any driving related damages that may be assessed against the child. Those damages will not be covered by the Department's insurance. (5-8-09)

01. Payments by Department. Subject to existing appropriations, ~~T~~the Department may make payments for driver's training, driver's license~~s~~, and permits for a child~~ren~~ in the Department's ~~*guardianship*~~ legal custody when driver's training or obtaining a driver's license or permit is part of ~~*an older teen's*~~ the child's Independent Living Plan. In addition, subject to existing appropriations, the Department may reimburse a foster parent, licensed by the Department, for the cost of procuring owner's or operator's insurance listing a child residing in his home as a named insured with respect to the operation of a motor vehicle subject to the limits exclusive of interest and costs with respect to each motor vehicle as provided in Section 49-117, Idaho Code. ~~*(3-30-01)*~~( )

02. Payment by Parent(s) or Legal Guardian(s). The parent(s) or legal guardian(s) of children in foster care may authorize drivers' training, provide payment and sign for drivers' licenses and permits. (5-3-03)