

Dear Senators HEIDER, Souza, Jordan, and
Representatives WOOD, Packer, Chew:

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

IDAPA 16.03.14 - Rules and Minimum Standards for Hospitals in Idaho - Proposed Rule (Docket
No. 16-0314-1801);

IDAPA 16.06.12 - Rules Governing the Idaho Child Care Program (ICCP) - Temporary and Proposed
Rule (Docket No. 16-0612-1801);

IDAPA 16.07.37 - Children's Mental Health Services - Proposed Rule (Docket No. 16-0737-1801).

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 10/01/2018. 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 10/30/2018.

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

To notify Research and Legislation, call 334-4854, or send a written request to the address on the
memorandum attached below.



Eric Milstead
Director

Legislative Services Office

Idaho State Legislature

Serving Idaho's Citizen Legislature

MEMORANDUM

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

FROM: Principal Legislative Research Analyst - Elizabeth Bowen

DATE: September 12, 2018

SUBJECT: Department of Health and Welfare

IDAPA 16.03.14 - Rules and Minimum Standards for Hospitals in Idaho - Proposed Rule (Docket No. 16-0314-1801)

IDAPA 16.06.12 - Rules Governing the Idaho Child Care Program (ICCP) - Temporary and Proposed Rule (Docket No. 16-0612-1801)

IDAPA 16.07.37 - Children's Mental Health Services - Proposed Rule (Docket No. 16-0737-1801)

Summary and Stated Reasons for the Rule

Docket No. 16-0314-1801: This proposed rule, regarding minimum standards for Idaho hospitals, defines "restraints" and "seclusion," and clarifies who may order that a patient be placed in restraints or seclusion. The rule also details patient rights and a grievance process. Some technical corrections are included in the rule as well.

Docket No. 16-0612-1801: This temporary and proposed rule updates definitions and clarifies the process for determining eligibility for the Idaho Child Care Program. The changes are being made to conform with federal regulations governing a block grant for the program.

Docket No. 16-0737-1801: This proposed rule revises or removes obsolete language regarding children's mental health services.

Negotiated Rulemaking / Fiscal Impact

Negotiated rulemaking was conducted for Docket Nos. 16-0314-1801 (hospitals) and 16-0737-1801 (children's mental health services), but not Docket No. 16-0612-1801, which must be updated to conform to federal regulations. There is no anticipated negative fiscal impact on the state general fund for any of the rules.

Statutory Authority

Docket No. 16-0314-1801 (hospitals): I.C. 39-1307.

Docket No. 16-0612-1801: I.C. 56-202.

Kristin Ford, Manager
Research & Legislation

Paul Headlee, Manager
Budget & Policy Analysis

April Renfro, Manager
Legislative Audits

Glenn Harris, Manager
Information Technology

Docket No. 16-0737-1801: I.C. 16-2404, 16-2406, 16-2423, 16-2433, 56-202, 56-203B, 56-204A, 56-1003, 56-1004, and 56-1004A.

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

***** PLEASE NOTE *****

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

IDAPA 16 – DEPARTMENT OF HEALTH AND WELFARE
16.03.14 – RULES AND MINIMUM STANDARDS FOR HOSPITALS IN IDAHO
DOCKET NO. 16-0314-1801
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 Section 39-1307, 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 19, 2018.

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 docket proposes changes to the “Rules and Minimum Standards for Hospitals in Idaho” related to the use of restraint and seclusion, including which licensed medical professionals are permitted to order restraints or seclusion. The Department is also proposing changes in this docket that will strengthen patient rights. Other changes to this chapter are being made to meet the formatting requirements in IDAPA 44.01.01, “Rules of the Administrative Rules Coordinator.”

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

FISCAL IMPACT: The following is a specific description, if applicable, of any 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. Feedback from stakeholders indicate the rule changes will not result in additional costs to their operations.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(1), Idaho Code, negotiated rulemaking was conducted. The Notice of Intent to Promulgate Rules – Negotiated Rulemaking was published in the June 6, 2018, Idaho Administrative Bulletin, **Vol. 18-6, pages 63-64.**

INCORPORATION BY REFERENCE: There are no materials being incorporated by reference into this rule.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Dennis Kelly 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 26, 2018.

Dated this 2nd day of August, 2018.

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

THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 16-0314-1801
(Only Those Sections With Amendments Are Shown.)

(BREAK IN CONTINUITY OF SECTIONS)

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.

There are no documents incorporated by reference in this chapter of rules. ()

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. ()

c. The e-mail address for Facility Standards is: fsb@dhw.idaho.gov. ()

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. 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. -- 009.~~ (RESERVED)

00210. DEFINITIONS AND ABBREVIATIONS -- A THROUGH M.
For the purposes of this chapter, the following terms and definitions apply.

01. Anesthesiologist. A physician who meets the requirements for certification by the American Board of Anesthesiology or the American Osteopathic Board of Anesthesiology. (10-14-88)

02. Anesthetist. A person who is: (12-31-91)

a. A dentist who has successfully completed a three (3) year residency in anesthesiology approved by the American Medical Association. (10-14-88)

b. A physician whose competence in the practice of anesthesiology is approved by the medical staff, of the hospital in which he works. (10-14-88)

c. A licensed registered nurse who meets the requirements for certification (CRNA) by the Council on Certification of the American Association of Nurse Anesthetists. (10-14-88)

03. Approved Drugs and Biologicals. Only such drugs and biologicals as are: (10-14-88)

a. Included (or approved for inclusion) in the United States Pharmacopoeia, National Formulary, or United States Homoeopathic Pharmacopoeia. (10-14-88)

b. Approved by the pharmacy and therapeutics committee (or equivalent) of the hospital that approves such drugs and biologicals for use in the hospital. (10-14-88)

c. Those drugs approved by the State Title XIX Agency. (10-14-88)

04. Board. The Idaho State Board of Health and Welfare. (12-31-91)

~~05. **Chemical Restraint.** The use of drugs that prevents the patient from doing what he might do voluntarily on his own. (10-14-88)~~

~~06. **Chief Executive Officer or Administrator.** The person appointed by the governing body to act in its behalf in the overall management of the hospital. (10-14-88)~~

~~07. **Clinical Privileges.** Permission to render patient care, granted by the hospital governing body on recommendation of the medical staff, within well defined limits based upon the applicant's professional license, experience, competence, and judgment. (10-14-88)~~

- ~~087.~~ **Dentist.** A person currently licensed by the state of Idaho to practice dentistry. (10-14-88)
- ~~098.~~ **Department.** The Department of Health and Welfare of the state of Idaho. (12-31-91)
- ~~109.~~ **Dietetic Service Supervisor.** A person who: (12-31-91)
- a. Is a ~~registered~~ **licensed** dietitian; or (~~10-14-88~~)()
- b. Is a graduate of a dietetic technician or dietetic assistant educational program class or correspondence school accredited by the **Academy of Nutrition and Dietetics, formerly the** American Dietetic Association; or (~~10-14-88~~)()
- c. Is a graduate of a state-approved education program that provides ninety (90) or more hours of classroom instruction in food service management and has at least three (3) months supervisory experience in a health care institution with consultation from a dietitian; or (10-14-88)
- d. Has training and experience in food service management in a military program equivalent in content to the requirements in Subsections ~~00210.109~~.b. or ~~00210.109~~.c. **of this rule**; or (~~12-31-91~~)()
- e. Has training and experience in food service management equivalent to requirements in Subsections ~~00210.109~~.b. or ~~00210.109~~.c. **of this rule**; or (~~12-31-91~~)()
- ~~110.~~ **Dietitian (~~Qualified Consultant~~).** A person who ~~meets the requirements of Title 54, Chapter 35, Idaho Code, and is licensed by the Board of Medicine as a licensed dietitian (LD),~~ (~~12-31-91~~)()
- ~~a. Meets the requirements for registration by the Commission on Dietetic Registration of the American Dietetic Association under its requirements in effect on March 9, 1976; or~~ (~~10-14-88~~)
- ~~b. Has a baccalaureate degree with major studies in food and nutrition or dietetics, has one (1) year of supervisory experience in the dietetic service of a health care institution, and participates annually in continuing dietetic education.~~ (~~10-14-88~~)
- ~~121.~~ **Director of Nursing Service.** A licensed registered nurse who is licensed by the state of Idaho, and has been so designated by the facility. (10-14-88)
- ~~132.~~ **Director of Psychiatric Nursing Service.** A licensed registered nurse licensed by the state of Idaho who has training and experience in psychiatric nursing and has been so designated by the facility. (10-14-88)
- ~~143.~~ **Drug Administration.** An act in which a single dose of a prescribed drug or biological is given to a patient by an authorized person in accordance with laws and regulations governing such acts. The complete act of administration entails the removal of an individual dose from a previously dispensed, properly labeled container (including a unit dose container), verifying the drug and dosage with the practitioner's orders, administering dose to the proper patient, and immediately recording the time and amount given. (10-14-88)
- ~~154.~~ **Governmental Unit.** The state, any county, municipality, or other subdivision, department, division, board, or agency thereof. (10-14-88)
- 15. Grievance.** A grievance is a formal or informal, written or verbal complaint that is made to the hospital by a patient, or the patient's representative, regarding the patient's care, alleged abuse or neglect, or issues related to the hospital's compliance with Idaho state licensure rules. ()
- 16. Hospital.** A facility that: (10-14-88)
- a. Is primarily engaged in providing, by or under the daily supervision of physicians; (10-14-88)
- i. Concentrated medical and nursing care on a twenty-four (24) hour basis to inpatients experiencing

- acute illness; or (10-14-88)
- ii. Diagnostic and therapeutic services for medical diagnosis and treatment, psychiatric diagnosis and treatment, and care of injured, disabled, or sick persons; or (10-14-88)
 - iii. Rehabilitation services for injured, disabled, or sick persons; or (10-14-88)
 - iv. Obstetrical care. (10-14-88)
- b.** Provides for care of two (2) or more individuals for twenty-four (24) or more consecutive hours. (10-14-88)
 - c.** Is staffed to provide professional nursing care on a twenty-four (24) hour basis. (10-14-88)
 - d.** Any hospital licensed under the provisions of these rules ~~shall~~ **must** be deemed a “facility” as defined at and for the purposes of Section 66-317(~~§7~~), Idaho Code. (~~12-11-91~~)()
- 17. Hospital Licensing Act.** The law referred to in Sections 39-1301 through 39-1314, Idaho Code, as amended. (10-14-88)
- 18. Hospital for the Treatment of Alcohol and Drug Abuse.** A facility for the diagnosis, care, and treatment of patients suffering from chronic alcoholism. (10-14-88)
- 19. Infectious Wastes.** Infectious wastes are defined as set out in Subsections ~~00210.19.a.~~ through ~~00210.19.f.~~ **of this rule.** Infectious wastes ~~shall~~ **must** be handled within specific rules as prescribed in ~~Subsection 550-06. of these rules.~~ Except as otherwise provided in these rules, infectious wastes ~~shall~~ **must** be handled and disposed of in accordance with the most current guidelines and recommendations of the Centers for Disease Control. (~~12-31-91~~)()
- a.** Cultures and stocks of infectious agents and associated biologicals including: (1-13-90)
 - i. Specimens from medical and pathology laboratories. (1-13-90)
 - ii. Wastes from production of biologicals (by-products from the production of vaccines, reagents in the laboratory, etc.). (1-13-90)
 - iii. Cultures and stocks from clinical, research and industrial laboratories, such as disposable culture dishes and devices used to transfer, inoculate and mix cultures. (1-13-90)
 - b.** Human blood and blood products (fluid form) and their containers, and liquid body wastes (fluid form) and their containers. (1-13-90)
 - c.** Pathologic waste including tissue, organs, body parts, autopsy and biopsy materials, unless such waste has been treated with formaldehyde or other preservative agents. (1-13-90)
 - d.** “Sharps” including needles, syringes, scalpel blades, pipettes, lancets or glass tubes that could be broken during handling. (1-13-90)
 - e.** Animal carcasses that have been exposed to pathogens, their bedding and other waste from such animals. (1-13-90)
 - f.** Items contaminated with blood or body fluids from patients known to be infected with diseases transmitted by body fluid contact. (1-13-90)
- 20. Licensed Independent Practitioner (L.I.P.).** A person who is: ()
- a.** A licensed physician or physician assistant under Section 54-1803, Idaho Code; or ()

- b.** A licensed advance practice registered nurse under Section 54-1402, Idaho Code. ()
- ~~201.~~ **Licensed Practical Nurse (L.P.N.).** A person currently licensed by the Idaho State Board of Nursing to practice as a licensed practical nurse. (10-14-88)
- ~~212.~~ **Licensee.** The person or entity to whom a license is issued. (10-14-88)
- ~~223.~~ **Licensing Agency.** The Idaho Department of Health and Welfare. (10-14-88)
- ~~234.~~ **Maternity Hospital.** A facility, the primary purpose of which is to provide services and facilities for obstetrical care. (10-14-88)
- ~~24.~~ **Mechanical Restraint.** *Any apparatus that physically prevents the patient from doing what he might voluntarily do on his own (this includes but is not limited to "safety belts"). Mechanical supports used in rehabilitative situations to achieve proper body position shall not be considered as restraints.* (10-14-88)
- 25. Medical Record Practitioner (Qualified Consultant).** A person who: (12-31-91)
- a.** Meets the requirements for certification as a registered record administrator (RRA) or as an accredited record technician (ART) by the American Medical Record Association; or (10-14-88)
- b.** Is a graduate of a school of medical record science that is accredited jointly by the Council on Medical Education of the American Medical Association and the American Medical Record Association. (10-14-88)
- 26. Medical Staff Members.** Those licensed physicians, dentists, podiatrists and other professionals granted the privilege to practice in the hospital by the governing authority of a hospital. (10-14-88)
- 011. DEFINITIONS AND ABBREVIATIONS -- N THROUGH Z.**
For the purposes of this chapter, the following terms and definitions apply. ()
- ~~2701.~~ **New Construction or New Hospitals.** Includes the following: (12-31-91)
- a.** New buildings to be used as hospitals; and (10-14-88)
- b.** Additions to existing hospitals; and (10-14-88)
- c.** Conversion of existing buildings or portions thereof for use as a hospital; and (10-14-88)
- d.** Remodeling, alteration, addition or upgrading of a hospital or hospital building system that affects the structural integrity of the building, that changes functional operation, that affects fire safety or that adds beds, departments or services over those for which the hospital is currently licensed. (10-14-88)
- ~~028.~~ **Nuclear Medicine Physician.** A physician who: (12-31-91)
- a.** Meets the requirements for certification by the American Board of Nuclear Medicine or the American Osteopathic Board of Nuclear Medicine; or (10-14-88)
- b.** Meets the requirement for certification by the American Board of Radiology, the American Board of Pathology, or the American Board of Internal Medicine, and whose competence in the practice of nuclear medicine is approved by the medical staff. (10-14-88)
- ~~2903.~~ **Nursing Graduate.** A new graduate practicing on a temporary license must be provided direct supervision by a licensed registered nurse and may not assume charge responsibilities according to the rules of the Idaho State Board of Nursing. (10-14-88)
- ~~304.~~ **Nurse Practitioner.** A licensed registered nurse having specialized skill, knowledge and

experience authorized, by rules and regulations jointly promulgated by the Idaho State Board of Medicine and the Idaho Board of Nursing and implemented by the Idaho Board of Nursing, to perform designated acts of medical diagnosis, prescription of medical, therapeutic and corrective measures and delivery of medications. (10-14-88)

3105. Nursing Unit. A separate and distinct service area constructed, equipped, and staffed to function independently of other nursing units and having its own related service facilities. (10-14-88)

3206. Occupational Therapist. A person who is licensed by the Idaho State Board of Medicine to practice occupational therapy. (10-14-88)

3307. Occupational Therapist Assistant. A person who: (12-31-91)

a. Is a graduate of an occupational therapy assistant educational program accredited by the American Occupational Therapy Association; or (10-14-88)

b. Meets the requirements for certification (COTA) by the American Occupational Therapy Association under its requirements in effect on the effective date of these rules. (10-14-88)

3408. Operating Room Technician. A person who: (12-31-91)

a. Has successfully completed a one (1) year education program for operating room technicians accredited by the Committee on Allied Health Education and Accreditation of the American Medical Association in cooperation with the Joint Review Committee on Education for the Operating Room Technician, or meets the requirements for certification (CST) by the Association of Surgical Technologists; or (10-14-88)

b. Is licensed as a practical (vocational) nurse in the state of Idaho and meets the training requirements of the Idaho State Board of Nursing. (10-14-88)

3509. Patient. Any individual admitted to a hospital for diagnosis, treatment, and/or care. (10-14-88)

3610. Person. Any individual, firm, partnership, corporation, company, association, or joint stock association, and the legal successor thereof. (10-14-88)

3711. Pharmacist. A person who is licensed by the state of Idaho and has training or experience in the specialized functions of institutional pharmacy, such as residences in hospital pharmacy, seminars in institutional pharmacy, and other related training programs. (10-14-88)

3812. Psychiatrist. A physician licensed by the Idaho State Board of Medicine and who meets the requirements for certification by the American Board of Physical Medicine and Rehabilitation. (10-14-88)

139. Physical Therapist. A person who ~~is registered by the Idaho State Board of Medicine or otherwise certified or qualified to~~ meets all requirements of Title 54, Chapter 22, Idaho Code, holds an active license, and engages in the practice of physical therapy in Idaho. ~~(10-14-88)()~~

140. Physical Therapist Assistant. ~~A graduate of a two (2) year educational program accredited by the American Physical Therapy Association~~ A person who meets the requirements of Title 54, Chapter 22, Idaho Code, holds an active license, and who performs physical therapy procedures and related tasks that have been selected and delegated only by a supervising physical therapist. ~~(10-14-88)()~~

415. Physician. A person currently licensed under the Idaho Medical Practice Act to practice medicine and surgery in the state of Idaho. (10-14-88)

4216. Physician's Assistant. A person employed by a physician who: (12-31-91)

a. Is a graduate of an approved program; and (10-14-88)

b. Is qualified by general education, training, experience and personal character; and (10-14-88)

c. Has been authorized by the Hospital Board to render patient services under the direction of a supervising physician who is not required to be physically present on the premises when the physician's assistant is rendering patient services, unless so required by the Hospital Board. (10-14-88)

~~4317.~~ **Podiatrist.** A person who is licensed by the state of Idaho and is a doctor of podiatric medicine (D.P.M.) or doctor of podiatry (D.P.). (10-14-88)

~~4418.~~ **Provisional License.** A license issued to a hospital that is in substantial compliance with the regulations but that is temporarily unable to meet all of the requirements. A provisional license can be issued for a specified period of time, not to exceed six (6) months, while corrections are being completed. (10-14-88)

~~4519.~~ **Psychiatric Hospital.** A facility for the diagnosis and treatment of persons with mental illness. (10-14-88)

~~4620.~~ **Psychiatric Nurse.** A licensed registered nurse, licensed by the state of Idaho and qualified by training or experience in psychiatric nursing. (10-14-88)

~~4721.~~ **Psychiatric Unit.** A specialized unit within a general hospital for the diagnosis and treatment of the mentally ill. (10-14-88)

~~4822.~~ **Psychiatrist.** A physician who meets the requirements for certification in psychiatry by the American Board of Psychiatry and Neurology or the American Osteopathic Board of Neurology and Psychiatry. (10-14-88)

~~4923.~~ **Radiologic Service Director.** A person who: (12-31-91)

a. Is a radiologist; or (10-14-88)

b. Is a radiotherapist; or (10-14-88)

c. In a geographic area where the services of a radiologist or radiotherapist are not available, is a physician who meets the requirements for certification in a medical specialty in which he has become qualified by experience and training in the use of radiographs, and whose competence in the practice of radiology is approved by the medical staff. (10-14-88)

~~5024.~~ **Radiologic Technologist (Diagnostic).** A person who meets at least one (1) of the following criteria: (10-14-88)

a. Is a graduate of a two (2) year education program for radiologic technologists accredited by the Council on Medical Education of the American Medical Association in cooperation with the Joint Review Committee on Education in Radiologic Technology; or (10-14-88)

b. Meets the requirements for registration by the American Registry of Radiologic Technologists or by the American Registry of Clinical Radiography Technologists, and has one (1) year of experience as a radiologic technologist within the last three (3) years; or (10-14-88)

c. Has successfully completed an educational program in radiologic technology in a military service, and has one (1) year of experience in radiologic technology within the last three (3) years; or (10-14-88)

d. Has two (2) years of pertinent radiologic equipment experience within the last five (5) years, and has achieved a satisfactory grade on a proficiency examination in radiologic technology approved by the Secretary of Health and Human Services, except that such determination of proficiency will not apply with respect to persons initially licensed by a state or seeking initial qualification as a radiologic technologist after December 21, 1977. (10-14-88)

~~251.~~ **Radiologist.** A physician who meets the requirements for certification by the American Board of

Radiology or the American Osteopathic Board of Radiology. (10-14-88)

526. Radiotherapist. A physician who: (12-31-91)

a. Meets the requirements for certification as a radiotherapist by the American Board of Radiology; or (10-14-88)

b. Meets the requirements for certification as a radiologist by the American Board of Radiology or the American Osteopathic Board of Radiology, and whose competence in the practice of radiation therapy is approved by the medical staff of the hospital in which he practices. (10-14-88)

527. Registered Nurse (R.N.). A person licensed by the Idaho State Board of Nursing to practice professional nursing, also known as a licensed registered nurse. (10-14-88)

528. Rehabilitation Hospital. A facility operated for the primary purpose of assisting with the rehabilitation of disabled persons through an integrated program of medical, psychological, social, and vocational evaluation and services under competent professional supervision. (10-14-88)

529. Respiratory Therapist. A person who meets the requirements for registration by the American Registry of Respiratory Technicians (ARRT). (10-14-88)

530. Respiratory Therapy Technician. A person who meets the requirements for certification as a Certified Respiratory Therapy Technician (CRTT) by the National Board for Respiratory Therapy. (10-14-88)

31. Restraints. A restraint is (1) any manual method, physical or mechanical device, material, or equipment that immobilizes or reduces the ability of a patient to move his or her arms, legs, body, or head freely; or (2) a drug or medication when it is used as a restriction to manage the patient's behavior or restrict the patient's freedom of movement and is not a standard treatment or dosage for the patient's condition. ()

a. A restraint does not include devices, such as orthopedically prescribed devices, surgical dressings or bandages, protective helmets, or other methods that involve the physical holding of a patient for the purpose of conducting routine physical examinations or tests, or to protect the patient from falling out of bed, or to permit the patient to participate in activities without the risk of physical harm. ()

b. Side rails: Side rails are considered a restraint when they restrict the patient's freedom to exit the bed. Side rails may not be considered a restraint when they protect the patient. Examples include raising the side rails when a patient is: on a stretcher, recovering from anesthesia, sedated, experiencing involuntary movement, or on certain types of therapeutic beds. ()

c. Physically escorting a patient from one area to another against the patient's will is a restraint. ()

d. Physically holding a patient to administer a medication against the patient's will is a restraint. ()

e. Placing a patient in a chair or recliner that prevents him or her from getting out of the chair safely and easily, is a restraint. ()

f. Age or developmentally appropriate protective safety interventions (such as stroller safety belts, swing safety belts, high chair lap belts, and raised crib rails) that a safety-conscious child care provider outside a health care setting would utilize to protect an infant, toddler, or preschool-aged child would not be considered restraint or seclusion for the purposes of this rule. The use of these safety interventions needs to be addressed in the hospital's policies or procedures. ()

32. Seclusion. Seclusion is the involuntary confinement of a patient in a room or area, such as an activity center, from which the patient is physically prevented from leaving. Physically prevented from leaving includes threats by staff, if the patient attempts to leave, including the threat of restraint or seclusion. Confinement on a locked unit or ward does not constitute seclusion. ()

~~5733.~~ **Skilled Nursing Facility.** A facility whose design and function ~~shall~~ **must** provide area, space and equipment to meet the health needs of two (2) or more individuals who, at a minimum, require inpatient care and services for twenty-four (24) or more consecutive hours for unstable chronic health problems requiring daily professional nursing supervision and licensed nursing care on a twenty-four (24) hour basis, restorative, rehabilitative care, and assistance in meeting daily living needs. Medical supervision is necessary on a regular, but not daily basis. ~~(10-14-88)~~()

~~5834.~~ **Social Worker.** An individual who is licensed by the state of Idaho to practice social work. (10-14-88)

~~5935.~~ **Special Hospital.** A facility that provides primarily one (1) type of care. The specialized hospital must meet the applicable regulations for general hospitals. All medical and related health services in these facilities must be prescribed by or must be under the general direction of persons licensed to practice medicine in Idaho. (10-14-88)

~~6036.~~ **Speech Pathologist or Audiologist.** A person who: (12-31-91)

a. Meets the current requirements for a certificate of clinical competence in the appropriate area (speech pathology or audiology) granted by the American Speech and Hearing Association; or (10-14-88)

b. Meets the educational requirements for certification, and is in the process of accumulating the supervised clinical experience required for certification. (10-14-88)

~~6137.~~ **Substantial Compliance.** Substantial compliance means a facility is in substantial compliance with these rules when there are no deficiencies that would endanger the health, safety or welfare of residents. (10-14-88)

~~6238.~~ **Supervision.** Authoritative procedural guidance by a qualified person for the accomplishment of a function within his sphere of competence, with initial direction and periodic inspection of the actual act of accomplishing the function. Unless otherwise stated in the rules, the supervisor must be on the premises to perform supervisory duties. (10-14-88)

~~639.~~ **Temporary License.** A license issued for a period not to exceed six (6) months and issued initially upon application when the Department determines that all application information is acceptable. A temporary license allows the Department time to evaluate the Facility's on-going capability to provide services and to meet these rules. (10-14-88)

~~640.~~ **Tuberculosis Hospital.** A facility for the diagnosis and treatment of patients with tuberculosis or other pulmonary disease. (10-14-88)

~~41.~~ **Video Monitoring.** Close observation of a person for the purpose of protecting them and/or gathering information. The observation is made from a distance by means of electronic equipment, such as closed-circuit television cameras. ()

~~42.~~ **Video and/or Audio Recording.** Saving video and audio information on an electronic medium that can be viewed and/or listened to at a later time. ()

~~6543.~~ **Waiver or Variance.** Waiver or variance means a waiver or variance to these rules and minimum standards in whole or in part that may be granted under the following conditions: (10-14-88)

a. Good cause is shown for such waiver and the health, welfare or safety of patients/residents will not be endangered by granting such a waiver; (10-14-88)

b. Precedent ~~shall~~ **is** not ~~be~~ set by granting of such waiver. The waiver may be renewed annually if sufficient written justification is presented to the licensing agency. ~~(10-14-88)~~()

~~00312.~~ -- 099. (RESERVED)

(BREAK IN CONTINUITY OF SECTIONS)

201. -- ~~24~~19. (RESERVED)

220. PATIENT RIGHTS.

A hospital must protect and promote each patient's rights. Patient rights are provided for and described in Sections 220 through 234 of these rules. ()

01. Informed in Advance of Patient Care. A hospital must inform each patient, or when appropriate, the patient's representative, of the patient's rights in advance of furnishing or discontinuing patient care whenever possible. ()

02. Identify Who Is Responsible for Medical Decisions. The hospital must identify who is responsible for making medical decisions and representing the patient if the patient is unable to make those decisions. ()

03. Specify Procedures to Inform Patient of Patient Rights. ()

a. The hospital must specify a procedure to inform patients or their representative of their rights before providing care. ()

b. In an emergency, rights may be provided after emergent care is provided. ()

c. The procedure must include a method to document that patients were informed of their rights or the reasons they were not informed before care was provided. ()

04. Informed in Format Understandable to Patient/Patient's Representative. The patient and/or the patient's representative has the right to be informed of the patient's rights in a language or format that the patient and/or legal representative understands. ()

05. Make Informed Decisions. The patient or patient's representative has the right to make informed decisions regarding patient's care. ()

06. Informed and Involved in Care Plan. The patient has the right to be informed of health status, be involved in care planning and treatment, and to request or refuse treatment. This right must not be construed as a mechanism to demand the provision of treatment or services deemed medically unnecessary or inappropriate. ()

a. The hospital must obtain written consent for general treatment at the hospital. If the hospital is not able to obtain this consent, the reasons must be documented. ()

b. The hospital must obtain an informed written consent from each patient or the patient's representative for the provision of specific medical and/or surgical care, except in medical emergencies. The consent must include an explanation of risks, benefits, and alternatives for high-risk procedures, sedation, and other procedures or services as defined by the governing body. ()

07. Formulate Advance Directives. The patient has the right to formulate advance directives and to have hospital staff and practitioners who provide care in the hospital comply with these directives. The hospital must document whether the patient has an advance directive. If the patient has an advance directive, the hospital must document what it includes. If the patient does not have an advance directive, the hospital must offer the patient assistance to create one and document the patient's response. ()

08. Privacy. The patient has the right to meet privately with an attorney, a physician, a licensed independent practitioner, a representative of the state protection and advocacy group, and adult/child protection

agency. ()

09. Personal Privacy. The patient has the right to personal privacy, including the right to privacy during all personal care, including hygiene activities such as bathing, dressing, and toileting. This right includes the right to treatment with dignity during personal care. ()

a. A patient's right to privacy may be limited in situations when a treatment team determines a person must be continuously observed to ensure his or her safety. A decision to continuously observe a patient, either in person or by video and audio monitoring, must be based on an individualized assessment of the patient's needs and it must be part of the patient's individualized plan of care. ()

b. When patients are video monitored, the hospital must turn the camera off or utilize an electronic privacy option during personal care and activities of daily living where the patient may be exposed, such as bathing, dressing, and toileting. Monitoring during these times must be done by staff members in person. Video and audio monitoring and recording must also be turned off during meetings with the patient and an attorney, a physician, a licensed independent practitioner, a representative of the state protection and advocacy group, and adult/child protection agency. ()

c. When the hospital utilizes the continuous observation of patients, and/or video recording of patients, it must develop policies and procedures to direct staff in these activities. ()

d. The hospital must obtain the patient's or patient's legal representative's written consent for video or audio recording except in common areas. ()

e. Video or audio recordings of a patient for any reason must be included as part of the patient's medical record except in common areas. ()

f. Monitors used for observing patients must not be visible or audible to unauthorized persons. ()

10. Video Monitoring of Common Areas. Closed circuit television may be used to monitor common areas when signs are clearly posted that video monitoring or video recording is occurring. Patient consent is not required for common areas. Video recordings of common areas are not part of the patient's medical record. ()

11. Safe Setting. The patient has the right to receive care in a safe setting. ()

12. Free From Abuse, Neglect, and Harassment. The patient has the right to be free from all forms of abuse, neglect, and harassment. If hospital staff become aware of potential abuse or neglect of a patient, the hospital must protect the patient from future harm and report the suspicions to the appropriate legal entity. ()

13. Confidentiality. The patient has the right to the confidentiality of his or her clinical records. ()

14. Access to Patient's Own Records. The patient has the right to access information contained in his or her clinical records within three business days. The patient may request clinical record information as a paper copy or in an electronic format. ()

a. The hospital may not charge the patient a rate for copies that is higher than that of the local library. ()

b. When the patient requests the information electronically, the hospital must provide it on a currently popular media storage device. The information must be provided in a coherent format. ()

15. State Agency Contact Information. The hospital must provide patients with contact information for the Idaho state survey agency, including the agency's physical and mailing addresses and telephone number. ()

221. -- 224. (RESERVED)

225. PATIENT GRIEVANCES.

The hospital must establish a clearly explained process for the prompt resolution of patient grievances. ()

01. Grievance by Patient or Patient's Representative. A patient's grievance is a formal or informal, written or verbal complaint that is made to the hospital by a patient, or the patient's representative, regarding the patient's care, alleged abuse or neglect, or issues related to the hospital's compliance with Idaho state licensure rules. When a complaint is resolved at the time of the complaint by staff present, it is not considered a grievance and does not require investigation. ()

02. Grievance Process. The grievance process must include: ()

a. The hospital must inform each patient how to submit a grievance. Grievances may be submitted to any professional staff member. ()

b. Grievances must be investigated. The grievance process must specify time frames for review of the grievance and the provision of a response. ()

c. The hospital must document the steps taken to investigate the grievance and the results of the grievance process. ()

03. Written Notice of Decision. The hospital must provide the patient with written notice of its decision that contains: ()

a. The name of the hospital contact person; ()

b. The steps taken to investigate the grievance; and ()

c. The results of the grievance process. ()

226. -- 228. (RESERVED)

229. LAW ENFORCEMENT RESTRAINTS.

The use of law enforcement restraint devices are not considered safe, appropriate health care restraint interventions for use by hospital staff to restrain patients. ()

01. Law Enforcement Use of Restraint Devices. The use of handcuffs, manacles, shackles, other chain-type restraint devices, or other restrictive devices applied by non-hospital employed or contracted law enforcement officials for custody, detention, and public safety reasons are not governed by these rules. ()

02. Law Enforcement Maintains Custody and Direct Supervision. When a law enforcement officer applies handcuffs, manacles, shackles, other chain-type restraint devices to a patient, the law enforcement officer must maintain custody and direct supervision of the prisoner who is the hospital's patient. ()

a. The law enforcement officer is responsible for the use, application, and monitoring of these restrictive restraint devices in accordance with state law. ()

b. The hospital is responsible for an appropriate patient assessment and the provision of safe, appropriate care to its patient who is in the custody of a law enforcement officer. ()

230. RESTRAINT AND SECLUSION.

The hospital must establish a clearly explained process for restraint and/or seclusion. The hospital must follow its restraint and seclusion policies. ()

01. Patient's Right to be Free From Restraint and Seclusion. All patients have the right to be free from restraint or seclusion, of any form, imposed as a means of coercion, discipline, convenience, or retaliation by

staff. ()

02. Use of Restraint or Seclusion. Restraint and/or seclusion may only be imposed to ensure the physical safety of the patient, a staff member, or others. Restraint and/or seclusion must be discontinued at the earliest possible time, when the patient no longer presents an immediate risk of harm to self or others. ()

03. Policy and Procedures. Restraint and seclusion policies and procedures must include: ()

a. Definitions for restraint and seclusion as defined in these rules. ()

b. Specification of: ()

i. Which personnel may assess patients to determine the need for restraint and/or seclusion: ()

ii. Which personnel may perform formal face-to-face evaluations for episodes of restraint and/or seclusion; and ()

iii. Which personnel may evaluate patients for the need to continue restraint and/or seclusion. ()

c. How patients will be assessed for the need for restraint and/or seclusion, including the types of restraint to be used and time frames for reassessment. ()

d. How patients will be monitored while in restraints and/or seclusion to ensure their well-being. ()

e. A requirement that restraint and/or seclusion may only be used when less restrictive interventions have been determined to be ineffective to protect the patient, staff members, or others from harm. ()

f. A requirement that the type or technique of restraint used must be the least restrictive intervention that will be effective to protect the patient, staff members, or others from harm. ()

g. How services will be provided to patients while in restraint and/or seclusion, including time frames for general assessments, taking vital signs, offering fluids and nourishment, toileting/elimination, systematic release of restrained limbs to provide range of motion and exercise of those limbs, and other care as needed. ()

h. A requirement that specifies when restraint or seclusion is applied, the patient's plan of care is changed to direct staff on how to care for the patient while in restraint or seclusion and how to prevent further episodes. ()

i. The training requirements for staff who participate in the use of restraints and/or seclusion, including training requirements for persons who may order restraints and for persons who perform face-to-face examinations. Policies must address initial and ongoing training requirements. ()

j. A requirement that restraint or seclusion must be discontinued when the patient no longer presents an immediate risk of harm to themselves or others. ()

k. Documentation requirements for staff caring for patients in restraint and/or seclusion, including the documentation of assessments and behaviors following episodes of restraint or seclusion. ()

04. Investigation of Injuries. A procedure for the hospital to investigate injuries that occur during the application or use of restraint or seclusion. The investigation procedure must include recommendations for the prevention of future injuries from restraint or seclusion. ()

231. RESTRAINT AND SECLUSION ORDERS.

The use of restraint or seclusion must be in accordance with the order of a physician or other licensed independent practitioner, who has been granted privileges by the governing body to order restraint and seclusion. ()

01. Orders. Orders for the use of restraint or seclusion must never be written as a standing order or on an as needed basis (PRN). ()

02. Attending Physician. The attending physician must be consulted as soon as practical if the attending physician did not order the restraint or seclusion. ()

03. Time Limits on Orders. Each order for restraint or seclusion used for the management of violent or self-destructive behavior that jeopardizes the immediate physical safety of the patient, a staff member, or others may only be renewed according to the following limits up to a total of twenty-four (24) hours: ()

a. Four (4) hours for adults eighteen (18) years of age or older; ()

b. Two (2) hours for children and adolescents nine (9) to seventeen (17) years of age; or ()

c. One (1) hour for children under nine (9) years of age. ()

d. The original restraint or seclusion order may only be renewed within the required time limits for up to a total of twenty-four (24) hours. After the original order expires, a physician or other licensed independent practitioner must see and assess the patient before issuing a new order. ()

e. Seclusion may only be ordered for the management of violent or self-destructive behavior. ()

f. Each order for restraint used to ensure the physical safety of a non-violent or non-self-destructive patient may be renewed as allowed by hospital policies. ()

g. Restraint or seclusion must be discontinued at the earliest possible time when the patient no longer presents an immediate risk of harm to self or others. The risk of harm must be assessed by a physician or licensed independent practitioner, or a registered nurse prior to releasing the patient. ()

232. RESTRAINT AND SECLUSION IMPLEMENTATION AND MONITORING.

The use of restraint or seclusion must be implemented in accordance with safe and appropriate restraint and seclusion techniques as determined by hospital policy. ()

01. Written System. The hospital must adopt a written system for the use of restraints and seclusion, including techniques to identify staff and patient behaviors, events, and environmental factors that may trigger circumstances that require the use of a restraint or seclusion. ()

02. Observation of Patients Who Are Not Violent or Self-Destructive. Patients who are restrained but who are not violent or self-destructive, must be observed at intervals not greater than fifteen (15) minutes. ()

03. Management of Violent or Self-Destructive Behavior. Patients who are restrained or secluded for violent or self-destructive behaviors must be continuously observed by trained staff assigned to observe the patient. Staff must observe the patient either directly or using both video and audio equipment. Staff observing the patient must be physically close enough to protect the patient in an emergency. ()

04. Face-to-Face by Physician or Other Licensed Independent Practitioner. Patients who are restrained or secluded for the management of violent or self-destructive behavior, must be seen face-to-face within one (1) hour after the initiation of the intervention by a physician or other licensed independent practitioner or by a registered nurse who has been trained to conduct face-to-face examinations. The face-to-face examination must evaluate: ()

a. The patient's immediate situation; ()

b. The patient's reaction to the intervention; ()

c. The patient's medical and behavioral condition; and ()

d. The need to continue or terminate the restraint or seclusion. ()

e. When the face-to-face evaluation is conducted by a trained registered nurse, the trained registered nurse must consult the attending physician or other licensed independent practitioner who is responsible for the care of the patient, as soon as possible after the completion of the one (1) hour face-to-face evaluation. ()

233. RESTRAINT AND SECLUSION DOCUMENTATION.

The clinical record for each patient that is restrained or secluded must contain comprehensive documentation of the episode. ()

01. Patient's Behavior. A description of the patient's behavior that led to the use of restraint or seclusion. ()

02. Interventions Used Prior to Restraint or Seclusion. Alternatives or other less restrictive interventions attempted prior to the use of restraint or seclusion. ()

03. Type of Intervention. The type of interventions used, including the date and time the interventions were initiated. ()

04. Assessments. Initial and ongoing assessments of the need for restraint or seclusion by medical and nursing staff. ()

05. Patient's Response. The patient's response to the use of restraint or seclusion, including ongoing behaviors. ()

06. Monitoring Activities. Monitoring activities by staff. ()

07. Restraint and Seclusion Log. Each hospital must maintain a log of restraint and/or seclusion use that must include: ()

a. The name of the patient; ()

b. The type of restraints and/or seclusion used; ()

c. The date and time restraints and/or seclusion were applied and discontinued; and ()

d. Any injury or adverse consequence to the patient incurred during the restraint and/or seclusion. ()

234. RESTRAINT AND SECLUSION TRAINING.

All staff involved with the ordering, application, and monitoring of restraints and seclusion must be trained. ()

01. Training Requirements. Training must include an overview of the hospital's system for the use of restraints and seclusion, including techniques to identify staff and patient behaviors, events, and environmental factors that may trigger circumstances that require the use of a restraint or seclusion. Training must also include: ()

a. De-escalation techniques; ()

b. Use of least restrictive interventions; ()

c. The safe application of restraints; ()

d. Monitoring patients in restraint or seclusion; and ()

e. Providing care for a patient in restraint or seclusion. ()

02. Training Related to Job Responsibilities. All hospital staff members who participate in restraint or seclusion must be trained in relation to their job responsibilities. ()

03. Hospital's Policy Training. Physicians and licensed independent practitioners, who order restraints and seclusion and monitor those patients, must be trained in the hospital's policies for ordering restraints and seclusion and assessing patients who are restrained or secluded. ()

04. Ongoing Training. Staff must receive ongoing restraint and/or seclusion training in accordance with hospital policies. ()

235. -- 249. (RESERVED)

250. MEDICAL STAFF.

The hospital ~~shall~~ **must** have an active medical staff organized under bylaws approved by the governing body and responsible to the governing body for the quality of all medical care provided the patients, and for the professional practices and ethical conduct of the members. (10-14-88)()

01. Medical Staff Qualifications and Privileges. All medical staff members ~~shall~~ **must** be qualified legally and professionally for the privileges that they are granted. (10-14-88)()

a. Privileges ~~shall~~ **must** be granted only on the basis of individual training, competence, and experience. (10-14-88)()

b. The medical staff, with governing body approval, ~~shall~~ **must** develop and implement a written procedure for determining qualifications for medical staff appointment, and for determining privileges. (10-14-88)()

c. The governing body ~~shall~~ **must** approve medical staff privileges within the limits of the hospital's capabilities for providing qualified support staff and equipment in specialized areas. (10-14-88)()

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

a. Recommended by the medical staff at the hospital; ()

b. Approved by the governing body of the hospital; and ()

c. Within the scope of practice conferred by the license of the physician, physician assistant, or advanced practice nurse. ()

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

023. Medical Staff Appointments and Reappointments. Medical staff appointments and reappointments ~~shall~~ **must** be made by the governing body upon the recommendation of the active medical staff, or a committee of the active staff. (10-14-88)()

a. Appointments to the medical staff ~~shall~~ **must** include a written delineation of all privileges including surgical procedures, and governing body approval ~~shall~~ **must** be documented. (10-14-88)()

b. Reappointments to the medical staff ~~shall~~ **must** be made at least every two (2) years with appropriate documentation indicating governing body approval. (10-14-88)()

c. Reappointment procedures ~~shall~~ **must** include a means of increasing or decreasing privileges after consideration of the member's physical and mental capabilities. (10-14-88)()

d. The medical staff and administration with approval of the governing body ~~shall~~ **must** develop a written procedure for temporary or emergency medical staff privileges. ~~(10-14-88)~~()

034. **Required Hospital Functions.** Each hospital ~~shall~~ **must** have a mechanism in place to perform the following functions: ~~(10-14-88)~~()

- a. Coordinate all activities of the medical staff; ~~and~~ ~~(10-14-88)~~()
- b. Develop a hospital formulary and procedures for the choice and control of all drugs used in the hospital; ~~and~~ ~~(10-14-88)~~()
- c. Establish procedures to prevent and control infections in the hospital; ~~and~~ ~~(10-14-88)~~()
- d. Develop and monitor standards of medical records contents; ~~and~~ ~~(10-14-88)~~()
- e. Maintain communications between medical staff and the governing body of the hospital; and (10-14-88)
- f. Review clinical work of the medical staff. (10-14-88)

045. **Documentary Evidence of Medical Staff Activities.** The medical staff or any committees of the staff ~~shall~~ **must** meet as often as necessary, but at least twice annually, to assure implementation of the required functions in Subsection 250.034 of this rule. Minutes of all meetings of the medical staff or any committees of the staff ~~shall~~ **must** be maintained. ~~(12-31-91)~~()

056. **Medical Staff Bylaws, Rules, and Regulations.** These ~~shall~~ **must** specify at least the following: ~~(10-14-88)~~()

- a. A description of the medical staff organization that includes: (10-14-88)
 - i. Officers and their duties; ~~and~~ ~~(10-14-88)~~()
 - ii. Staff committees and their responsibilities; ~~and~~ ~~(10-14-88)~~()
 - iii. Frequency of staff and committee meetings; and (10-14-88)
 - iv. Agenda for all meetings and the type of records to be kept. (10-14-88)
- b. A statement of the necessary qualifications for appointment to the staff, and the duties and privileges of each category of medical staff. (10-14-88)
- c. A procedure for appointment, granting and withdrawal of privileges. (10-14-88)
- d. A mechanism for hearings and appeals of decisions regarding medical staff membership and privileges. (10-14-88)
- e. A statement regarding attendance at staff meetings. (10-14-88)
- f. A statement of qualifications and a procedure for delineation of clinical privileges for all categories of nonphysician practitioners. (10-14-88)
- g. A requirement for keeping accurate and complete medical records. (10-14-88)
- h. A requirement that all tissue surgically removed will be delivered to a pathologist for a report on such specimens, unless the medical staff, in consultation with the pathologist, adopts uniform exceptions to sending tissue specimens to the laboratory for analysis. (10-14-88)

i. A statement requiring a medical history and physical examination be performed no more than seven (7) days before or within forty-eight (48) hours after admission. The findings from this history and physical examination, including a provisional diagnosis, must be included in the medical record prior to surgery, except in emergencies. (5-3-03)

j. A requirement that consultation is necessary with unusual cases, except in emergencies. Unusual cases *shall must* be defined by the hospital medical staff. (10-14-88)()

067. Review of Policies and Procedures. The medical staff *shall must* review and approve all policies and procedures directly related to medical care. (10-14-88)()

078. Dentists and Podiatrists. If dentists and podiatrists are appointed to the medical staff, the bylaws *shall must* specifically refer to services performed by such professionals, and *shall must* specify at least the following: (10-14-88)()

a. Patients admitted for dental or podiatry service *shall must* be under the general care of a physician member of the active staff. (10-14-88)()

b. All medical staff requirements and procedure for privileges *shall must* be followed for dentists and podiatrists. (10-14-88)()

08. Dating of Bylaws. Bylaws *shall must* be dated and signed by the current officers of the medical staff or the committee of the whole. (10-14-88)()

109. Medical Orders. Written, verbal and telephone orders from persons authorized to give medical orders under Idaho law *shall must* be accepted by those health care practitioners empowered to do so under Idaho law and written hospital policies and procedures. Verbal and telephone orders *shall must* contain the name of the person giving the order, the first initial and last name and professional designation of the health care practitioners receiving the order. The order(s) *shall must* be promptly signed or otherwise authenticated by the prescribing practitioner in a timely manner in accordance with the hospital's policy. (5-3-03)()

(BREAK IN CONTINUITY OF SECTIONS)

470. PSYCHIATRIC SERVICE.

If the hospital offers psychiatric service it *shall must* be organized, staffed and equipped to provide inpatient and outpatient treatment to the mentally ill. (10-14-88)()

01. Staffing. If the hospital offers psychiatric service, it *shall must* be directed and evaluated by a psychiatrist and staffed by adequate numbers of qualified personnel to meet patient needs. (10-14-88)()

a. A licensed registered nurse qualified by training or experience in psychiatric nursing *shall must* supervise the nursing care rendered in the psychiatric service. (10-14-88)()

b. Psychiatric service staff *shall must* collaborate with medical, nursing, and other professional personnel in patient care planning, and provide consultation to staff of other services regarding the psychiatric problems of patients. (10-14-88)()

02. Patient Treatment Plan. Patient's records *shall must* reflect that an individualized plan of treatment is developed for each patient that is specific and appropriate to individual problems and takes into consideration strengths as well as disabilities. The plan *shall must* designate the persons responsible for each component of care and *shall must* be reviewed, evaluated, and updated at regularly scheduled intervals by all professional personnel involved in the patient's care. (10-14-88)()

03. Policies and Procedures. Policies and procedures governing the service *shall must* be developed

by appropriate representatives of each discipline and in collaboration with other appropriate services.

(10-14-88)()

04. Examination to Assess Mental Status. All examinations to assess the patient's mental status *shall* **must** be recorded, signed and dated as soon as possible after admission and *shall* **must** include a description of the patient's physical and emotional state and intellectual functions. There *shall* **must** be an initial patient history and report of the patient's mental status within twenty-four (24) hours after admission that may be based on the results of prior examinations by the reporting physician.

(10-14-88)()

~~**05. Patient's Rights.** Written Policies and procedures shall be developed regarding patient's rights.~~

(10-14-88)

~~**a.** Use of any form of physical restraint, forced treatment, chemical restraint or seclusion shall only occur in circumstances where there is established written policy and approved procedures to warrant such action and/or is ordered by a physician; and~~

(10-14-88)

~~**b.** Each patient shall be allowed to communicate with persons outside the facility, except where excluded or limited in accordance with his comprehensive treatment plan.~~

(10-14-88)

~~**e.** Each patient shall be apprised of his rights.~~

(10-14-88)

065. Records. Adequate and comprehensive records *shall* **must** be retained for assessment, evaluation and treatment purposes. Admitting and subsequent psychiatric diagnoses *shall* **must** be recorded in currently accepted terminology; and

(10-14-88)()

a. The patient's psychiatric history and social evaluation *shall* **must** provide information regarding the patient's background, the onset and development of the illness, including factors and precipitating circumstances that led to the patient's admission, and data useful for patient care and discharge planning; and

(10-14-88)()

b. A properly executed consent form *shall* **must** be obtained and incorporated into the record in any case of treatment approach that carries significant risks, and shows that the patient, his family, or other legally responsible person is informed of available alternative approaches; *and*

(10-14-88)()

c. Documentation *shall* **must** show that the patient, his family, or other legally responsible person is informed of the treatment to be given; and

(10-14-88)()

d. Documentation *shall* **must** show that planning for continued care and treatment in the community are coordinated with the patient's family and others in his social environment.

(10-14-88)()

076. Special Medical Record Requirements for Psychiatric Hospitals or Services. In addition to meeting all the requirements contained in Section 360 of these rules, patient medical records maintained by a psychiatric hospital or service unit *shall* **must** clearly reflect the types and intensity of treatment provided to patients in the hospital. The records *shall* **must** contain the following:

(12-31-91)()

a. Information essential for identifying the patient's problems, for developing treatment objectives, and other information necessary for psychiatric evaluation and diagnosis; *and*

(10-14-88)()

b. A record of the treatment received by the patient, including records of all treatment related to short-term and long-term goals, including discharge planning; *and*

(10-14-88)()

c. The medical record *shall* **must** provide information regarding the management of the patient's condition and of changes in treatment and patient status. Progress notes *shall* **must** reflect that care provided in accordance with the treatment plan is recorded at least weekly for the first two (2) months after admission and at least monthly thereafter; and

(10-14-88)()

d. Every safeguard *shall* **must** be employed to preserve confidentiality of the patient-therapist relationship and to prevent revelation of information that would be harmful or embarrassing to the patient, his family,

or others.

(10-14-88)()

087. Discharge Planning. Consideration for continued care and services in the community after discharge, placement alternatives, and utilization of community resources *shall must* be initiated on admission and carried out to ensure that each patient has a documented plan for continuing care that meets his individual needs. Provision *shall must* be made for exchange of appropriate information with outside resources. (10-14-88)()

098. Physician Services. A board certified or board eligible psychiatrist *shall must* provide the overall direction of the service including monitoring and evaluating the quality and appropriateness of psychiatric services rendered. Physicians *shall must* be available at all times to provide medical and surgical diagnosis and treatment services. (10-14-88)()

109. Nursing Service. The nursing service *shall must* be under the overall direction of a psychiatric nurse qualified by training or experience in psychiatric nursing, who monitors and evaluates nursing care provided. (10-14-88)()

a. A licensed registered nurse *shall must* be on duty twenty-four (24) hours a day, seven (7) days a week to provide direct patient care, and to assign and supervise nursing care activities performed by other nursing personnel. (10-14-88)()

b. There *shall must* be adequate numbers of qualified licensed registered nurses, licensed practical (vocational) nurses, psychiatric technicians, and other supportive nursing personnel to carry out the nursing aspects of the individual treatment plan for each patient and capable of maintaining progress notes on all patients. (10-14-88)()

110. Psychological Services. The director of the psychological services *shall must* be a clinical psychologist who continually monitors and evaluates the quality and appropriateness of psychological services rendered (in accordance with standards of practice, service objectives, and established policies and procedures). (10-14-88)()

121. Social Services. The director of social services *shall must* be a social worker who monitors and evaluates the quality and appropriateness of social services (in accordance with service objectives, standards of practice, and established policies and procedures). (10-14-88)()

132. Therapeutic Activities. The hospital *shall must* provide a therapeutic activities program appropriate to meet the needs and interests of patients that is directed toward rehabilitation to and maintenance of optimal levels of physical and psychosocial functioning, and toward attaining a life style appropriate for each patient. (10-14-88)()

a. If occupational therapy services are offered, they *shall must* be under the supervision of an occupational therapist. (10-14-88)()

b. Adequate numbers of qualified therapists, supportive personnel, and consultants *shall must* be available to provide comprehensive therapeutic activities in conjunction with each patient's treatment plan. (10-14-88)()

c. Therapeutic recreational activities *shall must* be under the supervision of a designated member of the staff who has demonstrated competence in therapeutic recreational activities programs. (10-14-88)()

d. The supportive staff of the occupational therapy and therapeutic recreational activities services *shall must* be provided formal orientation and inservice training to enable them to carry out assigned functions. (10-14-88)()

e. If volunteers are utilized in the therapeutic activities program, they *shall must* be provided appropriate orientation, training, and supervision by qualified professional staff. (10-14-88)()

143. Physical Therapy Service. If physical therapy services are offered, the director of the service *shall*

~~must~~ be a physical therapist who monitors the quality and appropriateness of services rendered. ~~(10-14-88)~~()

154. Psychiatric Unit Space. After the effective date of these rules, any psychiatric unit not free standing ~~shall must~~ be separated and able to be secured from the general hospital with which it is associated. Each psychiatric service unit, free standing or not, ~~shall must~~ include the following: ~~(10-14-88)~~()

- a. Consultation room or rooms; ~~and~~ ~~(10-14-88)~~()
- b. Facilities for examination and a treatment room for medical procedures; ~~and~~ ~~(10-14-88)~~()
- c. At least one (1) observation room for acutely disturbed patients, with facilities for visual observation; ~~and~~ ~~(10-14-88)~~()
- d. Facilities for dining; and (10-14-88)
- e. Indoor and outdoor facilities for therapeutic activities. (10-14-88)

16. Construction of Psychiatric Hospitals. New construction, alterations, or modifications ~~shall must~~ not be made until plans and specifications have been approved by the licensing agency. ~~(10-14-88)~~()

(BREAK IN CONTINUITY OF SECTIONS)

601. -- 99~~5~~**9.** (RESERVED)

~~**996. ADMINISTRATIVE PROVISIONS.**~~

~~Hearings and appeals shall be governed according to the provisions of Idaho Department of Health and Welfare Rules, IDAPA 16.05.03, Sections 000 et seq., "Rules Governing Contested Case Proceedings and Declaratory Rulings."~~ ~~(12-31-91)~~

~~**997. CONFIDENTIALITY.**~~

~~Information received by the licensing agency through filed reports, inspection, or as otherwise authorized under this law, shall not be disclosed publicly in such a manner as to identify individual residents or patients of facilities or agencies as defined, except in a proceeding involving the question of licensure.~~ ~~(10-14-88)~~

~~**998. INCLUSIVE GENDER.**~~

~~For the purposes of these rules, words used in the masculine gender include the feminine, or vice versa, where appropriate.~~ ~~(10-14-88)~~

~~**999. SEVERABILITY.**~~

~~Idaho Department of Health and Welfare Rules, IDAPA 16.03.14, are severable. If any rule, or part thereof, or the application of such rule to any person or circumstance is declared invalid, that invalidity does not affect the validity of any remaining portion of this chapter.~~ ~~(10-14-88)~~

IDAPA 16 – DEPARTMENT OF HEALTH AND WELFARE
16.06.12 – RULES GOVERNING THE IDAHO CHILD CARE PROGRAM (ICCP)
DOCKET NO. 16-0612-1801
NOTICE OF RULEMAKING – TEMPORARY AND PROPOSED RULE

EFFECTIVE DATE: The effective date of the temporary rule is October 1, 2018.

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

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than September 19, 2018.

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

DESCRIPTIVE SUMMARY: The following is the required finding and concise statement of its supporting reasons for adopting a temporary rule and a nontechnical explanation of the substance and purpose of the proposed rulemaking:

The Department has adopted these temporary rules to clarify the processes for determining eligibility and has updated terms to align with the Reauthorization of the Child Care and Development Block Grant federal regulations.

TEMPORARY RULE JUSTIFICATION: Pursuant to Section(s) 67-5226(1)(b), Idaho Code, the Governor has found that temporary adoption of the rule is appropriate to update and align these rules with the federal requirements that will become effective as of October 1, 2018.

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

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

The Department does not anticipate any fiscal impact to state general funds or to the federally-funded block grant for the proposed rule changes.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not conducted because changes are being adopted as temporary rules to ensure compliance with federal laws that are effective October 1, 2018, and are not negotiable.

INCORPORATION BY REFERENCE: No materials are being incorporated by reference in this rulemaking.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary and proposed rule, contact Ericka Rupp at (208) 334-5641.

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 26, 2018.

Dated this 2nd day of August, 2018.

Tamara Prisock
DHW – Administrative Rules Unit
450 W. State Street – 10th Floor
P.O. Box 83720, Boise, ID 83720-0036
Phone: (208) 334-5500 / Fax: (208) 334-6558
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**THE FOLLOWING IS THE TEMPORARY RULE AND THE PROPOSED TEXT
OF DOCKET NO. 16-0612-1801
(Only Those Sections With Amendments Are Shown.)**

009. CRIMINAL HISTORY AND BACKGROUND CHECK REQUIREMENTS.

01. Compliance with Department Criminal History and Background Check. Criminal history and background checks are required for ICCP providers. Providers who are required to have a criminal history check must comply with IDAPA 16.05.06, "Criminal History and Background Checks." (4-9-09)

02. ICCP Provider is Approved. The ICCP provider must have completed a criminal history and background check, and received a clearance, prior to becoming an ICCP provider. (4-9-09)

03. Availability to Work or Provide Service. (4-9-09)

~~a. *The employer or provider, at its discretion, may allow an individual to provide care or services on a provisional basis once the application for a criminal history and background check is completed and notarized, and the employer has reviewed the application for any disqualifying crimes or relevant records. The employer determines whether the individual could pose a health and safety risk to the vulnerable participants it serves. The individual is not allowed to provide care or services when the employer determines the individual has disclosed a disqualifying crime or relevant records.*~~ (4-9-09)

~~b.~~ Those individuals licensed or certified by the Department are not available to provide services or receive licensure or certification until the criminal history and background check is completed and a clearance issued by the Department. (4-9-09)

~~eb.~~ Individuals living in the home who have direct contact with children are allowed contact after the criminal history application and self-disclosure is completed as provided in Section 56-1004A, Idaho Code, except when they have disclosed a disqualifying crime listed in IDAPA 16.05.06, "Criminal History and Background Checks." (4-9-09)

04. Applicants, Providers, and Other Individuals Subject to Criminal History Check Requirements. The following applicants, providers, and other individuals listed below must submit evidence to the Department that the following individuals have successfully completed and received a Department criminal history and background check clearance: (3-2-17)

a. All child care centers group, family, relative, and in-home providers including owners, operators, and staff, who have direct contact with children; (3-2-17)

b. All individuals thirteen (13) years of age or older who have direct contact with children; and (3-2-17)

c. All individuals thirteen (13) years of age or older who are regularly on the premises. (3-2-17)

05. Renewal of Criminal History and Background Check Requirement. Applicants, providers, employees, volunteers, and individuals thirteen (13) years of age or older who have direct contact with or provide care to children eligible for ICCP benefits must comply with these requirements and receive a clearance as provided in IDAPA 16.05.06, "Criminal History and Background Checks," every five (5) years. (3-2-17)

06. Criminal History and Background Check at Any Time. The Department can require a criminal history and background check at any time on any individual providing child care to an ICCP eligible child. (4-9-09)

07. Additional Criminal Convictions. Once an individual has received a criminal history clearance,

any additional criminal convictions must be reported by the child care provider to the Department when the provider learns of the conviction. (4-9-09)

(BREAK IN CONTINUITY OF SECTIONS)

503. COPAYMENTS.

Eligible families, except TAFI families participating in non-employment TAFI activities and guardians of foster children, must pay part of their child care costs. Providers are responsible for ensuring families pay the determined child care costs and must not waive these costs. (3-2-17)

01. Poverty Rates. Poverty rates will be one hundred thirty percent (130%) of the Federal Poverty Guidelines (FPG) available on the U.S. Health and Human Services website at <http://aspe.hhs.gov/poverty>. The monthly rate will be calculated by dividing the yearly rate by twelve (12). (4-4-13)

02. Calculating Family Payment. Family income and activity for the month of the child care will determine the family share of child care costs. The payment made by the Department will be the allowable local market rate or billed costs, whichever is lower, less the co-payment. (4-4-13)

03. Changes to Copayments. A family's share of child care costs will not increase due to a change in income only. (10-1-18)T

(BREAK IN CONTINUITY OF SECTIONS)

**CHANGE REPORTING REQUIREMENTS FOR THOSE
RECEIVING CHILD CARE BENEFITS
(Sections 600 - 699)**

600. CHANGE REPORTING REQUIREMENTS.

A family who receives child care benefits must report the following permanent changes by the tenth day of the month following the month in which the change occurred. (4-4-13)

01. Change in Full-time or Part-time Activity Hours. (3-28-18)

02. Change in Permanent Address. (3-28-18)

03. Change in Household Composition. (4-4-13)

04. Change in Income. When the household's total gross income for family of the same size exceeds ~~the income limit for the program, as described the higher of either~~ any of the following: (10-1-18)T

a. ~~One hundred and thirty percent (130%) of the Federal Poverty Guidelines (FPG)~~; (10-1-18)T

b. ~~Eighty-five percent (85%) of the State Median Income (SMI) for a family of the same size;~~ or
(3-28-18)(10-1-18)T

c. The graduated phase-out income limit as defined in the Idaho Child Care State Plan. (10-1-18)T

05. Change in Child Care Provider. (5-1-11)

(BREAK IN CONTINUITY OF SECTIONS)

602. REDETERMINATION OF ELIGIBILITY FOR CHILD CARE BENEFITS.

01. Redetermination. The Department must redetermine eligibility for child care benefits at least every twelve (12) months. (3-2-17)

02. Graduated Phase Out. At the time of redetermination, if a household's income exceeds one hundred thirty percent (130%) of the Federal Poverty Guidelines (FPG) for a family of the same size eligible children may receive a graduated phase out benefit. Graduated phase out benefits are limited to twelve (12) months following the completion of a redetermination as defined in the Idaho Child Care State Plan. ~~(3-28-18)~~(10-1-18)T

603. -- 699. (RESERVED)

(BREAK IN CONTINUITY OF SECTIONS)

704. DENIAL OF PAYMENT.

The Department may deny payment for the reasons described in Subsections 704.01 through 704.0~~4~~⁵ of this rule.

~~(7-1-09)~~(10-1-18)T

01. Services Not Provided. Any or all claims for child care services it determines were not provided. (7-1-09)

02. Services Not Documented. Child care services not documented by the provider as required in Subsection 810.01 of these rules. (7-1-09)

03. Contrary to Rules or Provider Agreement. Child care services provided contrary to these rules or the provider agreement. (7-1-09)

04. Failure to Provide Immediate Access to Records. The Department may deny payment when the provider does not allow immediate access to records as provided in Subsection 810.02 of these rules. (7-1-09)

05. Paying for Attendance. Payment will be denied if an eligible provider pays directly or indirectly, overtly or covertly, for a child to attend the provider's child care facility. (10-1-18)T

(BREAK IN CONTINUITY OF SECTIONS)

810. DOCUMENTATION OF SERVICES AND ACCESS TO RECORDS.

01. Documentation of Services. Providers must generate documentation at the time of service sufficient to support the reimbursement for child care services. Documentation must be legible and must be retained for a period of three (3) years from the date the child care was provided. Documentation to support child care services includes: (7-1-09)

a. Records of attendance, including signatures of a parent or guardian; ~~(7-1-09)~~(10-1-18)T

b. Immunization records, conditional admittance form, or exemption form according to IDAPA 16.02.11, "Immunization Requirements for Children Attending Licensed Daycare Facilities in Idaho." (4-4-13)

c. Billing records and receipts; (7-1-09)

d. Policies regarding sign-in procedures, and others as applicable; and (7-1-09)

e. Sign-in records, electronic or manual, or the Child and Adult Food Care Program records. (7-1-09)

02. Immediate Access to Records. Providers must grant to the Department and its agents, immediate access to records for review and copying during normal business hours. These records are defined in Subsection 810.01 of this rule. (7-1-09)

03. Copying Records. The Department and its authorized agents may copy any record as defined in Subsection 810.01 of this rule. The Department may request in writing to have copies of records supplied by the provider. The requested copies must be furnished within twenty (20) working days after the date of the written request, unless an extension of time is granted by the Department for good cause. Failure to timely provide requested copies will be a refusal to provide access to records. (7-1-09)

04. Removal of Records From Provider's Premises. The Department and its authorized agents may remove from the provider's premises copies of any records defined in Subsection 810.01 of this rule. (7-1-09)

IDAPA 16 – DEPARTMENT OF HEALTH AND WELFARE

16.07.37 – CHILDREN'S MENTAL HEALTH SERVICES

DOCKET NO. 16-0737-1801

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 16-2404, 16-2406, 16-2423, 16-2433, 56-202(b), 56-203B, 56-204A, 56-1003, 56-1004, and 56-1004A, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than September 19, 2018.

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 DSM-5 no longer includes Axis 1 diagnosis. The standard for referring parents to Child Support for children in Alternate Care is being removed. This rule appears to be a left-over from the days when Title IV-E funded alternate care. The rule is obsolete and does not align with the rest of the Children's Mental Health and Behavioral Health program which requires parental obligations be calculated via the sliding fee scale.

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

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

The Division of Behavioral Health is proposing to transition from using the child support system to using our sliding fee scale process to collect parental financial obligations when a child is placed in alternate care. The change will be in the method of calculating and collecting and should not impact the amount collected. There is no anticipated fiscal impact to state general funds, or any other funds as a result of 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 July 4, 2018, Idaho Administrative Bulletin, [Vol. 18-7, pages 127 and 128](#).

INCORPORATION BY REFERENCE: Pursuant to Section 67-5229(2)(a), Idaho Code, the following is a brief synopsis of why the materials cited are being incorporated by reference into this rule: N/A

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Treena Clark, (208) 334-6611.

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 26, 2018.

Dated this 2nd day of August, 2018.

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THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 16-0737-1801
(Only Those Sections With Amendments Are Shown.)

107. ELIGIBILITY DETERMINATION.

01. The Department Determines Eligibility for Mental Health Services. The total number of children who are eligible for mental health services through the Department will be established by the Department. The Department may, in its sole discretion, limit or prioritize mental health services, define eligibility criteria, or establish the number of persons eligible based upon such factors as court-ordered services, availability of funding, the degree of financial need, the degree of clinical need, or other factors. (4-7-11)

02. Eligibility Requirements. To be eligible for children's mental health services through a voluntary application to the Department, the applicant must: (5-8-09)

a. Be under eighteen (18) years of age; (5-8-09)

b. Reside within the state of Idaho; (5-8-09)

c. Have a DSM-5 ~~Axis-I~~ mental health diagnosis. A substance use disorder alone, or developmental disorder alone, does not constitute an eligible ~~Axis-I~~ mental health diagnosis, although one (1) or more of these conditions may co-exist with an eligible ~~Axis-I~~ mental health diagnosis; and (7-1-17)()

d. Have a substantial functional impairment as assessed by using the Department's approved tool. (7-1-17)

03. Court-Ordered Assessment, Treatment, and Services. The court may order the Department to provide assessment, treatment, and services under the Children's Mental Health Services Act, Title 16, Chapter 24, Idaho Code and the Juvenile Corrections Act, Title 20, Chapter 5, Idaho Code. Subject to court approval, the Department will make efforts to include parents and guardians in the assessment, treatment, and service planning process. Parents or guardians retain custody of the child. (7-1-17)

04. Ineligible Conditions. A child who does not meet the requirements under Subsections 107.02 or 107.03 of this rule is not eligible for children's mental health services, other than crisis response. A child with a diagnosis of substance use disorder alone, or developmental disorder alone, may be eligible for Department services under IDAPA 16.07.17, "Alcohol and Substance Use Disorders Services" or IDAPA 16.04.11, "Developmental Disabilities Agencies," for substance use or developmental disability services. (7-1-17)

(BREAK IN CONTINUITY OF SECTIONS)

236. PARENTAL FINANCIAL SUPPORT FOR CHILDREN IN ALTERNATE CARE.

In accordance with Sections 56-203B and 16-2406, Idaho Code, parent(s) are responsible for costs associated with the care of their child in alternate care. (5-8-09)

01. Notice of Parental Responsibility. The Department will provide the parent(s) with written notification of their responsibility to contribute toward the cost of their child's support, treatment, and care, including clothing, medical, incidental, and educational costs. (5-8-09)

02. Financial Arrangements with Parent(s). Parent(s) are responsible to reimburse the Department for the costs of alternate care when their child is placed in alternate care in accordance with a court order or voluntary placement agreement. Parents are expected to contribute to the cost of their child's care, but parents will not be asked to pay more than the actual cost of care, including clothing, medical, incidental, and educational costs.

~~(5-8-09)~~ ()

- ~~a. Parents are expected to contribute to the cost of their child's care, but parents will not be asked to pay more than the actual cost of care, including clothing, medical, incidental and educational costs. (5-8-09)~~
- ~~b. The Department will refer the parent(s) to the Bureau of Child Support Services for support payment calculation and payment arrangements. (5-8-09)~~