

TITLE 39
HEALTH AND SAFETY

CHAPTER 13
HOSPITAL LICENSES AND INSPECTION

39-1301. DEFINITIONS. For purposes of this chapter the following definitions will apply:

- (a) "Hospital" means a facility which:
- (1) Is primarily engaged in providing, by or under the supervision of physicians,
 - (a) concentrated medical and nursing care on a twenty-four (24) hour basis to inpatients experiencing acute illness; and
 - (b) diagnostic and therapeutic services for medical diagnosis and treatment, psychiatric diagnosis and treatment, and care of injured, disabled, or sick persons; and
 - (c) rehabilitation services for injured, disabled, or sick persons; and
 - (d) obstetrical care.
 - (2) Provides for care of two (2) or more individuals for twenty-four (24) or more consecutive hours.
 - (3) Is staffed to provide professional nursing care on a twenty-four (24) hour basis.
- (b) "Nursing facility" (nursing home) means a facility whose design and function shall 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.
- (c) "Intermediate care facility for people with intellectual disabilities (ICF/ID)" means a nonnursing home facility, designed and operated to meet the unique educational, training, habilitative and medical needs of the developmentally disabled through the provision of active treatment.
- (d) "Person" means any individual, firm, partnership, corporation, company, association, or joint stock association, and the legal successor thereof.
- (e) "Government unit" means the state, or any county, municipality, or other political subdivision, or any department, division, board or other agency thereof.
- (f) "Licensing agency" means the department of health and welfare.
- (g) "Board" means the board of health and welfare.
- (h) "Physician" means an individual licensed to practice medicine and surgery by the Idaho state board of medicine or the Idaho state board of podiatry.
- (i) "Authorized provider" means an individual who is a nurse practitioner or clinical nurse specialist, licensed to practice in Idaho in accordance with the Idaho nurse practice act; or a physician's assistant, licensed by the Idaho state board of medicine.
- (j) "Hospice house" means a facility that is owned and operated by a medicare certified hospice agency for the purpose of providing inpatient hospice services consistent with 42 CFR 418.110.

[39-1301, added 1947, ch. 133, sec. 1, p. 324; am. 1974, ch. 23, sec. 119, p. 633; am. 1980, ch. 159, sec. 1, p. 334; am. 1981, ch. 32, sec. 1, p. 51; am. 1992, ch. 56, sec. 1, p. 162; am. 1992, ch. 134, sec. 1, p. 421; am. 2000, ch. 274, sec. 5, p. 806; am. 2010, ch. 84, sec. 1, p. 163; am. 2010, ch. 235, sec. 24, p. 563.]

39-1301A. WAIVERS FOR CERTIFIED FAMILY HOMES -- DEFINITIONS. (1) Chapter 13, title 39, Idaho Code, shall not have the effect of preventing two (2) persons in need of the care described in section 39-1301(b), Idaho Code, from residing in a certified family home when:

(a) Each of the persons has given a written statement to the department requesting the arrangement and each person making the request is informed, not coerced, and competent; and

(b) The department finds the arrangement safe and effective; and

(c) The department issues a written waiver permitting the arrangement.

(2) The department shall use negotiated rulemaking when promulgating rules to carry out the provisions of this section to ensure a person's ability to choose services and service provider is considered.

(3) The department shall revoke any waiver granted pursuant to this section where it is determined there is a threat to the life or safety of either person or where one (1) of the persons leaves the living arrangement permanently or notifies the department in writing that he does not wish to reside in the setting with the other individual. Any waiver granted under this section shall be reviewed annually.

[(39-1301A) 39-1301a, added 1998, ch. 238, sec. 1, p. 795; am. and redesig. 2000, ch. 274, sec. 6, p. 807.]

39-1301B. NURSING FACILITY CONVERSIONS. (1) A nursing facility that voluntarily reduces the number of its licensed beds to provide residential and assisted living services, certified family home services, adult day health services, respite care, hospice, outpatient therapy services, congregate meals, home health, senior wellness clinic, or other services provided under a medicaid home and community-based services waiver for the aged or disabled may convert the original facility or portion of the facility back, and thereby increase the number of nursing home beds to no more than the previously licensed number of nursing home beds provided the facility has been in continuous operation and has not been purchased or leased. Any conversion to the original licensed bed capacity, or to any portion thereof, shall comply with the same life safety code requirements as existed at the time the nursing facility voluntarily reduced its licensed beds.

(2) To convert beds back to nursing facility beds under this section, the nursing home must:

(a) Give notice of its intent to preserve conversion options to the department no later than thirty (30) days after the effective date of the license reduction; and

(b) Give notice to the department and any affected participant of the intent to convert beds back. If construction is required for the conversion of beds back, the notice of intent to convert beds back must be given, at a minimum, one (1) year prior to the effective date of license modification reflecting the restored beds; otherwise, the notice must be given a minimum of ninety (90) days prior to the effective date of license modification reflecting the restored beds.

(3) Conversion of beds back to nursing facility use under this section must be completed no later than four (4) years after the effective date of the license reduction. However, for good cause shown, the four (4) year period for conversion may be extended by the department for an additional four (4) year period.

[39-1301B, added 2000, ch. 274, sec. 7, p. 808.]

39-1301C. DEEMED STATUS OF HOSPICE AGENCY AND ITS HOSPICE HOME -- NO IDAHO LICENSE OR CERTIFICATION REQUIRED. (1) A hospice house and its owner and operator medicare certified hospice agency must have and maintain deemed status through a centers for medicare & medicaid services recognized accrediting organization.

(2) Neither a medicare certified hospice agency nor its hospice home is required to be licensed or certified by the state of Idaho.

[39-1301C, added 2010, ch. 84, sec. 2, p. 164.]

39-1302. PURPOSE. The purpose of sections 39-1301--39-1314, Idaho Code, is to provide for the development, establishment and enforcement of standards (1) for the care and treatment of individuals in facilities or by agencies as defined, and (2) for the construction, maintenance and operation of facilities or agencies as defined which, in the light of advancing knowledge, will promote safe and adequate treatment of such individuals in facilities or by agencies as defined.

[39-1302, added 1947, ch. 133, sec. 2, p. 324; am. 1980, ch. 159, sec. 2, p. 335.]

39-1303. LICENSURE. After January 1, 1948, no person or governmental unit, acting severally or jointly with any other person or governmental unit shall establish, conduct or maintain a facility or agency, as defined, in this state without a license under sections 39-1301--39-1314, Idaho Code.

[39-1303, added 1947, ch. 133, sec. 3, p. 324; am. 1980, ch. 159, sec. 3, p. 335.]

39-1303a. DEFINITION OF SERVICES AND REGULATION OF FACILITIES IN PRECEDING SECTION. For the purposes of this act, the board shall have the authority to define the services requisite to the operation of the facilities defined and to establish rules and regulations and standards for the licensing of each type of facility and for the administrative personnel of each type of facility.

[(39-1303a) 1969, ch. 416, sec. 2, p. 1157; am. 1974, ch. 23, sec. 120, p. 633; am. and redesignated 1980, ch. 159, sec. 5, p. 336; am. 1981, ch. 32, sec. 2, p. 52.]

39-1303b. AGREEMENTS FOR ALLOCATION OF SERVICES BETWEEN NEIGHBORING HOSPITALS. Hospitals serving the same, or generally the same, geographical area may, by agreement or other arrangement to eliminate duplication, allocate as between themselves, in whole or in part, the provision of those services and facilities defined by the board of health and welfare as requisite to their licensure as hospitals.

[(39-1303b) 1976, ch. 122, sec. 1, p. 470; am. and redesignated 1980, ch. 159, sec. 6, p. 336.]

39-1303c. CURTAILMENT OF REQUIRED SERVICES. Any licensed facility or agency as defined, upon petition and showing of good cause therefor, to the satisfaction of the board may reduce, curtail or eliminate any service or facility which might otherwise be required for licensure by the board. A showing that the service or facility is unnecessary by reason of an arrangement with another facility or agency as defined, pursuant to section 39-1303b, Idaho Code, shall be conclusively deemed to be a showing of good cause under this section, and any licensed facility or agency as defined which, prior to January 1, 1976, had already reduced, curtailed or eliminated any service or facility by reason of the same being provided by another licensed facility or agency as defined, in the same community shall be deemed to have complied with this section.

[(39-1303c) 1976, ch. 122, sec. 2, p. 470; am. and redesignated 1980, ch. 159, sec. 7, p. 336.]

39-1304. APPLICATION FOR LICENSE. An application for a license shall be made to the licensing agency upon forms provided by it and shall contain such information as the licensing agency reasonably requires, which may include affirmative evidence of ability to comply with such reasonable standards, rules and regulations as are lawfully prescribed hereunder by the board of health and welfare.

[39-1304, added 1947, ch. 133, sec. 4, p. 324; am. 1980, ch. 325, sec. 4, p. 826.]

39-1305. ISSUANCE AND RENEWAL OF LICENSE. Upon receipt of an application for license and the license fee, when required, the licensing agency shall issue a license if the applicant meets the requirements established under this law. A license, unless sooner suspended or revoked, shall be renewable annually without charge upon filing by the licensee, and approval by the licensing agency, of an annual report upon such uniform dates and containing such information in such form as the licensing agency prescribes by regulation. Each license shall be issued only for the premises and persons or governmental units named in the application and shall not be transferable or assignable except with the written approval of the licensing agency. Licenses shall be posted in a conspicuous place on the licensed premises.

[39-1305, added 1947, ch. 133, sec. 5, p. 324; am. 1980, ch. 159, sec. 8, p. 336.]

39-1306. DENIAL OR REVOCATION OF LICENSE -- HEARINGS AND REVIEW. The licensing agency may deny any application or revoke any license when persuaded by evidence that such conditions exist as to endanger the health or safety of any resident. Before denial or revocation is final, the licensing agency shall provide opportunity for a hearing at which time the owner or sponsor of any facility or agency, as defined, may appear and show cause why the license should not be denied or revoked. The board shall provide by rule and regulation a procedure whereby a waiver of a specific rule, regulation or standard may be granted in the event that good cause is shown for such a waiver and providing that said waiver does not endanger the health and safety of any resident. The decision to grant a waiver shall not be considered as precedent or be given any force or effect in any other proceeding. Said waiver may be renewed annually if sufficient written justification is presented to the licensing agency. Hearings for licensure, including denial

and revocation, shall be conducted by the licensing agency pursuant to chapter 52, title 67, Idaho Code, and appeal shall be as provided therein.

[39-1306, added 1947, ch. 133, sec. 6, p. 324; am. 1980, ch. 159, sec. 9, p. 337.]

39-1307. RULES, REGULATIONS, AND ENFORCEMENT. The board shall have the authority to adopt, amend, and enforce rules, regulations and standards consistent with the provisions of this act which are designed to protect the health and safety of patients being cared for in facilities or agencies as defined.

The board of health and welfare with the advice of the advisory hospital council, hereinafter created, shall adopt, amend, promulgate and enforce such rules, regulations and standards with respect to all hospitals or different types of hospitals to be licensed hereunder as may be designed to further the accomplishment of the purposes of this law in promoting safe and adequate treatment of individuals in hospitals in the interest of public health, safety, and welfare. Provided that nothing in this act or the rules and regulations adopted pursuant thereto shall be construed as authorizing the supervision, regulation, or control of the remedial care or treatment of residents or patients in any home, facility or agency as defined, conducted for those who rely upon treatment by prayer or spiritual means in accordance with the creed or tenets of any well-recognized church or religious denomination except as to sanitary and safe conditions of the premises, cleanliness of operation and its physical equipment.

[39-1307, added 1947, ch. 133, sec. 7, p. 324; am. 1980, ch. 159, sec. 10, p. 338; am. 1980, ch. 325, sec. 5, p. 826.]

39-1307A. FOOD PURCHASING AND STORAGE. Rules, regulations and minimum standards adopted by the board governing skilled nursing facilities or intermediate care facilities may provide requirements for food purchasing and storage, except that no rule, regulation or minimum standard may limit the maximum size of a container in which milk for drinking purposes may be purchased.

[39-1307A, added 1988, ch. 330, sec. 1, p. 992.]

39-1307B. MINIMUM STAFFING REQUIREMENTS. The board shall make no rule designed to limit the work activities of any person regularly assigned to duty as nursing or auxiliary personnel preceding the assignment within the facility governed by the rules, regulations and minimum standards of the board.

[39-1307B, added 1988, ch. 330, sec. 2, p. 992.]

39-1308. EFFECTIVE DATE OF REGULATIONS. Any facility or agency as defined, which is in operation at the time of promulgation of any applicable rules or regulations or minimum standards under sections 39-1301--39-1314, Idaho Code, shall be given a reasonable time, not to exceed two (2) years from the date of such promulgation, within which to comply with such rules and regulations and minimum standards, except for those conditions which present an imminent hazard to the health and safety of patients housed therein.

[39-1308, added 1947, ch. 133, sec. 8, p. 324; am. 1980, ch. 159, sec. 11, p. 338.]

39-1309. INSPECTIONS AND CONSULTATIONS. The licensing agency shall make or cause to be made such inspections and investigations as it deems necessary. The licensing agency may prescribe by regulations that any licensee or applicant desiring to make specified types of alteration or addition to its facilities or to construct new facilities shall before commencing such alteration, addition or new construction, submit plans and specifications therefor to the licensing agency for preliminary inspection and approval or recommendations with respect to compliance with the regulations and standards herein authorized. Necessary conferences and consultations may be provided.

[39-1309, added 1947, ch. 133, sec. 9, p. 324.]

39-1310. INFORMATION. Information received by the licensing agency through filed reports, inspection, or as otherwise authorized under this law, which would identify individual residents or patients of facilities or agencies as defined shall be subject to disclosure according to chapter 1, title 74, Idaho Code, except in a proceeding involving the question of licensure. Public disclosure of information obtained by the licensing agency for the purposes of this act shall be governed by chapter 1, title 74, Idaho Code. Nothing in this act, however, shall be construed, nor shall any rule or regulation be promulgated under this section, as to impair, restrict or alter the confidentiality and privilege afforded the physician and patient communications, including without limitation, documentation thereof in records of facilities or agencies as defined, or communications to and with nurses or other assisting persons or entities, nor shall this act be construed to amend by implication such physician-patient communication privilege as provided elsewhere in this code, including without limitation section 9-203(4), Idaho Code, which shall remain inviolate.

[39-1310, added 1947, ch. 133, sec. 12, p. 324; am. 1975, ch. 133, sec. 1, p. 294; am. and redesig. 1980, ch. 159, sec. 13, p. 338; am. 1990, ch. 213, sec. 41, p. 514; am. 2015, ch. 141, sec. 87, p. 442.]

39-1312. PENALTY FOR OPERATING A FACILITY OR AGENCY WITHOUT LICENSE. Any person establishing, conducting, managing, or operating any facility or agency as defined, without a license under sections 39-1301--39-1314, Idaho Code, shall be guilty of a misdemeanor punishable by imprisonment in a county jail for a period of time not exceeding six (6) months, or by a fine not exceeding three hundred dollars (\$300), or by both, and each day of continuing violations shall constitute a separate offense.

In the event that the county attorney in the county where the alleged violation occurred fails or refuses to act within sixty (60) days of notification of the violation, the attorney general is authorized to prosecute violations under this act.

[(39-1312) 1947, ch. 133, sec. 15, p. 324; am. and redesignated 1980, ch. 159, sec. 15, p. 339.]

39-1313. INJUNCTION TO PREVENT OPERATION WITHOUT LICENSE. Notwithstanding the existence or pursuit of any other remedy, the licensing agency may in the manner provided by law maintain an action in the name of the state for injunction or other process against any person or governmental unit to restrain or prevent the establishment, conduct, management or operation of a facility or agency as defined, without a license under sections 39-1301--39-1314, Idaho Code.

The licensing agency shall be represented by the county prosecutor of the county in which the violation occurs or by the office of the attorney general.

[(39-1313) 1947, ch. 133, sec. 16, p. 324; am. and redesignated 1980, ch. 159, sec. 16, p. 339.]

39-1314. SEPARABILITY. If any provision of sections 39-1301--39-1314, Idaho Code, or the application thereof to any person or circumstance shall be held invalid, such invalidity shall not affect the provisions or application of this act which can be given effect without the invalid provision or application, and to this end the provisions of the act are declared to be severable.

[(39-1314) 1947, ch. 133, sec. 18, p. 324; am. and redesignated 1980, ch. 159, sec. 17, p. 339.]

39-1318. HOSPITAL BOARDS -- DUTY TO ACQUIRE, CONSTRUCT, IMPROVE AND MAINTAIN PUBLIC HOSPITALS AND MEDICAL CLINICS. The betterment and protection of the public health and care of the sick and afflicted are hereby declared to be the established and permanent policy of the state of Idaho, the duty is hereby imposed upon the hospital boards provided for by this act of acquiring, constructing, improving and maintaining public hospitals or medical clinics within their districts for the necessary care and treatment of persons requiring medical services.

[39-1318, added 1965, ch. 173, sec. 1, p. 340; am. 1976, ch. 132, sec. 1, p. 497.]

39-1319. DEFINITIONS. A "hospital district" is one to furnish general hospital services, and together with such hospital services, nursing home services, or medical clinic services to the general public and all other such services as may be necessary for the care of the injured, maimed, sick, disabled, convalescent or long-term care patients. As used in sections 39-1318 through 39-1357, Idaho Code, "medical clinic" means a place devoted primarily to the maintenance and operation of facilities for outpatient medical, surgical and emergency care of acute and chronic conditions or injury.

The word "board" as used in this act shall mean the board of trustees of the district. A "qualified elector" of a district within the meaning of and entitled to vote under this act, is a person qualified to vote at general elections in this state, and who has been a bona fide resident of the district for at least thirty (30) days prior to any election in the district. A "taxpayer" within the meaning of and as used in this act is a person or the husband or wife of a person whose name appears on the tax rolls of the county and is there assessed with unexempted real or personal property owned and subject to taxation within the boundaries of the district.

Whenever the term "publication" is used in this act and no manner specified therefor, it shall be taken to mean once a week for three (3) consecutive weeks in at least one (1) newspaper of general circulation in the district. It shall not be necessary that publication be made on the same day of the week in each of the three (3) weeks, but not less than fourteen (14) days (excluding the first day of publication), shall intervene between the first publication and the last publication, and publication shall be complete on the day of the last publication.

[39-1319, added 1965, ch. 173, sec. 2, p. 340; am. 1976, ch. 132, sec. 2, p. 497; am. 1990, ch. 354, sec. 1, p. 956; am. 1993, ch. 137, sec. 1, p. 337.]

39-1320. ORGANIZATION OF HOSPITAL DISTRICT -- PETITION -- CONTENTS -- FILING. The organization of a hospital district shall be initiated by a petition filed with the board of county commissioners of the county of [in] which the said district is situated. Said petition shall be signed by not less than ten per cent (10%) of the qualified electors and taxpayers of the proposed district. The equalized county assessment list last preceding the presentation of the petition for the organization of the hospital district shall be sufficient evidence of the title for the purpose of this act, but other evidence may be received.

The petition shall set forth:

(1) The name of the proposed district consisting of a chosen name preceding the words "hospital district".

(2) A general statement of the purpose of the formation of said district.

(3) A general description of the boundaries of the district or territory to be included therein with such certainty to enable a property owner to determine whether or not his property is within the district.

(4) A map showing the general boundaries of such district in relation to outstanding natural monuments and terraine features.

(5) A prayer for the organization of the district.

Similar petitions or duplicate copies of the same petition for the organization of the same district may be filed and shall together be regarded as one (1) petition. All petitions filed prior to the hearing on the first petition filed shall be considered by the board the same as though filed with the first petition placed on file.

Provided, however, that no such district shall be organized unless it shall appear that the boundaries of said district are wholly within the limits of a single county and that there shall be no unnatural extension of the boundaries of said district.

The petition together with all maps and other papers filed therewith shall at all proper hours be open to public inspection in the office of the clerk of the board of county commissioners between the date of their said filing and the date of an election to be held as hereinafter provided.

[39-1320, added 1965, ch. 173, sec. 3, p. 340.]

39-1321. JOINT DISTRICTS IN ONE OR MORE COUNTIES. A hospital district as provided in section 39-1320 may be organized where it appears that said district will be within the boundaries of one (1) or more counties, where all the other requirements provided in section 39-1320 have been met, and the county commissioners of each county in which such district will be formed shall affirmatively find that the public welfare of that portion of the county will be served by the inclusion thereof in such joint county district, that such district is not an unnatural extension of a service district for hospital services, and that the petition for such district has been signed by not less than 10% of the qualified electors and taxpayers of that portion of the proposed district lying within the county.

[39-1321, added 1965, ch. 173, sec. 4, p. 340.]

39-1322. NOTICE OF TIME OF HEARING ON PETITION -- ORDER FIXING BOUNDARIES -- APPEAL. When such petition is presented to the board of county commissioners and filed in the office of the clerk of such board, the said board shall set a time for a hearing upon such petition which shall not be less than four (4) nor more than six (6) weeks from the date of the presentation and filing of such petition. A notice of time of such hearing shall be published by said board once each week for three (3) successive weeks previous to the time set for such hearing in a newspaper published within the county in which said district is situated. Said notice shall state that a hospital district is proposed to be organized giving the proposed boundaries thereof and that any taxpayer within the proposed boundaries of such proposed district may on the date fixed for such hearing appear and offer any objection to the organization of such district, the proposed boundaries thereof or the including or excluding of any real property, therein or therefrom. After hearing and considering any and all objections, if any such be interposed, the county commissioners shall thereupon make an order, either denying such petition or granting the same, with or without modification, and shall accordingly fix the boundaries of such proposed district in any order granting such petition. The boundaries so fixed shall be the boundaries of said district after its organization be completed as provided in this act, and a map showing the boundaries of such proposed district, as finally fixed and determined by the board of county commissioners, shall be prepared and filed in the office of the clerk of said board. Any person aggrieved by said order, or any taxpayer within said proposed district may take an appeal from said order establishing the boundaries of said district, in the manner provided by sections 31-1509, 31-1510, 31-1511, and 31-1512, Idaho Code, on questions of both law and fact.

[39-1322, added 1965, ch. 173, sec. 5, p. 340.]

39-1323. ELECTION IN PROPOSED DISTRICT -- NOTICE -- QUALIFICATIONS OF VOTERS. Such petition may be filed with the clerk of the board of county commissioners at any time, and on such filing and after the county commissioners have made an order finally fixing and determining the boundaries of the proposed district, and have made and entered an order calling an election to be held, subject to the provisions of section 34-106, Idaho Code, in said district, said clerk shall cause to be published a notice of an election to be held in such proposed district for the purpose of determining whether or not the same shall be organized under the provisions of this act. Provided, however, if an appeal is taken from such order establishing the boundaries, such election shall not be held until after the determination of such appeal. Such notice shall plainly and clearly designate the boundaries in or the boundaries of said districts, and shall state the name of the proposed districts as designated in the petition.

Such notice shall be published once not less than twelve (12) days prior to the election, and a second time not less than five (5) days prior to such election in a newspaper published within the county as aforesaid. At such election the voters shall vote for or against the organization of the district. No person shall be entitled to vote at any election held under the provisions of this chapter unless he or she shall possess all the qualifications required of electors under the general laws of the state and be a resident of the proposed district.

[39-1323, added 1965, ch. 173, sec. 6, p. 340; am. 1995, ch. 118, sec. 48, p. 467.]

39-1324. ELECTION -- MANNER OF CONDUCTING. Such election shall be held and conducted in accordance with the general election laws of the state, including the provisions of chapter 14, title 34, Idaho Code.

The board of county commissioners shall establish as many election precincts within such proposed district as may be necessary, and define the boundaries thereof. The county clerk shall appoint judges of election, one (1) of whom shall act as clerk for each such election precinct who shall perform the same duties as judges of election under the general laws of the state, and the result of such election shall be certified, canvassed and declared by the board of county commissioners. The reasonable compensation of said judges and clerks of election, and the expenses of publication of notices, printing of ballots and furnishing of supplies for the election shall be paid by the petitioners, and to this end the board of county commissioners are empowered to require the deposit of all estimated costs in advance of such election.

[39-1324, added 1965, ch. 173, sec. 7, p. 340; am. 1995, ch. 118, sec. 49, p. 468; am. 2009, ch. 341, sec. 65, p. 1035.]

39-1325. ELECTION RESULTS -- CANVASS AND CERTIFICATION -- ORDER ESTABLISHING DISTRICT. Immediately after any election for voting upon the organization of a hospital district, the judges of said election shall certify the official results of said election to the clerk of said board of commissioners. The said board of commissioners shall, at its next regular meeting, proceed to canvass the votes cast at such election, and if upon such canvass it shall appear that one half (1/2) or more of the votes cast at such election are ". . . . hospital district, no.", then a record of that fact shall be duly entered upon the minutes of said board, and all proceedings in regard to the organization of said district shall be void. If it shall appear, upon such canvass, that more than one half (1/2) of the votes cast at such election are ". . . . hospital district, yes.", the said board shall by order entered on its minutes, declare such territory duly organized as a hospital district under the name designated in the petition.

If an order be entered establishing the district, such order shall be deemed final and no appeal or writ of error shall lie therefrom, and the entry of such order shall finally and exclusively establish the regular organization of the said district against all persons, except the state of Idaho in an action in the nature of a writ of quo warranto commenced by the attorney general within thirty (30) days after the date of said order declaring such district organized, as herein provided, and not otherwise. The organization of said district shall not be directly or collaterally questioned in any suit, action or proceeding except as herein expressly authorized.

Said board shall cause one (1) copy of such order duly certified to be immediately filed for record in the office of the county recorder in the county in which such district is situated and shall transmit to the governor one (1) certified copy thereof.

From and after the date of such filing of said order of the board of county commissioners, declaring such territory duly organized as a hospital district, the organization of such district shall be completed, and thereupon the district shall be a governmental subdivision of the state of Idaho and a body corporate with all the powers of a public or quasi-municipal corporation.

[39-1325, added 1965, ch. 173, sec. 8, p. 340.]

39-1325A. PETITIONS FOR DISSOLUTION OF HOSPITAL DISTRICTS. (1) Proceedings for the dissolution of a hospital district may be initiated by a petition containing the signatures of qualified electors of the district or owners of property within the district equal in number to ten percent (10%) of the qualified electors and taxpayers of the district, the same percentage required for the organization of the district, but not earlier than four (4) years after the date of its establishment.

(2) The petition, when completed and verified, shall be filed with the clerk of the court of the county or counties if more than one (1) county is involved. The county clerk shall publish notice and the county commissioners shall hold a hearing on the matter. If necessary, they shall hold an election, subject to the provisions of section 34-106, Idaho Code, on the matter. The hearing and election shall be held in accordance with the terms and provisions of title 34, Idaho Code. The disposition of hospital district assets on dissolution and the provision for payment of district indebtedness shall be made in accordance with the provisions of sections 63-4105 and 63-4106, Idaho Code.

(3) If the hospital district embraces territory in more than one (1) county, an election for its dissolution shall be deemed approved only if a majority of the votes cast in each such county were cast in the affirmative. If, upon the canvass of ballots, it be determined that the proposition has been approved, the board of county commissioners of each county shall enter its order to that effect, subject to the provisions of section 39-1325C, Idaho Code, and the order shall by them be made a matter of record.

[(39-1325A) 39-1325a, added 1988, ch. 173, sec. 1, p. 303; am. 1993, ch. 137, sec. 2, p. 338; am. 1995, ch. 118, sec. 50, p. 468; am. and redesig. 2004, ch. 263, sec. 1, p. 742; am. 2009, ch. 341, sec. 66, p. 1036.]

39-1325B. NONFUNCTIONING DISTRICT. Any hospital district which fails or has ceased to function for two (2) or more years may be dissolved by the board or boards of county commissioners of the county or counties in which it is located. The county commissioners may initiate such action by resolution subject to the provisions of section 39-1325C, Idaho Code.

[39-1325B, added 2004, ch. 263, sec. 2, p. 743.]

39-1325C. EFFECT OF DISSOLUTION. (1) A dissolved hospital district continues its existence under the supervision of the board or boards of county commissioners of the county or counties in which the district is located, but may not carry on any business except that appropriate to wind up and liquidate its business and affairs, including the power to levy property taxes pursuant to the provisions of this chapter.

(2) The disposition of such property shall be governed by the provisions of section 63-4105, Idaho Code.

(3) Upon completion of winding up and liquidating the district's business and affairs, the commissioners shall enter a final order terminating the district and shall notify in writing the social security administrator at the Idaho state controller's office within ninety (90) days of the dissolution.

[39-1325C, added 2004, ch. 263, sec. 2, p. 743.]

39-1326. BOARD OF TRUSTEES OF DISTRICT -- QUALIFICATIONS OF MEMBERS. The board of trustees of such hospital district shall consist of seven

(7) residents of the district who shall be elected or appointed as herein provided. Immediately following the establishment of a hospital district, the commissioners in the county in which the same is established shall appoint the seven (7) members of the first board, three (3) members to act until the first biennial election, two (2) until the second biennial election, and two (2) until the third biennial election, all of whom shall serve until the election and qualification of their successors. Upon a unanimous vote, the board of trustees may also appoint not more than two (2) additional members to serve as trustees for the purpose of obtaining necessary and specialized skills as determined by the board of trustees to assist board deliberations and decision-making. Members who are appointed by the board shall serve for a term not to exceed six (6) years. Such appointed board members shall serve at the pleasure of the board and may be removed with or without cause by a majority vote of the elected members of the board. Appointed board members shall have the same duties, oaths and obligations as elected board members; provided however, that an appointed board member shall not be entitled to vote on any decision to levy a tax pursuant to this chapter.

No person shall be qualified to serve as a trustee of a district organized under the provisions of this chapter unless he or she shall be a resident of the hospital district and a qualified elector of the state of Idaho.

[39-1326, added 1965, ch. 173, sec. 9, p. 340; am. 1973, ch. 99, sec. 1, p. 168; am. 2016, ch. 287, sec. 1, p. 790.]

39-1327. OATHS AND BONDS OF BOARD MEMBERS. Whenever a district has been declared duly organized the members of the board shall qualify by filing with the clerk of the board of county commissioners their oaths of office, and corporate surety bonds at the expense of the district in an amount not to exceed one thousand dollars (\$1,000) each, the form thereof to be fixed and approved by the board of county commissioners conditioned for the faithful performance of their duties as trustees.

[39-1327, added 1965, ch. 173, sec. 10, p. 340.]

39-1328. ORGANIZATION OF BOARD -- SEAL -- DUTIES OF TREASURER -- COMPENSATION OF MEMBERS -- FINANCIAL STATEMENT. After taking oath and filing bonds, the board shall choose one (1) of its members as chairman of the board and president of the district, and shall elect a secretary and treasurer of the board and of the district who may or may not be members of the board. The secretary and treasurer may be one (1) person. Such board shall adopt a seal and the secretary shall keep in a well bound book a record of all its proceedings, minutes of all meetings, certificates, contracts, bonds given by employees and all corporate acts which shall be open to inspection by all owners of real property in the district as well as to all other interested parties.

The treasurer shall keep strict and accurate accounts of all moneys received by and disbursed for and on behalf of the district in permanent records. He shall file with the board of trustees of the district, at the expense of the district, a corporate fidelity bond in an amount to be fixed by the board of trustees, in any case not less than ten thousand dollars (\$10,000), conditioned on the faithful performance of the duties of his office.

Each member of the board may receive as compensation for his services, a sum not in excess of six hundred dollars (\$600) per annum, payable monthly. Such annual sum shall be fixed by the board, by resolution adopted by major-

ity vote, at a regular monthly meeting in advance of the fiscal year in which it is to become effective. In addition, each member of the board shall receive the amount of his actual and necessary expenses incurred in the performance of his official duties as authorized by the board of trustees. No member of the board shall receive any compensation as an employee of the district or otherwise, other than that herein provided, and no member of the board shall be interested in any contract or transaction with the district except in his official representative capacity.

It shall be the duty of the board of trustees to cause an audit to be made of all financial affairs of the district during each fiscal year which audit shall be made within one hundred twenty (120) days following the end of the fiscal year. A financial statement shall be certified by the person making such audit, which shall be published in the newspaper of general circulation in the district in one (1) issue not more than thirty (30) days following the audit; such audit shall be made by registered accountant or certified public accountant, who is not otherwise employed by the district.

The court having jurisdiction of the district shall have the power to remove directors for cause shown on petition, notice and hearing.

[39-1328, added 1965, ch. 173, sec. 11, p. 340; am. 1977, ch. 101, sec. 1, p. 215; am. 1981, ch. 100, sec. 1, p. 147.]

39-1329. MEETINGS -- QUORUM -- VACANCIES. The board shall meet regularly once each month at a time and place to be designated by the board. Special meetings may be held as often as the needs of the district require on notice to each member of the board. A majority of the members of the board shall constitute a quorum at any meeting. Any vacancy of an elected member on the board shall be filled by the remaining members or member of the board, the appointee to act until the next biennial election, when the vacancy shall be filled by election. If the board shall fail, neglect or refuse to fill any vacancy within thirty (30) days after the same occurs, the board of county commissioners of the county in which said district is situated shall fill such vacancy. In the case of a vacancy on the board of an appointed member, a majority of the board shall determine whether to fill the vacant position.

[39-1329, added 1965, ch. 173, sec. 12, p. 340; am. 2016, ch. 287, sec. 2, p. 791.]

39-1330. BIENNIAL ELECTION OF BOARD MEMBERS -- TERMS OF OFFICE. On the third Tuesday of May in the next odd-numbered calendar year after the organization of any district, and on the third Tuesday of May every second year thereafter, an election shall be held which shall be known as the biennial election of the district.

At the first biennial election in any district hereafter organized and each sixth year thereafter there shall be elected by the qualified electors of the district three (3) members of the board to serve for a term of six (6) years; at the second biennial election and each sixth year thereafter there shall be elected two (2) members of the board to serve for a term of six (6) years; at the third biennial election and each sixth year thereafter there shall be elected two (2) members of the board to serve for terms of six (6) years.

The county clerk shall provide for holding such elections and shall appoint judges to conduct it; the county clerk shall give notice of election by publication and shall arrange such other details in connection therewith as the board may direct. The returns of the election shall be certified to and

shall be canvassed and declared by the board of county commissioners. The candidate or candidates according to the number of directors to be elected, receiving the most votes shall be elected. Any new member of the board shall qualify in the same manner as members of the first board qualify.

In any election for director, if after the deadline for filing a declaration of intent as a write-in candidate, it appears that only one (1) qualified candidate has been nominated for a director's position, it shall not be necessary for the candidate to stand for election, and the board of directors of the district shall declare such candidate elected as a director, and the secretary of the board of the district shall immediately make and deliver to such person a certificate of election.

For the purpose of achieving an orderly transition to a term of six (6) years and to hold trustee elections in odd-numbered years, the following schedule shall be followed:

(a) For trustees elected in 2005, their terms shall expire in 2011 and the terms for each of those elected in 2011 shall be six (6) years and thereafter those terms shall be for six (6) years;

(b) For trustees elected in 2006, their terms shall expire in 2013 and the terms for each of those elected in 2013 shall be six (6) years and thereafter those terms shall be for six (6) years;

(c) For trustees elected in 2007, their terms shall expire in 2013 and the terms for each of those elected in 2013 shall be six (6) years and thereafter those terms shall be for six (6) years;

(d) For trustees elected in 2008, their terms shall expire in 2015 and the terms for each of those elected in 2015 shall be six (6) years and thereafter those terms shall be for six (6) years;

(e) For trustees elected in 2009, their terms shall expire in 2015 and the terms for each of those elected in 2015 shall be six (6) years and thereafter those terms shall be for six (6) years;

(f) For trustees elected in 2010, their terms shall expire in 2017 and the terms for each of those elected in 2017 shall be six (6) years and thereafter those terms shall be for six (6) years.

[39-1330, added 1965, ch. 173, sec. 13, p. 340; am. 1995, ch. 118, sec. 51, p. 469; am. 1995, ch. 154, sec. 1, p. 631; am. 2009, ch. 341, sec. 67, p. 1036; am. 2011, ch. 11, sec. 22, p. 35.]

39-1331. POWERS AND DUTIES OF BOARD. For and on behalf of the district the board shall have the following powers:

a. To have and use a corporate seal.

b. To have perpetual existence.

c. To sue and be sued and be a party to suits, actions and proceedings.

d. To purchase, acquire, dispose of and encumber real and personal property and hold lands, buildings, and all types of property, make such contracts and purchases, acquire and hold such personal property as may be necessary or convenient for its purposes, provided, however, that before any real property of such district may be sold, notice thereof must be given by publication in a legal newspaper of general circulation in the county where such district is situated for three (3) consecutive weekly issues.

e. In addition to the other means providing revenue for such districts as herein provided, the board shall have the power and authority to levy and collect ad valorem taxes on and against all taxable property within the district, as hereinafter provided.

f. To borrow money and incur indebtedness and evidence the same by certificates, notes or debentures, and to issue bonds in accordance with the provisions of this act.

g. To refund any bonded indebtedness of the district without an election, provided, however, that the obligations of the district shall not be increased by any refund of bonded indebtedness. Otherwise the terms and conditions of refunding bonds shall be substantially the same as those of an original issue of bonds.

h. To have the management, control and supervision of all the business and affairs of the district, and the construction, installation, operation and maintenance of district improvements therein or therefor.

i. To hire and retain agents, employees, engineers and attorneys.

j. To have and exercise the power of eminent domain in manner provided by law for the condemnation of private property for public use; to take any property necessary to the exercise of the powers herein granted.

k. To adopt and amend by-laws not in conflict with the constitution and laws of the state for carrying on business, objects and affairs of the board and of the district.

l. To have and exercise all rights and powers necessary or incidental to, or implied from the specific powers granted herein, including the charging of reasonable rates for services rendered to patients of said hospital or medical clinic. Such specific powers shall not be considered as a limitation upon any power necessary or appropriate to carry out the purposes and intent of this act.

[39-1331, added 1965, ch. 173, sec. 14, p. 340; am. 1976, ch. 132, sec. 3, p. 498.]

39-1332. ANNUAL STATEMENT OF VALUATION OF TAXABLE PROPERTY. On or before the third Monday in July of each year the county auditor shall deliver to the secretary of each hospital district within the county a statement showing the aggregate valuation of all the taxable property in such district, and thereafter the district board shall levy the taxes herein provided for.

[39-1332, added 1965, ch. 173, sec. 15, p. 340; am. 2012, ch. 38, sec. 2, p. 115.]

39-1333. LEVY AND COLLECTION OF TAXES -- INITIAL FINANCING. To levy and collect taxes, as herein provided, the board shall, in each year, determine the amount of money necessary to be raised by taxation, taking into consideration other sources of revenue of the district, and shall fix a rate of levy, which when levied upon every dollar of assessed valuation of taxable property within the district, and with other revenues, will raise the amount required by the district annually to supply funds to pay for expenses of organization, purchase of necessary equipment, operation, maintenance and upkeep of the works and equipment of the district, provided, however, that said levy shall not exceed six hundredths percent (.06%) of market value for assessment purposes of all taxable property within the district for the purposes hereinbefore set forth, and provided further, that no levy shall be made in excess of four hundredths percent (.04%) of market value for assessment purposes for the purposes set forth in this section, unless the board of trustees of the district shall grant a public hearing, after notice of the time, place and purpose of said hearing has been published in a newspaper of general circulation in the district. Provided, that in the first year after organization, the board of a district may, for the purpose of organization,

to finance general preliminary expenses of the district or for any other purpose of the hospital district law, and before making a tax levy, incur an indebtedness not exceeding in the aggregate a sum equal to three tenths percent (.3%) of market value for assessment purposes of all real and personal property within the district. To repay any such organizational indebtedness incurred, on or after March 21, 1985, the board shall have authority to levy and collect an additional tax not to exceed one tenth percent (.1%) of market value for assessment purposes of all taxable property within the district. Such additional levy shall not be used for any purpose other than repayment of the organizational indebtedness and interest thereon. Such additional levy may be imposed until the organizational indebtedness and interest thereon is paid in full.

[39-1333, added 1965, ch. 173, sec. 16, p. 340; am. 1985, ch. 243, sec. 1, p. 574; am. 1988, ch. 177, sec. 1, p. 310; am. 1996, ch. 208, sec. 20, p. 676.]

39-1334. ADDITIONAL TAX LEVIES. (a) If it becomes necessary and expedient so to do, it shall be lawful for the board to levy additional taxes and collect revenue for the purpose of creating a reserve sinking fund for the purpose of accumulating moneys with which to add new buildings or necessary equipment, and to provide extensions of and betterments to the improvements of the district, and for such purposes may levy an additional tax not to exceed two hundredths of one percent (.02%) of the market value for assessment purposes on all taxable property in the district.

(b) If the board finds it necessary to maintain the solvency of a facility or facilities, the board is authorized to levy additional taxes and collect revenue in excess of the limitations prescribed by section 39-1333, Idaho Code, for the sole purpose of retiring current or past due obligations accruing where operating expenses for such a facility or facilities have exceeded all available sources of revenue in the fiscal year preceding the anticipated date of levy; provided, that any such additional levy shall be authorized only if approved by two-thirds (2/3) of the qualified electors of the district voting at an election called and conducted in the manner specified in sections 39-1339 through 39-1342, Idaho Code.

[39-1334, added 1965, ch. 173, sec. 17, p. 340; am. 1981, ch. 66, sec. 1, p. 96; am. 1995, ch. 82, sec. 16, p. 227; am. 1995, ch. 118, sec. 52, p. 470; am. 1996, ch. 322, sec. 35, p. 1064.]

39-1335. TAX LEVY TO PAY INTEREST ON BONDS AND OTHER OBLIGATIONS. In addition to the taxes hereinbefore provided for, the said board shall have the authority to levy and collect taxes as herein provided in each year sufficient to promptly pay in full, when due, all interest on the principal of bond and other obligations of the district authorized as provided by sections 39-1338 and 39-1339 of this act.

[39-1335, added 1965, ch. 173, sec. 18, p. 340.]

39-1336. MATURING INDEBTEDNESS A CONSIDERATION IN ANNUAL LEVIES. The board in certifying annual levies as herein provided, shall take into account maturing indebtedness for the ensuing year as provided in its contracts, maturing bonds, and interest on bonds and deficiencies and defaults of prior years, and shall make ample provision for the payment thereof.

[39-1336, added 1965, ch. 173, sec. 19, p. 340.]

39-1337. TAX RATE -- CERTIFICATION -- LEVY AND COLLECTION. The board shall, on or before the first day of September of each year, certify to the board of commissioners the rate so fixed with corrections that at the time and in the manner required by law for levying taxes for county purposes such board of county commissioners shall levy such taxes upon the assessed valuation of all taxable property within the district, in addition to such other taxes as may be levied by such board of county commissioners at the rate so fixed and determined. It shall be the duty of the body having authority to levy taxes within each county to levy the taxes provided in this act, and it shall be the duty of all officials charged with the duty of collecting taxes to collect such taxes at the time and in the manner and form and with like interest and penalties as other taxes are collected, and when collected, to pay the same to the district ordering its levy and collection, and the payment of such collection shall be made monthly to the treasurer of the district and paid into the depository thereof, to the credit of the district.

[39-1337, added 1965, ch. 173, sec. 20, p. 340; am. 1971, ch. 13, sec. 3, p. 24.]

39-1338. BOND ISSUES AUTHORIZED -- FORM AND TERMS. To carry out the purposes of this act and to pay the necessary expenses of the district, the board is hereby authorized to issue negotiable coupon bonds of the district. Bonds shall bear interest payable semiannually, and shall be due and payable serially either annually or semiannually, commencing not later than three (3) years from the date of issuance. The form and terms of said bonds, including provisions for their payment and redemption, shall be determined by the board. If the board so determines, such bonds may be redeemable prior to maturity, upon payment of a premium not exceeding three per cent (3%) of the net principal thereof. Said bonds shall be executed in the name of, and on behalf of, the district and signed by the chairman of the board with the seal of the district affixed thereto, and attested by the secretary of the board. Said bonds shall be in such denominations as the board shall determine, and the bonds and coupons thereto attached shall be payable to bearer. Interest coupons shall bear the original or facsimile signature of the chairman of the board. In all other respects, said bonds shall be issued, sold and paid in accordance with the provisions of chapter 2, title 57, Idaho Code, known as the "Municipal Bond Law" of the state of Idaho.

[39-1338, added 1965, ch. 173, sec. 21, p. 340; am. 1971, ch. 12, sec. 1, p. 23; am. 1981, ch. 55, sec. 1, p. 85.]

39-1339. CREATION OF INDEBTEDNESS FOR WORKS, IMPROVEMENTS OR EQUIPMENT -- ELECTION ON PROPOSED INDEBTEDNESS -- INDEBTEDNESS OR LIABILITY WITHOUT ELECTION. (1) Whenever the board of the hospital district shall by resolution determine that it is in the interest of said district and in the public interest or necessity to purchase, contract, lease or construct or otherwise acquire facilities, equipment, technology and real property for health care operations or make any contract with the United States or other persons or corporations, public or private, municipalities or governmental subdivisions to carry out the said public works, acquisitions, improvements, objects or purposes of said district requiring the creation of an indebtedness payable out of taxes of five hundred thousand dollars (\$500,000) or more, and in any event when the indebtedness will exceed the income and revenue provided for the year, the board shall order the submission of the proposition of issuing such obligations or bonds or creating other indebtedness payable

out of taxes to the qualified electors of the district at an election held, subject to the provisions of section 34-106, Idaho Code, for that purpose. The declaration of public interest or necessity, herein required, and the provision for the holding of such election may be included within one (1) and the same resolution, which resolution, in addition to such declaration of public interest or necessity shall recite the objects and purposes for which the indebtedness is proposed to be incurred, the estimated costs of the works, improvements, or medical or business equipment, as the case may be, the amount of principal of the indebtedness to be incurred therefor, and the maximum rate of interest to be paid on such indebtedness. Such resolutions shall also fix the date upon which such election shall be held, and the manner of holding the same in accordance with the provisions of title 34, Idaho Code, and the method of voting for or against the incurring of the proposed indebtedness; such resolution shall designate the polling place or places and the county clerk shall appoint judges, provided, however, that no district shall issue or have outstanding its coupon bonds in excess of two percent (2%) of the market value for assessment purposes of the real and personal property within the said district, according to the assessment of the year preceding any such issuance of such evidence of indebtedness for any or all of the propositions specified in this election, provided, however, that such bonds shall not be issued, nor shall any indebtedness be incurred, at any time that there shall be a bond issue outstanding and unpaid for the construction, acquisition or maintenance of a county hospital in the county in which such district is organized.

(2) No election shall be required for any lease or other transaction entered into between the hospital district and the Idaho health facilities authority. Notwithstanding any other provision, the hospital district shall be entitled to enter into a lease or other transaction regardless of the amount involved with the Idaho health facilities authority upon determination by the board of the hospital district that it is in the interest of the hospital district and best interests of the public to enter into such lease or other transaction.

(3) Notwithstanding subsection (1) or (2) of this section and provided that no property tax revenues shall be used for payment of indebtedness authorized by this subsection, district hospitals, ancillary to their operations and in furtherance of health care needs in their service areas, may incur indebtedness or liability without an election to purchase, contract, lease or construct or otherwise acquire facilities, equipment, technology and real property for health care operations.

[39-1339, added 1965, ch. 173, sec. 22, p. 340; am. 1971, ch. 25, sec. 4, p. 61; am. 1976, ch. 132, sec. 4, p. 499; am. 1977, ch. 60, sec. 1, p. 115; am. 1980, ch. 350, sec. 17, p. 903; am. 1983, ch. 133, sec. 1, p. 329; am. 1990, ch. 354, sec. 2, p. 957; am. 1991, ch. 73, sec. 1, p. 176; am. 1995, ch. 118, sec. 53, p. 470; am. 2009, ch. 341, sec. 68, p. 1037; am. 2011, ch. 185, sec. 1, p. 535.]

39-1340. NOTICES OF ELECTION ON PROPOSED INDEBTEDNESS. When such election is ordered to be held, subject to the provisions of section 34-106, Idaho Code, the board shall direct the county clerk as provided in section 34-1406, Idaho Code, to give notice by publication once not less than twelve (12) days prior to the election and a second time not less than five (5) days prior to the election published in one (1) or more newspapers within the district, if a newspaper is published therein. Said notices shall recite

the action of the board in deciding to bond the district, the purpose thereof and the amount of the bonds supposed to be issued, the estimated costs of the works or improvements as the case may be, the amount of principal of the indebtedness to be incurred therefor, and the maximum rate of interest to be paid on such indebtedness, and shall also specify the date of the election and the time during which the polls shall be open. Notices shall also list the polling places.

[39-1340, added 1965, ch. 173, sec. 23, p. 340; am. 1995, ch. 118, sec. 54, p. 472; am. 2009, ch. 341, sec. 69, p. 1038.]

39-1341. CONDUCT OF ELECTION FOR PROPOSED INDEBTEDNESS. The county clerk shall conduct the election in a manner prescribed by law in title 34, Idaho Code. The returns thereof shall be canvassed and the results thereof shall be declared by the board of county commissioners.

[39-1341, added 1965, ch. 173, sec. 24, p. 340; am. 2009, ch. 341, sec. 70, p. 1038.]

39-1342. INDEBTEDNESS INCURRED UPON FAVORABLE VOTE -- RESUBMISSION OF PROPOSITION NOT RECEIVED FAVORABLY. In the event that it shall appear from said returns that two-thirds (2/3) of the qualified electors of the district voting at such election shall have voted in favor of such proposition or any proposition submitted hereunder at such election, the district shall thereupon be authorized to incur such indebtedness or obligations, enter into such contract or issue and sell bonds of the district, as the case may be, all for the purpose or purposes, and object or objects provided for in the propositions submitted hereunder and in the resolution therefor and in the amount so provided at a rate of interest not exceeding the rate of interest recited in such resolution. The submission of the proposition of incurring such obligation or bonded or other indebtedness at such an election shall not prevent or prohibit submission of the same, or other propositions, at subsequent election or elections called for such purpose at any time, held subject to the provisions of section 34-106, Idaho Code.

[39-1342, added 1965, ch. 173, sec. 25, p. 340; am. 1971, ch. 25, sec. 5, p. 61; am. 1995, ch. 118, sec. 55, p. 472.]

39-1343. OFFICIALS AND SURETIES LIABLE ON BOND. All county officers entrusted with the assessment, collection, paying over or custody of taxes of any hospital district within the county, and their sureties, shall be liable upon their official bonds for the faithful performance of their duties in the assessment, collection and safe keeping of such hospital district taxes.

[39-1343, added 1965, ch. 173, sec. 26, p. 340.]

39-1344. TAXES LEVIED A LIEN -- COLLECTION. All taxes levied by hospital districts, shall become a lien upon the property so assessed from the date of such assessment, and shall be due and payable at the time state and county taxes are due and payable and in all respects are to be collected in the same way, except that the assessor must keep a separate list or assessment roll therefor.

[39-1344, added 1965, ch. 173, sec. 27, p. 340.]

39-1345. DUE AND DELINQUENT DATES OF TAXES ASSESSED. All hospital district taxes levied and assessed under the provisions of this act shall become due and delinquent and shall attach to and become a lien on the real property

assessed at the same time as state and county taxes. All the provisions of the Idaho Code governing and assessing and collecting state and county taxes are hereby made applicable to the assessment and collection of said hospital district taxes wherever the same are not inconsistent with the provisions of this act.

[39-1345, added 1965, ch. 173, sec. 28, p. 340.]

39-1346. TREASURER OF HOSPITAL DISTRICT -- DUTIES. It is hereby made the duty of the treasurer of the hospital district to keep account with such district, to place to the credit of such district all moneys received by him from the collector of taxes, or from any other officer charged with the collection of taxes as the proceeds of taxes levied by the hospital board or from any other sources and of all other moneys belonging to such district and to pay over all moneys belonging to the district by legally drawn warrants or orders of the district officer entitled to draw the same.

[39-1346, added 1965, ch. 173, sec. 29, p. 340.]

39-1346B. TREASURER OF HOSPITAL -- INVESTMENT LIMITATIONS. It shall be the duty of the treasurer of a hospital district to invest idle moneys of such hospital. Such investment of idle moneys shall be limited to investments that carry an A rating or better by a commonly known rating service and that are authorized by the legislature for the state treasurer pursuant to sections 67-1210 and 67-1210A, Idaho Code.

[39-1346B, added 2015, ch. 206, sec. 1, p. 634.]

39-1347. WARRANTS AND DRAFTS -- PAYMENT. The secretary shall countersign all drafts and warrants on the district treasury, and no payment of district funds shall be made except on draft or warrant countersigned by him. He shall not countersign any such draft or warrant until he has found that payment has been legally authorized; that the money therefor has been duly appropriated and that such appropriation has not been exhausted.

Such warrants shall be drawn by, and countersigned upon the order of the president of the hospital board, or, in his absence, the other member of the board; but no drafts or warrants shall be drawn, except upon the appropriation of the board, nor in excess of the moneys actually in the district treasury; except that warrants may be issued in anticipation of the collection of taxes, but not in excess of seventy-five per cent (75%) of the amount of the levy therefor, nor shall any warrants be issued nor indebtedness incurred in anticipation of such levy.

When a warrant is presented for payment, if there is money in the treasury for the purpose, the treasurer must pay the same and write on the face thereof, "paid", the date of payment and sign his name thereto.

[39-1347, added 1965, ch. 173, sec. 30, p. 340.]

39-1348. WARRANTS -- INABILITY TO PAY -- INDORSEMENT. When any warrant is presented to the district treasurer for payment, and the same is not paid for want of funds, the treasurer must endorse on the back of said warrant, "not paid for want of funds," and shall write thereon the day of presentation and sign his name thereto, and warrants so endorsed by the treasurer shall draw interest at a rate established by the board of the hospital district from the date of endorsement until paid.

[39-1348, added 1965, ch. 173, sec. 31, p. 340; am. 1980, ch. 61, sec. 6, p. 121.]

39-1349. BULLETIN BOARD -- NOTICES POSTED FOR PRESENTATION OF DISTRICT WARRANTS. The district treasurer shall provide himself, at the expense of the district, with a bulletin board, across the top of which shall be printed or inscribed the words "... hospital district warrant bulletin." It shall be the duty of the treasurer to keep such bulletin board conspicuously, securely and permanently in place in his office, and thereupon to place in a manner which will insure continuous notice of not less than sixty (60) days, all notices issued by him, whether written or printed, calling for the presentation of district warrants for payment.

[39-1349, added 1965, ch. 173, sec. 32, p. 340.]

39-1350. NOTICE WARRANTS WILL BE PAID ON PRESENTATION. Whenever there is an amount to the credit of the district fund, as shown by the books of the treasurer, sufficient to pay the warrant or warrants next entitled to payment therefrom, the treasurer shall immediately place in his office, as provided in the preceding section, a notice that such warrant or warrants will be paid on presentation, stating therein the number and series of any such warrants; and the treasurer shall thereupon send, by mail, to the record holder of such warrant, in case such holder shall have left with the treasurer his address for that purpose, notice that such warrant will be paid on presentation.

[39-1350, added 1965, ch. 173, sec. 33, p. 340.]

39-1351. INTEREST ON WARRANTS -- CESSATION THIRTY DAYS FROM POSTING NOTICE. Interest on any warrant shall cease on the expiration of thirty (30) days from the time of posting of the notice provided for in the last preceding section; and for all sums which may be paid by the treasurer, as interest on any warrant or warrants, after the expiration of thirty (30) days from the earliest date at which there were sufficient funds with which to have called and paid the same, such treasurer and his sureties shall be liable upon his official bond.

[39-1351, added 1965, ch. 173, sec. 34, p. 340.]

39-1352. NOTATION OF INTEREST AMOUNT ON WARRANT. When the treasurer pays any warrant on which any interest is due, he must note on the warrant the amount of interest paid thereon and enter on his account the amount of such interest distinct from the principal.

[39-1352, added 1965, ch. 173, sec. 35, p. 340.]

39-1353. POWER TO ISSUE AND SELL TAX ANTICIPATION NOTES OR BONDS. Hospital districts created and existing under this chapter shall have the further power to issue and sell tax anticipation notes or bonds in the manner, and for the purposes and to the extent authorized by chapter 31 of title 63 of Idaho Code.

[39-1353, added 1965, ch. 173, sec. 36, p. 340.]

39-1353a. PRACTICE OF MEDICINE NOT AUTHORIZED. Anything to the contrary hereinabove notwithstanding, this act shall not be construed to permit or authorize any hospital district or hospital therein in the state of Idaho directly or indirectly to engage in the practice of medicine as defined in chapter 18, title 54, Idaho Code, which privilege is reserved exclusively to persons licensed for that purpose pursuant to chapter 18, title 54, Idaho Code.

[I.C., sec. 39-1353a, as added by 1976, ch. 132, sec. 5, p. 500.]

39-1354. ANNEXATION OF TERRITORY NOT HAVING A TAX SUPPORTED HOSPITAL -- PETITIONS AND SIGNATURES -- ELECTION. (1) Any area contiguous to a hospital district which does not support another tax supported hospital may become annexed to the district by petition and election.

(2) A petition for annexation shall comply with the requirements of section 39-1320, Idaho Code, in the area seeking to become annexed to the hospital district. A true copy of the petition shall be transmitted to the board of trustees of the district, and to the board of county commissioners in each county affected. The board of trustees of the hospital district may approve or disapprove such petition, and shall give notice of its decision to the board of county commissioners in each county affected.

(3) When it has received notice of approval of the board of trustees of the district, the board of county commissioners in the county or counties in which the petition arose shall enter its order calling for an election on the question. The election shall be held in the area proposed to be annexed. Notice of the election shall be given, the election shall be conducted, and the returns thereof canvassed as provided in sections 39-1323, 39-1324 and 39-1325, Idaho Code. The ballot shall bear the question: "Shall become part of the hospital district Yes" and "Shall become part of the hospital district No" each followed by a box in which the voter may express his choice by marking a cross. The proposal shall be deemed approved only if the majority of the votes cast is in the affirmative.

(4) If the proposal has been approved at the election, the board of county commissioners in each county in which the district is located following annexation shall enter its order amending the boundaries of the district, and a copy shall be transmitted to the board of trustees of the hospital district. Annexation shall be effective as of the date of the last such order entered.

(5) Such other notices as may be required by law shall be filed by the board of trustees of the hospital district with the state tax commission within ten (10) days of the effective date of the change, including a legal description and map of the altered boundaries.

(6) Addition of new territory to an existing hospital district shall not be considered an initial establishment. The existing board of trustees shall continue to serve for the term for which elected. When a vacancy occurs, appointment shall be made as provided in section 39-1326, Idaho Code.

[39-1354, added 1993, ch. 137, sec. 3, p. 339.]

39-1355. EXISTING TAX SUPPORTED HOSPITALS MAY CONSOLIDATE. The ownership and operation of any municipal, city/county, county, district, or tax supported community hospital or medical clinic may be consolidated with an established hospital district by majority vote of the qualified electors of the established hospital district and of the political subdivision having jurisdiction over such other tax supported hospital according to procedure set forth in section 39-1354, Idaho Code. A true copy of the petition and the established hospital district board's notice of approval or disapproval shall be sent to the governing body of the political subdivision having jurisdiction over a petitioning hospital. A true copy of that petition shall, at the same time, be sent to the governing body of the nonpetitioning hospital. When the notice carries the approval of the boards, or other governing bodies of both hospitals, that governing body shall conduct the election

and give notice of the results to the hospital district board and the relevant boards of county commissioners as provided in section 39-1354, Idaho Code. As a result of any such consolidation, the boundaries of the hospital district remaining after consolidation shall be expanded to include the political subdivision which previously had jurisdiction over the consolidated hospital or medical clinic.

[39-1355, added 1993, ch. 137, sec. 4, p. 339.]

39-1356. EQUALIZATION OF LEVY BETWEEN CONSOLIDATING HOSPITALS. (1) When two (2) districts' hospitals or medical clinics have agreed to consolidate, the tax levies of the two (2) hospitals will be equalized in the following manner: the certified budget figures from ad valorem taxes of the district will be added together. The resulting figure will provide the base budget amount for the new consolidated district. In any such consolidation, the existing bonded debt of any district or districts shall not become the obligation of the proposed consolidated hospital district. The debt shall remain an obligation of the property which incurred the indebtedness.

[39-1356, added 1993, ch. 137, sec. 5, p. 340.]

39-1357. ADJUSTMENT OF BOUNDARY LINES OR CONSOLIDATION OF HOSPITAL DISTRICTS. When there are two (2) or more hospital districts, which have at least one (1) common boundary, the boards of trustees of the hospital districts, meeting together, may determine that it is in the best interest of the qualified electors and prospective hospital patients that the boundary lines be adjusted or that the districts be consolidated, as herein provided.

The boards of trustees shall jointly prepare a petition describing the boundaries of the existing hospital districts, the names of the existing hospital districts, and praying for the reorganization of the territory therein described as one (1) or more hospital districts to be known as the "... hospital district or districts" and with boundaries as set forth in the petition.

The petition shall be signed by the chairpersons of the hospital boards upon majority approval of the respective boards involved in the boundary adjustment or consolidation.

The petition shall be forwarded to the clerk of the board of county commissioners in each of the counties affected who shall verify the signatures, and shall file the petition. Thereupon, the board of county commissioners in each of the counties affected shall proceed with the hearing and resolution as outlined in sections 39-1320, 39-1321 and 39-1322, Idaho Code, and an election in the manner required for the establishment of a hospital district.

In the order granting the petition and adjusting the boundaries or establishing consolidation, the board of county commissioners in all counties affected shall certify the new boundaries and the name of the district or districts.

A copy of the order shall be transmitted to the board of trustees of the hospital districts involved.

Such other notices as may be required by law shall be filed by the board of trustees of the district, including a legal description and map of altered boundaries to be filed with the state tax commission within ten (10) days of the effective date of the change.

Following boundary adjustment, the board of county commissioners within five (5) days shall take action to reaffirm members of the board of

trustees, or to appoint members of the board or boards, who shall be chosen from the members of the boards initiating the boundary adjustment to the extent possible. These trustees shall serve until the next annual election of trustees or until their successors are elected and qualified as provided in section 39-1326, Idaho Code. The board or boards of trustees shall be sworn by a member of the board of county commissioners.

Following a consolidation, the board of county commissioners within five (5) days shall appoint the members of the first board of trustees, who shall be chosen from the members of the boards of the consolidated districts and who shall serve until the next annual election of trustees or until their successors are elected and qualified. The board shall be sworn by a member of the board of county commissioners.

[39-1357, added 1993, ch. 137, sec. 6, p. 340.]

39-1390. REPORTS TO LAW ENFORCEMENT AGENCIES OF CERTAIN TYPES OF INJURIES. (1) As soon as treatment permits, any person operating a hospital or other medical treatment facility, or any physician, resident on a hospital staff, intern, physician assistant, nurse or emergency medical technician shall notify the local law enforcement agency of that jurisdiction upon the treatment of or request for treatment of a person when the reporting person has reason to believe that the person treated or requesting treatment has received:

- (a) Any injury inflicted by means of a firearm; or
- (b) Any injury indicating that the person may be a victim of a criminal offense.

(2) The report provided to the law enforcement agency pursuant to subsection (1) of this section shall include the name and address of the injured person, the character and extent of the person's injuries, and the medical basis for making the report.

(3) Any person operating a medical facility, or any physician, resident on a hospital staff, intern, physician assistant, nurse or emergency medical technician shall be held harmless from any civil liability for his reasonable compliance with the provisions of this section.

[39-1390, added 1991, ch. 167, sec. 1, p. 407; am. 1995, ch. 169, sec. 1, p. 652.]

39-1391. EMERGENCY TREATMENT WITHOUT ADMISSION -- LIABILITY. Any hospital licensed in this state may provide to any person appearing or represented to be seriously sick or injured, without admission of such person to the hospital and without the immediate presence of a licensed physician and surgeon, such emergency treatment and care or, if such hospital does not maintain and operate an emergency department, such first aid services and care as may be indicated, considering the facilities and personnel available. Neither any hospital nor its agents or employees providing such services, pursuant to standby orders duly promulgated by the medical staff of said hospital, shall be deemed, by so doing, to be engaged in the practice of medicine, nor shall any such hospital, its agents or employees, or any physician be held liable in any civil action arising out of the furnishing of such services and care, in the absence of gross negligence under the existing circumstances.

[39-1391, added 1973, ch. 82, sec. 1, p. 130.]

39-1391a. EMERGENCY TREATMENT NOT TO CONSTITUTE ADMISSION. The furnishing of emergency or first aid services and care as permitted by section 39-1391 shall not in and of itself constitute admission to such hospital of the person receiving such services and care, nor shall such hospital, its employees, or any physician be subject to civil suit for abandonment or failure to provide care if, upon examination by a licensed physician and surgeon, it is determined by such physician, in the good faith exercise of his professional judgment, that the admission of any person receiving or presented for such services and care is not advisable or required.

[39-1391a, added 1973, ch. 82, sec. 2, p. 130.]

39-1391b. EMERGENCY TREATMENT BY HOSPITAL NOT REQUIRED -- DISCRIMINATION PROHIBITED. Nothing in this act shall be deemed to require any hospital to provide facilities or personnel for the furnishing of such emergency or first aid services and care or to furnish such services and care, without admission by a licensed physician and surgeon, to any person who may request the same; provided, however, that emergency or first aid services and care shall not be refused to any person by reason of race, creed, national origin or financial ability to pay therefor.

[39-1391b, added 1973, ch. 82, sec. 3, p. 130.]

39-1391c. IMMUNITY FROM CIVIL LIABILITY. Any licensed physician and surgeon shall be conclusively presumed to be qualified to undertake and to furnish any emergency medical or surgical care and treatment, regardless of the specialty training or skills which might otherwise be preferred for care and treatment of the particular patient, whenever, in the good faith judgment of such physician and surgeon, the condition and best interests of the patient require such physician and surgeon to undertake such care and treatment, and, in the absence of gross negligence under the existing circumstances, no physician so proceeding nor any hospital where such care and treatment is provided shall be held liable in any civil action arising out of the furnishing of such emergency care and treatment.

Nothing in this act shall be deemed to require any physician to undertake to or to furnish medical care and treatment, whether on an emergency basis or otherwise, to any person requesting or presented for such care and treatment, nor shall any such physician be held liable in any civil action by reason of his refraining from the furnishing of such care and treatment or referring the same to a specialist or other physician believed by him to be more uniquely or appropriately experienced and qualified. Neither shall any physician responding to any request for emergency care be held liable in any civil action by reason of failure to so respond with any greater promptness than may be reasonably required or expected, under the existing circumstances, of physicians and surgeons practicing in the particular community where such care and treatment is to be furnished.

[39-1391c, added 1973, ch. 82, sec. 4, p. 130.]

39-1392. STATEMENT OF POLICY. To encourage research, discipline and medical study by certain health care organizations for the purposes of reducing morbidity and mortality, enforcing and improving the standards of medical practice in the state of Idaho, certain records of such health care organizations shall be confidential and privileged as set forth in this chapter.

[39-1392, added 1973, ch. 265, sec. 1, p. 545; am. 1997, ch. 171, sec. 1, p. 486.]

39-1392a. DEFINITIONS. The following terms shall have the following meanings when used in this section:

(1) "Emergency medical services personnel" means emergency medical services providers certified by the department of health and welfare pursuant to section 56-1011 et seq., Idaho Code, and ambulance-based clinicians as defined in the rules governing emergency medical services as promulgated by the department of health and welfare.

(2) "Group medical practice" means a partnership, corporation, limited liability company, or other association formed for the purpose of offering health care services through physicians and other licensed or otherwise authorized health care providers who are partners, shareholders, members, employees, or contractors of such group medical practice.

(3) "Health care organization" means a hospital, in-hospital medical staff committee, medical society, managed care organization, licensed emergency medical service, group medical practice, residential care facility or skilled nursing facility.

(4) "Hospital" means a facility in Idaho licensed under sections 39-1301 through 39-1314, Idaho Code, and defined in section 39-1301(a)(1), Idaho Code.

(5) "In-hospital medical staff committees" means any individual doctor who is a hospital staff member, or any hospital employee, or any group of such doctors and/or hospital employees, who are duly designated a committee by hospital staff bylaws, by action of an organized hospital staff, or by action of the board of directors of a hospital, and which committee is authorized by said bylaws, staff or board of directors, to conduct research or study of hospital patient cases, or of medical questions or problems using data and information from hospital patient cases.

(6) "Licensed emergency medical service" means an ambulance service or a nontransport service licensed by the department of health and welfare pursuant to section 56-1011 et seq., Idaho Code.

(7) "Managed care organization" means a public or private person or organization which offers a managed care plan.

(8) "Managed care plan" means a contract of coverage given to an individual, family or group of covered individuals pursuant to which a member is entitled to receive a defined set of health care benefits through an organized system of health care providers in exchange for defined consideration and which requires the member to use, or creates financial incentives for the member to use, health care providers owned, managed, employed by or under contract with the managed care organization.

(9) "Medical society" means any duly constituted, authorized and recognized professional society or entity made up of physicians licensed to practice medicine in Idaho, having as its purpose the maintenance of high quality in the standards of health care provided in Idaho or any region or segment of the state, operating with the approval of the Idaho state board of medicine, or any official committee appointed by the Idaho state board of medicine.

(10) "Patient care records" means written or otherwise recorded, preserved and maintained records of the medical or surgical diagnostic, clinical, or therapeutic care of any patient treated by or under the direction of licensed professional personnel, including emergency medical services per-

sonnel, in every health care organization subject to this act, whether as an inpatient or outpatient of the health care organization.

(11) "Peer review" means the collection, interpretation and analysis of data by a health care organization for the purpose of bettering the system of delivery of health care or to improve the provision of health care or to otherwise reduce patient morbidity and mortality and improve the quality of patient care. Peer review activities by a health care organization include, without limitation:

(a) Credentialing, privileging or affiliating of health care providers as members of, or providers for, a health care organization;

(b) Quality assurance and improvement, patient safety investigations and analysis, patient adverse outcome reviews, and root-cause analysis and investigation activities by a health care organization; and

(c) Professional review action, meaning an action or recommendation of a health care organization which is taken or made in the conduct of peer review, that is based on the competence or professional conduct of an individual physician or emergency medical services personnel where such conduct adversely affects or could adversely affect the health or welfare of a patient or the physician's privileges, employment or membership in the health care organization or in the case of emergency medical services personnel, the emergency medical services personnel's scope of practice, employment or membership in the health care organization.

(12) "Peer review records" means all evidence of interviews, reports, statements, minutes, memoranda, notes, investigative graphs and compilations and the contents thereof, and all physical materials relating to peer review of any health care organization. "Peer review records" does not mean or include patient care records; provided however, that the records relating to the identification of which particular patient care records were selected for, or reviewed, examined or discussed in peer review by a health care organization and the methodology used for selecting such records shall be considered peer review records.

(13) "Skilled nursing facility" means a facility licensed under chapter 13, title 39, Idaho Code, to provide skilled care to recipients.

[39-1392a, added 1973, ch. 265, sec. 2, p. 545; am. 1984, ch. 113, sec. 1, p. 257; am. 1997, ch. 171, sec. 2, p. 486; am. 2003, ch. 244, sec. 1, p. 629; am. 2004, ch. 134, sec. 1, p. 455; am. 2005, ch. 103, sec. 1, p. 324; am. 2018, ch. 145, sec. 1, p. 300.]

39-1392b. RECORDS CONFIDENTIAL AND PRIVILEGED. Except as provided in section 39-1392e, Idaho Code, all peer review records shall be confidential and privileged, and shall not be directly or indirectly subject to subpoena or discovery proceedings or be admitted as evidence, nor shall testimony relating thereto be admitted in evidence, or in any action of any kind in any court or before any administrative body, agency or person for any purpose whatsoever. No order of censure, suspension or revocation of licensure, or of a certification in the case of emergency medical services personnel, or health care organization privilege of any physician licensed to practice medicine in Idaho shall be admissible in any civil proceeding seeking damages or other civil relief against the physician, emergency medical services personnel, or health care organization which may be a defendant in said cause. However, this section shall not prohibit or otherwise affect the use of documents, materials or testimony in health care organization pro-

ceedings, nor shall it prohibit or otherwise affect the dissemination, for medical purposes, of information contained in such documents or materials or the conclusions and findings of such health care organization. This section shall not affect the admissibility in evidence in any action or proceeding of the patient care records of any patient.

[39-1392b, added 1973, ch. 265, sec. 3, p. 545; am. 1997, ch. 171, sec. 3, p. 487; am. 2003, ch. 244, sec. 2, p. 630; am. 2004, ch. 134, sec. 2, p. 456.]

39-1392c. IMMUNITY FROM CIVIL LIABILITY. The furnishing of information or provision of opinions to any health care organization or the receiving and use of such information and opinions shall not subject any health care organization or other person to any liability or action for money damages or other legal or equitable relief. Custodians of such records and persons becoming aware of such data and opinions shall not disclose the same except as authorized by rules adopted by the board of medicine or as otherwise authorized by law. Any health care organization may receive such disclosures, subject to an obligation to preserve the confidential privileged character thereof and subject further to the requirement that such requests shall be made and such use shall be limited to aid the health care organization in conducting peer review.

[39-1392c, added 1973, ch. 265, sec. 4, p. 545; am. 1997, ch. 171, sec. 4, p. 487; am. 2003, ch. 244, sec. 3, p. 631.]

39-1392d. PROPERTY OF HEALTH CARE ORGANIZATION. All peer review records of a health care organization shall be the property of the health care organization concerned which obtains or compiles the same. A health care organization may provide peer review records to persons or entities that perform accreditation, certification or quality assurance review or evaluation of the health care organization. The provision of any peer review records to such persons or entities shall not be deemed to be a waiver by the health care organization of any peer review privilege. Persons and entities receiving peer review records shall preserve the confidential privileged character thereof and such persons and entities shall not be subject to subpoena or order compelling production of peer review records. Nothing in this section shall be deemed to require the health care organization to provide persons or entities with peer review records. A health care organization may provide peer review records to persons or entities with whom the health care organization is affiliated through any common ownership interest or by contract, which affiliation or contract includes the person's or entity's involvement in the peer review process or the provision of any management or administrative services to the health care organization. The provision of peer review records to such persons or entities shall not be deemed to be a waiver by the health care organization of any peer review privilege. Such persons and entities receiving peer review records shall preserve the confidential privileged character thereof, and such persons and entities shall not be subject to any subpoena or order compelling production of peer review records. Nothing in this section shall be deemed to require the health care organization to provide such persons or entities with peer review records. This section shall in no way impair the rights of individuals conducting such research or studies in the exercise of any right or the discharge of any legitimate responsibility which they may have in connection with such research or studies and the results thereof. Nothing in this act

shall be construed as restricting or altering the rights of inspection and copying by patients and their duly authorized representatives with respect to such patients' official patient care records, which right of copying and inspection and use of patient care records and their contents in appropriate judicial proceedings is unaltered by this enactment.

[39-1392d, added 1973, ch. 265, sec. 5, p. 545; am. 1997, ch. 171, sec. 5, p. 488; am. 2003, ch. 244, sec. 4, p. 631.]

39-1392e. LIMITED EXCEPTIONS TO PRIVILEGE AND CONFIDENTIALITY. (a) In the event of a claim or civil action against a physician, emergency medical services personnel, a hospital, a residential care facility or a skilled nursing facility arising out of a particular physician-patient, emergency medical services personnel-patient, hospital-patient, residential care facility-patient or skilled nursing facility-patient relationship, or which concerns the sufficiency of the delivery of particular health care to a specific patient, any health care organization having information of the kind covered by section 39-1392b, Idaho Code, shall, when interrogated as hereinafter provided, advise any such claimant who is or was such a patient or who, in a representative capacity, acts on behalf of such patient or his heirs, as follows:

- (1) Whether it has conducted or has in progress an inquiry, proceeding or disciplinary matter regarding the quality or propriety of the health care involved, which concerns the subject patient while he was under the care or responsibility of a member of such health care organization or while he was a patient in such hospital or facility; and, if so,
- (2) Whether disposition of any kind resulted or will result therefrom; and, if so,
- (3) What the disposition was, or, if not yet determined, approximately when it will be determined.

Such disclosure of information shall be limited to the health care organization's actions in connection with the physician, emergency medical services personnel, hospital or skilled nursing facility against whom such claim is asserted.

(b) Such a claimant shall likewise be entitled to inquire of such health care organization respecting the names and addresses of persons who such health care organization knows to have direct knowledge of the provision of the health care in question, such inquiry to be limited, however, to the particular patient and the particular times and occasions germane to the specific occurrences on which the claim is based; provided, names shall not be disclosed respecting persons who have gained secondary knowledge or formed opinions respecting the matter solely by participating as witnesses, officials, investigators or otherwise on, for, or in connection with such a health care organization committee, staff, governing board or the state board of medicine.

(c) Such limited, conditional discovery and disclosure of information as provided above shall be allowed only in response to inquiries directed to such a health care organization, and then only if initially propounded by a claimant of the type above described. If the matter is in litigation, inquiry may be by customary means of discovery under the Idaho rules of civil procedure, or, if pending in a United States court, then under discovery as allowed by its applicable rules; provided, pendency of the claim in the United States court or before any other tribunal shall not operate to broaden

the exception to the rules of privilege, confidentiality and immunity set down in this act.

(d) Such disclosures may be voluntarily made without judicial order or formal discovery if all disciplined, accused or investigated physicians or emergency medical services personnel consent thereto, and if privileged or confidential information regarding any other patient, physician, emergency medical services personnel, or person will not be disclosed thereby. When the terms of this paragraph are complied with, such voluntary disclosures may be made without civil liability therefor as if in due response to valid judicial process or order.

(e) If any claimant makes such inquiry of any such health care organization, he shall be deemed to have consented to like inquiry and disclosure rights for the benefit of all parties against whom he asserts such claim or brings such suit or action, and all other persons who are parties to such action, and thereafter all such persons and parties may invoke the provisions of this section, seeking and securing specific information as herein provided for the benefit of such claimant, to the same extent as the same is allowed to such claimant.

(f) If any physician, emergency medical services personnel, patient, person, organization or entity whose conduct, care, chart, behavior, health or standards of ethics or professional practice is the subject of investigation, comment, testimony, dispositive order of any kind or other written or verbal utterance or publication or act of any such health care organization or any member or committee thereof in the course of research, study, disciplinary proceeding or investigation of the sort contemplated by this act, makes claim or brings suit on account of such health care organization activity, then, in the defense thereof, confidentiality and privilege shall be deemed waived by the making of such claim, and such health care organization and the members of their staffs and committees shall be allowed to use and resort to such otherwise protected information for the purpose of presenting proof of the facts surrounding such matter, and this provision shall apply whether such claim be for equitable or legal relief or for intentional or unintentional tort of any kind and whether pressed by a patient, physician, emergency medical services personnel, or any other person, but such waiver shall only be effective in connection with the disposition or litigation of such claim, and the court shall, in its discretion, enter appropriate orders protecting, and as fully as it reasonably can do so, preserving the confidentiality of such materials and information.

[39-1392e, added 1973, ch. 265, sec. 6, p. 545; am. 1997, ch. 171, sec. 6, p. 488; am. 2004, ch. 134, sec. 3, p. 457; am. 2005, ch. 103, sec. 2, p. 326; am. 2018, ch. 145, sec. 2, p. 301.]

39-1392f. PEER REVIEW. Every hospital subject to this act shall cause the hospital's medical staff to organize in-hospital medical staff committees which shall have the responsibility of reviewing the professional practices of members of the hospital's medical staff for the purpose of reducing morbidity and mortality, and for the improvement of the care of patients in the hospital. This review shall include, but not be limited to, the quality and necessity of care provided to patients.

[39-1392f, added 1986, ch. 95, sec. 1, p. 273.]

39-1392g. MEDICAL STAFF MEMBERSHIP AND PRIVILEGES. (1) Except as specifically provided in subsection (2) of this section, nothing in this

section shall in any way change the authority of the governing body of any health care organization to make such rules, regulations, standards or qualifications for medical staff membership as it, in its discretion, may deem necessary or advisable, or to grant or refuse membership on a medical staff.

(2) An applicant for medical staff membership or privileges in a health care organization that has an organized medical staff, an applicant for reappointment to the medical staff of such health care organization, or a current member of the medical staff of such health care organization shall not be denied medical staff membership or privileges, nor shall membership or privileges be withdrawn, revoked, suspended or limited by such health care organization for the reason that:

(a) The applicant or current member of the medical staff holds an ownership interest in one (1) or more competing health care organizations;

(b) The applicant or current member of the medical staff is affiliated with one (1) or more competing health care organizations; or

(c) The applicant or current member of the medical staff is a competitor of one (1) or more members of the medical staff.

(3) Nothing in this section shall require a health care organization to grant privileges to an applicant for services that are subject to an exclusive contract or not offered in that facility.

(4) Nothing in this section shall be interpreted as changing the privilege, confidentiality, discoverability and admissibility of the information and records granted in section 39-1392b, Idaho Code.

[39-1392g, added 2012, ch. 167, sec. 1, p. 447.]

39-1393. NOTIFICATION OF PROFESSIONAL REVIEW ACTION IMPOSED UPON PHYSICIAN OR EMERGENCY MEDICAL SERVICES PERSONNEL. (1) Any health care organization in this state that is by law required to conduct peer review or which voluntarily formally elects to conduct professional review actions shall notify the board of medicine of professional review actions taken against physicians licensed in Idaho required to be reported as provided in this section. Such reports shall be made to the board of medicine within fifteen (15) days of completion of the professional review action by the health care organization. For emergency medical services personnel, such reports shall be made to the department of health and welfare within fifteen (15) days of completion of the professional review action by the health care organization. Such required reports shall be made on forms approved by the board of medicine for reports concerning physicians, or the department of health and welfare for reports concerning emergency medical services personnel, consistent with the reporting requirements of this section. The reporting obligation shall not be stayed by the filing of any court proceeding unless otherwise ordered by the court.

(2) A health care organization in Idaho shall report to the board of medicine if it:

(a) Takes a professional review action against a physician licensed in Idaho and imposes a sanction of the type included in subsection (3) of this section which lasts longer than thirty (30) days; or

(b) Accepts a voluntary sanction by a physician licensed in Idaho of the type identified in subsection (3) of this section while the physician is under investigation or to avoid investigation by the health care organization relating to the professional competence or professional conduct of the physician or in exchange for the health care organiza-

tion not conducting such an investigation or initiating a professional review action, if the sanction lasts longer than thirty (30) days.

(3) Professional review action sanctions against a physician which must be reported to the board of medicine pursuant to subsection (2) of this section, whether voluntary or involuntary, shall be:

- (a) Restriction or limitation of privileges;
- (b) Revocation of privileges;
- (c) Suspension of privileges;
- (d) Reduction of privileges;
- (e) Denial of a request for initial privileges;
- (f) Submission to monitoring of the physician's physical or mental condition;
- (g) Submission to monitoring of the physician's delivery of medical services other than to assess and monitor the physician's qualifications for new or additional privileges;
- (h) Surrender of privileges;
- (i) Summary suspension or reduction of privileges lasting longer than thirty (30) days;
- (j) Termination of employment;
- (k) Suspension of employment lasting longer than thirty (30) days.

(4) The reporting requirements of this section shall not apply to:

- (a) Actions based on compliance with medical records or confidentiality requirements of a health care organization;
- (b) Voluntary requests for assistance or monitoring by a physician as part of an educational process to improve physician skills or enhance patient care when unrelated to a professional review action concerning the quality or necessity of patient medical care;
- (c) Voluntary or involuntary revocation, nonrenewal, denial, reduction, restriction, resignation, or limitation of privileges or employment of a physician based upon factors not directly impacting the quality of patient care or safety of practice of the physician;
- (d) Adverse actions taken against a physician by a health care organization that is not required by law to conduct peer review and that has not voluntarily formally elected to conduct professional review actions; and
- (e) The denial of a physician's request for additional privileges or credentials with a health care organization.

(5) The report to the board of medicine required by this section shall include a statement of the quality of care concerns or professional conduct that is the basis of the professional review action or investigation and the reportable professional review action sanction voluntarily accepted or involuntarily imposed.

(6) A health care organization required to report a professional review action concerning a physician to the board of medicine pursuant to this section shall, if requested by the board of medicine, provide to the board the following:

- (a) A statement of the specific quality of care concerns or professional conduct which resulted in the professional review action sanction;
- (b) A statement of the specific professional review action sanction; and
- (c) Any patient care records of the health care organization regarding the care provided by the reported physician. However, the board of

medicine may not request or require production of any peer review records from any person or health care organization, including the identification of which particular patient care records were selected for, or reviewed, examined or discussed in any peer review activity of a health care organization, or the method used by the health care organization to select such patient care records for peer review.

(7) The records lawfully requested by the board of medicine pursuant to subsection (6) of this section shall be provided by the health care organization without a subpoena or court order. If the health care organization fails to comply with the board of medicine's lawful request, the board may petition the district court for an order compelling compliance with the board's request, which shall be granted if disclosure is required by law.

(8) Professional review action sanctions against emergency medical services personnel, whether voluntary or involuntary, which are the result of any action, conduct, or failure to act which is inconsistent with the professionalism and/or standards established in the rules governing emergency medical services personnel as promulgated by the department of health and welfare must be reported to the department of health and welfare.

(9) The report to the department of health and welfare required by this section shall include a statement of the quality of care concerns or professional conduct that is the basis of the professional review action or investigation and the reportable professional review action sanction voluntarily accepted or involuntarily imposed.

(10) Any person or health care organization that provides notification as required by law, or in a good faith belief that such notification is required by law, shall be immune from any civil or other liability arising from providing the notification. Such immunity shall likewise pertain to the provision of files, records and information a health care organization may in good faith provide to the board of medicine pursuant to this section or other applicable law. Such materials provided to the board of medicine shall be subject to disclosure by the board according to chapter 1, title 74, Idaho Code, and available only to the board of medicine and its staff unless and until such matter becomes the subject of formal proceedings by or before the board of medicine or authorized by it.

[39-1393, added 2003, ch. 244, sec. 6, p. 632; am. 2004, ch. 134, sec. 4, p. 458; am. 2015, ch. 141, sec. 88, p. 442.]

39-1394. PATIENT CARE RECORDS -- RETENTION -- AUTHENTICATION. (1) Retention.

(a) Hospital records relating to the care and treatment of a patient may be preserved in microfilm, other photographically reproduced form or electronic medium. Such reproduced and preserved copies shall be deemed originals for purposes of section 9-420, Idaho Code.

(b) Clinical laboratory test records and reports may be destroyed five (5) years after the date of the test recorded or reported therein, pursuant to paragraph (d) of this subsection.

(c) X-ray films may be destroyed five (5) years after the date of exposure, or five (5) years after the patient reaches the age of majority, whichever is later, pursuant to paragraph (d) of this subsection, if there are in the hospital record written findings of a physician who has read such x-ray films.

(d) At any time after the retention periods specified in paragraphs (b) and (c) of this subsection, the hospital may, without thereby incurring

liability, destroy such records, by burning, shredding or other effective method in keeping with the confidential nature of their contents, provided, however, that destruction of such records must be in the ordinary course of business and no record shall be destroyed on an individual basis.

(e) For purposes of this section, the term "hospital" shall include all facilities defined as hospitals in chapter 13, title 39, Idaho Code.

(2) Authentication.

(a) Hospital records relating to orders for the care and treatment of a patient or for the administration of any drug or pharmaceutical must be authenticated to ensure accuracy and patient safety.

(b) All orders must be authenticated by the author of the order or another practitioner who is responsible for the care of the patient and who is authorized to write orders by hospital policy in accordance with state law.

(c) When telephone or oral orders must be used, they must be:

(i) Accepted only by personnel authorized to do so by medical staff policies and procedures, consistent with federal and state law; and

(ii) Authenticated in a timely manner as stipulated by hospital policy.

(d) Authentication may occur either manually, with the practitioner's signature, or electronically by facsimile transmission signed by the practitioner or by means of a unique electronic code known only to the practitioner.

(e) Each hospital must have in place policies and mechanisms to assure timely authentication of all orders and to assure that only the author of an order or another practitioner who is responsible for the care of the patient and who is authorized to write orders by hospital policy in accordance with state law can authenticate the order.

[39-1394, added 1977, ch. 102, sec. 1, p. 217; am. 2001, ch. 67, sec. 1, p. 125; am. 2013, ch. 114, sec. 1, p. 275.]

39-1395. PRACTICE OF PODIATRY -- MEDICAL STAFF MEMBERSHIP. Except as otherwise provided in this section, no provision or provisions of this section shall in any way change or modify the authority or power of the governing body of any hospital to make such rules, standards or qualifications for medical staff membership as they, in their discretion, may deem necessary or advisable, or to grant or refuse membership on a medical staff.

An applicant for medical staff membership may not be denied membership solely on the ground that the applicant holds a license to practice podiatry issued by the Idaho state board of podiatry. The criteria utilized for granting medical staff membership shall be reasonable and shall not discriminate against podiatry.

The process for considering applications for medical staff membership and privileges shall afford each applicant due process.

All applications for medical staff membership shall be acted upon within one hundred twenty (120) days from the date the required information is submitted.

The accordance and delineation of clinical privileges for podiatrists shall be determined on an individual basis and commensurate with the applicant's education, training, experience and demonstrated competence. In implementing these procedures, each hospital shall formulate and apply rea-

sonable standards that do not discriminate in the evaluation of an applicant's credentials.

A member of the medical staff licensed pursuant to chapter 18, title 54, Idaho Code, shall have responsibility for the overall medical care of the patient while in the hospital. Arrangements for the services of a member of the medical staff licensed pursuant to chapter 18, title 54, Idaho Code, for the purposes of this section shall be the sole responsibility of the admitting podiatrist and not that of the hospital or any other member of the medical staff.

[39-1395, added 1992, ch. 134, sec. 2, p. 423; am. 2004, ch. 133, sec. 1, p. 453.]

39-1396. AUTHORITY TO ADMIT PATIENTS. (1) A hospital or facility may grant to physicians, physician assistants and advanced practice nurses the privilege to admit patients to such hospital or facility; provided however, that admitting privileges may be granted only if the privileges are:

- (a) Recommended by the medical staff at the hospital or facility;
- (b) Approved by the governing board of the hospital or facility; and
- (c) Within the scope of practice conferred by the license of the physician, physician assistant or advanced practice nurse.

(2) A hospital or facility shall specify in its bylaws the process by which its governing body and medical staff oversee those practitioners granted admitting privileges. Such oversight shall include, but is not limited to, credentialing and competency review.

[39-1396, added 2017, ch. 278, sec. 1, p. 728.]