

TITLE 56
PUBLIC ASSISTANCE AND WELFARE

CHAPTER 10
DEPARTMENT OF HEALTH AND WELFARE

56-1001. DEFINITIONS. Whenever used or referred to in this chapter, unless a different meaning clearly appears from the context, the following terms shall have the following meanings:

(1) "Board" means the board of health and welfare as created in section 56-1005, Idaho Code.

(2) "Department" means the department of health and welfare.

(3) "Director" means the director of the department of health and welfare.

(4) "Isolation" means the separation of infected persons, or of persons suspected to be infected, from other persons to such places, under such conditions, and for such time as will prevent transmission of the infectious agent.

(5) "Laboratory" means not only facilities for biological, serological, biophysical, cytological and pathological tests, but also facilities for the chemical or other examination of materials from water, air or other substances.

(6) "Person" means any individual, association, partnership, firm, joint stock company, trust, estate, political subdivision, public or private corporation, state or federal governmental department, agency or instrumentality, or any other legal entity which is recognized by law as the subject of rights and duties.

(7) "Public swimming pool" means an artificial structure, and its appurtenances, which contains water more than two (2) feet deep which is used or intended to be used for swimming or recreational bathing, and which is for the use of any segment of the public pursuant to a general invitation but not an invitation to a specific occasion or occasions. The term does not include a swimming pool operated solely for and in conjunction with a hotel, motel or other place of lodging, or a trailer park, apartment, condominium or any other residential facility containing multiple dwellings.

(8) "Quarantine" means the restriction placed on the entrance to and exit from the place or premises where an infectious agent or hazardous material exists.

(9) "State" means the state of Idaho.

(10) "Substantive" means that which creates, defines or regulates the rights of any person or implements, interprets or prescribes law or policy, but does not include statements concerning only the internal management of the department and not affecting private rights or procedures available to the public.

[56-1001, added 2000, ch. 132, sec. 38, p. 346; am. 2002, ch. 191, sec. 1, p. 550; am. 2003, ch. 240, sec. 1, p. 620.]

56-1002. DEPARTMENT OF HEALTH AND WELFARE -- CREATION -- ADMINISTRATIVE REGIONS. (1) There is created and established in the state government a department of health and welfare which shall, for the purposes of section 20, article IV of the constitution of the state of Idaho, be an executive department of the state government. The executive and administrative power of this department shall be vested in the director of the department who shall

be appointed by and serve at the pleasure of the governor, with the advice and consent of the senate.

(2) The department shall be organized into such administrative and general services divisions as may be necessary in order to efficiently administer the department. Each division shall be headed by a division administrator who shall be appointed by and serve at the pleasure of the director with the concurrence of the board.

(3) In order to provide more effective and economical access to the state health and social services by the people of Idaho, the governor is hereby authorized to establish substate administrative regions. In the designation of these regions specific consideration shall be given to the geographic and economic convenience of the citizens included therein. Each substate administrative region shall be headed by a regional director who shall be appointed by and serve at the pleasure of the director with the concurrence of the board.

[56-1002, added 2000, ch. 132, sec. 38, p. 347.]

56-1003. POWERS AND DUTIES OF THE DIRECTOR. The director shall have the following powers and duties:

(1) All of the powers and duties of the department of public health, the department of health, the board of health and all nonenvironmental protection duties of the department of health and welfare are hereby vested to the director of the department of health and welfare. Provided however, that oversight of the department and rulemaking and hearing functions relating to public health and licensure and certification standards shall be vested in the board of health and welfare. Except when the authority is vested in the board of health and welfare under law, the director shall have all such powers and duties as may have been or could have been exercised by his predecessors in law, including the authority to adopt, promulgate, and enforce rules, and shall be the successor in law to all contractual obligations entered into by predecessors in law. All rulemaking proceedings and hearings of the director shall be governed by the provisions of chapter 52, title 67, Idaho Code.

(2) The director shall, pursuant and subject to the provisions of the Idaho Code, and the provisions of this chapter, formulate and recommend to the board rules, codes and standards, as may be necessary to deal with problems related to personal health, and licensure and certification requirements pertinent thereto, which shall, upon adoption by the board, have the force of law relating to any purpose which may be necessary and feasible for enforcing the provisions of this chapter including, but not limited to, the maintenance and protection of personal health. Any such rule or standard may be of general application throughout the state or may be limited as to times, places, circumstances or conditions in order to make due allowance for variations therein.

(3) The director, under the rules, codes or standards adopted by him, shall have the general supervision of the promotion and protection of the life, health and mental health of the people of this state. The powers and duties of the director shall include, but not be limited to, the following:

(a) The issuance of licenses and permits as prescribed by law and by the rules of the board;

(b) The supervision and administration of laboratories and the supervision and administration of standards of tests for environmental pollution, chemical analyses and communicable diseases. The director may

require that laboratories operated by any city, county, institution, person, firm or corporation for health or environmental purposes conform to standards set by the board of health and welfare and the board of environmental quality;

(c) The supervision and administration of a mental health program, which shall include services for the evaluation, screening, custody and treatment of the mentally ill and those persons suffering from a mental defect or mental defects, and services for the prevention of suicide;

(d) The enforcement of minimum standards of health, safety and sanitation for all public swimming pools within the state;

(e) The supervision and administration of the various schools, hospitals and institutions that were the responsibility of the board of health;

(f) The supervision and administration of services dealing with the problems of alcoholism including, but not limited to, the care and rehabilitation of persons suffering from alcoholism;

(g) The establishment of liaison with other governmental departments, agencies and boards in order to effectively assist other governmental entities with the planning for the control of or abatement of health problems. All of the rules and standards adopted by the board shall apply to state institutions;

(h) The supervision and administration of an emergency medical service program including, but not limited to, assisting other governmental agencies and local governmental units, in providing first aid emergency medical services and for transportation of the sick and injured;

(i) The supervision and administration of administrative units whose responsibility shall be to assist and encourage counties, cities, other governmental units, and industries in the control of and/or abatement of health problems; and

(j) The enforcement of all laws, rules, codes and standards relating to health.

(4) The director, when so designated by the governor, shall have the power to apply for, receive on behalf of the state, and utilize any federal aid, grants, gifts, gratuities, or moneys made available through the federal government.

(5) The director shall have the power to enter into and make contracts and agreements with any public agencies or municipal corporations for facilities, land, and equipment when such use will have a beneficial, recreational, or therapeutic effect or be in the best interest in carrying out the duties imposed upon the department.

The director shall also have the power to enter into contracts for the expenditure of state matching funds for local purposes. This subsection will constitute the authority for public agencies or municipal corporations to enter into such contracts and expend money for the purposes delineated in such contracts.

(6) The director is authorized to adopt an official seal to be used on appropriate occasions, in connection with the functions of the department or the board, and such seal shall be judicially noticed. Copies of any books, records, papers and other documents in the department shall be admitted in evidence equally with the originals thereof when authenticated under such seal.

(7) The director, under rules adopted by the board of health and welfare, shall have the power to impose and enforce orders of isolation and

quarantine to protect the public from the spread of infectious or communicable diseases or from contamination from chemical or biological agents, whether naturally occurring or propagated by criminal or terrorist act.

(a) An order of isolation or quarantine issued pursuant to this section shall be a final agency action for purposes of judicial review. However, this shall not prevent the director from reconsidering, amending or withdrawing the order. Judicial review of orders of isolation or quarantine shall be de novo. The court may affirm, reverse or modify the order and shall affirm the order if it appears by a preponderance of the evidence that the order is reasonably necessary to protect the public from a substantial and immediate danger of the spread of an infectious or communicable disease or from contamination by a chemical or biological agent.

(b) If the director has reasonable cause to believe a chemical or biological agent has been released in an identifiable place, including a building or structure, an order of quarantine may be imposed to prevent the movement of persons into or out of that place, for a limited period of time, for the purpose of determining whether a person or persons at that place have been contaminated with a chemical or biological agent which may create a substantial and immediate danger to the public.

(c) Any person who violates an order of isolation or quarantine shall be guilty of a misdemeanor.

(8) The director shall develop safeguards necessary to ensure the security of nonpublic personal information in the department's possession and to prevent undue disclosure of such information. The director shall establish a process to authenticate requests made by a person, entity or jurisdiction arising under the 2007 Hague Convention on the International Recovery of Child Support and Other Forms of Family Maintenance. In the event the department becomes aware of any improper disclosure, the director shall take all actions required under section 28-51-105, Idaho Code.

[56-1003, added 2000, ch. 132, sec. 38, p. 347; am. 2003, ch. 240, sec. 2, p. 620; am. 2006, ch. 416, sec. 1, p. 1282; am. 2015, 1st E.S., ch. 1, sec. 67, p. 33; am. 2016, ch. 97, sec. 1, p. 293.]

56-1004. DIRECTOR -- ADDITIONAL POWERS AND DUTIES. (1) The director shall exercise the following powers and duties in addition to all other powers and duties inherent in the position:

(a) Prescribe such rules as may be necessary for the administration of the department, the conduct and duties of the employees, the orderly and efficient management of department business, and the custody, use and preservation of department records, papers, books and property belonging to the state;

(b) Employ such personnel as may be deemed necessary, prescribe their duties and fix their compensation within the limits provided by the state personnel system law;

(c) Administer oaths for all purposes required in the discharge of his duties;

(d) Prescribe the qualifications of all personnel of the department on a nonpartisan merit basis, in accordance with the Idaho personnel system law, provided however, that the administrators in charge of any division of the department, and the administrators in charge of the state hospital north, state hospital south, and southwest Idaho treatment center shall serve at the pleasure of the director;

(e) Create such units, sections and subdivisions as are or may be necessary for the proper and efficient functioning of the department.

(2) The department is empowered to acquire, by purchase, lease or exchange, any property which in the judgment of the department is needful for the operation of the facilities and programs for which it is responsible and to dispose of, by sale, lease or exchange, any property which in the judgment of the department is not needful for the operation of the same.

[56-1004, added 2000, ch. 132, sec. 38, p. 349; am. 2009, ch. 15, sec. 1, p. 41; am. 2011, ch. 102, sec. 4, p. 262.]

56-1004A. CRIMINAL HISTORY AND BACKGROUND CHECKS. (1) To assist in the protection of children and vulnerable adults, the legislature hereby authorizes the department of health and welfare to conduct criminal history and background checks of individuals who provide care or services to vulnerable adults or children and are identified in rule as being required to have a criminal history and background check.

(2) To further assist in the protection of vulnerable adults, the department of health and welfare may:

(a) Conduct criminal history and background checks of those seeking guardianship or conservatorship and those who reside in an incapacitated person's proposed residence;

(b) Make the findings of such criminal history and background checks available to visitors, guardians ad litem and evaluation committees appointed pursuant to chapter 5, title 15 or chapter 4, title 66, Idaho Code; and

(c) Promulgate such rules as are necessary to carry out the provisions of this section.

The provisions of subsection (6) of this section shall not apply to criminal history and background checks conducted pursuant to this subsection.

(3) Criminal history and background checks will be conducted by the department of health and welfare when:

(a) Required or ordered by the court pursuant to chapter 5, title 15 or chapter 4, title 66, Idaho Code;

(b) Requested by those required to undergo such checks; and

(c) Paid for in full by those required to undergo such checks.

(4) The criminal history and background check will be a fingerprint-based check of state and national records and may include information from the following:

(a) Statewide criminal identification bureau;

(b) Federal bureau of investigation (FBI);

(c) National crime information center;

(d) Statewide sex offender registry;

(e) Idaho transportation department driving records;

(f) Adult and child protection registries;

(g) Nurse aide registry; and

(h) Department of health and human services office of the inspector general list of excluded individuals and entities.

(5) The department of health and welfare shall promulgate rules to further define those individuals who are required to have a criminal history and background check and the effective date. Each individual shall complete an application, which includes a notarized signature, on forms provided by the department. The completed application authorizes the department to obtain and release information in accordance with state and federal law. The appli-

cant must disclose all information requested, including information on past convictions, driver's license revocations, and known adult or child protection findings. Once an application has been completed, the employer, at its discretion, may allow the individual to provide care or services prior to the individual completing fingerprinting and pending completion of the criminal history and background check by the department. The department shall promulgate rules defining the time frame for submitting the application. Under no circumstances may the individual be allowed to provide care or services where the employer has reviewed the completed application and the individual has disclosed a designated crime as set forth in rule.

(6) The department shall review the information received from the criminal history and background check and determine whether the applicant has a criminal or other relevant record that would disqualify the individual. The department shall determine which crimes disqualify the applicant and for what period of time according to promulgated rules. The process for the check and the issuance of a clearance or denial is set forth in department rules. The applicant shall be provided an opportunity for a formal review of a denial. The department shall communicate clearance or denial to the applicant and the applicant's employer.

(7) Applicants are responsible for the cost of the criminal history and background check except where otherwise provided by department rules.

(8) The department, or an employer of an applicant, who acts in reasonable reliance on the results of the criminal history and background check in making an employment decision, is immune from liability for that decision when it is based on such results.

(9) The department, its officers and employees are immune from liability for the consequences of including or excluding classes of individuals in the criminal history and background check process.

(10) Clearance through the criminal history and background check process is not a determination of suitability for employment.

[56-1004A, added 2005, ch. 312, sec. 1, p. 970; am. 2006, ch. 281, sec. 1, p. 864; am. 2010, ch. 235, sec. 54, p. 590; am. 2013, ch. 262, sec. 4, p. 642; am. 2016, ch. 107, sec. 1, p. 310.]

56-1005. BOARD -- COMPOSITION -- OFFICERS -- COMPENSATION -- POWERS -- SUBPOENA -- DEPOSITIONS -- REVIEW -- RULES. (1) The board of health and welfare shall consist of eleven (11) members, seven (7) members of which shall be appointed by the governor, with the advice and consent of the senate. The members appointed by the governor may be removed by the governor for cause. Each member of the board appointed by the governor shall be a citizen of the United States, a resident of the state of Idaho, and a qualified elector. Not more than four (4) members of the board appointed by the governor shall be from any one (1) political party. Of the members of the board appointed by the governor, four (4) members shall be chosen with due regard to their knowledge and interest in health and social services, two (2) members shall be chosen based on their experience in business or finance, and one (1) member shall be selected as a representative of the public at large. The voting members shall be appointed to assure appropriate geographic representation of the state of Idaho. The other four (4) members of the board, who shall be nonvoting members, shall be:

(a) The chairperson of the senate health and welfare committee, or the chair's designee;

(b) The chairperson of the house of representatives health and welfare committee, or the chair's designee;

(c) The director of the department of health and welfare, who shall serve as the board's secretary; and

(d) A representative of the office of the governor, as designated by the governor.

(2) The members of the board of health and welfare appointed by the governor, serving on the effective date of this act shall continue in office as members of the board of health and welfare. All members of the board of health and welfare appointed by the governor shall serve four (4) year terms.

(3) The voting members of the board annually shall elect a chairman and a vice chairman, who shall be voting members of the board. The board shall hold meetings no less than once every quarter. Special meetings of the board may be called by the chairman of the board, by a majority of the voting members of the board or, on written request, by the director of the department of health and welfare. A majority of the voting members shall be necessary to constitute a quorum at any regular or special meeting and the action of the majority of members present shall be the action of the board. The members of the board shall be compensated as provided in section 59-509(p), Idaho Code.

(4) The board, in furtherance of its duties under law and under its rules, shall have the power to administer oaths, certify to official acts, and to issue subpoenas for the attendance of witnesses and the production of papers, books, accounts, documents and testimony. The board may, if a witness refuses to attend or testify, or to produce any papers required by such subpoenas, report to the district court in and for the county in which the proceeding is pending, by petition, setting forth that due notice has been given of the time and place of attendance of said witnesses, or the production of said papers, that the witness has been properly summoned, and that the witness has failed and refused to attend or produce the papers required by this subpoena before the board, or has refused to answer questions propounded to him in the course of said proceedings, and ask an order of said court compelling the witness to attend and testify and produce said papers before the board. The court, upon the petition of the board, shall enter an order directing the witness to appear before the court at a time and place to be fixed by the court in such order, the time to be not more than ten (10) days from the date of the order, and then and there shall show cause why he has not attended and testified or produced said papers before the board. A copy of said order shall be served upon said witness. If it shall appear to the court that said subpoena was regularly issued by the board and regularly served, the court shall thereupon order that said witness appear before the board at the time and place fixed in said order, and testify or produce the required papers. Upon failure to obey said order, said witness shall be dealt with for contempt of court.

(5) The director, his designee, or any party to the action may, in an investigation or hearing before the board, cause the deposition or interrogatory of witnesses or parties residing within or without the state, to be taken in the manner prescribed by law for like depositions and interrogatories in civil actions in the district court of this state, and to that end may compel the attendance of said witnesses and production of books, documents, papers and accounts.

(6) Any person aggrieved by an action or inaction of the department of health and welfare shall be afforded an opportunity for a fair hearing upon request therefor in writing pursuant to chapter 52, title 67, Idaho Code, and

the rules promulgated thereunder. In those cases where the board has been granted the authority to hold such a hearing pursuant to a provision of the Idaho Code, the hearing may be conducted by the board at a regular or special meeting, or the board may designate hearing officers, who shall have the power and authority to conduct hearings in the name of the board at any time and place. In any hearing, a member of the board or hearing officer designated by it, shall have the power to administer oaths, examine witnesses, and issue in the name of the board subpoenas requiring the testimony of witnesses and the production of evidence relevant to any matter in the hearing.

(7) Any person adversely affected by a final determination of the board, may secure judicial review by filing a petition for review as prescribed under the provisions of chapter 52, title 67, Idaho Code. The petition for review shall be served upon the chairman of the board, the director of the department, and upon the attorney general of the state of Idaho. Such service shall be jurisdictional and the provisions of this section shall be the exclusive procedure for appeal.

(8) The board, by the affirmative vote of four (4) of its voting members, may adopt, amend or repeal the rules, codes, and standards of the department, that are necessary and feasible in order to carry out its duties and responsibilities and to enforce the laws of this state.

The rules and orders so adopted and established shall have the force and effect of law and may deal with any matters deemed necessary and feasible for protecting the health of the state.

(9) All rulemaking proceedings and hearings of the board shall be governed by the provisions of chapter 52, title 67, Idaho Code.

(10) In addition to any other powers and duties granted to the board under law, the board shall:

- (a) Advise the director and the governor on department fiscal, policy and administrative matters;
- (b) Review and advise the director regarding the department's strategic plan and performance measures;
- (c) Develop goals and standards to measure department efficiency and effectiveness; and
- (d) Review and advise the director and the governor on department initiatives.

(11) The board shall provide an annual report to the governor and to the legislature prior to the start of each legislative session, addressing:

- (a) The key department fiscal and policy issues;
- (b) The department's managerial and overall performance; and
- (c) The major proposed and ongoing departmental initiatives.

[56-1005, added 2000, ch. 132, sec. 38, p. 349; am. 2006, ch. 416, sec. 2, p. 1285; am. 2007, ch. 247, sec. 1, p. 726; am. 2007, ch. 315, sec. 1, p. 941; am. 2009, ch. 109, sec. 1, p. 360.]

56-1006. TITLE SUPERSEDED. Except with respect to environmental protection functions, wherever the words "board of health" appear in the Idaho Code, they shall mean the board of health and welfare, and wherever the words "administrator of health" appear in the Idaho Code, they shall mean the director of the department of health and welfare, and wherever the words "department of health" appear in the Idaho Code, they shall mean the department of health and welfare.

[56-1006, added 2000, ch. 132, sec. 38, p. 351.]

56-1007. COLLECTION OF FEES FOR SERVICES. The department of health and welfare is hereby authorized to charge and collect reasonable fees, established by rule, for any service rendered by the department. The fee may be determined by a sliding scale according to income or available assets. The department is hereby authorized to require information concerning the total income and assets of each person receiving services in order to determine the amount of the fee to be charged.

[56-1007, added 2000, ch. 132, sec. 38, p. 351.]

56-1008. CRIMINAL VIOLATION -- PENALTY. Any person who willfully or negligently violates any of the provisions of the public health laws or the terms of any lawful notice, order, permit, standard, or rule issued pursuant thereto, shall be guilty of a misdemeanor.

[56-1008, added 2000, ch. 132, sec. 38, p. 351.]

56-1009. INVESTIGATION -- INSPECTION -- RIGHT OF ENTRY -- VIOLATION -- ENFORCEMENT -- PENALTY -- INJUNCTIONS. (1) The director shall cause investigations to be made upon receipt of information concerning an alleged violation of this chapter or of any rule, permit or order promulgated thereunder, and may cause to be made such other investigations as the director shall deem advisable.

(2) For the purpose of enforcing any provision of this chapter or any rule authorized in this chapter, the director or the director's designee shall have the authority to:

(a) Conduct a program of continuing surveillance and of regular or periodic inspection of actual or potential health hazards;

(b) Enter at all reasonable times upon any private or public property, upon presentation of appropriate credentials, for the purpose of inspecting or investigating to ascertain possible violations of this chapter or of rules, permits or orders adopted and promulgated by the director or the board;

(c) All inspections and investigations conducted under the authority of this chapter shall be performed in conformity with the prohibitions against unreasonable searches and seizures contained in the fourth amendment to the constitution of the United States and section 17, article I, of the constitution of the state of Idaho. The state shall not, under the authority granted by this chapter, conduct warrantless searches of private property in the absence of either consent from the property owner or occupier or exigent circumstances such as a public health emergency;

(d) Any district court in and for the county in which the subject property is located is authorized to issue a search warrant to the director upon a showing of (i) probable cause to suspect a violation, or (ii) the existence of a reasonable program of inspection. Any search warrant issued under the authority of this chapter shall be limited in scope to the specific purposes for which it is issued and shall state with specificity the manner and the scope of the search authorized.

(3) Whenever the director determines that any person is in violation of any provision of this chapter or any rule, permit or order issued or promulgated pursuant to this chapter, the director may commence either of the following:

(a) Administrative enforcement action.

(i) Notice. The director may commence an administrative enforcement action by issuing a written notice of violation. The notice of violation shall identify the alleged violation with specificity, shall specify each provision of the chapter, rule, regulation, permit or order which has been violated, and shall state the amount of civil penalty claimed for each violation. The notice of violation shall inform the person to whom it is directed of an opportunity to confer with the director or the director's designee in a compliance conference concerning the alleged violation. A written response may be required within fifteen (15) days of receipt of the notice of violation by the person to whom it is directed.

(ii) Scheduling compliance conference. If a recipient of a notice of violation contacts the department within fifteen (15) days of the receipt of the notice, the recipient shall be entitled to a compliance conference. The conference shall be held within twenty (20) days of the date of receipt of the notice, unless a later date is agreed upon between the parties. If a compliance conference is not requested, the director may proceed with a civil enforcement action as provided in paragraph (b) of this subsection.

(iii) Compliance conference. The compliance conference shall provide an opportunity for the recipient of a notice of violation to explain the circumstances of the alleged violation and, where appropriate, to present a proposal for remedying damage caused by the alleged violation and assuring future compliance.

(iv) Consent order. If the recipient and the director agree on a plan to remedy damage caused by the alleged violation and to assure future compliance, they may enter into a consent order formalizing their agreement. The consent order may include a provision providing for payment of any agreed civil penalty.

(v) Effect of consent order. A consent order shall be effective immediately upon signing by both parties and shall preclude any civil enforcement action for the same alleged violation. If a party does not comply with the terms of the consent order, the director may seek and obtain, in any appropriate district court, specific performance of the consent order and such other relief as authorized in this chapter.

(vi) Failure to reach consent order. If the parties cannot reach agreement on a consent order within sixty (60) days after the receipt of the notice of violation or if the recipient does not request a compliance conference pursuant to paragraph (a) (ii) of this section, the director may commence and prosecute a civil enforcement action in district court, in accordance with subsection (b) of this section.

(b) Civil enforcement action. The director may initiate a civil enforcement action through the attorney general as provided in section 56-1010, Idaho Code. Civil enforcement actions shall be commenced and prosecuted in the district court in and for the county in which the alleged violation occurred, and may be brought against any person who is alleged to have violated any provision of this chapter or any rule, permit or order which has become effective pursuant to this chapter. Such action may be brought to compel compliance with any provision of this chapter or with any rule, permit or order promulgated hereunder

and for any relief or remedies authorized in this chapter. The director shall not be required to initiate or prosecute an administrative action before initiating a civil enforcement action.

(4) No civil or administrative proceeding may be brought to recover for a violation of any provision of this chapter or a violation of any rule, permit or order issued or promulgated pursuant to this chapter, more than two (2) years after the director had knowledge or ought reasonably to have had knowledge of the violation.

(5) Monetary penalties.

(a) Any person determined in a civil enforcement action to have violated any provision of this chapter or any rule, permit or order promulgated pursuant to this chapter shall be liable for a civil penalty not to exceed ten thousand dollars (\$10,000) per violation or one thousand dollars (\$1,000) for each day of a continuing violation, whichever is greater. The method of recovery of said penalty shall be by a civil enforcement action in the district court in and for the county where the violation occurred. All civil penalties collected under this chapter shall be paid into the general fund of the state. Parties to an administrative enforcement action may agree to a civil penalty as provided in this subsection.

(b) The imposition or computation of monetary penalties may take into account the seriousness of the violation and any good faith efforts by the person to comply with the law.

(6) In addition to such civil penalties, any person who has been determined to have violated the provisions of this chapter or the rules, permits or orders promulgated thereunder, shall be liable for any expense incurred by the state in enforcing the chapter, or in enforcing or terminating any nuisance, cause of sickness or health hazard.

(7) No action taken pursuant to the provisions of this chapter or of any other health law shall relieve any person from any civil action and damages that may exist for injury or damage resulting from any violation of this chapter or of the rules, permits and orders promulgated thereunder.

(8) In addition to, and notwithstanding other provisions of this chapter, in circumstances of emergency creating conditions of imminent and substantial danger to the public health, the prosecuting attorney or the attorney general may institute a civil action for an immediate injunction to halt any activity in violation of the provisions of this chapter or rules, permits and orders promulgated thereunder. In such action the court may issue an ex parte restraining order.

[56-1009, added 2001, ch. 110, sec. 2, p. 375.]

56-1010. COMMENCEMENT OF CIVIL ENFORCEMENT ACTIONS -- CRIMINAL ACTIONS AUTHORIZED -- DUTIES OF ATTORNEY GENERAL. Upon request of the director, it shall be the duty of the attorney general to institute and prosecute civil enforcement actions or injunctive actions as provided in section 56-1009, Idaho Code, and to prosecute actions or proceedings for the enforcement of any criminal provisions of this chapter. In addition, when deemed by the director to be necessary, the director may retain or employ private counsel. The attorney general may delegate the authority and duty under this section to prosecute criminal actions to the prosecuting attorney of the county in which such a criminal action may arise.

[56-1010, added 2001, ch. 110, sec. 3, p. 377.]

56-1011. EMERGENCY MEDICAL SERVICES -- STATEMENT OF INTENT. It is the purpose of the legislature of the state of Idaho in the adoption of sections 56-1011 through 56-1023, Idaho Code, to recognize the importance of the delivery of emergency medical services and to provide reasonable regulation of the same. For this purpose, the provisions of section 54-1804, Idaho Code, shall not be so construed as to prohibit or penalize emergency medical services rendered by a person authorized to render emergency medical services by sections 56-1011 through 56-1023, Idaho Code, if such emergency medical service is rendered under the responsible supervision and control of a licensed physician.

[(56-1011) (39-139) 39-140, added 1976, ch. 187, sec. 1, p. 674; am. and redesig. 1996, ch. 26, sec. 2, p. 61; am. and redesig. 2001, ch. 110, sec. 4, p. 377; am. 2009, ch. 189, sec. 1, p. 611; am. 2010, ch. 79, sec. 34, p. 155.]

56-1012. DEFINITIONS. As used in sections 56-1011 through 56-1023, Idaho Code:

(1) "Advanced emergency medical technician" means a person who has met the qualifications for licensure as set forth in sections 56-1011 through 56-1023, Idaho Code, is licensed by the EMS bureau under sections 56-1011 through 56-1023, Idaho Code, carries out the practice of emergency care within the scope of practice determined by the commission and practices under the supervision of an Idaho licensed physician.

(2) "Agency" means any organization licensed by the EMS bureau that operates an air medical service, ambulance service or nontransport service.

(3) "Air ambulance" means any privately or publicly owned fixed wing aircraft or rotary wing aircraft used for, or intended to be used for, the transportation of persons experiencing physiological or psychological illness or injury who may need medical attention during transport. This may include dual or multipurpose vehicles which otherwise comply with sections 56-1011 through 56-1023, Idaho Code, and specifications established by board rule.

(4) "Air medical service" means an agency licensed by the EMS bureau that responds to requests for patient care and transportation from hospitals and EMS agencies using a fixed wing aircraft or rotary wing aircraft.

(5) "Ambulance" means any privately or publicly owned motor vehicle or nautical vessel used for, or intended to be used for, the transportation of sick or injured persons who may need medical attention during transport. This may include dual or multipurpose vehicles which otherwise comply with sections 56-1011 through 56-1023, Idaho Code, and specifications established by board rule.

(6) "Ambulance service" means an agency licensed by the EMS bureau operated with the intent to provide personnel and equipment for medical treatment at an emergency scene, during transportation or during transfer of persons experiencing physiological or psychological illness or injury who may need medical attention during transport.

(7) "Applicant" means any organization that is requesting an agency license under this chapter and includes the following:

- (a) An organization seeking a new license;
- (b) An existing agency that intends to change the level of licensed personnel it utilizes;
- (c) An existing agency that intends to change its geographic coverage area, except by agency annexation;

(d) An existing nontransport service that intends to provide ambulance service;

(e) An existing ambulance service that intends to discontinue transport and become a nontransport service.

(8) "Board" means the Idaho board of health and welfare.

(9) "Commission" means the Idaho emergency medical services physician commission.

(10) "Community emergency medical technician" or "community EMT" means an emergency medical technician or advanced emergency medical technician with additional standardized training who works within a designated community health emergency medical services program under local medical control as part of a community-based team of health and social services providers.

(11) "Community health emergency medical services" or "community health EMS" means the evaluation, advice or treatment of an eligible recipient outside of a hospital setting, which is specifically requested for the purpose of preventing or improving a particular medical condition, and which is provided by a licensed emergency medical services agency. Community health EMS involving or related to emergency response must be provided by or in coordination with the primary 911 response agency for that area.

(12) "Community paramedic" means a paramedic with additional standardized training who works within a designated community health emergency medical services program under local medical control as part of a community-based team of health and social services providers.

(13) "Department" means the Idaho department of health and welfare.

(14) "Eligible recipient" means an individual eligible to receive community health emergency medical services, as determined by rule of the EMS bureau or a local community health emergency medical services program.

(15) "Emergency medical responder" means a person who has met the qualifications for licensure as set forth in sections 56-1011 through 56-1023, Idaho Code, is licensed by the EMS bureau under sections 56-1011 through 56-1023, Idaho Code, carries out the practice of emergency care within the scope of practice determined by the commission and practices under the supervision of an Idaho licensed physician.

(16) "Emergency medical services" or "EMS" means aid rendered by an individual or group of individuals who do the following:

(a) Respond to a perceived need for medical care in order to prevent loss of life or aggravation of physiological or psychological illness or injury;

(b) Are prepared to provide interventions that are within the scope of practice as defined by the commission;

(c) Use an alerting mechanism to initiate a response to requests for medical care; and

(d) Offer, advertise or attempt to respond as described in paragraphs (a) through (c) of this subsection.

Aid rendered by a ski patroller, as described in section 54-1804(1) (h), Idaho Code, is not EMS.

(17) "EMS bureau" means the bureau of emergency medical services of the department.

(18) "Emergency medical technician" means a person who has met the qualifications for licensure as set forth in sections 56-1011 through 56-1023, Idaho Code, is licensed by the EMS bureau under sections 56-1011 through 56-1023, Idaho Code, carries out the practice of emergency care within

the scope of practice determined by the commission and practices under the supervision of an Idaho licensed physician.

(19) "Licensed personnel" means those individuals who are emergency medical responders, emergency medical technicians, advanced emergency medical technicians and paramedics.

(20) "National emergency medical services information system technical assistance center" means an organization that validates software for compliance with the EMS data set defined by the United States department of transportation national highway traffic safety administration.

(21) "Nontransport service" means an agency licensed by the EMS bureau, operated with the intent to provide personnel or equipment for medical stabilization at an emergency scene, but not intended to be the service that will actually transport sick or injured persons.

(22) "Nontransport vehicle" means any vehicle operated by an agency with the intent to provide personnel or equipment for medical stabilization at an emergency scene, but not intended as the vehicle that will actually transport sick or injured persons.

(23) "Paramedic" means a person who has met the qualifications for licensure as set forth in sections 56-1011 through 56-1023, Idaho Code, is licensed by the EMS bureau under sections 56-1011 through 56-1023, Idaho Code, carries out the practice of emergency care within the scope of practice determined by the commission and practices under the supervision of an Idaho licensed physician.

(24) "Supervision" means the medical direction by a licensed physician of activities provided by licensed personnel affiliated with a licensed ambulance, air medical or nontransport service, including, but not limited to: establishing standing orders and protocols, reviewing performance of licensed personnel, providing instructions for patient care via radio or telephone, and other oversight.

(25) "Transfer" means the transportation of a patient from one (1) medical care facility to another.

[(56-1012) 39-140, added 1976, ch. 187, sec. 2, p. 675; am. 1980, ch. 145, sec. 7, p. 313; am. 1992, ch. 110, sec. 1, p. 339; am. 1993, ch. 50, sec. 1, p. 131; am. and redesig. 1996, ch. 26, sec. 3, p. 62; am. 1999, ch. 131, sec. 1, p. 376; am. 2001, ch. 110, sec. 5, p. 378; am. 2006, ch. 421, sec. 1, p. 1301; am. 2009, ch. 189, sec. 2, p. 611; am. 2014, ch. 86, sec. 1, p. 235; am. 2015, ch. 157, sec. 3, p. 550.]

56-1013. AUTHORIZED ACTIONS. Persons licensed by the EMS bureau shall be authorized to perform such acts under written or oral authorization of a licensed physician as shall be established by rules of the commission, including, but not limited to, administration of intravenous solutions and drugs, cardiac defibrillation, airway management, endotracheal intubation, community health emergency medical services and other patient care.

[(56-1013) 39-141, added 1996, ch. 26, sec. 4, p. 63; am. and redesig. 2001, ch. 110, sec. 6, p. 379; am. 2006, ch. 421, sec. 2, p. 1303; am. 2009, ch. 189, sec. 3, p. 614; am. 2015, ch. 157, sec. 4, p. 552.]

56-1013A. IDAHO EMERGENCY MEDICAL SERVICES PHYSICIAN COMMISSION -- TERMS AND OPERATION. (1) There is hereby created in the department an Idaho emergency medical services physician commission for the purpose of establishing standards for scope of practice and medical supervision for licensed personnel and agencies licensed by the EMS bureau, and for making

disciplinary action recommendations to the EMS bureau against licensed personnel. Notwithstanding any other provision of law to the contrary, the commission shall exercise its powers and duties in accordance with the provisions of sections 56-1011 through 56-1023, Idaho Code, relative to scope of practice and medical supervision of licensed personnel.

(2) The commission shall be composed of eleven (11) voting members appointed by the governor upon assurance of equitable geographic and rural representation. Six (6) members shall be physicians currently licensed in Idaho and appointed as follows: one (1) member representing the Idaho board of medicine as provided in chapter 18, title 54, Idaho Code, one (1) member representing the Idaho medical association, one (1) member representing the EMS bureau, one (1) member representing the Idaho chapter of the American college of emergency physicians, one (1) member representing the Idaho chapter of the American academy of pediatrics and one (1) member representing the Idaho chapter of the American college of surgeons committee on trauma. Three (3) members shall be physicians currently licensed in Idaho and practicing as an EMS medical director representing the following associations: one (1) member representing the Idaho association of counties, one (1) member representing the Idaho fire chiefs association and one (1) member representing the Idaho hospital association. Two (2) members shall be Idaho citizens representing the public interest.

(3) Except as provided in this subsection, members of the commission shall be appointed for a term of three (3) years. The following four (4) members shall be appointed to an initial term of two (2) years: the member representing the board of medicine, the member representing the Idaho chapter of the American college of emergency physicians, the member representing the Idaho chapter of the American college of surgeons committee on trauma and the member representing the Idaho fire chiefs association. The remaining seven (7) members shall be appointed for an initial term of three (3) years. Thereafter, all terms shall be for a period of three (3) years.

(4) The commission shall elect a chair and such officers as it may deem necessary and appropriate. The commission shall meet at least annually and at the call of the chair. Members of the commission shall be compensated as provided in section 59-509(b), Idaho Code.

(5) Prior to the expiration of the regular term of a member of the commission or upon the occurrence or declaration of a vacancy in the membership of the commission, the EMS bureau shall notify the represented entity of that fact in writing and the represented entity shall, within sixty (60) days thereafter, nominate at least three (3) persons to fill the vacancy in a manner as shall be determined by the rules and bylaws of the represented entity and shall forward the nominations to the governor, who shall appoint from among the nominees a person to be a member of the commission to fill the vacancy. Persons nominated for a seat held by a physician must be licensed by the state of Idaho to practice medicine.

(6) Moneys collected pursuant to rules promulgated by the board for initial applications and renewal of EMS personnel licenses are hereby continuously appropriated and shall be utilized exclusively for the purposes set forth in this section as determined by the commission.

(7) The commission shall prepare a budget on an annual basis indicating that portion of the funds necessary for the continuous operation of the commission to achieve the purposes of this section.

[56-1013A, added 2006, ch. 421, sec. 3, p. 1303; am. 2007, ch. 306, sec. 1, p. 856; am. 2009, ch. 189, sec. 4, p. 614.]

56-1013B. RECOGNITION OF EMS PERSONNEL LICENSURE INTERSTATE COMPACT (REPLICA). The recognition of EMS personnel licensure interstate compact (REPLICA) is hereby enacted into law and entered into with all other jurisdictions legally joining therein, in the form substantially as follows in sections 56-1013C through 56-1013Q, Idaho Code.

[56-1013B, added 2016, ch. 60, sec. 1, p. 183.]

56-1013C. PURPOSE. In order to protect the public through verification of competency and ensure accountability for patient care related activities all states license emergency medical services (EMS) personnel, such as emergency medical technicians (EMTs), advanced EMTs and paramedics. This compact is intended to facilitate the day-to-day movement of EMS personnel across state boundaries in the performance of their EMS duties as assigned by an appropriate authority and authorize state EMS offices to afford immediate legal recognition to EMS personnel licensed in a member state. This compact recognizes that states have a vested interest in protecting the public's health and safety through their licensing and regulation of EMS personnel and that such state regulation shared among the member states will best protect public health and safety. This compact is designed to achieve the following purposes and objectives:

- (1) Increase public access to EMS personnel;
- (2) Enhance the states' ability to protect the public's health and safety, especially patient safety;
- (3) Encourage the cooperation of member states in the areas of EMS personnel licensure and regulation;
- (4) Support licensing of military members who are separating from an active duty tour and their spouses;
- (5) Facilitate the exchange of information between member states regarding EMS personnel licensure, adverse action and significant investigatory information;
- (6) Promote compliance with the laws governing EMS personnel practice in each member state; and
- (7) Invest all member states with the authority to hold EMS personnel accountable through the mutual recognition of member state licenses.

[56-1013C, added 2016, ch. 60, sec. 1, p. 183.]

56-1013D. DEFINITIONS. As used in this compact:

(1) "Advanced emergency medical technician" (AEMT) means an individual licensed with cognitive knowledge and a scope of practice that corresponds to that level in the national EMS education standards and national EMS scope of practice model.

(2) "Adverse action" means any administrative, civil, equitable or criminal action permitted by a state's laws that may be imposed against licensed EMS personnel by a state EMS authority or state court including, but not limited to, actions against an individual's license such as revocation, suspension, probation, consent agreement, monitoring or other limitation or encumbrance on the individual's practice, letters of reprimand or admonition, fines, criminal convictions and state court judgments enforcing adverse actions by the state EMS authority.

(3) "Alternative program" means a voluntary, nondisciplinary substance abuse recovery program approved by a state EMS authority.

(4) "Certification" means the successful verification of entry-level cognitive and psychomotor competency using a reliable, validated and legally defensible examination.

(5) "Commission" means the national administrative body of which all states that have enacted the compact are members.

(6) "Emergency medical technician" (EMT) means an individual licensed with cognitive knowledge and a scope of practice that corresponds to that level in the national EMS education standards and national EMS scope of practice model.

(7) "Home state" means a member state where an individual is licensed to practice emergency medical services.

(8) "License" means the authorization by a state for an individual to practice as an EMT, AEMT, paramedic or a level in between EMT and paramedic.

(9) "Medical director" means a physician licensed in a member state who is accountable for the care delivered by EMS personnel.

(10) "Member state" means a state that has enacted this compact.

(11) "Privilege to practice" means an individual's authority to deliver emergency medical services in remote states as authorized under this compact.

(12) "Paramedic" means an individual licensed with cognitive knowledge and a scope of practice that corresponds to that level in the national EMS education standards and national EMS scope of practice model.

(13) "Remote state" means a member state in which an individual is not licensed.

(14) "Restricted" means the outcome of an adverse action that limits a license or the privilege to practice.

(15) "Rule" means a written statement by the commission promulgated pursuant to section 56-1013N, Idaho Code, of this compact that is of general applicability; implements, interprets or prescribes a policy or provision of the compact; or is an organizational, procedural or practice requirement of the commission and has the force and effect of statutory law in a member state and includes the amendment, repeal or suspension of an existing rule.

(16) "Scope of practice" means defined parameters of various duties or services that may be provided by an individual with specific credentials. Whether regulated by rule, statute or court decision, it tends to represent the limits of services an individual may perform.

(17) "Significant investigatory information" means:

(a) Investigative information that a state EMS authority, after a preliminary inquiry that includes notification and an opportunity to respond if required by state law, has reason to believe, if proved true, would result in the imposition of an adverse action on a license or privilege to practice; or

(b) Investigative information that indicates that the individual represents an immediate threat to public health and safety regardless of whether the individual has been notified and had an opportunity to respond.

(18) "State" means any state, commonwealth, district or territory of the United States.

(19) "State EMS authority" means the board, office or other agency with the legislative mandate to license EMS personnel.

[56-1013D, added 2016, ch. 60, sec. 1, p. 184.]

56-1013E. HOME STATE LICENSURE. (1) Any member state in which an individual holds a current license shall be deemed a home state for purposes of this compact.

(2) Any member state may require an individual to obtain and retain a license to be authorized to practice in the member state under circumstances not authorized by the privilege to practice under the terms of this compact.

(3) A home state's license authorizes an individual to practice in a remote state under the privilege to practice only if the home state:

(a) Currently requires the use of the national registry of emergency medical technicians (NREMT) examination as a condition of issuing initial licenses at the EMT and paramedic levels;

(b) Has a mechanism in place for receiving and investigating complaints about individuals;

(c) Notifies the commission, in compliance with the terms herein, of any adverse action or significant investigatory information regarding an individual;

(d) No later than five (5) years after activation of the compact, requires a criminal background check of all applicants for initial licensure, including the use of the results of fingerprint or other biometric data checks compliant with the requirements of the federal bureau of investigation with the exception of federal employees who have suitability determination in accordance with 5 CFR 731.202 and submit documentation of such as promulgated in the rules of the commission; and

(e) Complies with the rules of the commission.

[56-1013E, added 2016, ch. 60, sec. 1, p. 185.]

56-1013F. COMPACT PRIVILEGE TO PRACTICE. (1) Member states shall recognize the privilege to practice of an individual licensed in another member state that is in conformance with section 56-1013E, Idaho Code.

(2) To exercise the privilege to practice under the terms and provisions of this compact, an individual must:

(a) Be at least eighteen (18) years of age;

(b) Possess a current unrestricted license in a member state as an EMT, AEMT, paramedic or state recognized and licensed level with a scope of practice and authority between EMT and paramedic; and

(c) Practice under the supervision of a medical director.

(3) An individual providing patient care in a remote state under the privilege to practice shall function within the scope of practice authorized by the home state unless and until modified by an appropriate authority in the remote state as may be defined in the rules of the commission.

(4) Except as provided in this section, an individual practicing in a remote state will be subject to the remote state's authority and laws. A remote state may, in accordance with due process and that state's laws, restrict, suspend or revoke an individual's privilege to practice in the remote state and may take any other necessary actions to protect the health and safety of its citizens. If a remote state takes action it shall promptly notify the home state and the commission.

(5) If an individual's license in any home state is restricted or suspended, the individual shall not be eligible to practice in a remote state under the privilege to practice until the individual's home state license is restored.

(6) If an individual's privilege to practice in any remote state is restricted, suspended or revoked, the individual shall not be eligible to

practice in any remote state until the individual's privilege to practice is restored.

[56-1013F, added 2016, ch. 60, sec. 1, p. 185.]

56-1013G. CONDITIONS OF PRACTICE IN A REMOTE STATE. An individual may practice in a remote state under a privilege to practice only in the performance of the individual's EMS duties as assigned by an appropriate authority, as defined in the rules of the commission, and under the following circumstances:

(1) The individual originates a patient transport in a home state and transports the patient to a remote state;

(2) The individual originates in the home state and enters a remote state to pick up a patient and provide care and transport of the patient to the home state;

(3) The individual enters a remote state to provide patient care and/or transport within that remote state;

(4) The individual enters a remote state to pick up a patient and provide care and transport to a third member state;

(5) Other conditions as determined by rules promulgated by the commission.

[56-1013G, added 2016, ch. 60, sec. 1, p. 186.]

56-1013H. RELATIONSHIP TO EMERGENCY MANAGEMENT ASSISTANCE COMPACT. Upon a member state's governor's declaration of a state of emergency or disaster that activates the emergency management assistance compact (EMAC), all relevant terms and provisions of EMAC shall apply and to the extent any terms or provisions of this compact conflict with EMAC, the terms of EMAC shall prevail with respect to any individual practicing in the remote state in response to such declaration.

[56-1013H, added 2016, ch. 60, sec. 1, p. 186.]

56-1013I. VETERANS, SERVICE MEMBERS SEPARATING FROM ACTIVE DUTY MILITARY AND THEIR SPOUSES. (1) Member states shall consider a veteran, active military service member, and member of the national guard and reserves separating from an active duty tour, and a spouse thereof, who holds a current valid and unrestricted NREMT certification at or above the level of the state license being sought as satisfying the minimum training and examination requirements for such licensure.

(2) Member states shall expedite the processing of licensure applications submitted by veterans, active military service members, and members of the national guard and reserves separating from an active duty tour, and their spouses.

(3) All individuals functioning with a privilege to practice under this section remain subject to the adverse actions provisions of section 56-1013J, Idaho Code.

[56-1013I, added 2016, ch. 60, sec. 1, p. 186.]

56-1013J. ADVERSE ACTIONS. (1) A home state shall have exclusive power to impose adverse action against an individual's license issued by the home state.

(2) If an individual's license in any home state is restricted or suspended, the individual shall not be eligible to practice in a remote state

under the privilege to practice until the individual's home state license is restored.

(a) All home state adverse action orders shall include a statement that the individual's compact privileges are inactive. The order may allow the individual to practice in remote states with prior written authorization from both the home state and remote state's EMS authority.

(b) An individual currently subject to adverse action in the home state shall not practice in any remote state without prior written authorization from both the home state and remote state's EMS authority.

(3) A member state shall report adverse actions and any occurrences that the individual's compact privileges are restricted, suspended or revoked to the commission in accordance with the rules of the commission.

(4) A remote state may take adverse action on an individual's privilege to practice within that state.

(5) Any member state may take adverse action against an individual's privilege to practice in that state based on the factual findings of another member state, so long as each state follows its own procedures for imposing such adverse action.

(6) A home state's EMS authority shall investigate and take appropriate action with respect to reported conduct in a remote state as it would if such conduct had occurred within the home state. In such cases, the home state's law shall control in determining the appropriate adverse action.

(7) Nothing in this compact shall override a member state's decision that participation in an alternative program may be used in lieu of adverse action and that such participation shall remain nonpublic if required by the member state's laws. Member states must require individuals who enter any alternative programs to agree not to practice in any other member state during the term of the alternative program without prior authorization from such other member state.

[56-1013J, added 2016, ch. 60, sec. 1, p. 186.]

56-1013K. ADDITIONAL POWERS INVESTED IN A MEMBER STATE'S EMS AUTHORITY. A member state's EMS authority, in addition to any other powers granted under state law, is authorized under this compact to:

(1) Issue subpoenas for both hearings and investigations that require the attendance and testimony of witnesses and the production of evidence. Subpoenas issued by a member state's EMS authority for the attendance and testimony of witnesses, and/or the production of evidence from another member state, shall be enforced in the remote state by any court of competent jurisdiction, according to that court's practice and procedure in considering subpoenas issued in its own proceedings. The issuing state EMS authority shall pay any witness fees, travel expenses, mileage and other fees required by the service statutes of the state where the witnesses and/or evidence are located; and

(2) Issue cease and desist orders to restrict, suspend or revoke an individual's privilege to practice in the state.

[56-1013K, added 2016, ch. 60, sec. 1, p. 187.]

56-1013L. ESTABLISHMENT OF THE INTERSTATE COMMISSION FOR EMS PERSONNEL PRACTICE. (1) The compact states hereby create and establish a joint public agency known as the interstate commission for EMS personnel practice.

(a) The commission is a body politic and an instrumentality of the compact states.

(b) Venue is proper and judicial proceedings by or against the commission shall be brought solely and exclusively in a court of competent jurisdiction where the principal office of the commission is located. The commission may waive venue and jurisdictional defenses to the extent it adopts or consents to participate in alternative dispute resolution proceedings.

(c) Nothing in this compact shall be construed to be a waiver of sovereign immunity.

(2) Membership, voting, and meetings.

(a) Each member state shall have and be limited to one (1) delegate. The responsible official of the state EMS authority or his designee shall be the delegate to this compact for each member state. Any delegate may be removed or suspended from office as provided by the law of the state from which the delegate is appointed. Any vacancy occurring in the commission shall be filled in accordance with the laws of the member state in which the vacancy exists. In the event that more than one (1) board, office or other agency with the legislative mandate to license EMS personnel at and above the level of EMT exists, the governor of the state will determine which entity will be responsible for assigning the delegate.

(b) Each delegate shall be entitled to one (1) vote with regard to the promulgation of rules and creation of bylaws and shall otherwise have an opportunity to participate in the business and affairs of the commission. A delegate shall vote in person or by such other means as provided in the bylaws. The bylaws may provide for delegates' participation in meetings by telephone or other means of communication.

(c) The commission shall meet at least once during each calendar year. Additional meetings shall be held as set forth in the bylaws.

(d) All meetings shall be open to the public, and public notice of meetings shall be given in the same manner as required under the rulemaking provisions in section 56-1013N, Idaho Code.

(e) The commission may convene in a closed, nonpublic meeting if the commission must discuss noncompliance of a member state with its obligations under the compact; the employment, compensation, discipline or other personnel matters, practices or procedures related to specific employees or other matters related to the commission's internal personnel practices and procedures; current, threatened or reasonably anticipated litigation; negotiation of contracts for the purchase or sale of goods, services or real estate; accusing any person of a crime or formally censuring any person; disclosure of trade secrets or commercial or financial information that is privileged or confidential; disclosure of information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy; disclosure of investigatory records compiled for law enforcement purposes; disclosure of information related to any investigatory reports prepared by or on behalf of or for use of the commission or other committee charged with responsibility of investigation or determination of compliance issues pursuant to the compact; or matters specifically exempted from disclosure by federal or member state statute.

(f) If a meeting, or portion of a meeting, is closed pursuant to this provision, the commission's legal counsel or designee shall certify that the meeting may be closed and shall reference each relevant exempting provision. The commission shall keep minutes that fully and clearly describe all matters discussed in a meeting and shall provide a full and

accurate summary of actions taken, and the reasons therefore, including a description of the views expressed. All documents considered in connection with an action shall be identified in such minutes. All minutes and documents of a closed meeting shall remain under seal, subject to release by a majority vote of the commission or order of a court of competent jurisdiction.

(3) The commission shall, by a majority vote of the delegates, prescribe bylaws and/or rules to govern its conduct as may be necessary or appropriate to carry out the purposes and exercise the powers of the compact including, but not limited to:

- (a) Establishing the fiscal year of the commission;
- (b) Providing reasonable standards and procedures for the establishment and meetings of other committees; and governing any general or specific delegation of any authority or function of the commission;
- (c) Providing reasonable procedures for calling and conducting meetings of the commission, ensuring reasonable advance notice of all meetings, and providing an opportunity for attendance of such meetings by interested parties, with enumerated exceptions designed to protect the public's interest, the privacy of individuals, and proprietary information, including trade secrets. The commission may meet in closed session only after a majority of the membership votes to close a meeting in whole or in part. As soon as practicable, the commission must make public a copy of the vote to close the meeting revealing the vote of each member with no proxy votes allowed;
- (d) Establishing the titles, duties and authority, and reasonable procedures for the election of the officers of the commission;
- (e) Providing reasonable standards and procedures for the establishment of the personnel policies and programs of the commission. Notwithstanding any civil service or other similar laws of any member state, the bylaws shall exclusively govern the personnel policies and programs of the commission;
- (f) Promulgating a code of ethics to address permissible and prohibited activities of commission members and employees;
- (g) Providing a mechanism for winding up the operations of the commission and the equitable disposition of any surplus funds that may exist after the termination of the compact after the payment and/or reserving of all of its debts and obligations;
- (h) The commission shall publish its bylaws and file a copy thereof, and a copy of any amendment thereto, with the appropriate agency or officer in each of the member states, if any;
- (i) The commission shall maintain its financial records in accordance with the bylaws; and
- (j) The commission shall meet and take such actions as are consistent with the provisions of this compact and the bylaws.

(4) The commission shall have the following powers:

- (a) The authority to promulgate uniform rules to facilitate and coordinate implementation and administration of this compact. The rules shall have the force and effect of law and shall be binding in all member states;
- (b) To bring and prosecute legal proceedings or actions in the name of the commission, provided that the standing of any state EMS authority or other regulatory body responsible for EMS personnel licensure to sue or be sued under applicable law shall not be affected;

- (c) To purchase and maintain insurance and bonds;
 - (d) To borrow, accept or contract for services of personnel including, but not limited to, employees of a member state;
 - (e) To hire employees, elect or appoint officers, fix compensation, define duties, grant such individuals appropriate authority to carry out the purposes of the compact, and to establish the commission's personnel policies and programs relating to conflicts of interest, qualifications of personnel, and other related personnel matters;
 - (f) To accept any and all appropriate donations and grants of money, equipment, supplies, materials and services, and to receive, utilize and dispose of the same; provided that at all times the commission shall strive to avoid any appearance of impropriety and/or conflict of interest;
 - (g) To lease, purchase, accept appropriate gifts or donations of, or otherwise to own, hold, improve or use, any property, real, personal or mixed; provided that at all times the commission shall strive to avoid any appearance of impropriety;
 - (h) To sell, convey, mortgage, pledge, lease, exchange, abandon, or otherwise dispose of any property, real, personal or mixed;
 - (i) To establish a budget and make expenditures;
 - (j) To borrow money;
 - (k) To appoint committees, including advisory committees comprised of members, state regulators, state legislators or their representatives, and consumer representatives, and such other interested persons as may be designated in this compact and the bylaws;
 - (l) To provide and receive information from, and to cooperate with, law enforcement agencies;
 - (m) To adopt and use an official seal; and
 - (n) To perform such other functions as may be necessary or appropriate to achieve the purposes of this compact consistent with the state regulation of EMS personnel licensure and practice.
- (5) Financing of the commission.
- (a) The commission shall pay, or provide for the payment of, the reasonable expenses of its establishment, organization and ongoing activities.
 - (b) The commission may accept any and all appropriate revenue sources, donations, and grants of money, equipment, supplies, materials and services.
 - (c) The commission may levy on and collect an annual assessment from each member state or impose fees on other parties to cover the cost of the operations and activities of the commission and its staff, which must be in a total amount sufficient to cover its annual budget as approved each year for which revenue is not provided by other sources. The aggregate annual assessment amount shall be allocated based upon a formula to be determined by the commission, which shall promulgate a rule binding upon all member states.
 - (d) The commission shall not incur obligations of any kind prior to securing the funds adequate to meet the same; nor shall the commission pledge the credit of any of the member states, except by and with the authority of the member state.
 - (e) The commission shall keep accurate accounts of all receipts and disbursements. The receipts and disbursements of the commission shall be subject to the audit and accounting procedures established under its

bylaws. However, all receipts and disbursements of funds handled by the commission shall be audited yearly by a certified or licensed public accountant, and the report of the audit shall be included in and become part of the annual report of the commission.

(6) Qualified immunity, defense, and indemnification.

(a) The members, officers, executive director, employees and representatives of the commission shall be immune from suit and liability, either personally or in their official capacity, for any claim for damage to or loss of property or personal injury or other civil liability caused by or arising out of any actual or alleged act, error or omission that occurred, or that the person against whom the claim is made had a reasonable basis for believing occurred within the scope of commission employment, duties or responsibilities; provided that nothing in this paragraph shall be construed to protect any such person from suit and/or liability for any damage, loss, injury or liability caused by the intentional or willful or wanton misconduct of that person.

(b) The commission shall defend any member, officer, executive director, employee or representative of the commission in any civil action seeking to impose liability arising out of any actual or alleged act, error or omission that occurred within the scope of commission employment, duties or responsibilities, or that the person against whom the claim is made had a reasonable basis for believing occurred within the scope of commission employment, duties or responsibilities; provided that nothing herein shall be construed to prohibit that person from retaining his or her own counsel; and provided further, that the actual or alleged act, error or omission did not result from that person's intentional or willful or wanton misconduct.

(c) The commission shall indemnify and hold harmless any member, officer, executive director, employee or representative of the commission for the amount of any settlement or judgment obtained against that person arising out of any actual or alleged act, error or omission that occurred within the scope of commission employment, duties or responsibilities, or that such person had a reasonable basis for believing occurred within the scope of commission employment, duties or responsibilities, provided that the actual or alleged act, error or omission did not result from the intentional or willful or wanton misconduct of that person.

[56-1013L, added 2016, ch. 60, sec. 1, p. 187.]

56-1013M. COORDINATED DATABASE. (1) The commission shall provide for the development and maintenance of a coordinated database and reporting system containing licensure, adverse action and significant investigatory information on all licensed individuals in member states.

(2) Notwithstanding any other provision of state law to the contrary, a member state shall submit a uniform data set to the coordinated database on all individuals to whom this compact is applicable as required by the rules of the commission, including:

- (a) Identifying information;
- (b) Licensure data;
- (c) Significant investigatory information;
- (d) Adverse actions against an individual's license;
- (e) An indicator that an individual's privilege to practice is restricted, suspended or revoked;

(f) Nonconfidential information related to alternative program participation;

(g) Any denial of application for licensure, and the reason(s) for such denial; and

(h) Other information that may facilitate the administration of this compact, as determined by the rules of the commission.

(3) The coordinated database administrator shall promptly notify all member states of any adverse action taken against, or significant investigative information on, any individual in a member state.

(4) Member states contributing information to the coordinated database may designate information that may not be shared with the public without the express permission of the contributing state.

(5) Any information submitted to the coordinated database that is subsequently required to be expunged by the laws of the member state contributing the information shall be removed from the coordinated database.

[56-1013M, added 2016, ch. 60, sec. 1, p. 191.]

56-1013N. RULEMAKING. (1) The commission shall exercise its rulemaking powers pursuant to the criteria set forth in this section and the rules adopted thereunder. Rules and amendments shall become binding as of the date specified in each rule or amendment.

(2) If a majority of the legislatures of the member states rejects a rule, by enactment of a statute or resolution in the same manner used to adopt the compact, then such rule shall have no further force and effect in any member state.

(3) Rules or amendments to the rules shall be adopted at a regular or special meeting of the commission.

(4) Prior to promulgation and adoption of a final rule or rules by the commission, and at least sixty (60) days in advance of the meeting at which the rule will be considered and voted upon, the commission shall file a notice of proposed rulemaking:

(a) On the website of the commission; and

(b) On the website of each member state EMS authority or the publication in which each state would otherwise publish proposed rules.

(5) The notice of proposed rulemaking shall include:

(a) The proposed time, date and location of the meeting in which the rule will be considered and voted upon;

(b) The text of the proposed rule or amendment and the reason for the proposed rule;

(c) A request for comments on the proposed rule from any interested person; and

(d) The manner in which interested persons may submit notice to the commission of their intention to attend the public hearing and any written comments.

(6) Prior to adoption of a proposed rule, the commission shall allow persons to submit written data, facts, opinions and arguments, which shall be made available to the public.

(7) The commission shall grant an opportunity for a public hearing before it adopts a rule or amendment if a hearing is requested by:

(a) At least twenty-five (25) persons;

(b) A governmental subdivision or agency; or

(c) An association having at least twenty-five (25) members.

(8) If a hearing is held on the proposed rule or amendment, the commission shall publish the place, time and date of the scheduled public hearing.

(a) All persons wishing to be heard at the hearing shall notify the executive director of the commission or other designated member in writing of their desire to appear and testify at the hearing not less than five (5) business days before the scheduled date of the hearing.

(b) Hearings shall be conducted in a manner providing each person who wishes to comment a fair and reasonable opportunity to comment orally or in writing.

(c) No transcript of the hearing is required, unless a written request for a transcript is made, in which case the person requesting the transcript shall bear the cost of producing the transcript. A recording may be made in lieu of a transcript under the same terms and conditions as a transcript. This subsection (8) (c) shall not preclude the commission from making a transcript or recording of the hearing if it so chooses.

(d) Nothing in this section shall be construed as requiring a separate hearing on each rule. Rules may be grouped for the convenience of the commission at hearings required by this section.

(9) Following the scheduled hearing date, or by the close of business on the scheduled hearing date if the hearing was not held, the commission shall consider all written and oral comments received.

(10) The commission shall, by majority vote of all members, take final action on the proposed rule and shall determine the effective date of the rule, if any, based on the rulemaking record and the full text of the rule.

(11) If no written notice of intent to attend the public hearing by interested parties is received, the commission may proceed with promulgation of the proposed rule without a public hearing.

(12) Upon determination that an emergency exists, the commission may consider and adopt an emergency rule without prior notice, opportunity for comment, or hearing, provided that the usual rulemaking procedures provided in the compact and in this section shall be retroactively applied to the rule as soon as reasonably possible, in no event later than ninety (90) days after the effective date of the rule. For the purposes of this provision, an emergency rule is one that must be adopted immediately in order to:

(a) Meet an imminent threat to public health, safety or welfare;

(b) Prevent a loss of commission or member state funds;

(c) Meet a deadline for the promulgation of an administrative rule that is established by federal law or rule; or

(d) Protect public health and safety.

(13) The commission or an authorized committee of the commission may direct revisions to a previously adopted rule or amendment for purposes of correcting typographical errors, errors in format, errors in consistency, or grammatical errors. Public notice of any revisions shall be posted on the website of the commission. The revision shall be subject to challenge by any person for a period of thirty (30) days after posting. The revision may be challenged only on grounds that the revision results in a material change to a rule. A challenge shall be made in writing, and delivered to the chair of the commission prior to the end of the notice period. If no challenge is made, the revision will take effect without further action. If the revision is challenged, the revision may not take effect without the approval of the commission.

[56-1013N, added 2016, ch. 60, sec. 1, p. 191.]

56-10130. OVERSIGHT, DISPUTE RESOLUTION AND ENFORCEMENT. (1) Oversight.

(a) The executive, legislative and judicial branches of state government in each member state shall enforce this compact and take all actions necessary and appropriate to effectuate the compact's purposes and intent. The provisions of this compact and the rules promulgated hereunder shall have standing as statutory law.

(b) All courts shall take judicial notice of the compact and the rules in any judicial or administrative proceeding in a member state pertaining to the subject matter of this compact which may affect the powers, responsibilities or actions of the commission.

(c) The commission shall be entitled to receive service of process in any such proceeding, and shall have standing to intervene in such a proceeding for all purposes. Failure to provide service of process to the Commission shall render a judgment or order void as to the commission, this compact, or promulgated rules.

(2) Default, technical assistance, and termination.

(a) If the commission determines that a member state has defaulted in the performance of its obligations or responsibilities under this compact or the promulgated rules, the commission shall provide written notice to the defaulting state and other member states of the nature of the default, the proposed means of curing the default and/or any other action to be taken by the commission; and provide remedial training and specific technical assistance regarding the default.

(b) If a state in default fails to cure the default, the defaulting state may be terminated from the compact upon an affirmative vote of a majority of the member states, and all rights, privileges and benefits conferred by this compact may be terminated on the effective date of termination. A cure of the default does not relieve the offending state of obligations or liabilities incurred during the period of default.

(c) Termination of membership in the compact shall be imposed only after all other means of securing compliance have been exhausted. Notice of intent to suspend or terminate shall be given by the commission to the governor, the majority and minority leaders of the defaulting state's legislature, and each of the member states.

(d) A state that has been terminated is responsible for all assessments, obligations and liabilities incurred through the effective date of termination, including obligations that extend beyond the effective date of termination.

(e) The commission shall not bear any costs related to a state that is found to be in default or that has been terminated from the compact, unless agreed upon in writing between the commission and the defaulting state.

(f) The defaulting state may appeal the action of the commission by petitioning the United States district court for the District of Columbia or the federal district where the commission has its principal offices. The prevailing member shall be awarded all costs of such litigation, including reasonable attorney's fees.

(3) Dispute Resolution.

(a) Upon request by a member state, the commission shall attempt to resolve disputes related to the compact that arise among member states and between member and nonmember states.

(b) The commission shall promulgate a rule providing for both mediation and binding dispute resolution for disputes as appropriate.

(4) Enforcement.

(a) The commission, in the reasonable exercise of its discretion, shall enforce the provisions and rules of this compact.

(b) By majority vote, the commission may initiate legal action in the United States district court for the District of Columbia or the federal district where the commission has its principal offices against a member state in default to enforce compliance with the provisions of the compact and its promulgated rules and bylaws. The relief sought may include both injunctive relief and damages. In the event judicial enforcement is necessary, the prevailing member shall be awarded all costs of such litigation, including reasonable attorney's fees.

(c) The remedies herein shall not be the exclusive remedies of the commission. The commission may pursue any other remedies available under federal or state law.

[56-10130, added 2016, ch. 60, sec. 1, p. 193.]

56-1013P. DATE OF IMPLEMENTATION OF THE INTERSTATE COMMISSION FOR EMS PERSONNEL PRACTICE AND ASSOCIATED RULES, WITHDRAWAL AND AMENDMENT. (1) The compact shall come into effect on the date on which the compact statute is enacted into law in the tenth member state. The provisions, which become effective at that time, shall be limited to the powers granted to the commission relating to assembly and the promulgation of rules. Thereafter, the commission shall meet and exercise rulemaking powers necessary to the implementation and administration of the compact.

(2) Any state that joins the compact subsequent to the commission's initial adoption of the rules shall be subject to the rules as they exist on the date on which the compact becomes law in that state. Any rule that has been previously adopted by the commission shall have the full force and effect of law on the day the compact becomes law in that state.

(3) Any member state may withdraw from this compact by enacting a statute repealing the same.

(a) A member state's withdrawal shall not take effect until six (6) months after enactment of the repealing statute.

(b) Withdrawal shall not affect the continuing requirement of the withdrawing state's EMS authority to comply with the investigative and adverse action reporting requirements of this act prior to the effective date of withdrawal.

(4) Nothing contained in this compact shall be construed to invalidate or prevent any EMS personnel licensure agreement or other cooperative arrangement between a member state and a nonmember state that does not conflict with the provisions of this compact.

(5) This compact may be amended by the member states. No amendment to this compact shall become effective and binding upon any member state until it is enacted into the laws of all member states.

[56-1013P, added 2016, ch. 60, sec. 1, p. 194.]

56-1013Q. CONSTRUCTION AND SEVERABILITY. This compact shall be liberally construed so as to effectuate the purposes thereof. If this compact shall be held contrary to the constitution of any state member thereto, the compact shall remain in full force and effect as to the remaining member

states. Nothing in this compact supersedes state law or rules related to licensure of EMS agencies.

[56-1013Q, added 2016, ch. 60, sec. 1, p. 195.]

56-1014. LIABILITY. (1) No act or omission of any person who is duly licensed under sections 56-1011 through 56-1023, Idaho Code, by the EMS bureau done or omitted in good faith while rendering emergency medical services to a person or persons who are perceived to need immediate care in order to prevent loss of life or aggravation of physiological or psychological illness or injury shall impose any liability upon those personnel, the supervising physician, the hospital, the organization providing the service, or upon a federal, state, county, city or other local governmental unit, or upon employees of such governmental unit, unless such provider of care or such personnel be shown to have caused injury and damages to such person or persons as a proximate result of his, her or their reckless or grossly negligent misconduct, which shall be the sole grounds for civil liability of such persons in the provision of care or assistance under sections 56-1011 through 56-1023, Idaho Code, regardless of the circumstance under which such care or assistance may be provided. This section shall not relieve the organization or agency operating the service from the duty of securing, maintaining and operating, the equipment and licensure designated for use in performing the emergency medical services.

(2) The provisions of subsection (1) of this section shall apply to licensed personnel of another state of the United States who enter this state in response to an emergency to render emergency medical services to a person who is perceived to need immediate care in order to prevent loss of life or aggravation of physiological or psychological illness or injury.

(3) No act or omission of any person authorized under this chapter to provide community health emergency medical services shall impose any liability upon such person or the person's agency or supervising physician where the act or omission occurs in the course of providing authorized services and is done or omitted in good faith, unless the person is shown to have caused injury as a result of reckless or grossly negligent misconduct.

[(56-1014) 39-142, added 1976, ch. 187, sec. 3, p. 676; am. 1996, ch. 26, sec. 5, p. 64; am. and redesig. 2001, ch. 110, sec. 7, p. 380; am. 2009, ch. 189, sec. 5, p. 615; am. 2010, ch. 138, sec. 3, p. 293; am. 2015, ch. 157, sec. 5, p. 553.]

56-1015. FAILURE TO OBTAIN CONSENT. No person licensed under sections 56-1011 through 56-1023, Idaho Code, or physician or hospital licensed in this state shall be subject to civil liability, based solely upon failure to obtain consent in rendering emergency medical, surgical, hospital or health services to any individual regardless of age where that individual is unable to give this consent for any reason and there is no other person reasonably available who is legally authorized to consent to the providing of such care, provided, however, that such person, physician, or hospital has acted in good faith and without knowledge of facts negating consent. The provision or refusal of consent under sections 56-1011 through 56-1023, Idaho Code, shall be governed by chapter 45, title 39, Idaho Code.

[(56-1015) 39-143, added 1976, ch. 187, sec. 4, p. 674; am. 1996, ch. 26, sec. 6, p. 61; am. and redesig. 2001, ch. 110, sec. 8, p. 373; am. 2005, ch. 120, sec. 7, p. 393; am. 2009, ch. 189, sec. 6, p. 616.]

56-1016. AGENCY MINIMUM STANDARDS. Each ambulance service, air medical service and nontransport service shall be licensed by the EMS bureau based on the level of licensed personnel it utilizes, transport capability and self-declared geographic coverage area and shall meet the following standards:

(1) Personnel during transport or transfer -- There shall be at least two (2) crew members on each patient transport or transfer, with the crew member delivering patient care being, at a minimum, a licensed emergency medical technician (EMT) or a licensed emergency medical responder (EMR) with a valid ambulance certification issued by the EMS bureau.

(2) Dispatch -- Each licensed EMS agency shall have a twenty-four (24) hour dispatch arrangement and shall respond to calls on a twenty-four (24) hour basis.

(3) Agency inspections and licensing -- The EMS bureau shall conduct inspections at least annually related to agency licensing or shall contract to have the inspections carried out. Each agency shall have a current state license in order to operate.

(4) Ambulance service minimum standards waiver -- The controlling authority providing ambulance services may petition the board for waiver of the ambulance standards of section 56-1016(2), Idaho Code, if compliance with these standards would cause undue hardship on the community being served, or would result in abandonment of ambulance services.

(5) Nontransport service minimum standards waiver -- The controlling authority providing nontransport services may petition the EMS bureau for waiver of the twenty-four (24) hour response requirement of this section if the petition demonstrates that the community, setting, industrial site or event is not populated on a twenty-four (24) hour basis or does not exist on a three hundred sixty-five (365) day per year basis or if compliance with these standards would cause undue hardship on the community being served, or would result in abandonment of nontransport services.

(6) Supervision -- A licensed physician shall supervise the medical activities provided by licensed personnel affiliated with the licensed agency including, but not limited to: establishing standing orders and protocols, reviewing performance of licensed personnel, approving methods for licensed personnel to receive instructions for patient care via radio, telephone or in person, and other oversight as provided in the rules of the commission.

(7) Applicants must submit the following information with their applications and agree to meet the following requirements as a condition of licensure:

(a) A declaration of anticipated applicant agency costs and revenues; a statement of projected changes in response time; and a narrative describing projected clinical benefits to patients resulting from licensure using methods defined in board rules concerning such matters on an application provided by the EMS bureau; and

(b) Collect and report data to the EMS bureau upon receiving a license using a data collection system that is validated as compliant by the national emergency medical services information system technical assistance center in accordance with board rules.

(8) The EMS bureau will provide notice of any such application to all cities, counties and other units of local government that have any geographic coverage area in common with the applicant in accordance with board rules. Such notice will include a summary of the applicant data supplied to the EMS bureau. Any other EMS bureau use of the cost and revenue data supplied by applicants is limited exclusively to informational purposes.

(9) Appeal of a denial of an applicant's license will be governed by IDAPA 16.05.03, rules governing contested case proceedings and declaratory rulings.

[(56-1016) 39-144, added 1976, ch. 187, sec. 5, p. 677; am. 1993, ch. 50, sec. 2, p. 131; am. 1996, ch. 26, sec. 7, p. 64; am. and redesig. 2001, ch. 110, sec. 9, p. 380; am. 2006, ch. 421, sec. 4, p. 1305; am. 2009, ch. 189, sec. 7, p. 616; am. 2018, ch. 101, sec. 1, p. 212.]

56-1018. EMERGENCY MEDICAL SERVICES FUND. There is hereby created in the dedicated fund of the state treasury a fund known as the "Emergency Medical Services Fund." Subject to appropriation by the legislature, moneys in the fund shall be used exclusively for the purposes of emergency medical services training, communications, vehicle and equipment grants, and other programs furthering the goals of highway safety and emergency response providing medical services at motor vehicle accidents.

[(56-1018) 39-146, added 1981, ch. 221, sec. 2, p. 412; am. and redesig. 2001, ch. 110, sec. 11, p. 381.]

56-1018A. EMERGENCY MEDICAL SERVICES FUND II. There is hereby created in the dedicated fund of the state treasury a fund known as the emergency medical services fund II. Subject to appropriation by the legislature, moneys in the fund shall be used exclusively for the purposes of emergency medical services.

[(56-1018A) 39-146A, added 1981, ch. 221, sec. 2, p. 412; am. and redesig. 2001, ch. 110, sec. 12, p. 382.]

56-1018B. EMERGENCY MEDICAL SERVICES FUND III. (1) There is hereby created in the dedicated fund of the state treasury a fund known as the emergency medical services fund III. Subject to appropriation by the legislature, moneys in the fund shall be used exclusively for the purpose of acquiring vehicles and equipment for use by emergency medical services personnel in the performance of their duties, which include highway safety and emergency response to motor vehicle accidents.

(2) The bureau of emergency medical services of the department of health and welfare shall be responsible for distributing moneys from the fund to qualifying nonprofit and governmental entities that submit an application for a grant from the fund. The bureau shall approve grants based on the following criteria:

(a) The requesting entity is a nonprofit or governmental entity that holds a current license as an ambulance or nontransport service issued by the state of Idaho;

(b) The requesting entity has demonstrated need based on criteria established by the bureau;

(c) The requesting entity has provided verification that it has received the approval and endorsement of a fire district or city or county within its service area;

(d) The requesting entity has certified that the title to any vehicle purchased with funds from the fund shall be in the name of the fire district or city or county that endorsed the application and shall submit proof of titling as soon as practicable;

(e) The state of Idaho shall retain a security interest in the vehicle to secure the performance of the grant recipient to utilize the vehicle consistent with the intent described in the application.

(3) Notwithstanding the requirements of subsection (2)(c) and (d) of this section, the bureau of emergency medical services is authorized to approve and issue a grant to an applicant in the absence of an endorsement if the endorsement is withheld without adequate justification.

[(56-1018B) 39-146B, added 1999, ch. 360, sec. 1, p. 951; am. and redesignig. 2001, ch. 110, sec. 13, p. 382; am. 2018, ch. 168, sec. 3, p. 343.]

56-1019. SERVICES TO VICTIMS OF CYSTIC FIBROSIS. The department of health and welfare shall establish, through the crippled children's program, a program of services to persons suffering from cystic fibrosis who are twenty-one (21) years or more of age. The department shall establish uniform standards of financial eligibility for services provided under this section.

[(56-1019) 39-147, added 1978, ch. 334, sec. 2, p. 863; am. 1986, ch. 38, sec. 1, p. 121; am. and redesignig. 2001, ch. 110, sec. 14, p. 383.]

56-1020. PENALTIES FOR PERSONNEL LICENSE VIOLATIONS. Any person who practices or attempts to practice EMS as a licensed provider of emergency care as provided for in sections 56-1011 through 56-1023, Idaho Code, without having at the time of so doing a valid, unexpired, unrestricted, unrevoked and unsuspended license issued by the EMS bureau under sections 56-1011 through 56-1023, Idaho Code, shall be guilty of a misdemeanor and shall be subject to a fine of not more than five hundred dollars (\$500) or imprisonment for not more than six (6) months, or both, for each violation. In the event that the prosecuting attorney in the county where the alleged violation occurred fails or refuses to act within sixty (60) days of notification of the alleged violation, the attorney general is authorized to prosecute the alleged violation.

[56-1020, added 2009, ch. 189, sec. 8, p. 617.]

56-1021. PENALTIES FOR AGENCY LICENSE VIOLATIONS. Any person establishing, conducting, managing or operating any agency as provided for in sections 56-1011 through 56-1023, Idaho Code, without a license issued by the EMS bureau under sections 56-1011 through 56-1023, Idaho Code, shall be guilty of a misdemeanor and shall be subject to a fine of not more than one thousand dollars (\$1,000) or imprisonment for not more than six (6) months, or both. Each day of continuing violation shall constitute a separate offense. In the event that the prosecuting attorney in the county where the alleged violation occurred fails or refuses to act within sixty (60) days of notification of the alleged violation, the attorney general is authorized to prosecute the alleged violation.

[56-1021, added 2009, ch. 189, sec. 8, p. 617.]

56-1022. PERSONNEL AND AGENCIES LICENSURE ACTIONS -- GROUNDS -- PROCEDURE. (1) Subject to the provisions of chapter 52, title 67, Idaho Code, the EMS bureau, upon recommendation of the commission, may deny a license or refuse to renew a license for a person, or may suspend or revoke a license or may impose probationary conditions if the holder of a license or the applicant for a license has engaged in unprofessional conduct which has endangered or is likely to endanger the health, welfare or safety of the public. Such unprofessional conduct includes, but is not limited to:

(a) Obtaining a license by means of fraud, misrepresentation or concealment of a material fact;

- (b) Being found guilty of unprofessional conduct as defined by rule established by the board;
- (c) Being convicted of a crime which would have a direct and adverse bearing on the licensee's ability to practice or perform emergency medical care competently;
- (d) The unauthorized practice of medicine;
- (e) Violating any provisions of sections 56-1011 through 56-1023, Idaho Code, or any of the rules established by the board or the commission thereunder; or
- (f) Being found mentally incompetent by a court of competent jurisdiction.

(2) Subject to the provisions of chapter 52, title 67, Idaho Code, the EMS bureau may deny, revoke or refuse to renew a license of an agency, or may impose probationary conditions or fines as a condition of an agency's ability to retain a license in accordance with board rule.

(3) A denial, refusal to renew, suspension, revocation or imposition of probationary conditions upon a license may be ordered by the EMS bureau after opportunity for a hearing in a manner provided by rule established by the board. An application for reinstatement may be filed with the EMS bureau one (1) year from the date of license revocation. In the event a timely application is filed, the EMS bureau shall:

- (a) Hold a hearing to consider such reinstatement; and
- (b) Accept or reject the application for reinstatement.

[56-1022, added 2009, ch. 189, sec. 8, p. 618.]

56-1023. RULES. (1) The commission is authorized and directed to adopt appropriate rules defining the allowable scope of practice and acts and duties which can be performed by persons licensed by the EMS bureau and the required level of supervision by a licensed physician.

(2) The board is authorized and directed to adopt appropriate rules and standards concerning the administration of sections 56-1011 through 56-1022 and this section, Idaho Code, including criteria for educational programs, certification and licensure of personnel, certification of EMS instructors, licensure of ambulance, air medical and nontransport services, manufacturing standards for ambulances and nontransport vehicles, criteria for the use of air medical services by licensed EMS personnel at emergency scenes, establishment of fees for training, inspections and licensure, appropriate requirements for renewal of licensure of personnel and agencies and the management of complaints, investigations and license actions against licensed EMS personnel and agencies. The rules of the board must be consistent with the rules adopted by the commission.

(3) Additionally, the department shall develop guidelines, standards and procedures for reducing exposure to pathogens from human blood, tissue or fluids. Such guidelines, standards and procedures shall be made available to all law enforcement personnel, all emergency medical services personnel and agencies, and such other emergency personnel who request such information.

[(56-1023) 56-1017, 39-145, added 1976, ch. 187, sec. 6, p. 678; am. 1988, ch. 16, sec. 1, p. 19; am. 1996, ch. 26, sec. 8, p. 65; am. and redesisg. 2001, ch. 110, sec. 10, p. 381; am. 2004, ch. 362, sec. 1, p. 1082; am. 2006, ch. 421, sec. 5, p. 1305; am. 2007, ch. 306, sec. 2, p. 858; am. and redesisg. 2009, ch. 189, sec. 9, p. 618.]

56-1024. IDAHO TIME SENSITIVE EMERGENCY SYSTEM OF CARE -- STATEMENT OF INTENT. Time sensitive emergencies, specifically blunt trauma injuries, strokes and heart attacks, were three (3) of the top five (5) causes of deaths in Idaho in 2011. Numerous studies throughout the United States have demonstrated that organized systems of care improve patient outcomes, thus reducing the frequency of preventable death and improving the functional status of the patient. The institute of medicine's report "Hospital-Based Emergency Care: At the Breaking Point" recommended improving the care of critical illness through regionalization by transporting critically ill patients to designated specialized care centers when appropriate. Early treatment and transfer when necessary will save the lives of Idahoans stricken with these emergency conditions. Trauma systems of care are well understood as they have existed in many other states for decades. It is the intent of this legislation to create an integrated and responsive system of care for Idaho citizens. The trauma component will serve as the initial framework in a deliberate, incremental implementation approach for a comprehensive system of care for time sensitive emergencies in Idaho. The time sensitive emergency system in Idaho is intended to be voluntary and inclusive. The system will be designed such that all facilities, and in particular critical access hospitals, have the opportunity to participate. No facility shall be excluded from receiving medically appropriate patients based solely on the facility's decision of not seeking designation.

[56-1024, added 2014, ch. 147, sec. 1, p. 403.]

56-1025. DEFINITIONS. As used in sections 56-1024 through 56-1030, Idaho Code:

(1) "EMS agency" means any organization licensed by the EMS bureau that operates an air medical service, ambulance service or nontransport service.

(2) "EMS bureau" means the bureau of emergency medical services of the department of health and welfare.

(3) "Council" means the Idaho time sensitive emergency system council.

(4) "TSE" means time sensitive emergency, specifically trauma, stroke and heart attack.

[56-1025, added 2014, ch. 147, sec. 2, p. 403.]

56-1026. IDAHO TIME SENSITIVE EMERGENCY SYSTEM -- CREATION. There is hereby created a voluntary time sensitive emergency system within the department of health and welfare.

[56-1026, added 2014, ch. 147, sec. 3, p. 403.]

56-1027. IDAHO TIME SENSITIVE EMERGENCY SYSTEM COUNCIL -- CREATION -- COMPOSITION. (1) There is hereby created the Idaho time sensitive emergency system council hereinafter known as the "council." Council members shall be appointed by the governor with the approval of the board of health and welfare. Council members shall be selected to assure equitable geographic, rural and clinical specialty representation.

(2) The membership of the council shall include the following:

(a) One (1) representative from a facility that either holds or is seeking designation as an Idaho trauma center. The representative shall be the medical director, the coordinator or the program manager responsible for the respective facility's trauma program;

(b) One (1) representative from a facility that either holds or is seeking designation as an Idaho stroke facility. The representative shall

be the medical director, the coordinator or the program manager responsible for the respective facility's stroke program;

(c) One (1) representative from a facility that either holds or is seeking designation as an Idaho heart attack center. The representative shall be the medical director, the coordinator or the program manager responsible for the respective facility's heart attack program;

(d) One (1) representative from an EMS agency licensed by the department that serves a primarily urban response area;

(e) One (1) representative from an EMS agency licensed by the department that serves a primarily rural response area;

(f) One (1) representative from an air medical EMS agency licensed by the department;

(g) One (1) administrator of an Idaho hospital that either holds or is seeking Idaho trauma, stroke or heart attack designation;

(h) One (1) chief executive officer or administrator of an Idaho critical access hospital that either holds or is seeking Idaho trauma, stroke or heart attack designation;

(i) One (1) licensed health care provider who routinely works in the emergency department of a hospital that serves a primarily urban area that either holds or is seeking trauma, stroke or heart attack designation;

(j) One (1) licensed health care provider who routinely works in the emergency department of a hospital that serves a primarily rural area that either holds or is seeking trauma, stroke or heart attack designation; and

(k) One (1) Idaho citizen with an interest in furthering the quality of trauma, stroke and heart attack care in Idaho.

(3) The chair of each regional TSE committee shall be added as a voting member of the council when the regional TSE committee is implemented and the chair is selected.

(4) Members of the council shall serve four (4) year terms with half of the members initially appointed, as determined by lot, serving two (2) year terms. If a vacancy occurs, the governor shall appoint a replacement to fill the unexpired term. Members may be reappointed and shall serve at the pleasure of the governor.

(5) The governor shall appoint a chair who shall serve a term of two (2) years. The council may elect other officers as it may deem necessary and appropriate. The council shall meet at least semiannually and at the call of the chair.

[56-1027, added 2014, ch. 147, sec. 4, p. 404.]

56-1028. IDAHO TIME SENSITIVE EMERGENCY SYSTEM COUNCIL -- DUTIES -- RULEMAKING. The duties of the council shall be as follows:

(1) Develop, implement and monitor a voluntary statewide system that includes trauma, stroke and heart attack facilities;

(2) Provide oversight of the system, assuring adherence to standards established by the council;

(3) Establish substate system regions that provide more effective access to the system. In the designation of these regions, specific consideration shall be given to geography and patient referral patterns for the facilities and agencies included therein;

(4) Establish a regional TSE committee in each substate region;

(5) Develop the standards and criteria that each participating facility that voluntarily applies is required to meet concerning personnel, equipment, resources, data collection and organizational capabilities to obtain or maintain designation;

(6) Develop procedures for and the duration of the designation of a trauma, stroke or heart attack facility, including application procedures, verification procedures, investigation of complaints pertaining to designation and emergency suspension or revocation of designation;

(7) Develop operational procedures for the regional TSE committees;

(8) Facilitate the implementation of nationally accepted standards throughout the voluntary system;

(9) Set procedures for the acquisition of data needed to successfully manage the system;

(10) Promulgate rules to fulfill the purpose of this act; and

(11) Collaborate and cooperate with the EMS bureau, the EMS physician commission, local governments, local EMS agencies and associations to address recruitment and retention concerns of local EMS providers.

[56-1028, added 2014, ch. 147, sec. 5, p. 405.]

56-1029. IDAHO TRAUMA, STROKE AND HEART ATTACK CENTERS -- DESIGNATION. (1) The council shall designate a hospital as a trauma, stroke or heart attack center when such hospital, upon proper application and verification, has been found by the council to meet the applicable level of trauma, stroke or heart attack center criteria as established by the council.

(2) In developing trauma, stroke and heart attack center designation criteria, the council shall use, as is practicable, appropriate peer-reviewed or evidence-based research including, but not limited to, the most recent guidelines of the American college of surgeons committee on trauma, American college of cardiology and American heart association for heart attack centers, or the joint commission's primary stroke center certification program criteria for stroke centers, or primary and comprehensive stroke center recommendations as published by the American stroke association or other nationally recognized authoritative standards.

(3) Participation criteria shall be published in rules promulgated by the council.

(4) The council shall conduct a periodic verification review of every trauma, heart attack and stroke facility. Verification reviews shall be coordinated for the different types of centers to the extent practicable with hospital resources. No person who has a substantial conflict of interest in the operation of any trauma, stroke and heart attack center under review shall participate in the verification review of the facility.

(5) The council shall coordinate an on-site review as necessary to assure that a hospital meets the criteria for the desired designation. The council may waive an on-site review when a hospital has been verified by a nationally recognized accrediting body to meet or exceed standards established by the council.

(6) The council may deny, place on probation, suspend or revoke any designation when it has reasonable cause to believe that there has been misrepresentation or falsification of information or a substantial failure to comply with the criteria for designation promulgated by the council. If the council has reasonable cause to believe that a hospital is not in compliance with such provisions, it may require the facility to submit additional documentation or undergo additional site reviews to verify compliance.

(7) No hospital may hold itself out to the public as an Idaho designated trauma center, Idaho designated stroke facility or Idaho designated heart attack facility unless it is designated as such by the council.

(8) A hospital aggrieved because of the council's decision shall be entitled to appeal to the council in the manner prescribed by the council and shall be afforded reasonable notice and opportunity for a fair hearing.

(9) Actions of the council relating to adoption of rules, notice, hearings, appeals from decisions of the department or the director, and review shall be governed by the provisions of chapter 52, title 67, Idaho Code, the administrative procedure act.

[56-1029, added 2014, ch. 147, sec. 6, p. 405.]

56-1030. REGIONAL TIME SENSITIVE EMERGENCY COMMITTEES -- MEMBERSHIP -- DUTIES. (1) Pursuant to section 56-1028(4), Idaho Code, each substate region designated by the council shall have a time sensitive emergency committee.

(2) Membership of each regional TSE committee shall be based on the needs of the region and can be modified as the regional TSE committee determines, but each regional committee shall be initially comprised as follows:

(a) Each facility that is designated or is seeking designation by the council as a trauma center, stroke facility or heart attack facility may appoint one (1) representative for each of the designations that the facility holds or is seeking to hold to the regional committee for the region in which the facility is located;

(b) Each air medical EMS agency that provides patient transport within the region may appoint one (1) representative;

(c) Each hospital that either holds or is seeking Idaho trauma, stroke or heart attack designation may appoint the hospital administrator;

(d) Each EMS agency with a response area in the region may appoint one (1) representative; and

(e) The regional committee shall include a pediatrician or an expert in children's trauma.

(3) Members of a regional committee shall elect a chair to serve a term of two (2) years.

(4) The duties of each regional committee shall be as follows:

(a) Implement care guidelines, policies, procedures and protocols for the regional TSE system;

(b) Conduct regional quality improvement, including receipt of reports prepared by the council containing trauma, stroke and heart attack data and making recommendations to facilities within the region based upon those reports;

(c) Advise the council concerning the statewide system;

(d) Establish trauma, stroke and heart attack education and prevention programs;

(e) Provide advice concerning trauma, stroke and heart attack care to health care facilities and other providers of health care;

(f) Perform other duties required by Idaho code and council rules; and

(g) Conduct other activities needed to ensure optimal delivery of trauma, stroke and heart attack care services within the region.

[56-1030, added 2014, ch. 147, sec. 7, p. 406.]

56-1036. LEGISLATIVE INTENT. (1) The legislature finds that accidental poisoning is a serious public health problem in the state of Idaho and is a problem that disproportionately affects Idaho's children. It further finds

that a significant reduction in the morbidity and mortality resulting from such accidental poisonings has occurred as a result of the services provided by the poison control center.

(2) The purpose of sections 56-1036 through 56-1040, Idaho Code, is to declare legislative support for the important work of the poison control center and to assure, by statute, the continued existence of the poison control center.

(3) The legislature finds that the poison control center has saved lives and reduced suffering associated with poisoning by providing emergency telephone assistance and treatment referral to victims of such incidents, by providing immediate treatment information to health care professionals, and by providing public education and prevention programs.

(4) The legislature recognizes that enhanced cooperation between the emergency medical system and poison control centers will aid in responding to emergencies resulting from exposure to poisons and that, by providing telephone assistance to individuals with possible exposure to poisons, the need for emergency room and professional office visits will be reduced. As a result, the cost of health care to those who may have been poisoned will be avoided or reduced and appropriate treatment will be assured.

[(56-1036) 39-166, added 1996, ch. 147, sec. 1, p. 483; am. and redesign. 2001, ch. 110, sec. 31, p. 387.]

56-1037. POISON CONTROL CENTER ESTABLISHED -- SERVICES OFFERED. The director of the department of health and welfare (for purposes of sections 56-1036 through 56-1040, Idaho Code, "director") shall establish, and provide support in a manner consistent with sections 56-1036 through 56-1040, Idaho Code, a statewide poison control center. The poison control center shall offer the following services:

(1) Provide twenty-four (24) hour emergency telephone management and treatment referral of victims of poisoning to include determining whether treatment can be accomplished at the scene of the incident or transport to an emergency treatment or other facility is required, and carrying out telephone follow-up to families and other individuals to assure that adequate care is provided;

(2) Provide information to health professionals involved in management of poisoning and overdose victims; and

(3) Provide coordination and development of community education programs designed to inform the public and members of the health professions of poison prevention and treatment methods and to improve awareness of poisoning problems, occupational risks and environmental exposures.

[(56-1037) 39-167, added 1996, ch. 147, sec. 1, p. 484; am. and redesign. 2001, ch. 110, sec. 32, p. 388.]

56-1038. COORDINATION WITH OTHER AGENCIES. The director shall establish a system for consulting with other state agency programs concerned with poisons and poisonings, incidents involving exposures to potentially poisonous substances, and other toxicological matters to develop the most coordinated and consistent response to such situations as is reasonably possible.

[(56-1038) 39-168, added 1996, ch. 147, sec. 1, p. 484; am. and redesign. 2001, ch. 110, sec. 33, p. 388.]

56-1039. POWER TO ACCEPT FEDERAL FUNDS AND GIFTS. The director may accept federal funds granted by congress or executive order, as well as gifts, grants, endowments and/or donations from individuals and private organizations or foundations for all or any of the purposes of the poison control center.

[(56-1039) 39-169, added 1996, ch. 147, sec. 1, p. 484; am. and redesignig. 2001, ch. 110, sec. 34, p. 388.]

56-1040. RULEMAKING AUTHORITY. The director shall adopt rules necessary to administer sections 56-1036 through 56-1040, Idaho Code, pursuant to chapter 52, title 67, Idaho Code.

[(56-1040) 39-170, added 1996, ch. 147, sec. 1, p. 484; am. and redesignig. 2001, ch. 110, sec. 35, p. 389.]

56-1041. STATE X-RAY CONTROL AGENCY. (1) The state department of health and welfare is designated as the state agency having the responsibility for administration of the regulatory, licensing and radiation control provisions associated with x-ray producing machines, as defined in section 56-1042, Idaho Code.

(2) The director of the department of health and welfare shall be administrator of the agency, hereinafter referred to as the director, who shall perform the functions vested in the agency pursuant to the provisions of sections 56-1041 through 56-1053, Idaho Code.

(3) In accordance with the laws of the state, the director may appoint, fix the compensation, and prescribe the powers and duties of such individuals, including consultants, advisory councils, emergency teams and committees as may be necessary to carry out the provisions of sections 56-1041 through 56-1053, Idaho Code. The personnel engaged in field activities of evaluation and inspection shall at least have a baccalaureate degree in the physical and/or life sciences, or the equivalent, and be trained in health physics.

(4) The agency shall for the protection of the occupational and public health and safety:

(a) Develop programs for evaluation of hazards associated with use of radiation;

(b) Formulate and recommend that the board of health and welfare adopt, promulgate and repeal codes, rules and standards relating to control of x-ray producing machines;

(c) Advise, consult, and cooperate with other agencies of the state, and federal government, other states and interstate agencies, political subdivisions, and with groups concerned with control of x-ray producing machines;

(d) Encourage, participate in, or conduct studies, investigations, training, research and demonstrations relating to x-ray producing machines;

(e) Collect and disseminate information relating to control of x-ray producing machines, including:

(i) Maintenance of a file of all license applications, issuances, denials, amendments, transfers, renewals, modifications, suspensions and revocations; and

(ii) Maintenance of a file of registrants possessing x-ray producing machines requiring registration under the provisions of

sections 56-1041 through 56-1053, Idaho Code, and any administrative or judicial action pertaining thereto;

(f) Have the authority to accept and administer loans, grants, or other funds or gifts, conditional or otherwise, in furtherance of its functions from the federal government and from other sources, public or private;

(g) Issue subpoenas in order to compel the attendance of necessary witnesses and/or the production of records and documents.

[56-1041, added 2001, ch. 110, sec. 37, p. 390.]

56-1042. DEFINITIONS. As used in sections 56-1041 through 56-1053, Idaho Code:

(1) "Board" means the Idaho board of health and welfare.

(2) "Department" means the Idaho department of health and welfare.

(3) "Electronic product" means any manufactured product or device or component part of such a product or device that has an electronic circuit which during operation can generate or emit a physical field of radiation.

(4) "Person" means any individual, corporation, partnership, firm, association, trust, estate, public or private institution, group, agency, political subdivision of this state, any other state or political subdivision or agency thereof, and any legal successor, representative, agent or agency of the foregoing.

(5) "Registration" means registration by any person possessing an x-ray producing machine in accordance with rules and standards adopted by the state board of health and welfare.

(6) "X-ray producing machine" means any type of device which is capable of producing or emitting x-rays.

[56-1042, added 2001, ch. 110, sec. 38, p. 391.]

56-1043. RULES -- LICENSING REQUIREMENTS AND PROCEDURE -- REGISTRATION OF X-RAY PRODUCING MACHINES -- EXEMPTIONS FROM REGISTRATION OR LICENSING. (1) The board of health and welfare shall provide, by rule, for general or specific licensing of x-ray producing machines. Such rule shall provide for amendment, suspension or revocation of licenses. Such rule shall provide that:

(a) Each application for a specific license shall be in writing and shall state such information as the board, by rule, may determine to be necessary to decide the technical, insurance and financial qualifications, or any other qualification of the applicant as the department may deem reasonable and necessary to protect the occupational and public health and safety. The department may at any time after the filing of the application, and before the expiration of the license, require further written statements and shall make such inspections as the department deems necessary in order to determine whether the license should be granted or denied or whether the license should be modified, suspended or revoked. In no event shall the department grant a specific license to any applicant who has never possessed a specific license issued by a recognized state or federal authority until the department has conducted an inspection or review which insures that the applicant can meet the rules and standards adopted pursuant to sections 56-1041 through 56-1053, Idaho Code. All applications and statements shall be signed by the applicant or licensee. The department may require any applications or statements to be made under oath or affirmation;

(b) Each license shall be in such form and contain such terms and conditions as the board may by rule prescribe;

(c) No license issued under the authority of sections 56-1041 through 56-1053, Idaho Code, and no right to process or utilize x-ray producing machines granted by any license shall be assigned or in any manner disposed of; and

(d) The terms and conditions of all licenses shall be subject to amendment, revision or modification by rules or orders issued in accordance with the provisions of sections 56-1041 through 56-1053, Idaho Code.

(2) The board of health and welfare may require licensing of those persons installing or repairing x-ray producing machines which the board has determined to present a potential hazard to the occupational and public health and safety. Such licensing requirements shall provide that:

(a) Each application for a license shall be in writing and shall state such information as the board, by rule, may determine to be necessary to decide the technical, insurance and financial qualifications, or any other qualification of the applicant as the department may deem reasonable and necessary. The department may at any time after the filing of the application, and before the expiration of the license, require further written statements and shall make such inspections as the department deems necessary in order to determine whether the license should be granted or denied or whether the license should be modified, suspended or revoked. All applications and statements shall be signed by the applicant or licensee. The department may require any applications or statements to be made under oath or affirmation;

(b) Each license shall be in such form and contain such terms and conditions as the board of health and welfare may by rule prescribe;

(c) No license issued under the authority of sections 56-1041 through 56-1053, Idaho Code, and no right to possess or utilize x-ray producing machines granted by any license shall be assigned or in any manner disposed of; and

(d) The terms and conditions of all licenses shall be subject to amendment, revision or modification by rules or orders issued in accordance with the provisions of sections 56-1041 through 56-1053, Idaho Code.

(3) The board of health and welfare may require registration of all x-ray producing machines which the department has determined to present a potential hazard to the occupational and public health and safety.

(4) The board of health and welfare may exempt certain x-ray producing machines or kinds of uses or users from the registration or licensing requirements set forth in this section when the department makes a finding that the exemption of such x-ray producing machines or kinds of uses or users will not constitute a significant risk to the health and safety of the public.

(5) In promulgating rules pursuant to sections 56-1041 through 56-1053, Idaho Code, the board of health and welfare shall, insofar as practical, strive to avoid requiring dual licensing, and shall provide for such recognition of other state or federal licenses as the department shall deem desirable, subject to such registration requirements as the board of health and welfare may prescribe.

[56-1043, added 2001, ch. 110, sec. 39, p. 391.]

56-1044. RADIATION MACHINES USED TO PERFORM MAMMOGRAPHY. (1) No person shall use a radiation machine to perform mammography unless the radiation machine is registered with the department of health and welfare under

department rules for registration of radiation machines and is specifically authorized under this section for use for mammography.

(2) The department shall authorize a radiation machine for use for mammography if the radiation machine meets the current criteria of the American college of radiology mammography accreditation program, published by the American college of radiology, or meets an equivalent standard adopted by the department. The department shall make copies of those criteria available to the public.

(3) The department may withdraw the mammography authorization for a radiation machine if it does not meet the standards set forth in subsection (2) of this section.

(4) The department shall provide an opportunity for a hearing in connection with a denial or withdrawal of mammography authorization.

(5) Upon a finding that a deficiency in a radiation machine used for mammography or a violation of the rules promulgated under this section seriously affects the health, safety, and welfare of individuals upon whom the radiation machine is used for mammography, the department may issue an emergency order summarily withdrawing the mammography authorization of the radiation machine. The department shall incorporate its findings in the order and shall provide an opportunity for a hearing within five (5) working days after issuance of the order. The order shall be effective during the proceedings.

(6) If the department withdraws the mammography authorization of a radiation machine, the radiation machine shall not be used for mammography until reauthorized by the department.

(7) If a person violates the provisions of subsection (1) of this section, the department shall post a conspicuous notice on the unauthorized radiation machine and at the entry to the facility where the radiation machine is located warning the public that the facility is performing mammography using a radiation machine that is a substantial hazard to the public health.

[56-1044) 39-3030, added 1991, ch. 172, sec. 1, p. 419; am. and redesign. 2001, ch. 110, sec. 36, p. 389.]

56-1045. INSPECTION. The department or its duly authorized representative shall have the power to enter at all reasonable times upon any private or public property for the purpose of determining whether or not there is compliance with or violation of the provisions of sections 56-1041 through 56-1053, Idaho Code, and rules issued thereunder, except that entry into areas under the exclusive jurisdiction of the federal government, or security areas under the direct or indirect jurisdiction of the federal government, shall be effected only with the concurrence of the federal government or its duly designated representative.

[56-1045, added 2001, ch. 110, sec. 40, p. 393.]

56-1046. RECORDS. (1) The department shall require each person who possesses or uses an x-ray producing machine to maintain necessary records relating to its receipt, use, storage, transfer, or disposal and such other records as the department may require which will permit the determination of the extent of occupational and public exposure from the x-ray producing machine. Copies of these records shall be submitted to the department on request. These requirements are subject to such exemptions as may be provided by rule.

(2) The department may by rule establish standards requiring that personnel monitoring be provided for any employee potentially exposed to x-rays and may provide for the reporting to any employee of his x-ray exposure record.

[56-1046, added 2001, ch. 110, sec. 41, p. 393.]

56-1047. FEDERAL-STATE AGREEMENTS -- AUTHORIZED -- EFFECT AS TO FEDERAL LICENSES. (1) The governor, on behalf of this state, is authorized to enter into agreements with the federal government providing for discontinuance of certain of the federal government's responsibilities with respect to x-ray producing machines and the assumption thereof by this state pursuant to sections 56-1041 through 56-1053, Idaho Code.

(2) Any person who, on the effective date of an agreement under subsection (1) of this section, possesses a license issued by the federal government, shall be deemed to possess the same pursuant to a license issued under sections 56-1041 through 56-1053, Idaho Code, which shall expire either ninety (90) days after the receipt from the department of a notice of expiration of such license or on the date of expiration specified in the federal license, whichever is earlier.

[56-1047, added 2001, ch. 110, sec. 42, p. 393.]

56-1048. INSPECTION AGREEMENTS AND TRAINING PROGRAMS. (1) The department is authorized to enter into an agreement or agreements with the federal government, other states, or interstate agencies, whereby this state will perform on a cooperative basis with the federal government, other states, or interstate agencies, inspections or other functions relating to control of x-ray producing machines.

(2) The department may institute training programs for the purpose of qualifying personnel to carry out the provisions of sections 56-1041 through 56-1053, Idaho Code, and may make said personnel available for participation in any program or programs of the federal government, other states, or interstate agencies in furtherance of the purposes of such sections.

[56-1048, added 2001, ch. 110, sec. 43, p. 393.]

56-1049. ADMINISTRATIVE PROCEDURE. In any proceeding under sections 56-1041 through 56-1053, Idaho Code, for the issuance or modification or repeal of rules relating to control of x-ray producing machines, the department shall comply with the requirements of chapter 52, title 67, Idaho Code.

Notwithstanding any other provision of sections 56-1041 through 56-1053, Idaho Code, whenever the department finds that an emergency exists requiring immediate action to protect the public health, safety or general welfare, the department may, without notice or hearing, issue a rule or order reciting the existence of such emergency and require that such action be taken as is necessary to meet the emergency. Such rules or orders shall be effective immediately.

[56-1049, added 2001, ch. 110, sec. 44, p. 394.]

56-1050. INJUNCTION PROCEEDINGS. Notwithstanding the existence or use of any other remedy, whenever any person has engaged in, or is about to engage in, any acts or practices which constitute or will constitute a violation of any provision of sections 56-1041 through 56-1053, Idaho Code, or any rule or order issued thereunder, the attorney general, upon the request of the department, after notice to such person and opportunity to comply, may

make application to the appropriate court for an order enjoining such acts or practices, or for an order directing compliance, and upon a showing by the department that such person has engaged in, or is about to engage in, any such acts or practices, a permanent or temporary injunction, restraining order, or other order may be granted.

[56-1050, added 2001, ch. 110, sec. 45, p. 394.]

56-1051. PROHIBITED USES. (1) It shall be unlawful for any person to use, manufacture, produce, transport, transfer, receive, acquire, own or possess any x-ray producing machine unless licensed by or registered with, or exempted by the department in accordance with the provisions of sections 56-1041 through 56-1053, Idaho Code.

(2) It shall be unlawful for any person to use, manufacture, produce, transport, transfer, receive, acquire, own or possess any other x-ray producing machine that has been identified by the department as presenting a potential hazard unless such x-ray producing machine is licensed by or registered by the department in accordance with the provisions of sections 56-1041 through 56-1053, Idaho Code.

[56-1051, added 2001, ch. 110, sec. 46, p. 394.]

56-1052. IMPOUNDING OF MATERIALS. The department shall have the authority in the event of an emergency to impound or order the impounding of x-ray producing machines in the possession of any person who is not equipped to observe or fails to observe the provisions of sections 56-1041 through 56-1053, Idaho Code, or any rules issued thereunder.

[56-1052, added 2001, ch. 110, sec. 47, p. 395.]

56-1053. PENALTIES. Any person who violates any of the provisions of sections 56-1041 through 56-1053, Idaho Code, or rules or orders in effect pursuant thereto shall be guilty of a misdemeanor.

[56-1053, added 2001, ch. 110, sec. 48, p. 395.]

56-1054. HEALTH QUALITY PLANNING. (1) It is the intent of the legislature that the department of health and welfare ("the department") promote improved quality of care and improved health outcomes through investment in health information technology and in patient safety and quality initiatives in the state of Idaho.

(a) Coordinated implementation of health information technology in Idaho will establish widespread use of networked electronic health information or health records to allow quick, reliable and secure access to that information in order to promote patient safety and best practices in health care. This goal is consistent with the mission of the office of the national coordinator for health information technology, established by the president of the United States in 2004, to provide leadership for the development and nationwide implementation of an interoperable health information technology infrastructure to improve the quality and efficiency of health care and the ability of consumers to manage their care and safety.

(b) Coordinated implementation of statewide patient safety standards will identify uniform indicators of and standards for clinical quality and patient safety as well as uniform requirements for reporting provider achievement of those indicators and standards.

(2) There is hereby created and established within the department a health quality planning commission ("the commission").

(a) By May 1, 2006, and as needed after that date, the governor shall appoint eleven (11) voting members upon assurance of equitable geographic and rural representation, comprising members of the public and private sectors with expertise in health information technology and clinical quality and patient safety. The membership shall represent all major participants in the health care delivery and financing systems. A majority of the commission shall be health care providers or employees of health care providers. One (1) member shall be an Idaho resident representing the public interest. The commission chairperson shall be appointed by the director of the department.

(b) Members of the commission shall be appointed for a term of two (2) years. The term of office shall commence on July 1, 2006. As terms of commission members expire, the governor shall appoint each new member or reappointed member to a term of two (2) years in a manner that is consistent with subsection (a) of this section.

(c) The commission shall meet quarterly and at the call of the chairperson.

(d) Each member of the commission shall be compensated as provided by section 59-509(d), Idaho Code.

(e) Upon the occurrence or declaration of a vacancy in the membership of the commission, the department shall notify the represented entity of that fact in writing and the represented entity shall, within sixty (60) days thereafter, nominate at least one (1) and not more than three (3) persons to fill the vacancy and shall forward the nominations to the governor, who shall appoint from among the nominees a person to be a member of the commission to fill the vacancy. Such appointments shall be for a term of two (2) years.

(f) Members of the commission may be removed by the governor for substantial neglect of duty, gross misconduct in office, or the inability to discharge the duties described in this section, after written notice and opportunity for response.

(g) A majority of the members of the commission shall constitute a quorum for the transaction of all business and the carrying out of commission duties.

(3) The department may dedicate funding to the operations of the commission, subject to appropriation from the legislature. The department shall seek federal matching funds and additional private sector funding for commission operations.

(4) The commission shall perform the following duties related to health information technology planning:

(a) Monitor the effectiveness of the Idaho health data exchange; and

(b) Make recommendations to the legislature and the department on opportunities to improve the capabilities of health information technology in the state.

(5) The commission may use the information generated by the Idaho health data exchange and other data sources to promote health and patient safety planning. The commission may perform the following duties related to health quality and patient safety planning, provided that performance of these duties may include contracting with and supervising independent entities for the performance of some or all of these duties:

- (a) Analyze existing clinical quality assurance and patient safety standards and reporting;
- (b) Identify best practices in clinical quality assurance and patient safety standards and reporting;
- (c) Recommend a mechanism or mechanisms for the uniform adoption of certain best practices in clinical quality assurance and patient safety standards and reporting including, but not limited to, the creation of regulatory standards;
- (d) Monitor and report appropriate indicators of quality and patient safety;
- (e) Recommend a sustainable structure for leadership of ongoing clinical quality and patient safety reporting in Idaho;
- (f) Recommend a mechanism or mechanisms to promote public understanding of provider achievement of clinical quality and patient safety standards;
- (g) Provide quarterly progress reports to the director of the department. An annual report shall be due to the director and the senate and house of representatives health and welfare committees on June 30 of each year; and
- (h) In regard to the commission's duties provided for in this section, the commission is directed to ensure that such duties are developed and implemented in such a manner and in such forms or formats as to result in health care data that will be readily understood by the citizens of this state.

[56-1054, added 2006, ch. 243, sec. 1, p. 737; am. 2007, ch. 171, sec. 1, p. 503; am. 2008, ch. 364, sec. 1, p. 996; am. 2010, ch. 56, sec. 1, p. 104; am. 2016, ch. 83, sec. 1, p. 264.]

56-1055. CYTOMEGALOVIRUS INFORMATION. (1) The department shall make available the following information to the public, particularly pregnant women and women who may become pregnant:

- (a) Incidence of cytomegalovirus (CMV);
- (b) Transmission of CMV;
- (c) Birth defects caused by congenital CMV;
- (d) Available preventive measures; and
- (e) Other information relating to CMV deemed pertinent by the department.

(2) The department shall make available the information described in subsection (1) of this section to:

- (a) Health care providers licensed under title 54, Idaho Code, offering care to pregnant women and infants;
- (b) Daycare and child care programs and facilities licensed under title 39, Idaho Code, and persons employed by such programs or facilities;
- (c) School districts and persons offering health care or health education in a school district;
- (d) Religious, ecclesiastical or denominational organizations offering children's programs as part of their services, and persons employed or volunteering for such programs; and
- (e) Other persons and entities that would benefit from such information, as determined by the department.

[56-1055, added 2017, ch. 93, sec. 1, p. 241.]