TITLE 56
PUBLIC ASSISTANCE AND WELFARE

CHAPTER 25 [26]
MERIT-BASED HEALTH CARE ACT

56-2501 [56-2601]. SHORT TITLE. This chapter shall be known and may be cited as the "Merit-Based Health Care Act."

[(56-2601) 56-2501, added 2026, ch. 289, sec. 1, p. 1207.]

56-2502 [56-2602]. LEGISLATIVE FINDINGS AND INTENT. (1) The legislature finds that:

(a) Medicaid participation is voluntary and subject to reasonable conditions imposed by the state as a steward of public funds;

(b) Employment decisions based on merit and professional qualifications promote patient trust and high-quality care; and

(c) Employment practices unrelated to job-related qualifications or business necessity undermine program integrity, workforce competency, and the efficient use of public funds.

(2) It is the intent of the legislature to:

(a) Ensure that health care employment and contracting decisions funded by medicaid are based on individual merit, qualifications, and clinical competency;

(b) Prohibit the use of state medicaid funds to support ideological or discriminatory employment practices; and

(c) Preserve compliance with all applicable federal civil rights and medicaid requirements.

(3) Nothing in this chapter is intended to authorize discrimination prohibited by federal law or to interfere with patient-specific medical decision-making.

[(56-2602) 56-2502, added 2026, ch. 289, sec. 1, p. 1207.]

56-2503 [56-2603]. DEFINITIONS. As used in this chapter:

(1) "Discriminatory hiring" means granting a preference or imposing a disadvantage in employment or contracting based on race, sex, or national origin, except as expressly required by federal law.

(2) "Diversity, equity, and inclusion" or "DEI" means the policies commonly known and practiced as DEI, critical race theory, or anti-racism, any form of race or sex stereotyping or scapegoating, or the concepts that:

(a) One race or sex is inherently superior to another race or sex;

(b) The United States is fundamentally racist or sexist;

(c) An individual, by virtue of the individual's race or sex, is inherently racist, sexist, or oppressive, whether consciously or unconsciously;

(d) An individual should be discriminated against or receive adverse treatment solely or partly because of the individual's race or sex;

(e) Members of one race or sex cannot and should not attempt to treat others without respect to race or sex;

(f) An individual's moral character is necessarily determined by the individual's race or sex;

(g) An individual, by virtue of the individual's race or sex, bears responsibility for actions committed in the past by other members of the same race or sex;

(h) An individual should feel discomfort, guilt, anguish, or any other form of psychological distress on account of the individual's race or sex;

(i) Meritocracy or traits such as a hard work ethic are racist or sexist or were created by a particular race to oppress another race; or

(j) All people should be compelled to believe in and speak in a manner consistent with the concept that an individual can change the individual's sex or gender.

(3) "Health care provider" means any individual or entity that voluntarily participates in the Idaho medicaid program or receives medicaid reimbursements in whole or in part through a state-contracted managed care network.

(4) "Prohibited DEI conduct" means any policy, practice, training, or requirement that includes:

(a) Consideration of DEI in hiring, promotion, compensation, discipline, termination, or contracting decisions;

(b) Race-based or sex-based preferences, targets, benchmarks, quotas, or equity goals;

(c) Mandatory bias, implicit bias, systemic bias, or similar training that assigns responsibility, disadvantage, or professional outcomes based on protected characteristics rather than individual merit or performance; or

(d) Required statements, pledges, attestations, or affirmations endorsing diversity, equity, and inclusion principles or related ideological frameworks as a condition of employment or contracting.

(5) "Public-facing communication" means any communication made available to the public, including marketing materials, websites, mission or value statements, publicly presented staff trainings, facility signage, or social media.

(6) "Sex" has the same meaning as defined in section 73-114, Idaho Code.

[(56-2603) 56-2503, added 2026, ch. 289, sec. 1, p. 1208.]

56-2504 [56-2604]. PROHIBITED ACTS. (1) With respect to employment, policies, training, or communications, a health care provider shall not:

(a) Engage in discriminatory hiring or prohibited DEI conduct;

(b) Adopt or implement internal policies or trainings that constitute prohibited DEI conduct; or

(c) Use state funds, including medicaid reimbursements, for any public-facing communication that promotes prohibited DEI conduct.

(2) Nothing in this section shall be construed to prohibit:

(a) Compliance with title VI of the civil rights act of 1964 or other applicable federal civil rights laws;

(b) Collection of demographic data for legitimate clinical care, quality reporting, or public health purposes;

(c) Patient-specific medical discussions related to biological, genetic, or epidemiological risk factors;

(d) Non-ideological training required for clinical competency, licensure, accreditation, or federal program compliance; or

(e) Workforce training, quality improvement initiatives, or disparity-reduction programs required or encouraged by federal law, centers for medicare and medicaid services guidance, or accreditation bodies.

[(56-2604) 56-2504, added 2026, ch. 289, sec. 1, p. 1209.]

56-2505 [56-2605]. MEDICAID CONTRACTUAL COMPLIANCE. (1) Compliance with this chapter shall be a material condition of all Idaho participating medicaid health care provider agreements as applied to medicaid-funded activities.

(2) This section shall be implemented in a manner consistent with federal medicaid requirements and centers for medicare and medicaid services guidance.

[(56-2605) 56-2505, added 2026, ch. 289, sec. 1, p. 1209.]

56-2506 [56-2606]. ENFORCEMENT AND PENALTIES. (1) The attorney general may investigate alleged violations of this chapter upon receipt of a formal complaint.

(2) Prior to the imposition of civil penalties, the department shall provide written notice and an opportunity for corrective action.

(3) The attorney general may seek civil penalties for violations of this chapter as follows:

(a) For a health care provider with fifty (50) or more employees:

(i) A penalty not to exceed ten thousand dollars ($10,000) for a first violation;

(ii) A penalty not to exceed fifty thousand dollars ($50,000) for a second violation; and

(iii) A penalty not to exceed one hundred thousand dollars ($100,000) for a third or subsequent violation; and

(b) For a health care provider with fewer than fifty (50) employees:

(i) A penalty not to exceed five thousand dollars ($5,000) for a first violation;

(ii) A penalty not to exceed twenty-five thousand dollars ($25,000) for a second violation; and

(iii) A penalty not to exceed fifty thousand dollars ($50,000) for a third or subsequent violation.

[(56-2606) 56-2506, added 2026, ch. 289, sec. 1, p. 1209.]

56-2507 [56-2607]. LIMITED PRIVATE RIGHT OF ACTION. A health care professional may bring an action solely for retaliation arising from refusing to participate in prohibited DEI conduct. Remedies may include reinstatement, injunctive relief, compensatory damages, and reasonable attorney's fees.

[(56-2607) 56-2507, added 2026, ch. 289, sec. 1, p. 1209.]

56-2508 [56-2608]. LIMITATIONS. It shall not be a violation of the provisions of this chapter for an employer to employ an employee on the basis of sex if sex is an occupational qualification reasonably necessary to the normal operation of the business or enterprise.

[(56-2608) 56-2508, added 2026, ch. 289, sec. 1, p. 1210.]

56-2509 [56-2609]. SAVINGS CLAUSE AND FEDERAL PREEMPTION. Nothing in this chapter shall be construed to restrict conduct required or encouraged by federal civil rights law, centers for medicare and medicaid services guidance, or federal conditions of participation. If any provision of this chapter is preempted by federal law, such provision shall be severed while the remainder remains in full force and effect.

[(56-2609) 56-2509, added 2026, ch. 289, sec. 1, p. 1210.]