

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 528

BY HEALTH AND WELFARE COMMITTEE

AN ACT

1 RELATING TO CERTIFIED FAMILY HOMES; REPEALING SECTION 39-3501, IDAHO CODE,
2 RELATING TO LEGISLATIVE INTENT; AMENDING CHAPTER 35, TITLE 39, IDAHO
3 CODE, BY THE ADDITION OF A NEW SECTION 39-3501, IDAHO CODE, TO PROVIDE
4 LEGISLATIVE INTENT; REPEALING SECTION 39-3502, IDAHO CODE, RELATING TO
5 DEFINITIONS; AMENDING CHAPTER 35, TITLE 39, IDAHO CODE, BY THE ADDITION
6 OF A NEW SECTION 39-3502, IDAHO CODE, TO DEFINE TERMS; REPEALING SECTION
7 39-3503, IDAHO CODE, RELATING TO PAYMENT AGREEMENTS; AMENDING CHAPTER
8 35, TITLE 39, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 39-3503, IDAHO
9 CODE, TO ESTABLISH PROVISIONS REGARDING ADMISSION AGREEMENTS; AMENDING
10 SECTION 39-3504, IDAHO CODE, TO ESTABLISH PROVISIONS REGARDING PHYS-
11 ICAL AND ENVIRONMENTAL STANDARDS; REPEALING SECTION 39-3505, IDAHO
12 CODE, RELATING TO RULES; AMENDING CHAPTER 35, TITLE 39, IDAHO CODE, BY
13 THE ADDITION OF A NEW SECTION 39-3505, IDAHO CODE, TO ESTABLISH PROVI-
14 SIONS REGARDING RULES; AMENDING SECTION 39-3506, IDAHO CODE, TO PROVIDE
15 REFERENCE TO WHOM THE CHAPTER APPLIES; AMENDING SECTION 39-3507, IDAHO
16 CODE, TO REVISE PROVISIONS REGARDING ADMISSIONS; REPEALING SECTION
17 39-3508, IDAHO CODE, RELATING TO ASSESSMENTS; AMENDING CHAPTER 35,
18 TITLE 39, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 39-3508, IDAHO
19 CODE, TO ESTABLISH PROVISIONS REGARDING ASSESSMENTS; REPEALING SECTION
20 39-3509, IDAHO CODE, RELATING TO NEGOTIATED SERVICE AGREEMENTS OR PLAN
21 OF SERVICE; AMENDING CHAPTER 35, TITLE 39, IDAHO CODE, BY THE ADDITION
22 OF A NEW SECTION 39-3509, IDAHO CODE, TO ESTABLISH PROVISIONS REGARD-
23 ING PLAN OF SERVICE; REPEALING SECTION 39-3511, IDAHO CODE, RELATING
24 TO THE ADVISORY COUNCIL; AMENDING CHAPTER 35, TITLE 39, IDAHO CODE, BY
25 THE ADDITION OF A NEW SECTION 39-3511, IDAHO CODE, TO ESTABLISH POWERS
26 AND DUTIES OF THE ADVISORY COUNCIL; REPEALING SECTION 39-3512, IDAHO
27 CODE, RELATING TO APPLICATION OF PROVISIONS; AMENDING CHAPTER 35, TITLE
28 39, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 39-3512, IDAHO CODE,
29 TO PROVIDE FOR APPLICATION OF PROVISIONS; REPEALING SECTION 39-3513,
30 IDAHO CODE, RELATING TO TRAINING; AMENDING CHAPTER 35, TITLE 39, IDAHO
31 CODE, BY THE ADDITION OF A NEW SECTION 39-3513, IDAHO CODE, TO ESTAB-
32 LISH PROVISIONS REGARDING TRAINING; REPEALING SECTION 39-3516, IDAHO
33 CODE, RELATING TO RESIDENT RIGHTS; AMENDING CHAPTER 35, TITLE 39, IDAHO
34 CODE, BY THE ADDITION OF A NEW SECTION 39-3516, IDAHO CODE, TO ESTABLISH
35 PROVISIONS REGARDING RESIDENT RIGHTS; AMENDING SECTION 39-3519, IDAHO
36 CODE, TO PROVIDE REQUIREMENTS FOR ACCESS BY ADVOCATES AND REPRESENTA-
37 TIVES; REPEALING SECTION 39-3520, IDAHO CODE, RELATING TO APPLICATION
38 FOR CERTIFICATION; AMENDING CHAPTER 35, TITLE 39, IDAHO CODE, BY THE
39 ADDITION OF A NEW SECTION 39-3520, IDAHO CODE, TO ESTABLISH PROVISIONS
40 REGARDING APPLICATION FOR CERTIFICATION; AMENDING SECTION 39-3521,
41 IDAHO CODE, TO REVISE PROVISIONS REGARDING ISSUANCE AND RENEWAL OF CER-
42 TIFICATION; AMENDING SECTION 39-3522, IDAHO CODE, TO PROVIDE FOR CONDI-
43 TIONS UNDER WHICH A PROVISIONAL CERTIFICATION MAY BE ISSUED; REPEALING
44 SECTION 39-3523, IDAHO CODE, RELATING TO DENIAL OR REVOCATION OF A CER-
45

1 TIFICATE; AMENDING CHAPTER 35, TITLE 39, IDAHO CODE, BY THE ADDITION
2 OF A NEW SECTION 39-3523, IDAHO CODE, TO ESTABLISH PROVISIONS REGARD-
3 ING DENIAL OF AN APPLICATION OR REVOCATION OF A CERTIFICATE; REPEALING
4 SECTION 39-3524, IDAHO CODE, RELATING TO THE EFFECT OF PREVIOUS APPLI-
5 CATION OR DENIAL OF A CERTIFICATE; AMENDING CHAPTER 35, TITLE 39, IDAHO
6 CODE, BY THE ADDITION OF A NEW SECTION 39-3524, IDAHO CODE, TO ESTABLISH
7 PROVISIONS REGARDING DENIAL OF APPLICATION OR REVOCATION OF A CERTIFI-
8 CATE; REPEALING SECTION 39-3525, IDAHO CODE, RELATING TO THE EFFECT OF
9 PREVIOUS REVOCATION OR DENIAL OF A CERTIFICATE; AMENDING CHAPTER 35,
10 TITLE 39, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 39-3525, IDAHO
11 CODE, TO ESTABLISH PROVISIONS REGARDING THE EFFECT OF REVOCATION OF A
12 CERTIFICATE OR DENIAL OF AN APPLICATION; REPEALING SECTION 39-3526,
13 IDAHO CODE, RELATING TO RULES PROVIDED; AMENDING CHAPTER 35, TITLE 39,
14 IDAHO CODE, BY THE ADDITION OF A NEW SECTION 39-3526, IDAHO CODE, TO RE-
15 QUIRE STATUTES AND RULES BE PROVIDED; AMENDING SECTION 39-3527, IDAHO
16 CODE, TO CLARIFY TERMINOLOGY; REPEALING SECTION 39-3528, IDAHO CODE,
17 RELATING TO OPERATING WITHOUT CERTIFICATION; AMENDING CHAPTER 35, TI-
18 TLE 39, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 39-3528, IDAHO CODE,
19 TO ESTABLISH PROVISIONS REGARDING OPERATING WITHOUT CERTIFICATION;
20 REPEALING SECTION 39-3554, IDAHO CODE, RELATING TO WAIVER OR VARIANCE;
21 REPEALING SECTION 39-3556, IDAHO CODE, RELATING TO COMPLAINTS; AMEND-
22 ING CHAPTER 35, TITLE 39, IDAHO CODE, BY THE ADDITION OF A NEW SECTION
23 39-3556, IDAHO CODE, TO ESTABLISH PROVISIONS REGARDING COMPLAINTS;
24 PROVIDING SEVERABILITY; AND DECLARING AN EMERGENCY AND PROVIDING AN
25 EFFECTIVE DATE.

26 Be It Enacted by the Legislature of the State of Idaho:

27 SECTION 1. That Section [39-3501](#), Idaho Code, be, and the same is hereby
28 repealed.

29 SECTION 2. That Chapter 35, Title 39, Idaho Code, be, and the same is
30 hereby amended by the addition thereto of a NEW SECTION, to be known and des-
31 ignated as Section 39-3501, Idaho Code, and to read as follows:

32 39-3501. LEGISLATIVE INTENT AND DECLARATION. (1) The purpose of a
33 certified family home in Idaho is to provide a homelike alternative to
34 more expensive or more restrictive congregate care or institutional care,
35 designed to allow vulnerable adults to reside in a family-style living en-
36 vironment focused on integrated community living. Certified family homes
37 provide housing and care to vulnerable adults who are elderly, who have men-
38 tal illnesses, developmental disabilities, or physical disabilities, or
39 who are otherwise unable to live alone without personal assistance and whose
40 mental, emotional, and physical condition can be met by the care provider.
41 The legislature supports the capabilities of individuals receiving services
42 in certified family homes to direct their own care. The care provider must
43 obtain a waiver under section 39-1301A, Idaho Code, to house and care for two
44 (2) persons requiring care described in section 39-1301(b), Idaho Code.

45 (2) The certified family home shall be operated by a care provider who
46 has demonstrated the knowledge and experience required to provide safe and
47 appropriate services to each resident of the certified family home. The care

1 provider shall ensure an objective, individualized assessment is conducted
2 to determine resident needs and shall develop a comprehensive, negotiated
3 plan of service describing how to meet those needs. The care provider shall
4 ensure delivery of appropriate services to meet resident needs as described
5 in the plan of service and shall ensure resident rights are honored and pro-
6 tected.

7 (3) The department is responsible for monitoring and enforcing the
8 provisions of this chapter. This responsibility includes but is not limited
9 to monitoring the condition of the certified family home, ensuring that
10 each resident has an individualized written plan of service, and managing
11 enforcement procedures when violations occur.

12 SECTION 3. That Section [39-3502](#), Idaho Code, be, and the same is hereby
13 repealed.

14 SECTION 4. That Chapter 35, Title 39, Idaho Code, be, and the same is
15 hereby amended by the addition thereto of a NEW SECTION, to be known and des-
16 ignated as Section 39-3502, Idaho Code, and to read as follows:

17 39-3502. DEFINITIONS. As used in this chapter:

18 (1) "Abuse" means a nonaccidental act of sexual, physical, or mental
19 mistreatment or injury of a resident through the action or inaction of an-
20 other individual.

21 (2) "Activities of daily living" means the performance of basic self-
22 care activities in meeting resident needs to sustain the resident in a daily
23 living environment, including but not limited to bathing, washing, dress-
24 ing, toileting, grooming, eating, communication, continence, mobility, and
25 associated tasks.

26 (3) "Adult" means a person who has attained the age of eighteen (18)
27 years.

28 (4) "Advocate" means an authorized or designated representative of a
29 program or organization operating under federal or state mandate to repre-
30 sent the interests of a population group served by the certified family home.

31 (5) "Assessment" means the conclusions reached using uniform criteria
32 that identifies resident strengths, weaknesses, risks, and functional, med-
33 ical, and behavioral needs.

34 (6) "Board" means the board of health and welfare.

35 (7) "Care provider" means the adult member of the certified family home
36 designated as the care provider on the certificate issued by the department.
37 The care provider is responsible for ensuring the resident's needs are met,
38 maintaining the home, and otherwise ensuring compliance with all laws and
39 rules pertaining to the care provider's certification. The care provider
40 and the legal owner of the home may not necessarily be the same person.

41 (8) "Certified family home" means a home and care provider certified by
42 the department to provide housing in a family-style living environment and
43 care to one (1) to four (4) residents.

44 (9) "Certifying agent" means any person who under the authority of the
45 department participates in the certification, inspection, and regulation of
46 a proposed or existing certified family home.

47 (10) "Chemical restraint" means any drug that is used for discipline or
48 convenience and not required to treat medical symptoms.

1 (11) "Core issues" means any of the following: abuse; neglect; ex-
2 ploitation; inadequate care; inoperable fire detection or extinguishing
3 systems with no fire watch in place pending the correction of the system;
4 operation without required department criminal history and background check
5 clearances or with an unconditional denial of such clearance; and situations
6 in which advocates, representatives of the department, or certifying agents
7 are denied access to records, residents, or the certified family home ac-
8 cording to their respective authorities.

9 (12) "Critical incident" means any actual or alleged event or situation
10 that creates a significant risk of serious harm to the safety or well-being
11 of a resident.

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

13 (14) "Director" means the director of the Idaho department of health and
14 welfare.

15 (15) "Exploitation" means the illegal or improper use of, control over,
16 or withholding of the property, income, resources, or trust fund of a vulner-
17 able adult by any person or entity for profit or advantage other than for the
18 vulnerable adult's profit or advantage.

19 (16) "Governmental unit" means the state, any county, any city, any
20 other political subdivision, or any department, division, board, or other
21 agency thereof.

22 (17) "Health care professional" means a licensed worker in the field
23 of medicine, nursing, anesthesiology, occupational or physical therapy,
24 chiropractics, counseling, nutrition, dentistry, optometry, audiology,
25 psychiatry, or any other profession focused on diagnosing or treating human
26 health or wellness licensed by the state of Idaho.

27 (18) "Inadequate care" occurs when a certified family home: fails to
28 provide the services required to meet the terms of any resident's negotiated
29 plan of service or to provide for room, board, assistance as needed with ac-
30 tivities of daily living or instrumental activities of daily living, appro-
31 priate supervision, proper assistance and monitoring of medications, first
32 aid or other emergency intervention as needed, coordination of supportive
33 services, or a safe living environment; engages in any violation of resi-
34 dents' rights; or admits or retains residents in violation of the provisions
35 of section 39-3507, Idaho Code.

36 (19) "Incidental supervision" occurs when the care provider designates
37 a responsible adult to provide only short-term supervision to the resident
38 in the brief absence of the care provider.

39 (20) "Instrumental activities of daily living" means the performance of
40 secondary level activities that enable a person to live independently in the
41 community, including but not limited to preparing meals, accessing trans-
42 portation, shopping, laundry, money management, housework, using tools and
43 technology, and other associated tasks.

44 (21) "Medical foster home" means a private home approved by the depart-
45 ment of veterans affairs in which a caregiver provides long-term primary
46 health care to veteran residents with serious chronic disease and disabil-
47 ity, as described in 38 CFR 17.

48 (22) "Neglect" means failure to ensure the provision of adequate food,
49 clothing, shelter, or medical care reasonably necessary to sustain the life
50 and health of a resident.

1 (23) "Personal assistance" means the provision by the certified family
2 home of one (1) or more of the following services:

3 (a) Assisting the resident with activities of daily living or instru-
4 mental activities of daily living;

5 (b) Assisting the resident with medications;

6 (c) Coordinating supportive services for the resident;

7 (d) Supporting the resident with adequate and appropriate supervision;

8 and

9 (e) Encouraging the resident toward independence and supporting the
10 resident's self-advocacy.

11 (24) "Physical restraint" means any manual method or physical or me-
12 chanical device, equipment, or material that is attached or adjacent to the
13 resident's body and that cannot be easily removed by the resident, that re-
14 stricts the resident's movement or normal access to the resident's body, and
15 that is imposed on the resident for reasons of discipline or convenience and
16 not as a treatment for a condition as ordered by the resident's health care
17 professional.

18 (25) "Plan of service" means the negotiated agreement reached between
19 the care provider and the resident or the resident representative, if appli-
20 cable, describing the obligations of the certified family home for the resi-
21 dent's care.

22 (26) "Political subdivision" means a city or county.

23 (27) "Primary residence" means a person's place of permanent domicile
24 or residence and to which, when the person is temporarily absent, the person
25 intends to return.

26 (28) "Relative" means a person related by birth, adoption, or marriage
27 to the third degree, including spouses, parents, children, siblings, grand-
28 parents, grandchildren, aunts, uncles, nephews, nieces, great-grandpar-
29 ents, great-grandchildren, great-aunts, great-uncles, and first cousins.

30 (29) "Representative of the department" means an employee of the de-
31 partment.

32 (30) "Resident" means an adult who lives in a certified family home who
33 has contracted with the care provider to receive care and housing and who is
34 not able to reside in his own home without personal assistance or who re-
35 quires help in daily living, protection and security, supervision, or en-
36 couragement toward independence.

37 (31) (a) "Resident representative" means any of the following:

38 (i) A court-appointed guardian or conservator of the resident;

39 (ii) A person authorized by state or federal law, including but
40 not limited to agents under power of attorney or representative
41 payees and other fiduciaries, to act on behalf of the resident in
42 order to: support the resident in decision-making; access medi-
43 cal, social, or other personal information of the resident; manage
44 financial matters; or receive notifications;

45 (iii) A legal representative who stands in place of the resident
46 under authority recognized by law with respect to the resident's
47 property or interests; or

48 (iv) An individual chosen by the resident in writing to act on be-
49 half of the resident in order to: support the resident in deci-
50 sion-making; access medical, social, or other personal informa-

1 tion of the resident; manage financial matters; or receive notifi-
2 cations.

3 (b) Nothing in this subsection is intended to expand the scope of au-
4 thority of any resident representative beyond that authority specifi-
5 cally authorized by the resident, state or federal law, or a court of
6 competent jurisdiction or to limit the number of representatives a res-
7 ident may have.

8 (32) "Room and board" means lodging and meals.

9 (33) "Substitute caregiver" means an adult designated by the care
10 provider to provide care and services to residents in a certified family home
11 in the temporary absence of the regular care provider.

12 (34) "Supervision" means activity that provides protection, guidance,
13 knowledge of the resident's whereabouts, and monitoring of the activities of
14 the resident while under the care of certified family home staff to ensure
15 the resident's safety and well-being.

16 (35) "Supportive services" means any service pertaining to the resi-
17 dent's well-being that is not directly provided by the care provider and may
18 include but is not limited to habilitation, rehabilitation, social, legal,
19 medical, dental, educational, mental health, or community referral ser-
20 vices.

21 SECTION 5. That Section [39-3503](#), Idaho Code, be, and the same is hereby
22 repealed.

23 SECTION 6. That Chapter 35, Title 39, Idaho Code, be, and the same is
24 hereby amended by the addition thereto of a NEW SECTION, to be known and des-
25 ignated as Section 39-3503, Idaho Code, and to read as follows:

26 39-3503. ADMISSION AGREEMENTS. (1) At or before the time of admission,
27 the care provider shall negotiate a written, signed, and dated admis-
28 sion agreement between the care provider and the resident or the resident
29 representative, if applicable, specifying the dollar amount of monthly com-
30 pensation to be paid by the resident to the care provider and the monthly date
31 by which payment is due.

32 (2) A dollar amount to be charged to the resident shall be negotiated
33 in the admission agreement for monthly room and board, which includes break-
34 fast, lunch, and dinner offered each day.

35 (3) If any portion of funding for the resident's care is from a pri-
36 vate source, the admission agreement shall include a separately listed dol-
37 lar amount for any monthly care charges for which the resident is responsi-
38 ble. The care provider shall prorate and, if applicable, refund care charges
39 for any day the resident did not receive certified family home services dur-
40 ing the month.

41 (4) The care provider shall give the resident or resident represen-
42 tative, as appropriate, written notice in accordance with section 55-307,
43 Idaho Code, before changing the terms of the admission agreement.

44 (5) An admission agreement signed by both parties shall remain in ef-
45 fect until one (1) of the following conditions are met:

46 (a) The admission agreement is properly terminated in accordance with
47 Idaho landlord-tenant law; or

48 (b) The care provider is no longer certified by the department.

1 (6) The admission agreement shall include protections that address
2 eviction and appeals comparable to those provided under Idaho landlord-ten-
3 ant law and chapter 3, title 6, Idaho Code.

4 (7) The admission agreement shall remain in force and effect, excluding
5 the certified family home's responsibility to provide meals and care, while
6 the resident is temporarily transferred from the certified family home to
7 another care setting on an emergency basis. Provided, as long as the admis-
8 sion agreement remains in effect, the care provider shall allow the resident
9 to resume receiving services in the certified family home after the emer-
10 gency condition has improved enough for the certified family home to provide
11 services in accordance with section 39-3507, Idaho Code.

12 SECTION 7. That Section 39-3504, Idaho Code, be, and the same is hereby
13 amended to read as follows:

14 39-3504. PHYSICAL AND ENVIRONMENTAL STANDARDS. (1) Standards shall be
15 developed through the regulatory process by the department to assure ensure
16 a safe, sanitary and comfortable environment for residents of certified fam-
17 ily homes.

18 (2) Any structure used for a certified family home shall be in a build-
19 ing suitable for residential use and is subject to department approval.

20 (a) The home shall be structurally sound and maintained to ensure safe
21 occupancy.

22 (b) Single- or double-occupancy sleeping rooms shall be provided in the
23 home for the residents' personal space.

24 (c) The home shall contain common living areas for the residents' en-
25 joyment, including space and furnishings for socializing and dining.

26 (d) The home shall contain at least one (1) bathroom accessible to res-
27 idents that is equipped with a flush toilet, a tub or shower, and a sink
28 with a mirror. Toilet and shower or bathing facilities shall be sepa-
29 rated from common living areas in the home by solid walls or partitions.

30 (e) The home shall contain at least one (1) kitchen accessible to res-
31 idents that is equipped with a sink, oven, refrigerator, and counter-
32 space.

33 (f) All plumbing in the home shall be maintained in good working order.
34 Tubs, showers, and sinks shall be connected to hot and cold water and
35 have adequate water pressure.

36 (g) The home shall have adequate storage space such that sundry items
37 do not encroach on living areas or walkways and do not present a fire or
38 life safety hazard.

39 (h) Temperatures in the home shall be maintained at levels promulgated
40 in rule.

41 (i) Sufficient lighting shall be available in any room accessible to
42 residents.

43 (3) The care provider shall take precautions to prevent disease by
44 maintaining sanitary conditions in the home.

45 (a) The water supply used by the household shall be adequate, clean, and
46 safe.

47 (b) Garbage and refuse shall be collected and regularly removed from
48 the property.

1 (c) Sufficient housekeeping, including regular laundry service, shall
 2 be provided to maintain the home in a clean, safe, and orderly manner.

3 (d) The care provider shall ensure proper food handling, preparation,
 4 and storage standards are observed for meals offered to residents in the
 5 home.

6 (e) The home shall be well-ventilated.

7 (f) Pest control shall be implemented when necessary.

8 (4) The care provider shall take fire and life safety precautions,
 9 including equipping and maintaining the home to ensure the safety of resi-
 10 dents.

11 (a) Egress from the home and ingress into the home shall not be ob-
 12 structed. Clear pathways shall be maintained to and from points of
 13 egress and ingress.

14 (b) Potential hazards, including but not limited to tripping, burn,
 15 fire, explosion, poison, and drowning hazards or any other natural or
 16 man-made hazard, shall be removed or adequately mitigated as necessary
 17 for the safety of residents.

18 (c) The care provider shall develop and implement a written emergency
 19 preparedness plan, including the practice of regular emergency drills.

20 SECTION 8. That Section [39-3505](#), Idaho Code, be, and the same is hereby
 21 repealed.

22 SECTION 9. That Chapter 35, Title 39, Idaho Code, be, and the same is
 23 hereby amended by the addition thereto of a NEW SECTION, to be known and des-
 24 ignated as Section 39-3505, Idaho Code, and to read as follows:

25 39-3505. RULES. The board shall have the power and it shall be its duty
 26 to promulgate appropriate rules necessary to implement and enforce the stan-
 27 dards for certified family homes pursuant to this chapter, including but not
 28 limited to the following:

29 (1) The care provider shall admit or retain no more than two (2) res-
 30 idents concurrently in the certified family home. However, the department
 31 may grant a variance for up to four (4) residents to receive care in the cer-
 32 tified family home upon application by the care provider and upon a finding
 33 by the department that the certified family home is able to comply with the
 34 requirements of section 39-3507, Idaho Code. The department shall not grant
 35 a variance for requests to admit or retain more than two (2) residents who
 36 require nursing facility level of care as described in section 39-1301(b),
 37 Idaho Code. A variance to exceed the two (2) resident limit in a certified
 38 family home shall not be transferable to another resident or care provider.
 39 Certified family homes issued a variance to exceed the two (2) resident limit
 40 shall be subject to all statutes and rules governing certified family homes
 41 but shall not be subject to the residential care facility administrator li-
 42 censing requirements of chapter 42, title 54, Idaho Code, or the require-
 43 ments of section 39-3340, Idaho Code. Nothing in this subsection shall be
 44 construed to authorize increased group size for providers of any form of care
 45 other than certified family homes.

46 (2) The care provider shall live in the certified family home as the
 47 care provider's primary residence.

1 (3) An individual cannot be approved as a care provider operating a
2 certified family home if the individual charges room or board to any person
3 staying in the home who is not resident, a relative of the care provider, or
4 full-time staff. A variance may be granted by the department for the spouse
5 of a resident when the resident's spouse does not require personal assis-
6 tance.

7 (4) A home cannot be approved as a certified family home and for child
8 foster care at the same time unless a variance is granted by the department.

9 (5) The care provider, care provider's relative, or other adult living
10 in the home shall not be the legal guardian of the resident unless the legal
11 guardian is a relative of the resident. A variance may be granted by the de-
12 partment when it determines the guardianship is in the best interest of the
13 nonrelative resident.

14 (6) The care provider must have sufficient resources to maintain the
15 home and the services offered.

16 (7) Information obtained by the care provider about current or prospec-
17 tive residents shall be held confidential as described under section
18 39-3516(7), Idaho Code.

19 (8) The board may implement recordkeeping and reporting requirements
20 as deemed necessary.

21 (a) The certified family home shall maintain and keep current a record
22 of at least the following information for each resident:

23 (i) Admission records, including but not limited to the admission
24 agreement, assessment, plan of service, history and physical ex-
25 amination, review of resident rights policy, emergency contacts,
26 advance directives if so formulated by the resident, and a list of
27 belongings the resident or resident representative chooses to in-
28 ventory; and

29 (ii) Ongoing resident records as applicable, including but not
30 limited to: medication management; incidents, accidents, or
31 changes in the resident's condition and the care provider's re-
32 sponse; and financial accounting records for use of the resident's
33 funds when the care provider is deemed to be managing such funds on
34 behalf of the resident.

35 (b) The care provider shall report at least the following:

36 (i) To the certifying agent: any incident of house fire in the
37 certified family home; any criminal investigation or conviction,
38 or child protection or adult protection investigation, when the
39 alleged perpetrator is the care provider, a substitute caregiver,
40 or any adult member of the household; any critical incident; and
41 any resident discharge from the home;

42 (ii) To the Idaho commission on aging: in accordance with section
43 39-5303, Idaho Code, any abuse, neglect, or exploitation of a vul-
44 nerable adult when the care provider has reasonable cause to be-
45 lieve that such has occurred; and

46 (iii) To local law enforcement: any serious physical injury to or
47 the death of a resident when there is reasonable cause to believe
48 the harm was due to abuse or neglect.

49 (9) The board may implement requirements to ensure the safety and ade-
50 quate care of residents. The care provider shall be responsible for ensuring

1 appropriate and adequate supervision is provided to each resident based on
2 the resident's plan of service.

3 (10) The board may implement requirements for management of medica-
4 tions, including:

5 (a) Development of acceptable policies and procedures regarding the
6 following:

7 (i) Following the orders of the resident's health care profes-
8 sionals;

9 (ii) Maintaining evidence of such orders; and

10 (iii) Training guidance that must be completed prior to any indi-
11 vidual assisting the resident with medications;

12 (b) For residents who wish to self-administer their own medications,
13 the evaluation and approval criteria that shall be met prior to the care
14 provider allowing the resident to self-administer medications; and

15 (c) For residents who need assistance with medications:

16 (i) Conditions under which certified family home staff may offer
17 assistance, taking into consideration the resident's health statu-
18 s, level of assistance needed, and scope of any professional li-
19 cense held by the individual offering assistance;

20 (ii) Storage and safeguarding of medications, including taking
21 regular inventory of narcotic medications;

22 (iii) Documentation of assistance; and

23 (iv) Proper and timely disposal of discontinued, unused, loose,
24 or expired medications.

25 (11) The certified family home staff shall allow certifying agents to
26 inspect and investigate the certified family home as necessary to determine
27 compliance with this chapter and the department's rules.

28 (12) The board may establish rules for the revocation of certification
29 or other enforcement actions.

30 SECTION 10. That Section 39-3506, Idaho Code, be, and the same is hereby
31 amended to read as follows:

32 39-3506. STATE CERTIFICATION TO SUPERSEDE LOCAL REGULATION. The pro-
33 visions of this chapter, and the rules promulgated pursuant to this chapter,
34 shall supersede any program of any political subdivision of the state which
35 licenses or sets standards for ~~certified family homes~~ individuals to whom
36 the provisions of this chapter apply as described in section 39-3512, Idaho
37 Code.

38 SECTION 11. That Section 39-3507, Idaho Code, be, and the same is hereby
39 amended to read as follows:

40 39-3507. ADMISSIONS. A certified family home shall not admit or retain
41 any resident requiring a level of ~~services~~ service or type of service ~~which~~
42 that the certified family home, in concert with the resident's supportive
43 services, does not have the time, ability, or appropriate skills or equip-
44 ment to safely and effectively provide. All admissions are subject to de-
45 partment approval.

1 SECTION 12. That Section [39-3508](#), Idaho Code, be, and the same is hereby
2 repealed.

3 SECTION 13. That Chapter 35, Title 39, Idaho Code, be, and the same is
4 hereby amended by the addition thereto of a NEW SECTION, to be known and des-
5 ignated as Section 39-3508, Idaho Code, and to read as follows:

6 39-3508. ASSESSMENT. (1) The department shall employ uniform assess-
7 ment criteria to assess residents accessing services through a publicly
8 funded program according to the criteria developed to assess all partici-
9 pants within that respective program.

10 (2) The care provider shall employ uniform assessment criteria to as-
11 sess private pay residents.

12 (3) The department and the advisory council established in section
13 39-3511, Idaho Code, shall jointly develop assessment criteria for all as-
14 sessment types, including those used in publicly funded programs and those
15 used for private pay residents. The conclusions shall be deemed the assess-
16 ment and shall be used to ensure appropriate placement.

17 SECTION 14. That Section [39-3509](#), Idaho Code, be, and the same is hereby
18 repealed.

19 SECTION 15. That Chapter 35, Title 39, Idaho Code, be, and the same is
20 hereby amended by the addition thereto of a NEW SECTION, to be known and des-
21 ignated as Section 39-3509, Idaho Code, and to read as follows:

22 39-3509. PLAN OF SERVICE. (1) The care provider shall ensure the res-
23 ident or resident representative participates in the development of a writ-
24 ten negotiated plan of service that provides for coordination of services
25 and for guidance to the care provider in delivering services to the resident.
26 Upon completion, the plan of service shall clearly identify the resident and
27 describe the services to be provided to the resident and how such services
28 are to be delivered.

29 (a) The plan of service shall be based on at least the following:

30 (i) The resident's desires, to the greatest extent reasonably
31 possible;

32 (ii) The resident's assessment;

33 (iii) Information from the resident's health care professionals,
34 including current orders and the results of the resident's most
35 recent history and physical examination;

36 (iv) The resident's supportive services; and

37 (v) The resident's needs in the following areas:

38 1. Supervision;

39 2. Assistance with activities of daily living and instru-
40 mental activities of daily living;

41 3. Assistance with medications; and

42 4. Behavior management.

43 (b) The plan of service shall include:

44 (i) Identification of each care need;

45 (ii) A care plan for each need, describing how the care provider is
46 to deliver service; and

1 (iii) Frequency of delivery for each service.

2 (2) The plan of service shall be completed shortly after the resident's
3 admission into the certified family home. The plan of service shall be re-
4 viewed and, if necessary, updated on an annual basis or upon any significant
5 change in the resident's condition, whichever occurs first.

6 (3) Upon initial completion and any subsequent update, the care
7 provider and the resident or resident representative shall sign and date the
8 plan of service.

9 SECTION 16. That Section [39-3511](#), Idaho Code, be, and the same is hereby
10 repealed.

11 SECTION 17. That Chapter 35, Title 39, Idaho Code, be, and the same is
12 hereby amended by the addition thereto of a NEW SECTION, to be known and des-
13 ignated as Section 39-3511, Idaho Code, and to read as follows:

14 39-3511. ADVISORY COUNCIL. The department shall establish a
15 state-level advisory council. This council may be the same body as that
16 identified in section 39-3330, Idaho Code; otherwise, this council shall be
17 a separate body formed pursuant to the provisions found in section 39-3330,
18 Idaho Code. The advisory council shall have the following powers and duties:

19 (1) To make policy recommendations regarding certification and en-
20 forcement standards in certified family homes and the provision of services
21 to residents;

22 (2) To provide advice to the department and to the board pertaining to
23 development and revision of rules;

24 (3) To review and comment on any proposed rule or legislation pertain-
25 ing to the certification of certified family homes; and

26 (4) To submit an annual report to the legislature stating opinions and
27 recommendations that would further the state's capability to address issues
28 faced by certified family homes.

29 SECTION 18. That Section [39-3512](#), Idaho Code, be, and the same is hereby
30 repealed.

31 SECTION 19. That Chapter 35, Title 39, Idaho Code, be, and the same is
32 hereby amended by the addition thereto of a NEW SECTION, to be known and des-
33 ignated as Section 39-3512, Idaho Code, and to read as follows:

34 39-3512. APPLICATION OF PROVISIONS. (1) Any individual who seeks pay-
35 ment for providing care to an elderly person or to an adult with a mental ill-
36 ness, developmental disability, or physical disability and who also houses
37 the said vulnerable adult in his primary residence shall meet the require-
38 ments of this chapter or other provision of law governing care and housing
39 for the elderly or for adults with mental illness, developmental disabili-
40 ties, or physical disabilities if those provisions are more restrictive.

41 (2) The following are exempt from the requirements of this chapter:

42 (a) Arrangements for care to a vulnerable adult who does not live in his
43 own home but lives in the primary residence of his relative, when pay-
44 ments for the vulnerable adult's care to that relative is wholly pri-
45 vately funded and no portion is from a publicly funded program.

1 (b) Medical foster homes if the home provides care only to veterans who
2 are not medicaid recipients and who are approved by the department of
3 veterans affairs to receive care in the home. Medical foster homes that
4 provide care to nonveterans as well as veterans shall not be exempt from
5 the certification requirements of this chapter.

6 SECTION 20. Section [39-3513](#), Idaho Code, be, and the same is hereby re-
7 pealed.

8 SECTION 21. That Chapter 35, Title 39, Idaho Code, be, and the same is
9 hereby amended by the addition thereto of a NEW SECTION, to be known and des-
10 ignated as Section 39-3513, Idaho Code, and to read as follows:

11 39-3513. TRAINING. (1) The department shall ensure that during the
12 initial application process to certify a certified family home the applicant
13 receives training that includes but is not limited to recordkeeping require-
14 ments pursuant to section 39-3505, Idaho Code, and minimum standards of care
15 consisting of at least assistance with medications, emergency intervention,
16 emergency preparedness, and the rights of the residents.

17 (2) The department shall require annual continuing education for care
18 providers relating to home safety or care, supervision, and services to the
19 residents, as defined by rules promulgated pursuant to this chapter.

20 SECTION 22. That Section [39-3516](#), Idaho Code, be, and the same is hereby
21 repealed.

22 SECTION 23. That Chapter 35, Title 39, Idaho Code, be, and the same is
23 hereby amended by the addition thereto of a NEW SECTION, to be known and des-
24 ignated as Section 39-3516, Idaho Code, and to read as follows:

25 39-3516. RESIDENT RIGHTS. The care provider shall ensure staff pro-
26 tect and promote the rights of each resident, including each of the following
27 rights:

28 (1) Privacy. Each resident shall be ensured the right to privacy with
29 regard to accommodations, medical and other treatment, written and tele-
30 phone communications, visits, and meetings of family and resident groups,
31 including:

32 (a) The right to send and receive mail unopened, either by the postal
33 service, electronically, or other means, unless the resident's plan of
34 service specifically calls for the care provider to monitor correspon-
35 dence to protect the resident from abuse or exploitation; and

36 (b) The right to control the use of pictures or videos containing the
37 resident's image.

38 (2) Humane care and environment, dignity, and respect.

39 (a) Each resident shall have the right to humane care and a humane envi-
40 ronment, including the following:

41 (i) The right to a diet that is consistent with any religious or
42 health-related restrictions;

43 (ii) The right to refuse a restricted diet;

44 (iii) The right to refuse assistance with bathing, continence,
45 toileting, or dressing from any person the resident is uncomfort-

- 1 able receiving such care from. The care provider is obligated to
2 ensure that these services, if required in the resident's plan of
3 service, are offered by staff acceptable to the resident or resi-
4 dent representative;
- 5 (iv) The right to a safe and sanitary living environment; and
6 (v) The right to a living environment free of illicit drug use or
7 possession and other criminal activities.
- 8 (b) Each resident shall have the right to be treated with dignity and
9 respect, including:
- 10 (i) The right to be treated in a courteous manner;
- 11 (ii) The right to receive a response from the certified family
12 home staff to any request of the resident within a reasonable time;
- 13 (iii) The right to make choices free from intimidation, manipula-
14 tion, or coercion;
- 15 (iv) Freedom from discrimination on the basis of race, color, na-
16 tional origin, sex, religion, age, disability, or veteran status;
17 and
- 18 (v) The right to determine personal dress and hairstyles.
- 19 (3) Personal possessions. Each resident shall have the right to:
- 20 (a) Wear personal clothing;
- 21 (b) Retain and use the resident's own personal property in the resi-
22 dent's own living area in order to maintain individuality and personal
23 dignity as long as the storage or use of these items do not present a fire
24 or safety hazard; and
- 25 (c) Be provided a separate storage area in the resident's own living
26 area and at least one (1) lockable cabinet or drawer for keeping per-
27 sonal property if requested by the resident.
- 28 (4) Personal funds. Each resident shall have the right to:
- 29 (a) Retain for personal use the difference between the resident's to-
30 tal monthly income and the monthly charges by the certified family home,
31 such that the resident is left with at least the amount established by
32 department rules for a basic-needs allowance to the aged, blind, and
33 disabled who live in certified family homes, when the resident's care is
34 paid for, in part or in full, by public assistance;
- 35 (b) Deposit personal funds into the resident's own financial account
36 and not into the account of any other person;
- 37 (c) Review financial accounting pertaining to the use of the resident's
38 funds. If the resident or the resident representative and care provider
39 agree in writing that the care provider or another individual under the
40 care provider's influence will manage the resident's personal funds on
41 the resident's behalf, the care provider must hold, safeguard, and ac-
42 count for such personal funds; and
- 43 (d) Receive remaining funds into the resident's estate upon the resi-
44 dent's death. Upon the death of a resident whose funds were deemed to be
45 managed by the care provider or an individual under the provider's in-
46 fluence, the care provider shall ensure the resident's remaining per-
47 sonal funds, along with a final accounting of such funds, are promptly
48 conveyed to the individual administering the resident's estate.
- 49 (5) Access and visitation rights. Certified family home staff shall
50 permit:

- 1 (a) Immediate access to any resident by the resident representative or
2 the resident's health care professional;
- 3 (b) Unless otherwise restricted by a lawful order from a government
4 unit, immediate access to any resident by the resident's relatives,
5 subject to the resident's right to deny or withdraw consent at any time;
6 and
- 7 (c) Unless otherwise restricted by a lawful order from a government
8 unit, immediate access to any resident by others who wish to visit the
9 resident, subject to reasonable restrictions and the resident's right
10 to deny or withdraw consent at any time.
- 11 (6) Labor. Each resident shall have the right to refuse to perform ser-
12 vices for the certified family home.
- 13 (7) Confidentiality. Each resident shall have the right to confiden-
14 tiality of personal and clinical records. The care provider shall obtain
15 written consent from the resident or resident representative prior to dis-
16 closing any such record, except to the following:
- 17 (a) Representatives of the department, including certifying agents;
18 (b) Representatives of the Idaho commission on aging;
19 (c) Advocates and representatives of the protection and advocacy sys-
20 tem designated by the governor pursuant to 42 U.S.C. 15043 and 42 U.S.C.
21 10801, in accordance with applicable federal law and regulations;
22 (d) The resident's authorized personal health care professional when
23 the record is relevant to the condition the health care professional is
24 treating; and
25 (e) The resident or the resident's legally authorized representative.
- 26 (8) Freedom from harm. Each resident shall have the right to be free
27 from:
- 28 (a) Physical abuse;
29 (b) Mental abuse;
30 (c) Sexual abuse;
31 (d) Neglect;
32 (e) Exploitation;
33 (f) Corporal punishment;
34 (g) Involuntary seclusion;
35 (h) Any physical restraint; and
36 (i) Any chemical restraint.
- 37 (9) Freedom of religion. Each resident shall have the right to practice
38 the religion of the resident's choice or to abstain from religious practice.
39 Residents shall also be free from the imposition of the religious practices
40 of others.
- 41 (10) Control and receipt of health-related services. Each resident or
42 resident representative shall have the right to control the resident's re-
43 ceipt of health-related services, including but not limited to:
- 44 (a) The right to retain the services of the resident's own health care
45 professionals;
46 (b) The right to select the pharmacy or pharmacist of the resident's
47 choice;
48 (c) The right to confidentiality and privacy concerning the resident's
49 medical or dental condition and treatment; and
50 (d) The right to decline treatment for any medical condition.

1 (11) Grievances. Each resident or resident representative shall have
2 the right to voice grievances without discrimination or reprisal for voicing
3 the grievances and the right to prompt efforts by the certified family home
4 to resolve grievances, including a written response from the care provider.
5 Grievances may include but are not limited to:

- 6 (a) Quality of services or care provided;
7 (b) Failure to provide service or care; and
8 (c) The behavior of other residents.

9 (12) Participation in other activities. Unless otherwise restricted by
10 a lawful order from a governmental unit, each resident shall have the right
11 to participate in social, religious, and community activities that do not
12 interfere with the rights of other residents in the certified family home.

13 (13) Examination of home inspection reports. Each resident or resident
14 representative shall have the right to examine the results of any home in-
15 spection of the certified family home conducted by the department and any de-
16 partment-approved plan of correction the care provider was or is expected to
17 implement.

18 (14) List of alternative care settings. Each resident or resident rep-
19 resentative shall have the right to review lists of alternative care set-
20 tings, including other certified family homes, that may be available to meet
21 the resident's needs.

22 (15) Advance directives. Each resident shall have the right to be in-
23 formed by the care provider in writing regarding the resident's option to
24 formulate advance care directives as described in chapter 45, title 39,
25 Idaho Code.

26 (16) Other rights established by law. The resident shall have any other
27 right established by law.

28 SECTION 24. That Section 39-3519, Idaho Code, be, and the same is hereby
29 amended to read as follows:

30 39-3519. ACCESS BY ADVOCATES AND REPRESENTATIVES. (1) Staff of the
31 certified family home shall permit certifying agents, other representatives
32 of the department, or any representative of adult protective services imme-
33 mediate and unrestricted access, according to the agent's or representative's
34 respective authority, to the physical premises of the home and property, to
35 the records required under this chapter and the rules promulgated thereun-
36 der, and to the residents.

37 (2) Staff of the A certified family home shall permit advocates and
38 representatives of community legal services programs, including the state
39 long-term care ombudsman or its designee or representatives of the protec-
40 tion and advocacy system pursuant to 42 U.S.C. 15043 and 42 U.S.C. 10801 et
41 seq., whose purposes include rendering assistance without charge to resi-
42 dents, to have access to the ~~certified family home~~ physical premises of the
43 home, to the residents, and to records in accordance with federal and state
44 law and regulations at reasonable times.

45 SECTION 25. That Section [39-3520](#), Idaho Code, be, and the same is hereby
46 repealed.

1 SECTION 26. That Chapter 35, Title 39, Idaho Code, be, and the same is
2 hereby amended by the addition thereto of a NEW SECTION, to be known and des-
3 ignated as Section 39-3520, Idaho Code, and to read as follows:

4 39-3520. APPLICATION FOR CERTIFICATION. (1) An application for certi-
5 fication shall be made to the department on forms provided by the department
6 and shall contain such information as the department reasonably requires,
7 including, at a minimum, fingerprinting and a background check clearance
8 through the department, a list of individuals living in the home, and payment
9 of an application fee if charged.

10 (2) Following receipt of a completed application, the department shall
11 conduct an initial certification study to determine the capability of the
12 care provider to operate a certified family home. In the event the depart-
13 ment establishes, prior to conducting an initial certification study, that
14 a cause of denial exists pursuant to rules promulgated pursuant to this
15 chapter, the department may choose to deny the application for certification
16 without conducting or completing an initial certification study.

17 (3) Failure of the applicant to cooperate with the department in the ap-
18 plication process may result in the department terminating the application.
19 Failure to cooperate means that the applicant does not make the application
20 fee payment within six (6) months of the date of the invoice or does not sub-
21 mit to the department the completed application materials and information
22 in the form requested by the department within twelve (12) months of paying
23 the application fee. An applicant whose application has been terminated may
24 reapply for certification.

25 SECTION 27. That Section 39-3521, Idaho Code, be, and the same is hereby
26 amended to read as follows:

27 39-3521. ISSUANCE AND RENEWAL OF CERTIFICATION. (1) Each certificate
28 shall be issued only for the home and care provider named in the application
29 and shall not be transferable or assignable.

30 (2) Upon certification, the department shall charge the care provider
31 an ongoing monthly certification fee, to be invoiced by the department and
32 paid as promulgated in rule. Timely payment of the certification fee shall
33 keep the certification active unless it is suspended or revoked by the de-
34 partment.

35 (3) Each certified family home is required to care provider intending
36 to continue operation of a certified family home shall renew its certifica-
37 tion annually. The department may shorten the certification time frame as
38 part of an enforcement action or at its discretion to more efficiently or
39 safely fulfill its obligations. The application for renewal shall be filed
40 with the regional office of the department within at least thirty (30) days
41 prior to the date of expiration specified on the certificate. The existing
42 certificate, unless suspended or revoked, shall remain in force and effect
43 until the department has acted upon on the renewal application renewal when
44 such application for renewal is timely filed.

45 SECTION 28. That Section 39-3522, Idaho Code, be, and the same is hereby
46 amended to read as follows:

1 39-3522. PROVISIONAL CERTIFICATION. (1) Upon ~~initial inspection or~~
2 investigation, should an applicant for a certificate ~~or a care provider be~~
3 ~~unable or unwilling~~ to meet a standard because of ~~conditions that are un-~~
4 ~~likely to endure beyond six (6) months~~ one (1) or more conditions or acts
5 that do not immediately jeopardize the health or safety of the resident, the
6 department may grant a provisional certificate pending the satisfactory
7 correction of all deficiencies and ~~provided that the deficiencies do not~~
8 ~~jeopardize the health and safety of residents~~. ~~No more than one (1) provi-~~
9 ~~sional certificate shall be issued to the same certified family home in any~~
10 ~~twelve (12) month period~~ demonstration of continuing compliance for up to
11 six (6) months.

12 (2) The department, at its discretion, may impose conditions on the
13 certified family home, which if imposed shall be included with the notice
14 of provisional certification. Such conditions may be imposed to ensure the
15 care provider achieves compliance with the standard or to aid the department
16 in monitoring the care provider's performance during the provisional certi-
17 fication period.

18 SECTION 29. That Section [39-3523](#), Idaho Code, be, and the same is hereby
19 repealed.

20 SECTION 30. That Chapter 35, Title 39, Idaho Code, be, and the same is
21 hereby amended by the addition thereto of a NEW SECTION, to be known and des-
22 ignated as Section 39-3523, Idaho Code, and to read as follows:

23 39-3523. DENIAL OF APPLICATION OR REVOCATION OF A CERTIFICATE. (1)
24 The department may deny any application for a certificate when persuaded by
25 a preponderance of evidence that such conditions exist as to endanger the
26 health or safety of any resident or when the applicant fails to demonstrate
27 compliance with any provision of this chapter or rules promulgated pursuant
28 to this chapter. The department may also deny any application for a cer-
29 tificate for any other cause for denial listed in rules promulgated by the
30 department.

31 (2) The department may revoke any certificate when persuaded by a pre-
32 ponderance of evidence that such conditions exist as to endanger the health
33 or safety of any resident or when the care provider violates any provision of
34 this chapter or rule promulgated pursuant to this chapter after having been
35 notified by the department of such violation and given an opportunity to make
36 corrections as described in the rules promulgated pursuant to this chapter.
37 The department may also revoke any certification for any other cause for re-
38 vocation listed in rules promulgated by the department.

39 SECTION 31. That Section [39-3524](#), Idaho Code, be, and the same is hereby
40 repealed.

41 SECTION 32. That Chapter 35, Title 39, Idaho Code, be, and the same is
42 hereby amended by the addition thereto of a NEW SECTION, to be known and des-
43 ignated as Section 39-3524, Idaho Code, and to read as follows:

44 39-3524. PROCEDURE FOR DENIAL OF APPLICATION OR REVOCATION OF A CER-
45 TIFICATE. (1) Consistent with provisions regarding emergency proceedings in

1 section 67-5247, Idaho Code, the department shall immediately notify the ap-
2 plicant or care provider in writing when it denies an application for a cer-
3 tificate or revokes or suspends certification in a situation involving an
4 immediate danger to the health or safety of residents.

5 (2) Absent emergency proceedings, the department shall provide notice
6 and the opportunity to be heard prior to denial of an application for a cer-
7 tificate or revocation of a certificate consistent with section 67-5254,
8 Idaho Code. The proceedings shall be conducted in accordance with the Idaho
9 administrative procedure act and the department's rules for contested care
10 proceedings.

11 SECTION 33. That Section [39-3525](#), Idaho Code, be, and the same is hereby
12 repealed.

13 SECTION 34. That Chapter 35, Title 39, Idaho Code, be, and the same is
14 hereby amended by the addition thereto of a NEW SECTION, to be known and des-
15 ignated as Section 39-3525, Idaho Code, and to read as follows:

16 39-3525. EFFECT OF REVOCATION OF A CERTIFICATE OR DENIAL OF AN AP-
17 PPLICATION. The department is not required to review the application of an
18 applicant who has had a certificate revoked or previous application denied
19 until five (5) years have elapsed from the date of revocation or denial or
20 from the date of a final appeals decision affirming the department's action,
21 whichever is later.

22 SECTION 35. That Section [39-3526](#), Idaho Code, be, and the same is hereby
23 repealed.

24 SECTION 36. That Chapter 35, Title 39, Idaho Code, be, and the same is
25 hereby amended by the addition thereto of a NEW SECTION, to be known and des-
26 ignated as Section 39-3526, Idaho Code, and to read as follows:

27 39-3526. STATUTES AND RULES PROVIDED. Prior to initial certification,
28 the applicant shall be provided a printed copy of all applicable statutes and
29 rules by the department without additional charge.

30 SECTION 37. That Section 39-3527, Idaho Code, be, and the same is hereby
31 amended to read as follows:

32 39-3527. RESPONSIBILITY FOR INSPECTIONS AND TECHNICAL ASSIS-
33 TANCE. The certifying ~~agency~~ agent shall inspect and provide technical
34 assistance to certified family homes. The department may provide consulting
35 services upon request to any certified family home to assist in the identifi-
36 cation and correction of deficiencies and in the upgrading of the quality of
37 care provided by the certified family home.

38 SECTION 38. That Section [39-3528](#), Idaho Code, be, and the same is hereby
39 repealed.

40 SECTION 39. That Chapter 35, Title 39, Idaho Code, be, and the same is
41 hereby amended by the addition thereto of a NEW SECTION, to be known and des-
42 ignated as Section 39-3528, Idaho Code, and to read as follows:

1 39-3528. OPERATING WITHOUT CERTIFICATION -- MISDEMEANOR. (1) Any in-
2 dividual to whom the provisions of this chapter apply as described in section
3 39-3512, Idaho Code, who is paid for providing care to a vulnerable adult
4 living in his home within the state without first obtaining certification as
5 provided in this chapter shall be guilty of a misdemeanor.

6 (2) Authority to prosecute violations of this section is granted to the
7 attorney general and the county attorney in the county where the person who
8 is alleged to be operating without certification lives.

9 SECTION 40. That Section [39-3554](#), Idaho Code, be, and the same is hereby
10 repealed.

11 SECTION 41. That Section [39-3556](#), Idaho Code, be, and the same is hereby
12 repealed.

13 SECTION 42. That Chapter 35, Title 39, Idaho Code, be, and the same is
14 hereby amended by the addition thereto of a NEW SECTION, to be known and des-
15 ignated as Section 39-3556, Idaho Code, and to read as follows:

16 39-3556. COMPLAINTS. (1) A person who believes that any provision of
17 this chapter, or rule promulgated under this chapter, has been violated may
18 file a complaint with the department. Records and information that identify
19 a complainant are exempt from disclosure as set forth in section 74-105(16),
20 Idaho Code.

21 (2) The certifying agent shall investigate any complaint alleging a vi-
22 olation of this chapter or the rules promulgated pursuant to this chapter.
23 The certifying agent has the discretion to decide the activities of inves-
24 tigation while considering the nature of each allegation and arriving at a
25 conclusion informed by a thorough and objective exploration of the known ev-
26 idence.

27 SECTION 43. SEVERABILITY. The provisions of this act are hereby de-
28 clared to be severable and if any provision of this act or the application
29 of such provision to any person or circumstance is declared invalid for any
30 reason, such declaration shall not affect the validity of the remaining por-
31 tions of this act.

32 SECTION 44. An emergency existing therefor, which emergency is hereby
33 declared to exist, this act shall be in full force and effect on and after
34 July 1, 2024.