

November/December 2025

"ONE BIG BEAUTIFUL BILL ACT": A HEALTHCARE ATTORNEY'S GUIDE

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The Advocate (ISSN 05154987) is published 9 times in the following months: January, February, March, May, June, August, September, October, and November by the Idaho State Bar, *The Advocate* P.O. Box 895 Boise, ID 83701. Periodicals postage paid at Boise, ID 83701 and additional mailing offices.

POSTMASTER: Send all address changes to the Idaho State Bar, *The Advocate* P.O. Box 895 Boise, ID 83701.

Subscriptions: Idaho State Bar members receive *The Advocate* as part of their annual dues payment. Nonmember subscriptions are \$45 per year.



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On the Cover



This cover image features the U.S. Capitol building since this issue's Featured Article by Chelsea Kidney breaks down the "One Big Beautiful Bill Act" and how healthcare attorneys can begin navigating this legislation. Read more world on page 14

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COURTNEY M. PETERSON

(Resignation in Lieu of Disciplinary Proceedings)

On October 14, 2025, the Idaho Supreme Court entered an Order accepting the resignation in lieu of disciplinary proceedings of Boise attorney Courtney M. Peterson. The Idaho Supreme Court's Order followed a stipulated resolution of a disciplinary proceeding that related to the following conduct.

On September 15, 2023, prison staff searched the cell of Ms. Peterson's client and located a cell phone with evidence showing Ms. Peterson distributed drugs to her client while at the prison. On June 18, 2025, Ms. Peterson was charged in the U.S. District Court for the District of Idaho with one felony count related to that conduct. Also on June 18, 2025, Ms. Peterson agreed to plead guilty under a Rule 11 Plea Agreement to one count of distribution of methamphetamine.

In the resulting disciplinary case, Ms. Peterson admitted that she engaged in a concurrent conflict of interest in violation of IRPC 1.7(a)(2) and committed a criminal act that reflected adversely on his fitness as a lawyer in violation of IRPC 8.4(b).

The Idaho Supreme Court accepted Ms. Peterson's resignation in lieu of disciplinary proceedings. By the terms of the Order, Ms. Peterson may not apply for admission to the Idaho State Bar sooner than five (5) years from the date of her resignation. If she does apply for admission after five (5) years, she will be required to comply with all the bar admission requirements in Section II of the Idaho Bar Commission Rules and shall have the burden of overcoming the rebuttable presumption of the "unfitness to practice law."

By the terms of the Idaho Supreme Court's Order, Ms. Peterson's name was stricken from the records of the Idaho Supreme Court and her right to practice

law before the courts in the State of Idaho was terminated on October 14, 2025.

Inquiries about this matter may be directed to: Bar Counsel, Idaho State Bar, P.O. Box 895, Boise, Idaho 83701, (208) 334-4500.

BROOKS R. SIEGEL

(Public Reprimand)

The Professional Conduct Board has issued a Public Reprimand to Arizona lawyer Brooks R. Siegel, based on professional misconduct.

The Professional Conduct Board Order followed a stipulated resolution of an Idaho State Bar ("ISB") reciprocal disciplinary proceeding. On January 27, 2023, the Presiding Disciplinary Judge of the State Bar of Arizona ("PDJ") accepted an Amended Agreement for Discipline by Consent by which Mr. Siegel was reprimanded, voluntarily resigned from the Arizona State Bar for two years, and ordered to pay the State Bar's costs and expenses. Mr. Siegel was found to have violated Arizona Rules of Professional Conduct 1.1 [Competence], 1.3 [Diligence], 1.4 [Communication], 5.3 [Responsibilities Regarding Nonlawyers], 5.5 [Unauthorized Practice of Law], and 8.4(d) [Misconduct]. Those Arizona Rules of Professional Conduct correspond to the same Idaho Rules of Professional Conduct. The Public Reprimand relates to the following facts and circumstances.

Mr. Siegel was hired in 2021 to represent a client in a Lemon Law matter. The client only spoke to non-lawyer staff members, who attempted to negotiate a settlement on her behalf. The client later discharged the firm without ever having spoken to a lawyer. Mr. Siegel negligently violated his duty to the client and the profession causing potential harm. Aggravating factors considered by the State Bar of Arizona were prior disciplinary offenses, a pattern of misconduct, and multiple offenses. Mitigating factors considered

the absence of a dishonest or selfish motive, full and free disclosure to the disciplinary board or cooperative attitude toward proceedings, and the imposition of other sanctions, including Mr. Siegel's agreement to resign from the State Bar of Arizona for two years and payment of costs and expenses.

The Public Reprimand does not limit Mr. Siegel's eligibility to practice law.

Inquiries about this matter may be directed to: Bar Counsel, Idaho State Bar, P.O. Box 895, Boise, ID 83701, (208) 334-4500.

AARON J. TOLSON

(Interim Suspension)

On September 24, 2025, the Idaho Supreme Court entered an Order Granting Petition for Interim Suspension of License to Practice Law, placing Aaron J. Tolson's license to practice law in Idaho on interim suspended status. The Court ordered interim suspension pursuant to Idaho Bar Commission Rule 510(a)(3) based on Mr. Tolson's repeated failures, without justifiable grounds, to cooperate with Bar Counsel or adequately respond to Bar Counsel's multiple requests for more information concerning two trust account overdrafts.

Inquiries about this matter may be directed to: Bar Counsel, Idaho State Bar, P.O. Box 895, Boise, Idaho 83701, (208) 334-4500.

AARON J. TOLSON

(Dissolution of Interim Suspension)

On September 29, 2025, the Idaho Supreme Court entered an Order granting the Idaho State Bar's Motion for Dissolution of Order Granting Petition for Interim Suspension of License to Practice Law regarding Aaron J. Tolson.

Inquiries about this matter may be directed to: Bar Counsel, Idaho State Bar, P.O. Box 895, Boise, Idaho 83701, (208) 334-4500.

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Left: Nez Perce County Courthouse 1889. Photo courtesy of Nez Perce County.



Right: Illustration of the new Nez Perce County Courthouse. Image courtesy of Lombard/Conrad Architects.

Court Infrastructure for Justice: A Tale of Two Courthouses in Nez Perce County

Patricia E.O. Weeks

In 1889, the Nez Perce County Courthouse opened its doors in Lewiston, Idaho, with its grand facade and dignified presence, it stood as a symbol of the enduring principles of justice and public service. For well over a century, it bore witness to generations of trials, hearings, and legal proceedings that shaped the lives of Idahoans. However, behind its historic charm lay significant

structural, logistical, and safety challenges that increasingly hindered the daily operation of the court system. In 2025, a new courthouse replaced it, ushering in a modern era of accessibility, efficiency, and security.

This article explores the critical role of infrastructure in the administration of justice and why the investment in the new Nez Perce County Courthouse represents more than just a change of scenery, it's a commitment to the citizens it serves.

Justice Shouldn't Be a Climb: Accessibility Issues

The grandeur of the old courthouse could not disguise one of its most glaring shortcomings: inaccessibility. The building predated not just the Americans with Disabilities Act ("ADA"), but any modern concept of inclusive design. For individuals with mobility issues, even entering the courthouse or accessing various floors was a challenge.



Eric Peterson attempts to drive his wheelchair up a temporary ramp to access the main courtroom of the Nez Perce County Courthouse. Photos used with permission and courtesy of the Lewiston Tribune.



Inmates coming out of the elevator in the old Nez Perce County Courthouse near a common stairwell and public hallway. Photo provided by the author.



A ramp in the new Nez Perce County Courthouse, showing the more accessible building and updated facility.

A striking example of this was documented by the *Lewiston Morning Tribune*, April 18, 2016, recounting an incident in which a visiting Justice had to climb two small sets of stairs assisted by strong bailiffs just to sit behind the bench. It wasn't merely inconvenient; it was undignified and unsafe.¹

Court personnel weren't immune to the struggle. Staff members navigated steep, narrow staircases to reach a closet-sized breakroom and a single restroom shared among many. It was an exhausting, morale depleting setup, not to mention dangerous in case of emergencies.

By contrast, the new courthouse completed in 2025 meets full ADA compliance. Judges access raised benches via standard ramps. Staff enjoy accessible, modern breakrooms and an adequate number of restrooms. Every corner of the building is designed with inclusivity in mind, ensuring that everyone, regardless of physical ability, can participate in the justice system.

When Safety Isn't Optional: Prisoner and Public Separation

One of the most pressing and less visible concerns in the old courthouse was safety, particularly the lack of separation between in-custody defendants and the public.

There are anecdotes that sound more like scenes from a legal drama than the daily reality of a court. Pressing an elevator button only to be greeted by a group of inmates in chains was not uncommon. Judges and staff occasionally encountered

prisoners in public hallways. There was even an instance when a magistrate judge stood at the top of the stairs as eight chained felony inmates exited the only elevator.

The lack of controlled prisoner transport pathways created opportunities not just for disruption, but for real danger. Occasionally, a friend of an inmate would attempt to plant contraband inside the courthouse, hoping the defendant could access it en route to or from the courtroom.

That's why one of the crown jewels of the new courthouse is its secure inmate transport system. Inmates are brought in through an enclosed sally port, entirely hidden from public view and wait in holding cells. When court is in session, a private elevator delivers them directly to the secure zone between courtrooms, eliminating all contact with the public and courthouse staff. It's a model of modern security and an essential measure for everyone's safety.

Hidden Strains: The Human Cost of Inadequate Space

If the public only saw the visible wear of the old courthouse, cracked concrete, red rust from ancient pipes, or unsettling blackened electrical outlets, they might understand why the building was no longer sustainable. What the public couldn't see was very problematic.

Court staff were practically stacked on top of each other, working in cramped quarters that offered little privacy or comfort. During jury trials, more than 20 court employees were expected to

share a single restroom. Hallways were often doubled as storage rooms for the mountain of court files. Some magistrate judges were stationed in remote offices that required them to walk across an open parking lot, exposing them to risk with no immediate security.

These daily indignities affected morale, efficiency, and the professional dignity of those working to uphold the law. The new courthouse corrects all of this with expanded office space, adequate facilities for jurors and staff, and integrated security measures throughout the building.

Infrastructure as a Statement of Values

Courthouses are more than brick and mortar, they are civic monuments that reflect our collective commitment to justice, order, and public service. While nostalgia for historic buildings is understandable, we must not let sentimentality compromise safety, dignity, or efficiency.

The truth is, the old courthouse didn't stop justice from being served. Cases were heard. Judgments were rendered. The wheels of justice turned, but they turned slower, under strain, and sometimes at the expense of safety, accessibility, and morale.

The new courthouse accelerates those wheels. Now with the state-of-the-art technology, secure courtrooms, and modern infrastructure, the court can now process cases more efficiently and safely. The integration of digital case management,

remote hearing capabilities, and better workflow tools has already led to measurable improvements in operations.

Fire codes are met. Technology is up to date. Security is ever present but non-invasive. Staff can do their jobs without physical hardship. Most importantly, everyone from the judge to the janitor to the juror can enter the building with confidence that their needs have been anticipated.

The Public's Courthouse: Serving Citizens First

Courthouses are one of the last places the public wants to visit. Outside of marriage licenses and passports (love and travel) they are rarely destinations of joy. When people are compelled to walk through those doors, whether as a party to a case, a juror, or a witness, the experience should not add insult to injury.

In many ways, a courthouse is a monopoly. It is the only place where a citizen can access certain essential services, and as such, it carries an obligation

to function with the highest standards. Investing in this infrastructure is not a luxury, it's a civic necessity.

The new Nez Perce County Courthouse is not just a new building; it's a bold declaration that Idaho values the rights, safety, and dignity of its people. It is a testament to what can happen when stakeholders prioritize infrastructure as a critical component of justice.

Conclusion: A Model for the Future

Nez Perce County's investment in its new courthouse sets a precedent for other counties facing similar challenges. As court dockets grow, technology evolves, and public expectations shift, aging infrastructure simply can't keep up.

The move from the 1889 courthouse to the 2025 facility was not merely about aesthetics—it was about aligning our justice system with the realities of the modern world. Accessibility, safety, workflow, and respect for the people who move through these buildings every day, these

aren't optional features; they are fundamental to justice itself.

In the end, the courthouse is more than a building. It's a promise. In Nez Perce County, that promise has been renewed.



Patty Weeks obtained her Bachelor of Science from Boise State University and Juris Doctor from the University of Idaho, College of Law. She is a licensed attorney in Idaho and Washington and currently the Clerk of the District Court, Nez Perce County. She previously served as an officer and president of the Second District Bar Association and now is a new Bar Commissioner representing the First and Second Districts. She is a lifelong resident of Idaho and lives on the family farm in Reubens.

Endnote

1. *Lack of Access Is Exhibit A(DA)*, The Lewiston Tribune, <https://www.lmtribune.com/northwest/lack-of-access-is-exhibit-ada-9d6f22a2> (last visited Oct. 3, 2025).



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2025 RESOLUTION PROCESS

Unlike many state bars, the Idaho State Bar cannot take positions on legislative matters, rules of court, substantive rules governing the bar itself at its Annual Meeting or by act of its Bar Commissioners, without first submitting matters to the membership through the resolution process. This year, there are six resolutions proposed for consideration during the 2025 Idaho State Bar resolution process.

- 1. Amendments to Idaho Bar Commission Rule 202:** Additional qualifications for admission addressing denial of an application on character and fitness grounds.
- 2. Amendments to Idaho Bar Commission Rule 215:** Addressing show cause hearing cost and timeframe for issuance of decision following show cause hearing.
- 3. Amendments to Idaho Bar Commission Rule 227:** Pro Hac Vice admission application fee and reference to Idaho Standards for Civility in Professional Conduct.
- 4. Amendments to Idaho Bar Commission 217:** Related to bar examination passing score.
- 5. Amendments to Idaho Bar Commission Rule 516(a)(9) and Idaho Rule of Professional Conduct 5.4(d)(2):** Changes to business entity statutes.
- 6. Amendments to the Idaho Rule of Professional Conduct 8.4:** New comment addressing a lawyer seeking to avoid the filing of or compelling the dismissal of a grievance as conduct prejudicial to the administration of justice.

Each judge and active member of the Idaho State Bar received an email that included the resolution voter pamphlet, with specific information about the resolutions. Members in attendance at a resolution meeting are provided a ballot. Members not in attendance will receive an electronic ballot after the meeting. Ballots may be completed and submitted at the resolution meetings or completed electronically.

All ballots are due by the close of business on Tuesday, December 2nd, 2025 at 5:00 p.m. (MT).

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Parsing the Policy: A Healthcare Attorney's Guide to the "One Big Beautiful Bill Act" and State Medicaid Reform

Chelsea E. Kidney



On July 4, 2025, Public Law 119-21, often referred to as the “One Big Beautiful Bill” (“OBBBA”) was signed into law. The OBBBA’s subject matter, vast and far reaching, largely focuses on tax reform, immigration, and environmental protection repeals. The omnibus bill is not a healthcare bill in the true sense; yet it is one of the largest legislative healthcare reform measures in recent history. In addition to the Medicaid changes discussed herein, the OBBBA implements significant healthcare changes on other programs including reducing Medicare reimbursements by four percent, increasing Medicare cost sharing, expanding catastrophic plan availability on health insurance marketplaces for individuals not covered by Medicaid, and modifying provider reimbursement structures. Additionally, the OBBBA specifically targets Medicaid funds for services provided by Planned Parenthood and similarly situated providers.¹ The latter measure is already subject to a preliminary injunction.²

Many of the OBBBA’s measures directed at Medicaid reform should not come as a surprise for those of us practicing in Idaho. In the 2025 Legislative Session, the Idaho Legislature passed Idaho’s House Bill 345 (“HB 345”) which targeted Medicaid reform in Idaho and has proven to be the bellwether on federal legislative policy. While there are some differences between the OBBBA and HB 345, the similarities are striking, especially around work requirements, eligibility redeterminations, and cost-sharing. This article will explore the changes brought by the OBBBA, the differences between the OBBBA and HB 345, and then close with commentary on how we can help our clients prepare.

The Basics of OBBBA

Eligibility Determinations: For Medicaid expansion populations and for those who would qualify for Medicaid under the Affordable Care Act, states will

be required to perform eligibility redeterminations every six months. Presently, redeterminations occur yearly.³

Work Requirements: Beginning January 1, 2027, states must require Medicaid enrollees perform “community engagement,” which is a fancy way to say “work requirements.” States can submit a Section 1115 Waiver or a State Plan Amendment (“SPA”) to seek approval to implement the work requirements earlier than January 1, 2027.⁴ States that will not meet the January 1, 2027, deadline may seek an extension if the state demonstrates a “good faith effort” in achieving compliance. Such extensions may only extend to December 31, 2028.

Unless exempted, “applicable individuals” on Medicaid must perform 80 hours of work, community service, educational programming (at least part-time), or any combination of these activities per month.⁵ Alternatively, individuals can demonstrate 1) monthly income that is not less than the federal minimum wage (\$7.25 per hour) multiplied by 80 hours (\$580), or an average six month income that is not less than the six month equivalent of the same (\$3,480).⁶

These work requirements will apply to individuals aged 19 to 64 who are not pregnant or already receiving services under Medicare Part A or Part B. Certain individuals are specifically excluded from the work requirements. It will not apply to American Indians and Alaska Natives, including those recognized as Indians under federal law, Urban Indians served by federally funded urban Indian health programs, California Indians identified in federal statute, and anyone otherwise determined eligible for Indian Health Service benefits. Parents, guardians, caregivers of dependent children under the age of 14 or a disabled individual are not required to meet the work requirements, nor are veterans with total disability. Anyone determined to be “medically frail” is exempt as well. “Medically frail” includes anyone who is blind; disabled; has a substance use disorder or a disabling mental health disorder; and those with a physical, intellectual, or developmental disability that significantly interferes with at least one activity of daily living.

Similarly, if an individual is participating in a drug or alcohol rehabilitation program, they are exempt. If an individual is already meeting the work requirements under the Temporary Assistance for Needy Families (“TANF”) program or Supplemental Nutrition Assistance Program (“SNAP”), they are not required to duplicate their efforts to be eligible for Medicaid. Lastly, inmates of a public institution and anyone who at any point in the three months prior to application was an inmate of a public institution are exempt from work requirements. The OBBBA mandates that these individuals be “deemed” by states to have met the work requirements, yet states may elect to require verification.⁷ Alternatively, states may choose not to require proof; self-attestation could be enough.

States may also elect to allow short-term hardship exceptions which would permit an individual to be deemed to have met the work requirements. A short-term hardship is defined to include situations where 1) the individual for part or all of a month “receives inpatient hospital services, nursing facilities services, services in an intermediate care facility for individuals with intellectual disabilities, inpatient psychiatric hospital services, or other services of similar acuity...;” 2) the individual resides in an area where a presidential state of emergency or disaster is declared, or where the employment rate is at or above eight percent or 1.5 times the national unemployment rate; or 3) the individual must travel outside their community for treatment of a serious or complex medical condition.⁸

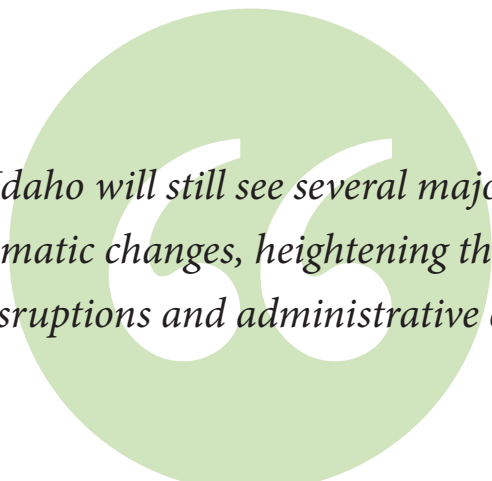
Work requirement verifications will be performed at the same intervals as the individual’s regular eligibility determinations. States may elect to perform these verifications more frequently. When performing verifications, states may use “reliable information” from *ex parte* sources without requiring the individual to submit additional information. Such “reliable information” may include payroll data and encounter data. Encounter data captures the diagnosis, treatment, and services provided to a beneficiary which is submitted to payors such as Medicaid and Medicare. This data is used to calculate the capitated payment rate and assess quality of care.

The breadth of exemptions creates significant administrative burdens for states. The “medically frail” determination will likely require clinical assessments which may delay eligibility determinations beyond the statutory timeframes. Moreover, it is unclear what information states will use when making determinations on who qualifies as medically frail. For example, if states require those with a Serious Mental Illness (“SMI”) to verify, will states use prescription history to determine a diagnosis or will states require enrollees to submit assessments by their treating physicians. It is also unknown how debilitating a condition must be to qualify as significantly impacting an activity of daily living.

Administrative Due Process Protections: The OBBBA also establishes some key requirements that states will need to implement before these changes to Medicaid may come to fruition, especially around the procedural due process afforded to those impacted.

If a state is unable to verify that an individual meets the work/community engagement requirement, the state must provide the individual with a notice of noncompliance and provide 30 days for the individual to prove their exempt status or demonstrate compliance. During this time, the state must continue to provide the individual with coverage. If the individual fails to respond within 30 days or fails to prove eligibility, the state must disenroll the individual and provide them the opportunity for a fair hearing allowing the individual the opportunity to seek reconsideration and to satisfy due process concerns.

State Outreach: The OBBBA mandates that at least three months before December 31, 2026, states must educate their Medicaid enrollees on their new obligations pertaining to work/community engagement requirements.⁹ This outreach campaign must inform enrollees on the consequences of noncompliance, how to report changes to the state, the possible exceptions, and how the individual can report their exempt status. The state must use at least two different forms of outreach: 1) regular or electronic mail, and either 2) text, telephone, internet website, or other electronic means.



Idaho will still see several major systematic changes, heightening the risk for disruptions and administrative errors.

Timing Constraints: The OBBBA states that final rules for the work/community engagement requirement will not be promulgated until June 1, 2026. Combining this with the outreach deadline described above, which must begin no later than October 1, 2026, for the January 1, 2027, implementation date, means that states will have little time to meet its requirements. In Idaho, the Department of Health and Welfare (“Department”) may issue temporary rules pursuant to Idaho Code 67-5226, yet this leaves the Department and the Idaho Legislature little to no time to promulgate rules to ensure enrollees understand their new requirements.

Alien Eligibility: Under Section 71109 of the OBBBA, states are precluded from offering Medicaid benefits to anyone other than US citizens, legally present permanent aliens, aliens granted status of Cuban or Haitian entrants under the Refugee Education Assistance Act, and individuals lawfully present under the Compact for Free Association of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996.¹⁰ This limitation precludes refugees and asylees.

This provision could face constitutional challenge under equal protection grounds. The exclusion of refugees and asylees—populations traditionally granted federal protection—may violate procedural due process requirements

established under *Mathews v. Eldridge*.¹¹ Does excluding refugees and asylees truly serve a legitimate governmental interest? Or will this simply increase the burden on hospital and rural health services, shifting the costs on to already strained systems.

Cost Sharing: Section 71120 requires states to impose cost sharing fees to Medicaid expansion enrollees. While premiums, enrollment fees, or similar charges are prohibited, states must impose a fee greater than \$0 with respect to certain care or services.¹² Excluded services from the cost sharing requirement include primary care; mental health treatment; substance use disorder treatment; or treatment provided by a federally qualified health center, rural health clinic, or a certified community behavioral health clinic. The cost sharing may not exceed \$35 for each item or service provided, and the total amount charged for all individuals in the family of the enrolled participant may not exceed five percent of the family income, as applied on a quarterly or monthly basis. The possible silver lining in this requirement is that states have great flexibility in determining the amount charged for the cost sharing portion.

The cost sharing requirements introduce another component that will impact enrollee’s access to care. States may grant providers the right to deny treatment if the Medicaid enrollee does not pay the cost share. However, failure to pay the

cost share will not result in the disenrollment of the participant, and providers are not prohibited from reducing or waiving the cost sharing amount.¹³

Retroactive Application: Presently, individuals who apply for and are approved for Medicaid will be granted 90 days of retroactive coverage from the date of application.¹⁴ Section 71112 of the OBBBA will limit the retroactive eligibility to 60 days for non-expansion enrollees and 30 days for expansion populations. This becomes effective January 1, 2027.

Conflict of Interest Protections: The OBBBA prohibits states from contracting with a Medicaid Managed Care Organizations (“MCO”) or other vendor to conduct work requirement compliance determinations unless the MCO or vendor has no direct or indirect financial interest in such determinations.¹⁵ Essentially, when Idaho contracts with its new MCO for Medicaid services pursuant to HB 345 (discussed later), that vendor cannot also perform the eligibility determinations. This will force Idaho to maintain separate administrative systems which will increase costs and administrative complexity.

What Is Not Changing

Idaho’s Medicaid Expansion is paid by 10 percent state general funds and 90 percent federal financial participation, otherwise known as the Federal Medicaid Assistance Percentage (“FMAP”). Idaho’s Legislature drafted the Medicaid Expansion statutes to include a trigger clause. Idaho Code § 56-267(5) states if the federal financial participation decreases below 90 percent, the Legislature will convene and evaluate the program’s future. If, however, the decrease occurs out of session, the Department must offset the increase demand on the state general fund. This could include immediate provider rate reductions or elimination of optional benefits.

With this axe hanging over Medicaid Expansion, many grew anxious that the FMAP for Medicaid expansion would be cut during the OBBBA’s multiple revisions. This, thankfully, did not happen, meaning the OBBBA did not result in a repeal of Medicaid Expansion; the 90 percent FMAP remains in place.

HB 345 Comparison

Idaho's approach to Medicaid reform presents both alignment and tension with these federal requirements. House Bill 345 was the Idaho Legislature's hazy glimpse into the crystal ball of federal policy, specifically the OBBBA's work requirements, redetermination periods, and cost sharing. While many of the provisions align, there are a few instances where the two diverge. HB 345's parental caretaker exception applies to parents with children under the age of six instead of under. Idaho's version states those who are "[m]edically classified as physically or mentally unfit for employment" are exempt, while OBBBA's version is far broader—offering protection for those who are "medically frail." Idaho also exempted those receiving unemployment and complying with the work requirements under the federal-state unemployment compensation program. The OBBBA does not directly address those on unemployment.

HB 345's take on cost sharing is less forgiving than the OBBBA's. If Idaho's version were to prevail, a person's eligibility would be conditioned on the cost sharing component. In contrast, the OBBBA's version allows services to be denied if a participant can't pay, yet the individual will not be disenrolled in Medicaid for nonpayment.

HB 345 mirrors the OBBBA in requiring six-month redetermination periods, however, HB 345 prohibits renewals "automatically based on available information and pre-populated forms..."¹⁶ whereas the OBBBA appears to encourage states to do this.

HB 345 also mandated that Idaho shift its provision of services to MCOs, thereby privatizing its Medicaid services. The timeline for Idaho's shift to an MCO model is largely dependent on federal approval of its state plan amendment, but the Department has expressed a commitment to go-live by 2029.¹⁷ While the MCO shift is unlikely to occur simultaneously with the work requirement start date, Idaho will still see several major systematic changes, heightening the risk for disruptions and administrative errors.

Why the Differences Matter

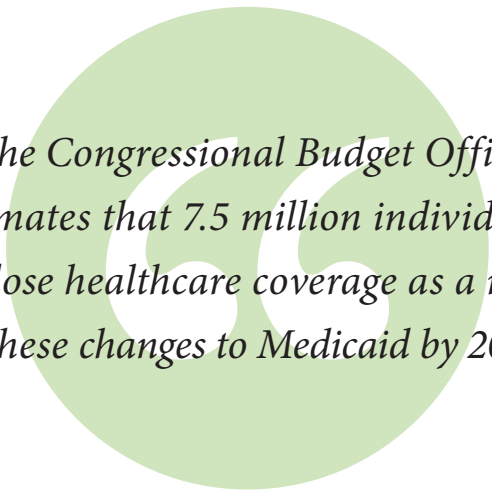
The Idaho Legislature directed the Department to seek waivers under Section 1115 of the Social Security Act to enact HB 345's legislative purpose. A Section 1115 waiver is required for a state to conduct an "experimental, pilot, or demonstration project" that would assist or promote the goals of the Medicaid program. Essentially, if a state wants to implement its Medicaid program in a manner not contemplated by the federal plan, a waiver is required. The state must prove certain elements such as: 1) cost neutrality, 2) that the state adhered to administrative notice requirements, and 3) provide a detailed analysis for how the state will monitor and evaluate the program.

All this to say, because HB 345 is more stringent than the OBBBA on several matters (e.g. work requirement exemption criteria, cost sharing, *ex parte* verifications for renewals), to implement HB 345 as written will require a waiver. However, if the Legislature determines that the OBBBA fulfills its legislative intent, then we will likely see revisions to Idaho Code § 56-2205. Even then, the Legislature could still direct the Department to seek waivers as originally contemplated in HB 345, making compliance and execution all the more complicated.

Implementation Challenges

These legal and administrative complexities translate into real-world challenges for healthcare stakeholders and enrollees. The OBBBA and HB 345 are not the first attempts at work requirements. Lessons can be learned from another state's prior unsuccessful attempt.

In 2018, the Centers for Medicare and Medicaid Services ("CMS") approved Arkansas's work requirement demonstration project. Upon implementation, initial estimates suggest that 25 percent of the Medicaid population lost coverage primarily due to an inability to regularly report work status or document eligibility.¹⁸ Granted, the fungibility of those numbers to those that would lose coverage with the implementation of the OBBBA are somewhat limited. Arkansas's model relied on unconscionable obstacles such as requiring applications to be submitted only by phone or through an online portal. Both methods exclude those without access or limited computer literacy. Those who were disenrolled had to wait until the following plan year to reenroll, unless they qualified through another program.¹⁹ Arkansas also relied on regular mail to notify individuals of the new reporting requirements; much of that mail was returned undeliverable. The work requirements lasted six months before a court determined Arkansas's program to be unconstitutional.²⁰



*The Congressional Budget Office
estimates that 7.5 million individuals
will lose healthcare coverage as a result
of these changes to Medicaid by 2034.*

Assuming the OBBBA's implementation date arrives without legal challenge, the combination of six-month redetermination and work requirements will result in significant enrollment instability. The Congressional Budget Office estimates that 7.5 million individuals will lose healthcare coverage as a result of these changes to Medicaid by 2034.²¹ While the OBBBA attempts to force states to engage with enrollees through proactive outreach, the reality is that this population may not be reached by those measures or may not understand their new responsibilities.

Health care providers must anticipate uncompensated care costs to account for the enrollment churn from coverage interruptions. Consider the very likely scenario where an individual loses coverage for six months due to eligibility redeterminations or failing to understand the requirements. Once eligibility is reestablished, only the most recent 30 days of services may be retroactively covered. Yet, the patient will have experienced months of delayed, untreated, or self-managed conditions. Alternatively, during the period of non-coverage, the individual may instead rely on emergency departments for nonemergent conditions, for which the provider can expect not to get paid. The gap in care can increase clinical complexity and increase cost of care. Providers, therefore, may likely bear the financial burden of non-reimbursable services and the operational challenges of managing sicker patients once coverage resumes.

How to Prepare

The challenges presented by the OBBBA and HB 345 are foreseeable. Advocacy may be key on those issues where states retain discretion (e.g. *ex parte* information sourcing, cost sharing amounts). The implementation of the OBBBA and HB 345 is dependent on

federal and state regulation that has yet to be drafted; participating in stakeholder meetings and utilizing public comment options is highly recommended.

We will serve our clients best by preparing them to navigate the immediate compliance demands. We can do this by monitoring ongoing litigation and legal challenges as the timeline gets closer. We will also want to encourage our clients to 1) review and monitor MCO contracts for work requirements and verification obligations, ensuring clear delineation between clinical services and eligibility determinations, 2) strengthen charity care policies and procedures, and 3) develop patient screening protocols for Medicaid eligibility changes in new and current patients. Staff training on exemptions categories and documentation requirements will be integral to the success of provider led enrollment support.

The future of healthcare under the OBBBA may appear rocky and uncertain, and in Idaho—where every shift in Medicaid policy creates ripple effects across our rural and urban health systems—the outlook may be daunting. But one thing is clear: proactive preparation and persistent advocacy will determine how this story unfolds.



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growth. She spends her free time chasing mediocrity in her recreational endeavors which include rock climbing, mountain biking, and gardening.

Endnotes

1. Pub. L. No. 119-21 § 71119, (2025) (amending 42 U.S.C. 1396a).
2. Planned Parenthood, *District Court Grants Partial Relief, Blocks Law "Defunding" Planned Parenthood for Some Members* (Press Release, July 21, 2025), available at <https://www.plannedparenthood.org/about-us/newsroom/press-releases/district-court-grants-partial-relief-blocks-law-defunding-planned-parenthood-for-some-members> (Oct. 2, 2025).
3. Pub. L. No. 119-21 § 71107, (2025) (amending 42 U.S.C. 1396a(e)(14)).
4. Section 71119(a) modifying SSA §1902 (xx)(1).
5. Pub. L. No. 119-21 § 71119, (2025) (amending 42 U.S.C. 1396a).
6. *Id.*
7. Specifically, states "may elect to not require an individual to verifying information resulting in such deeming...."
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9. *Id.*
10. Pub. L. No. 119-21 § 71109, (2025) (amending 42 U.S.C. 1396b(v)).
11. *Mathews v. Eldridge*, 424 U.S. 319, (1976).
12. Pub. L. No. 119-21 § 71120, (2025) (amending 42 U.S.C. 1396o).
13. *Id.*
14. Pub. L. No. 119-21 § 71112, (2025) (amending 42 U.S.C. 1396a(a)(34)).
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21. Congressional Budget Office, *Distributional Effects of Public Law 11921*, Pub. No. 61367 (Aug. 11, 2025), <https://www.cbo.gov/system/files/2025-08/61367-Distributional-Effects.pdf> (Oct. 2, 2025).

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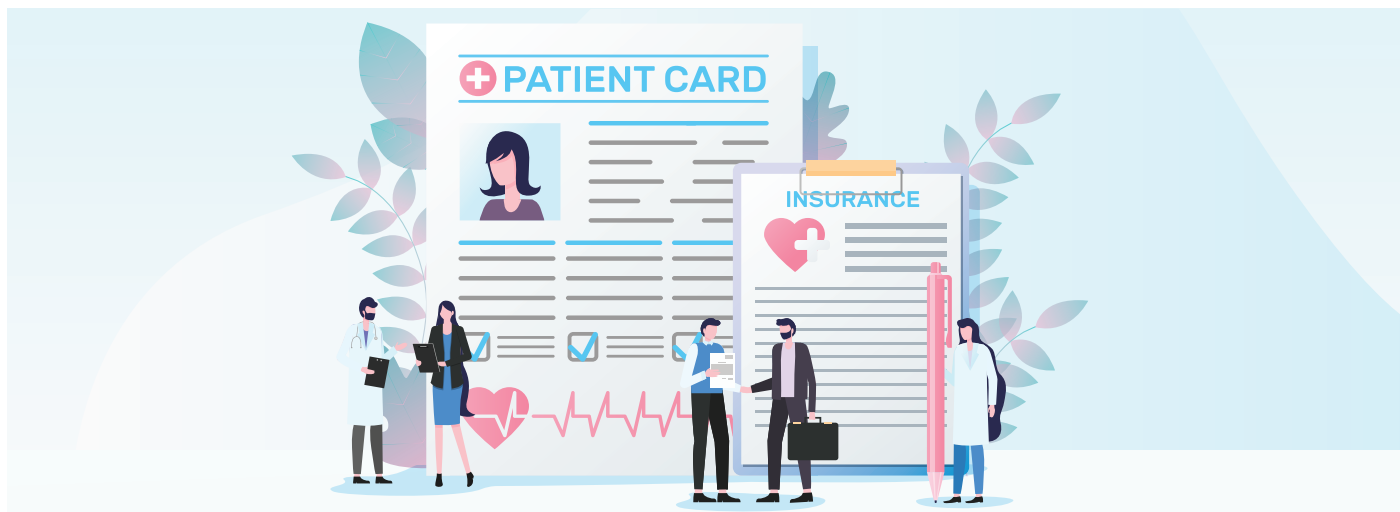
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Navigating the Idaho Patient Act and Medical Liens: Protecting Patients and Supporting Providers

Thomas J. Mortell
Jean E. Schroeder

Healthcare providers in Idaho save lives every day, yet securing payment for their crucial services involves navigating complex legal frameworks under the Idaho Patient Act (“IPA”) and updated medical lien laws. The IPA was signed into law in 2020¹ and has since been amended to reconcile with Idaho’s medical lien laws found in Idaho Code section 45-701, *et seq.* This article will provide the historical background for the IPA, its subsequent amendments, and an analysis of the most recent case law interpreting the IPA. These statutes seek a vital balance between safeguarding patients from surprise bills and aggressive debt collection practices, while ensuring providers receive fair compensation.²

Idaho Patient Act Origin

The IPA arose from stories of Idaho patients blindsided by unexpected fees and overly aggressive collections.³ The driving force behind the IPA was Melaleuca, Inc., a large Idaho-based company, and its CEO Frank VanderSloot, whose interest was sparked by the experience of a Melaleuca employee and a court order to garnish her wages.⁴

This employee faced an unexpected medical debt of \$294.00, but was later

confronted with a staggering request for nearly \$5,600.00 in attorney fees from a debt collection law firm pursuing her for the unpaid balance.⁵ This grossly disproportionate escalation highlighted a problem that needed to be addressed: patients were being blindsided by medical debt collections inflated with steep fees and legal costs.⁶ Due to these unfair practices, VanderSloot and Melaleuca championed change, advocating for legislation to curb these exploitative practices and protect Idahoans from financial ruin caused by deceptive or aggressive medical debt collections.⁷

As a result, the IPA, through House Bill 515, was proposed and passed, coming into effect on January 1, 2021. It featured robust protections designed to ensure patients receive timely, accurate, and understandable medical billing statements; curtail unethical collection tactics, including excessive attorney fee awards disproportionate to debts owed; require providers to submit claims and communicate charges within strict timelines; and impose meaningful limitations on collections lawsuits and liens until billing obligations are met.⁸ The purpose of the IPA was to protect consumers from collection actions for debts they were unaware of, from healthcare providers whom they do not recognize, and thus govern fair collection of debts owed to healthcare providers to inhibit excessive attorneys’ fees and combat

abuses of the collections process.⁹ Some of the limitations of the original IPA included the prohibition of medical providers from engaging in an “extraordinary collection action” without first submitting medical charges to the patient’s insurance within 45 days from the date of service.”¹⁰

Since its inception, healthcare providers have faced challenges in reconciling Idaho’s medical lien laws with the IPA. That was the case until March 28, 2024, when the legislature resolved the dilemma by permitting compliant medical liens so long as they are filed under new time limits in the lien statute.

Idaho Medical Lien Statute

Idaho’s medical lien statute, enacted in 1941, allows healthcare providers who render treatment to a person injured by the acts of third parties to file a lien against the liable third party to recover for “the reasonable charges for . . . care, treatment and maintenance of an injured person, . . . or to the legal representative of such person, on account of injuries” caused by another person.¹¹ As originally enacted, the medical lien statute required the provider to file its lien either “before, or within ninety (90) days after” the patient’s discharge from the hospital or the last date of medical services provided by a physician.¹²

The medical lien statute was amended in 2024.¹³ Now, for the lien to be perfected, the lien must be filed with the relevant county recorder within the statutory time period, which depends on whether the patient has a “third party payor,” which is defined as “a health carrier [] or a self-funded plan” includes “multiple third-party payors when applicable.”¹⁴

In the event that the patient does not have a third-party payor, the lien must be filed before or within ninety (90) days of discharge.¹⁵ But, if the patient does have a third-party payor, section 45-702(2)(b) provides that a lien:

[M]ay be filed during the ninety (90) day period after either the date the patient was discharged from the hospital or the last day services were provided to the patient as a result of the injury but only after all contracted billing adjustments for the services as ordinarily used with that third-party payor are made,¹⁶ provided that such lien may additionally be filed during the thirty (30) days after the hospital has received payment from the third-party payor.¹⁷

Lien filers must also notify liable parties within one day after filing the lien with copies of the statement of lien,¹⁸ and enforce or release liens within two years after the lien was filed.¹⁹

Idaho Patient Act

The IPA was originally enacted in 2020 and was amended in 2022.²⁰ In general, the IPA requires healthcare providers to timely submit claims to third-party payors and provide certain consolidated statements and/or notices to patients before initiating an “extraordinary collection action.”²¹

The IPA’s definition of “extraordinary collection actions” includes as any of the following actions done in connection with a patient’s debt:

- (i) Prior to 60 days from the patient’s receipt of the final notice before extraordinary collection action, selling, transferring, or assigning any amount of a patient’s debt to any third party, or otherwise authorizing any third party to collect the debt in a name other than the name of the healthcare provider;
- (ii) Reporting adverse information about the patient to a consumer reporting agency; or
- (iii) Except as provided in paragraph (c) of this subsection,²² commencing any judicial or legal action or filing or recording any document in relation thereto, including but not limited to:
 - 1. Placing a lien on a person’s property or assets;
 - 2. Attaching or seizing a person’s bank account or any other personal property;
 - 3. Initiating a civil action against any person; or
 - 4. Garnishing an individual’s wages.²³

As amended, the IPA requires healthcare providers to do the following before engaging in extraordinary collection actions:

- (a) A health care provider submits its charges related to the provision of goods or delivery of services to the third-party payor of the patient, identified by the patient to the health care provider in connection with the services or, in the event no third-party payor was identified, to the patient, which submission of charges in either case shall be within 45 days from the latest of:
 - (i) The date of the provision of goods or the delivery of services to the patient;
 - (ii) The date of discharge of the patient from a health care facility; or
 - (iii) The first date permitted by the applicable billing code or codes and the applicable policies and procedures in connection with the patient’s care in each case as published by the relevant national association;
- (b) The patient receives a consolidated summary of services, free of charge, from the health care facility that the patient visited, unless the health care facility is exempted from providing a consolidated summary of services pursuant to section 48-309, Idaho Code, within 60 days from the latest of:
 - (i) The date of the provision of goods or delivery of services to the patient;
 - (ii) The date of discharge of the patient from the health care facility; or
 - (iii) The first date permitted by the applicable billing code or codes and the applicable policies and procedures in connection with the patient’s care in each case as published by the relevant national association.
- (c) The patient receives, free of charge, a final notice before extraordinary collection action from the billing entity of the health care provider;²⁴

The IPA was again amended in 2024.²⁵ The IPA, Idaho Code section 48-303(3)(c), now permits providers to timely file medical liens under section 45-7401, *et seq.*, and provides that:

A provider authorized to file a lien to secure payment of the reasonable value of services provided to an injured patient pursuant to section 45-701, Idaho Code, is not prevented from filing such a lien by the provisions of this chapter but must do so pursuant to the timeline and provisions of chapter 7, title 45, Idaho Code.²⁶

The net effect of these 2024 amendments to the medical lien statute is that a medical lien can now be filed thirty days after payment from the third-party payor. Until these new time limits were implemented, the IPA prohibited taking “an extraordinary collection action” until after the 90-day period for filing the medical lien expired. Thus, providers had to choose between the lien and the potential IPA penalties.²⁷ There was simply no way to comply with both the IPA and the medical lien statute and medical providers had to choose between the lien and the potential IPA penalties.

With the 2024 amendments to both statutes, providers may file medical liens and other collection actions in cases involving third-party liability, under defined timelines, without violating the IPA. This carve-out represents a practical balance between protecting patient interests while upholding providers’ rights to lien enforcement by giving “the providers an additional time period for filing a medical lien after a citizen’s health insurance has processed the medical bills to ensure that medical providers get paid all of a fair negotiated value for their services. It also prevents providers from overbilling and imposing inflated charges on the liability insurance companies when private health insurance is available to pay.”²⁸

Why Compliance Matters

Since its passing, the IPA has faced legal challenges. This is especially true for medical liens in effect prior to the 2024 amendments to the IPA and the medical lien statute. As seen through the Idaho Supreme Court’s recent decision in *DeKlotz v. NS Support, LLC*, No. 51326, 2025 WL 2395022 (Idaho Aug. 19, 2025), noncompliance risks lien invalidation, litigation costs, and penalties weakening providers’ financial standing and threatening care sustainability, emphasizing why the new statutes are more practical.

In July of 2021, Guy Deklotz suffered serious spinal injuries in a car accident.²⁹ Dr. Paul Montalbano, his neurosurgeon, performed emergency surgery successfully repairing Deklotz’s spinal injuries and provided post-operative care with the

assistance of a surgical nurse.³⁰ DeKlotz received an invoice from Dr. Montalbano and the surgical nurse for the services provided.³¹ At the time of treatment, DeKlotz was insured by Select Health, but instead of billing DeKlotz’s insurance for the cost of his services, in August of 2021, Dr. Montalbano recorded a medical lien pursuant to Idaho Code section 45-704B for the amount of \$183,829.60.³² The medical lien identified NS Support, LLC dba Neuroscience Associates (“NSA”) as a lien claimant, and Dr. Montalbano co-owns NSA with six other neurosurgeons.³³

After the lien was filed, DeKlotz retained an attorney on the basis that Dr. Montalbano should have sought payment from insurance first.³⁴ DeKlotz filed a complaint against Dr. Montalbano, seeking declaratory judgment that Dr. Montalbano violated the IPA by failing to bill [his] insurance prior to filing the medical lien, which rendered the lien invalid.³⁵ He also requested a declaration that the medical lien was invalid because the lien amount of \$183,829.60 was not a “reasonable charge,” as required by section 45-704B.³⁶

Both Deklotz and Dr. Montalbano filed motions for partial summary judgment on the issue of whether the lien was invalid under the IPA.³⁷ Dr. Montalbano argued that the IPA was inapplicable to a lien filed pursuant to Idaho Code section 45-704B, while Deklotz sought summary judgment on his claim that the lien



...noncompliance risks lien invalidation, litigation costs, and penalties weakening providers’ financial standing and threatening care sustainability, emphasizing why the new statutes are more practical.

amount was an unreasonable charge.³⁸ The lower court found that Dr. Montalbano’s lien was not subject to the IPA because the Act only applies to “extraordinary collection actions,” and [this] did not constitute such an action.³⁹ On the second issue, the lower court determined there was a genuine dispute of material fact whether the lien amount was a “reasonable charge” for purposes of section 45-704B, and held a bench trial on the reasonable charge issue.⁴⁰ During the bench trial, the district court concluded that Dr. Montalbano’s charges were reasonable for the purpose of the statute on the grounds that the legislature intended the phrase “reasonable charges” in the statute to encompass a physician’s actual charges rather than the objective standard of a reasonable person.⁴¹ Deklotz appealed.

On appeal, the Idaho Supreme Court addressed the issues considered by the district court. In reaching its decision, the Court confronted the intersection between the IPA and medical lien statutes in effect at the time Dr. Montalbano’s lien was filed—August 2021.⁴²

The Court reversed the order of the lower court, finding that “any medical lien filed under § 45-704B is an ‘extraordinary collection action’ within the meaning of the IPA.”⁴³ The Court held that “the IPA prohibits a healthcare provider from engaging in an extraordinary collection action against a patient unless the healthcare provider first submits its charges to

the patient's insurance.⁴⁴ The Court reasoned that Dr. Montalbano's medical lien constituted "placing a lien on a person's property or assets," by recording a medical lien "against any and all causes of action, suits, claims, counterclaims, or demands" DeKlotz had against the driver of the vehicle and his insurance.⁴⁵ Second, the Court held that the lien was recorded in connection with a debt due to the unambiguous language provided in Dr. Montalbano's standard patient payment contract.⁴⁶ Because Dr. Montalbano did not comply with section 48-304 at the time he filed his lien against DeKlotz for his medical services provided, he was precluded from filing a lien, and thus the lien was invalid.⁴⁷

In reaching this conclusion, the Court did address the fact that at the time Dr. Montalbano filed the medical lien against DeKlotz, it was extremely difficult, if not practically impossible, to meet the requirements of the IPA prior to filing a medical lien pursuant to section 45-704B.⁴⁸ The Court mentioned that the legislature's recent amendment to the IPA and section 45-704B specifically address[es] the applicability of the IPA to medical liens and allows for the filing of medical liens as long as certain timeliness requirements are met.⁴⁹ However, the Court stated that "[they] were not at the liberty to disregard the plain language of the IPA,"⁵⁰ reasoning that "if the statute as written is socially or otherwise unsound, the power to correct it is legislative not judicial."⁵¹

Because the Court held that the lien filed against DeKlotz was invalid, the Court did not address the issue of whether Dr. Montalbano's charges were reasonable for purposes of Idaho Code section 45-704B.⁵² The Court reversed and remanded the district court's order, denying DeKlotz's motion for summary judgment and vacating the entry of judgment in favor of Dr. Montalbano.⁵³

This decision not only invalidated Dr. Montalbano's lien but also created a precedent that reshapes Idaho's medical-debt landscape, at least for those liens filed prior to when the statutory amendments took full effect.

As a result, physicians in Idaho must now follow a strict sequence for collecting medical debt in cases involving third-party

liability. They must first bill the patient's health insurance before resorting to a medical lien or other extraordinary collection methods. The ruling in *DeKlotz* also immediately impacts any pre-2024 liens that were filed without first billing the patient's insurance. These liens, and the physicians who filed these liens, are now vulnerable to legal challenges due to the fact that they can be declared void. This decision strengthens the position of insured patients in medical debt disputes, especially those arising from personal injury cases. The precedent makes it easier for patients to challenge questionable billing practices and liens that may have been used to inflate settlement pressure.



Thomas J. Mortell is Co-Managing Partner of Hawley Troxell and has been a member of the firm's governing board since 2014.

Mr. Mortell chairs the firm's Health Law Practice Group and serves as general counsel of the Idaho Hospital Association. Mr. Mortell has been listed in the *Best Lawyers* publication for healthcare since 2013 and was selected in 2016, 2022, and 2024 as *Lawyer of the Year for Health Care Law in Boise*. He was named to the *Idaho Business Review's* 2023 *Power List of the Most Influential Business Leaders in Idaho*. In 2025, Mr. Mortell was selected as the *Boise Metro Chamber of Commerce's* *Government Advocate of the Year*.

He and his firm represent many hospitals in Idaho and surrounding states. Mr. Mortell's health care practice focuses on advising hospitals and other health care providers on all aspects of health care law.

On the volunteer side, Mr. Mortell serves as a member of the Board of Directors for the Boise Metro Chamber of Commerce and served as the Chamber's Board Chair in 2021. He is currently the Chair of the Chamber's Policy Committee and Board Chair of the Boise Valley Economic Partnership. He also serves on the board of the Idaho Shakespeare Festival as well as the board of Faces of Hope, a non-profit corporation that provides crucial services to those affected by domestic violence.



Jean E. Schroeder is an associate in the firm's Litigation and Insurance practice groups. A Boise, Idaho native, Jean earned her undergraduate degree from the University of

Arizona and her J.D. from the University of Idaho College of Law in 2023. Before attending law school, she had a successful career as a professional ballerina, a foundation that developed her discipline and strong work ethic.

During law school, Jean received the CALI Award for Excellence in Juvenile Justice in 2021 and was actively involved in the Agricultural Law Society and Inns of Court. Prior to joining Hawley Troxell, she worked as an associate at a Boise-based firm, where she assisted in representing clients in insurance defense, medical malpractice, and general litigation matters. She has experience conducting legal research, drafting briefs for district and appellate courts, and managing discovery and depositions.

In her free time, Jean enjoys spending time outdoors with her husband and family.

Endnotes

1. I.C. § 48-301.

2. I.C. § 48-302.

3. *Id.*

4. Nathan Brown, *VanderSloot announces outline, sponsors for medical debt bill*, Post Register (Sept. 15, 2025), https://www.postregister.com/news/local/vandersloot-announces-outline-sponsors-for-medical-debt-bill/article_6998abe0-2302-5ed7-886f-178729e0adff.html.

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6. *Id.*

7. NCL staff, *Idaho Patient Act a model for other states for protecting consumers from medical debt*, National Consumers League (Mar. 20, 2020), https://nclnet.org/idaho_patient_act/.

8. Keith Ridler, *Bill targeting predatory medical debt collectors advances* (Feb. 19, 2020), <https://www.spokesman.com/stories/2020/feb/19/bill-targeting-predatory-medical-debt-collectors-a/>; see also I.C. § 48-302 (2020); Act of Mar. 16, 2020, ch. 139, 2020 Idaho Sess. Laws 426, 426-30.

9. I.C. § 48-302 (2020).

10. I.C. § 48-304(1)(a) (2020).

11. I.C. § 45-701 et seq.

12. Mar. 28, 2024, ch. 236, 2024 Idaho Sess. Laws 819, 820, 819-822.

13. *Id.*

14. I.C. § 45-702(2), referencing I.C. § 48-303 (internal citations omitted).

15. I.C. § 45-702(2)(a).

16. "Contracted billing adjustments" are the negotiated discounts from the hospital or other providers standard charges and are typically included in the contracts between the third-party payor and the hospital or other provider. The adjusted amount is often called the "contractual adjustment" and is typically the amount paid by the payor to the provider. From the patient's perspective, this language is an important addition to the medical lien statute and limits the ability of the provider to collect its standard charges without contractual adjustment.

17. I.C. § 45-702(2)(b).

18. I.C. § 45-702(1).

19. I.C. § 45-704.

20. Mar. 25, 2022, ch. 264, 2022 Idaho Sess. Laws 844, 844-50.

21. I.C. § 48-301 *et seq.*

22. This clause, exempting actions "as provided in paragraph (c) of this subsection" was added by the 2024 amendments to the IPA and relates to claims under the

medical lien statute. See Mar. 28, 2024, ch. 236, 2024 Idaho Sess. Laws 821, 819-822.

23. I.C. § 48-303(3)(a).

24. I.C. § 48-304.

25. Mar. 28, 2024, ch. 236, 2024 Idaho Sess. Laws 819-820.

26. I.C. § 48-303(3)(c).

27. See *DeKlotz v. NS Support, LLC*, No. 51326, 2025 WL 2395022 (Idaho Aug. 19, 2025).

28. House Bill 501 Statement of Purpose (2024).

29. *DeKlotz*, No. 51326, 2025 WL 2395022, *1 (Idaho Aug. 19, 2025).

30. *Id.*

31. *Id.*

32. *Id.*

33. *Id.* at *2.

34. *Id.*

35. *Id.*

36. *Id.*

37. *Id.*

38. *Id.*

39. *Id.*

40. *Id.*

41. *Id.*

42. *Id.* at n.2.

43. *Id.* at *3.

44. *Id.*

45. *Id.* at *4.

46. *Id.*

47. *Id.*

48. *Id.* at *5.

49. *Id.* at n.3.

50. *Id.* at *6.

51. *Id.*

52. *Id.*

53. *Id.*

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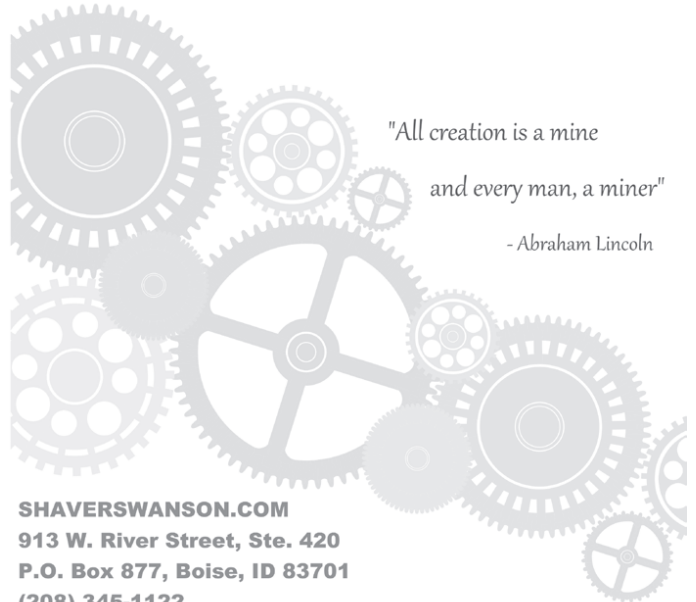


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Ensuring Due Process in Healthcare Professional Licensure Adjudications

Bryan A. Nickels

Administrative contested case proceedings in Idaho have evolved rapidly over the last few years through the creation of the Office of Administrative Hearings (“OAH”), the rollout of the new Idaho Rules of Administrative Procedure (“IRAP”), and the new updates to the contested case provisions of Idaho’s Administrative Procedure Act. In the context of health professions licensure, OAH’s statutory jurisdiction includes contested cases originating from the Department of Health and Welfare (“DHW”), the Division of Occupational and Professional Licenses (“DOPL”), and the Idaho Military Division.¹ Irrespective of the originating agency, ensuring and protecting due process in an administrative contested case proceeding is central to the handling of the matter by any of OAH’s administrative law judges (“ALJs”), as it is a fundamental principle underlying American jurisprudence.

OAH Creation, Expansion, and Current Scope

OAH was created in 2022 in response to a 2016 Office of Performance Evaluations report entitled “Risk of Bias in Administrative Hearings,” which conducted a top-to-bottom review of administrative hearings conducted by agencies across the state of Idaho.² OAH’s organic statutes broadly charge OAH with presiding over contested cases arising from the appeal of an agency order, as well as permitting OAH to conduct such other mediations, arbitrations, and adjudications as Idaho agencies may request.³

Broadly speaking, Idaho’s OAH has one of the more expansive case authority provisions of the U.S.’s various central panel agencies. For example, only one of Idaho’s agencies, departments, divisions, boards, and commissions which fall under the purview of Idaho’s Administrative Procedure Act, is specifically excluded from OAH’s purview.⁴ While not initially included, OAH’s scope

expanded on July 1, 2024, to include all contested cases before DHW.⁵

OAH’s scope includes matters which must be assigned to OAH and which OAH must handle (the “mandatory” hearings) and matters which agencies may send to OAH, and which OAH may agree to handle (the “permissive” matters).⁶ With respect to health profession licensing, matters before DHW and the Military Division are mandatory matters; matters before DOPL are permissive in nature.

Among those three agencies, the variety of licensure matters that OAH may handle is broad. For DHW, those matters may include, for example, licensure of certified family homes and of residential assisted living facilities; for the Military Division, OAH handles licensure of ambulance services, air medical services, and non-transport services. For DOPL, OAH may handle licensure matters from any of its 19 health profession boards, including, for example, the Boards of Nursing, Medicine, Midwifery, Pharmacy, Podiatry, and even Veterinary Medicine.

Due Process, Generally, and in Health Professional Licensure Adjudications

One of the core pillars of the American justice system is due process, a principle that pre-dates the American justice system dating as far back as the Magna Carta.⁷ As the U.S. Supreme Court has made clear: “the right to be heard before being condemned to suffer grievous loss of any kind, even though it may not involve the stigma and hardships of a criminal conviction, is a principle basic to our society.”⁸

In its modern form, where a member of the public has a dispute with an agency,⁹ “the minimum constitutional due process requirements for administrative hearings are timely and adequate notice and an opportunity to be heard that is meaningful and appropriate to the nature of the case.”¹⁰ Hand-in-hand with these core protections, due process also mandates a disinterested decision-maker; as the Idaho Supreme Court has explained: “[t]he Due Process Clause entitles a person to an impartial and disinterested tribunal,”¹¹ and “the participation of a biased decision maker in an agency proceeding is ‘constitutionally unacceptable[.]’”¹²

Readers of *The Advocate*, as licensed professionals themselves, are cognizant of the significant social, financial, and psychological strain that might accompany a loss of a professional license.¹³ As such, the

need to ensure due process protections in professional licensure disputes should be readily apparent.¹⁴

In the context of health professional licensure—indeed, any state-controlled professional licensure—due process is critical to ensuring the protection of an individual’s right to practice their chosen profession.¹⁵ As the Idaho Supreme Court has recognized, “[s]uspension of issued licenses ... involves state action that adjudicates important interests of the licensees. In such cases the licenses are not to be taken away without that procedural due process required by the Fourteenth Amendment.”¹⁶

Additionally, in health professional licensure adjudications in Idaho, not only does the licensing board bear the burden of proof, but such board must also prove its case against the licensee by a clear and convincing standard.¹⁷ However, the mere invocation of “due process” cannot be lip-service;¹⁸ they are, instead, words of action.

The New Rules of Procedure: Which Apply?

As part of its creation, OAH was charged with promulgating the (new) IRAP¹⁹, to replace the existing Idaho Rules of Administrative Procedure of the Attorney General (“AG Rules”).²⁰ Following an extensive negotiated rulemaking process, the new IRAP went into effect on July 1, 2024.²¹

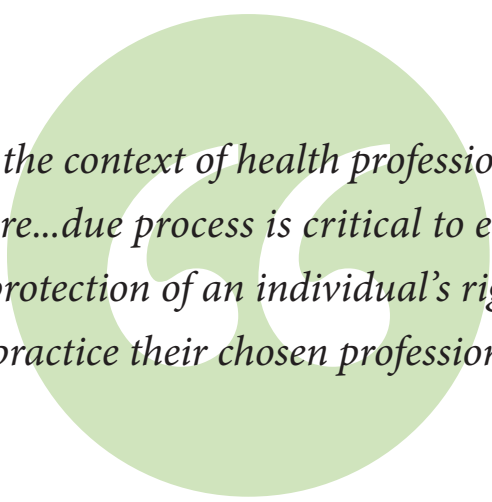
Notably, the statutory provision that initially authorized the Office of the Attorney General to promulgate rules of administrative procedure also expressly authorized agencies to promulgate alternative rules regarding contested cases.²² However, with the creation of OAH, the statute was updated to provide that the AG Rules (and agency-specific rules written as derivatives of the AG Rules) would no longer be in effect upon creation of the new IRAP promulgated by OAH.²³

As of a result of the new IRAP’s implementation on July 1, 2024, a number of agency-specific contested case rules written as derivatives of the prior AG Rules were removed from the IDAPA; those rules remain accessible through the IDAPA 2023 Archive webpage.²⁴ Cognizant that agency-specific rules may have been mandated elsewhere, or otherwise address hearing needs specific to that agency, the new IRAP includes Rule 800, which allows ALJs to utilize archived rules and other procedures, such as the archived Department of Health & Welfare contested case rules.²⁵ OAH also provides links on its website to certain statutes and rules (including archived rules) which may apply to administrative contested case proceedings in conjunction with the new IRAP.²⁶

Due Process Procedures in a Typical Hearing

A contested case to be handled by OAH is initiated by agency assignment of a new matter to OAH.²⁷ This transmittal includes both a standardized case transmittal form (which varies slightly depending on whether the matter is mandatory or permissive), and a ‘hearing packet’, which typically includes the agency action to be addressed (whether, e.g., an order in a DHW proceeding, or a complaint in a DOPL proceeding).

Once received, OAH sets internal guidelines for the commencement of the case. For mandatory matters, receipt of the transmittal of the case to OAH must be made within one business day; for permissive matters, OAH has three business days.²⁸ Once acknowledgment of the assignment has been made by OAH



In the context of health professional licensure...due process is critical to ensuring the protection of an individual’s right to practice their chosen profession.

to the transmitting agency, the Chief Administrative Law Judge (“CALJ”) then has one business day to issue a Notice of Assignment, identifying which ALJ has been assigned as the hearing officer in the proceeding.²⁹

ALJ selection is typically made via a weighted “wheel,” which utilizes a pre-set order of ALJ assignment (subdivided into separate “wheels” based on whether the case is considered expedited, standard, or complex matter), such that cases are assigned to ALJs on a randomized basis as they are transmitted to OAH. Given the relatively small number of ALJs in Idaho, disqualification without cause by a party is prohibited by statute, thereby preventing manipulation of the ALJ assignment.³⁰ However, all OAH ALJs are subject to the Idaho Code of Conduct for Administrative Law Judges, ensuring that requests for for-cause disqualifications remain available to parties in contested case proceedings.³¹

Once a case is assigned to an ALJ, the ALJ has complete decisional independence in the proceeding.³² At the outset of a case, this includes the ALJ’s own determination as whether to set other conferences in advance of the evidentiary hearing, allow discovery, and the parameters of the evidentiary hearing. However, informally, all ALJs are expected to make some kind of ‘first contact’ with the parties in a proceeding within one week after assignment, whether via status conference, scheduling conference, or otherwise.

At hearing—as always, depending on the needs of the case—an ALJ will typically conduct the proceeding akin to a bench trial. While the Idaho Rules of Evidence do not apply,³³ emphasis is placed on development of a record sufficient both for ALJ determination, but also for a final order by an agency and for purposes of judicial review.

To that end, for example, the submission of written evidence is permitted,³⁴ ALJs may inquire directly of witnesses,³⁵ and hearings may be conducted, in whole or in part, remotely.³⁶ Additionally, to remove the potential perception of bias or lack of independence, in-person hearings are typically required to be held in a neutral location, rather than the offices of the agency involved in the dispute.³⁷

Cognizant of the adage “justice delayed is justice denied,”³⁸ ALJs are expected to complete contested case proceedings within 6 months of assignment (unless the needs of the case dictate otherwise), and are expected to issue findings of fact and conclusions of law (which ALJs shorthand as “FOFCOLs”) no later than the end of the month following the month in which the hearing was held.³⁹

APA Modernization—Additional Due Process Protections

During the 2025 legislative session, OAH proposed extensive updates to the existing contested case provisions of Idaho’s Administrative Procedure Act (“APA”), to help modernize its provisions to align both with modern administrative law practice, as well as the provisions of the 2010 Model State Administrative Procedure Act (“2010 MSAPA”).⁴⁰ Three particular fixes are worth mentioning, as they illustrate improvements to due process protections.

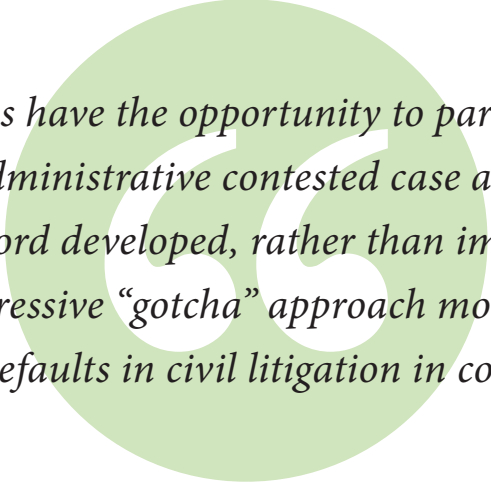
First, Idaho’s APA permits agencies to take emergency action “in a situation involving an immediate danger to the public health, safety, or welfare requiring immediate agency action.”⁴¹ In the context of a healthcare license, this might be the emergent suspension of a license.⁴² The statute then broadly directs that “the agency shall proceed as quickly as feasible to complete any proceedings that

would be required if the matter did not involve an immediate danger.”⁴³

However, no actual time limitation was provided to guide agencies as to when that post-order process should be completed. To reinforce the necessity of promptly completing the process, the emergency order statute was amended to ensure that the emergency order would expire on its own terms after 120 days, or upon further action by the agency, whichever occurs first.⁴⁴ This ensures that the post-order hearing process does not languish to the detriment of the license-holder.

Second, the pre-amendment APA provided for default in administrative contested cases at any juncture during a proceeding.⁴⁵ For longer, more complex proceedings—such as licensure matters—where multiple conferences might be held in advance of the final prehearing conference and hearing, this created a risk that a party could be defaulted for missing even a short status conference. To eliminate that risk and focusing more on the key events in a contested case proceeding—the pre-hearing conference and the hearing—the default process was updated and split off into its own new statute.⁴⁶

Notably, this statute deviates from the 2010 MSAPA, providing more ‘breathing room’ in the event of a potential default; where the 2010 MSAPA directs a default be immediately entered, with the opportunity to seek to vacate the default



...parties have the opportunity to participate in an administrative contested case and have the record developed, rather than imposing an aggressive “gotcha” approach more akin to defaults in civil litigation in court.

order on a showing of good cause, Idaho's default statute maintains a process of first notifying the parties of a proposed default order, and a party's request for it not be entered upon a motion simply explaining the grounds why it should not be entered.⁴⁷ This ensures that parties have the opportunity to participate in an administrative contested case and have the record developed, rather than imposing an aggressive "gotcha" approach more akin to defaults in civil litigation in court.

Finally, while the pre-amendment APA contemplated the use of subpoenas in administrative contested case proceedings,⁴⁸ the APA was otherwise silent on the process of issuing subpoenas and, importantly, their enforcement. While certain agencies had their own separate statutes regarding the use of subpoenas,⁴⁹ there was a need to address ways for parties to seek, dispute, and enforce subpoenas in any administrative contested case proceeding (if not otherwise addressed in the agency's own statutes).

Rather than reinvent the wheel, OAH referred to existing statutory language in other non-OAH administrative proceedings, such as the Idaho Industrial Commission⁵⁰ and PERSI,⁵¹ which statutes provided some language from which to model a standard subpoena provision in the APA. The end-product was placed within its own (new) separate statutory section in the APA.⁵² This ensures that parties in an administrative contested case have the ability to secure needed evidence, which further advances the ability of ALJs to elicit the needed record for determination.

A Few Words About AI

The rapid rise of the use of artificial intelligence ("AI")—and its intersection with due process concerns in the context of administrative hearings—warrants a brief additional note. OAH approaches the use of AI from two vantage points: use by ALJs and use by parties appearing before it. Ensuring proper due process in each and every case before an OAH ALJ dictates the approach for each.

First, OAH ALJs are not permitted to use generative AI in the preparation of orders. Given the current state of AI, as well

as the need to assess things beyond the reach of AI (e.g., witness credibility), best practices mandate human decision-making, even at the drafting stage. This prohibition is expressly made by OAH guidelines,⁵³ and is further addressed in the current Idaho Code of Conduct for Administrative Law Judges.⁵⁴

Second, the use of AI by parties in proceedings before OAH ALJs is not prohibited. Instead, an ALJ—at any juncture in the case—can direct parties to disclose that AI has been used and that the product has been reviewed by a human.⁵⁵ This gives parties the tools to fully participate in proceedings while still preserving the spirit of due process guarantees.

The "everything, everywhere, all at once" rise of AI will certainly implicate new and difficult due process questions as the technology further develops, but OAH's current approach ensures that due process rights for participating parties are protected.

Final Thoughts

In the short time that has passed since its creation, OAH has taken concrete steps to improve Idaho's administrative contested case processes, including due process protections for those involved in such proceedings. This effort, however, should not be unilateral; Idaho's attorneys should also endeavor to ensure that the aspirational goals of due process are fulfilled whenever possible, whether in individual proceedings or with respect to the system as a whole.⁵⁶ Even where it may be neither popular nor expedient, due process is a critically important component of the American justice system, whether in administrative contested case proceedings (such as healthcare professional licensure disputes) or otherwise.



Bryan Nickels is the appointed Chief Administrative Law Judge for the State of Idaho. Prior to his appointment, he was in private civil litigation practice for 20 years. Bonus facts if you're reading this bio: he's an Army brat, a double-Vandal, and published in paleodemography. The opinions expressed

in this article are his alone and not the views of the Office of Administrative Hearings.

Endnotes

- Idaho Code § 46-910(4).
- Available at <https://legislature.idaho.gov/open/reports/r1602/> (last retrieved October 1, 2025). This report proposed, as one option to address any then-public perception of bias by Idaho agencies presiding over contested cases, the creation of a so-called "central panel" agency—that is, a stand-alone, independent agency housing administrative law judges. As of the writing of this article, Idaho is the 30th jurisdiction in the U.S. to adopt a central panel model.
- See generally, Idaho Code § 67-5280.
- See Idaho Code § 67-5280(4).
- See Idaho Code § 67-5286 (effective July 1, 2022).
- See Idaho Code § 67-5280(2), compare (a) with (b).
- See U.S. Const. amends. V & XIV, § 1; cf. Idaho Const. art. I, §§ 13 & 18; accord Hamdi v. Rumsfeld, 542 U.S. 507, 556 (2004) (J. Scalia, dissenting) ("The gist of the Due Process Clause, as understood at the founding and since, was to force the Government to follow those common-law procedures traditionally deemed necessary before depriving a person of life, liberty, or property.")
- Joint Anti-Fascist Refugee Comm. v. McGrath, 341 U.S. 123, 168 (1951).
- See, e.g., YNG MARTYR, 50K (Black 17 Media 2023) (discussing disagreement with the IRS over the timeliness of submission of a tax payment).
- Hawkins v. Idaho Transportation Dep't, 161 Idaho 173, 177 (Ct. App. 2016).
- In re Idaho Dep't of Water Res. Amended Final Ord. Creating Water Dist. No. 170, 148 Idaho 200, 208 (2009).
- Williams v. Idaho State Bd. of Real Est. Appraisers, 157 Idaho 496, 505 (2014).
- "[N]ow I'm locked out, got nowhere to go[]" LOLA YOUNG, *Not Like That Anymore*, on I'M ONLY ***** MYSELF (Day One Music 2025); accord PUP, *Hallways*, on WHO WILL LOOK AFTER THE DOGS? (Little Dipper/Rise 2025) ("Cause when one door closes/lt might never open/ There might be no other doors").
- See Lu Ranching Co. v. United States, 138 Idaho 606, 608 (2003); accord POPPY, *new way out*, on NEGATIVE SPACES (Sumerian 2024) ("Poppy!").
- Cooper v. Board of Professional Discipline of the Idaho State Bd. of Med., 134 Idaho 449, 454 (2000) ("The holder of a professional license has a valuable property right protected by the safeguards of due process.")
- See Kuna Boxing Club, Inc. v. Idaho Lottery Comm'n, 149 Idaho 94, 101 (2009).
- Peckham v. Idaho State Bd. of Dentistry, 154 Idaho 846, 852 (2013) ("It is the Board's burden to prove its case by clear and convincing evidence, rather than the accused's burden to prove his innocence."); accord also Cooper, 134 Idaho at 456 n.3 ("The proper burden of proof in physician discipline proceedings, as in attorney discipline cases, is clear and convincing evidence.")
- See, e.g., MATTSTAGRAHAM, *Caffeine*, on YELLOW PAINT (I Surrender Records 2025) ("The crux to every mantra is they're empty without action.")
- IDAPA 62.01.01.
- Former IDAPA 04.11.01.
- See IDAPA 62.01.01.
- See Idaho Code § 67-5206(2) (effective July 1, 2024).

23. See Idaho Code § 67-5206(3)(effective July 1, 2025).

24. Available at <https://adminrules.idaho.gov/rules/2023%20Archive/> (last retrieved October 1, 2025).

25. See IDAPA 62.01.01.800; accord, OAH General Order No. 1, available at <https://oah.idaho.gov/wp-content/uploads/2024/05/General-Order-No.-1.pdf> (last retrieved October 1, 2025).

26. See <https://oah.idaho.gov/statutes-and-rules/> (last retrieved October 1, 2025).

27. See <https://oah.idaho.gov/agencies/> (last retrieved October 1, 2025).

28. OAH Policy Manual (December 31, 2024), Policy 22-6, available at <https://oah.idaho.gov/wp-content/uploads/2025/05/Policies-Manual-2024.pdf> (last retrieved October 1, 2025).

29. *Id.*; accord, Idaho Code § 67-5282(1)(d).

30. Idaho Code § 67-5252(5). Similarly, Idaho state agencies are expressly forbidden by statute from attempting to influence the selection of a particular ALJ to serve as a hearing officer. See Idaho Code § 67-5284.

31. See <https://oah.idaho.gov/wp-content/uploads/2025/08/Code-of-Conduct-8.1.25-Final.pdf> (last retrieved October 1, 2025).

32. Idaho Code § 67-5282(1)(g).

33. See Idaho Code § 67-5251.

34. *Id.*

35. IDAPA 62.01.01.508.

36. IDAPA 62.01.01.501.

37. OAH Policy Manual (December 31, 2024), Policy 22-5, available at <https://oah.idaho.gov/wp-content/uploads/2025/05/Policies-Manual-2024.pdf> (last retrieved October 1, 2025); see also CHARLY BLISS, *Back There Now*, on FOREVER (Lucky Number Music 2024) ("Set foot in the lobby, And I knew that I was in for hell.")

38. William Ewart Gladstone, Member of Parliament for South Lancashire, "Imperial Parliament. [House of Commons.—Monday, March 16. State of Ireland.]" in *The Daily News* (17 March 1868), page 2, column 6 ("But above all, if we be just men, we shall go forward in the name of truth and right, and bear this in mind, that when the case is ripe and the hour has come, justice delayed is justice denied."), available at <https://www.newspapers.com/article/daily-news-justice-delayed/78425549/> (last retrieved October 1, 2025); accord, e.g., NOT ENOUGH SPACE, *Waiting 4 U*, on WEAPONIZE YOUR RAGE (Thriller Records 2025) ("So done waiting for you to make your mind up[.]").

39. So, for example, if a hearing is held September 15, the expectation would be that—again, unless the needs of the case dictate otherwise—the presiding ALJ will issue the FOFCOLs no later than October 31.

40. See HB9a (2025) and HB36 (2025), available at <https://legislature.idaho.gov/sessioninfo/2025/legislation/> (last retrieved October 1, 2025).

41. Idaho Code § 67-5247(1); in the context of health-related licensure, the Idaho Supreme Court has emphasized that "[w]here an emergency situation exists which threatens the public safety and where the individual interest is of lesser importance, an official body can take summary action pending a later hearing." *Van Orden v. State, Dep't of Health & Welfare*, 102 Idaho 663, 667 (1981) In the health care context, the Idaho Supreme Court has generally recognized that the financial interest of the license-holder is secondary to the general welfare of impacted citizens. *Id.*

42. Accord, e.g., IDAPA 24.34.01.300.05 (Board of Nursing)("Emergency Action"); IDAPA 24.31.01.300.01 (Board of Dentistry)("Suspension, Revocation or Restriction of Sedation Permit").

43. Idaho Code § 67-5247(4).

44. Idaho Code § 67-5247(6) ("No order issued pursuant to this section shall be effective for longer than one hundred twenty (120) days or until the effective date of any

final order issued following the proceedings described in subsection (4) of this section, whichever is earlier.").

45. See Idaho Code § 67-5242(4)(effective July 1, 2024).

46. Idaho Code § 67-5242A.

47. *Id.*; see also 2010 MSAPA, available at <https://www.uniformlaws.org/viewdocument/final-act-10?CommunityKey=f184fb0c-5e31-4c6d-8228-7f2b0112fa42&tab=librarydocuments> (last retrieved October 1, 2025).

48. See, e.g., Idaho Code § 67-5206(1)(f) & § 67-5283(1)(e).

49. See, e.g., Idaho Code § 39-107(3) (Department of Environmental Quality), § 54-2412(2)(Board of Drinking Water and Wastewater Professionals), and § 54-5315(2) (Liquefied Petroleum Gas Safety Board).

50. Idaho Code § 72-1339.

51. Idaho Code § 59-1305(7)(b).

52. Idaho Code § 67-5251A.

53. Guidelines for Administrative Law Judges Regarding the Use of Artificial Intelligence, September 24, 2025, available at <https://oah.idaho.gov/wp-content/uploads/2025/09/OAH-AI-Guidelines.pdf> (last retrieved October 1, 2025).

54. See <https://oah.idaho.gov/wp-content/uploads/2025/08/Code-of-Conduct-8.1.25-Final.pdf> (last retrieved October 1, 2025).

55. OAH Policy Manual (December 31, 2024), Policy 23-12, available at <https://oah.idaho.gov/wp-content/uploads/2025/05/Policies-Manual-2024.pdf> (last retrieved October 1, 2025).

56. See MY CHEMICAL ROMANCE, *SING*, on DANGER DAYS: THE TRUE LIVES OF THE FABULOUS KILLJOYS (Reprise Records 2010) ("And use your voice every single time you open up your mouth."); accord TYLER CHILDERS, *Way of the Triune God*, on CAN I TAKE MY HOUNDS TO HEAVEN? (Hickman Holler 2022) ("Go up, tell it on the mountain[.]").

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Idaho's Medical Ethics Defense Act ("HB 59"): Expanded Conscience Protections and Emerging Legal Tensions

Nick Healey
Kristina Abdalla

Effective July 1, 2025, Idaho House Bill 59 ("HB 59"), also known as the Medical Ethics Defense Act (the "Act"), establishes sweeping legal protections for the conscience rights of health care providers, institutions, and payers across Idaho. With its passage, HB 59 not only codifies but also significantly expands the ability of health care professionals and organizations to decline participation in, or payment for, medical procedures, treatments, or services that conflict with their religious, moral, or ethical beliefs.¹

The broad protections of HB 59 may be welcomed by providers, institutions, and payers with conscience-based missions, but, as discussed below, those protections may come at the expense of some patients' ability to access the full range of medically accepted treatments. It remains to be seen how those tensions will be resolved in practice.

This article will discuss Idaho's Medical Ethics Defense Act ("HB 59") and its implications for provider conscience rights, with particular attention to the federal Emergency Medical Treatment and Labor Act ("EMTALA"). It will also

compare HB 59 to Colorado's recently enacted Senate Bill 25-130, highlighting key differences in how each state addresses conscience-based objections in healthcare.

Overview and Scope of the Law

The Medical Ethics Defense Act's primary aim is to shield health care professionals, institutions, and payers from "discrimination, punishment, and retaliation" when they refuse to participate in or pay for medical services that violate their beliefs.²

The Act's protections are broad in scope, applying to any health care

professional, including doctors, nurses, pharmacists, researchers, and social workers, as well as to health care institutions such as hospitals and clinics, and payers, including insurance companies and employers.³ Under HB 59, these parties may refuse to provide, assist with, refer for, or pay for any medical procedure, treatment, or service that conflicts with their conscience.⁴ Health care professionals are required to notify their employer of a conscience-based objection as soon as possible, allowing staffing adjustments; employers of health care professionals may also require written notice or disclosure at the time of hiring.⁵

While the law allows health care payers to invoke conscience objections, it does require them to honor existing contractual obligations to pay for services.⁶ Importantly, the law prohibits adverse employment or professional actions against providers who exercise their conscience rights.⁷

Legal Protections and Remedies

HB 59 provides robust legal protections, including civil, criminal, and administrative immunity for providers and institutions that refuse to participate in or pay for services on conscience grounds.⁸ The Act also establishes a private right of action, enabling aggrieved parties to seek injunctive relief, damages, and attorney's fees for violations.⁹ Notably, the law specifies that any additional burden or expense resulting from a provider's refusal is not a valid defense for violating the Act.¹⁰

Additionally, HB 59 incorporates strong whistleblower and free speech provisions. It protects providers who report violations of the Act, ethical breaches, or patient safety concerns from retaliation.¹¹ The law also limits the ability of regulatory agencies to sanction or deny licensure for speech protected by the First Amendment, unless such speech directly causes physical harm to a patient.¹²

Limitations and Exceptions

HB 59 does include certain limitations on its conscience protections. These protections do not extend to situations in which an employee is unable, for

conscience-based reasons, to perform the essential functions of their position and where no reasonable accommodation can be provided without imposing an undue hardship on the employer.¹³

For instance, HB 59 is unlikely to prohibit an employer from terminating a nurse's employment, where the nurse was employed specifically to assist with blood transfusions, but the nurse expresses a conscience-based objection to performing blood transfusions.

Additionally, the law explicitly permits religious health care providers to make employment, staffing, contracting, and administrative decisions in accordance with their religious beliefs, provided they hold themselves out to the public as religious and maintain internal policies that reflect their religious mission.¹⁴

Potential Issues and Legal Tensions

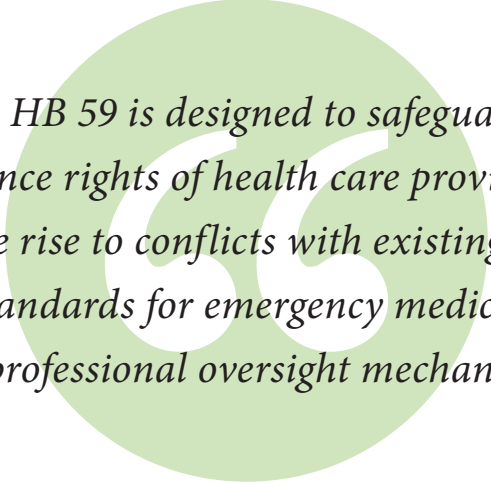
While HB 59 is designed to safeguard the conscience rights of health care providers, it may give rise to conflicts with existing federal laws, standards for emergency medical care, and professional oversight mechanisms.

One significant area of potential conflict is with federal anti-discrimination laws, particularly Section 1557 of the Affordable Care Act, which prohibits discrimination in health care based on

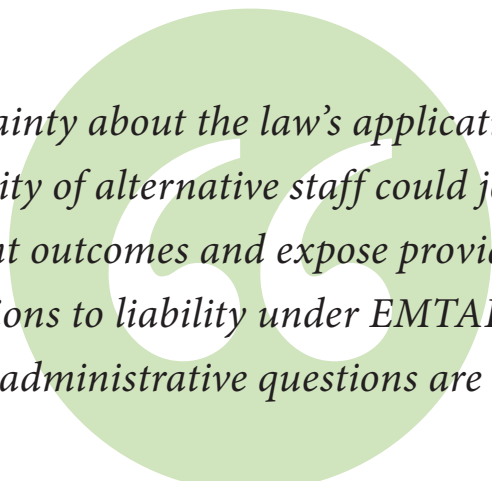
sex (including gender identity), race, disability, and other protected characteristics.¹⁵ If Idaho providers refuse care to certain groups, such as LGBTQ+ patients or women seeking reproductive services, citing conscience objections, these refusals could be challenged under federal law.

Although HB 59 seeks to immunize providers from liability for conscience-based refusals, it does not override federal statutes. Providers or institutions could still face lawsuits, investigations, or the loss of federal funding if found in violation of federal anti-discrimination protections. The law's broad definition of "conscience" and its application to a wide range of providers could also make it difficult to distinguish between legitimate conscience objections and refusals based on personal prejudice, raising challenges for both patients and providers.

Although HB 59 explicitly states that it does not override the federal EMTALA,¹⁶ which requires emergency medical care in hospital emergency departments, the Act does not mandate that employers or emergency departments ensure another qualified provider is always available to deliver care when a conscience objection is asserted.¹⁷ Instead, it requires only that providers notify their employer of a conscience-based objection as soon as reasonably possible to allow for staffing adjustments, but it does not guarantee continuity of emergency services or



While HB 59 is designed to safeguard the conscience rights of health care providers, it may give rise to conflicts with existing federal laws, standards for emergency medical care, and professional oversight mechanisms.



...uncertainty about the law's application or the availability of alternative staff could jeopardize patient outcomes and expose providers or institutions to liability under EMTALA while legal or administrative questions are resolved.

refusal means the patient was not properly informed and, arguably, was subjected to “medical battery.” As HB 59 is implemented, there may be increasing calls for patient-centered amendments, such as mandatory disclosure or referral requirements, to help ensure that patients remain fully informed and have meaningful access to all appropriate care options.

Another area of concern involves the Act’s free speech provisions, which restrict the circumstances under which licensing boards can discipline health care providers for their speech. Under HB 59, regulatory action can only be taken if it is proven by clear and convincing evidence that the speech directly caused physical harm to a specific patient within the preceding three years.²² This high threshold may affect enforcement of medical standards and oversight of provider communications, potentially undermining public trust and the integrity of medical practice.

Contrast with Recent Colorado Legislation on Conscience Based Objection

In contrast to Idaho’s HB 59, Colorado’s recently enacted Senate Bill 25-130 (“SB 25-130”), which was signed into law on May 14, 2025, takes a distinct approach from HB 59 in addressing provider conscience rights. While both statutes allow for conscience-based refusals, SB 25-130 specifically requires emergency departments to ensure that another qualified provider is available to deliver care when a provider declines on conscience grounds.²³

The Colorado law also includes anti-discrimination provisions, comprehensive documentation requirements, and detailed protocols for patient stabilization, transfer, and discharge. However, while Idaho’s HB 59 primarily focuses on protecting providers’ rights to decline participation in certain services and centers anti-discrimination protections on providers, Colorado’s law incorporates additional measures to maintain patient access and continuity of emergency medical services while still accommodating provider conscience objections.

require the immediate availability of an alternative provider. In life-threatening situations where no alternative provider is present, EMTALA’s federal obligation to stabilize the patient may override state-level conscience protections, in which case the provider or institution remains legally required to provide emergency care.

This federal preemption was recently reinforced by the Supreme Court’s decision to dismiss *Moyle v. United States*, which effectively upheld a lower court ruling that blocks Idaho from enforcing its near-total abortion ban when it conflicts with EMTALA’s requirement to provide necessary emergency care.¹⁸ Although *Moyle* focused on abortion, its reasoning applies more broadly: any state law, including HB 59’s conscience protections, cannot override EMTALA’s mandate to deliver stabilizing treatment in emergencies, regardless of the medical condition.¹⁹ Importantly, EMTALA includes a private right of action, meaning that even if state enforcement is limited, individuals can still bring lawsuits under EMTALA for violations, so providers and institutions may still be implicated under federal law.

Further, the potential for confusion or delays remains if a provider asserts a conscience objection during a time-sensitive emergency. This is because uncertainty about the law’s application or the availability of alternative staff could jeopardize patient outcomes and expose

providers or institutions to liability under EMTALA while legal or administrative questions are resolved.

As applied in non-emergency circumstances, while HB 59 does not specifically include the “discussion” or “disclosure” of treatment options in its definition of treatment, its broad definition of “participate” could arguably encompass these activities.²⁰ However, the Act does not impose an explicit obligation on providers to inform patients when a conscience objection is invoked, nor does it require referral to an alternate provider.

This lack of statutory duty raises concerns about informed consent and patient autonomy, as providers may invoke their rights under HB 59 to refuse to disclose medically acceptable treatment alternatives to the patient, where the provider has a conscience-based objection to that alternate treatment. As being informed of all reasonable medically acceptable alternative treatments is a cornerstone of the concept of “informed consent,” HB 59 may erode this important patient protection.²¹

Moreover, Idaho’s HB 59 contains explicit protections against providers being sued for medical malpractice if they invoke a conscience-based objection. As a result, in non-emergency circumstances, patients have no legal remedy if a provider refuses to disclose or provide a medically acceptable alternative due to a conscience-based objection, even if this

Conclusion

The Medical Ethics Defense Act represents a significant expansion of legal protections for conscience rights in Idaho's health care sector. It grants providers, institutions, and payers broad latitude to decline participation in services that conflict with their beliefs, while establishing strong legal remedies for those providers who believe their conscience rights have been violated.

However, it does not supersede federal requirements such as EMTALA, and its broad scope may invite legal challenges or create tensions with existing anti-discrimination and professional oversight laws. As of the time of writing, the authors are not aware of any pending litigation challenging HB 59. However, given the law's sweeping scope and significant implications for both providers and patients, it is likely that HB 59 will face legal challenges in the future. While Idaho prepares for HB 59's implementation, providers and institutions will need to navigate these evolving legal and ethical landscapes with care.



Nick Healey is a partner at *Husch Blackwell LLP*. With more than 25 years of experience in healthcare law, Nick is an invaluable resource for clients as he advises clients on health-care regulatory issues and leads complex corporate transactions in the industry. He practices from Cheyenne, Wyoming as a member of the virtual office, *The Link*, and is licensed in Idaho, Wyoming, Montana and Colorado.



Kristina Abdalla is an associate at *Husch Blackwell LLP*. Kristina advises clients on health-care regulatory compliance and is a member of the Denver office.

Endnotes

1. Idaho Code Ann. § 54-1302(4).
2. Idaho Code Ann. § 54-1302(5).
3. Idaho Code Ann. § 54-1303(6)–(8).
4. Idaho Code Ann. § 54-1304(1).
5. Idaho Code Ann. § 54-1304(3)–(4).
6. Idaho Code Ann. § 54-1304(5).
7. Idaho Code Ann. § 54-1304(6).
8. Idaho Code Ann. § 54-1304(7).
9. Idaho Code Ann. § 54-1307(1)–(2).
10. Idaho Code Ann. § 54-1307(1).
11. Idaho Code Ann. § 54-1305(1)–(2).
12. Idaho Code Ann. § 54-1306(1).
13. Idaho Code Ann. § 54-1304(12).
14. Idaho Code Ann. § 54-1304(8).
15. 42 U.S.C. § 18116.
16. Idaho Code Ann. § 54-1304(11).
17. 42 U.S.C. § 1395dd.
18. *Moyle v. United States*, 603 U.S. 324 (2024).
19. Given *Moyle*'s less than clear outcome, however, there may well be room for the Supreme Court to modify its holding and find that EMTALA does not pre-empt a state-law restriction on abortion.
20. Idaho Code Ann. § 54-1303(8).
21. Idaho Code Ann. § 39-4506; Idaho Code Ann. § 39-4507.
22. Idaho Code Ann. § 54-1306(1).
23. Noncompliance of emergency departments can result in investigation by the state health department and imposition of civil monetary penalties.

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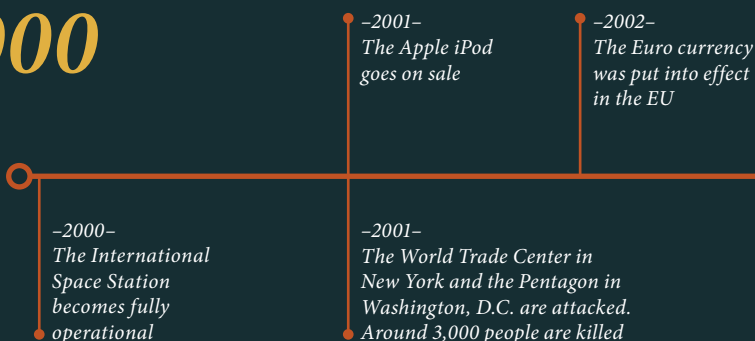
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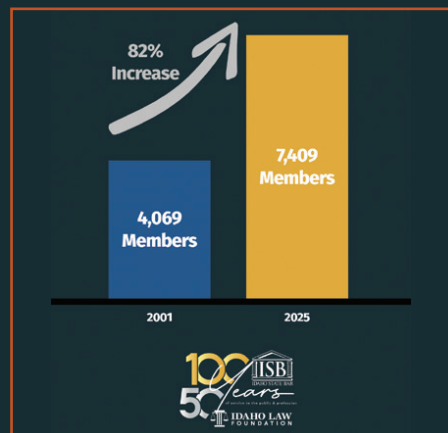
THE IDAHO STATE BAR & IDAHO LAW FOUNDATION

The 2000s to Now

Maureen Ryan Braley

The first quarter of the 21st century has been a time of transformation for the Idaho State Bar ("ISB") and the Idaho Law Foundation ("ILF"). It is impossible to cover every important, historical, or noteworthy event in a 25-year period. Instead, this article focuses on several selected historical developments and addresses their impact on the ISB.

In April 2001, ISB membership totaled 4,069 attorneys. Today, there are 7,409 active members,¹ marking an 82 percent increase in the past 25 years. While the Bar has grown significantly,



the ISB and ILF missions remain the same—protect the public; promote high standards of professional conduct; aid in the advancement of the administration of justice; increase access to legal services; and enhance public understanding of the law.

CHANGES IN BAR ADMISSION

Reciprocity and Experienced Attorney Admission

One of the most significant changes in recent history has been the evolution of bar admissions. In 2004, Idaho entered into a reciprocal admission compact with Oregon, Washington, and Utah, allowing experienced attorneys from those jurisdictions to be admitted without having to take a bar exam. Across the country, similar compacts developed among geographic neighbors. By the 2010s, reciprocal admission expanded beyond our neighbors to include any other states that would admit Idaho lawyers based on practice experience without having to take a bar exam.

In 2024, Idaho Bar Commission Rule 206 was amended to eliminate the reciprocity requirement and provide that any qualified attorney with

sufficient practice experience may be admitted in Idaho without sitting for the bar exam. This change reflects Idaho's acknowledgement of the need for attorneys to be able to move more easily between states, and the increased number of attorneys engaging in multi-jurisdictional practice. Today, more than 2,000 of Idaho's approximately 7,200 licensed attorneys reside outside the state of Idaho, and more than 2,000 Idaho attorneys living within our state are also licensed in at least one other state.²

A Uniform Bar Examination

In the early 2000s, the Idaho bar exam was administered over a two and one-half day period, consisting of the Multistate Essay Examination ("MEE"), Multistate Performance Test ("MPT"), and Multistate Bar Examination ("MBE") developed by the National Conference of Bar Examiners ("NCBE"), along with four essay questions drafted by Idaho attorneys focusing on Idaho law (which almost always included a notorious water law question).

In 2011, Idaho adopted the Uniform Bar Examination ("UBE"), a

–2003–

The U.S. and its allies launch an attack on Iraq; this war would not end until 2011

–2004–

Facebook (then known as TheFacebook) debuts

–2006–

Pluto is demoted from the list of planets and reclassified as a 'dwarf planet'

–2009–

Barack Obama is sworn in as the 44th president of the United States and first Black president

–2003 –

The Lord of the Rings: The Return of the King premiers in theaters and goes on to win 11 Oscars

–2005–

Hurricane Katrina destroys many parts of New Orleans

–2007–

A mortgage crisis hits the U.S. and begins the Great Recession

–2010–

A deadly earthquake hit the island of Hispaniola, hitting the hardest in Haiti and killing 200-250,000 people

standardized bar exam that no longer specifically tested Idaho law. Applicants taking the UBE earned a UBE score that could be transferred to another UBE jurisdiction without having to take the bar exam. The UBE is now used by over 40 jurisdictions.

NextGen Bar Exam

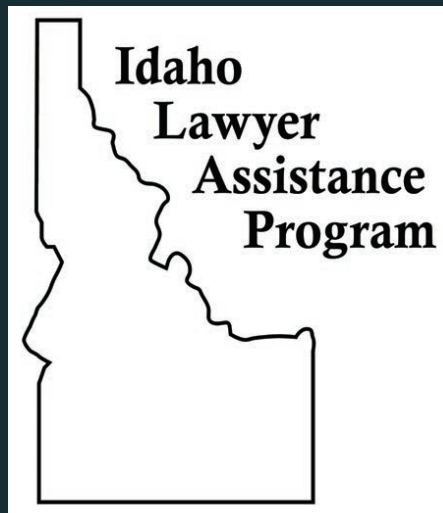
In 2024, Idaho bar members voted to adopt the NextGen Bar Exam, a new bar exam designed to be a better test of the knowledge and skills new attorneys are expected to know. The Idaho Supreme Court approved the change in March 2025, and the Idaho State Bar will commence administering the NextGen Bar Exam in July 2026. 45 jurisdictions have announced their adoption of the NextGen Bar Exam.³

ADOPTION OF THE IDAHO STANDARDS FOR CIVILITY IN PROFESSIONAL CONDUCT

In 2001, the Idaho State Bar and the courts of the State of Idaho adopted the Idaho Standards for Civility in Professional Conduct. The Standards address attorneys' obligations as officers of the court and related to the administration of justice, balancing zealous advocacy with courtesy and respect.

CREATION OF IDAHO LAWYERS ASSISTANCE PROGRAM

In 2002, the ISB created the Lawyers Assistance Program ("LAP"). Establishment of the LAP marked the ISB's significant investment and attention to the impact mental health issues and addiction have on attorneys, judges, and the public. The mission of the LAP is to protect clients from harm caused by impaired attorneys, to



educate Bar members and the community about the causes and remedies for impairment, and to provide resources to assist attorneys with treatment for impairments. In addition, the LAP was designed to be separate from the ISB's discipline functions to provide support to attorneys in a confidential manner.



The first graduating class from the IALL program in 2012.

MALPRACTICE INSURANCE

In 2017, Idaho became only the second state in the nation to require that actively licensed attorneys carry malpractice insurance coverage. While many states require attorneys to disclose whether they have malpractice insurance coverage, Idaho and Oregon are the only states that require coverage.

IDAHO ACADEMY OF LEADERSHIP FOR LAWYERS

In 2011, the Idaho State Bar created the Idaho Academy of Leadership for Lawyers ("IALL"). IALL provides Idaho attorneys with valuable leadership training and development tailored specifically to attorneys. IALL is a competitive, selective program. Each IALL class consists of 12-16 attorneys from around the state. Attorneys commit to participating in six day-long training sessions.

During the program, IALL participants create a legacy project designed to have a long-term impact on the legal community and/or their community as

–2012–
A mass shooting
at Sandy Hook
Elementary kills
26 people

–2016–
The Chicago Cubs win the World
Series for the first time in 108 years
Great Britain votes to leave the EU,
known as 'Brexit'

–2020–
The COVID-19
pandemic begins

–2022–
Taylor Swift becomes
the first person to
win Album of the
Year four times

–2025–
The Idaho State Bar
celebrates its 100th
Anniversary

–2015–
The U.S. Supreme Court ruled in
Obergefell v. Hodges, legalizing
same-sex marriage

Hamilton opens on Broadway

–2019–
The first image of a
black hole was released

–2021–
President Donald
Trump is impeached
for the second time

2025

a whole. 185 attorneys have graduated from the IALL program. Many of these graduates have gone on to hold prominent leadership positions within our Bar, including serving as Idaho State Bar Commissioners and Judges.

TECHNOLOGY AND THE PRACTICE OF LAW

The rise of smartphone technology has significantly impacted the practice of law, transforming how, when, and where legal professionals work. With mobile access to virtually everything, attorneys can now perform their work remotely. This shift has enabled lawyers to better serve clients while maintaining productivity outside traditional office settings. I will not attempt to describe all the ways in which technology has changed the practice of law in the past 25 years. Many other great attorneys have written excellent articles in *The Advocate* addressing the use of technology in the practice of law.

I remember being issued a Blackberry as a young associate in 2005. I thought my Blackberry was super cool, and I was excited to use it after normal business hours while working from my home. However, the expectation of being always available has its downsides. I know many attorneys who now actively seek out opportunities to be out of cell service!

RESPONDING TO THE COVID-19 PANDEMIC

The COVID-19 pandemic posed unprecedented challenges for the legal profession and resulted in more changes to how attorneys do their work. For example, Zoom and other videoconferencing technologies are

now standard operating procedure in law firms and courtrooms.

The ISB was immediately confronted with the task of administering the bar exam in person in a safe and fair manner. The ISB implemented safety measures, including temperature checks, social distancing, and mandatory face masks. By October 2020, the ISB joined most states in offering a shorter, online bar exam to accommodate test takers who preferred to avoid in-person testing. In February 2021, the ISB administered a full-length UBE online to protect test takers during the public health crisis.

THE IDAHO LAW FOUNDATION

As the Bar has grown in the past 25 years, so has the Law Foundation. The ILF has expanded its programs and services to benefit our members and the public.

The Idaho High School Mock Trial program was created in 1992, providing a meaningful opportunity for civic education and friendly competition among high school students. In its first years, seven to 10 teams participated. The program has grown both in popularity and scope in the 2000s. In 2025, 41 teams participated in the competition.

IDAHO Access to Justice ...AND JUSTICE FOR ALL



The first year of the Fund Run in 2014.



The group of participants from the 10th year of the Fund Run in 2024.

The Idaho Volunteer Lawyers Program commenced offering legal clinics at local libraries and other locations within the communities around the state. The clinics enable members of the public to obtain legal advice in a convenient setting, while offering Idaho attorneys opportunities to engage in pro bono service in a discrete timeframe.

Idaho Legal Aid Services Corporation, the Idaho Volunteer Lawyers Program, and Disability Rights Idaho are the three main providers of free civil legal services to Idahoans in need. In 2013, these three organizations joined forces to launch the Access to Justice Campaign, a joint fundraising initiative. The campaign has grown steadily, raising funding, awareness and support for the important services provided by these organizations.

2014 marked the first year of the Access to Justice FUND Run/Walk, a family- and dog-friendly event supporting the Access to Justice

Campaign. Participation and donations have increased each year. In 2025, the event drew over 300 participants and raised more than \$20,000 for the Access to Justice Campaign.⁴

I expect that the ISB will continue to see fast-paced growth over the next 25 years. As the Executive Director of the ISB and ILF, I love traveling around the state, meeting with you, and talking about how your practice has changed; how your communities have changed. These conversations, your input, and your engagement are vital to setting our course for the next 25 years.

This is the last article in our Anniversary series. Visit our Anniversary website to see past articles, and other resources sharing about our Bar's 100-year history!⁵ You can also visit our Law Foundation's page⁶ to see the impact it has made in the 50 years since its inception. Thank you for reading along with us as we've celebrated the history of our great Bar!



Maureen Ryan Braley is the Executive Director of the Idaho State Bar and the Idaho Law Foundation. Maureen is a "double Zag," having earned her undergraduate degree in history and her law degree from Gonzaga University. She clerked for Chief Justice Gerald F. Schroeder of the Idaho Supreme Court and practiced law for six years in Boise before joining the Idaho State Bar staff in 2011 as the Director of Admissions. In 2024, she became the Executive Director.

ENDNOTES

1. Idaho State Bar Membership Data (Accessed October 7, 2025).
2. Idaho State Bar Membership Data (Accessed October 7, 2025).
3. Read more about Idaho's adoption of NextGen in Abby Kostecka's update in the last issue of *the Advocate*. Abby Kostecka, NextGen Bar Exam Update, Volume 68 (10) *Advocate* 8 (2025).
4. <https://ilf.idaho.gov/accessjustice/aji-fund-run/>.
5. <https://isb.idaho.gov/anniversary/>.
6. <https://ilf.idaho.gov/>.



THE JOB INTERVIEW



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G. Richard Bevan

Justices
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Gregory W. Moeller
Colleen D. Zahn
Cynthia K.C. Meyer

Regular Fall Term for 2025 *2nd Amended March 25, 2025*

Boise August 18, 20, 22 and 25
Boise September 10 and 12
Coeur d' Alene September 17 and 18
Boise October 1, 3 and 6
Blackfoot October 8
Idaho State University (Pocatello) October 9
Boise November 3, 7 and 10
Twin Falls November 5

By Order of the Court
Melanie Gagnepain, Clerk

NOTE: The above is the official notice of the 2025 Fall Term for the Supreme Court of the State of Idaho, and should be preserved. A formal notice of the setting of oral argument in each case will be sent to counsel prior to each term.

OFFICIAL NOTICE COURT OF APPEALS OF IDAHO

Chief Justice
David W. Gratton

Judges
Molly J. Huskey
Jessica M. Lorello
Michael P. Tribe

Regular Fall Term for 2025 *1st Amended 09/19/2025*

Boise August 5, 12, 14 and 26
Boise September 11, 16, 18 and 23
Boise October 7 and 9
Boise November 6 and 13
Boise December 9

By Order of the Court
Melanie Gagnepain, Clerk

NOTE: The above is the official notice of the 2025 Fall Term for Court of Appeals of the State of Idaho, and should be preserved. A formal notice of the setting of oral argument in each case will be sent to counsel prior to each term.

OFFICIAL NOTICE SUPREME COURT OF IDAHO

Chief Justice
G. Richard Bevan

Justices
Robyn M. Brody
Gregory W. Moeller
Colleen D. Zahn
Cynthia K.C. Meyer

Regular Spring Term for 2026

Boise January 5, 7, 9 and 14
Boise February 9, 13, 18 and 20
Boise (University of Idaho) February 11
Boise April 6, 15 and 17
Moscow (University of Idaho) April 8
Lewiston April 9
Boise May 6, 8, 11, 13 and 15
Boise June 3, 5 and 8
Rexburg (BYU Idaho) June 10
Twin Falls June 11

By Order of the Court
Melanie Gagnepain, Clerk

NOTE: The above is the official notice of the 2026 Spring Term for the Supreme Court of the State of Idaho, and should be preserved. A formal notice of the setting of oral argument in each case will be sent to counsel prior to each term.

OFFICIAL NOTICE COURT OF APPEALS OF IDAHO

Chief Justice
David W. Gratton

Judges
Molly J. Huskey
Jessica M. Lorello
Michael P. Tribe

Regular Spring Term for 2026 *10/03/2025*

Boise January 13, 15, 27 and 29
Boise February 10, 12, 17 and 19
Boise March 10, 12, 17 and 19
Boise April 7, 9, 14 and 16
Boise May 12, 14, 19 and 21
Boise June 16, 18, 23 and 25
Boise July 9

By Order of the Court
Melanie Gagnepain, Clerk

NOTE: The above is the official notice of the 2026 Spring Term for Court of Appeals of the State of Idaho, and should be preserved. A formal notice of the setting of oral argument in each case will be sent to counsel prior to each term.

**Idaho Supreme Court
Oral Arguments for November 2025**

10/13/2025

Monday, November 3, 2025 - Boise

8:50 a.m. *Cave Bay v. Lohman*..... #52312
10:00 a.m. *State v. Salazar-Cabrera*..... #52207
11:10 a.m. *Crookham v. County of Canyon*..... #52514

Wednesday, November 5, 2025 - Twin Falls

10:00 a.m. *Morrison v. Thompson*..... #52401
11:10 a.m. *Crystal Homestead Estates v. That Piece of Property*.. #52561

Friday, November 7, 2025 - Boise

8:50 a.m. *Raber v. Raber*..... #53147
10:00 a.m. *Bedell v. Parsons*..... #51892
11:10 a.m. *North Henry's Lake HOA v. Norton*..... #51990

Monday, November 10, 2025 - Boise

8:50 a.m. *State v. Smith*..... #51551
10:00 a.m. *St. Luke's v. Rodriguez*..... #51244
11:10 a.m. *Budig v. Bonner County BOC*..... #51870

**Idaho Court of Appeals
Oral Arguments for November 2025**

10/13/2025

November 6, 2025

9:00 a.m. *Miskin v. Morrell*..... #52413
10:30 a.m. *Herbert v. Kirk*..... #52229

November 13, 2025

9:00 a.m. *Delano v. Pike*..... #52723
10:30 a.m. *Stunja v. High Corral*..... #52026



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CASES IN ALPHABETICAL ORDER BY CATEGORY – SEPTEMBER 2025

CIVIL APPEALS

Fraud

Whether the district court erred by holding the First Amendment prohibits a jury from finding that any representations made by the Diocese regarding a priest's holiness and godliness were false as such representations are core tenets of the Catholic Church.

*Leriget v. The Roman Catholic
Diocese of Boise*
Docket No. 52551
Supreme Court

Justiciability

Whether Defendant's appeal of the district court's judgment ejecting him from real property is moot where Plaintiffs have since obtained possession of the property pursuant to a writ of restitution.

DPW Enter. LLC v. Bass
Docket No. 52552
Court of Appeals

Medical Malpractice

Whether the district court erred in concluding the "wrongful death" claim alleged in Plaintiffs' amended complaint was subsumed by the other claims in the amended complaint and was not a separate cause of action.

Hartman v. Pocatello Hosp., LLC
Docket No. 52101
Supreme Court

Post-Conviction

Whether the district court erred by summarily dismissing Petitioner's claims that trial counsel was ineffective for failing to file a notice of appeal, failing to investigate the damage amount prior to advising Petitioner to plead guilty to felony malicious injury to property, and failing to file a motion to withdraw Petitioner's guilty plea.

Stakey v. State
Docket No. 51207
Court of Appeals

Wills and Estates

Whether the trial court's order denying Petitioner's second petition to remove Respondent as the personal representative of Petitioner's mother's estate violated the best interests of the beneficiaries.

Smith v. Elsaesser
Docket No. 51199
Supreme Court

CRIMINAL APPEALS

Bail Bonds

Whether the district court abused its discretion in denying the motion to exonerate the bond and concluding that its own actions in continuing hearings and allowing Defendant to appear remotely did not materially increase the risk of forfeiture.

State v. Allegheny Casualty Co.
Docket No. 52341
Court of Appeals

Evidence

Whether the parole officer's testimony that she was concerned about Defendant's behavior because he "already had a list of other violations" should have been excluded under I.R.E. 403 because its probative value was substantially outweighed by the danger of unfair prejudice.

State v. Vaughn
Docket No. 51553
Court of Appeals

Fundamental Error

Whether the district court committed fundamental error by relinquishing jurisdiction in contravention of a term of the binding plea agreement that required the court to place Defendant on probation if he successfully completed his rider.

State v. Warner
Docket No. 51830
Court of Appeals

Motion to Suppress

Whether the probation officer's warrantless entry into Defendant's bedroom during a search of the home conducted pursuant to another resident's probation agreement was justified as a lawful protective sweep for officer safety.

State v. Reyes
Docket No. 50797
Court of Appeals

Whether the drug dog's alert established probable cause to search Defendant's vehicle when the evidence showed the drug dog's history of alerts in the field resulted in the finding of contraband or drug evidence only 43 percent of the time.

State v. Barritt
Docket No. 51539
Supreme Court

Prosecutorial Misconduct

Whether the prosecutor's rebuttal closing argument commenting about why people should care about the case was prosecutorial misconduct that violated Defendant's right to a fair trial.

State v. Hutton
Docket No. 51492
Court of Appeals

Overbreadth

Whether Idaho's witness intimidation statute, I.C. § 18-2604, is facially overbroad or, alternatively, overbroad as applied to Defendant's conduct in this case.

State v. Orr
Docket No. 51866
Supreme Court

Restitution

Whether the district court abused its discretion when it ordered the Defendant who was convicted of vehicular homicide to pay child support for the benefit of the victim's children pursuant to I.C. § 18-4007(3)(d) based on Defendant's projected future income, without any consideration of the victim's lost income or the condition and needs of the children.

State v. Paulson
Docket No. 50647
Court of Appeals

Whether the district court erred by awarding restitution to the insurance company's subrogation agent because the subrogation agent did not suffer any economic loss as the result of Defendant's thefts and was therefore not a "victim" under the restitution statute.

State v. Hernandez
Docket No. 50678
Court of Appeals

Sentence Review

Whether the district court abused its discretion when it ordered Defendant to pay a \$5,000 civil penalty for each of his nine convictions, without imposing the civil penalties in a written order separate from the judgment, as required by I.C. § 19-5307.

State v. Manzer
Docket No. 51032
Court of Appeals

Sufficiency Of Evidence

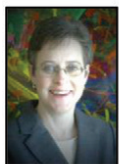
Whether the district court erred by denying Defendant's motion for judgment of acquittal as to the DUI charge because the State failed to present sufficient evidence to prove that Defendant's impairment was caused by drugs or an intoxicating substance.

State v. Keefe
Docket No. 51864
Court of Appeals

Summarized by:

Lori Fleming
Supreme Court Staff Attorney
208) 334-2246

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In Memoriam

Clark L. Jordan 1957 – 2025



Clark Lynn Jordan, 68, of Salmon, Idaho, passed away peacefully on the banks of the Salmon River—the place he loved most—on August 17, 2025.

Born March 14, 1957, in Pocatello Idaho, Clark was the son of Phillip Alfred and Ella Jean Pollard Jordan and brother of Mark Jordan, all of whom preceded him in death.

In 1982, Clark married the love of his life, Sandra Ann Rau. For 43 years they shared a deep and inseparable partnership, filled with laughter, adventure, and devotion. Their marriage was a true partnership—Sandy was not only Clark's wife but his fiercest advocate, his companion in every challenge, and the person with whom he shared his deepest dreams. Those who knew them rarely thought of one without the other.

Clark graduated earned a degree in political science from Idaho State University, and received his Juris Doctor from Gonzaga University in Spokane, Washington. After passing the Idaho Bar in 1987, he practiced law for nearly three decades in Idaho Falls, Hailey, and Salmon, specializing in workers' compensation and personal injury. Known as a fighter for "the little guy," Clark stood up for injured workers against powerful firms, often at personal cost. His compassion and dedication left lasting impacts. Clients remembered him not just as their attorney, but as the man who changed their lives.

Clark retired in 2021, but his love of people and zest for life continued. He was fun-loving, loyal, and passionate about sports—especially the Utah Jazz. His greatest joy came from the outdoors. He built a log home along the Lemhi River in Tendoy, where he found peace surrounded by the water and mountains he cherished. Clark lived fully and on his own terms. He leaves behind a legacy of integrity, love, and laughter.

Clark is survived by his wife, Sandra Rau Jordan of Salmon; his Aunt Yvonne Jordan and her son Michael of Portland, Oregon; Shirley Rau and Greg Contos of Boise; nephew Niko Contos, wife Kate Coll, and daughter Lili of Reno; Chris O'Connor and daughter Piper Cabaltera, husband Meir, and daughter Violet of Boise; Stan and Kim Rau of Horseshoe Bend and their children Skylar, Dalton, Tanner and Kiki; and his father-in-law Harold Rau.

Michael Thomas Spink 1950 – 2025



Michael Thomas Spink was born in Pontiac, Michigan in March 1950. His parents were Walter E. Spink and Joan O'Neil Spink, both deceased. He grew up and attended public schools in Rochester, Michigan, along with his siblings Ellen Spink and Neil Spink. Mike graduated from Rochester High School in 1968. He spent a year at Denison University in Granville, Ohio before transferring to Stanford University, where he graduated in 1972. Mike served in the

United States Air Force for three years before earning his Juris Doctor from the University of Denver in 1977.

Mike was admitted to the Idaho State Bar in 1978. In law practice, Mike dedicated his career to helping people across the state of Idaho. His integrity earned him the respect of colleagues and clients alike. With his wife and Law partner JoAnn Butler, he established two law firms, ending with Butler Spink LLP. Later in life he developed his own successful mediation practice.

Above all, he loved his family. He raised a daughter, Sara Ellen Spink, passing along many values including respect, honesty, and love. Mike shared a deep and enduring partnership with his wife, JoAnn Butler. Becoming a grandfather to Flynn Kennedy Spink, who is five years old at the time of this writing, was absolutely one of the highlights of his life.

Mike loved the mountains and the ocean, frequenting the Oregon Coast. Over the years he enjoyed many adventures with friends and family. At home he surrounded himself with art and nature, and a series of corgis. His last corgi Ernie has been a steadfast companion through the last few years.

JoAnn preceded Mike in death in 2023. Her loss deeply affected all who knew her, but Mike continued to live with courage and love, drawing inspiration from the way Jo lived in the present.

In July 2025, Mike's 15-year battle with metastatic prostate cancer came to an end. Throughout his cancer journey he remained positive, curious, and an advocate for himself and his care. He passed away peacefully in his home, with his daughter, sister and his dog at his side.

Keeping Track

Despite our best efforts, there are times when the Idaho State Bar is not informed of a member's death. Upon learning of a fellow attorney's death, please feel free to contact Calle Belodoff with the information at cbelodoff@isb.idaho.gov. This will allow us to honor the individual with details in "In Memoriam."



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Around the Bar

New Bonneville Judges Take Their Oaths

SEVENTH DISTRICT—The Seventh Judicial District recently held public investiture ceremonies for two new Bonneville County magistrate judges.

Judge Jacob Workman took his public oath of office on September 4th. Judge Michael Kirkham did the same on September 19th.

Four Members of Idaho Courts Honored for Diligence, Duty Toward Idaho's Courts



Judge Darren Simpson.

STATEWIDE—Several people who work within Idaho's court system were honored this month for their dedication to fair and timely justice for Idahoans.

Seventh District Judge Darren Simpson received the George C. Granata Jr. Professionalism Award, which honors a magistrate, district or senior judge who has gone above and beyond to ensure all Idahoans have access to fair and efficient justice.

Tammie Whyte, trial court administrator for the Seventh District, received the Douglas D. Kramer Award, which recognizes excellence in judicial administration through demonstrated character and action.

The state Magistrate Judges Association presented Ada County Magistrate Judge Andrew Ellis with its Legacy Award, created to recognize a judge's dedicated and noteworthy leadership and service to their community, colleagues and citizens.

And the Idaho State Bar presented Justice Cynthia Meyer with its Distinguished Jurist Award. This award recognizes excellence, integrity and independence by a member of the judiciary. Individuals are selected for their competence, fairness, goodwill and professionalism.



Hon. Jacob Workman



Hon. Michael Kirkham



TCA Tammie Whyte.



Judge Andrew Ellis.



Justice Cynthia Meyer accepts her award on September 9th at the Boise Centre. Photo courtesy of Nate Poppino.

The Fourth District Magistrates Commission Appoints Deputy Attorney General to the Boise County Bench

FOURTH DISTRICT—On September 22, 2025, the Fourth Judicial District Magistrates Commission appointed Deputy Attorney General, Michael “Scott” Keim to the Boise County bench.

Following a competitive recruitment process in which highly experienced attorneys submitted applications, the Magistrates Commission conducted interviews with top four candidates, ultimately selecting Mr. Keim as the next magistrate judge in Boise County. Mr. Keim fills a vacancy created following Judge Adam Strong’s appointment to the Power County bench.

Michael “Scott” Keim Scott Keim grew up in Casper, Wyoming. He obtained a Bachelor of Science in psychology from the University of Wyoming in 1994. Mr. Keim then attended the University of Utah, S J Quinney College of Law, earning his Juris Doctor in 1998.

Mr. Keim worked as a deputy public defender in Canyon County immediately after joining the Idaho Bar until November of 1998. Mr. Keim then

worked for Brady Lerma, Chartered and later Lerma Law Offices, specializing in civil litigation and personal injury claims from 1999 until 2006.

Since August of 2006 Mr. Keim has worked for the Office of the Idaho Attorney General. Within the Attorney General’s office Mr. Keim has represented the Idaho Department of Health and Welfare, the Idaho Department of Labor and the Idaho Human Rights Commission.

Mr. Keim has three children and enjoys skiing, hunting and spending time outdoors.

Nez Perce County Appoints New Magistrate Judge



SECOND DISTRICT—The Second Judicial District Magistrates Commission on September 25th appointed Kelley Porter as the newest magistrate judge for Nez Perce County.

Judge Porter previously served as the staff attorney in Nez Perce County District Court and teaches law at the University of Idaho. She succeeds Judge Sunil Ramalingam, who is now a magistrate judge in Latah County.

Former U.S. Attorney Josh Hurwit Joins Holland & Hart



BOISE—Josh Hurwit, Idaho’s former U.S. Attorney who helped prosecute the Kohberger case and led the state’s most complex federal investigations, has joined Holland & Hart.

During his tenure and immediately after, Josh handled the state’s highest-profile prosecutions—from the UI homicides to multimillion-dollar securities fraud cases, environmental enforcement actions, and major drug trafficking operations. He brings unique insight into how federal agencies approach investigations and what Idaho businesses, leaders, and communities should understand about evolving trends.

As Idaho continues to grow and attract new business, Josh offers practical perspective on navigating federal regulatory and enforcement complexity—from both the prosecutor’s side and now as a defense attorney.

Fall Admissions Ceremony 2025

STATEWIDE—The Idaho Supreme Court and the United States Courts, District of



New admittees are sworn in amidst dignitaries, friends, and family members on September 26, 2025. Photo credit: Carissa Carns.

Idaho, held a joint admission ceremony on September 26, 2025, at the Boise Centre in downtown Boise. 109 attorneys took the Oath of Admission and were sworn into the Idaho Bar. Chief Justice G. Richard Bevin presided over the ceremony. Kristin Bjorkman, President of the Board of Commissioners of the Idaho State Bar, Kimberlee Bratcher, President of the Idaho Law Foundation, Idaho Supreme Court, Judge Raymond E. Patricco, and Justice Robyn Brody addressed the new admittees. Friends and family of the new Idaho lawyers attended the ceremony to celebrate their success.

Idaho Academy of Leadership for Lawyers Announces New Class

STATEWIDE—The Idaho Academy of Leadership for Lawyers (“IALL”) proudly announces their 2025-2026 class. The participants will be the Academy’s fourteenth class. The diverse makeup of the class features attorneys from six judicial districts who encompass an array of practice areas. Participants have pursued legal careers in the fields of criminal law, health care, state and local government, public interest, business, family law and estate planning as in-house counsel, in solo, small and large

firms and for local and state government. Participants will meet in Boise over five sessions for this interactive leadership training program designed specifically for lawyers. The first session will take place October 16th and 17th with Graduation set for April 2026. The class would like to thank the District Bar Associations and the Practice Sections for their generous financial support of the Academy.

The next application period will be open in June 2026. For more information, please contact Teresa Baker, Idaho State Bar Program and Legal Education Director at (208) 334-4500.

IALL Class of 2025-2026

Evan Barrett

Advanced Legal Planning, PLLC
Garden City

Tyler Beck

Idaho Office of Administrative Hearings
Boise

Lee DeLon

Canyon Valley Law, PLLC
Twin Falls

Katie Franklin

Lawson Laski Clark, PLLC
Ketchum

Jordan Hendry

Murphy Law Office, PLLC
Meridian

Kayla Hermann

Schweitzer Engineering Laboratories, Inc
Pullman, WA

Alyssa Jones

Trout & Jones, PLLC
Boise

Mark Kubinski

Office of the Idaho Governor
Boise

Lindsey Morgan

Fennemore Craig, P.C.
Coeur d’Alene

Megan Mignella

Jones Williams Fuhrman Gourley, P.A.
Boise

Any Perret

University of Idaho College of Law
Boise

Angelie “Brooke” Roberts

Idaho Legal Aid Services, Inc.
Idaho Falls

Ronnie Keller

Bear Lake County Prosecuting
Attorney’s Office
Weston

Susan Sanders-Young

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Amanda Siegwein

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