

Dear Senators HEIDER, Souza, Jordan, and  
Representatives WOOD, Packer, Chew:

The Legislative Services Office, Research and Legislation, has received the enclosed rules of  
the Board of Nursing:

IDAPA 23.01.01 - Rules of the Idaho Board of Nursing - Proposed Rule (Docket No. 23-0101-1801).

Pursuant to Section 67-454, Idaho Code, a meeting on the enclosed rules may be called by the  
cochairmen or by two (2) or more members of the subcommittee giving oral or written notice to Research  
and Legislation no later than fourteen (14) days after receipt of the rules' analysis from Legislative  
Services. The final date to call a meeting on the enclosed rules is no later than 09/24/2018. If a meeting is  
called, the subcommittee must hold the meeting within forty-two (42) days of receipt of the rules' analysis  
from Legislative Services. The final date to hold a meeting on the enclosed rules is 10/23/2018.

The germane joint subcommittee may request a statement of economic impact with respect to a  
proposed rule by notifying Research and Legislation. There is no time limit on requesting this statement,  
and it may be requested whether or not a meeting on the proposed rule is called or after a meeting has  
been held.

To notify Research and Legislation, call 334-4834, or send a written request to the address on the  
memorandum attached below.



Eric Milstead  
Director

# Legislative Services Office

## Idaho State Legislature

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*Serving Idaho's Citizen Legislature*

### MEMORANDUM

**TO:** Rules Review Subcommittee of the Senate Health & Welfare Committee and the House Health & Welfare Committee  
**FROM:** Principal Legislative Research Analyst - Elizabeth Bowen  
**DATE:** September 05, 2018  
**SUBJECT:** Board of Nursing

IDAPA 23.01.01 - Rules of the Idaho Board of Nursing - Proposed Rule (Docket No. 23-0101-1801)

#### Summary and Stated Reasons for the Rule

This proposed rule revises the definition of "nurse apprentice" to allow recent nursing program graduates to work in a non-licensed capacity. The rule also removes obsolete language regarding multistate licensure that was superseded by the Legislature's enactment of the Nurse Licensure Compact (SB 1251, 2016) and simplifies language regarding prescriptions written by advanced practice registered nurses. The purpose for the rule is to make it easier for recent graduates to work while waiting for the results of their licensing examination, to conform to state law, and to remove unnecessary complexities in the rule regarding prescriptions.

#### Negotiated Rulemaking / Fiscal Impact

Negotiated rulemaking was not conducted due to the nature of the rule change, which the Board regards as minor in nature and necessary to conform to state law.

#### Statutory Authority

I.C. 54-1404.

cc: Board of Nursing  
Sandra Evans, M.A.Ed., R.N.

#### **\*\*\* PLEASE NOTE \*\*\***

Per the Idaho Constitution, all administrative rules must be reviewed by the Legislature during the next legislative session. The Legislature has 3 options with this rulemaking docket: **1)** Approve the docket in its entirety; **2)** Reject the docket in its entirety; or **3)** Reject the docket in part.

## IDAPA 23 – BOARD OF NURSING

### 23.01.01 – RULES OF THE IDAHO BOARD OF NURSING

#### DOCKET NO. 23-0101-1801

#### NOTICE OF RULEMAKING – PROPOSED RULE

**AUTHORITY:** In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Section 54-1404, Idaho Code.

**PUBLIC HEARING SCHEDULE:** Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than September 19, 2018.

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

**DESCRIPTIVE SUMMARY:** The following is a nontechnical explanation of the substance and purpose of the proposed rulemaking:

Under current rule, students graduating from a nursing education program can't remain employed as a nursing assistant in a non-licensed capacity. This causes financial hardship to the graduates while they wait for confirmation of passing the licensing examination. The rulemaking seeks to alleviate this hardship by granting recent graduates a reasonable time-frame for receipt of the necessary paperwork before they are no longer eligible for nursing assistant status. Another board rule addressing multistate licensing is being deleted because it is no longer necessary given the recently passed Enhanced Nurse License Compact and withdrawal on January 19, 2018 from the previous Nurse Licensure Compact to which the rules apply. Finally, the current rule requiring certain information in prescription forms used by advanced practice nurses is unnecessarily complex and inconsistent with similar forms used by physicians and other authorized prescribers in Idaho. The rulemaking seeks to correct this irregularity.

BON Rule 76 is being amended to expand the definition of a "nurse apprentice" to include persons recently graduated (up to three months) from a nursing educational program; BON Rule 77 (multistate licensure) will be removed; and BON Rule 315 will be amended to make the information required on prescription forms used by advanced practice nurses uniform with information required on prescription forms used by physicians and other authorized prescribers licensed in Idaho.

**FEE SUMMARY:** The following is a specific description of the fee or charge imposed or increased: N/A

**FISCAL IMPACT:** The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year resulting from this rulemaking: N/A

**NEGOTIATED RULEMAKING:** Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not conducted because: (1) the proposed change to the nurse apprentice rule was requested by a nurse educator, is very minor in nature and will have no opposition and will benefit nursing programs, nursing students and recent graduates, employers of nurse apprentices and the public; (2) the proposed change to the rule on multistate licensure is required by superseding statute; and (3) the proposed change to the content of prescription forms used by advanced practice nurses will fully comply with all state and federal law, while making the forms uniform with similar forms used by other Idaho prescribers.

**INCORPORATION BY REFERENCE:** Pursuant to Section 67-5229(2)(a), Idaho Code, the following is a brief synopsis of why the materials cited are being incorporated by reference into this rule: N/A

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the proposed rule, contact Sandra Evans, Executive Director, at (208) 577-2482.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before September 26, 2018.

Dated this 3rd day of August, 2018.

Sandra Evans  
Executive Director  
Idaho Board of Nursing  
280 N. 8th Street, Ste. 210  
P. O. Box 83720  
Boise, ID 83720-0061  
Phone: (208) 577-2482  
Fax: (208) 334-3262

**THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 23-0101-1801**  
**(Only Those Sections With Amendments Are Shown.)**

**076. PERSONS EXEMPTED BY BOARD.**

Licensure to practice nursing shall not be required, nor shall the practice of nursing be prohibited for persons exempted by the Board including: (11-28-84)

**01. Technicians and Technologists.** Technicians and technologists who comply with Section 491 of these rules. (3-30-07)

**02. Non-Resident Nurses.** Non-resident nurses currently licensed in good standing in another nursing jurisdiction, who are in Idaho on a temporary basis because of enrollment in or presentation of a short term course of instruction recognized or approved by the Board and who are performing functions incident to formal instruction. (4-4-13)

**03. Family Members and Others.** (7-1-93)

**a.** Family members providing care to a person to whom they are related by blood, marriage, adoption, legal guardianship or licensed foster care. (5-21-89)

**b.** Non-family members who provide gratuitous care to a person on a temporary basis in order to give respite to family members who regularly provide care to that person. (5-21-89)

**c.** Live-in domestics, housekeepers and companions provided they do not represent themselves as, nor receive compensation as, licensed nurses or other nursing care providers and so long as any health care provided is incidental to the services for which they are employed. (3-30-01)

**04. Nurse Apprentice.** A nurse apprentice is a ~~currently enrolled~~ nursing student ~~or recent graduate~~ who is employed for remuneration in a non-licensed capacity ~~outside the student role~~ by a Board approved health care agency. (3-30-01)(    )

**a.** Applicants for nurse apprentice shall: (3-30-01)

**i.** Be enrolled in an accredited/approved nursing education program that is substantially equivalent to Idaho's approved programs for practical/registered nursing. (6-20-92)

**ii.** Be in good academic standing at the time of application and notify the Board of any change in academic standing. (6-20-92)

**iii.** Meet the employing agency's health care skills validation requirements. (3-30-01)

- iv. Satisfactorily complete a basic nursing fundamentals course. (3-30-01)
  - v. Use obvious designations that identify the applicant as a nurse apprentice. (3-30-01)
  - b.** A completed application for nurse apprentice shall consist of: (3-30-01)
    - i. Completed application form provided by the Board, to include a fee of ten dollars (\$10); and (7-1-93)
    - ii. Verification of satisfactory completion of a basic nursing fundamentals course; and (3-30-01)
    - iii. Validation of successful demonstration of skills from a nursing education program; and (3-30-01)
    - iv. Verification of ~~on-going~~ good academic standing ~~in nursing education program.~~ ~~(3-30-01)~~( )
  - c.** An individual whose application is approved shall be issued a letter identifying the individual as a nurse apprentice for a designated time period ~~to extend not more than three (3) months after successful completion of the nursing education program.~~ ~~(3-30-01)~~( )
  - d.** A nurse apprentice may, under licensed registered nurse supervision, perform all functions approved by the Board for unlicensed assistive personnel as set forth in Section 490 of these rules. (3-30-07)
- 05. Employer Application.** (3-30-01)
- of:
- a.** A completed application for health care agencies wishing to employ nurse apprentices shall consist (3-30-01)
    - i. Completed application form provided by the Board; (6-20-92)
    - ii. Job descriptions for apprentice; (3-30-01)
    - iii. A written plan for orientation and skill validation; (6-20-92)
    - iv. The name of the licensed registered nurse who shall be accountable and responsible for the coordination or management of the nurse apprentice program; (3-30-01)
    - v. Assurance that a licensed registered nurse is readily available when nurse apprentice is working; (3-30-01)
    - vi. A written procedure for the nurse apprentice who is asked to perform a task that could jeopardize a patient and who declines to perform the task; and (3-30-01)
    - vii. A fee of one hundred dollars (\$100). (3-30-01)
  - b.** Following application review, the Board may grant approval to a health care agency to employ nurse apprentices for a period of up to one (1) year. (3-30-01)
  - c.** To insure continuing compliance with Board requirements, each approved agency shall submit an annual report to the Board on forms provided by the Board. Based on its findings, the Board may grant continuing approval annually for an additional one (1) year period. (6-20-92)
  - d.** At any time, if the employing agency fails to inform the Board of changes in conditions upon which approval was based or otherwise fails to comply with established requirements, the Board may notify the agency of withdrawal of approval. (6-20-92)

~~077. MULTISTATE LICENSURE.~~

- ~~01. **Definitions.** In Section 077, the following terms have the meanings indicated. (3-15-02)~~
- ~~a. **Board** means the regulatory body responsible for issuing nurse licenses. (3-15-02)~~
  - ~~b. **Compact** means the Nurse Multistate Licensing Compact. (3-15-02)~~
  - ~~c. **Coordinated Licensure Information System (CLIS)** means an integrated process for collecting, storing, and sharing information on nurse licensing and enforcement activities related to nurse licensing laws, which is administered by a nonprofit organization composed of and controlled by state nurse licensing boards. (3-15-02)~~
  - ~~d. **Home state** means the party state that is the nurse's primary state of residence. (3-15-02)~~
  - ~~e. **Party state** means a state that is a signatory on the compact. (3-15-02)~~
  - ~~f. **Primary state of residence** means the state of a person's declared fixed permanent and principal home for legal purposes; domicile. (3-29-10)~~
  - ~~g. **Public** means an individual or entity other than designated staff or representatives of party state boards or the National Council of State Boards of Nursing, Inc. (3-15-02)~~
- ~~02. **Examination.** No applicant may be issued a compact license granting a multistate privilege to practice unless the applicant first obtains a passing score on the applicable NCLEX (National Council Licensure Examination): (4-4-13)~~
- ~~a. NCLEX-RN for registered nursing; or (4-6-05)~~
  - ~~b. NCLEX-PN for practical nursing. (4-6-05)~~
- ~~03. **Issuance of License in Compact Party State.** (3-15-02)~~
- ~~a. A nurse applying for a license in a home party state shall produce evidence of the nurse's primary state of residence. This evidence shall include a declaration signed by the licensee. Further evidence that may be requested includes, but is not limited to: (3-15-02)~~
    - ~~i. Driver's license with a home address; (3-15-02)~~
    - ~~ii. Voter registration card displaying a home address; (3-29-10)~~
    - ~~iii. Federal income tax return declaring the primary state of residence; (3-29-10)~~
    - ~~iv. Military Form No. 2058—state of legal residence certificate; or (3-29-10)~~
    - ~~v. W2 from U.S. Government or any bureau, division, or agency thereof, indicating the declared state of residence. (3-29-10)~~
  - ~~b. A nurse on a visa from another country applying for licensure in a party state may declare either the country of origin or the party state as the primary state of residence. If the foreign country is declared the primary state of residence, a single state license will be issued by the party state. (3-29-10)~~
  - ~~c. A license issued by a party state is valid for practice in all other party states unless clearly designated as valid only in the state which issued the license. (3-29-10)~~
  - ~~d. When a party state issues a license authorizing practice only in that state and not authorizing practice in other party states (i.e., a single state license), the license shall be clearly marked with words indicating that it is valid only in the state of issuance. (3-29-10)~~

~~e. A nurse changing primary state of residence, from one (1) party state to another party state, may continue to practice under the former home state license and multistate licensure privilege during the processing of the nurse's licensure application in the new home state for a period not to exceed ninety (90) days. (3-20-14)~~

~~f. The licensure application in the new home state of a nurse under pending investigation by the former home state shall be held in abeyance, and the ninety (90) day period in Paragraph 077.03.e. of these rules shall be stayed until resolution of the pending investigation. (3-20-14)~~

~~g. The former home state license is not valid upon the issuance of a new home state license. (3-15-02)~~

~~h. If a decision is made by the new home state denying licensure, the new home state shall notify the former home state within ten (10) business days, and the former home state will take action in accordance with that state's laws and regulations. (3-15-02)~~

~~**04. Multistate Licensure Privilege Limitations. (3-15-02)**~~

~~a. Home state boards shall include, in all disciplinary orders or agreements that limit practice or require monitoring, the requirement that the licensee subject to the order or agreement shall limit the licensee's practice to the home state during pendency of the disciplinary order or agreement. (3-15-02)~~

~~b. The requirement referred to in Paragraph 077.04.a. of these rules may, in the alternative, allow the nurse to practice in other party states with prior written authorization from both the home state and other party state boards. (3-30-07)~~

~~e. An individual who had a license that was surrendered, revoked, suspended, or an application denied for cause in a prior state of primary residence, may be issued a single state license in a new primary state of residence until such time as the individual would be eligible for an unrestricted license by the prior state(s) of adverse action. Once eligible for licensure in the prior state(s), a multistate license may be issued. (3-29-10)~~

~~**05. Information System. (3-15-02)**~~

~~a. Levels of Access: (3-15-02)~~

~~i. Public access to nurse licensure information shall be limited to: (3-15-02)~~

~~(1) The licensee's name; (3-15-02)~~

~~(2) Jurisdictions of licensure; (3-15-02)~~

~~(3) Licensure expiration date; (3-15-02)~~

~~(4) Licensure classification and status; (3-15-02)~~

~~(5) Public emergency, summary, and final disciplinary actions, as defined by contributing state authority; and (3-15-02)~~

~~(6) The status of multistate licensure privileges. (3-15-02)~~

~~ii. Non party state boards shall have access to all CLIS data except current significant investigative information and other information as limited by contributing party state authority. (3-15-02)~~

~~iii. Party state boards shall have access to all CLIS data contributed by the party states and other information as allowed by contributing non party state authority. (3-15-02)~~

~~b. Right to Review. (3-15-02)~~

~~i. The licensee may request, in writing, to the home state board to review data relating to the licensee~~

- ~~in the CLIS. (3-15-02)~~
- ~~ii. If a licensee asserts that any data relating to the licensee is inaccurate, the burden of proof is on the licensee to provide evidence substantiating that claim. (3-15-02)~~
- ~~iii. Within ten (10) business days, the Board shall correct information that it finds to be inaccurate in the CLIS. (3-15-02)~~
- ~~e. Changes in Disciplinary Data. (3-15-02)~~
- ~~i. Within ten (10) business days, the Board shall report to CLIS: (3-15-02)~~
- ~~(1) Disciplinary action, agreement or order requiring participation in alternative programs or which limit practice or require monitoring unless the agreement or order relating to participation in alternative programs is required to remain nonpublic by the contributing state authority; (3-15-02)~~
- ~~(2) Dismissal of the complaint; and (3-15-02)~~
- ~~(3) Changes in status of disciplinary action, or licensure encumbrance. (3-15-02)~~
- ~~ii. The Board shall delete current significant investigative information from the CLIS within ten (10) business days after: (3-15-02)~~
- ~~(1) A disciplinary action; (3-15-02)~~
- ~~(2) An agreement or order requiring participation in alternative programs; (3-15-02)~~
- ~~(3) An agreement or agreements, which limit practice or require monitoring; or (3-15-02)~~
- ~~(4) Dismissal of a complaint. (3-15-02)~~
- ~~iii. The CLIS administrator shall make changes to licensure information in the CLIS within ten (10) business days upon notification by a board. (3-15-02)~~

**0787. -- 089. (RESERVED)**

**(BREAK IN CONTINUITY OF SECTIONS)**

**315. PRESCRIPTIVE AND DISPENSING AUTHORIZATION FOR ADVANCED PRACTICE REGISTERED NURSES.**

**01. Initial Authorization.** An application for the authority to prescribe and dispense pharmacologic and non-pharmacologic agents may be made as part of initial licensure application or by separate application at a later date. Advanced practice registered nurses who complete their APRN graduate or post-graduate educational program after December 31, 2015, will automatically be granted prescriptive and dispensing authority with the issuance of their Idaho license. (7-1-13)

**a.** An advanced practice registered nurse who applies for authorization to prescribe pharmacologic and non-pharmacologic agents within the scope of practice for the advanced practice role, shall: (7-1-13)

**i.** Provide evidence of completion of thirty (30) contact hours of post-basic education in pharmacotherapeutics obtained as part of study within a formal educational program or continuing education program, related to advanced nursing practice; and (7-1-13)

**ii.** Submit a completed, notarized application form provided by the Board. (7-1-99)



b. Exceptions to the pharmacotherapeutic education may be approved by the Board. (7-1-99)

c. Prescriptions written by authorized advanced practice registered nurses shall ~~comply with~~ **contain** all ~~applicable state and federal laws and be signed by~~ **the minimum information required by Idaho Board of Pharmacy administrative rules for “prescription drug orders” (currently codified at IDAPA 27.01.03.302), as well as the printed name and signature of the nurse prescriber, with and the abbreviation for the applicable role of the advanced nursing practice, the identification number assigned by the Board and where applicable, the Idaho Board of Pharmacy nurse (i.e. “CNP,” “CNM,” “CNS,” or CRNA”). If the prescription is for a controlled substance, it shall also include the DEA registration number and address of the federal Drug Enforcement Agency registration number prescriber.** (7-1-13)(    )

**02. Temporary Authorization.** The Board may grant temporary prescriptive authority to an applicant who holds a temporary advanced practice registered nurse license and who meets the requirements for initial authorization pursuant to Subsection 315.01 of these rules. (7-1-99)

**03. Expiration of Temporary Prescriptive Authorization.** Temporary prescriptive authorization automatically expires on the expiration, revocation, suspension, placement on probation, or denial of any advanced practice registered nurse license. (7-1-99)

**04. Prescribing and Dispensing Authorization.** All authorized advanced practice registered nurses may prescribe and dispense pharmacologic and non-pharmacologic agents pursuant to applicable state and federal laws. (7-1-13)

**05. Valid Advanced Practice Registered Nurse/Patient Relationships.** (7-1-13)

a. An advanced practice registered nurse shall not dispense pharmacologic agents except in the course of his professional practice and when a bona fide advanced practice registered nurse/patient relationship has been established. A valid relationship will exist when the advanced practice registered nurse has obtained sufficient knowledge of the patient’s medical condition through examination and has assumed responsibility for the health care of the patient. (7-1-13)

b. A valid advanced practice registered nurse/patient relationship is not required when dispensing or prescribing medications under the circumstances set forth at Section 54-1733(4), Idaho Code. (7-1-13)