

Dear Senators MARTIN, Souza, Jordan, and
Representatives WOOD, Wagoner, Chew:

The Legislative Services Office, Research and Legislation, has received the enclosed rules of the
Bureau of Occupational Licenses - State Board of Podiatry:

IDAPA 24.11.01 - Notice of Omnibus Rulemaking - Temporary and Proposed Fee Rulemaking
(Docket No. 24-1101-1900F).

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 07/23/2019. 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 08/20/2019.

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 334-4854, or send a written request to the address on the
memorandum attached below.



Eric Milstead
Director

Legislative Services Office

Idaho State Legislature

Serving Idaho's Citizen Legislature

MEMORANDUM

TO: Rules Review Subcommittee of the Senate Health & Welfare Committee and the House Health & Welfare Committee

FROM: Legislative Drafting Attorney - Matt Drake

DATE: July 3, 2019

SUBJECT: Bureau of Occupational Licenses - State Board of Podiatry

IDAPA 24.11.01 - Notice of Omnibus Rulemaking - Temporary and Proposed Fee Rulemaking (Docket No. 24-1101-1900F)

The Idaho Bureau of Occupational Licenses - State Board of Podiatry - submits notice of temporary and proposed rules at IDAPA 24.11.01, Rules of the State Board of Podiatry. The rulemaking adopts and re-publishes existing and previously approved chapters with minor edits in the nature of clean-up and simplification. **No substantive changes are noted.** This is a fee rule. **No new fees or charges are imposed by this rule reauthorization and republication.** These rules were previously analyzed and reviewed by the Legislative Services Office upon their initial promulgation.

cc: Bureau of Occupational Licenses - State Board of Podiatry
Kelley Packer

***** PLEASE NOTE *****

Per the Idaho Constitution, all administrative rules may 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 24 – BUREAU OF OCCUPATIONAL LICENSES

24.11.01 – RULES OF THE STATE BOARD OF PODIATRY

DOCKET NO. 24-1101-1900F

NOTICE OF OMNIBUS RULEMAKING – TEMPORARY AND PROPOSED FEE RULEMAKING

EFFECTIVE DATE: The effective date of the temporary rules listed in the descriptive summary of this notice is June 30, 2019.

AUTHORITY: In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted temporary rules, and proposed rulemaking procedures have been initiated. The action is authorized pursuant to Section 54-605, Idaho Code.

PUBLIC HEARING SCHEDULE: Oral comment concerning this rulemaking will be scheduled in accordance with Section 67-5222, Idaho Code.

DESCRIPTIVE SUMMARY: The following is the required finding and concise statement of its supporting reasons for adopting a temporary rule and a nontechnical explanation of the substance and purpose of the proposed rulemaking:

This temporary and proposed rulemaking adopts and re-publishes the following existing and previously approved and codified chapters under IDAPA 24.11.01, rules of the State Board of Podiatry:

IDAPA 24

- 24.11.01, *Rules of the State Board of Podiatry* - All rules *except Subsections 010.01, 010.02, and 010.05.*

TEMPORARY RULE JUSTIFICATION: Pursuant to Sections 67-5226(1) and 67-5226(2), Idaho Code, the Governor has found that temporary adoption of the rule is appropriate for the following reasons:

These temporary rules are necessary to protect the public health, safety, and welfare of the citizens of Idaho and confer a benefit on its citizens. These previously approved and codified rules implement the duly enacted laws of the state of Idaho, provide citizens with the detailed rules and standards for complying with those laws, and assist in the orderly execution and enforcement of those laws. The expiration of these rules without due consideration and processes would undermine the public health, safety, and welfare of the citizens of Idaho and deprive them of the benefit intended by these rules. These rules govern the qualifications for the practice of podiatry and define the ethical standards of the profession in Idaho. Allowing these rules, including the ethical standards, to expire would harm the public health, safety, and welfare, harm licensees, and harm prospective licensees.

The fee or charge imposed by the rules is necessary to avoid immediate danger. The fees or charges reauthorized in this rulemaking are currently existing and have been previously promulgated by the agency and reviewed and approved by the Legislature. These fees and charges are part of the dedicated fund portion of the state budget, which makes up a material portion of the FY2020 budget. The FY2020 budget has already been set by the Legislature and passed into law. That budget relies upon the existence of these fees and charges to meet the state's obligations and provide necessary state services. Failing to reauthorize these fee rules would create immediate danger to the state budget, immediate danger to necessary state functions and services, and the immediate danger of a violation of Idaho's constitutional requirement that it balance its budget. Absent the ability to impose the licensure fees outlined in this chapter, the State Board of Podiatry would not be able to remain self-sufficient, contrary to its statutory mandate.

FEE SUMMARY: The preceding section and the attached rules provide a specific description of the fee or charge imposed or increased by this rulemaking. This rulemaking does not impose a fee or charge, or increase a fee or charge, beyond what was previously approved and codified in the prior rules. Fees are established in accordance with Sections 54-605 and 54-606, Idaho Code, as follows: application fee: \$200; original license fee: \$400; annual renewal fee: \$500; and annual renewal fee for inactive license: \$250.

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: This rulemaking is not anticipated to

have any fiscal impact on the state General Fund because the FY2020 budget has already been set by the Legislature, and approved by the Governor, anticipating the existence of the rules and fees being reauthorized by this rulemaking.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not feasible because of the need to adopt the rules as temporary, and because these existing chapters of IDAPA are being re-published and re-authorized. Negotiated rulemaking also is not feasible because of the need to implement these rules before they expire; the rules form the regulatory framework of the laws of this state and have been previously promulgated and reviewed by the Legislature pursuant to the Idaho Administrative Procedures Act, Chapter 52, Title 67, Idaho Code; and because engaging in negotiated rulemaking for all previously existing rules will inhibit the agency from carrying out its ability to serve the citizens of Idaho and to protect their health, safety, and welfare.

INCORPORATION BY REFERENCE: Pursuant to Section 67-5229(2)(a), Idaho Code, incorporated material may be obtained or electronically accessed as provided in the text of the temporary and proposed rules attached hereto.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary and proposed rule, contact Rob McQuade at (208) 334-3233.

Anyone may submit written comments regarding the proposed rulemaking. All written comments must be directed to the undersigned and must be delivered within twenty-one (21) days after publication of this Notice in the Idaho Administrative Bulletin. Oral presentation of comments may be requested pursuant to Section 67-5222(2), Idaho Code, and must be delivered to the undersigned within fourteen (14) days of the date of publication of this Notice in the Idaho Administrative Bulletin.

Dated this 19th of June, 2019.

Kelley Packer
Bureau Chief
Bureau of Occupational Licenses
700 W. State Street
P.O. Box 83720
Boise, ID 83720
Phone: (208) 334-3233
Fax: (208) 334-3945

**IDAPA 24
TITLE 11
CHAPTER 01**

24.11.01 – RULES OF THE STATE BOARD OF PODIATRY

000. LEGAL AUTHORITY (RULE 0).

These rules are hereby prescribed and established pursuant to the authority vested in the State Board of Podiatry, by the provisions of Section 54-605, Idaho Code. (7-1-93)

001. TITLE AND SCOPE (RULE 1).

These rules are titled IDAPA 24.11.01, “Rules of the State Board of Podiatry.” (7-1-93)

002. WRITTEN INTERPRETATIONS (RULE 2).

The board may have written statements that pertain to the interpretation of the rules of this chapter. Such interpretations, if any, are available for public inspection and copying at cost in the main office of the Bureau of Occupational Licenses. (3-13-02)

003. ADMINISTRATIVE APPEALS (RULE 3).

Administrative Appeals are to be governed by the Administrative Procedure Act, Title 67, Chapter 52, Idaho Code. (3-13-02)

004. INCORPORATION BY REFERENCE (RULE 4).

The document titled American Podiatric Medical Association’s Code of Ethics as published by the American Podiatric Medical Association, dated March 2013 and referenced in Section 500, is herein incorporated by reference and is available for review at the Board’s office and on the Board’s web site at <http://www.ibol.idaho.gov>. (3-20-14)

005. ADDRESS OF THE IDAHO BOARD OF PODIATRY (RULE 5).

The office of the Board of Podiatry is located within the Bureau of Occupational Licenses, 700 W. State Street, Boise, Idaho 83702. The Bureau is open between the hours of 8:00 a.m. and 5:00 p.m. each day except Saturdays, Sundays and holidays. The telephone number of the Board is (208) 334-3233. The Board’s fax number is (208) 334-3945. The Board’s e-mail address is pod@ibol.idaho.gov. The Board’s official website is <http://www.ibol.idaho.gov>. (3-29-10)

006. PUBLIC RECORDS (RULE 6).

The records associated with the Board of Podiatry are subject to the provisions of the Idaho Public Records Act, Title 74, Chapter 1, Idaho Code. (3-13-02)

007. -- 009. (RESERVED)

010. DEFINITIONS AND STANDARDS (RULE 10).

01. Licensure. Licensure means a license to practice podiatry in Idaho. (3-13-02)

02. Reputable School. A “reputable school” of podiatry is defined as an approved podiatry school located within the United States or Canada and designated as such by the Council on Podiatric Medical Education and the American Podiatric Medical Association. (3-20-14)

011. -- 099. (RESERVED)

100. GENERAL QUALIFICATIONS OF LICENSURE (RULE 100).

01. Residence. Residence in Idaho is not an eligibility requirement for licensure. (3-13-02)

02. Age. All applicants must be at least twenty-one (21) years of age. (3-13-02)

03. Character. All applicants must be of good moral character. (3-13-02)

04. Citizenship Requirement for Exam. Citizenship is not an eligibility requirement for examination

or licensure. All persons making application for licensure are required to be legally eligible to reside and obtain employment in the United States. (3-20-14)

101. -- 149. (RESERVED)

150. PRE-PROFESSIONAL EDUCATION.

All applicants must provide official documentation of credits granted for at least two (2) full years of general college study in a college or university of recognized standing. (3-20-14)

151. PROFESSIONAL EDUCATION.

All applicants must possess evidence of graduation from four (4) full years of study in a reputable school of podiatry, as defined in Subsection 010.04 of these rules. (3-13-02)

152. PODIATRIC RESIDENCY (RULE 152).

01. Residency Required for Licensure. A candidate may not apply for licensure until completion of an accredited podiatric residency as approved by the Council on Podiatric Medical Education of no less than twenty-four (24) months, a minimum of twelve (12) months of which must be surgical. (4-11-06)

02. Submission of Verification of Residency Curriculum. Notwithstanding the provisions of Subsection 152.01, a candidate must provide directly from the residency program such official documentation of completion of the entire curriculum as the board may require. Any deviation of this requirement must be approved by the Board. (4-11-06)

153. -- 199. (RESERVED)

200. CREDENTIALS TO BE FILED BY ALL APPLICANTS (RULE 200).

01. Application. An application for licensure must be completed on a form approved by the board and submitted to the bureau. (3-20-14)

02. Certified Copy of National Board Results. A copy of the applicable National Board results that has been certified as true and correct by the examining entity. (7-1-97)

03. Photograph Requirement. All applications must include an unmounted passport photograph of the applicant taken not more than one (1) year prior to the date of application. (3-13-02)

04. Educational Certificate Requirement. Each applicant must provide official documentation of a collegiate education of not less than two (2) years in an accredited college or university giving instruction in letters and sciences. (3-20-14)

05. Diploma. Certified photostatic copy of diploma granted by any college of podiatry and official certified transcripts indicating graduation from the program. (3-13-02)

06. Residency Certification Requirement. All applications must include certification of completion of a residency as defined in Rule 152. (3-13-02)

201. -- 299. (RESERVED)

300. FEES (RULE 300).

01. Application Fee. A two hundred dollars (\$200) fee must accompany all applications. (7-1-97)

02. Original License Fee. The original license is four hundred dollars (\$400). (4-9-09)

03. Written Exam Fee. The fee for examination is equal to that charged by the national examining entity and is paid directly to the examination provider. (3-20-14)

- 04. Annual Renewal Fee.** Annual renewal fee of licenses is five hundred dollars (\$500). (3-21-12)
- 05. Annual Renewal Fee for Inactive License.** Annual renewal fee is two hundred fifty dollars (\$250). (4-6-15)
- 06. Fee Non-Refundable.** All fees are non-refundable; if a license is not issued, the license fee will be refunded. (3-20-14)
- 301. -- 399. (RESERVED)**

400. LICENSURE BY EXAMINATION (RULE 400).

- 01. Examination of Applicants.** All applicants must successfully pass all parts of the American Podiatric Medical Licensing Examination developed and administered by the National Board of Podiatric Medical Examiners. (3-20-14)
- 02. Passing Grade.** A passing grade in all subjects examined is the grade established by the examination provider. (3-20-14)

401. LICENSURE BY ENDORSEMENT (RULE 401).

Under Section 54-613, Idaho Code, applicants for licensure by endorsement may be granted a license upon the approval of the Board. Each applicant for licensure by endorsement must provide documentation for each of the following before licensure will be considered: (3-15-02)

- 01. Complete Application.** A complete application together with the required fee. (4-11-06)
- 02. Certification of License.** Certification of having maintained a current license or other authority to practice issued by a regulatory board of Podiatry in any state or territory. (4-11-06)
- 03. Credentials.** Credentials as required in Subsections 200.02 through 200.05. (3-29-10)
- 04. Examination.** Successful passage of a written licensure examination covering all those subjects noted in Section 54-606, Idaho Code. Official certification of examination must be received by the board directly from: (4-11-06)
- a.** The applicant's state or territory of licensure; or (3-15-02)
 - b.** The national board of podiatric medical examiners. (3-20-14)
- 05. Residency.** Proof of completion of the residency requirement as set forth in Subsection 200.06 of this rule. However, if the applicant graduated from a college of podiatry prior to 1993, this requirement will be waived. (3-29-10)
- 06. Practical Experience.** Having practiced podiatry under licensure for three (3) of the last five (5) years immediately prior to the date of application. (4-11-06)
- 07. Continuing Education.** Having completed at least fifteen (15) hours of continuing education germane to the practice of podiatry during the twelve (12) months prior to the date of application. (4-11-19)
- 08. Disciplinary Action.** Has not been the subject of any disciplinary action including pending or unresolved licensure actions within the last five (5) years immediately prior to application and has never had a license to practice podiatry revoked or suspended either voluntarily or involuntarily in any jurisdiction. (3-29-10)

402. TEMPORARY LICENSES (RULE 402).

No temporary licenses will be granted for the practice of podiatry in Idaho. (3-13-02)

403. -- 409. (RESERVED)

410. ORIGINAL APPLICATION (RULE 410).

The original application will be considered null and void after a period of two (2) years from date of original application if no license has been issued. (4-2-08)

411. -- 424. (RESERVED)

425. INACTIVE STATUS (RULE 425).

01. Request for Inactive Status. Each person requesting an inactive status during the renewal of their active license must submit a written request and pay the inactive license fee. (4-6-15)

02. Inactive License Status. (4-6-15)

a. All continuing education requirements will be waived during the time that a licensee maintains an inactive license in Idaho. (4-6-15)

b. Inactive license renewal applications and licenses will be marked "Inactive." (4-6-15)

c. When the licensee desires active status, the licensee must show acceptable fulfillment of continuing education requirements for the previous twelve (12) months and submit a fee equivalent to the difference between the inactive and active renewal fee. (4-6-15)

d. A licensee may not practice in Idaho while on inactive status. (4-6-15)

426. -- 449. (RESERVED)

450. SCOPE OF PRACTICE (RULE 450).

01. Competence. Upon being granted a license to practice podiatry, a practitioner is authorized to provide only those services and treatments for which that practitioner has been trained and prepared to provide. Information contained within the application file and supplemental certified information of additional training and experience included in the credential file maintained by the practitioner is prima facie evidence of the practitioner's education and experience. It is the responsibility of the individual practitioner to ensure that the information in his credential file is accurate, complete and supplemented to support all procedures, applications and treatments employed by the practitioner. Practice beyond a practitioner's documented education and experience may violate the adopted code of ethics and be grounds for discipline by the board. (4-11-06)

02. Advanced Surgical Procedures. Advanced surgical procedures must be performed in a licensed hospital or certified ambulatory surgical center accredited by the joint commission on accreditation of healthcare organizations or the accreditation association for ambulatory health care where a peer review system is in place. Advanced surgical procedures are defined as: (4-11-06)

a. Ankle fractures - Open Reduction and Internal Fixation. (4-11-06)

b. Ankle and rearfoot arthrodesis. (4-11-06)

c. Nerve surgery of the leg. (4-11-06)

d. Major tendon repair or transfer surgery - proximal to ankle. (4-11-06)

e. Autogenous bone grafting. (4-11-06)

f. External fixation of the rearfoot, ankle and leg. (4-11-06)

451. -- 499. (RESERVED)

500. STANDARDS OF THE ETHICAL PRACTICE OF PODIATRY (RULE 500).

The standards for the ethical practice of podiatry is the American Podiatric Medical Association's Code of Ethics as referenced in Section 004 of these rules and are hereby adopted and apply to all practitioners of podiatry. (5-3-03)

501. -- 549. (RESERVED)

550. DISCIPLINE (RULE 550).

01. Civil Fine. The Board may impose a civil fine not to exceed one thousand dollars (\$1,000) upon a licensed podiatrist for each violation of Sections 54-608 and 54-609, Idaho Code. (3-18-99)

02. Costs and Fees. The Board may order a licensed podiatrist to pay the costs and fees incurred by the Board in the investigation or prosecution of the licensee for violation of Sections 54-608 and 54-609, Idaho Code. (3-18-99)

551. -- 699. (RESERVED)

700. CONTINUING EDUCATION (RULE 700).

01. Education Requirement for License Renewal. Each podiatrist licensed by the state of Idaho must complete in each twelve-month period preceding the renewal of a license to practice podiatry in Idaho, a minimum of fifteen (15) full hours of podiatry continuing education. Continuing education includes lectures, conferences, seminars, moderator-guided panel discussions, clinical and practical workshops, internet based learning and home study. Education must be germane to the practice of podiatry; and (4-11-19)

a. Approved by the Council on Podiatric Medical Education; or (4-2-08)

b. Otherwise approved by the Board. (4-2-08)

02. Submission of License Renewal Application Form. Each licensed Idaho podiatrist will be furnished a license renewal application form by the Bureau of Occupational Licenses on which each podiatrist will be required to certify by signed affidavit that compliance with the continuing education requirements has been met and must submit the renewal application together with the required fees to the Bureau. (3-15-02)

03. Verification of Completion. A licensee must maintain verification of completion by securing authorized signatures or other documentation from the course instructors or sponsoring institution substantiating any and all hours completed by the licensee. This verification must be maintained by the licensee and provided to the Board upon the request of the Board or its agent. The Board will conduct random audits to monitor compliance. Failure to provide proof of meeting the continuing education upon request of the Board will be grounds for disciplinary action. (4-11-19)

04. Carryover of Continuing Education Hours. Continuing education not claimed for credit in the current renewal year may be credited for the next renewal year. A maximum of fifteen (15) hours may be carried forward from the immediately preceding year. (4-11-19)

05. Special Exemption. The Board has authority to make exceptions for reasons of individual hardship, including health, when certified by a medical doctor, or for other good cause. The licensee must provide any information requested by the Board to assist in substantiating hardship cases. This exemption is granted at the sole discretion of the Board. (3-20-14)

701. -- 999. (RESERVED)