

Dear Senators PATRICK, Agenbroad, Ward-Engelking, and
Representatives DIXON, DeMordaunt, Smith:

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

IDAPA 24.20.01 - Notice of Omnibus Rulemaking - Temporary and Proposed Rulemaking (Docket
No. 24-2001-1900).

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 07/30/2019. 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 08/27/2019.

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 Commerce & Human Resources Committee and the House Business Committee

FROM: Legislative Drafting Attorney - Matt Drake

DATE: July 11, 2019

SUBJECT: Bureau of Occupational Licenses

IDAPA 24.20.01 - Notice of Omnibus Rulemaking - Temporary and Proposed Rulemaking (Docket No. 24-2001-1900)

The Idaho Bureau of Occupational Licenses submits notice of temporary and proposed rules at IDAPA 24.20.01. 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 not a fee rule. No 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
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

24.20.01 – RULES OF THE BUREAU OF OCCUPATIONAL LICENSES

DOCKET NO. 24-2001-1900

NOTICE OF OMNIBUS RULEMAKING – TEMPORARY AND PROPOSED 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 67-2609, 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 24.20.01, rules of the Bureau of Occupational Licenses:

IDAPA 24

- 24.20.01, *Rules of the Bureau of Occupational Licenses* - All rules *except Subsections/Section 010.03, 010.06, 201.07, and 600.*

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 primarily govern the process for inquiries into licensees and registrants, and, where necessary, supplement the contested case procedures for each of the boards the Bureau serves. Allowing these rules to expire would disrupt the uniform process the Bureau uses for each of the boards it serves, adding an unnecessary burden on licensees and registrants.

FEE SUMMARY: This rulemaking does not impose a fee or charge.

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 day 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 20
CHAPTER 01**

24.20.01 – RULES OF THE BUREAU OF OCCUPATIONAL LICENSES

000. LEGAL AUTHORITY (RULE 0).

These rules are established pursuant to the authority vested in the Bureau of Occupational Licenses by the provisions of Section 67-2609, Idaho Code. (3-15-02)

001. TITLE AND SCOPE (RULE 1).

01. Title. These rules are titled IDAPA 24.20.01, “Rules of the Bureau of Occupational Licenses.” (3-15-02)

02. Scope. These rules include, but are not limited to the procedures followed by the Bureau of Occupational Licenses and Boards in contested cases. (3-15-02)

002. WRITTEN INTERPRETATIONS (RULE 2).

The Bureau 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 at the Bureau office. (3-15-02)

003. ADMINISTRATIVE APPEALS (RULE 3).

Administrative appeals are governed by the Administrative Procedure Act, Chapter 52, Title 67, Idaho Code, and IDAPA 04.11.01.100 through 04.11.01.799, “Idaho Rules of Administrative Procedure of the Attorney General.” (3-15-02)

004. INCORPORATION BY REFERENCE (RULE 4).

There are no documents that have been incorporated by reference into these rules other than those sections of Idaho Code so referenced. (3-15-02)

005. OFFICE – OFFICE HOURS – MAILING ADDRESS AND STREET ADDRESS (RULE 5).

The Bureau is located at 700 W. State Street, Boise, Idaho 83702. The telephone number of the Bureau is (208) 334-3233. The Bureau's fax number is (208) 334-3945. The Bureau's e-mail address is ibol@ibol.idaho.gov. The Bureau's official website is <http://www.ibol.idaho.gov>. The Bureau is open between the hours of 8 a.m. and 5:00 p.m. each day except Saturdays, Sundays and holidays. (3-15-02)

006. PUBLIC RECORDS ACT COMPLIANCE (RULE 6).

Records maintained by the Bureau are subject to the provisions of the Idaho Public Records Act, Title 74, Chapter 1, Idaho Code. (3-15-02)

007. FILING OF DOCUMENTS (RULE 7).

All written communications and documents that are intended to be part of an official record for decision in rulemakings or contested cases before the Bureau or a board must be filed with the Bureau or the relevant board at the offices of the Bureau during office hours. One (1) original of each document must be filed with the Bureau or board. Additionally, one (1) copy must be provided for the hearing officer and one (1) copy must be provided to the opposing party. The person or officer presiding over any rulemaking or contested case proceeding may issue orders requiring the filing of additional copies for use in such proceeding. Any communication or document may be filed with the Bureau by a facsimile machine process (FAX), provided that such FAX transmission must be received during the office hours set forth in Section 005 and be legible in its entirety. It is the responsibility of the filing party to verify with Bureau staff that any FAX transmission is successfully received and legible in its entirety. (3-15-02)

008. CHANGES IN NAME AND ADDRESS -- ADDRESS FOR NOTIFICATION PURPOSES (RULE 8).

01. Change of Name. Whenever a change of a licensee's name of record occurs, the licensee must immediately notify the Bureau in writing of the change. Official documentation confirming the change of name must be provided to the Bureau on request. (3-15-02)

02. Change of Address. Whenever a change of the licensee's address of record occurs, the licensee must immediately notify the Bureau in writing of the change. (3-15-02)

03. Address for Notification Purposes. The most recent mailing address on file with the Bureau will be used for purposes of all written communication with a licensee including, but not limited to, notification of renewal and notices related to disciplinary actions. It is the responsibility of each licensee to keep the Bureau informed of a current mailing address. (3-15-02)

009. (RESERVED)

010. DEFINITIONS (RULE 10).

01. Address of Record. The address that appears on an official license issued by a board to practice an occupation or profession. The address of record is considered a public record pursuant to the Idaho Public Records Act, Title 74, Chapter 1, Idaho Code. (3-15-02)

02. Board. Any professional or occupational licensing board of the state of Idaho receiving administrative, investigative, legal, fiscal and other services from the Bureau. The boards receiving such services from the Bureau include, but are not limited to, those listed in Section 67-2602(1), Idaho Code. (3-15-02)

03. Complaint. A written communication in a form approved by the Bureau that contains the name, address, and phone number of the complaining party, the name, address, phone number, and profession of the licensee complained against, and a narrative of the facts and circumstances and perceived acts or omissions that may constitute cause for disciplinary action against the licensee. The complaint must be signed by the complaining party. (3-15-02)

04. Formal Complaint. The document that initiates a hearing before a board and charges a licensee with acts or omissions under the laws administered by the board. (3-15-02)

05. Hearing Officer. A person appointed by the Bureau or a Board, other than a member of the Board, to preside over the hearing of a contested case. (3-15-02)

06. Licensee. A person holding any current, expired, cancelled, suspended, revoked, or otherwise sanctioned license, registration, permit and/or certificate issued by a board. (3-15-02)

07. Mailing Address. The address used by the Bureau or a board for purposes of all written communication with an applicant for a license, permit, certificate, or registration, or a licensee, including, but not limited to, general correspondence, notification of renewal, and notices related to disciplinary actions. The mailing address may or may not be the same as the address of record. (3-15-02)

08. Representative of the Board. Any person, including the Chief of the Bureau of Occupational Licenses, designated by a Board to act as its agent under certain circumstances. (3-15-02)

011. -- 019. (RESERVED)

020. PROCEDURES GOVERNING HEARINGS (RULE 20).

Procedures for a hearing before the Bureau or a Board are governed by the Administrative Procedure Act, Title 67, Chapter 52, Idaho Code, "Idaho Rules of Administrative Procedure of the Attorney General," IDAPA 04.11.01, and the provisions of Idaho Code and administrative rules governing the Boards. These rules supplement the contested case procedures of the Boards, if any. Where these rules are inconsistent with provisions of the Idaho Code governing the procedures for a hearing before a board, the Idaho Code provisions are the controlling authority. (3-15-02)

021. -- 099. (RESERVED)

100. REPORT AND INVESTIGATION OF VIOLATIONS (RULE 100).

01. Who May Report a Violation. Any person who knows of a violation by a licensee of the lawful

requirements for the retention of a license, registration, permit or certificate may report the violation to the Bureau. (3-15-02)

02. Person Reporting a Violation. A person reporting a violation is not regarded as a party to the investigation or to any proceeding that may result from the investigation. The policy of the Bureau is not to publish or divulge the name of any person reporting a violation. The name of a person reporting a violation may be obtained, however, pursuant to the rules governing discovery during contested case proceedings. (3-15-02)

03. Insufficient Facts and Evidence. If, after review, the Bureau finds that either the complaint or the investigative report concerns facts and evidence insufficient to warrant the filing of a formal complaint against a licensee, no further action will be taken. (3-15-02)

04. Sufficient Facts and Evidence. If after investigation the Bureau finds that the investigative report concerns facts and evidence potentially sufficient to warrant the filing of a formal complaint against a licensee, a formal complaint against the licensee may be prepared by the Bureau with the approval and assistance of the Office of the Attorney General and filed with the Board. (3-15-02)

05. Preliminary Investigations and Papers. Preliminary investigations and papers obtained as part of an inquiry into a person's fitness to be granted or to retain a license, certificate, permit, privilege, or registration must be confidential until a formal complaint is filed. This rule is subject to any provisions in the Idaho Public Records Act, Title 74, Chapter 1, Idaho Code, and the Idaho Rules of Civil Procedure which may require or limit disclosure either before or after a formal complaint is filed. (3-15-02)

101. -- 199. (RESERVED)

200. INITIATION OF A HEARING (RULE 200).

A hearing is initiated by filing with the Bureau or relevant board a formal complaint or other pleading. A formal complaint or other pleading initiating a hearing may be signed by the Chief of the Bureau of Occupational Licenses or his designated representative. Upon receipt of a formal complaint or other pleading, the relevant board or its representative assigns it a docket number and may select and appoint a hearing officer. Regardless of who conducts the hearing, all board members are entitled to attend and participate in a hearing. (3-15-02)

201. NOTICE REQUIRED (RULE 201).

The formal complaint includes a notice containing the following information: (3-15-02)

01. File an Answer. The respondent is required to file an answer to the formal complaint; (3-15-02)

02. Time Limit. The applicable time limits for filing an answer; (3-15-02)

03. Default Notice. That if the respondent fails to timely file an answer, then a notice of default may be issued; (3-15-02)

04. Hearing to Be Scheduled. That a hearing will be scheduled within applicable time limits pursuant to a Notice of Hearing if he files an answer; (3-15-02)

05. Opportunity to Respond to Complaint. That at the hearing he will be afforded an opportunity to respond to the formal complaint and to present evidence and argument on all issues involved, and an opportunity to cross-examine all witnesses testifying against him; (3-15-02)

06. Legal Representation. That he has the right to be represented by an attorney; that if he fails to appear at the hearing, the Board may revoke, suspend, or impose other disciplinary sanctions as authorized by law without further notice; and (3-15-02)

202. -- 999. (RESERVED)