

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 - Board of Examiners of Residential Care Facility Administrators: IDAPA 24.19.01 - Notice of Omnibus Rulemaking - Temporary and Proposed Fee Rulemaking (Docket No. 24-1901-1900F).

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 07/24/2019. 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 08/21/2019.

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

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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:** Legislative Drafting Attorney - Matt Drake

**DATE:** July 05, 2019

**SUBJECT:** Bureau of Occupational Licenses - Board of Examiners of Residential Care Facility Administrators

IDAPA 24.19.01 - Notice of Omnibus Rulemaking - Temporary and Proposed Fee Rulemaking (Docket No. 24-1901-1900F)

The Idaho Bureau of Occupational Licenses - Board of Examiners of Residential Care Facility Administrators - submits notice of temporary and proposed rules at IDAPA 24.19.01, Rules of the Board of Examiners of Residential Care Facility Administrators. 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 - Board of Examiners of Residential Care Facility Administrators  
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**

### **24.19.01 – RULES OF THE BOARD OF EXAMINERS OF RESIDENTIAL CARE FACILITY ADMINISTRATORS**

**DOCKET NO. 24-1901-1900F**

#### **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 54-4205, 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 24.19.01, rules of the Board of Examiners of Residential Care Facility Administrators:

#### **IDAPA 24**

- 24.19.01, *Rules of the Board of Examiners of Residential Care Facility Administrators* - All rules *except Sections 010, 500, and 700.*

**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 and code of ethics for individuals who run residential care facilities, which are home to residents with varying assistive needs. Allowing these rules to expire would harm the safety and welfare of the residents of residential care facilities, current licensees, and 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 Board of Examiners of Residential Care Facility Administrators 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 54-4205, 54-4206, and 54-4210, Idaho Code, as follows: license application fee: \$150; annual renewal fee: \$150; provisional permit fee: \$150; and reissuance of lost license fee: \$10.

**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  
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**IDAPA 24  
TITLE 19  
CHAPTER 01**

**24.19.01 – RULES OF THE BOARD OF EXAMINERS OF RESIDENTIAL  
CARE FACILITY ADMINISTRATORS**

**000. LEGAL AUTHORITY (RULE 0).**

These rules are hereby prescribed and established pursuant to the authority vested in the Board of Examiners of Residential Care Facility Administrators by the provisions of Section 54-4205, Idaho Code. (7-1-93)

**001. TITLE AND SCOPE (RULE 1).**

These rules are titled IDAPA 24.19.01, “Rules of the Board of Examiners of Residential Care Facility Administrators.” (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. (3-15-02)

**003. ADMINISTRATIVE APPEALS (RULE 3).**

Administrative appeals are governed by the Administrative Procedure Act, Title 67, Chapter 52, Idaho Code. (3-15-02)

**004. INCORPORATION BY REFERENCE (RULE 4).**

The document titled “ACHCA Code of Ethics,” published by the American College of Health Care Administrators (ACHCA) as referenced in Section 650, is herein incorporated by reference and is available from the Board’s office and on the Board web site. (3-20-04)

**005. ADDRESS OF IDAHO BOARD OF EXAMINERS OF RESIDENTIAL CARE FACILITY ADMINISTRATORS (RULE 5).**

The office of the Board of Examiners of Residential Care Facility Administrators 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 [rca@ibol.idaho.gov](mailto:rca@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 Examiners of Residential Care Facility Administrators are subject to the provisions of the Idaho Public Records Act, Title 74, Chapter 1, Idaho Code. (3-15-02)

**007. -- 099. (RESERVED)**

**100. APPLICATIONS (RULE 100).**

Applications will be on forms approved by the Board. No application will be considered for any action unless accompanied by the appropriate fees and until the required supporting documentation is received by the Bureau. If an applicant fails to respond to a Board request or an application has lacked activity for twelve (12) consecutive months, the application on file with the Board will be deemed denied and will be terminated upon thirty (30) days written notice, unless good cause is established to the Board. (3-29-10)

**101. -- 149. (RESERVED)**

**150. QUALIFICATIONS FOR ADMINISTRATOR LICENSE (RULE 150).**

Each applicant for an administrator’s license must submit proof, along with their application, that said individual is at least twenty-one (21) years of age and meets all the following qualifications for the issuance of a license: (3-29-12)

**01. Good Moral Character.** The applicant must submit a criminal background check by an entity approved by the Board establishing that the applicant has not been convicted, pled guilty or nolo contendere or

received a withheld judgment for a felony or any crime involving dishonesty or the health or safety of a person. (3-30-06)

**02. Education and Experience.** The applicant must document one (1) of the combinations of education and experience in accordance with Section 54-4206, Idaho Code, and Subsection 400 of these rules. (3-29-12)

**03. Coursework.** The applicant must document completion of a specialized course or program of study as set forth in Subsection 400 of these rules. (3-29-12)

**04. Examination.** The applicant must submit proof of successful passage of a relevant examination as approved by the Board and defined in Subsection 300 of these rules. (3-29-12)

**151. -- 159. (RESERVED)**

**160. NURSING HOME ADMINISTRATOR QUALIFICATIONS FOR LICENSE (RULE 160).**

Any applicant who holds a valid Idaho nursing home administrator license must meet the requirements provided in Section 54-4211(2), Idaho Code, and must take and pass the Board-approved residential care administrator examination. This requirement may be waived if the applicant submits evidence satisfactory to the Board that he has at least one (1) year of leadership or management experience working in a residential care facility or nursing home facility within the five (5) years preceding the application. (4-11-19)

**161. -- 199. (RESERVED)**

**200. BOARD MEETINGS -- DATES -- PLACES (RULE 200).**

**01. Board Meeting Dates.** The Board meets at least semi-annually at such time and place as determined by the Board. (3-15-02)

**02. Dates and Places May be Changed.** Dates and places of board meetings may be changed by the action of the majority of the Board and advance public notice given. (7-1-93)

**201. -- 299. (RESERVED)**

**300. EXAMINATIONS (RULE 300).**

**01. Examination.** The Board approves the following examinations for licensure: (5-8-09)

**a.** The Residential Care Facility Administrators examination developed and administered by the National Association of Boards of Examiners of Long Term Care Administrators (NAB) and an open book examination of law and rules governing residential care administrators in Idaho. The passing score for the NAB examination is determined by NAB. An applicant for examination is required to register with NAB and pay any required examination fees directly to NAB. The passing score for the open book examination is seventy-five percent (75%). (5-8-09)

**b.** Other examinations as approved by the Board. (5-8-09)

**301. -- 399. (RESERVED)**

**400. EDUCATIONAL AND TRAINING REQUIREMENTS (RULE 400).**

**01. Approved Course.** (5-3-03)

**a.** The Certification Program for Residential Care Facility Administrators course, administered by the Idaho Health Care Association (IHCA)/Idaho Center for Assisted Living (ICAL), are approved courses of study to qualify for licensure. (5-8-09)

**b.** Any Certification Program for Residential Care Facility Administrators provided by a state or national Residential Care Facility Administrator organization or a nationally or regionally accredited college or university must be an approved course of study to qualify for licensure. (5-3-03)

**02. Approval of Other Courses.** Applicants may, in lieu of completion of the Certification Program for Residential Care Facility Administrators, submit official documentation of successful completion of relevant courses. These courses must be approved by the Board before equivalency will be given. (3-30-06)

**401. CONTINUING EDUCATION (RULE 401).**

**01. Minimum Hours Required.** Applicants for annual renewal or reinstatement are required to complete a minimum of twelve (12) hours of continuing education courses within the preceding twelve-month (12) period. Basic First Aid, Cardio-Pulmonary Resuscitation, medication assistance, or fire safety courses will not be considered for continuing education credit. (3-24-17)

**02. Course Approval.** Courses of study relevant to residential care facility administration and sponsored or provided by the following entities or organizations are approved for continuing education credits: (3-30-06)

**a.** Accredited colleges or universities. (3-30-06)

**b.** Federal, state or local government entities. (3-30-06)

**c.** National or state associations. (3-30-06)

**d.** Otherwise approved by the Board based upon documentation submitted by the licensee or course provider reviewing the nature and subject of the course and its relevancy to residential care administration, name of instructor(s) and their qualifications, date, time and location of the course and procedures for verification of attendance. (3-30-06)

**03. Credit.** Continuing education credit will only be given for actual time in attendance or for the time spent participating in the educational activity. One (1) hour of continuing education is equal to sixty (60) minutes. Courses taken by correspondence or by computer on-line may be approved for continuing education if the courses require an exam or other proof of successful completion. Each licensee must maintain proof of attendance or successful completion documentation of all continuing education courses for a period of three (3) years. (3-30-06)

**04. Special Exemption.** The Board has authority to make exceptions for reasons of individual hardship, including health, when certified by a medical doctor, or 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. (3-29-10)

**402. -- 449. (RESERVED)**

**450. SCOPE OF PRACTICE (RULE 450).**

A residential care facility administrator must possess the education, training, and experience necessary to insure that appropriate services and care are provided for each facility resident within any facility under the licensee's administration. Information contained within the application together with supporting documentation maintained by the licensee is prima facie evidence of the licensee's education and experience. It is the responsibility of the individual licensee to maintain adequate documentation of education and experience appropriate to the planning, organizing, directing and control of the operation of a residential care facility. (3-19-07)

**451. -- 599. (RESERVED)**

**600. FEES (RULE 600).**

**01. License Application Fee.** License application -- one hundred fifty dollars (\$150). (4-6-15)

- 02. Annual Renewal Fee.** Annual renewal fee -- one hundred fifty dollars (\$150). (4-6-15)
- 03. Provisional Permit Fee.** Provisional permit fee -- one hundred fifty dollars (\$150). (3-24-17)
- 04. Reinstatement Fee.** Reinstatement fee is as provided in Section 67-2614, Idaho Code. (3-24-17)
- 05. Reissuance of Lost License Fee.** Reissuance of lost license -- ten dollars (\$10). (7-1-93)
- 601. -- 649. (RESERVED)**
- 650. DISCIPLINE (RULE 650).**
- 01. Civil Fine.** The Board may impose a civil fine not to exceed one thousand dollars (\$1,000) upon a licensed residential care facility administrator for each violation of Section 54-4213(1), Idaho Code. (3-18-99)
- 02. Costs and Fees.** The Board may order a licensed residential care facility administrator to pay the costs and fees incurred by the Board in the investigation or prosecution of the licensee for violation of Section 54-4213(1), Idaho Code. (3-18-99)
- 03. Code of Ethics.** The Board has adopted (ACHCA) Code of Ethics. Violations of the code of ethics is considered grounds for disciplinary action. (3-20-04)
- 651. -- 999. (RESERVED)**