

Dear Senators HEIDER, Nuxoll, Schmidt, and
Representatives WOOD, Packer, Rusche:

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

IDAPA 24.19.01 - Rules of the Board of Examiners of Residential Care Facility Administrators -
(Fee Rule) Proposed Rule (Docket No. 24-1901-1601);

IDAPA 24.27.01 - Rules of the Idaho State Board of Massage Therapy - (Fee Rule) Proposed Rule
(Docket No. 24-2701-1601).

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 11/01/2016. 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 11/30/2016.

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

Serving Idaho's Citizen Legislature

MEMORANDUM

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

FROM: Senior Legislative Research Analyst - Elizabeth Bowen

DATE: October 13, 2016

SUBJECT: Bureau of Occupational Licenses - State Board of Massage Therapy

IDAPA 24.19.01 - Rules of the Board of Examiners of Residential Care Facility Administrators - (Fee Rule) Proposed Rule (Docket No. 24-1901-1601)

IDAPA 24.27.01 - Rules of the Idaho State Board of Massage Therapy - (Fee Rule) Proposed Rule (Docket No. 24-2701-1601)

The Bureau of Occupational Licenses submits notice of proposed rulemaking at IDAPA 24.19.01 and 24.27.01.

IDAPA 24.19.01

This proposed rule for the Board of Examiners of Residential Care Facility Administrators increases license reinstatement fees from \$25 to \$35 in order to conform to Section 67-2614, Idaho Code, as amended by House Bill 332 (2016). Negotiated rulemaking was not conducted, but the rule was discussed in open, noticed meetings of the Board. There is no negative fiscal impact on the state general fund. This rulemaking appears to be within the authority granted by Section 54-4205, Idaho Code.

IDAPA 24.27.01

This proposed rule for the Board of Massage Therapy establishes requirements for granting temporary licenses and provisional permits in accordance with House Bill 519 (2016). The rule also decreases original license fees and annual license renewal fees from \$75 to \$65. Negotiated rulemaking was not conducted, but the rule was discussed in open, noticed meetings of the Board. There is no negative fiscal impact on the state general fund. This rulemaking appears to be within the authority granted by Section 54-4007, Idaho Code.

cc: Bureau of Occupational Licenses - State Board of Massage Therapy
Tana Cory

IDAPA 24 - BUREAU OF OCCUPATIONAL LICENSES
24.19.01 - RULES OF THE BOARD OF EXAMINERS OF RESIDENTIAL
CARE FACILITY ADMINISTRATORS

DOCKET NO. 24-1901-1601 (FEE RULE)

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 54-4205, 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 October 19, 2016.

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:

The 2016 Legislature passed House Bill 332 which amended the renewal and reinstatement statute to require that renewal and reinstatement be in compliance with Section 67-2614, Idaho Code.

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

This rule change will increase the reinstatement fee for expired residential care administrator licenses from \$25 to \$35. It is estimated that there will be a positive impact of \$330 to the Bureau of Occupational Licenses dedicated fund. This fee or charge is being imposed pursuant to Sections 54-4205 and 67-2614, Idaho Code.

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 the proposed changes to these rules were discussed during noticed, open meetings of the Board.

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 Mitchell Toryanski at (208) 334-3233. 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 October 26, 2016.

DATED this 2nd day of September, 2016.

Tana Cory, Bureau Chief
Bureau of Occupational Licenses
700 W State St.
P O Box 83720
Boise, ID 83720-0063
Phone: (208) 334-3233
Fax: (208) 334-3945

THE FOLLOWING IS THE PROPOSED FEE RULE TEXT OF DOCKET NO. 24-1901-1601
(Only Those Sections With Amendments Are Shown.)

401. CONTINUING EDUCATION (RULE 401).

01. Minimum Hours Required. Applicants for annual renewal ~~shall be~~ **or reinstatement are** required to complete a minimum of twelve (12) hours of continuing education courses within the preceding twelve (12) month period. Basic First Aid, Cardio-Pulmonary Resuscitation, medication assistance, or fire safety courses shall not be considered for continuing education credit. (3-30-06)()

02. Course Approval. Courses of study relevant to residential care facility administration and sponsored or provided by the following entities or organizations shall be 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 shall 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 shall have 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)

(BREAK IN CONTINUITY OF SECTIONS)

500. RENEWAL/RECERTIFICATION/ AND REINSTATEMENT OF EXPIRED LICENSE (RULE 500). Licenses shall expire and be renewed annually in accordance with Section 67-2614, Idaho Code. The Board shall refuse to renew a residential care administrators license unless the required fee is accompanied by an affidavit signed by the applicant setting forth the applicant's completion of continuing education requirements. **Licenseses must renew their licenses annually as set forth in Section 67-2614, Idaho Code, and may reinstate their licenses within five (5) years after expiration as provided in Section 67-2614, Idaho Code.** (4-2-03)()

~~**01. Requirements for Reinstatement.** Applicants seeking reinstatement of a license canceled for failure to renew within five (5) years of the cancellation period, must pay a twenty-five dollar (\$25) reinstatement fee plus the back year or years fees and shall provide verification of twelve (12) hours of continuing education. (7-1-98)~~

~~02. **Beyond a Five Year Lapse.** Beyond a five (5) year lapse, the applicant will be treated as a new applicant and application shall be made on the same forms as an application for an original license. (7-1-93)~~

501. -- 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/Temporary Permit Fee.** Provisional/Temporary permit fee -- one hundred fifty dollars (\$150). ~~(4-6-15)~~ ()
- 04. **Reinstatement Fee.** Reinstatement ~~— twenty five dollars (\$25)~~ fee is as provided in Section 67-2614, Idaho Code. ~~(7-1-93)~~ ()
- 05. **Reissuance of Lost License Fee.** Reissuance of lost license -- ten dollars (\$10). (7-1-93)

PROPOSED RULE COST/BENEFIT ANALYSIS

Section 67-5223(3), Idaho Code, requires the preparation of an economic impact statement for all proposed rules imposing or increasing fees or charges. This cost/benefit analysis, which must be filed with the proposed rule, must include the reasonably estimated costs to the agency to implement the rule and the reasonably estimated costs to be borne by citizens, or the private sector, or both.

Department or Agency: Bureau of Occupational Licenses

Agency Contact: Mitchell Toryanski **Phone:** 208 334-3233

Date: _____

IDAPA, Chapter and Title Number and Chapter Name:

IDAPA 24.19.01 – Rules of the Board of Examiners of Residential Care Facility Administrators

Fee Rule Status: **Proposed** **Temporary**

Rulemaking Docket Number: 24-1901-1601

STATEMENT OF ECONOMIC IMPACT:

There is no impact to the general fund. It is estimated that there will be a positive impact of \$330 to the Bureau of Occupational Licenses dedicated fund.

IDAPA 24 - BUREAU OF OCCUPATIONAL LICENSES

24.27.01 - RULES OF THE IDAHO STATE BOARD OF MASSAGE THERAPY

DOCKET NO. 24-2701-1601 (FEE RULE)

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 54-4007.

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 October 19, 2016.

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:

The 2016 Legislature passed House Bill 519 which authorized the Board to establish requirements for a temporary license and provisional permit. These rules establish the requirements for a temporary license and a provisional permit and set fees for each. The rules also lower the fee for an original license and annual license renewal and update the list of approved licensure examinations.

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

Rule 250 lowers the original license fee and the annual license renewal fee from \$75 to \$65 and adds a temporary license and provisional permit fee of \$25. These fees or charges are being imposed pursuant to Section 54-4008, Idaho Code.

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 the proposed changes to these rules were discussed during noticed, open meetings of the Board.

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:

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Mitchell Toryanski at (208) 334-3233. 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 October 26, 2016.

DATED this 2nd day of September, 2016.

Tana Cory, Bureau Chief
Bureau of Occupational Licenses
700 W State St.
P O Box 83720
Boise, ID 83720-0063
Phone: (208) 334-3233
Fax: (208) 334-3945

THE FOLLOWING IS THE FEE RULE PROPOSED TEXT OF DOCKET NO. 24-2701-1601
(Only Those Sections With Amendments Are Shown.)

250. FEES.

Fees are established in accordance with Section 54-4008, Idaho Code, as follows: (3-27-13)

01. Application Fee. Application fee is fifty dollars (\$50). (3-27-13)

02. Original License Fee. Original license fee is ~~seventy~~six-five dollars (\$~~76~~5). (~~3-27-13~~)()

03. Annual Renewal Fee. Annual renewal fee is ~~seventy~~six-five dollars (\$~~76~~5). (~~3-27-13~~)()

04. License by Endorsement Fee. License by endorsement fee is seventy-five dollars (\$75). (3-27-13)

05. Temporary License. Temporary license fee is twenty-five dollars (\$25). ()

06. Provisional Permit. Provisional permit fee is twenty-five dollars (\$25). ()

~~05~~**7. Duplicate License Fee.** Duplicate license fee is ten dollars (\$10). (3-27-13)

~~06~~**8. Reinstatement Fee.** Reinstatement fee is as provided in Section 67-2614, Idaho Code. (3-24-16)

~~07~~**9. Examination Fee.** The fee for those examinations administered by a third party administrator shall be that fee determined by the administrator, and shall be paid directly to the administrator by the applicant. (3-27-13)

~~08~~**10. Refund of Fees.** All fees are non-refundable except that, if a license is not issued, the license fee will be refunded. (3-27-13)

251. -- 299. (RESERVED)

300. REQUIREMENTS FOR ORIGINAL LICENSURE.

The Board may grant a license to an applicant for licensure who completes an application as set forth in Section 200 of these rules and meets the following general, education, and examination requirements: (3-27-13)

01. General. (3-27-13)

a. An applicant must provide evidence of being at least eighteen (18) years of age. (3-27-13)

b. An applicant must certify that he/she has not been found guilty, convicted, received a withheld judgment, or suspended sentence for a felony or a crime involving moral turpitude, or if the applicant has been found guilty, convicted, received a withheld judgment, or suspended sentence for such a crime, the applicant must submit a written statement of suitability for licensure as set forth in Section 306 of these rules. (3-27-13)

c. An applicant must certify that he/she has not been convicted of a crime under any municipal, state, or federal narcotic or controlled substance law, or if the applicant has been convicted of such a crime, the applicant must submit a written statement of suitability for licensure as set forth in Section 306 of these rules. (3-27-13)

d. An applicant must certify that he/she or his/her license has not been subject to any disciplinary action by a regulatory entity in another state, territory or country including, but not limited to, having an application for licensure denied. If the applicant or his/her license has been subject to discipline, the applicant must submit a written statement of suitability for licensure as set forth in Section 306 of these rules. (3-27-13)

- 02. Education.** Each applicant shall: (3-27-13)
- a. Certify that he/she has obtained a high school diploma or the equivalent; and (3-27-13)
 - b. Present evidence satisfactory to the Board of having successfully completed an approved massage program as defined in Section 010 of these rules. (3-27-13)

03. Examination. Each applicant shall also present evidence satisfactory to the Board of having successfully passed an approved examination. (3-27-13)

~~**04. Waiver of Requirements.** Until July 1, 2014, the Board may waive the requirements of Subsections 300.02 and 300.03 of these rules and issue a license to any applicant who meets one (1) of the following requirements: (3-27-13)~~

~~a. Completion of a minimum of five hundred (500) hours of supervised classroom and hands-on instruction relating to massage therapy; (3-27-13)~~

~~b. Completion of at least three hundred (300) hours of formal training in massage therapy as determined by the Board, and has practiced massage therapy for at least five (5) hours per week on average for at least three (3) years prior to the date of application; (3-27-13)~~

~~c. Completion of at least two hundred (200) hours of formal training in massage therapy, as determined by the Board, and has practiced massage therapy for at least five (5) hours per week on average for at least five (5) years prior to the date of application; (3-27-13)~~

~~d. Active membership in good standing as a massage therapist for a period of at least twelve (12) months of a national professional massage association or organization that offers professional liability insurance; or (3-27-13)~~

~~e. Successful passage of a nationally recognized competency examination in massage therapy that is approved by the Board. The passage of this exam may have occurred prior to the effective date of these rules. (3-27-13)~~

301. -- 304. (RESERVED)

305. APPROVED EXAMINATIONS.

Approved examinations shall be the following examinations or another nationally recognized competency examination in massage therapy that is approved by the Board. (3-27-13)

01. Approved Examinations. (3-27-13)

a. Massage and Bodywork Licensing Examination (MBLEx) as administered by the Federation of State Massage Therapy Boards (FSMTB); (3-27-13)

b. National Certification Examination for Therapeutic Massage and Bodywork (NCETMB) ~~as administered by the National Certification Board for Therapeutic Massage and Bodywork (NCBTMB); (3-27-13)~~

e. or National Certification Examination for Therapeutic Massage (NCETM) as administered by the National Certification Board for Therapeutic Massage and Bodywork (NCBTMB); ~~and if taken before February 1, 2015.~~ (3-27-13)()

~~d.c.~~ Other nationally recognized competency examinations in massage therapy that are approved by the Board. A written request for approval must be submitted to the Board together with supporting documentation as may be requested by the Board. (3-27-13)

02. Successful Passage. A passing score, or successful passage of the exam, will be determined by the entity administering the exam. (3-27-13)

03. **Date of Exam.** The passage of the exam may have occurred prior to the effective date of these rules. (3-27-13)

(BREAK IN CONTINUITY OF SECTIONS)

311. -- 319. (RESERVED)

320. TEMPORARY LICENSE.

01. General. Any person who has submitted to the board a complete application for licensure by examination under section 54-4009 or by endorsement under section 54-4010, Idaho Code together with the required fees, may apply for a temporary license to practice massage therapy while their application is being processed by the board. ()

02. Duration. An applicant will be issued only one temporary license which will be valid for a period not to exceed four (4) months or until the board acts upon the licensure application, whichever occurs first. ()

321. -- 329. (RESERVED)

330. PROVISIONAL PERMIT.

Upon application to the board and payment of the required fees, an applicant may be issued a provisional permit to practice massage therapy if the applicant meets all the requirements for licensure under section 54-4009, Idaho Code except for having successfully passed a nationally recognized competency examination in massage therapy that is approved by the Board as described in Subsection 305.01. ()

01. General. A provisional permit will be issued subject to the following conditions: ()

a. The applicant must certify that the applicant will take the next scheduled examination for licensure approved by the board, and that the applicant has not failed two (2) previous examinations for licensure; and ()

b. A licensed massage therapist certifies to the board that the applicant will practice massage therapy only under the supervision of the licensed massage therapist while both are in the same location. ()

02. Duration and Renewal. An applicant will be issued only one provisional permit which shall be valid for a period not to exceed six (6) months or until the applicant is issued a temporary license or the board acts upon the massage therapist license application, whichever occurs first. A provisional permit may only be renewed once upon a showing of good cause. ()

3431. -- 399. (RESERVED)

PROPOSED RULE COST/BENEFIT ANALYSIS

Section 67-5223(3), Idaho Code, requires the preparation of an economic impact statement for all proposed rules imposing or increasing fees or charges. This cost/benefit analysis, which must be filed with the proposed rule, must include the reasonably estimated costs to the agency to implement the rule and the reasonably estimated costs to be borne by citizens, or the private sector, or both.

Department or Agency: Bureau of Occupational Licenses

Agency Contact: Mitchell Toryanski **Phone:** 208 334-3233

Date: _____

IDAPA, Chapter and Title Number and Chapter Name:

IDAPA 24.27.01 – Rules of the Idaho State Board of Massage Therapy

Fee Rule Status: **Proposed** **Temporary**

Rulemaking Docket Number: 24-2701-1601

STATEMENT OF ECONOMIC IMPACT:

There is no impact to the general fund. It is estimated that there will be an annual reduction of approximately \$27,675.00 in fees deposited in the Bureau of Occupational Licenses dedicated fund based on the current number of licensees.