

Dear Senators ANDREASON, Coiner & Werk, and
Representatives BLACK, Henderson & Elaine Smith:

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

IDAPA 24.02.01 - Rules of the Board of Barber Examiners

(Docket #24-0201-0801).

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
7-2-08. 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 7-31-08.

_____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 334-2475, or send a written request to the
address or FAX number indicated on the memorandum enclosed.

MEMORANDUM

TO: Germane Subcommittees for Administrative Rules Review of the Senate
Commerce and Human Resources Committee and the House of Representatives
Business Committee

FROM: Research and Legislation Staff, Nugent

DATE: June 12, 2008

SUBJECT: IDAPA 24.02.01 - Temporary and Proposed Rules of the Bureau of Occupational
Licenses-- Board of Barber Examiners (Docket #24-0201-0801)

The Bureau of Occupational Licenses on behalf of the Board of Barber Examiners is proposing to promulgate temporary and proposed rules to implement House Bill No. 455 which the Legislature enacted in 2008. House Bill No. 455 allowed the Board of Barber Examiners to continue to conduct the licensing examination or allow them to approve and utilize a third party examination administrator. These rules would allow that. Additionally, the rules delete the requirement that students register, as there is no statutory authority for this requirement, and provide for degrees from higher educational institutions.

It appears that the proposed rules have been promulgated within the scope of statutory authority granted to the Bureau of Occupational Licenses and the Board of Barber Examiners.

cc: Bureau of Occupational Licenses, Tana Cory & Cherie Simpson

IDAPA 24 - BUREAU OF OCCUPATIONAL LICENSES

24.02.01 - RULES OF THE BOARD OF BARBER EXAMINERS

DOCKET NO. 24-0201-0801

NOTICE OF RULEMAKING - TEMPORARY AND PROPOSED RULE

EFFECTIVE DATE: The effective date of the temporary rule is July 1, 2008.

AUTHORITY: In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a temporary rule, and proposed rulemaking procedures have been initiated. The action is authorized pursuant to Section 54-521, 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 July 16, 2008.

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 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:

Based on changes made to Title 54, Chapter 5, Idaho Code, in the 2008 legislative session, the Board may contract with a third party examination administrator to save costs for the Board and to provide monthly testing for the applicants. Rules requiring student registration are being deleted as there is no statutory authority for registration. High school equivalency is being expanded to include degrees from institutes of higher learning; and a definition for barber instructor is being corrected to comply with statute.

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

The 2008 Legislature passed legislation to allow the Board of Barber Examiners to use a third party to administer its exams. Since the law goes into effect July 1st, these rules need to go into effect on that date to comply with the new law and to allow the third party to start administering exams in July. Currently, exams are administered three times a year in Boise by the Board. With this change, exams will be administered on a monthly basis in three locations (Boise, Pocatello, and Post Falls or Spokane). In addition, these rules also delete the requirement that students register as there is no statutory authority for this requirement. Finally, the educational requirement is being expanded to include degrees from higher institutions and to correct the definition of barber instructor to comply with the statute.

FEE SUMMARY: Pursuant to Section 67-5226(2), the Governor has found that the fee or charge being imposed or increased is justified and necessary to avoid immediate danger and the fee is described herein: 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: N/A

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because the changes are due to changes in Title 54, Chapter 5, Idaho Code.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary and proposed rule, contact Cherie Simpson 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 on or before July 23, 2008.

DATED this 3rd day of June, 2008.

Tana Cory
Bureau Chief
Bureau of Occupational Licenses
1109 Main St., STE 220
Boise, ID 83702
(208) 334-3233 phone (208) 334-3945 fax

THE FOLLOWING IS THE TEXT OF DOCKET NO. 24-0201-0801

010. DEFINITIONS (RULE 10).

01. Approved or Approval. Approved by or approval of the Board as evidenced by formal action of the Board by a written instrument signed by the chairman of the Board or its agent. (3-13-02)

02. Barber College. A school or college approved by the Board to teach the practice of barbering as required by Section 54-507, Idaho Code, and these rules. (3-13-02)

03. Board. The Board of Barber Examiners as prescribed in Section 54-521, Idaho Code. (7-1-93)

04. First Aid Kit. First-aid kit means an identifiable assortment of medical supplies, including adhesive bandages, skin antiseptic, disposable gloves, and gauze, which may be used for cleaning and protecting minor emergency traumas of the human body. (3-13-02)

05. Hospital Grade. Hospital Grade means a sanitizing agent registered by the Environmental Protection Agency as an effective germicidal/bactericidal, fungicidal, and virucidal disinfectant when used in accordance with the manufacturer's instructions. (7-1-98)

06. Practice of Barbering. Practice of barbering as defined by Section 54-502(2), Idaho Code. (3-13-02)

07. Practice of Barber-Styling. Practice of Barber-Styling as defined by Section 54-502(1), Idaho Code or under the supervision of an instructor as provided in Section 54-507, Idaho Code. (3-13-02)

08. Barber. Any person who holds a valid license authorizing said person to practice as a barber pursuant to Section 54-501, Idaho Code. (3-13-02)

09. Barber-Stylist. Any person who holds a valid license authorizing said person to practice as a barber-stylist pursuant to Section 54-501, Idaho Code. (3-13-02)

~~**10. Student Barber.** Any person who is registered pursuant to Section 54-529, Idaho Code, to receive instruction in any or all phases of the practice of barbering or barber-styling while under the direct personal supervision of an Idaho licensed instructor in an approved school. (3-13-02)~~

~~**10. Barber Teacher or Instructor.** Any person who holds a valid license pursuant to Section 54-5028, Idaho Code, authorizing said person to teach or practice barbering and barber-styling. The words "Teacher" and "Instructor" mean the same and are used synonymously. (3-13-02)(7-1-08)T~~

121. Theoretical Scientific Study. The study of theoretical subjects of instruction in the practice of barbering which shall include the subjects set forth in Section 54-507, Idaho Code. (7-1-93)

132. Barber Shop. Any establishment licensed pursuant to Section 54-501, Idaho Code, in which barbering or barber-styling is practiced. (3-13-02)

143. Access. For the purpose of licensed establishments, access shall be defined as a minimum three (3) foot wide unobstructed path within a primary establishment that allows passage to and from entrances, common areas, water sources, restrooms, and contiguous establishments and does not encroach on or overlap any contiguous establishment. (3-13-02)

154. Direct Personal Supervision. Direct personal supervision shall be defined as supervision by a properly licensed person who is physically present within the licensed area of a school or shop. (3-13-02)

165. Bureau. The Bureau of Occupational Licenses as prescribed in Sections 54-605 and 67-2602, Idaho Code. (3-13-02)

(BREAK IN CONTINUITY OF SECTIONS)

100. BOARD MEETINGS AND EXAMINATIONS -- DATES -- PLACES -- TERMINATION OF RECORDS (RULE 100).

01. Board Meetings. Regular Board of Barber Examiners meetings shall be held at the office of the Bureau of Occupational Licenses on the second Monday of each July and at such other times and places as may be determined by the Board. (3-13-02)

02. Examinations. Examinations for licensure ~~to practice as a barber or a barber-stylist in Idaho are to be held at the office of the Bureau of Occupational Licenses on the second Monday of July and at such other times and places as may be determined by the Board~~ shall be offered at least two (2) times a year and shall be published annually. ~~(3-13-02)~~(7-1-08)T

03. Records. All records in the office of the Bureau of Occupational Licenses of applicants who have not qualified for ~~reexamination~~ licensure within five (5) years of ~~notification of failure in any examination~~ receipt of an application for licensure under the Barber Law will be terminated and destroyed. ~~(7-1-93)~~(7-1-08)T

(BREAK IN CONTINUITY OF SECTIONS)

150. FEES (RULE 150).

01. Examination/~~Reexamination~~ Fee. Examination/~~Reexamination~~ fee of - seventy-five dollars (\$75) shall be required for each examination administered by the Board. The fee for those examinations administered by a third party administrator shall be that fee determined by the examination administrator and shall be paid directly to the administrator by the applicant. (7-1-96)

02. Endorsement Fee. Endorsement fee - eighty dollars (\$80). (7-1-93)

03. Original Barber and Barber-Stylist License Fee. Original Barber and Barber-Stylist License Fee - twenty-five dollars (\$25). (3-24-05)

04. Annual Renewal Fee for Barber and Barber-Stylist License. Annual renewal fee for Barber and Barber-Stylist license - twenty-five dollars (\$25). (3-24-05)

05. Original Barbershop License Fee. Original Barbershop license fee - fifty dollars (\$50). (3-18-99)

06. Annual Renewal Fee for Barbershop License. Annual renewal fee for Barbershop license - thirty

- dollars (\$30). (3-18-99)
- 07. Original License and Annual Renewal Fee For Barber College License.** Original license and annual renewal fee for Barber College license - two hundred dollars (\$200). (3-13-02)
- 08. Teacher Certificate Examination.** Teacher certificate examination - one hundred dollars (\$100). (7-1-93)
- 09. Original Teacher License and Annual Renewal For Teacher License.** Original teacher license and annual renewal for teacher license - twenty-five dollars (\$25). (3-24-05)
- ~~**10. Student Registration.** Student registration - twenty dollars (\$20). (7-1-93)~~
- ~~**10.** Renewal and Reinstatement of Licenses.~~ See Sections 54-518 and 67-2614, Idaho Code. (7-1-93)

(BREAK IN CONTINUITY OF SECTIONS)

250. EDUCATIONAL REQUIREMENTS AND EQUIVALENCY (RULE 250).

- 01. High School Education.** The Idaho law as amended by the 1959 Session of the Idaho State Legislature requires that an applicant for license under Sections 54-506 and 54-512, Idaho Code, show proof of having at least two (2) years of high school education. This provision has been interpreted as satisfactory completion of the tenth grade - with eligibility to commence the eleventh grade. (3-13-02)
- 02. Equivalent Tenth Grade Education.** The Board will accept any test approved by the United States Department of Education for the purpose of determining equivalent tenth grade education. (4-5-00)
- 03. Degrees.** The Board will accept documents establishing admission to, or an associates, bachelors, or graduate degree from an accredited college or university for the purpose of determining equivalent tenth grade education. (7-1-08)T
- ~~**03.** Test Fees.~~ All fees required for any examinations to determine equivalence are the responsibility of the applicant. If an applicant takes the GED equivalence examination and receives an average cutting score of not less than thirty-five (35), with no category below a cutting score of thirty (30), he or she is considered to have the equivalent of a tenth grade education. (3-13-02)

(BREAK IN CONTINUITY OF SECTIONS)

400. EXAMINATION (RULE 400).

- 01. Content and Passing Grade on Exam.** The examination will consist of three (3) portions: theory, Idaho Jurisprudence and practical. An applicant must obtain at least a seventy-five percent (75%) grade on each portion to pass the examination. (3-13-02)
- 02. Subjects on Exam.** The examination for licensure as a barber or barber-stylist shall consist of a:
(3-13-02)
- a.** Practical demonstration of all or any combination of those services outlined in Section 54-502(2), Idaho Code, for barbers or Section 54-502(1), Idaho Code, for barber-stylists; and (3-13-02)
- b.** Written theory examination covering those topics outlined in Section 54-507(2), Idaho Code, for

barbers or Section 54-507(1), Idaho Code, for barber-stylists; and (3-13-02)

c. Written jurisprudence examination covering Title 54, Chapter 5, Idaho Code and IDAPA 24.02.01
“Rules of the Board of Barber Examiners.” (3-13-02)

~~**03. Failure of Exam.** An applicant who fails to obtain a grade of at least seventy-five (75%) percent in any portion of the examination is considered to have failed that portion of the examination and is required to file an application for reexamination and pay the required fee and be successfully reexamined on the failed portion(s) prior to licensure. Applicants who fail on their first examination attempt only will not be required to obtain additional training to be eligible for re-examination. (3-13-02)~~

(BREAK IN CONTINUITY OF SECTIONS)

500. SCHOOLS (RULE 500).

01. Barber College Instructor Requirements. A barber college must be under the direct, personal supervision of a registered barber instructor at all times. (7-1-93)

02. Out of State Barber College Requirements. Barber colleges from out-of-state applying for approval must have licensed instructors in their schools and provide a course of instruction in those areas required in Section 54-507, Idaho Code. (3-13-02)

03. Barber College Maximum Student Enrollment. No barber college shall enroll more students than may be adequately supervised, based on the requirements of Section 54-507, Idaho Code. Students enrolled for instructor training shall not count as instructors for the purpose of the instructor/student ratio. (3-13-02)

04. Identification. (7-1-93)

a. Each barber college shall advertise to the public that it is a barber college by displaying a sign which shall contain in letters not less than six inches (6”) in height the words “Barber College” or “Barber School.” (7-1-93)

b. Each barber college shall display in a conspicuous place on its premises a sign stating that the work done therein is done exclusively by students. (7-1-93)

c. Each barber college shall be separated completely from and have no connecting entrances with shops or other businesses other than licensed cosmetology schools. (3-13-02)

05. Sanitation. (7-1-93)

a. Each barber college shall post in a conspicuous place on its premises for the public’s information a copy of the rules governing sanitary conditions of barber shops and schools adopted by the Board. Each college shall require strict compliance by its students to the barber laws and rules. (3-13-02)

b. Any violation of Section 54-507, Idaho Code, or these rules by a barber college shall be cause for disciplinary action against the school license or, the revocation of approval in the case of an out of state school, by the Board. Any action by the Idaho State Barber Board for the revocation of a barber schools license or approval shall be in accordance with the provisions set forth in Sections 54-507 and 54-521, Idaho Code. (3-13-02)

c. Each barber college shall have adequate space, ventilation and lighting to allow for the safe and sanitary instruction of all phases of barbering and barber-styling as approved by the Board. (3-13-02)

d. Each barber college shall provide one (1) restroom for men and one (1) restroom for women. Each restroom shall include a sink with hot and cold running water and approved drainage system. (3-13-02)

06. Space Required. Each barber college shall have within the premises in which it is located adequate space and facilities to safely accommodate all students, instructors, and customers. (3-13-02)

07. Barber Chair Required. Each barber chair in each such college shall be of such construction that it may be readily cleaned and it shall be mechanically workable and in good working order. Space between barber chairs, and the workstand or wall, shall be adequate so that no student will be hampered in the performance of his work. Compliance with the requirements of this subsection shall be subject to the determination of the Board and its approval. (7-1-93)

08. Equipment Requirements. Each barber college shall have, within the premises in which it is located, adequate equipment, materials, and facilities to provide a complete course of instruction in all phases of barbering and barber-styling. (3-13-02)

a. Classroom and training areas - The classroom and training areas shall be equipped with sufficient seating capacity and work stations for all enrolled students. (3-13-02)

b. Each barber college shall furnish each student upon enrollment, a copy of the Barber Laws and Rules. (3-13-02)

09. Textbooks. Schools shall use texts that cover all phases of barbering and barber-styling. (3-13-02)

10. Curriculum -- Hours -- Theory -- Work Inspected -- Attendance -- School Examination. (7-1-93)

a. Each barber college shall meet the requirements for admission of students as set forth in Sections 54-506 and 54-507, Idaho Code, and in these rules. (7-1-93)

b. Each barber college curriculum shall consist of not less than nine hundred (900) hours for barbers and one thousand eight hundred (1,800) hours for barber-stylists. Barber students must document satisfactory completion of the entire barber curriculum and graduation from a licensed or approved school before being eligible for the Idaho Barber examination. Barber-styling students must document satisfactory completion of the entire barber-styling curriculum and graduation from a licensed or approved school before being eligible for the Idaho barber-styling examination. The daily schedule of each student shall consist of at least one (1) clock hour of theoretical study or one (1) hour of clinical demonstration in a classroom. (3-13-02)

c. Each barber college shall submit complete curriculums for barbering and barber-styling and a school catalog on an annual basis with the application for license renewal to the Board for its approval. If there are no changes in the curriculum or catalog during the previous year, the school may submit a letter of explanation to the Board in place of the curriculum or catalog. (3-13-02)

d. Each barber college shall require attendance in all subjects. No Patron shall be released from a chair after being served by a student until all the work performed by the student has been thoroughly inspected and approved by an instructor. (4-5-00)

e. Each barber college shall issue a certificate of graduation to each student after satisfactory completion of their course of instruction. (3-13-02)

~~**f.** Persons who obtain instruction in an approved school of barbering, but who did not complete the course of instruction and/or did not obtain a license in Idaho, will lose credit for five hundred (500) hours after one (1) year has lapsed since the termination of such instruction, and thereafter an additional two hundred fifty (250) hours for each additional year or portion thereof. (3-13-02)~~

11. Records Required of Colleges of Barbering. (7-1-93)

a. Schools shall maintain monthly progress records of instruction for each student as established by school policy and procedures that will show daily attendance and academic grades of instructional progress.

(3-13-02)

b. Progress records shall be signed and dated by the student and a school official and a copy of the signed and dated record shall be provided to the student. The school shall maintain these records for a period of ~~two~~ five (25) years following completion or termination of the student's instruction. These records are subject to inspection by the board or its agents at any time. ~~(3-13-02)(7-1-08)T~~

c. The information shown on the progress record forms are to be transferred to a Student Record of Instruction form and ~~filed with the board~~ provided to the student and maintained by the school for five (5) years. ~~(3-13-02)(7-1-08)T~~

d. Each school will be inspected periodically by an agent of the Bureau of Occupational Licenses. (7-1-93)

e. When a student's course of instruction at a school has been completed or terminated, the completed operations, and number of hours of instruction are to be recorded by the school on the Record of Instruction Form. This form ~~or a letter of explanation as to why a student's record of instruction is not being filed with the board by the school~~ shall be ~~filed with the Board within thirty (30) days of the completion or termination of each student's instruction~~ provided to the student and maintained by the school for five (5) years. ~~(3-13-02)(7-1-08)T~~

~~f. When a student resumes instruction after they have been terminated, they are required to file a new application, pay an additional fee and become registered to practice as a student. (3-13-02)~~

~~g.~~ A record of the operations completed by each barber student shall be maintained and include all of the following: (3-13-02)

- i. Haircut. (3-13-02)
- ii. Blow dry (does not include haircut). (3-13-02)
- iii. Shampoo. (3-13-02)
- iv. Shave or Beard Trim. (3-13-02)
- v. Facial or Massage. (3-13-02)
- vi. Hair or Scalp Treatment. (3-13-02)
- vii. Curling Iron. (3-13-02)

viii. Hygiene and Sanitation shall be taught on a continuing basis and indicated on the report form by a grade. (7-1-93)

~~h.~~ A record of the operations completed by each barber-styling student shall be maintained and include all of the following: (3-13-02)

- i. Haircut. (3-13-02)
- ii. Style/blow dry (does not include haircut). (3-13-02)
- iii. Shampoo. (3-13-02)
- iv. Permanent Wave. (3-13-02)
- v. Shave or Beard Trim. (3-13-02)
- vi. Facial or Massage. (3-13-02)

- vii. Color/Bleach/Rinse. (3-13-02)
- viii. Hair or Scalp Treatment. (3-13-02)
- ix. Curling Iron. (3-13-02)
- x. Hygiene and Sanitation shall be taught on a continuing basis and indicated on the report form by a grade. (3-13-02)

(BREAK IN CONTINUITY OF SECTIONS)

~~502. STUDENT REGISTRATION REQUIREMENTS (RULE 502).~~

~~Each barber college shall require each applicant for admission to enrollment to file with the college a written application on a form approved by the Board. Each such application shall be accompanied by the following:~~
(3-13-02)

~~**01. Proof of Character.** Satisfactory proof in writing that the applicant is of good moral character.
(7-1-93)~~

~~**02. Educational Certification.** A certificate verifying the completion of a tenth grade education or the equivalent as determined by a GED or other approved equivalency examination.
(3-13-02)~~

~~**03. Current Photograph.** A current passport style photograph of the applicant, taken within twelve (12) months prior to the application.
(3-13-02)~~

~~**04. Submission of Required Documents by Barber College to Board.** Schools are required to register all students with the Board within five (5) days of beginning instruction. Each barber college, before admitting any student to enrollment, shall send an application, together with all documents attached thereto, to the Board. If the Board finds that the applicant fails to meet its requirements, the Board shall at once notify the college and the applicant and state its reasons therefore.
(3-13-02)~~

~~5032. -- 549. (RESERVED).~~