

Dear Senators LODGE, Broadsword & Werk, and
Representatives BLOCK, Nielsen & Henbest:

The Legislative Services Office, Research and Legislation, has received the enclosed rules of the Bureau of Occupational Licenses - Board of Naturopathic Medical Examiners: IDAPA 24.24.01 - Board of Naturopathic Medical Examiners (Docket #24-2401-0801– Fee Rule).

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 11-12-08. 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 12-10-08.

_____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: Subcommittees for Administrative Rules Review of the Senate Health and Welfare Committee and the House Health and Welfare Committee

FROM: Eric Milstead, Principal Research Analyst

DATE: October 23, 2008

SUBJECT: Board of Naturopathic Medical Examiners (Bureau of Occupational Licenses)- IDAPA 24.24.01 (Docket No. 24-2401-0801-- Fee Rule)

The Bureau of Occupational Licenses has submitted proposed rules at IDAPA 24.24.01 - Rules of the Board of Naturopathic Medical Examiners. The board notes that negotiated rulemaking was not conducted because a public hearing is scheduled to hear comments on the proposed rule. It should also be noted that, as of the date of this memorandum, the Board has no administrative rules in place. Among other provisions, the Board's proposed rules include the following:

- Address and other contact information for the Board (Section 005);
- Provisions governing the filing of license applications (Section 100);
- Requirements for licensure (Section 125);
- Implementation of fees (Section 150). The fees in the proposed rule are in amounts that do not exceed the statutory maximum. (See, Section 54-511, Idaho Code—The fee for licensure shall not exceed \$500);
- Provisions governing examinations (Section 200);
- Scope of Practice (Section 300); and
- Provisions governing continuing education (Section 350).

Although the proposed rules appear to be within the authority granted to the Board under section 54-5109, Idaho Code, we note the following matters regarding the proposed rule.

- **Proposed Rule Section 125–Requirements for Licensure.**

The proposed rule is a verbatim recitation of existing statute, section 54-5112, Idaho Code. The rule states that new applicants will “provide proof of completion of an approved naturopathic medical program approved by the board.” While this language is an exact restatement of existing code, we find nothing in the proposed rule indicating or describing what naturopathic medical programs have been approved by the Board. Nor does the rule provide any guidelines or criteria by which the Board would approve a naturopathic medical program. We note that other Idaho boards appear to approach this issue in a somewhat different manner. For example, the rules for the Board of Medicine provide that an acceptable school of medicine is one that has been accredited by certain national accrediting organizations which are noted in the Board of Medicine’s rules. Similarly, the rules for the Board of Optometry specifically reference that the Board of Optometry recognizes as reputable and in good standing those schools of optometry which have met the standards established by the Council on Optometric Education of the American Optometric Association. Also, the Board of Chiropractic Physicians rules, as part of the Board’s licensure requirements, direct that applicants must have graduated from a “CCE” approved college or university. “CCE” is the Council on Chiropractic Education which is the agency recognized by the U.S. Secretary of Education for accreditation of programs and institutions offering the doctor of chiropractic degree. Finally, the state Board of Pharmacy rules require that successful applicants must have graduated from a college recognized by the Board and that such college must be accredited by the American Council on Pharmaceutical Education.

We note that the Council on Naturopathic Medical Education is recognized by the U.S. Secretary of Education as the national accrediting agency for programs leading to the Doctor of Naturopathic Medicine or Doctor of Naturopathy degree. However, the proposed rule does not reference this accrediting entity and only notes that new applicants provide proof of completion of “an approved naturopathic medical program approved by the board.” It would seem appropriate that the Board consider providing in rule the criteria or standards it will use to “approve” a naturopathic medical program. The provision of such criteria or standards would provide public guidelines and a degree of transparency to the Board’s assessment and determination in judging and approving naturopathic medical programs.

- **Rule 200– Examinations.** The proposed rule states that all applicants must pass a board approved examination in accord with sections 54-5109 and 54-5112, Idaho Code. The rule also states that the examination shall be the Naturopathic Physicians Licensing Examination (NPLEX) published by the North American Board of Naturopathic Examiners; or other examinations as may be approved by the Board. While the proposed rule specifically references the NPLEX examination, it also provides for any other examination so long as that examination is approved by the board. Again, this approach differs from other health-related state regulatory boards. For example, the state Board of Nursing’s rules require that applicants for professional or practical nurse licensure successfully pass one of two specific examinations, the National Council Licensure

Examination (NCLEX) or the State Board Test Pool Examination. (See, Section 222, Rules of the Board of Nursing). Similarly, rules of the State Board of Chiropractic Physicians require that applicants successfully pass the National Board Examinations administered by the National Board of Chiropractic Examiners. (See, Section 200, Rules of the State Board of Chiropractic Physicians). To the extent the Board desires flexibility in accepting examinations, it might consider providing in rule the guidelines or criteria such examinations are required to meet in order to obtain Board approval.

To reiterate and notwithstanding the comments we raise, the proposed rules appear to be within the authority granted to the Board under section 54-5109, Idaho Code.

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

IDAPA 24 - BUREAU OF OCCUPATIONAL LICENSES

24.24.01 - RULES OF THE BOARD OF NATUROPATHIC MEDICAL EXAMINERS

DOCKET NO. 24-2401-0801 (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(s) 54-5109, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be held as follows:

WEDNESDAY - OCTOBER 15, 2008 - 10:00 am - 12:30 pm

**BUREAU OF OCCUPATIONAL LICENSES
1109 Main St., Ste 220
Boise, ID**

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 proposed rules provide contact information, definitions, an application process, requirements for license, fees, examination, renewal process, scope of practice, certification, and set standards for continuing education.

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

This board does not have rules in place. Fees are being established in this rule.

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 as a result of this rulemaking:

This board does not have rules in place. Fiscal impact would be dependant on the number of applications submitted to the Board. These fees are dedicated funds and used to administer the Board of Naturopathic Medical Examiners.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(1), Idaho Code, negotiated rulemaking was not conducted because a public hearing is scheduled to hear comments during comment period.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Cherie Simpson 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 22, 2009.

DATED this 21st day of August, 2008.

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

THE FOLLOWING IS THE TEXT OF DOCKET NO. 24-2401-0801

IDAPA 24
TITLE 24
CHAPTER 01

24.24.01 - RULES OF THE BOARD OF NATUROPATHIC MEDICAL EXAMINERS

000. LEGAL AUTHORITY (RULE 0).

These rules are hereby prescribed and established pursuant to the authority vested in the Board of Naturopathic Medical Examiners by the provisions of Section 54-5109, Idaho Code. ()

001. TITLE AND SCOPE (RULE 1).

These rules shall be cited as IDAPA 24.24.01, "Rules of the Board of Naturopathic Medical Examiners." ()

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. ()

003. ADMINISTRATIVE APPEALS (RULE 3).

Administrative appeals shall be governed by the Administrative Procedure Act, Title 67, Chapter 52, Idaho Code. ()

004. INCORPORATION BY REFERENCE (RULE 4).

These rules do not incorporate by reference any document other than those Sections of Idaho Code so referenced. ()

005. ADDRESS OF IDAHO BOARD OF NATUROPATHIC MEDICAL EXAMINERS (RULE 5).

The office of the Board of Naturopathic Medical Examiners is located within the Bureau of Occupational Licenses, Owyhee Plaza, 1109 Main Street, Suite 220, Boise, Idaho 83702-5642. The phone number of the Board is (208) 334-3233. The Board's FAX number is (208) 334-3945. The Board's e-mail address is nat@ibol.idaho.gov. The Board's official web site is at www.ibol.idaho.gov/nat.htm. ()

006. PUBLIC RECORDS (RULE 6).

The records associated with the Board of Naturopathic Medical Examiners are subject to the provisions of the Idaho Public Records Act, Title 9, Chapter 3, Idaho Code. ()

007. -- 009. (RESERVED).

010. DEFINITIONS (RULE 10).

01. Board. The State Board of Naturopathic Medical Examiners as prescribed in Section 54-5108, Idaho Code. ()

02. Bureau. The Bureau of Occupational Licenses as prescribed in Section 67-2602, Idaho Code. ()

011. -- 099. (RESERVED).

100. APPLICATIONS (RULE 100).

01. Application Form and Deadline. An application shall be completed by all applicants for licensure upon a form approved by the Board. No application shall be accepted or considered by the Board until it is complete and all required fees have been paid. Completed applications must be received by the bureau at least thirty (30)

days prior to the next scheduled Board meeting. Applications received less than thirty (30) days in advance will be held until a subsequent meeting. ()

02. Official Transcripts. All applicants shall arrange for official transcripts of all credits earned, at each approved educational institute, to be transmitted by the registrars of the educational institutes directly to the Board. If official transcripts are unobtainable, the applicant must submit a written explanation and provide any documentation the Board may request to assist in considering the application. ()

03. Official Documentation. Official documentation of meeting the experience and examination requirements of law and rule must be received by the Board directly from the entity or person responsible for validating said documentation. Applicants are responsible for requesting the required documentation from the appropriate entities and persons. If official documentation is unobtainable, the applicant must submit a written explanation and provide any documentation the Board may request to assist in considering the application. ()

04. Termination. Incomplete applications on file with the Bureau for a period in excess of one (1) year from the date of receipt by the Bureau shall be deemed denied and terminated by the Board. Application fees are non-refundable. ()

101. -- 124. (RESERVED).

125. REQUIREMENTS FOR LICENSURE (RULE 125).

01. New Applicants. Pursuant to Section 54-5112, Idaho Code, new applicants will meet the following requirements: ()

a. Provide proof, on a form provided by the board, of completion of an approved naturopathic medical program approved by the board. ()

b. Have passed a competency-based examination approved by the board covering basic medical sciences and the diagnostic and clinical sciences consistent with the education, training and practice of naturopathic medicine. Such examination shall include, but not be limited to, exams in anatomy, biochemistry, microbiology, immunology, pathology, physiology, naturopathic philosophy and principles, physical and clinical diagnosis, lab diagnosis, diagnostic imaging, botanical medicine, naturopathic physical medicine, and nutrition. ()

c. Applicants may be required to sit for a personal interview by the board to specifically review the applicant's qualifications, professional credentials, knowledge, and skills pertaining to the practice of naturopathic medicine. ()

d. Possess a good, ethical and professional reputation. ()

e. Be physically and mentally capable of safely practicing naturopathic medicine with or without reasonable accommodation. ()

f. Have never had a license to practice naturopathic medicine or other health care license, registration or certificate refused, revoked or suspended by any other state or country for reasons that relate to the applicant's ability to skillfully and safely practice naturopathic medicine, or other health care profession unless that license, registration or certification has been restored to good standing by that state or country. ()

g. All licensed naturopathic physicians shall have on file with the board a board-approved disclosure form stating the degrees, training, experience, credentials and the health care services they are board approved to provide. ()

h. File a board-approved application and pay the required application and licensing fees. ()

02. Endorsement. Endorsement applicants shall meet the following requirements: ()

- a. Submit a complete application accompanied by the required application and licensure fees. ()
- b. Cause to be submitted official certification of a current license in good standing. ()
- c. The licensure requirements from the jurisdiction where the applicant is currently licensed shall be of a standard not lower than the Idaho requirements. ()
- d. Sign an affidavit swearing under oath that they have fully reviewed and understand and will abide by the Naturopathic Physicians Licensing Act, Title 54, Chapter 51, Idaho Code, and the Board's Rules, IDAPA 24.24.01, "Rules of the Board of Naturopathic Medical Examiners." ()
- e. Have never had a license to practice naturopathic medicine or other health care license, registration or certificate refused, revoked or suspended by any other state or country for reasons that relate to the applicant's ability to skillfully and safely practice naturopathic medicine, or other health care profession unless that license, registration or certification has been restored to good standing by that state or country. ()

126. -- 149. (RESERVED).

150. FEES (RULE 150).

- 01. Application Fee.** Application Fee - Two hundred fifty dollars (\$250). ()
- 02. Original License Fee.** Original License Fee - Two hundred fifty dollars (\$250). ()
- 03. Annual Renewal Fee.** Annual Renewal Fee – Three hundred fifty dollars (\$350). ()
- 04. Non-Refundable.** All fees are non-refundable. ()

151. -- 199. (RESERVED).

200. EXAMINATIONS (RULE 200).

All applicants must pass a board approved examination in accordance with Sections 54-5109 and 54-5112, Idaho Code. ()

- 01. Approved Examination.** The examination shall be the Naturopathic Physicians Licensing Examination (NPLEX) published by the North American Board of Naturopathic Examiners; or ()
- 02. Other Examination.** Other examinations as may be approved by the Board. ()
- 03. Minimum Passing Score.** The minimum passing score for each section of the NPLEX examination or any other examination approved by the Board shall be the passing score determined by the examination entity. ()

201. -- 249. (RESERVED).

250. RENEWAL OR REINSTATEMENT OF LICENSE (RULE 250).

- 01. Expiration Date.** All licenses expire and must be renewed annually in accordance with Section 67-2614, Idaho Code. Applicants for renewal must provide documentation of having met the continuing education requirement for the twelve (12) month period preceding renewal. Licenses not renewed prior to expiration shall be cancelled. ()
- 02. Reinstatement.** Any license cancelled for failure to renew may be reinstated in accordance with Section 67-2614, Idaho Code and the applicant shall submit proof of having met the required continuing education for the twelve (12) month period preceding renewal. ()

03. Cancelled License. A license that has been cancelled for a period of more than five (5) years may be re-issued in accordance with Section 67-2614, Idaho Code. ()

251. -- 299. (RESERVED).

300. SCOPE OF PRACTICE (RULE 300).

A naturopathic physician is authorized to provide only services and treatments for which that licensee has been appropriately trained and prepared by board approved education, continuing education, and practical experience. Information contained within the application together with supporting documentation maintained by the licensee shall be 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 services and treatments being provided to the public. ()

01. Treatments. The scope of practice as defined in Section 54-5104, Idaho Code and may include dispensing, administering, ordering, prescribing or performing the following: ()

a. Oral and parenteral food, extracts of food, nutraceuticals, vitamins, amino acids, minerals, enzymes, botanicals, and their extracts, homeopathic medicines, all dietary supplements and nonprescription drugs as defined by the Federal Food Drug and Cosmetic Act. ()

b. Prescription substances as determined by the naturopathic formulary council. ()

c. Hydrotherapy, naturopathic physical medicine and modalities consistent with naturopathic medical education and training, colon hydrotherapy, and therapeutic exercise. Devices including but not limited to therapeutic devices, barrier contraception, and durable medical equipment. ()

d. Health education and health counseling. ()

e. Repair and care incidental to superficial lacerations and abrasions, removal of foreign bodies located in the superficial tissues. ()

301. CERTIFICATION (RULE 301).

01. Intravenous Therapy Certification. Intravenous therapy certification requires proof of completion of appropriate coursework and number of hours as determined by the formulary council. ()

302. -- 349. (RESERVED).

350. CONTINUING EDUCATION (RULE 350).

01. Hours. Licensees must complete twenty (20) hours of continuing education each year of which at least five (5) hours must be in pharmacology. ()

02. Subject Material. The subject material of the continuing education requirement shall be germane to the practice of naturopathic medicine and either: ()

a. Sponsored by an approved naturopathic medical program; or ()

b. Otherwise approved by the board. ()

03. Verification of Attendance. It shall be necessary for each licensee to maintain verification of attendance by securing authorized signatures or other documentation from the course instructors or sponsoring institution substantiating any and all hours attended by the applicant. This verification shall be maintained by the licensee and provided to the Board upon the request of the Board or its agent. ()

04. Distance Learning and Home Study. The board may approve any course of study for continuing education credit that does not include the actual physical attendance of the applicant in a face-to-face setting with the

course instructor. Such courses shall not be eligible for more than fifty percent (50%) of the required continuing education credits. ()

05. Requests for Approval. All requests for approval or pre-approval of educational programs must be made to the board in writing, and must be accompanied by a statement that includes the name of the instructor or instructors, the date and time and location of the course or other intended schedule, the specific agenda for the course, the number of continuing education credit hours requested, and a statement of how the course is believed to be germane to the practice of naturopathic medicine. ()

06. Attestation. Licensees shall attest, on their annual license renewal application, that they have satisfied the continuing education requirements. False attestation of satisfaction of the continuing education requirements on a renewal application shall subject the licensee to disciplinary action. ()

07. Audit. The Board may conduct random continuing education audits of those persons required to obtain continuing education in order to renew a license and require that proof acceptable to the Board of meeting the continuing education requirement be submitted to the Bureau. Failure to provide proof of meeting the continuing education upon request of the Board shall be grounds for disciplinary action. ()

351. -- 999. (RESERVED).