

Dear Senators LODGE, Broadsword & LeFavour, and
Representatives BLOCK, Nielsen & Rusche:

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

IDAPA 24.03.01 – Rules of the State Board of Chiropractic Physicians

(Docket No. 24-0301-1001).

Pursuant to Section 67-454, Idaho Code, a meeting on the enclosed rules may be called by
the co-chairmen 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 10-25-10. 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 11-23-10.

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 334-4845, or send a written request to the
address or FAX number indicated on the memorandum attached.



Legislative Services Office Idaho State Legislature

Serving Idaho's Citizen Legislature

Jeff Youtz
Director

MEMORANDUM

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

FROM: Brooke Murdoch *BVM*

DATE: October 5, 2010

SUBJECT: Bureau of Occupational Licenses

IDAPA 24.03.01 – Rules of the State Board of Chiropractic Physicians (Docket No. 24-0301-1001)

The Bureau of Occupational Licenses submits notice of proposed rulemaking at IDAPA 24.03.01 – Rules of the State Board of Chiropractic Physicians. The proposed rule establishes a code of ethics for the ethical practice of chiropractic for which all chiropractic physicians will be held responsible. The proposed code of ethics includes the duty to report any violation of the Board's rules, duties associated with advertising an affiliation with a research project, ethical principles relating to sexual misconduct and duties relating to the handling of pre-paid funds in connection with patient care.

Negotiated rulemaking was not conducted because discussions were held in a noticed, open meeting. There is no negative fiscal impact as a result of this rulemaking.

The proposed rule is within the authority granted to the Board in Section 54-707, Idaho Code.

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

Mike Nugent, Manager
Research & Legislation

Cathy Holland-Smith, Manager
Budget & Policy Analysis

Don H. Berg, Manager
Legislative Audits

Glenn Harris, Manager
Information Technology

IDAPA 24 - BUREAU OF OCCUPATIONAL LICENSES

24.03.01 - RULES OF THE STATE BOARD OF CHIROPRACTIC PHYSICIANS

DOCKET NO. 24-0301-1001

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 54-707, 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 20, 2010.

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 Board of Chiropractic Physicians would like to establish a code of ethics that will further protect the public.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased: None.

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:

There is no fiscal impact.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not conducted because discussions were held in a noticed, open meeting 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 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 27, 2010.

DATED this 13th day of August, 2010.

Tana Cory
Bureau Chief
Bureau of Occupational Licenses
700 W State
Boise, ID 83702
(208) 334-3233 Ph. (208) 334-3945, fax

THE FOLLOWING IS THE PROPOSED TEXT FOR DOCKET NO. 24-0301-1001

602. -- ~~999~~604. (RESERVED).

605. CODE OF ETHICS (RULE 605).

Chiropractic Physicians are responsible for maintaining and promoting ethical practice in accordance with the ethical principles set forth in Appendix A in these rules. ()

606. -- 999. (RESERVED).

Appendix A – Chiropractic Physicians Code of Ethics

Preamble

This code of ethics set forth principles for the ethical practice of chiropractic. All chiropractic physicians are responsible for maintaining and promoting ethical practice and otherwise complying with the terms of this code of ethics. To this end, the chiropractic physician shall act in the best interest of the patient. This code of ethics shall be binding on all chiropractic physicians.

1. Duty to Report

A. Duty to Report - It shall be the duty of every licensee to notify the Board through the Bureau of Occupational Licenses of any violation of the Chiropractic Act or Board Rules.

B. Reporting of certain judgments to Board - If a judgment is entered against a licensee in any court, or a settlement is reached on a claim involving malpractice exceeding fifty thousand dollars (\$50,000), a licensee shall report that fact to the Board within thirty (30) days. The licensee may satisfy the provision of this subsection if he/she provides the Board with a copy of the judgment or settlement.

If a licensee is convicted of a felony or a crime involving dishonesty, theft, violence, habitual use of drugs or alcohol, or sexual misconduct, he/she shall report that fact to the board within thirty (30) days following the conviction.

2. Advertising of Research Projects

Advertisement of affiliation with research projects - If a licensee advertises any affiliation with a research project, he must make a written statement of the objectives, cost and budget of the project, and the person conducting the research. Such statements are to be made available at the request of the Board, to scientific organizations, and to the general public. The advertisement must indicate that it is supported by clinical research. Any willful failure to comply with these requirements will be deemed false and deceptive advertising under rule 450. Licensee must comply with all state and federal laws and regulations governing research projects on humans, and shall obtain "Institutional Review Board" (IRB) approval as established and set forth in the U.S. Code of Federal Regulations, Title 45, Part 46, Subpart A (45 CFR 46.101-46-505).

3. Sexual Misconduct

The doctor-patient relationship requires the chiropractic physician to exercise utmost care that he or she will do nothing to exploit the trust and dependency of the patient. Sexual misconduct is a form of behavior that adversely affects the public welfare and harms patients individually and collectively. Sexual misconduct exploits the doctor-patient relationship and is a violation of the public trust. This section of the Code of Ethics shall not apply between a chiropractor and their spouse.

For the purposes of this subsection, sexual misconduct is divided into sub-categories based upon the severity of the conduct:

A. Sexual impropriety. Any behavior such as gestures, expressions, and statements which are sexually

suggestive or demeaning to a patient, or which demonstrate a lack of respect for a patient's privacy.

- B. Sexual violation. Physician-patient contact of a sexual nature, whether initiated by the physician or the patient.
- C. A chiropractic physician shall wait at least one (1) year (“waiting period”) following the termination of a professional doctor-patient relationship, before beginning any type of sexual relationship with a former patient.

4. Pre-Paid Funds

- A. Safekeeping pre-paid funds - A chiropractic physician may possess pre-paid funds in connection with patient care but must maintain such unearned funds in a separate and independent bank account in the state of Idaho distinct from the chiropractor’s personal or business bank account. Complete accounting records of such account funds shall be preserved for a period of three (3) years after termination of the contractual agreement or completion of services rendered.
- B. A chiropractic physician shall promptly refund any unearned fees within thirty (30) days upon request and cancellation of the pre-paid contract. A full accounting of the patient account shall be provided to the patient at the time of the refund or upon request.