

Dear Senators LODGE, Broadsword and Bock, and
Representatives Reprerenatives McGEACHIN, Bilbao and Rusche:

The Legislative Services Office, Research and Legislation, has received the enclosed rules of
the Board of Nursing:

IDAPA 23.01.01 - Rules Pertaining to the Rules of the Idaho Board of Nursing (Docket No.
23-0101-1002)

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 07/20/2011. 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 08/17/2011.

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 enclosed.



Jeff Youtz
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: Eric Milstead, Principal Legislative Research Analyst, LSO
DATE: June 30, 2011
SUBJECT: Board of Nursing

IDAPA 23.01.01 - Rules Pertaining to the Rules of the Idaho Board of Nursing (Docket No. 23-0101-1002)

The Idaho Board of Nursing submits notice of proposed rulemaking at IDAPA 23.01.01 - Rules of the Idaho Board of Nursing. The proposed rule, which reflects a temporary rule published in the 2010 Idaho Administrative Bulletin, authorizes the Board to measure beginning level of competency through any certification examination required by the Board. The proposed rule gives the Board latitude regarding the certification examination. (See Proposed Rule 494.03.c.).

The proposed rule appears to be authorized pursuant to section 54-1404(11), Idaho Code.

cc: Idaho Board of Nursing
Sandra Evans, Executive Director

IDAPA 23 - BOARD OF NURSING

23.01.01 - RULES OF THE IDAHO BOARD OF NURSING

DOCKET NO. 23-0101-1002

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 54-1404(11), 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 June 15, 2011.

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:

Board rules currently require that applicants for certification as a medication assistant pass an examination as a measure of beginning competence. Because of the anticipated very low volume of applicants, it is not financially feasible for vendors to develop an affordable psychometrically sound, legally defensible examination for use in Idaho, which has prevented the Board from issuing certification to otherwise qualified applicants. The rulemaking removes this impediment by authorizing the Board to measure beginning level competency through an alternative process.

The temporary rulemaking was approved by the 2011 Legislature. The complete text of the temporary rule was published in the December 1, 2010 Idaho Administrative Bulletin, Vol. 10-12, pages 169 and 170.

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

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not conducted because there was a need to do temporary rulemaking and the rulemaking confers a benefit on applicants and the general public.

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 Sandra Evans, M.A.Ed., R.N., Executive Director, at (208) 577-2482.

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 June 22, 2011.

DATED this 10th day of May, 2011.

Sandra Evans, M.A.Ed., R.N., Executive Director
Board of Nursing
280 N. 8th St. (8th & Bannock), Ste. 210
P. O. Box 83720
Boise, ID 83720-0061
Phone: (208) 577-2482
Fax: (208) 334-3262

Pursuant to Section 67-5221(1), Idaho Code, this docket is being published as a proposed rule.

This docket has been previously published as a temporary rule.
The temporary effective date is November 5, 2010.

The original text of the temporary rule was published in the Idaho Administrative Bulletin,
Volume 11-12, December 1, 2010, pages 169 and 170.

THE FOLLOWING IS THE TEXT OF THE PROPOSED RULE
TEXT FOR DOCKET NO. 23-0101-1002

494. APPLICATION FOR CERTIFICATION FOR MEDICATION ASSISTANT - CERTIFIED.

- 01. Application Submission.** An applicant for medication assistant - certified shall submit to the Board: (3-26-08)
- a.** A completed, notarized application form provided by the Board; (3-26-08)
 - b.** A notarized affidavit of graduation from an approved medication assistant - certified education and training program; (3-26-08)
 - c.** Evidence of successful completion of a medication assistant - certified competency evaluation, approved by the Board; (3-26-08)
 - d.** Payment of application fees as established in Section 497 of these rules; and (3-26-08)
 - e.** Applicant's current fingerprint-based criminal history check as set forth in Section 54-1401(3), Idaho Code. (3-26-08)
- 02. Temporary Certification.** (3-26-08)
- a.** At the Board's discretion, and pending completion of the competency evaluation and receipt of the criminal background report, a temporary certification may be issued to an applicant who meets all other requirements *and is waiting for the federal criminal background report.* (~~3-26-08~~)(____)
 - b.** Temporary certification is valid for six (6) months from the date of issuance or until a permanent certification is issued or denied, whichever occurs first. (3-26-08)
 - c.** The applicant must pay the temporary certification fee established in Section 498 of these rules. (3-26-08)
- 03. Denial of Certification.** Certification as a medication assistant - certified may be denied for any of the following grounds: (3-26-08)
- a.** Failure to meet any requirement established by statute or these rules; or (3-26-08)
 - eb.** False representation of facts on an application for certification; or (3-26-08)
 - bc.** Failure to pass ~~the~~ any certification examination required by the Board; or (~~3-26-08~~)(____)

d. Having another person appear in his place for ~~the~~ any certification examination required by the
Board; or ~~(3-26-08)~~()

e. Engaging in any conduct which would be grounds for discipline under Section 54-1406A, Idaho
Code, or these rules; or (3-26-08)

f. Revocation, suspension, limitation, reprimand, voluntary surrender, or any other disciplinary action
or proceeding including investigation against a certificate to practice by another state or jurisdiction. (3-26-08)

04. Notification. If certification is denied, the Board will notify the applicant in writing of the reason
for denial and inform him of his procedural rights under the Idaho Administrative Procedures Act. (3-26-08)