

Dear Senators LODGE, Broadsword, Bock, and
Representatives MCGEACHIN, Bilbao, Rusche:

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

IDAPA 22.01.01 - Rules of the Board of Medicine for the Licensure to Practice Medicine
& Surgery & Osteopathic Medicine & Surgery in Idaho (Docket No.
22-0101-1201);

IDAPA 22.01.02 - Rules of the Board of Medicine for the Registration of Externs, Interns &
Residents (Docket No. 22-0102-1201) (Fee Rule);

IDAPA 22.01.03 - Rules for the Licensure of Physician Assistants (Docket No. 22-0103-1201)
(Fee Rule);

IDAPA 22.01.11 - Rules for Licensure of Respiratory Therapists & Permitting of
Polysomnographers in Idaho (Docket No. 22-0111-1201);

IDAPA 22.01.12 - Rules Relating to Health Care Workers (Docket No. 22-0112-1201) (Chapter
Repeal);

IDAPA 22.01.13 - Rules for the Licensure of Dietitians (Docket No. 22-0113-1201) (Fee Rule);

IDAPA 22.01.14 - Rules Relating to Complaint Investigation (Docket No. 22-0114-1201).

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 10/12/2012. 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 11/09/2012.

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 on the
memorandum attached below.



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: Principal Legislative Research Analyst - Brooke Murdoch
DATE: September 24, 2012
SUBJECT: Board of Medicine

IDAPA 22.01.01 - Rules of the Board of Medicine for the Licensure to Practice Medicine & Surgery & Osteopathic Medicine & Surgery in Idaho (Docket No. 22-0101-1201)

IDAPA 22.01.02 - Rules of the Board of Medicine for the Registration of Externs, Interns & Residents (Docket No. 22-0102-1201) (Fee Rule)

IDAPA 22.01.03 - Rules for the Licensure of Physician Assistants (Docket No. 22-0103-1201) (Fee Rule)

IDAPA 22.01.11 - Rules for Licensure of Respiratory Therapists & Permitting of Polysomnographers in Idaho (Docket No. 22-0111-1201)

IDAPA 22.01.12 - Rules Relating to Health Care Workers (Docket No. 22-0112-1201) (Chapter Repeal)

IDAPA 22.01.13 - Rules for the Licensure of Dietitians (Docket No. 22-0113-1201) (Fee Rule)

IDAPA 22.01.14 - Rules Relating to Complaint Investigation (Docket No. 22-0114-1201)

(1) IDAPA 22.01.01 - Rules of the Board of Medicine for the Licensure to Practice Medicine & Surgery & Osteopathic Medicine & Surgery in Idaho (Docket No. 22-0101-1201)

The Board of Medicine submits proposed rulemaking at IDAPA 22.01.01 for the following purposes:

- (a) To update its web site address;
- (b) To require an electronic copy of all documents in rulemaking and contested case proceedings be filed with the Board;
- (c) To provide that applications for licensure to practice medicine and surgery and osteopathic medicine and surgery must require a copy of the applicant's birth certificate or current passport; and
- (d) To clarify that the provisions relating to the Physician Panelist for Prelitigation Consideration of Medical Malpractice Claims pertain to malpractice claims against physicians and surgeons practicing in the state of Idaho or against licensed acute care general hospitals operating in the state of Idaho.

A public hearing concerning this rulemaking is scheduled to be held on October 23, 2012, from 1:00 to 2:00 p.m.

The Board's proposed rule is authorized pursuant to the provisions of Section 54-1806, Idaho Code.

(2) IDAPA 22.01.02 - Rules of the Board of Medicine for the Registration of Externs, Interns & Residents (Docket No. 22-0102-1201) (Fee Rule)

The Board of Medicine submits **fee rulemaking** at IDAPA 22.01.02 for the following purposes:

- (a) To update its web site address;
- (b) To require an electronic copy of all documents in rulemaking and contested case proceedings be filed with the Board;
- (c) To define "Acceptable School of Medicine" and "student" and to clarify the definition of "Intern or Resident;"
- (d) To provide that applications for registration as an extern, intern or resident require the disclosure of criminal charges, criminal charges, medical disciplinary actions or medical malpractice actions, whatever the outcome, and a copy of the applicant's birth certificate or current passport;
- (e) To revise the period of issuance of registration certificates to an extern, intern or resident from a period of not less than one day or more than three years to a period of not less than one year;
- (f) To require that registrants provide written notification to the Board of any change of the supervising physician, alternate supervising physician or the program or course of study 14 days before any such change;
- (g) To require that registration be renewed before expiration and if not so renewed will be canceled;
- (h) To require that registrants provide written notification to the Board of any adverse action, whatever the outcome, from any training program or post graduate training program and to shorten the time period within which such notice is required from 30 days to 14 days of such event; and
- (i) To establish a nonrefundable annual renewal of registration fee of no more than \$25.00.

A public hearing concerning this rulemaking is scheduled to be held on October 23, 2012, from 1:00 to 2:00 p.m.

Our office received this rulemaking docket without a statement that it is a fee rule. However, because a fee is sought to be established in this rulemaking, we contacted the Board of Medicine requesting that it specify in its promulgation of this rule that it is a fee rule and that it will be reviewed as such.

The Board's fee rule is authorized pursuant to the provisions of Sections 54-1806, 54-1807 and 54-1813(2), Idaho Code.

(3) IDAPA 22.01.03 - Rules for the Licensure of Physician Assistants (Docket No. 22-0103-1201) (Fee Rule)

The Board of Medicine submits fee rulemaking at IDAPA 22.01.03 for the following purposes:

- (a) *To establish a temporary license to be issued exclusively to physician assistant licensure applicants who appear to be eligible based upon completed applications but the issuance of such licenses are subject to pending criminal history checks;
- (b) *To establish a temporary license fee of no more than \$180.00, which may be prorated pursuant to Section 54-1808, Idaho Code;
- (c) To clarify that all fees set forth in IDAPA 22.01.03 are nonrefundable; and
- (d) **To clarify that if a license is not renewed within the two-year grace period, that in addition to an initial application for licensure, an applicant must also file with the Board an original application for licensure with payment of the appropriate fee.

A public hearing concerning this rulemaking is scheduled to be held on October 23, 2012, from 1:00 to 2:00 p.m.

*In Section 022. on page 514, the Board seeks to establish a temporary license for physician assistants who await the results of their criminal history checks. It is not clear that the establishment or issuance of this type of license is authorized by the governing statute, chapter 18, title 54, Idaho Code. The authority to establish and issue temporary licenses for certain types of licensees is set forth in Section 54-1813, Idaho Code, which makes no mention of the Board's authority to establish or issue a temporary license for physician assistants.

Moreover, in Section 051.06. on page 515, the Board states that its authority to establish a temporary physician assistant license fee, which may be prorated, is pursuant to Section 54-1808, Idaho Code. That code section pertains to licensure and associated fees to practice medicine and surgery, and osteopathic medicine and surgery and does not pertain to physician assistants.

The statutory authority for establishing a temporary license and an accompanying fee for certain physician assistants is unclear.

**The new language contained in Section 051.03.a. on page 514, which provides that, "[a]fter two (2) years of failure to renew a physician assistant license, an original application for licensure with payment of the appropriate fee shall be filed with the Board," is redundant of a preceding sentence that requires an initial application and appropriate fee after the two-year period has expired. We notified Nancy Kerr of the Board, who indicated that this new language will be removed.

The provision of the Board's fee rule that clarifies that all fees are nonrefundable is authorized pursuant to the provisions of Section 54-1806, Idaho Code.

(4) IDAPA 22.01.11 - Rules for Licensure of Respiratory Therapists & Permitting of Polysomnographers in Idaho (Docket No. 22-0111-1201)

The Board of Medicine submits proposed rulemaking at IDAPA 22.01.11 for the following purposes:

- (a) To provide that applications for licensure as a respiratory care practitioner or permit for polysomnographers shall be accompanied by documentation of any criminal conviction or charges against the applicant, whatever the outcome;
- (b) To specify that a temporary permit for a respiratory care practitioner may be renewed only once; and

(c) To provide that any person who has held a permit as a polysomnographic technician is prohibited from making application for a temporary permit as a polysomnographic trainee.

A public hearing concerning this rulemaking is scheduled to be held on October 23, 2012, from 1:00 to 2:00 p.m.

The Board's proposed rule is authorized pursuant to the provisions of Section 54-4316, Idaho Code.

(5) IDAPA 22.01.12 - Rules Relating to Health Care Workers (Docket No. 22-0112-1201) (Chapter Repeal)

The Board of Medicine submits this proposed rulemaking for the purpose of repealing IDAPA 22.01.12 - Rules Relating to Health Care Workers. The Board states that these rules are obsolete, redundant and have not been utilized or employed since their promulgation in 1993.

A public hearing concerning this rulemaking is scheduled to be held on October 23, 2012, from 1:00 to 2:00 p.m.

The Board's proposed chapter repeal appears to be authorized pursuant to the provisions of section 54-1806, Idaho Code.

(6) IDAPA 22.01.13 - Rules for the Licensure of Dietitians (Docket No. 22-0113-1201) (Fee Rule)

The Board of Medicine submits fee rulemaking at IDAPA 22.01.13 for the following purposes:

- (a) To provide its web site address;
- (b) To require that an electronic copy of all documents in rulemaking and contested case proceedings be filed with the Board;
- (c) To provide a severability clause;
- (d) *To provide additional grounds for discipline of a licensee, permittee or applicant;
- (e) To increase the initial/provisional licensure and examination fee from no more than \$80.00, to no more than \$150.00;
- (f) To increase the reinstatement fee for a lapsed license from \$35.00, to no more than \$50.00, and clarifies that lapsed licenses not reinstated after two years will be canceled;
- (g) To increase the fee for inactive licensure from \$25.00, to no more than \$50.00; and
- (h) To increase the fee for converting an inactive license to an active license from \$35.00, to no more than \$50.00.

A public hearing concerning this rulemaking is scheduled to be held on October 23, 2012, from 1:00 to 2:00 p.m.

*In Section 032.02.c.-o. on pages 527-528, the Board seeks to provide additional grounds for discipline of a licensee, permittee or applicant. Section 54-3510, Idaho Code, specifically provides the grounds upon which the Board may refuse to issue or renew a license or permit or suspend or revoke a license or permit. This code section does not provide that the Board, by rule, may establish additional grounds

for discipline. Therefore, it is not clear that the Board has the authority to promulgate a rule providing additional grounds for discipline.

Aside from the above comment, the Board's fee rule is authorized pursuant to the provisions of Sections 54-3505 and 54-3509, Idaho Code.

(7) IDAPA 22.01.14 - Rules Relating to Complaint Investigation (Docket No. 22-0114-1201)

The Board of Medicine submits proposed rulemaking at IDAPA 22.01.14 for the following purposes:

- (a) To provide its web site address;
- (b) To require that an electronic copy of all documents in rulemaking and contested case proceedings be filed with the Board;
- (c) To make general housekeeping revisions to clarify the rules relating to complaint investigations;

A public hearing concerning this rulemaking is scheduled to be held on October 23, 2012, from 1:00 to 2:00 p.m.

We note only that in Section 021.06. on page 534, the Board strikes language granting a person under investigation an opportunity to meet with the Committee on Professional Discipline before the initiation of formal disciplinary proceedings. However, Section 54-1806(2), Idaho Code, requires that rules adopted by the Board "...shall provide an opportunity for a person under investigation to meet with the committee or its staff before the initiation of formal disciplinary proceedings by the board." Therefore, striking the referenced language will render this rule out of compliance with governing statutory law.

Aside from Section 021.06. of the proposed rule, the Board's proposed rulemaking is authorized pursuant to the provisions of Section 54-1806, Idaho Code.

cc: Board of Medicine
Nancy M. Kerr

IDAPA 22 - BOARD OF MEDICINE

22.01.01- RULES OF THE BOARD OF MEDICINE FOR THE LICENSURE TO PRACTICE MEDICINE AND SURGERY AND OSTEOPATHIC MEDICINE AND SURGERY IN IDAHO

DOCKET NO. 22-0101- 1201

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) 54-1806(2), 54-1806(4), (11), 54-1806A, 54-1812, 54-1813, 54-1814 and 54-1841, Idaho Code.

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

October 23, 2012

1:00 - 2:00 p.m.

**Idaho State Board of Medicine, Conference Room
1755 Westgate Dr., Ste. 140, Boise, Idaho**

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 substance and purpose of this rule change is to update the Board's web address, clarify the section relating to Physician Panelist for Prelitigation Consideration of Medical Malpractice Claims and comply with the recommendations of the FBI and local law enforcement pursuant to a review of the Board's fingerprint reporting security procedures.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased: There will be no increase in fees.

Authority for imposition of fees is found in Sections 54-1806 and 54-1806A (4), 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 as a result of this rulemaking: N/A

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(1), Idaho Code, negotiated rulemaking was not conducted. The Board received input and comments from its constituents and licensees.

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 Nancy M. Kerr, Executive Director, Idaho State Board of Medicine, (208) 327-7000.

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 24, 2012.

DATED this 21st of August, 2012.

Nancy M. Kerr, Executive Director
Idaho State Board of Medicine
1755 Westgate Drive, Ste. 140, Boise, ID
PO Box 83720 Boise, ID 83720-0058
Phone: (208) 327-7000 Fax: (208) 327-7005

THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 22-0101-1201

006. OFFICE -- OFFICE HOURS -- MAILING ADDRESS AND STREET ADDRESS.

The central office of the Board of Medicine will be in Boise, Idaho. The Board's mailing address, unless otherwise indicated, will be Idaho State Board of Medicine, P.O. Box 83720, Boise, Idaho 83720-0058. The Board's street address is 1755 Westgate Drive, Suite 140, Boise, Idaho 83704. The telephone number of the Board is (208) 327-7000. The Board's facsimile (FAX) number is (208) 327-7005. The Board's web site is www.bom.state.id.us. The Board's office hours for filing documents are 8 a.m. to 5 p.m. MST. ~~(3-30-06)~~()

007. FILING OF DOCUMENTS - NUMBER OF COPIES.

All original documents and one (1) electronic copy in rulemaking or contested case proceedings must be filed with the office of the Board. ~~(3-29-10)~~()

(BREAK IN CONTINUITY OF SECTIONS)

050. GENERAL QUALIFICATIONS FOR LICENSURE AND RENEWAL.

01. Residence. No period of residence in Idaho shall be required of any applicant, however, each applicant for licensure must be legally able to work and live in the United States. Original documentation of lawful presence in the United States must be provided upon request only. The Board shall refuse licensure or renew a license if the applicant is not lawfully present in the United States. (3-26-08)

02. Character. The Board may refuse licensure if it finds that the applicant has engaged in conduct prohibited by Section 54-1814, Idaho Code; provided the Board shall take into consideration the rehabilitation of the applicant and other mitigating circumstances. (7-1-93)

03. English Language. Each applicant shall speak, write, read, understand and be understood in the English language. Evidence of proficiency in the English language must be provided upon request only. (3-26-08)

04. Application. Each applicant must have graduated from an acceptable school of medicine, passed an examination acceptable to the Board that demonstrates qualification for licensure or successfully completed the United States Medical Licensing Exam (USMLE) and completed one (1) year of postgraduate training approved by the ACGME, AOA or Royal College of Physicians and Surgeons of Canada, and shall submit a completed written application to the Board on forms prescribed by the Board with the nonrefundable application fee. Any certificate or document required to be submitted to the Board which is not in the English language must be accompanied by a certified translation thereof into English. The application form shall be verified and shall require the following: (5-8-09)

a. Personal identification information and education background of the applicant including, but limited to, his college education, medical school education and postgraduate training; (3-26-08)

b. An original certificate or document of graduation from an acceptable school of medicine, and evidence of satisfactory completion of postgraduate training of one (1) year at one (1) training program accredited for

internship, residency or fellowship training by the ACGME, AOA or Royal College of Physicians and Surgeons of Canada; (3-26-08)

c. The disclosure of any criminal charges, convictions or guilty pleas against the applicant other than minor traffic offenses; (7-1-93)

d. The current mental and physical condition of the applicant, together with disclosure of any previous physical or mental illness which impacts the applicant's ability to practice medicine; (3-30-01)

e. The disclosure of any past or pending medical malpractice actions against the applicant, and the judgments or settlements, if any, of such claims exceeding fifty thousand dollars (\$50,000); (5-8-09)

f. The disclosure of any disciplinary action by any board of medicine, licensing authority, medical society, professional society, hospital, medical school, or institution staff in any state or country; (3-26-08)

g. The disclosure of the refusal to issue or renew a license to practice medicine by any state, Canadian or international licensing authority; (3-26-08)

h. References to include two (2) letters of recommendation signed by licensed physicians who have known the applicant professionally for at least one (1) year; (3-30-06)

i. An unmounted photograph of the applicant, of adequate size and clarity to identify the applicant and no larger than four inches tall by three inches wide (4" x 3"), taken not more than one (1) year prior to the date of the application; (3-30-06)

j. A certified copy of a full set of the applicant's fingerprints on forms supplied by the Board which shall be forwarded to the Idaho Department of Law Enforcement and to the FBI Identification Division for the purpose of a fingerprint-based criminal history check of the Idaho central criminal database and the Federal Bureau of Investigation criminal history database; (5-3-03)

k. The employment history and relevant practice locations of the applicant; (3-30-06)

l. Each state, country and jurisdiction in which the applicant has applied for a license to practice medicine; (3-26-08)

m. Each state, country and jurisdiction wherein the applicant is licensed to practice medicine; ~~and~~ (3-26-08)()

n. ~~Such other information or examinations as the Board deems necessary to identify and evaluate the applicant's credentials and competency.~~ A copy of the applicant's birth certificate or current passport; and (3-30-06)()

o. Such other information or examinations as the Board deems necessary to identify and evaluate the applicant's credentials and competency. ()

05. Examination. Each applicant must pass an examination acceptable to the Board, within the time period recommended by the examination authority, which shall thoroughly test the applicant's fitness to practice medicine or successfully completed the United States Medical Licensing Exam (USMLE). If an applicant fails to pass the examination on two (2) separate occasions the applicant may be required to be interviewed, evaluated or examined by the Board. (5-8-09)

06. Interview. Each applicant may be personally interviewed by the Board or a designated committee of the Board. The interview shall include a review of the applicant's qualifications and professional credentials. (3-30-01)

07. Applicants. All applicants must complete their license application within one (1) year unless extended by the Board after filing an application for extension. Unless extended, applications that remain on file for

more than one (1) year will be considered null and void and a new application and new fees will be required as if filing for the first time. (3-30-06)

08. Health Care Standards. In reviewing the application or conducting the applicant's interview, the Board shall determine whether the applicant possesses the requisite qualifications to provide the same standard of health care as provided by licensed physicians in this state. If the Board is unable to reach such a conclusion through the application and interview, it shall conduct further inquiry, to establish such qualifications. (3-30-06)

a. Upon inquiry, if further examination is required, the Board may require passage of the Special Purpose Examination (SPEX) administered by the FSMB, a post licensure assessment conducted by the FSMB, or an evaluation by an independent agency accepted by the Board to evaluate physician competence. (5-8-09)

b. The Board will require further inquiry when in its judgment the need is apparent, including but not limited to the following circumstances: (3-30-06)

i. Graduate of an international medical school located outside the United States and Canada and not accredited by the LCME; (5-8-09)

ii. Applicant whose background investigation reveals evidence of impairment, competency deficit, or disciplinary action by any licensing or regulatory agency; (3-26-08)

iii. An applicant has not been in active medical practice for a period exceeding one (1) year, or when practice has been significantly interrupted; (3-30-06)

iv. An applicant has not written a recognized examination intended to determine ability to practice medicine within a period of five (5) years preceding application; (3-30-06)

v. An applicant whose initial licensure was issued on the basis of an examination not recognized by the Board; or (3-30-06)

vi. When there is any reason whatsoever to question the identity of the applicant. (3-30-06)

c. Recommendations of the assessment and or evaluation acceptable to the Board related to the ability of the applicant to practice medicine and surgery will be considered by the Board in its decision whether to issue a license and the Board may limit, condition, or restrict a license based on the Board's determination and the recommendation of the assessment or evaluation. (3-30-06)

(BREAK IN CONTINUITY OF SECTIONS)

081. PHYSICIAN PANELIST FOR PRELITIGATION CONSIDERATION OF MEDICAL MALPRACTICE CLAIMS.

01. Purpose. The purpose of serving as a physician panelist for prelitigation consideration of medical malpractice claims against physicians and surgeons practicing in the state of Idaho or against licensed acute care general hospitals operating in the state of Idaho is to:

a. ~~e~~Cooperate in the prelitigation consideration of personal injury and wrongful death claims for damages arising out of the provision of or alleged failure to provide hospital or medical care in Idaho; and ()

b. ~~to~~ ~~accept~~ and hear complaints of such negligence and damages, made by or on behalf of any patient who is an alleged victim of such negligence. (5-8-09)()

02. Eligibility. A physician licensed to practice medicine and surgery or osteopathic medicine or surgery in Idaho shall be available to serve in any two (2) year period, or a longer period not to exceed five (5) years,

as determined by the panel chairman, as a physician panelist for prelitigation consideration of a medical malpractice claim. (5-8-09)

03. Excusing Physicians from Serving. A physician panelist so selected shall serve unless he had served on a prelitigation panel during any previous two (2) year period, or a longer period not to exceed five (5) years, as determined by the panel chairman or for good cause shown, is excused by the panel chairman. To show good cause for relief from serving, the selected physician panelist shall present an affidavit to the panel chairman which shall set out the facts showing that service would constitute an unreasonable burden or undue hardship. The panel chairman shall have the sole authority to excuse a selected physician from serving on a prelitigation panel. (5-8-09)

04. Penalties for Noncompliance. The Board may condition, limit, suspend, or refuse to renew the license of any physician whom the Board determines has failed to serve as a physician panelist for the prelitigation consideration of a medical malpractice claim. (5-8-09)

IDAPA 22 - BOARD OF MEDICINE

22.01.02 - RULES OF THE BOARD OF MEDICINE FOR THE REGISTRATION OF EXTERNS, INTERNS, AND RESIDENTS

DOCKET NO. 22-0102-1201

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) 54-1806 (2) and (11), 54-1806A, 54-1812, 54-1813 (2) and 54-1814, Idaho Code.

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

October 23, 2012

1:00 - 2:00 p.m.

**Idaho State Board of Medicine, Conference Room
1755 Westgate Dr., Ste. 140, Boise, Idaho**

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 purpose of this proposed rulemaking includes updating and clarifying the registration process; enhancing definitions, delimiting duration of registration and improving the registration fee schedule to minimize costs for issuance and renewal of registrations.

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

The registration Fee schedule was modified to include a renewal fee that shall be no more than twenty-five dollars (\$25) to facilitate delimiting the duration of registration. Authority for imposition of fees is found in Sections 54-1806 and 54-1807, 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 as a result of this rulemaking: N/A

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(1), Idaho Code, negotiated rulemaking was not conducted. The Board received input and comments from its constituents and licensees.

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 Nancy M. Kerr, Executive Director, Idaho State Board of Medicine, (208) 327-7000.

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 24, 2012.

DATED this 21st of August, 2012.

Nancy M. Kerr, Executive Director
Idaho State Board of Medicine
1755 Westgate Drive, Ste. 140, Boise, ID
PO Box 83720 Boise, ID 83720-0058
Phone: (208) 327-7000 Fax: (208) 327-7005

THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 22-0102-1201

006. OFFICE -- OFFICE HOURS -- MAILING ADDRESS AND STREET ADDRESS.

The central office of the Board of Medicine will be in Boise, Idaho. The Board's mailing address, unless otherwise indicated, will be Idaho State Board of Medicine, P.O. Box 83720, Boise, Idaho 83720-0058. The Board's street address is 1755 Westgate Drive, Suite 140, Boise, Idaho 83704. The telephone number of the Board is (208) 327-7000. The Board's facsimile (FAX) number is (208) 327-7005. The Board's web site is www.bom.state.id.us/idahogov. The Board's office hours for filing documents are 8 a.m. to 5 p.m. MST.

(3-26-08)()

007. FILING OF DOCUMENTS -- NUMBER OF COPIES.

All documents in rulemaking or contested case proceedings must be filed with the office of the Board. The original and ~~ten~~ one (1) electronic copies of all documents must be filed with the office of the Board.

(3-26-08)()

(BREAK IN CONTINUITY OF SECTIONS)

010. DEFINITIONS.

01. ~~Acceptable Post Graduate Training Program. A post graduate medical training program or course of medical study which has been approved by the Accreditation Council for Graduate Medical Education (ACGME) or American Osteopathic Association.~~ **Acceptable School of Medicine.** A medical school or college of osteopathic medicine located within the United States accredited by the Liaison Committee on Medical Education (LCME), Joint Committee of the Association of American Medical Colleges (AAMC) and the American Medical Association (AMA) or the American Osteopathic Association (AOA).

(3-26-08)()

02. ~~Acceptable Training Program. A medical training program or course of medical study which has been approved by the Liaison Committee for Medical Education (LCME), Council on Medical Education or American Osteopathic Association.~~ **Acceptable International School of Medicine.** An international medical school located outside the United States or Canada which meets the standards for medical educational facilities set forth in Subsection 051.02, provides the scope and content of the education and coursework that are equivalent to acceptable schools of medicine located within the United States or Canada and satisfies the Educational Commission for Foreign Medical Graduates' (ECFMG) requirements to provide direct verification and certification status of its international medical graduates.

(3-26-08)()

03. ~~Acceptable Post Graduate Training Program. A post graduate medical training program or course of medical study which has been approved by the Accreditation Council for Graduate Medical Education (ACGME) or American Osteopathic Association.~~ **Acceptable Training Program.** A medical training program or course of medical study which has been approved by the Liaison Committee for Medical Education (LCME), Council on Medical Education or American Osteopathic Association (AOA).

(3-26-08)()

04. Acceptable Post Graduate Training Program. A post graduate medical training program or course of medical study which has been approved by the Accreditation Council for Graduate Medical Education (ACGME) or American Osteopathic Association (AOA).

()

045. **Accreditation Council for Graduate Medical Education (ACGME).** A nationally recognized accrediting authority responsible for accreditation of post-Doctor of Medicine medical training programs within the United States or its successor. (3-26-08)

056. **Alternate Supervising Physician.** A physician currently licensed to practice medicine and surgery or licensed to practice osteopathic medicine and surgery in Idaho who has been designated by the supervising physician and approved by the Board who is responsible for the direction and supervision of the extern, intern, or resident in the temporary absence of the supervising physician. (3-26-08)

067. **Board.** The Idaho State Board of Medicine. (3-15-78)

078. **Educational Commission for Foreign Medical Graduates (ECFMG).** A nationally recognized non-profit organization that certifies international medical graduates who seek to enter United States residency and fellowship programs and conducts the Clinical Skills Assessment (CSA) or its successor. (3-26-08)

089. **Extern or Student.** A bona fide student enrolled in an acceptable school of medicine as defined in IDAPA 22.01.01, "Rules of the Board of Medicine for the Licensure to Practice Medicine and Surgery and Osteopathic Medicine and Surgery in Idaho," Subsection 010.01 or 010.02, who has not received his degree. (~~3-26-08~~)()

0910. **Intern or Resident.** Any person who has completed a course of study at an acceptable school of medicine as defined in IDAPA 22.01.01, "Rules of the Board of Medicine for the Licensure to Practice Medicine and Surgery and Osteopathic Medicine and Surgery in Idaho," Subsection 010.01 or 010.02, but is not yet licensed to practice medicine and who is enrolled in an acceptable postgraduate medical training program. (~~3-26-08~~)()

101. **Liaison Committee on Medical Education (LCME).** An internationally recognized accrediting authority, sponsored by the Association of American Medical Colleges and the American Medical Association, for medical education programs leading to a Doctor of Medicine degree in United States and Canadian medical schools or its successor. (3-26-08)

112. **Original Certificate or Document.** An original document itself or a certified copy thereof issued by the agency or institution and mailed or delivered directly from the source to the Board or a Board approved credential verification service. (3-26-08)

123. **Person.** A natural, living human individual. (3-26-08)

134. **Supervising Physician.** A physician approved by the Board who holds a current active license to practice medicine and surgery or osteopathic medicine and surgery in Idaho, in good standing with no restrictions upon or actions taken against his license, who signs the application for registration of a extern, intern or resident, and who is responsible for the direction and supervision of their activities. (3-26-08)

011. -- 015. (RESERVED)

016. REQUIREMENTS FOR REGISTRATION OF EXTERNS, INTERNS, AND RESIDENTS.

01. Residence. No period of residence in Idaho shall be required of any applicant, however, each applicant for registration must be legally able to work and live in the United States. Original documentation of lawful presence in the United States must be provided upon request only. The Board shall refuse to issue a registration or renew a registration if the applicant is not lawfully present in the United States. (3-26-08)

02. English Language. Each applicant shall speak, write, read, understand and be understood in the English language. Evidence of proficiency in the English language must be provided upon request only. (3-26-08)

03. Application. Each extern, intern or resident intending to commence activities in the state of Idaho which may involve activities constituting the practice of medicine, must submit a completed registration application to the Board on forms furnished by the Board and be issued a registration certificate prior to the commencement of

any such activities. Any diploma or other document required to be submitted to the Board which is not in the English language must be accompanied by a certified translation thereof into English. The application form shall be verified and shall require the following information: (3-26-08)

a. Personal identification information and the educational background of the extern, intern or resident including his college education, medical school education and any postgraduate training programs; (3-26-08)

b. The disclosure of any criminal convictions, criminal charges, medical disciplinary actions or medical malpractice actions, what ever the outcome, involving the extern, intern, or resident; ~~(3-15-78)~~()

c. A complete description of the program or course of study in the acceptable training program or acceptable post graduate training program the applicant intends to follow, including documentation of the liability coverage to be provided to the applicant; (3-26-08)

d. The name and address of the supervising physician and alternate supervising physician and the location of the program or course of study; (3-15-78)

e. The signature by the supervising physician and alternate supervising physician by which they acknowledge and accept responsibility for the activities of the extern, intern, or resident; (3-15-78)

f. An original certificate or document confirming ECFMG certification of the international medical graduate; ~~and~~ ~~(3-26-08)~~()

g. ~~Such other information as the Board deems relevant in reviewing the registration application. A copy of the applicant's birth certificate or current passport; and~~ ~~(3-15-78)~~()

h. Such other information as the Board deems relevant in reviewing the registration application. ()

017. GENERAL PROVISIONS FOR REGISTRATION.

01. Character. The Board may refuse to issue or renew registration ~~or to renew registration~~ if it finds that the applicant has engaged in conduct prohibited by Section 54-1814, Idaho Code; provided the Board shall take into consideration the rehabilitation of the applicant and other mitigating circumstances. ~~(3-26-08)~~()

02. No Action on Application. An application upon which the applicant takes no further action will be held for no longer than one (1) year. (3-26-08)

03. Registration Certificate. Upon approval of the registration application, the Board may issue a registration certificate which shall set forth the period during which the registrant may engage in activities which may involve the practice of medicine. Each registration shall be issued for a period of not less than one (1) ~~day or more than three (3) years~~ and shall set forth its expiration date on the face of the certificate. Each registration shall identify the supervising physician and alternate supervising physician. Each registrant shall notify the Board in writing of any change of the supervising physician, alternate supervising physician or the program or course of study fourteen (14) days prior to any such change. If the Board deems the intern or resident qualified, and if the course study requires, the Board may additionally certify on the registration certificate that the intern or resident is qualified to write prescriptions for Class III through Class V scheduled medications. ~~(3-26-08)~~()

04. Termination of Registration. The registration of an extern, intern or resident may be terminated, suspended or made conditional by the Board on the grounds set forth in Section 54-1814, Idaho Code, and under the procedures set forth in Section 54-1806A, Idaho Code. (3-15-78)

05. Extension Annual Renewal of Registration. Each registration ~~may shall~~ be extended one (1) time and may be extended prior to its expiration date upon approval of a written request to the Board renewed annually prior to their expiration date. Registrations not ~~extended renewed~~ by their expiration date shall be canceled. ~~(3-26-08)~~()

06. Notification of Change. ~~Externs, interns and residents must~~ **Each registrant shall** notify the Board **in writing** of any adverse action or termination, **what ever the outcome**, from any training program or post graduate training program and any name changes within ~~thirty~~ **fourteen (30/14)** days of such event. ~~(3-26-08)~~()

07. Disclosure. It shall be the responsibility of each registrant to ensure that every patient is aware of the fact that such extern, intern and resident is currently enrolled in a training program or post graduate training program and under the supervision of a licensed physician. This disclosure requirement can be fulfilled by the use of name tags, correspondence, oral statements or such other procedures that under the involved circumstances adequately advise the patient of the education and training of the extern, intern and resident. (3-26-08)

018. FEES.

01. Registration Fee. The nonrefundable registration **issuance** fee shall be no more than twenty-five dollars (\$25). ~~(3-26-08)~~()

02. Annual Renewal of Registration Fee. ~~The nonrefundable registration annual renewal fee shall be no more than twenty-five dollars (\$25).~~ ()

023. Other. Administrative fees for services, including photocopying and review of records shall be billed on the basis of time and charges. ~~(3-15-78)~~()

IDAPA 22 - BOARD OF MEDICINE
22.01.03 - RULES FOR THE LICENSURE OF PHYSICIAN ASSISTANTS
DOCKET NO. 22-0103-1201 (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) 54-1806(2), Idaho Code.

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

October 23, 2012

1:00 - 2:00 p.m.

**Idaho State Board of Medicine, Conference Room
1755 Westgate Dr., Ste. 140, Boise, Idaho**

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 substance and purpose of this rule change is to require applicants to provide a copy of a birth certificate or passport with their application to document lawful presence in the United States, provide for temporary licensure while awaiting fingerprint-based criminal history check results and compensating the Physician Assistant Advisory Committee members according to Section 59-509(n), Idaho Code, to avoid tax consequences.

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

Addition of the provision for a temporary license mandated establishing an issuance fee, which may be prorated pursuant to Section 54-1808, Idaho Code, and shall be no more than one hundred eighty dollars (\$180). Authority for imposition of fees is found in Sections 54-1806 and 54-1806(4), 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 as a result of this rulemaking: N/A

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(1), Idaho Code, negotiated rulemaking was not conducted. The Board also received input and comments from its constituents and licensees.

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 Nancy M. Kerr, Executive Director, Idaho State Board of Medicine, (208) 327-7000.

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 24, 2012.

DATED this 21st of August, 2012.

Nancy M. Kerr, Executive Director
Idaho State Board of Medicine
1755 Westgate Drive, Ste. 140, Boise, ID
PO Box 83720 Boise, ID 83720-0058
Phone: (208) 327-7000 Fax: (208) 327-7005

THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 22-0103-1201

022. TEMPORARY LICENSE.

Temporary licenses may be issued exclusively to those applicants who appear to be eligible after submission of completed applications for active physician assistant licenses but such licenses subject to pending results of fingerprint-based criminal history checks of the Idaho central criminal database and the Federal Bureau of Investigation criminal history database. The temporary license shall be valid from the date of issuance to the next regular meeting of the Board, unless extended by the Board upon extenuating circumstances. ()

023. -- 025. (RESERVED)

(BREAK IN CONTINUITY OF SECTIONS)

051. FEES -- LICENSE ISSUANCE, RENEWAL, CANCELLATION AND REINSTATEMENT.

All licenses to practice as a physician assistant or graduate physician assistant shall be issued for a period of not more than five (5) years. All licenses shall expire on the expiration date printed on the face of the certificate and shall become invalid after that date unless renewed. The Board shall collect a fee for each renewal year. The failure of any person to renew his license shall not deprive such person of the right to renewal, except as provided for herein and Title 67, Chapter 52, Idaho Code. All Fees are nonrefundable. (~~3-16-04~~)()

01. Licensure Fee. The fee for initial licensure shall be no more than two hundred fifty dollars (\$250) for a physician assistant and graduate physician assistant. (4-9-09)

02. License Renewal Fee. The Board shall collect a fee of no more than one hundred fifty dollars (\$150) for each renewal year of a license. (4-9-09)

03. License Cancellation. (3-16-04)

a. Failure to renew a license to practice as a physician assistant and pay the renewal fee shall cause the license to be canceled. However, such license can be renewed up to two (2) years following cancellation by payment of past renewal fees, plus a penalty fee of fifty dollars (\$50). After two (2) years, an initial application for licensure with payment of the appropriate fee shall be filed with the Board. In addition, the Board may require evidence of an educational update and close supervision to assure safe and qualified performance. After two (2) years, an original application for licensure with payment of the appropriate fee shall be filed with the Board. (~~4-9-09~~)()

b. Failure to renew a license to practice as a graduate physician assistant and pay the renewal fee shall cause the license to be canceled. However, such license can be renewed up to six (6) months following cancellation by payment of the past renewal fee, plus a penalty fee of no more than one hundred dollars (\$100). After six (6) months, an original application for licensure with payment of the appropriate fee shall be filed with the Board. (4-9-09)

04. Inactive License. (3-16-04)

a. A person holding a current license issued by the Board to practice as a physician assistant may be issued, upon written application provided by the Board and payment of required fees to the Board, an inactive license on the condition that he will not engage in the provision of patient services as a physician assistant in this state. An initial inactive license fee of no more than one hundred fifty dollars (\$150) shall be collected by the Board. (3-16-04)

b. Inactive licenses shall be issued for a period of not more than five (5) years and such licenses shall be renewed upon payment of an inactive license renewal fee of no more than one hundred dollars (\$100) for each renewal year. The inactive license certificate shall set forth its date of expiration. (3-16-04)

c. An inactive license may be converted to an active license to practice as a physician assistant upon written application and payment of required conversion fees of no more than one hundred fifty dollars (\$150) to the Board. The applicant must account for the time during which an inactive license was held and document continuing competence. The Board may, in its discretion, require a personal interview to evaluate the applicant's qualifications. In addition, the Board may require evidence of an educational update and close supervision to assure safe and qualified performance. (3-16-04)

05. Volunteer License. (4-9-09)

a. License. Upon completion of an application and verification of qualifications, the Board may issue a volunteer license to a physician assistant who is retired from active practice for the purpose of providing physician assistant service to people who, due to age, infirmity, handicap, indigence or disability, are unable to receive regular medical treatment. (4-9-09)

b. Retired Defined. A physician assistant previously holding a license to practice as a physician assistant in Idaho or another state shall be considered retired if, prior to the date of the application for a volunteer's license, he has: (4-9-09)

i. Allowed his license with active status to expire with the intent of ceasing active practice as a physician assistant for remuneration; or (4-9-09)

ii. Converted his active license to an inactive status with the intention of ceasing to actively practice physician assistant for remuneration; or (4-9-09)

iii. Converted his license with active or inactive status to a license with retirement or similar status that proscribed the active practice as a physician assistant. (4-9-09)

c. Eligibility. A physician assistant whose license has been restricted, suspended, revoked surrendered, resigned, converted, allowed to lapse or expire as the result of disciplinary action or in lieu of disciplinary action shall not be eligible for a volunteer license. The volunteer license cannot be converted to a license with active, inactive or temporary status. (4-9-09)

d. Application. The application for a volunteer license shall include the requirements listed in Section 021 of these rules and: (4-9-09)

i. Verification that the applicant held an active physician assistant license in good standing in Idaho or another state within five (5) years of the date of application for a volunteer license. (4-9-09)

ii. The Board may at its discretion issue a volunteer license to a physician assistant who has not held an active license in good standing for greater than five (5) years if the applicant has completed an examination acceptable to the Board that demonstrates the applicant possesses the knowledge and skills required to practice as a physician assistant. (4-9-09)

06. Temporary Licensure Fee. The fee for temporary licensure, which may be prorated pursuant to Section 54-1808, Idaho Code, shall be no more than one hundred eighty dollars (\$180). ()

IDAPA 22 - BOARD OF MEDICINE

22.01.11 - RULES FOR LICENSURE OF RESPIRATORY THERAPISTS AND PERMITTING OF POLYSOMNOGRAPHERS IN IDAHO

DOCKET NO. 22-0111-1201

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) 54-4304A, 54-4305, 54-4309, 54-4310, 54-4311, 54-4312 and 54-4316, Idaho Code.

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

October 23, 2012

1:00 - 2:00 p.m.

**Idaho State Board of Medicine, Conference Room
1755 Westgate Dr., Ste. 140, Boise, Idaho**

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 substance and purpose of this rule change is to enhance the guidance of polysomnographic trainees via direct on-site supervision, prohibit polysomnographic technicians from applying for temporary permits as polysomnographic trainees and requiring an original and one (1) electric copy of all documents in contested case proceedings.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased: There will be no increase in fees. Authority for imposition of fees is found in Sections 54-1806 and 54-1806A (4), 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 as a result of this rulemaking: N/A

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(1), Idaho Code, negotiated rulemaking was not conducted. The Board received input and comments from its constituents and licensees.

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 Nancy M. Kerr, Executive Director, Idaho State Board of Medicine, (208) 327-7000.

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 24, 2012.

DATED this 21st of August, 2012.

Nancy M. Kerr, Executive Director
Idaho State Board of Medicine
1755 Westgate Drive, Ste. 140, Boise, ID
PO Box 83720 Boise, ID 83720-0058
Phone: (208) 327-7000 Fax: (208) 327-7005

THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 22-0111-1201

005. OFFICE -- OFFICE HOURS -- MAILING ADDRESS AND STREET ADDRESS.

The central office of the Board of Medicine will be in Boise, Idaho. The Board's mailing address, unless otherwise indicated, will be Idaho State Board of Medicine, P.O. Box 83720, Boise, Idaho 83720-0058. The Board's street address is 1755 Westgate Drive, Suite 140, Boise, Idaho 83704. The telephone number of the Board is (208) 327-7000. The Board's facsimile (FAX) number is (208) 327-7005. The Board's website is <http://bom.idaho.gov/BOMPortal/Home.aspx>. The Board's office hours for filing documents are 8 a.m. to 5 p.m. MST. (4-11-06)()

007. FILING OF DOCUMENTS -- NUMBER OF COPIES.

All documents in rulemaking or contested case proceedings must be filed with the office of the Board. The original and ~~ten~~ one (1) electronic ~~copies~~ of all documents must be filed with the office of the Board. (3-16-04)()

(BREAK IN CONTINUITY OF SECTIONS)

010. DEFINITIONS.

- 01. Act.** The Respiratory Care Practice Act of 1991, Title 54, Chapter 43, Idaho Code. (4-28-93)
- 02. Applicant.** A person who applies for a license, dual license/permit, permit, conditional permit, or a temporary permit pursuant to this chapter and Title 54, Chapter 43, Idaho Code. (3-16-04)
- 03. Board.** The Idaho State Board of Medicine, established pursuant to Section 54-1805, Idaho Code. (3-16-04)
- 04. Board of Registered Polysomnographic Technologists.** A nationally recognized private testing, examining and credentialing body for the polysomnography related respiratory care profession. (3-16-04)
- 05. Certified Pulmonary Function Technologist (CPFT).** The professional designation earned by a person who has successfully completed the entry level pulmonary function certification examination administered by the National Board for Respiratory Care, Inc., or by an equivalent board, recognized by the Board. (3-16-04)
- 06. Certified Respiratory Therapist (CRT).** The professional designation earned by a person who has successfully completed the entry level examination administered by the National Board for Respiratory Care, Inc., or by an equivalent board, recognized by the Board. (3-16-04)
- 07. Comprehensive Registry Exam.** The comprehensive registry examination administered by the Board of Registered Polysomnographic Technologists, or administered by an equivalent board, recognized by the Board, the successful completion of which entitles a person to the professional designation of Registered Polysomnographic Technologist (RPSGT). (3-16-04)

08. Conditional Permit. A time-restricted permit issued by the Board, upon the recommendation of the Licensure Board, as set forth in this chapter and Section 54-4304A, Idaho Code, to a registered polysomnographic technologist, polysomnographic technician or a polysomnographic trainee, on or after January 1, 2004, and issued until issuance of permits as provided in this chapter. (3-16-04)

09. Entry Level Examination. The certification examination for entry level respiratory therapy practitioners administered by the National Board for Respiratory Care, Inc., or certification examination administered by an equivalent board, recognized by the Board, the successful completion of which entitles a person to the professional designation of "Certified Respiratory Therapist" (CRT). (3-16-04)

10. Licensed Physician. A physician licensed to practice medicine and surgery or osteopathic medicine and surgery, by the Idaho State Board of Medicine. (3-16-04)

11. Licensure. The issuance of a license to an applicant under the provisions of this chapter and Title 54, Chapter 43, Idaho Code entitling such person to hold himself out as a respiratory care practitioner and to practice or perform respiratory care in this state. (3-16-04)

12. Licensure Board. The Licensure Board established by this chapter and Section 54-4313, Idaho Code. (3-16-04)

13. Medical Practice Act. The Medical Practice Act of 1977, Title 54, Chapter 18, Idaho Code. (3-26-08)

14. National Board of Respiratory Care, Inc. A nationally recognized private testing, examining and credentialing body for the respiratory care profession. (3-16-04)

15. Performance of Respiratory Care. Respiratory care practiced or performed in accordance with the written, telephonic or verbal prescription of a licensed physician and includes, but is not limited to, the diagnostic and therapeutic use of the following: administration of medical gases, (except for the purpose of anesthesia), aerosols and humidification; environmental control mechanisms and hyperbaric therapy, pharmacologic agents related to respiratory care protocols, mechanical or physiological ventilatory support; bronchopulmonary hygiene, cardiopulmonary resuscitation; maintenance of the natural airway; insertion and maintenance of artificial airways; specific diagnostic and testing techniques employed in the medical management of patients to assist in diagnosis, monitoring, treatment and research of pulmonary abnormalities, including measurements of ventilatory volumes, pressures and flows, collection, reporting and analysis of specimens of blood and blood gases, arterial punctures, insertion and maintenance of arterial lines, expired and inspired gas samples, respiratory secretions, and pulmonary function testing; and hemodynamic and other related physiologic measurements of the cardiopulmonary system, observation and monitoring of signs and symptoms, general behavior, general physical response to respiratory care treatment and diagnostic testing and determination of whether such signs, symptoms, reactions, behavior or general response exhibit abnormal characteristics; implementation based on observed abnormalities of appropriate reporting or referral of respiratory care or changes in treatment regimen, pursuant to a prescription by a physician or the initiation of emergency procedures. (4-28-93)

16. Permit. The issuance of a permit to an applicant under the provisions of this chapter and Section 54-4304A, Idaho Code, entitles such person to hold himself out as a registered polysomnographic technologist, polysomnographic technician, or polysomnographic trainee and to perform polysomnography related respiratory care in this state. (3-16-04)

17. Person. A natural living human individual. (3-16-04)

18. Polysomnographic Technician. A person who holds a permit as set forth in this chapter and Section 54-4304A, Idaho Code, and who performs polysomnography related respiratory care services under the supervision of an Idaho permitted registered polysomnographic technologist, licensed respiratory care practitioner or an Idaho licensed physician. (3-16-04)

19. Polysomnographic Trainee. A person who holds a temporary permit as set forth in this chapter and Section 54-4304A, Idaho Code, and who performs polysomnography related respiratory care services under the

direct supervision of an Idaho licensed respiratory care practitioner, or a person exempt from such licensure pursuant to this chapter and Section 54-4308, Idaho Code, an Idaho permitted registered polysomnographic technologist, an Idaho permitted polysomnographic technician or an Idaho licensed physician. Direct supervision by an Idaho licensed respiratory care practitioner, or such person exempt from such licensure pursuant to this chapter and Section 54-4308, Idaho Code, or an Idaho permitted registered polysomnographic technologist or technician, or an Idaho licensed physician, means that such a person shall be on the premises same site where such polysomnographic related respiratory care services are provided and shall be immediately available for consultation with the polysomnographic trainee. (3-16-04)()

20. Polysomnography. The process of analysis, attended monitoring and recording of physiologic data during sleep and wakefulness to assist in the assessment and diagnosis of sleep/wake disorders and other disorders, syndromes and dysfunctions that either are sleep related, manifest during sleep or disrupt normal sleep/wake cycles and activities. (3-16-04)

21. Polysomnography Related Respiratory Care Services. The limited practice of respiratory care in the provision of polysomnography services, under the supervision of an Idaho licensed physician, by a person at a sleep disorder center or laboratory who holds a permit issued by the Board, as a registered polysomnographic technologist, polysomnographic technician or a polysomnographic trainee, or who is otherwise licensed as a respiratory care practitioner or who is exempt from licensure or permitting pursuant to this chapter and Section 54-4308, Idaho Code. Polysomnography related respiratory care services include therapeutic and diagnostic use of oxygen, noninvasive ventilatory assistance of spontaneously breathing patients and cardiopulmonary resuscitation and maintenance of nasal and oral airways that do not extend into the trachea, as ordered by an Idaho licensed physician or by written procedures and protocols of the associated sleep disorder center or laboratory as approved by an Idaho licensed physician and which do not violate any rules adopted by the Board. This chapter does not in any way authorize the practice of medicine or any of its branches by any person not so licensed by the Board. Further, licensed respiratory practitioners, and those exempt from licensure pursuant to this chapter and Section 54-4308, Idaho Code, are not limited in their scope of practice of provision of respiratory care, which they may provide, including care in connection with the provision of polysomnography services. (3-16-04)

22. Practice of Respiratory Care. Means, but shall not be limited to, the provision of respiratory and inhalation therapy which shall include, but not be limited to: therapeutic and diagnostic use of medical gases, humidity and aerosols including the maintenance of associated apparatus; administration of drugs and medications to the cardiorespiratory system; provision of ventilatory assistance and ventilatory control; postural drainage, percussion, breathing exercises and other respiratory rehabilitation procedures; cardiopulmonary resuscitation and maintenance of natural airways, the insertion and maintenance of artificial airways; and the transcription and implementation of a physician's written, telephonic or verbal orders pertaining to the practice of respiratory care. It also includes testing techniques employed in respiratory care to assist in diagnosis, monitoring, treatment and research. This shall be understood to include, but not be limited to, measurement of ventilatory volumes, pressures and flows, specimen collection of blood and other materials, pulmonary function testing and hemodynamic and other related physiological monitoring of the cardiopulmonary system. The practice of respiratory care is not limited to the hospital setting but shall be performed under the general supervision of a licensed physician. (4-28-93)

23. Respiratory Care Protocols. Policies, procedures or protocols developed or instituted by health care facilities or institutions, through collaboration when appropriate or necessary with administrators, physicians, registered nurses, physical therapists, respiratory care practitioners and other licensed, certified or registered health care practitioners. (4-28-93)

24. Registered Polysomnographic Technologist (RPSGT). The professional designation earned by a person who has successfully completed the comprehensive registry examination administered by the Board of Registered Polysomnographic Technologists, or by an equivalent board, recognized by the Board, and who holds a permit as set forth in this chapter and Section 54-4304A, Idaho Code, and who works under the supervision of an Idaho licensed physician to provide polysomnography related respiratory care services. (3-16-04)

25. Registered Pulmonary Function Technologist (RPFT). The professional designation earned by a person who has successfully completed the advanced pulmonary function certification examination administered by the National Board for Respiratory Care, Inc., or an advanced pulmonary function certification examination administered by an equivalent board, recognized by the Board. (3-16-04)

26. Registered Respiratory Therapist (RRT). The professional designation earned by a person who has successfully completed the written registry and clinical simulation examinations administered by the National Board for Respiratory Care, Inc., or certification examinations administered by an equivalent board, recognized by the Board. (3-16-04)

27. Respiratory Care. Allied health profession responsible for the treatment, management, diagnostic testing, control and care of patients with deficiencies and abnormalities associated with the cardiopulmonary system, under the general supervision of a licensed physician. (2-23-94)

28. Respiratory Care Practitioner. A person who has been issued a license by the Board. (3-16-04)

29. Respiratory Therapist. A person who practices or provides respiratory care. (4-28-93)

30. Respiratory Therapy. The practice or performance of respiratory care, including but not limited to, inhalation therapy. (4-28-93)

31. Sleep Disorder Center or Laboratory. A facility for sleep related disorders that provides polysomnography and is under the supervision of an Idaho licensed physician or medical director licensed by the Board who is responsible for patient care provided in such center or laboratory. A sleep disorder center or laboratory that provides polysomnography related respiratory care to patients shall have an Idaho licensed respiratory care practitioner, an Idaho permitted registered polysomnographic technologist, an Idaho permitted polysomnographic technician, or a person exempt from licensure or permitting pursuant to this chapter and Section 54-4308, Idaho Code, in constant attendance. (3-16-04)

32. Supervision of Respiratory Care. The practice or provision of respiratory care by persons holding a student or consulting and training exemption, or temporary permit shall be in direct association with a respiratory care practitioner or licensed physician who shall be responsible for the activities of the person being supervised and shall review and countersign all patient documentation performed by the person being supervised. The supervising respiratory care practitioner or licensed physician need not be physically present or on the premises at all times but must be available for telephonic consultation. The extent of communication between the supervising or consulting respiratory care practitioner or licensed physician and the person being supervised shall be determined by the competency of the person, the treatment setting, and the diagnostic category of the client. (3-26-08)

33. Temporary Permit. The Board may issue a temporary permit, limited to a total period of two (2) years, including initial and renewal, to a respiratory care practitioner applicant who meets the requirements set forth in this chapter and Section 54-4307, Idaho Code. The Board may issue a temporary permit, limited to a total period of two (2) years, including initial and renewal, to a polysomnographic trainee applicant who meets the requirements set forth in this chapter and Section 54-4304A, Idaho Code. (3-16-04)

34. Written Registry and Clinical Simulation Examinations. The certification examinations administered by the National Board of Respiratory Care, Inc., or certification examinations administered by an equivalent board, recognized by the Board, the successful completion of which entitles a person the professional designation of "Registered Respiratory Therapist" (RRT). (3-16-04)

(BREAK IN CONTINUITY OF SECTIONS)

032. APPLICATION FOR LICENSURE AND PERMITS.

01. All Applications. Each applicant for licensure or permit shall submit a completed written application to the Board on forms prescribed by the Board, together with the application fee. The Board may, in its discretion, prorate the application fees charged in conjunction with an application for initial licensure or a temporary permit if such license or temporary permit shall, upon issuance, remain valid for less than one (1) full calendar year before the required renewal date as provided for in Sections 54-4309 and 54-4310, Idaho Code. The application shall

be verified and under oath and shall require documentation of the following information: (4-11-06)

a. The disclosure of any criminal conviction or charges against the applicant other than minor traffic offenses, what ever the outcome; and ~~(2-23-94)~~()

b. The disclosure of any charge, investigation or disciplinary action against the applicant by any state professional regulatory agency or professional organization that bears a demonstrable relationship to the ability of the applicant to practice in accordance with the provisions of this chapter; and (3-16-04)

c. The disclosure of the denial of registration or licensure by any country, state or district regulatory body; and (3-26-08)

d. Not less than two (2) certificates of recommendation from persons, other than relatives or persons living with the applicant, who have personal knowledge of at least one (1) year of the applicant's character and the applicant's ability to work as a respiratory therapist or provide polysomnography related respiratory care services; and (3-26-08)

e. One (1) unmounted photograph of the applicant, no larger than three by four inch (3" x 4") (head and shoulders), taken not more than one (1) year prior to the date of the application; and (2-23-94)

f. Such other information as deemed reasonably necessary and as is lawful for the Board to identify and evaluate the applicant's credentials; and (3-16-04)

g. Evidence that applicant is no less than eighteen (18) years of age. (3-16-04)

h. The Board may, at its discretion, require the applicant to appear for a personal interview. (3-16-04)

02. Application for Respiratory Care Practitioner. (3-16-04)

a. Documentation of evidence that applicant has passed the entry level examination and is a Certified Respiratory Therapist (CRT) or has successfully completed the written registry and clinical simulation examinations and is a Registered Respiratory Therapist (RRT); or (3-16-04)

b. Documentation that the applicant is licensed as a respiratory care practitioner, or the equivalent at the discretion of the Board, in another state, district or territory of the United States. (3-16-04)

c. Application for Temporary Permit. The Board may issue a temporary permit to an applicant who meets the requirements set forth in this chapter and Section 54-4307, Idaho Code. A temporary permit shall authorize the practice of respiratory care under the supervision of a respiratory care practitioner or licensed physician. (3-16-04)

i. A temporary permit for a respiratory care practitioner may be converted to a permanent license by providing to the Board, verification of appropriate certification as a Certified Respiratory Therapist (CRT) or Registered Respiratory Therapist (RRT). (3-16-04)

ii. A temporary permit shall be effective for one (1) year from the date of issuance. (4-28-93)

iii. A temporary permit may be renewed one (1) time only for a period of one (1) year, upon application to the Board. ~~(4-28-93)~~()

iv. Application for a temporary permit shall be made to the Board on a form prescribed by the Board, together with the application fee. The Board may, in its discretion, prorate the application fees charged in conjunction with an initial application for a temporary permit if such temporary permit shall, upon issuance, remain valid for less than one (1) full calendar year before the required renewal date as provided for in Sections 54-4309 and 54-4310, Idaho Code. (4-11-06)

03. Application for Inactive License. A person holding a current license issued by the Board to

practice as a respiratory care practitioner may be issued, upon written application provided by the Board and payment of required fees to the Board, an inactive license on the condition that he will not engage in the provision of respiratory care services as a respiratory care practitioner in this state. (3-16-04)

a. Issuance and Renewal. Inactive licenses shall be issued for a period of not more than five (5) years and such licenses shall be renewed upon payment of an inactive license renewal fee of no more than one hundred dollars (\$100) for each renewal year. Such inactive licenses shall expire on the expiration date printed on the face of the certificate unless renewed. (3-26-08)

b. Inactive to Active License. An inactive license may be converted to an active license to practice as a respiratory care practitioner upon written application and payment of active licensure fees for each inactive year minus paid inactive fees plus a conversion fee of no more than one hundred dollars (\$100) to the Board. The applicant must account for the time during which an inactive license was held and document continuing competence. The Board may, in its discretion, require a personal interview to evaluate the applicant's qualifications. In addition, the Board may require evidence of an educational update and close supervision to assure safe and qualified performance. (3-26-08)

04. Application for Respiratory Care and Polysomnography Related Respiratory Care Practitioner. (3-16-04)

a. The Board may issue a dual license/permit to an applicant who meets the requirements set forth in this chapter and Sections 54-4306 and 54-4304A(2) and (3), Idaho Code. A dual license/permit shall authorize the holder to perform respiratory care and polysomnography related respiratory care in this state. (3-16-04)

b. Application for a dual license/permit shall be made to the Board on a form prescribed by the Board, together with the application fee. (3-16-04)

c. Such dual license/permit shall expire on the expiration date printed on the face of the certificate unless renewed. (3-16-04)

05. Application for Polysomnography Related Respiratory Care Practitioner. (3-16-04)

a. Only persons who are licensed as respiratory care practitioners or who are exempt from licensure pursuant to the chapter and Section 54-4308, Idaho Code, or who hold a permit issued by the Board as registered polysomnographic technologists, polysomnographic technicians or polysomnographic trainees may provide polysomnography related respiratory care services. (3-16-04)

b. Qualifications for permit. An applicant for a permit to provide polysomnography related respiratory care services as a registered polysomnographic technologist or polysomnographic technician or for a temporary permit as a polysomnographic trainee under the provisions of Section 032 who is not otherwise licensed to provide respiratory care services or exempt from the requirements of this chapter pursuant to Section 54-4308, Idaho Code, must provide documentation of: (3-16-04)

i. Being a high school graduate or have passed a general educational development (GED) examination and earned a GED certificate; and (3-16-04)

ii. Being currently certified in cardiopulmonary resuscitation (CPR). (3-16-04)

c. Application for Registered Polysomnographic Technologist. An applicant must provide documentation of successful completion of the comprehensive registry examination as a registered polysomnographic technologist administered by the Board of Registered Polysomnographic Technologists or an equivalent examination, approved by the Board as recommended by the Licensure Board. (3-16-04)

d. Application for Polysomnographic Technician. An applicant must provide written documentation and a signed affidavit affirming and attesting to one (1) of the following qualifications: (3-16-04)

i. Successful completion of a polysomnography program of not less than one (1) year duration,

associated with a state licensed or a nationally accredited educational facility, as approved by the Board, as recommended by the Licensure Board; or (3-16-04)

ii. Successful completion of a minimum of seven hundred twenty (720) hours of experience as a polysomnographic trainee with documented proficiency in polysomnography related respiratory care services, as approved by the Board, as recommended by the Licensure Board. (3-16-04)

e. Application for Polysomnographic Trainee. An applicant must provide a signed affidavit from an Idaho permitted registered polysomnographic technologist, an Idaho permitted polysomnographic technician, an Idaho licensed respiratory care practitioner, or an Idaho licensed physician affirming and attesting he shall ensure that there is direct supervision of performance of basic polysomnography related respiratory care services by a polysomnographic trainee applicant. The direct supervisor shall be on the premises where such polysomnographic related respiratory care services are provided and shall be immediately available for consultation with the polysomnographic trainee applicant. The Affiant need not be the direct supervisor at any given time. Such Affiant shall be responsible for the activities of the supervised polysomnographic trainee and shall document his review of all patient documentation performed by the supervised polysomnographic trainee. If at any time during the term of the polysomnographic trainee's permit, the Affiant of the trainee changes, the polysomnographic trainee shall provide a signed affidavit from his new Affiant who will ensure that the trainee has direct supervision. In addition, the applicant shall provide written documentation he has at least one (1) of the following qualifications: (3-16-04)

i. At least seven hundred twenty (720) hours of experience as a paid employee or contractor in a health care related field. For the purposes of this Section, experience as a paid employee or contractor in a health care related field shall include any work providing direct clinical care to patients or having worked in a clinical care setting in which the applicant had direct interaction with patients, and an opportunity to observe the provision of clinical care to patients; (3-16-04)

ii. Current enrollment in a polysomnography program associated with a state licensed or a nationally accredited education facility; or (3-16-04)

iii. Successful completion of twenty-four (24) semester credit hours (or a quarter (¼) hour system equivalent of the same) of postsecondary education at a state licensed or nationally accredited facility. (3-16-04)

f. **Permits.** All permits shall be issued after applicants have met the requirements of this chapter and Section 54-4304A, Idaho Code and submitted a completed application and payment of a fee in an amount to be fixed by the Board for a period of not less than one (1) year nor more than five (5) years, the exact period to be fixed by the Board. Such permits shall expire on the expiration date printed on the face of the certificate unless renewed. The failure of any person to renew a renewable permit shall not deprive such person of the right to renewal, except as provided for herein and Section 54-4312, Idaho Code. The Board shall collect a fee in an amount to be fixed by the Board for the initial issuance and each renewal year. (3-16-04)

i. Permits for registered polysomnographic technologists, including renewals, shall be issued for a period of not less than one (1) year nor more than five (5) years. Such permits shall be renewed on their expiration date upon completion of a renewal application and upon payment of a renewal fee. (3-16-04)

ii. Permits for polysomnographic technicians, including renewals, shall be issued for a period of one (1) year, and shall be renewed for successive one (1) year periods, not to exceed three (3) renewals for a total period of four (4) years. Such permits shall be renewed on their expiration date upon completion of a renewal application and upon payment of a renewal fee. (3-16-04)

iii. Temporary permits for polysomnographic trainees shall be issued for a period of not more than one (1) year, the exact period to be fixed by the Board. Such permits may be renewed on their expiration date upon completion of a renewal application and upon payment of a renewal fee, for a period of one (1) year, with renewal limited to one (1) such renewal, provided however, such permits for polysomnographic trainees shall be limited to a total period of two (2) years. The Board may, in its discretion, prorate the application fees charged in conjunction with an initial application for a temporary permit if such temporary permit shall, upon issuance, remain valid for less than one (1) full calendar year before the required renewal date as provided for in Sections 54-4309 and 54-4310, Idaho Code. **Those who have held permits as a polysomnographic technicians are prohibited from making application for**

temporary permits as a polysomnographic trainees.

~~(4-11-06)~~()

iv. Reinstatement after failure to renew. Permits canceled for nonpayment of renewal fees may be reinstated by filing a completed request for renewal with the Board and paying a reinstatement fee, and back renewal fees. (3-16-04)

v. Reapplication after failure to renew. A registered polysomnographic technologist, whose permit has been canceled for failure to renew for a period of more than two (2) years, shall be required to make application to the Board as a new applicant for a permit. A polysomnographic technician, whose permit has been canceled for failure to renew for a period of more than one (1) year, shall be required to make application to the Board as a new applicant for a permit. Temporary permits for polysomnographic trainees whose permits have been canceled for failure to renew for a period of more than six (6) months shall be required to make application to the Board as new applicants for permits. (3-16-04)

vi. Continuing education. Each individual applicant for renewal of an active permit shall, on or before the expiration date of the permit, submit satisfactory proof to the Licensure Board of successful completion of not less than twelve (12) hours of approved continuing education pertaining to the provision of polysomnographic-related respiratory care per year in addition to any other requirements for renewal as adopted by the Board. The Board, as recommended by the Licensure Board, may substitute all or a portion of the coursework required in Section 032 when an applicant for renewal shows evidence of passing an approved challenge exam or of completing equivalent education as determined by the Board, as recommended by the Licensure Board, to be in full compliance with the education requirements of this chapter. (3-16-04)

g. Conditional Permits. Any person who desires to provide polysomnography related respiratory care services as described in Section 54-4304A, Idaho Code, and this chapter and who meets the requirements of Subsection 032.03, as well as the necessary requirements in Subsections 032.05.g.i. through 032.05.g.iv., may make application for a conditional permit. Conditional permits shall be issued on or after January 1, 2004, as outlined in Section 54-4304A(8), Idaho Code, and shall be issued until the Board has adopted rules as may be required for the issuance of regular permits as provided in this chapter and has had an opportunity to process applications for such regular permits. (3-26-08)

IDAPA 22 - BOARD OF MEDICINE

22.01.12 - RULES RELATING TO HEALTH CARE WORKERS

DOCKET NO. 22-0112-1201 (CHAPTER REPEAL)

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) 54-1806A, Idaho Code.

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

October 23, 2012

1:00 - 2:00 p.m.

**Idaho State Board of Medicine, Conference Room
1755 Westgate Dr., Ste. 140, Boise, Idaho**

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 purpose of this proposed rule change is to repeal IDAPA 22.01.12, "Rules Relating to Health Care Workers." This proposed rule repeal is necessary due to obsolescence and redundancy. Enacted in 1993, these rules have never been utilized or employed for any health care worker licensed by the Board. Existing rules govern in cases of inability of licensees to practice with reasonable skill or safety.

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 as a result of this rulemaking: N/A

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(1), Idaho Code, negotiated rulemaking was not conducted. The Board also received input and comments from its constituents and licensees.

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 Nancy M. Kerr, Executive Director, Idaho State Board of Medicine, (208) 327-7000.

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 24, 2012.

DATED this 21st of August, 2012.

Nancy M. Kerr, Executive Director
Idaho State Board of Medicine
1755 Westgate Drive, Ste. 140, Boise, ID
PO Box 83720 Boise, ID 83720-0058
Phone: (208) 327-7000 Fax: (208) 327-7005

IDAPA 22.01.12 IS BEING REPEALED IN ITS ENTIRETY

IDAPA 22 - BOARD OF MEDICINE
22.01.13 - RULES FOR THE LICENSURE OF DIETITIANS
DOCKET NO. 22-0113-1201 (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) 54-3505(2), Idaho Code.

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

October 23, 2012

1:00 - 2:00 p.m.

**Idaho State Board of Medicine, Conference Room
1755 Westgate Dr., Ste. 140, Boise, Idaho**

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 substance and purpose of these proposed Rule changes include providing the Board's website and E-mail address, provision for severability, provisions for denial or refusal to renew, suspension or revocation of a license and amending the Fee schedule according to future administration costs for change in license status. Amending the Fee Schedule may also be necessary to balancing the Board's future budget.

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

The Idaho State Board of Medicine and Dietetic Licensure Board approved of amending the Fee schedule in anticipation of rising administrative costs. Authority for imposition of fees is found in Sections 54-1806 and 54-3509(2), 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 as a result of this rulemaking: N/A

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(1), Idaho Code, negotiated rulemaking was not conducted. The Board also received input and comments from its constituents and licensees.

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 Nancy M. Kerr, Executive Director, Idaho State Board of Medicine, (208) 327-7000.

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 24, 2012.

DATED this 21st of August, 2012.

Nancy M. Kerr, Executive Director
Idaho State Board of Medicine
1755 Westgate Drive, Ste. 140, Boise, ID
PO Box 83720 Boise, ID 83720-0058
Phone: (208) 327-7000 Fax: (208) 327-7005

THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 22-0113-1201

006. OFFICE -- OFFICE HOURS -- MAILING ADDRESS AND STREET ADDRESS.

The central office of the Board of Medicine will be in Boise, Idaho. (4-2-03)

01. Address. The Board's mailing address, unless otherwise indicated, will be Idaho State Board of Medicine, Statehouse Mail, Boise, Idaho 83720. The Board's street address is 1755 Westgate Drive, Suite 140, Boise, Idaho 83704. (4-2-03)

02. Telephone. The telephone number of the Board is (208) 327-7000. (4-2-03)

03. FAX. The Board's facsimile (FAX) number is (208) 327-7005. (4-2-03)

04. Office Hours. The Board's office hours for filing documents are 8 a.m. to 5 p.m. MST. (4-2-03)

05. Website. The Board's website is bom.idaho.gov. ()

007. FILING OF DOCUMENTS -- NUMBER OF COPIES.

All documents in rulemaking or contested case proceedings must be filed with the office of the Board. The original and ~~ten~~ one (1) electronic ~~copies~~ of all documents must be filed with the office of the Board. ~~(3-16-04)~~()

008. SEVERABILITY.

The sections and subsections of these administrative rules are presumed severable unless specifically provided to the contrary. If any rule, or part thereof, or the application of such rule to any person or circumstance is declared invalid, that invalidity does not affect the validity of any remaining portion. ()

~~008.~~—**009. (RESERVED)**

(BREAK IN CONTINUITY OF SECTIONS)

032. DENIAL OR REFUSAL TO RENEW, SUSPENSION OR REVOCATION OF LICENSE.

01. Disciplinary Authority. A new or renewal application may be denied, and every person licensed pursuant to Title 54, Chapter 35, Idaho Code and these rules is subject to discipline, pursuant to the procedures and powers established by and set forth in Section 54-3710, Idaho Code, IDAPA 04.11.01, "Idaho Rules of Administrative Procedure of the Attorney General," and IDAPA 22.01.07, "Rules of Practice and Procedure of the Board of Medicine." (4-2-03)

02. Grounds for Discipline. In addition to the grounds set forth in Section 54-3510, Idaho Code, applicants may be refused licensure and licensees are subject to discipline upon the following grounds, including but not limited to: (12-28-94)

a. Being guilty of unprofessional conduct, including the provision of care which fails to meet the

standard of care provided by other qualified licensees within the state of Idaho. (12-28-94)

b. Violating any provisions of this act or any of the rules promulgated by the Board under the authority of the act. (12-28-94)

c. Being convicted of a crime which may or would have a direct and adverse bearing on the licensee's ability to practice dietetics; ()

d. Demonstrating a manifest incapacity to carry out the functions of the licensee's ability to practice dietetics or deemed unfit by the Board to practice dietetics; ()

e. Using any controlled substance or alcohol which may or would have a direct and adverse bearing on the licensee's ability to practice dietetics; ()

f. Misrepresenting educational or experience attainments; ()

g. Failing to maintain adequate dietetic records. Adequate dietetic records mean legible records that contain subjective information, an evaluation or report of objective findings, assessment or diagnosis, and the plan of care; ()

h. Failure to monitor and be responsible for the activities of the provisionally licensed graduate dietitian; ()

i. Employing, directing or supervising the unlicensed practice of dietetics; ()

j. Practicing in an area of dietetics for which the licensee is not trained; ()

k. Commission of any act of sexual contact, misconduct, exploitation or intercourse with a patient or former patient or related to the licensee's practice of dietetics; ()

l. Failing to report to the Board any known act or omission of a licensee, applicant, or any other person, that violates any of the rules promulgated by the Board under the authority of the act; ()

m. Interfering with an investigation or disciplinary proceeding by willful misrepresentation of facts or by use of threats or harassment against any patient or witness to prevent them from providing evidence in a disciplinary proceeding, investigation or other legal action; ()

n. Failure to obey federal and local laws and rules governing the practice of dietetics; or ()

o. Failure to be lawfully present in the United States. ()

033. -- 040. (RESERVED)

041. FEES.

Actual fees shall be set to reflect costs of Board administration. (12-28-94)

01. Initial/Provisional Licensure and Examination Fee. The fee for initial licensure and examination shall be no more than ~~eighty~~ one hundred fifty dollars (\$~~150~~). (~~4-2-03~~)()

02. Renewal Fee. The annual renewal fee shall be no more than ~~forty-five~~ one hundred dollars (~~\$45~~100). (~~12-28-94~~)()

03. Reinstatement Fee. The reinstatement fee for a lapsed license shall be the annual renewal fee for each year of the two (2) years not licensed plus a fee of no more than ~~thirty-five~~ fifty dollars (~~\$350~~). Lapsed licenses not reinstated after two (2) years shall be canceled. (~~12-28-94~~)()

04. Inactive Fee. The fee for inactive licensure shall be no more than ~~twenty-five~~ fifty dollars (~~\$250~~).

~~(12-28-94)~~()

05. Inactive to Active License Fee. An inactive license may be converted to an active license by application to the Board and payment of required fees. (4-2-03)

a. The fee for converting an inactive license to an license shall be a fee of ~~no more than thirty-five~~ ~~fifty~~ dollars (~~\$350~~) and the annual renewal fee for each year not actively licensed minus inactive fees previously paid. ~~(4-2-03)~~()

b. Before the license will be converted, the applicant must account for the time during which an inactive license was held. The Board, in its discretion, may require a personal interview. (4-2-03)

06. Application Fees and Refunds. Necessary fees shall accompany applications. Fees shall not be refundable. (4-2-03)

07. Extraordinary Expenses. In situations where the processing of an application ~~or a change in status~~ requires extraordinary expenses, the Board will charge the applicant with reasonable fees to cover all ~~or part of~~ the extraordinary expenses. ~~(4-2-03)~~()

IDAPA 22 - BOARD OF MEDICINE

22.01.14 - RULES RELATING TO COMPLAINT INVESTIGATION

DOCKET NO. 22-0114-1201

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) 54-1806(2), Idaho Code.

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

October 23, 2012

1:00 - 2:00 p.m.

**Idaho State Board of Medicine, Conference Room
1755 Westgate Dr., Ste. 140, Boise, Idaho**

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:

This rule change is required to assure the public health, safety and welfare in the state of Idaho by updating and clarifying the complaint investigation process. This rule change will provide explanations and information for those wishing to file a complaint against a licensee.

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 as a result of this rulemaking: N/A

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(1), Idaho Code, negotiated rulemaking was not conducted. The Board also received input and comments from its constituents and licensees.

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 Nancy M. Kerr, Executive Director, Idaho State Board of Medicine, (208) 327-7000.

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 24, 2012.

DATED this 21st of August, 2012.

Nancy M. Kerr, Executive Director
Idaho State Board of Medicine
1755 Westgate Drive, Ste. 140, Boise, ID
PO Box 83720 Boise, ID 83720-0058
Phone: (208) 327-7000 Fax: (208) 327-7005

THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 22-0114-1201

002. WRITTEN INTERPRETATIONS.

Written interpretations of these rules in the form of explanatory comments accompanying the notice of proposed rule-making that originally proposed the rules and review of comments submitted in the rulemaking process in the adoption of these rules are available for review and copying at cost from the Board ~~Of Medicine~~, 1755 Westgate Drive, Suite 140, Box 83720 Boise, Idaho 83720-0058. (3-30-01)(____)

(BREAK IN CONTINUITY OF SECTIONS)

006. OFFICE -- OFFICE HOURS -- MAILING ADDRESS AND STREET ADDRESS.

The central office of the Board ~~of Medicine will~~ shall be in Boise, Idaho. The Board's mailing address, unless otherwise indicated, ~~will~~ shall be Idaho State Board of Medicine, Statehouse Mail, Boise, Idaho 83720. The Board's street address is 1755 Westgate Drive, Suite 140, Boise, Idaho 83704. The telephone number of the Board is (208) 327-7000. The Board's facsimile (FAX) number is (208) 377-7005. The Board's website is bom.idaho.gov. The Board's office hours for filing documents are 8:00 a.m. to 5:00 p.m. MST. (3-30-01)(____)

007. FILING OF DOCUMENTS -- NUMBER OF COPIES.

All documents in rulemaking or contested case proceedings must be filed with the office of the Board. The original and ~~ten one~~ (10) electronic copies of all documents must be filed with the office of the Board. (3-16-04)(____)

008. -- 009. (RESERVED)

010. COMPLAINTS.

All received ~~C~~complaints ~~received, which are~~ related to allegations against health care providers regulated by the Board, shall be referred to the appropriate Quality Assurance ~~staff~~ Specialist (QAS). (3-30-01)(____)

011. FORMAT FOR SUBMISSION OF COMPLAINT.

Complaints ~~will~~ shall be submitted in writing to the Board, with and include, but not limited to, the name of the provider, the approximate date of the incident or care, the ~~individual's~~ concerns regarding the incident or care, and the ~~name~~ complainant's signature, telephone number, and address ~~of the complainant~~. (3-15-02)(____)

012. DETERMINATION OF AUTHORITY.

After preliminary investigation, ~~the Quality Assurance Specialist a~~ (QAS) shall determine if the complaint falls within the Board's statutory authority ~~of the Board~~ as defined in the appropriate practice act and rules. Questions related to jurisdiction ~~will~~ shall be referred to the Executive Director and/or Board Counsel. (3-15-02)(____)

01. Outside Statutory Authority. If the complaint falls outside of the Board's statutory authority ~~of the Board~~, the QAS shall notify the complainant in writing and may offer referral to an appropriate agency, if indicated. The ~~staff will~~ Board shall maintain a copy of the complaint, response, and the preliminary investigation file for a period of one (1) year. Each file complaint determined to be outside the Board's statutory authority ~~of the Board~~ ~~will~~ shall be reviewed by the Committee on Professional Discipline at its next scheduled meeting. (3-15-02)(____)

02. Within Statutory Authority. If the complaint falls within the Board's authority ~~of the Board~~, the QAS ~~will~~ shall: (3-30-01)(____)

- a. Establish a complaint file; (3-30-01)
- b. Assign a case number; (3-30-01)
- c. Enter the complaint information ~~regarding the complaint o~~ into the Board's database. (3-30-01)(____)

d. Correspond in writing ~~with to~~ the complainant ~~and the provider~~ within ten (10) business days, when possible, ~~explaining the nature of the complaint~~ and provide written information regarding the complaint process; ~~(3-30-01)()~~

e. Correspond in writing to the provider within ten (10) business days, when possible, explaining the nature of the complaint and ~~P~~provide written information ~~to the complainant and provider~~ regarding the complaint process; ~~(3-30-01)()~~

f. Monitor the case to insure the provider has replied and ~~that~~ correspond in writing to the complainant and the provider ~~are kept informed~~ advising of the ~~case's~~ status ~~of the investigation~~ at least every forty-five (45) to sixty (60) days. ~~(3-30-01)()~~

g. The QAS may request any additional information deemed necessary to fully investigate the complaint, including but not limited to: (3-15-02)

- i. Interviewing the complainant and the respondent; (3-15-02)
- ii. Requesting additional records, documents, or statements; and (3-15-02)
- iii. Collecting collateral information. (3-15-02)

013. COMPLAINT AUTHORITY.

At the time the ~~complaint case~~ is opened, the ~~Quality Assurance Specialist will~~ QAS shall assign a priority rating* (*rating may change at any point in the investigation as new information is received) to the investigation according to the following table:

CATEGORY	DESCRIPTION	EXAMPLE
1	Imminent, or current danger to the public.	Impairment by psychiatric or substance abuse problems.
2	Threat to the public, currently monitored or controlled.	Retired, incarcerated, enrolled in recognized treatment program poses no immediate threat to the public.
3	Identified as having practice, skills, or judgment concern considered a potential threat to the public.	Prescribing concerns, isolated incident of error, negligence, or misconduct.
4	Medium to low risk to public.	Improper delegation Disciplinary action in another state
5	Low risk to public.	Paperwork problems Record keeping issues Failure to transfer medical records.

~~(3-30-01)()~~

01. **Category One.** Cases assigned as Category one (1) ~~requires~~ shall be immediately ~~ly~~ referral reported to the Executive Director for appropriate action. ~~(3-30-01)()~~

02. **Category Two.** Cases assigned as Category two (2) is shall be reported to the Executive Director for appropriate action. ~~(3-30-01)()~~

014. – 019. (RESERVED)

020. REPORT OF INVESTIGATION.

~~When~~ Upon receipt of the ~~needed~~ response and documentation ~~is received~~ obtained from the investigation, QAS shall prepare a report containing the following: (3-30-01)(____)

01. **Provider Information.** The name of the provider, ~~city~~ address, specialty, and date ~~of Board meeting~~. (3-30-01)(____)

02. **Previous Complaints.** A summary of previous complaints lodged against the provider. (3-30-01)(____)

03. **Complaint Concerns.** A copy and summary of the complainant's concerns. (3-30-01)(____)

04. **Provider's Response.** A copy and summary of the provider's response. (3-30-01)(____)

05. **QAS Review.** A summary of the QAS review of medical records/documentation. (3-30-01)(____)

06. **Copies of Documents.** ~~Additional~~ Copies of ~~the written complaint and response shall be attached to the summary.~~ Other documents may be attached as indicated by the nature of the complaint, response, and summary. (3-30-01)(____)

07. **Summary of Additional Information.** A copy and written summary of any additional interviews or information collected in the course of the investigation. (3-15-02)(____)

021. TRACKING.

~~After review by the Committee on Professional Discipline and/or the Board of Medicine, upon review and consideration of the recommendation made by the Committee on Professional Discipline (Committee) or respective Board or Committee, makes a determination upon the merits of the case and may take action to impose sanctions or limitations or conditions on licenses or permits issued:~~ (3-30-01)(____)

01. **Case Is Closed.** If the Board determines to ~~closed by the Board~~, the QAS shall correspond with in writing to the complainant and provider and notifying each of the Board's final determination and action within the bounds of confidentiality ~~subject to federal and state law~~. (3-30-01)(____)

02. **Further Investigation Is Requested.** If the Board determines further investigation is requested by the Board ~~necessary to fully adjudicate the case~~, the QAS shall obtain the requested information and prepare a summary as described in Section 020. The complainant and provider shall be notified in writing of the Board determination and the case's status ~~of the complaint~~. (3-30-01)(____)

03. **Consultant Is Requested.** If the Board determines a medical consultant is requested by the Board ~~necessary to fully adjudicate the case~~, the QAS shall request engage an appropriate medical ~~consultant, to review the recently retired or currently in case and submit a clinical practice similar to the physician under review, to review the information provided and prepare a written~~ report of findings to the Board. Such medical consultant may be recently retired from or currently in a clinical practice similar to the named provider. The Board shall define the focus, scope and depth of the medical consultant's review. The medical consultant shall be: (3-15-02)

a. Board certified; (3-15-02)

b. Free from ~~disqualifying information~~ current Board review such as no open complaints or pending formal action; and (3-15-02)(____)

c. Free from ~~conflict of interest or disqualifying interest and disqualification~~. Medical consultants shall disqualify themselves and, on motion of any interested party may, on proper showing, be disqualified in any proceeding concerning which they have an actual conflict of interest or bias which interferes with their fair and impartial service. (3-15-02)(____)

d. The medical consultant must sign an independence statement before commencing the review.

(3-15-02)()

~~04. **Records Review Is Requested.** If a records review is requested, the Board will define the focus, scope and depth of the review.~~ (3-30-01)

054. Stipulation and Order Is Issued. If the Board determines the case warrants issuance of a stipulation and order ~~is issued~~, a Board attorney shall generate the stipulation and order and submit to the named provider for signature. ~~†~~The QAS ~~will~~ shall complete the stipulation checklist as indicated by the nature of the stipulation, identify the monitoring requirements and establish a monitoring plan for the provider. (3-30-01)()

065. Other Disciplinary Action Directed. If the Board determines other disciplinary actions are ~~directed by the Board~~ warranted, the QAS ~~will~~ shall act under the guidance of the Executive Director and/or Board counsel. (3-30-01)()

076. Opportunity to Meet With Committee. ~~Before~~ The named provider shall be provided an opportunity to meet with the Committee or Board staff prior to the initiation of formal disciplinary proceedings, ~~a person under investigation shall be provided an opportunity to meet with the Committee on Professional Discipline or its staff, at the discretion of the licensee.~~ (3-30-01)()

087. Recording of Board Action. The QAS ~~will~~ shall update the database and the case file to reflect the Board's determination and action on the reviewed cases. (3-30-01)()

022. AUTHORITY TO CLOSE COMPLAINTS/CASES.
The ~~only individuals~~ Board is solely authorized to close complaints ~~files are the Committee of Professional Discipline and/or the Board of Medicine~~ and cases. All complaints and cases must be presented to the respective Board for consideration and ~~action~~ recommendation to the Board. (3-30-01)()

023. OTHER INDICATORS FOR INVESTIGATION.

01. Board Investigations. The Board may ~~initiate~~ commence any investigation on its own initiative or on the basis on performance indicators. (3-15-02)()

02. Performance Indicators. Performance indicators that may be used include, but are not limited to: (3-15-02)

a. Frequent changes in geographical practice location. (3-15-02)

b. Number of inactive licenses held. (3-15-02)

c. Number of malpractice complaints. (3-15-02)

d. Number of complaints lodged with the Board. (3-15-02)()

e. Failure to receive specialty board certification. (3-15-02)

f. Changes in area/specialty of practice without formal retraining. (3-15-02)

g. Health status. (3-15-02)

h. Age. Illness. Mental or physical illness, including but not limited to, deterioration through the aging process, or loss of motor skill; or excessive use or abuse of drugs, including alcohol. (3-15-02)()

i. Prescribing practices. (3-15-02)

j. Physicians without hospital privileges or medical practice affiliation who are not routinely subject to peer review. (3-15-02)

- k.** ~~Physician~~ **Provider** performance and outcome data received from sources such as Professional Review Organizations. ~~(3-15-02)~~()
- l.** Disciplinary reports from managed care organizations. (3-15-02)
- m.** Disciplinary reports by other state and government agencies. ~~(3-15-02)~~()