

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

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

IDAPA 24.10.01 - Rules Pertaining To The Rules of the State Board of Optometry (Docket No.  
24-1001-1201);

IDAPA 24.14.01 - Rules Pertaining To The Rules of the State Board of Social Work Examiners  
(Docket No. 24-1401-1201);

IDAPA 24.15.01 - Rules Pertaining To The Rules of the Idaho Licensing Board of Professional  
Counselors and Marriage and Family Therapists (Docket No. 24-1501-1201);

IDAPA 24.17.01 - Rules Pertaining To The Rules of the State Board of Acupuncture (Docket No.  
24-1701-1201).

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 10/30/2012. 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 11/28/2012.

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 - Eric Milstead  
**DATE:** October 10, 2012  
**SUBJECT:** Bureau of Occupational Licenses

IDAPA 24.10.01 - Rules Pertaining To The Rules of the State Board of Optometry (Docket No. 24-1001-1201)

IDAPA 24.14.01 - Rules Pertaining To The Rules of the State Board of Social Work Examiners (Docket No. 24-1401-1201)

IDAPA 24.15.01 - Rules Pertaining To The Rules of the Idaho Licensing Board of Professional Counselors and Marriage and Family Therapists (Docket No. 24-1501-1201)

IDAPA 24.17.01 - Rules Pertaining To The Rules of the State Board of Acupuncture (Docket No. 24-1701-1201)

1. The Bureau of Occupational Licenses has submitted proposed rulemaking at IDAPA 24.10.01 - Rules Pertaining To The State Board of Optometry (Docket No. 24-1001-1201). The proposed rule in this docket revises a number of provisions and removes language that the Bureau states is outdated. Among the revised provisions are the following: Rule 150 governing meeting notice and how often the Board of Optometry shall meet (at least annually); Rule 175 governing the method of application including provisions dealing with exam content; and Rule 200 relating to the approval of schools of optometry.

Other Rules modified include the rule relating to the code of ethics (Rule 325) where language in a number of subsections is being deleted; Rule 425 defining gross incompetence; and Rule 450 governing prescriptions for spectacles and contact lenses. Other Rules that are revised include Rule 475 governing storage of patients' records; and Rule 600 relating to the use of certain pharmaceutical agents.

The Bureau of Occupation Licenses notes that negotiated rulemaking was conducted in this docket.

It appears that the proposed rule is authorized pursuant to section 54-1509, Idaho Code.

2. The Bureau of Occupational Licenses has submitted proposed rulemaking at IDAPA 24.14.01 - Rules of the State Board of Social Work Examiners (Docket No. 24-1401-1201). The proposed rule revises and adds to the current rule in a number of sections. Specifically, the proposed rule adds a new definition of the term "relative" relating to the Board's code of professional conduct (Rules 10 and 450). The proposed rule includes a substantial revision to supervision requirements, specifically by eliminating subsections governing "supervision" in Rule 201, but then adding a new "Supervision Rule" (Rule 210). This new "supervision"

rule includes provisions governing supervised experience, pursuing licensure as an independent practitioner, pursuing licensure as a clinical social worker and out-of-state supervised experience. The rule governing social work supervisor registration is also revised (Rule 211) and includes a number of new provisions governing the renewal of a supervisor's registration. (Rule 211.03). Also, language governing examinations is revised in Rule 350 and finally, the code of professional conduct is revised to include new subsections governing dual relationships, business relationships and bartering (Rule 450.05).

The Bureau of Occupational Licensing notes that negotiated rulemaking in this docket was not conducted because the changes reflected in the proposed rule were discussed during scheduled board meetings.

It appears that the proposed rule is authorized pursuant to section 54-3204, Idaho Code.

3. The Bureau of Occupational Licenses has submitted proposed rulemaking at IDAPA 24.15.01 - Rules of the Idaho Licensing Board of Professional Counselors and Marriage and Family Therapists (Docket No. 24-1501-1201). The proposed rule in this docket includes the following changes to the current rule: revises the rule governing incorporation by reference (Rule 004); revises provisions governing "supervised marriage and family therapy experience" (Rule 238); and minor revisions to the continuing education rule (Rule 425.01 and 425.03.e.). The proposed rule also provides for a new rule that governs the informed consent by patients (Rule 525).

The Bureau notes that negotiated rulemaking was not conducted because the changes are simple in nature and were discussed during open meetings of the Board.

It appears that the proposed rule is authorized pursuant to section 54-3404, Idaho Code.

4. The Bureau of Occupational Licenses has submitted proposed rulemaking at IDAPA 24.17.01 - Rules of the State Board of Acupuncture (Docket No. 24-1701-1201). The proposed rule in this docket revises the rule governing the renewal of a license and provisions governing the inactive status of a license (Rules 301 and 302). The proposed rule also establishes new provisions governing the approval of continuing education courses, the content of those courses, the disclosure of fees and their payment, the employment of unlicensed individuals, and the supervision of trainees and advertising. (Rules 306, 307 and 402 through 405).

The Bureau states that negotiated rulemaking was not conducted because the changes in the proposed rule are meant to clarify the existing rule and because the proposed rule was discussed at scheduled, noticed board meetings and were submitted to the Acupuncture Association.

It appears that the proposed rule is authorized pursuant to section 54-4705, Idaho Code.

cc: Bureau of Occupational Licenses  
Tana Cory & Cherie Simpson

# **IDAPA 24 - BUREAU OF OCCUPATIONAL LICENSES**

## **24.10.01 - RULES OF THE STATE BOARD OF OPTOMETRY**

**DOCKET NO. 24-1001-1201**

### **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) 54-1509, Idaho Code.

**PUBLIC HEARING SCHEDULE:** Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 17, 2012.

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 State Board of Optometry is changing its rules to update, clarify and simplify Board procedures and processes. They also make changes based upon current industry standards and strike outdated language.

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

**FISCAL IMPACT:** The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year resulting from this rulemaking: N/A

**NEGOTIATED RULEMAKING:** Pursuant to Section 67-5220(1), Idaho Code, negotiated rulemaking was conducted. The Notice of Intent to Promulgate Rules - Negotiated Rulemaking was published in the February 1, 2012 Idaho Administrative Bulletin, [Vol. 12-2, Page 21](#).

**INCORPORATION BY REFERENCE:** Pursuant to Section 67-5229(2)(a), Idaho Code, the following is a brief synopsis of why the materials cited are being incorporated by reference into this rule: N/A

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the proposed rule, contact Cherie Simpson at 208 334-3233.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 24, 2012.

DATED this 30<sup>th</sup> day of August, 2012.

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

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**THE FOLLOWING IS THE PROPOSED TEXT FOR DOCKET NO. 24-1001-1201**

**150. MEETING OF THE BOARD (RULE 150).**

~~Notice of all meetings not having been announced at the preceding meeting shall be given to each member of the Board by the secretary two (2) weeks in advance of such meeting. Such notice shall be in writing informing each member as to the time, place, and purpose of the meeting. In the event that written notice cannot be given two (2) weeks in advance, the chairman may instruct the secretary to notify each member of the Board either by telephone or telegraph as to the time, place and purpose of the meeting and any Board member who attends or participates in the meeting shall be deemed to have waived any objection to any notice required by the rules. The Board shall meet at least annually and at other such times and places as designated by the Chairman or upon written request of any two members of the Board. All meetings shall be held in accordance with the Idaho Open Meeting Law, Chapter 23, Title 67, Idaho Code.~~ (7-1-93)( )

**(BREAK IN CONTINUITY OF SECTIONS)**

**175. METHOD OF APPLICATION-EXAMINATION OF APPLICANTS (RULE 175).**

Applications for license shall be made on forms approved by the Board ~~of Examiners which may be obtained and which must be filed in the office of Occupational License Bureau at Owyhee Plaza, 1109 Main Street, Suite 220, Boise, Idaho 83702.~~ (3-30-01)( )

**01. Application Fee.** The application fee must be accompanied by: (7-1-93)( )

**a.** The required fee. (7-1-93)

**b.** ~~An unmounted photograph three inches by three inches (3" x 3"), head and shoulders only~~ **A passport style photograph**, taken within one (1) year prior to the date of making the application. (7-1-93)( )

**c.** A complete transcript of credits from any college of optometry attended. (7-1-93)

**d.** A photocopy of any diplomas granted by any college of optometry. (7-1-93)

**e.** A copy of certified results establishing successful passage of the required examinations. (3-30-01)

**02. Application Review.** Only fully completed applications accompanied by appropriate documents shall be reviewed for licensure. (3-30-01)

**03. Exam Content.** The written and the practical portions of the Idaho examination shall be all parts of the National Board of Examiners in Optometry Examination (**NBEOE**) and ~~the "Treatment and Management of Ocular Diseases" examination approved by the Association of Regulatory Boards of Optometry, Inc. (ARBO) the Board approved jurisprudence examination.~~ A passing grade **for the NBEOE shall be that established by the test provider. The passing grade for the jurisprudence examination shall be seventy-five percent (75%). A passing score on both all examinations shall be necessary before obtaining to qualify for** a license to practice Optometry in Idaho. (3-30-01)( )

**(BREAK IN CONTINUITY OF SECTIONS)**

**200. APPROVAL OF SCHOOLS OF OPTOMETRY (RULE 200).**

The State Board of Optometry recognizes as reputable and in good standing the schools and colleges of optometry which have met the standards set by the **Accreditation** Council on Optometric Education ~~of the American Optometric Association, or its successor agency,~~ a list of which may be obtained from the secretary of the Board or from the office of the Bureau of Occupational Licenses in Boise. (7-1-93)( )

**(BREAK IN CONTINUITY OF SECTIONS)**

**300. CONTINUING EDUCATION IN OPTOMETRY (RULE 300).**

**01. Hours Required, Advance Approval.** Each optometrist licensed by the state of Idaho shall attend in each twelve (12) month period preceding the renewal of a license to practice optometry in Idaho, a minimum of twelve (12) full hours of post-graduate optometric education courses or meetings approved in advance by the Board of Optometry or post-graduate study sessions or seminars at an accredited school or college of optometry. In addition, all Council on Optometric Practitioners Education (COPE) approved courses ~~would be~~ **are** approved for continuing education credit. If an optometrist attends or plans to attend a course of study or seminar which has not been approved in advance, he may petition the Board for approval of that educational course of study, setting forth a description of the course. The Board may, in its discretion, approve the course upon review of the material submitted either in advance or after completion of the course. ~~(8-24-94)~~( )

**02. Additional Hours Required to Use Therapeutic Pharmaceutical Agents.** Each optometrist licensed by the state of Idaho to use therapeutic pharmaceutical agents shall attend in each twelve (12) month period preceding the renewal of a license to practice optometry in Idaho, a minimum of six (6) additional full hours of post-graduate optometric courses or meetings approved in advance by the Board of Optometry or post-graduate study sessions or seminars at an accredited school or college of optometry. This six (6) hours of continuing education must be in courses involving ocular pharmacology and/or advanced ocular disease and are in addition to the twelve (12) hours of continuing education required under Subsection 300.01. (7-1-93)

**03. Correspondence/Home Study Courses/Observation.** The Board allows credit for correspondence courses, individual home study and observation that is germane to the practice of optometry. No more than six (6) hours of continuing education shall be permitted each year in correspondence courses or other continuing education obtained from "home study" courses or observation. (3-30-07)

**04. Waiver of Requirements.** The Board of Optometry shall waive the continuing education requirement for the first license renewal after initial licensure. The Board of Optometry may, upon application, waive the requirements of this rule in cases involving illness, unusual circumstances interfering with the optometrist's ability to practice or inability to conform to the rules due to military duty. (3-15-02)

**05. Renewal Application Form.** Each licensed Idaho optometrist will be furnished a license renewal application form by the State Board of Optometry on which each optometrist shall attest on their annual license renewal application that they have satisfied the continuing education requirements. False attestation of satisfaction of the continuing education requirements on a renewal application shall subject the licensee to disciplinary action. (3-20-04)

**06. Audit.** The Board may conduct audits to confirm that the continuing education requirements have been met. In the event a licensee fails to provide the Board with acceptable documentation of the hours attested to on the renewal application, the license will not be renewed. (3-20-04)

**07. Documentation of Attendance.** It shall be necessary for each licensed Idaho optometrist to provide documentation verifying attendance or completion of continuing education by securing authorized signatures, ~~or other~~ documentation, **or electronic verification** from the course instructors, providers, or sponsoring institution substantiating any hours attended by the licensee. This documentation must be maintained by the licensee and provided upon request by the Board or its agent. ~~(3-20-04)~~( )

**08. Excess Hours.** Continuing education hours, not to exceed six (6) hours, accumulated during the twelve (12) months immediately preceding a license renewal may be applied toward meeting the continuing education requirement for the following license renewal. Excess hours may be used only during the next renewal period and may not be carried forward more than one (1) year. (3-30-07)

**301. -- 324. (RESERVED)**

**325. CODE OF ETHICS (RULE 325).**

**01. Patient's Visual Welfare.** The licensed optometrist shall keep the patient's visual welfare uppermost in his consideration at all times and promote the best methods of care for the visual needs of mankind. (7-1-93)

**02. Confidentiality.** The optometrist shall preserve information concerning his patients in confidence and not release that information unless authorized by the patient **or their lawful agent**. An optometrist may, however, supply information of an otherwise confidential or privileged nature when lawfully subpoenaed to testify at a deposition or hearing in any proceeding before the Board of Optometry, or at any other time and place ordered by a court of law. (7-1-93)(      )

**03. Conduct of Practice.** The optometrist shall conduct his practice in a dignified and professional manner and in keeping with the mode of practice of a professional person entrusted with the care of the health of citizens of this state and shall abide by the rulings of the Board of Optometry. (7-1-93)

**04. Unprofessional Conduct.** In order to define what constitutes unprofessional conduct, the board sets forth certain prohibited actions. In conducting his practice, an optometrist must not: (3-30-07)

**a.** Practice optometry in any manner other than as a professional person in an individual capacity, or in partnership with or associate with other licensed health care professionals. An optometrist may be a stock holder in and practice as a member of a professional service corporation with other licensed health care professionals as authorized by Title 54, Chapter 15, Idaho Code, but the optometrist must list his individual name as well as any name selected for the professional service corporation on any letterheads, telephone directories, office or building directories, or other places where the general public might be advised of the fact that the individual is practicing optometry, as required by these rules. (3-30-07)

**b.** Use either "Cappers" or "Steerers" or accept a split or divided fee for the purpose of obtaining patients or use solicitors or agents for the purpose of securing patients or conducting eye examinations or furnishing optometric services. (7-1-93)

**c.** Allow his prescription files and records to be used by any unlicensed person, firm, or corporation **not under the direct control of that optometrist** for the practice of optometry. (7-1-93)(      )

**d.** Fail to perform services for which fees have been received. (7-1-93)

**e.** File false reports of services performed or fees rendered. (7-1-93)

**f.** Permit the use of his name or professional title by or in conjunction with any person not an optometrist, or any firm, company, corporation or military association which illegally practices or in any manner holds himself or itself out to the public as being entitled to practice the profession of optometry when not licensed to do so under the law of Idaho or which uses the title "Optometric Services" in such a manner in advertising as to convey to the public the impression that the individual or corporation is entitled to practice optometry or furnish optometric advice or services when not so authorized by law. (7-1-93)

~~**g.** Enter into or continue in a contract, agreement, or understanding of any kind, or engage in any course of conduct with any person, firm or corporation, or their agents, whereby said optometrist expressly or impliedly agrees: (7-1-93)~~

~~**i.** To refer the patient back to said person, firm, or corporation referring the patient for any subsequent service or receipt of ophthalmic material. (7-1-93)~~

~~**ii.** That if any patient is referred by any person, firm or corporation to the optometrist, the optometrist will refrain from supplying to the patient any ophthalmic materials. (7-1-93)~~

~~**h.** Directly or indirectly give any person, association, firm or corporation, or their agents, anything of pecuniary benefit or value as consideration for the referral of any patient to said optometrist. (7-1-93)~~



326. -- 424. (RESERVED)

**425. RULES DEFINING GROSS INCOMPETENCE (RULE 425).**

In order to protect the public, the Board of Optometry defines as “gross incompetence” any behavior or practice on the part of the licensed optometrist which demonstrates a lack of competence with respect to discharging professional obligations or duties which might result in injury or damage to a patient whether such injury or damage actually occurs or not and in particular, the Board defines as “gross incompetence” any of the following: (11-6-93)

**01. Failure to Meet Prevailing Standards.** Failure to meet prevailing standards, or willful rendering of substandard care, either individually or as part of a third party reimbursement agreement or by other agreement. (7-1-97)

**02. Failure to Meet Prevailing Standards in the Referral of Any Patient Who Is Suffering From Any Apparent or Suspected Pathological Condition.** A failure to meet prevailing standards in the referral of any patient who is suffering from any apparent or suspected pathological condition to a person competent and licensed to properly treat or diagnose the condition. (7-1-93)

**03. Employment of Techniques or Methods of Practice.** Employment of techniques or methods of practice in treating or prescribing for a patient when he does not have proper training in the technique or methods of practice. (7-1-93)

**04. Failure to Advise Patient of Possible Danger When a Lens Not Meeting Impact Resistance Standards of F.D.A.** Failure to advise his patient of possible danger when a lens does not meeting impact resistance standards of F.D.A. Regulation, ~~See 3.84,~~ 21 CFR 801.410, and is provided ~~for~~ to the patient. (7-1-93)(    )

**05. Failure to Provide Follow-Up Care.** Failure to provide follow-up care according to prevailing standards. (11-6-93)

**06. Displaying Gross Ignorance or Demonstrating Gross Inefficiency.** Displaying gross ignorance or demonstrating gross inefficiency in the care of a patient. (7-1-93)

**07. Failure to Verify the Specifications of All Lenses.** Failure to verify the specifications of all lenses provided by him. (11-6-93)

**08. Failing to Perform Tests and Record Findings.** In the course of an examination of a patient, failure to perform tests and record findings in a manner consistent with prevailing standards of optometric care. (11-6-93)

**09. Using Pharmaceutical Agents.** Using pharmaceutical agents in the practice of optometry without having attended sufficient training programs or schools and acquiring the knowledge necessary to use the drugs in a competent manner. (11-6-93)

**10. Illegal Prescription Sale, Administration, Distribution, or Use of Drugs.** Prescribing, selling, administering, distributing, giving, or using drugs legally classified. Prescribing, selling, administering, distributing, giving, or using drugs legally classified as a controlled substance or as an addictive or dangerous drug for other than accepted diagnostic or therapeutic purposes. (7-1-97)

**11. Disciplinary Action or Sanctions.** Disciplinary action or sanctions taken by another state, jurisdiction, peer review body or a professional association or society against an optometrist for acts or conduct similar to acts or conduct which would constitute grounds for action as defined under “Rules of the Idaho Board of Optometry.” (7-1-97)

**12. Sanitary Office.** ~~Has failed~~ Failure to maintain sanitary office conditions, equipment, and use appropriate techniques and procedures. (7-1-97)(    )

**13. Failure to Release Prescription.** Failure to release either a spectacle or contact lens prescription as required by Federal law. (3-29-10)



**14. Sufficient Training or Education.** Performing procedures without having successfully completed education, instruction or certification. ( )

426. -- 449. (RESERVED)

**450. CONTENTS OF PRESCRIPTIONS FOR SPECTACLES AND CONTACT LENSES (RULE 450).** Eyeglasses and contact lenses, including plano or cosmetic contact lenses, may only be dispensed upon a current prescription issued by an optometrist or medical physician. Every prescription written or issued by an optometrist practicing in Idaho shall contain at least the following information: (7-1-93)( )

**01. Prescription for Spectacles.** Prescriptions for spectacles must contain the following: (7-1-93)

- a. Sphere, cylinder, axis, prism power and additional power, if applicable; and (3-30-07)
- b. The standard expiration date of the prescription must be at least one (1) year from date the prescription was originally issued. (3-29-10)

**02. All Prescriptions for Rigid Contact Lenses.** All prescriptions for rigid contact lenses must contain at least the following information: (7-1-93)

- a. Base curve; (7-1-93)
- b. ~~Peripheral curve or curves including width~~ Lens manufacturer or "brand" name; (7-1-93)( )
- c. Overall diameter; (7-1-93)
- d. ~~Optical zone diameter~~ Lens material; (7-1-93)( )
- e. Power; and (3-30-07)
- f. The standard expiration date of the prescription must be at least one (1) year from date the prescription was originally issued. A shorter prescription period may be allowed when based upon a documented medical condition. (3-29-10)

**03. All Prescriptions for Soft Contact Lenses.** All prescriptions for soft contact lenses must contain at least the following information: (7-1-93)

- a. Lens manufacturer or "brand" name; (7-1-93)
- b. Series or base curve; (7-1-93)
- c. Power; (7-1-93)
- d. Diameter, if applicable; (7-1-93)
- e. Color, if applicable; and (7-1-93)
- f. The standard expiration date of the prescription is one (1) year from date the prescription was originally issued. A shorter prescription period may be allowed when based upon a documented medical condition. (3-29-10)

**04. Alteration of Prescriptions.** A person may not alter the specifications of an ophthalmic lens prescription without the prescribing doctor's consent. ( )

**05. Expired Contact Lens Prescription.** A person may not fill an expired contact lens prescription.

- ( )
- 06. Fitting and Dispensing Contact Lenses.** ( )
- a. Contact lenses may be fitted only by an optometrist, or licensed physician.** ( )
- b. An ophthalmic dispenser may dispense contact lenses on a fully written contact lens prescription issued by an optometrist or licensed physician.** ( )
- c. Notwithstanding Subsection 450.05.b., an optometrist, or licensed physician who issues a contact lens prescription remains professionally responsible to the patient.** ( )

**451. -- 474. (RESERVED)**

**475. PATIENTS RECORDS (RULE 475).**

**01. Optometrist Shall Keep a Complete Record of All Patients Examined.** Every optometrist practicing in the state of Idaho shall keep a complete record of all patients examined by him or for whom he has adapted optical accessories, including copies of prescriptions issued to the patient and copies of statements of charges delivered or provided to the patient. All such records shall be maintained in an orderly and accessible manner and place and shall be maintained for at least five (5) years following the optometrist's last professional contact with the patient. Failure to maintain such records is deemed to be unprofessional conduct and constitutes gross incompetence in the handling of the patient's affairs. (7-1-93)

**02. Prescription Files.** The prescription files and all records pertaining to the practice of optometry shall be maintained as the sole property of the optometrist and not be distributed to any unlicensed person except as required by law or when lawfully subpoenaed in a criminal or civil proceeding in court, or subpoenaed for presentation at a deposition or hearing authorized by the Board of Optometry. (7-1-93)

**03. Storage of Patient Records.** Storage of patient records must be in compliance with rules in accordance with Health Insurance Portability and Accountability Act (HIPAA) including that patient records must be stored in an area inaccessible to patients. ( )

**(BREAK IN CONTINUITY OF SECTIONS)**

**575. FEES (RULE 575).**

- 01. Annual Renewal Fee.** Annual renewal fee for license - seventy-five dollars (\$75). (7-1-97)
- 02. Annual *Optometry* Fund Fee.** Annual *optometry* fund fee - seventy-five dollars (\$75). (~~7-1-97~~)( )
- 03. License Application Fee.** License application fee - one hundred dollars (\$100). (7-1-93)
- 04. Certificate to Obtain and Use Pharmaceutical Agents Fee.** Certificate to obtain and use pharmaceutical agents fee - ten dollars (\$10). (3-30-01)

**576. -- 599. (RESERVED)**

**600. BOARD CERTIFICATION OF OPTOMETRIST AUTHORIZED TO OBTAIN AND USE PHARMACEUTICAL AGENTS (RULE 600).**

**01. The Right to Obtain and Use Topically Applied Diagnostic Pharmaceutical Agents.** The right to obtain and use topically applied diagnostic pharmaceutical agents for use in diagnosis of another in the practice of

optometry as defined by Section 54-1501, Idaho Code, is subject to the following conditions set out below: (7-1-93)

a. Optometrists who have obtained a certificate from the Board of Optometry authorizing them to obtain and use topically applied diagnostic pharmaceutical agents shall obtain, from pharmacists licensed by the state of Idaho, or from any other source, and use only those agents listed below: (7-1-93)

i. ~~Anesthetics: All medications for use in the diagnosis of conditions of the human eye and/or eyelid.~~ (7-1-93)(    )

~~(1) Proparacaine 0.5%;~~ (7-1-93)

~~(2) Tetracaine 0.5%;~~ (7-1-93)

~~(3) Benoxinate 0.4% e fluorescein.~~ (7-1-93)

ii. ~~Cycloplegics: All over-the-counter agents.~~ (7-1-93)(0)

~~(1) Tropicamide 0.5%;~~ (7-1-93)

~~(2) Cyclopentolate 0.5%;~~ (7-1-93)

~~(3) Atropine 0.5%.~~ (7-1-93)

iii. ~~Mydriasis Reversal Agents: Such other diagnostic pharmaceutical agents as may be approved by the Board of Optometry.~~ (7-1-93)(    )

~~(1) Dapiprazole HCl 0.5%.~~ (7-1-93)

b. The Board of Optometry shall issue a certificate to obtain and use the diagnostic drugs specifically identified and listed in this rule to any optometrist licensed to practice in Idaho who complies with both the minimum educational requirements in the subject of general and ocular pharmacology and the minimum continuing educational requirements set out below: (7-1-93)

i. Each optometrist certified to obtain and use topically applied pharmaceutical agents shall have completed courses totaling fifty-five (55) hours of actual classroom instruction in general and ocular pharmacology and emergency medical care given by an institution approved by the Council on Post Secondary Accreditation of the U.S. Department of Education or an instructor accredited and employed by such institution and which have been approved by the Board of Optometry. (7-1-93)

ii. Each optometrist certified to obtain and use topically applied pharmaceutical agents shall also have completed a refresher course in cardiopulmonary resuscitation (CPR), emergency medical care provided by the Emergency Medical Services Bureau, or equivalent program either approved or provided by the Board of Optometry, within a two (2) year period preceding issuance of the certificate by the Board of Optometry. (7-1-93)

iii. In order to maintain the certificate issued by the Board, each certified optometrist must complete a refresher course in ~~emergency medical care~~ CPR described in Subsection 600.01.b.ii. above once during each two (2) year period following certification and shall list and describe the course attended and the dates of attendance upon a license renewal application form filed pursuant to Section 300. (7-1-93)(    )

c. In order to implement this rule, the Board of Optometry may designate and approve courses of instruction given by those institutions or instructors described in Subsection 600.01.b.i. above which may be necessary to provide practicing optometrists who have received less than fifty-five (55) hours of actual classroom instruction in general and ocular pharmacology in optometry school with the opportunity to meet the requirements of this rule. (7-1-93)

**02. The Right to Prescribe, Administer and Dispense Therapeutic Pharmaceutical Agents.** The right to prescribe, administer and dispense therapeutic pharmaceutical agents in the practice of optometry as defined

by Section 54-1501, Idaho Code, is subject to the following conditions set out below: (11-6-93)

**a.** Optometrists who have obtained a certificate from the Board of Optometry authorizing them to prescribe, administer and dispense therapeutic pharmaceutical agents shall obtain, from pharmacists licensed by the State of Idaho, or from any other source, and use only those agents listed below: (11-6-93)

i. All medications for use in the treatment of the human eye and/or eyelid. (7-1-97)

ii. All over-the-counter agents. (11-6-93)

iii. Such other therapeutic pharmaceutical agents as may be approved by the Board of Optometry. (11-6-93)

**b.** The Board of Optometry shall issue a certificate to prescribe, administer and dispense the therapeutic medications to any optometrist licensed to practice in Idaho who complies with Subsection 600.01 and both the minimum educational and clinical experience requirements in the subject of ocular pharmacology and therapeutics and the minimum continuing educational requirements set out below: (7-1-97)

i. Completion of a minimum of one hundred (100) hours of actual classroom and clinical instruction in ocular pharmacology and therapeutics courses given by an institution or organization approved by the Council on Post-Secondary Accreditation of the U.S. Department of Education, or an Instructor employed by such institution, which have been approved by the Board of Optometry. (7-1-93)

ii. Successful passage of the "Treatment and Management of Ocular Diseases" section of the optometrist examination approved by the Association of Regulatory Boards of Optometry, Inc. (ARBO) or its equivalent as approved by the Board. (~~3-30-01~~)(    )

# **IDAPA 24 - BUREAU OF OCCUPATIONAL LICENSES**

## **24.14.01 - RULES OF THE STATE BOARD OF SOCIAL WORK EXAMINERS**

**DOCKET NO. 24-1401-1201**

### **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) 54-3204, Idaho Code.

**PUBLIC HEARING SCHEDULE:** Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 17, 2012.

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

**DESCRIPTIVE SUMMARY:** The following is a nontechnical explanation of the substance and purpose of the proposed rulemaking:

The Board of Social Work Examiners is changing its rules to clarify the definition of a relative for purposes of the code of conduct. The proposed rule changes clarify independent practice, and supervision requirements through the creation of a new supervision section. The rule changes require renewal of a Supervisor registration, clarify inactive licenses, and update the examination process. Finally, changes are needed to the code of professional conduct to clarify appropriate relationships between a licensee and client.

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

**FISCAL IMPACT:** The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year resulting from this rulemaking: N/A

**NEGOTIATED RULEMAKING:** Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not conducted because the rules were discussed during scheduled, noticed board meetings.

**INCORPORATION BY REFERENCE:** Pursuant to Section 67-5229(2)(a), Idaho Code, the following is a brief synopsis of why the materials cited are being incorporated by reference into this rule: N/A

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the proposed rule, contact Cherie Simpson at 208 334-3233.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 24, 2012.

DATED this 30<sup>th</sup> day of August, 2012.

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

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**THE FOLLOWING IS THE PROPOSED TEXT FOR DOCKET NO. 24-1401-1201**

**010. DEFINITIONS (RULE 10).**

- 01. Board.** The State Board of Social Work Examiners as prescribed in Section 54-3202, Idaho Code. (7-1-93)
- 02. Bureau.** The Bureau means the Bureau of Occupational Licenses, as prescribed in Sections 54-3204 and 67-2602, Idaho Code. (3-13-02)
- 03. Psychotherapy.** Treatment methods using a specialized, formal interaction between a Clinical Social Worker and an individual, couple, family, or group in which a therapeutic relationship is established, maintained, or sustained to understand unconscious processes, intrapersonal, interpersonal, and psychosocial dynamics, and the diagnosis and treatment of mental, emotional, and behavioral disorders, conditions, and addictions. (3-20-04)
- 04. Relative.** For the purposes of these rules, a relative is a person's spouse, parent, child, or sibling, regardless of whether the relation is by blood, through marriage, or by law. ( )
- 045. Supportive Counseling.** Supportive counseling by a social worker means a method used by social workers to assist individuals, couples, families, and groups in learning how to solve problems and make decisions about personal, health, social, educational, vocational, financial, and other interpersonal concerns. This help in the maintenance of adaptive patterns is done in the interview through reassurance, advice giving, information providing, and pointing out client strengths and resources. Supportive counseling does not seek to reach unconscious material. (3-20-04)

**(BREAK IN CONTINUITY OF SECTIONS)**

**201. PRACTICE OF SOCIAL WORK (RULE 201).**

- 01. Baccalaureate Social Work.** The application of social work theory, knowledge, methods, and ethics to restore or enhance social or psychosocial functioning of individuals, couples, families, groups, organizations, and communities. Baccalaureate social work is a generalist practice that includes assessment, planning, intervention, evaluation, case management, information and referral, supportive counseling, supervision, and consultation with clients. Baccalaureate social work also includes advocacy, education, community organization, and the development, implementation and administration of policies, programs, and activities. Bachelor level social workers are prohibited from performing psychotherapy. Baccalaureate social work can include independent practice, but not private practice. (~~3-20-04~~)( )
- 02. Master's Social Work.** The application of social work theory, knowledge, methods and ethics, and the professional use of self to restore or enhance social, psychosocial or biopsychosocial functioning of individuals, couples, families, groups, organizations, and communities. Master's social work requires the application of specialized knowledge and advanced practice skills in the areas of assessment, treatment planning, implementation and evaluation, case management, information and referral, supportive counseling, supervision and consultation with clients, advocacy, teaching, research, community organization, and the development, implementation, and administration of policies, programs, and activities. Master level social workers who do not hold clinical licensure may provide psychotherapy only under the supervision of a licensed clinical social worker, psychologist, or psychiatrist and in accordance with an approved supervision plan. Master's social work can include independent practice, but not private practice. (~~3-20-04~~)( )
- 03. Clinical Social Work.** The practice of clinical social work is a specialty within the practice of master's social work and requires the application of specialized clinical knowledge and advanced clinical skills in the areas of assessment, diagnosis, and treatment of mental, emotional, and behavioral disorders, conditions and addictions. Clinical social work is based on knowledge and theory of psychosocial development, behavior, psychopathology, motivation, interpersonal relationships, environmental stress, social systems, and cultural diversity, with particular attention to person-in-environment. It shares with all social work practice the goal of enhancement and maintenance of psychosocial functioning of individuals, families, and small groups. Clinical social work

includes, but is not limited to, individual, couples, family and group psychotherapy, and includes independent and private practice. (3-20-04)

**04. Independent Practice of Social Work.** As defined in Section 54-3207, Idaho Code, independent practice is that practice in which an individual who, wholly or in part, practices social work autonomously with total responsibility for such independent practice. ( )

**045. Private Practice of Social Work.** As defined in Section 54-3207, Idaho Code, is that independent practice in which an individual sets up and maintains responsibility for the contractual conditions of payment with clients, agencies, or institutions. (5-3-03)

**056. Employment of a Social Worker.** A social worker employed directly by a physician, psychologist or other social worker, or by a public or private agency, institution, hospital, nursing home, rehabilitation center, or any similar facility, is not to be considered within the definition of an independent practitioner. Furthermore, a social worker who contracts with an agency or institution that assumes full responsibility for and supervises the services provided to clients is not considered to be a private practitioner. (5-3-03)

~~**06. Supervision.** Supervised experience shall be required for both independent practice status and clinical licensure. Consultative teaching supervision is directed toward enhancement and improvement of the individual's social work values, knowledge, methods, and techniques. A total of three thousand (3,000) hours of supervised social work experience accumulated in not less than two (2) years is required. Actual supervisor contact shall be face-to-face and provided by a qualified and experienced professional working in the same area of practice and must occur on a regular and on-going basis and consist of a minimum of one hundred hours (100) hours. Ratio of supervisor/supervisee shall not exceed two (2) social workers to one (1) supervisor per hour of supervision. Group supervision totaling no more than fifty (50) hours will be allowed for groups of no more than six (6) persons and the allowable credit shall be prorated at the two to one (2 to 1) ratio (total session minutes divided by total supervisees multiplied by two (2) equals maximum allowable credit per supervisee for the session. i.e. an individual attending a one (1) hour group supervisory session consisting of six (6) supervisees shall be allowed twenty (20) minutes of group supervision credit). Supervisors must hold a degree in social work and a current license in good standing, except as noted in Subsection 201-06.e. (4-2-08)~~

~~**a.** Supervision of baccalaureate social workers pursuing licensure as independent practitioners must be provided by a licensed social worker approved to provide independent practice at the baccalaureate, masters, or clinical level. (3-20-04)~~

~~**b.** Supervision of masters social workers pursuing licensure as independent practitioners must be provided by a licensed social worker approved to provide independent practice at the masters or clinical level. (5-3-03)~~

~~**e.** Supervision of master level social workers pursuing licensure as clinical level practitioners must be provided by either a licensed clinical social worker who is registered as a supervisor, a licensed clinical psychologist, a person licensed to practice medicine and surgery who practices in the area of psychiatry, a licensed clinical professional counselor registered as a supervisor by the Idaho Licensing Board of Professional Counselors and Marriage and Family Therapists or a licensed marriage and family therapist registered as a supervisor by the Idaho Licensing Board of Professional Counselors and Marriage and Family Therapists and must focus on clinical social work as defined. No less than fifty percent (50%) of supervised experience must be provided by a licensed clinical social worker registered as a supervisor. A master level social worker pursuing licensure at the clinical level must document three thousand (3000) hours of supervised practice as follows: (4-7-11)~~

~~**i.** One thousand seven hundred fifty (1,750) hours of direct client contact involving treatment in clinical social work as defined; and (4-7-11)~~

~~**ii.** One thousand two hundred fifty (1,250) hours involving assessment, diagnosis, and other clinical social work as defined. (4-7-11)~~

~~**d.** Supervision reports shall be submitted from each supervisor directly to the Board within thirty (30) days following each six (6) month period. Failure of the supervisor to submit the required reports in a timely manner~~



~~may result in the supervisor being restricted by the Board from providing further supervision. (3-20-04)~~

~~**07. Supervised Practice Required.** To be eligible for licensure as an independent practitioner a candidate must: (5-3-03)~~

~~**a.** Meet the requirements set forth in Subsection 201.06; (4-2-08)~~

~~**b.** Develop a plan for supervision that must be approved by the Board prior to commencement of supervision. Prior to a change in supervisors, the supervisee must notify the Board and the change must be approved by the Board prior to the commencement of supervision by the new supervisor; and (5-3-03)~~

~~**e.** Not have more than two (2) supervisors at any given time. (5-3-03)~~

~~**08. Out of State Supervised Experience.** The Board may consider supervised experience obtained outside the state of Idaho submitted for Idaho license purposes. Supervised experience must be provided by a licensed clinical social worker, licensed marriage and family therapist, licensed clinical psychologist, or a person licensed to practice medicine and surgery who practices in the area of psychiatry. No less than fifty percent (50%) of supervised experience must be provided by a licensed clinical social worker. The applicant must meet the other requirements of supervised practice as set forth in these rules. (4-2-08)~~

**202. -- 209. (RESERVED)**

**210. SUPERVISION (RULE 210).**

**01. Generally Applicable Supervision Requirements.** All supervised experience, as set forth in this section, must meet the following requirements: ( )

**a.** Supervision must be consultative-teaching supervision which is directed toward enhancement and improvement of the individual's social work values, knowledge, methods, and techniques. ( )

**b.** A minimum of one hundred (100) hours of the required supervision must be face-to-face contact with the supervisor and must occur on a regular and on-going basis. ( )

**i.** A supervisee may count in full all time in a supervisory session where the ratio of supervisor to supervisees does not exceed one (1) supervisor to two (2) social workers. All one hundred (100) hours may be earned in such a one (1) to two (2) setting. ( )

**ii.** Group supervision may count for no more than fifty (50) hours of face-to-face contact. Group supervision may count only where the ratio of supervisor to supervisees does not exceed one (1) supervisor to six (6) supervisees, and the allowable countable time shall be prorated by the following formula: total session minutes divided by total supervisees, multiplied by two (2) equals the maximum allowable countable time per supervisee for the session. i.e. a supervisee attending a one (1) hour group supervisory session consisting of six (6) supervisees shall be allowed twenty (20) minutes of group supervision credit (60 minutes/6 supervisees x 2 = 20 minutes). ( )

**02. Pursuing Licensure As Independent Practitioners.** Requirements for supervision of baccalaureate or master's social workers pursuing licensure as independent practitioners. ( )

**a.** Develop a plan for supervision that must be reviewed and approved by a designated Board member prior to commencement of supervision. ( )

**b.** Complete a minimum of three thousand (3,000) hours of supervised social work experience accumulated in not less than two (2) years but in not more than five (5) years. ( )

**c.** Supervision must be provided by a qualified and experienced licensed social worker with a current license in good standing and approved to pursue independent practice. ( )

**i.** For a baccalaureate social worker the supervisor must hold a license at the baccalaureate, masters,

or clinical level. ( )

ii. For a masters social worker the supervisor must hold a license at the masters, or clinical level. ( )

iii. Prior to a change in supervisors, the supervisee must notify the Board and the change must be approved by a designated member of the Board prior to the commencement of supervision by the new supervisor. ( )

iv. The supervisee may not have more than two (2) supervisors at any given time. ( )

**03. Pursuing Licensure As Clinical Social Worker.** Requirements for supervision of master's social workers pursuing licensure as clinical social worker. ( )

**a.** Develop a plan for supervision that must be reviewed and approved by a designated Board member prior to commencement of supervision. ( )

**b.** Complete a minimum of three thousand (3,000) hours of supervised social work experience focused on clinical social work and accumulated in not less than two (2) years but in not more than five (5) years as follows: ( )

**i.** One thousand seven hundred fifty (1,750) hours of direct client contact involving treatment in clinical social work as defined; and ( )

**ii.** One thousand two hundred fifty (1,250) hours involving assessment, diagnosis, and other clinical social work as defined. ( )

**c.** Fifty percent (50%) of supervised experience must be provided by a licensed clinical social worker registered as a supervisor pursuant to Section 211 of these rules. The remaining fifty percent (50%) of supervision may be provided by one or more of the following: ( )

**i.** A licensed clinical social worker who is registered as a supervisor pursuant to Section 211; ( )

**ii.** A licensed clinical psychologist; ( )

**iii.** A person licensed to practice medicine and surgery who practices in the area of psychiatry; ( )

**iv.** A licensed clinical professional counselor registered as a supervisor by the Idaho Licensing Board of Professional Counselors and Marriage and Family Therapists; or ( )

**v.** A licensed marriage and family therapist registered as a supervisor by the Idaho Licensing Board of Professional Counselors and Marriage and Family Therapists. ( )

**d.** Prior to a change in supervisors, the supervisee must notify the Board and the change must be approved by a designated member of the Board prior to the commencement of supervision by the new supervisor. ( )

**e.** The supervisee may not have more than two (2) supervisors at any given time. ( )

**04. Out-of-State Supervised Experience.** The Board may consider supervised experience obtained outside the state of Idaho submitted for Idaho licensure purposes. Such experience, whether already obtained or planned to be obtained, must be included in the plan for supervision and reviewed and approved by a designated Board member. ( )

**a.** Supervised experience must be provided by one or more of the following: ( )

**i.** A licensed clinical social worker; ( )

- ii. A licensed clinical professional counselor; ( )
- iii. A licensed marriage and family therapist; ( )
- iv. A licensed clinical psychologist; or ( )
- v. A person licensed to practice medicine and surgery who practices in the area of psychiatry. ( )
- b.** Supervised experience provided by an individual other than a licensed clinical social worker may only satisfy a maximum of fifty percent (50%) of the required hours. ( )
- c.** Previous supervised experience must have been obtained within the five year period preceding the submission of the plan for supervision and must have been obtained in compliance with the law and rules of the state in which the experience was obtained. ( )
- d.** Prior to a change in supervisors, the supervisee must notify the Board and the change must be approved by a designated member of the Board prior to the commencement of supervision by the new supervisor. ( )
- e.** The applicant must meet the other requirements of supervised practice as set forth in these rules. ( )

**20211. SOCIAL WORK SUPERVISOR REGISTRATION (RULE 20211).**

~~Effective January 1, 2007,~~ Idaho licensed social workers shall be registered with the Board in order to provide postgraduate supervision for those individuals pursuing licensure in Idaho as a clinical social worker.

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

- 01. Requirements for Registration.** (3-14-05)
  - a.** Document at least two (2) years experience as an Idaho licensed clinical social worker. ~~(4-11-06)~~( )
  - b.** Have not been the subject of any disciplinary action for five (5) years prior to application for registration. (3-14-05)
  - c.** Document fifteen (15) contact hours of education in clinical supervisor training as approved by the Board, or if previously registered as a supervisor with the Board, document six (6) hours of education in advanced supervisor training as approved by the Board. ~~(4-2-08)~~( )
- 02. Registration.** A supervisor applicant shall submit to the Bureau a completed application form as approved by the board. (3-14-05)
  - a.** Upon receipt of a completed application verifying compliance with the requirements for registration as a supervisor, the applicant shall be registered as a supervisor. (3-14-05)
  - b.** A supervisor's registration shall ~~be~~ remain valid only so long as the individual's clinical social worker license remains current and in good standing. ~~(3-14-05)~~( )
- 03. Renewal.** Subject to the conditions in Paragraph 211.03.c., a supervisor's registration is valid for a term of five (5) years. To renew a supervisor registration, the registered supervisor must submit to the Board a complete application for registration renewal on forms approved by the Board and meet the following requirements: ( )
  - a.** Hold an active Idaho clinical social worker license which has not been subject to discipline and is current and in good standing; and ( )

**b.** Document six (6) hours of continuing education in advanced supervisor training as approved by the Board and completed within the previous five (5) years. ( )

**c.** For supervisors registered prior to the effective date of this rule subsection 211.03., the following renewal requirements and conditions apply: ( )

**i.** A registered supervisor who has been registered for at least five (5) years prior to July 1, 2013 must submit a complete application for registration renewal and meet the renewal requirements by July 1, 2015. ( )

**ii.** A registered supervisor who has been registered for less than five (5) years prior to July 1, 2013 must submit a complete application for registration renewal and meet the renewal requirements by July 1, 2017. ( )

~~203~~**12.** -- 224. (RESERVED)

**225. INACTIVE STATUS (RULE 225).**

**01. Request for Inactive Status.** Each person requesting an inactive status *during the renewal of their active license* must submit a written request and pay the *established* inactive license fee. ~~(4-9-09)~~( )

**02. Inactive License Status.** (4-9-09)

**a.** All continuing education requirements will be waived for any year or portion thereof that a licensee maintains an inactive license and is not actively practicing or supervising in Idaho (4-9-09)

**b.** Inactive license renewal notices and licenses will be marked "Inactive." (4-9-09)

**c.** When the licensee desires active status, he must show acceptable fulfillment of continuing education requirements for the previous twelve (12) months and submit a fee equivalent to the difference between the inactive and active renewal fee. (4-9-09)

**d.** Licensees shall not practice in Idaho while on inactive status. (4-9-09)

**(BREAK IN CONTINUITY OF SECTIONS)**

**350. EXAMINATIONS, ENDORSEMENT, AND BOARD MEETINGS (RULE 350).**

~~Examinations will be conducted by the board for qualified applicants for social work licensing and board meetings will be held to conduct other business.~~ Applications for examination may be reviewed and approved by a designated Board member upon determination that the applicant meets the qualifications for examination. Approval to sit for examination does not obligate the Board to issue a license if it is later determined that the applicant does not meet the requirements for licensure. ~~(3-20-04)~~( )

**01. Board Meetings.** Board meetings will be held at least three (3) times each year at such times and places as the board deems necessary. (5-3-03)

**02. Exam-Utilized.** The Board ~~utilizes~~ approves the uniform, nationally standardized examination of the Association of Social Work Boards (ASWB) as the Idaho licensure examination. ~~(5-3-03)~~( )

**a.** Bachelor level candidates shall be required to successfully pass the bachelor's examination. (4-2-08)

**b.** Masters level candidates shall be required to successfully pass the master's examination. (4-2-08)

**c.** Clinical level candidates shall be required to successfully pass the clinical examination. (5-3-03)

**03. Dates of Exams.** Examination at all levels of social work licensing will be conducted on dates established for national administration. (7-1-93)

**04. Graduation Date to Qualify for Exam.** Candidates for examination who can satisfy the board that they will be graduating at the end of the spring, summer or fall terms of any given year, may qualify for examination *at the established testing period* immediately preceding the date of graduation. (~~5-24-95~~)(    )

~~**05. Exemption from Exam.** An applicant who has been tested for licensure utilizing an acceptable examination will be exempt from the Idaho examination if the applicant received a converted score of seventy (70) based upon a criterion reference examination. (7-1-93)~~

~~**06.**~~ **065. Endorsement.** The Board may grant a license to any person who submits a completed application on a form approved by the Board together with the required fees and who: (5-3-03)

**a.** Holds a current, active social work license, at the level for which a license is being sought, issued by the authorized regulatory entity in another state or country, the certification of which must be received directly by the Board from the issuing agency; and (3-20-04)

**b.** Has not been disciplined within the last five (5) years, had a license revoked, suspended, restricted, or otherwise sanctioned by any regulatory entity and has never voluntarily surrendered a license; and (5-3-03)

**c.** Is of good moral character and has not been convicted, found guilty, or received a withheld judgment or suspended sentence for any felony; and (5-3-03)

**d.** Has successfully passed an examination, as referenced in Subsection 350.02, or an examination provided by the Professional Examination Service (PES) at the clinical social worker and social worker level or the Education Testing Service (ETS) examination; and (5-3-03)

**e.** Has certified under oath to abide by the laws and rules governing the practice of social work in Idaho and the code of professional conduct. (5-3-03)

**(BREAK IN CONTINUITY OF SECTIONS)**

**450. STATEMENT OF PUBLIC POLICY AND CODE OF PROFESSIONAL CONDUCT (RULE 450).**  
The profession of social work is dedicated to serving people; the professional relationship between social workers and clients thus shall be governed by the highest moral and ethical values. The client is in a vulnerable role that extends beyond the time frame of actual services. In both social and professional interactions, this vulnerability shall be taken into consideration whether the person is currently or has been a client. Following is the Code of Professional Conduct: (5-24-95)

**01. The Social Worker's Ethical Responsibility to Clients.** (7-1-93)

**a.** For the purpose of this Code of Professional Conduct, a client is anyone for whom the social worker provides social work services directly or indirectly through consultations, staffings, or supervision with other professionals. (7-1-93)

**b.** The social worker shall not commit fraud nor misrepresent services performed. (7-1-93)

**c.** The social worker shall not solicit the clients of an agency for which they provide services for his private practice. (7-1-93)

**d.** The social worker shall not divide a fee or accept or give anything of value for receiving or making a referral. (7-1-93)

e. The social worker shall provide clients with accurate and complete information regarding the extent and nature of the services available to them. (7-1-93)

f. The social worker shall terminate service to clients, and professional relationships with them, when such service and relationships are no longer required or in which a conflict of interest arises. (7-1-93)

g. A social worker shall not violate a position of trust by knowingly committing any act detrimental to a client. (7-1-93)

h. A social worker shall not exploit their professional relationships with clients (or former clients), supervisees, supervisors, students, employees, or research participants, sexually or otherwise. Social workers shall not condone or engage in sexual harassment. Sexual harassment is defined as deliberate or repeated comments, gestures, or physical contacts of a sexual nature that are unwelcomed by the recipient. (7-1-93)

i. A social worker shall not engage in romantic or sexual acts with a client or with a person who has been a client within the past three (3) years, with a relative of a client, or with a person with whom the client maintains a close personal relationship when it has the potential to be harmful to the client. A social worker shall not provide social work services to a person with whom he/she has had a romantic or sexual relationship. (7-1-93)(      )

**02. The Social Worker's Conduct and Comportment as a Social Worker.** (7-1-93)

a. In providing services, a social worker shall not discriminate on the basis of age, gender, race, color, religion, national origin, mental status, physical disability, social or economic status, political belief, or any other preference or personal characteristic, condition or status. (4-2-08)

b. Social workers shall not undertake any activity in which their personal problems are likely to lead to inadequate performance or harm to a client, colleague, student, or research participant. If engaged in such activity when they become aware of their personal problems, they shall seek competent professional assistance to determine whether they should suspend, terminate, or limit the scope of their professional activities. (7-1-93)

c. A social worker shall not practice while impaired by medication, alcohol, drugs, or other chemicals. A social worker shall not practice under a mental or physical condition that impairs the ability to practice safely. (4-2-08)

d. A social worker shall not repeatedly fail to keep scheduled appointments. (7-1-93)

e. The social worker who anticipates the termination or interruption of service to clients shall notify clients promptly and seek the transfer, referral, or continuation of services in relation to the clients' needs and preferences. (7-1-93)

f. The social worker shall attempt to make appropriate referrals as indicated by the client's need for services. (7-1-93)

g. A social worker shall obtain the client's or legal guardian's informed written consent when a client is to be involved in any research project. A social worker shall explain the research, including any implications. (7-1-93)

h. The social worker shall obtain informed consent of clients before taping, recording, or permitting third party observation of their activities. (7-1-93)

i. A social worker shall safeguard information given by clients in providing client services. Except when required by law or judicial order, a social worker shall obtain the client's informed written consent before releasing confidential information from the setting or facility except for compelling reasons defined as but not limited to:

i. Consultation with another professional on behalf of the client thought to be dangerous to self or

- others; (7-1-93)
- ii. Duty to warn pursuant to Chapter 19, Title 6, Idaho Code; (5-24-95)
  - iii. Child abuse and sexual molestation pursuant to Chapter 16, Title 16, Idaho Code; and (5-24-95)
  - iv. Any other situation in accordance with statutory requirements. (7-1-93)
- j.** A social worker shall report any violation of the law or rules, including Code of Professional Conduct, by a person certified under Chapter 32, Title 54, Idaho Code. (7-1-93)

**03. Competent Practice for Social Workers.** All social workers shall practice in a competent manner consistent with their level of education, training and experience. (3-20-04)

**a.** A social worker shall only represent himself and practice within the boundaries of his education, training, licensure level, supervision, and other relevant professional experience. (3-20-04)

**b.** A social worker shall only practice within new areas or use new intervention techniques or approaches after engaging in appropriate study, training, consultation, or supervision. (3-20-04)

**c.** A social worker shall exercise careful judgment, when generally recognized standards do not exist with respect to an emerging area of practice, and take responsible steps to ensure the competence of his practice. (3-20-04)

**04. The Advertising Rules for Social Workers.** No social worker shall disseminate or cause the dissemination of any advertisement or advertising which is any way fraudulent, false, deceptive or misleading. Any advertisement or advertising shall be deemed by the board to be fraudulent, false, deceptive, or misleading if it: (7-1-93)

**a.** Contains a misrepresentation of fact; or (7-1-93)

**b.** Is misleading or deceptive because in its content or in the context in which it is presented it makes only a partial disclosure of relevant facts. More specifically, it is misleading and deceptive for a social worker to advertise free services or services for a specific charge when in fact the social worker is transmitting a higher charge for the advertised services to a third party payor for payment or charges the patient or a third party. It is misleading and deceptive for a social worker or a group of social workers to advertise a social work referral service or bureau unless the advertisement specifically names each of the individual social workers who are participating in the referral service or bureau. (7-1-93)

**c.** Creates false or unjustified expectations of beneficial treatment or successful outcomes; or (7-1-93)

**d.** Fails to identify conspicuously the social worker or social workers referred to in the advertising as a social worker or social workers; or (7-1-93)

**e.** Contains any representation or claims, as to which the social worker, referred to in the advertising, fails to perform; or (7-1-93)

**f.** Contains any representation which identifies the social worker practice being advertised by a name which does not include the terms "social worker," "social work," or some easily recognizable derivation thereof; or (7-1-93)

**g.** Contains any representation that the practitioner has received any license or recognition by the state of Idaho or its authorized agents, which is superior to the license and recognition granted to any social worker who successfully meets the licensing requirements of Chapter 32, Title 54, Idaho Code; or (7-1-93)

**h.** Appears in any classified directory, listing, or compendium under a heading, which when considered together with the advertisement, has the capacity or tendency to be deceptive or misleading with respect to



the profession or professional status of the social worker; or (7-1-93)

- i. Contains any other representation, statement, or claim which is misleading or deceptive. (7-1-93)

**05. Dual Relationships.** A social worker shall not engage in dual or multiple relationships with clients, with relatives of a client, or with individuals with whom clients maintain close personal relationships, in which a reasonable and prudent social worker would conclude after appropriate assessment that there is a risk of harm or exploitation to the client or of impairing a social worker's objectivity or professional judgment. A dual or multiple relationship is a relationship that occurs when a social worker interacts with a client in more than one capacity, whether it be before, during, or after the professional, social, or business relationship. Dual or multiple relationships can occur simultaneously or consecutively. After an appropriate assessment that the relationship does not create a risk of harm or exploitation to the client and will not impair a social worker's objectivity or professional judgment, the social worker must document in case records, prior to the interaction, when feasible, the rationale for such a relationship, the potential benefit to the client, and anticipated consequences for the client. ( )

**06. Business Relationships.** A social worker shall not purchase goods or services from a client or otherwise engage in a business relationship with a client except when: ( )

- a. The client is providing necessary goods or services to the general public; ( )

- b. A reasonable and prudent social worker would determine that it is not practical or reasonable to obtain the goods or services from another provider; and ( )

- c. A reasonable and prudent social worker would determine that engaging in the business relationship will not be detrimental to the client or the professional relationship. ( )

**07. Bartering.** Bartering is the acceptance of goods, services, or other nonmonetary remuneration from a client in return for a social worker's services. Social workers shall not barter except when such arrangement is not exploitative and: ( )

- a. Is initiated by the client and with the client's written informed consent; and ( )

- b. Has an easily determined fair market value of the goods or services received. ( )

## IDAPA 24 - BUREAU OF OCCUPATIONAL LICENSES

### 24.15.01 - RULES OF THE IDAHO LICENSING BOARD OF PROFESSIONAL COUNSELORS AND MARRIAGE AND FAMILY THERAPISTS

DOCKET NO. 24-1501-1201

#### 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) 54-3404, Idaho Code.

**PUBLIC HEARING SCHEDULE:** Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 17, 2012.

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 Idaho Board of Professional Counselors and Marriage and Family Therapists is updating the Incorporation by Reference section of the rule to allow the Board to adopt the new Code of Ethics for Marriage and Family Therapists. Changes are also needed to clarify supervised experience for marriage and family therapists; and to clarify continuing education. Finally, based upon a law change last year the Board has added a rule specifying the documentation necessary for informed consent.

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

**FISCAL IMPACT:** The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year resulting from this rulemaking: N/A

**NEGOTIATED RULEMAKING:** Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not conducted because the changes are simple in nature and they were discussed during noticed open meetings of the Board.

**INCORPORATION BY REFERENCE:** Pursuant to Section 67-5229(2)(a), Idaho Code, the following is a brief synopsis of why the materials cited are being incorporated by reference into this rule:

The Board is adopting the current edition of the American Association for Marriage and Family Therapy (AAMFT) Code of Ethics.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the proposed rule, contact Cherie Simpson at (208)334-3233.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 24, 2012.

DATED this 30<sup>th</sup> day of August, 2012.

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

**THE FOLLOWING IS THE PROPOSED TEXT FOR DOCKET NO. 24-1501-1201**

**004. INCORPORATION BY REFERENCE (RULE 4).**

**01. ACA Code of Ethics.** “ACA Code of Ethics,” as published by the American Counseling Association (ACA), effective 2005 ~~and referenced in Subsections 200, 241.02, 350, and 450.01~~, is herein incorporated by reference and is available from the Board’s office and on the Board web site. (3-29-12)( )

**02. AAMFT Code of Ethics.** The document titled “AAMFT Code of Ethics,” as published by the American Association for Marriage and Family Therapy (AAMFT), effective July 1, 200~~12~~ and referenced in Subsections 350, and 450.01, is herein incorporated by reference and is available from the Board’s office and on the Board web site. (3-30-06)( )

**03. Guidelines.** The document titled “Approved Supervision Designation Handbook” that provides supervision guidelines for supervisors, as published by the American Association for Marriage and Family Therapy (AAMFT), dated October 2007 referenced in Subsection 240~~39~~.03.a., is herein incorporated by reference and is available from the Board’s office and on the Board web site. (3-29-12)( )

**(BREAK IN CONTINUITY OF SECTIONS)**

**238. MARRIAGE AND FAMILY THERAPISTS (RULE 238).**

The following requirements must be met for marriage and family therapist licensure: (3-13-02)

**01. Graduate Degree.** Possess a graduate degree as outlined in Section 54-3405C(1), Idaho Code. (3-13-02)

**02. Practicum.** Must meet the requirements as outlined in Section 54-3405C(2), Idaho Code. (3-13-02)

**03. Supervised Marriage and Family Therapy Experience.** Must meet the three thousand (3,000) hour requirement as outlined in Section 54-3405C(3), Idaho Code. Effective July 1, 2004, a Idaho Marriage and Family Therapist must be registered with the Board to provide post graduate supervision for those pursuing marriage and family therapist licensure in Idaho. (3-29-12)

**a.** A minimum of two thousand (2,000) postgraduate direct client contact hours, in no less than a two (2) year time period shall include a minimum one thousand (1,000) direct client contact hours with couples and families; and (3-13-02)( )

~~**b.** A minimum one thousand (1,000) direct client contact hours with couples and families; and Two hundred (200) hours of supervision.~~ (3-13-02)( )

~~**ii.** Two hundred (200) hours of supervision.~~ (3-13-02)

~~**bc.** Effective July 1, 2014 a minimum of one hundred (100) hours post-graduate supervision must be obtained from a registered marriage and family therapist supervisor. The remaining one hundred (100) hours of supervision may also be obtained from a licensed clinical professional counselor registered as a supervisor with the Board, licensed psychologist, licensed clinical social worker registered as a supervisor with the Board of Social Work Examiners, or licensed psychiatrist who documents:~~ (3-29-12)

~~**i.** A minimum of five (5) years of experience providing marriage and family therapy; and~~ (3-20-04)

~~**ii.** Fifteen (15) contact hours of education in supervisor training; and~~ (3-20-04)

- iii. Has not been the subject of any disciplinary action for five (5) years immediately prior to providing supervision. (3-20-04)
  - ~~ed.~~ No more than one hundred (100) hours of group supervision shall be allowed. Group supervision shall be defined as up to six (6) supervisees and one (1) supervisor; and (3-29-12)
  - ~~de.~~ Individual supervision is defined as up to two (2) supervisees per supervisor; and (3-13-02)
  - ~~ef.~~ Supervision must employ observation of client contact such as the use of audio technologies or video technologies or co-therapy, or live supervision; and (3-29-12)
  - ~~fg.~~ In accordance with the adopted Codes of Ethics prohibiting dual relationships, a supervisor shall not act as an applicant's personal Professional Counselor/Therapist. (3-13-02)
  - ~~gh.~~ The Board shall consider the recommendation of the supervisor(s) when determining the acceptability of the applicant's supervised experience. (4-2-03)
  - ~~hi.~~ Supervision obtained in another state must conform with the state's requirements provided they are substantially equivalent to Idaho's requirements. (3-29-12)
- 04. Examination.** (3-13-02)
- a. The Board requires successful passage of the National Marital and Family Therapy Examination as approved by the Association of Marital and Family Therapy Regulatory Boards (AMFTRB). (3-13-02)
  - b. The examination will be conducted at a time and place specified by the Board. (3-13-02)
  - c. Successful passage of the examination is defined by the Board as achievement of the passing score set by the AMFTRB. Reexamination shall consist of the entire examination. (3-13-02)

**(BREAK IN CONTINUITY OF SECTIONS)**

**425. CONTINUING EDUCATION (RULE 425).**

Every person holding an Idaho license as a Professional Counselor, Clinical Professional Counselor, Associate Marriage and Family Therapist, or a Marriage and Family Therapist must complete in each twelve-month period preceding the renewal of a license, twenty (20) contact hours of continuing education. A contact hour is one (1) hour of actual participation in a continuing education activity, exclusive of breaks. (3-29-10)

**01. Contact Hours.** The contact hours of continuing education must be obtained in areas of study germane to the practice for which the license is issued as approved by the Board. No less than three (3) contact hours for each renewal period must be in ethics, which must be specific to legal issues, law, or ethics. Ethics contact hours must be obtained in a face-to-face setting where you can interact with the instructor and ~~students~~ participants. Therapeutic workshops, retreats and other self-help activities are not considered continuing education training unless specific parts of the experience are applicable to counseling or therapy practice. (~~3-29-12~~)(    )

**02. Documentation of Attendance.** It shall be necessary for the licensee to maintain documentation verifying attendance by securing authorized signatures or other documentation from the course instructors, providers, or sponsoring institution substantiating any hours attended by the licensee. This documentation must be provided to the Board upon request by the Board or its agent. (3-29-10)

**03. Approved Contact Hours, Limitations, and Required Documents.** (3-29-10)

a. College or University Courses for Credit or Audit. There is no limit to the contact hours that a

licensee may obtain in this category during each reporting period. However, all courses are subject to Board approval. For college or university courses, one (1) semester credit equals fifteen (15) contact hours; one (1) quarter credit equals ten (10) contact hours. The licensee must provide the Board with a copy of the licensee's transcript substantiating any hours attended by the licensee. (3-29-10)

**b.** Seminars, Workshops, Conferences. There is no limit to the contact hours that a licensee may obtain in this category during each reporting period. Teleconferences must feature an interactive format in order to qualify for contact hour credit. Interactive conferences are those that provide the opportunity for participants to communicate directly with the instructor. The licensee must provide the Board with a copy of the certificate, or letter signed by course instructors, providers, or sponsoring institution substantiating any hours attended by the licensee. (3-29-10)

**c.** Publications. A maximum of four (4) contact hours may be counted in this category during each reporting period. Publication activities are limited to articles in journals, a chapter in an edited book, or a published book or professional publication. The licensee must provide the Board with a copy of the cover page or the article or book in which the licensee has been published. For a chapter in an edited book the licensee must submit a copy of the table of contents. (3-29-10)

**d.** Presentations. A maximum of four (4) contact hours may be counted in this category during each reporting period. Class, conference, or workshop presentations may be used for contact hour credit if the topic is germane to the field. A specific presentation given repeatedly can only be counted once. A particular presentation will qualify for contact hour credit one (1) time in a five (5) year period. Only actual presentation time may be counted; preparation time does not qualify for contact hour credit. The licensee must provide the Board with a copy of the conference program or a letter from the sponsor, host organization, or professional colleague. (3-29-12)

**e.** Clinical Supervision and Case Consultation. A maximum of five (5) contact hours of received supervision/consultation may be counted in this category during each reporting period. In order to qualify for contact hour credit, supervision/consultation must be received on a regular basis with a set agenda. No credit will be given for the licensee's supervision of others. The licensee must provide the Board with a letter from the supervisor or consultant listing periods of supervision, ~~where the supervision occurred, and the name of the supervisor or~~ consultation. (3-29-10) ( )

**f.** Dissertation. A maximum of five (5) contact hours may be counted in this category during each reporting period. The licensee must provide the Board with a copy of the licensee's transcript and the title of the dissertation. (3-29-10)

**g.** Leadership. A maximum of four (4) contact hours may be counted in this category during each reporting period. The licensee must provide the Board with a letter from a professional colleague listing the position of leadership, periods of leadership, and the name of the organization under which the leadership took place. The following leadership positions qualify for continuing education credits: (3-29-10)

- i. Executive officer of a state or national counseling or therapy organization; (3-29-12)
- ii. Editor or editorial board service of a professional counseling or therapy journal; (3-29-12)
- iii. Member of a national ethics disciplinary review committee rendering licenses, certification, or professional membership; (3-29-10)
- iv. Active member of a counseling or therapy working committee producing a substantial written product; (3-29-10)
- v. Chair of a major counseling or therapy conference or convention; or (3-29-10)
- vi. Other leadership positions with justifiable professional learning experiences. (3-29-10)

**h.** Home Study and On-line Education. A maximum of ten (10) contact hours may be counted through self-study during each reporting period. In order for a home study or on-line course to qualify for contact hours, the

course must be provided by a Board-approved continuing education provider or a course pre-approved by the Board. (3-29-12)

**i.** Copy of Certification Required. A licensee applying for home study or on-line credit must provide the Board a copy of the certification that is verified by the authorized signatures from the course instructors, providers, or sponsoring institution and substantiates any hours completed by the licensee. A licensee seeking contact credit for reading a publication must submit results from a test on the information contained within the publication and administered by an independent third-party. (3-29-10)

**j.** Continuing Education Credit. Continuing education credit may be granted for a maximum of two (2) hours each renewal period for time spent attending one (1) Board meeting. Members of the Board are not entitled to continuing education credit for Board service. (3-29-10)

**04. Excess Hours.** Continuing education hours accumulated during the twelve (12) months immediately preceding the license renewal date may be applied toward meeting the continuing education requirement for the next license renewal. No more than ten (10) hours in excess of the required twenty (20) hours shall be carried forward. Excess hours may be used only during the next renewal period and may not be carried forward more than one (1) time. (3-29-12)

**05. Compliance Audit.** The Board may conduct random continuing education audits of those persons required to obtain continuing education in order to renew a license and require that proof acceptable to the Board of meeting the continuing education requirement be submitted to the Bureau. Failure to provide proof of meeting the continuing education upon request of the Board shall be grounds for disciplinary action in accordance with section 54-3407, Idaho Code. (4-2-03)

**06. Special Exemption.** The Board shall have authority to make exceptions for reasons of individual hardship, including health (certified by a medical doctor) or other good cause. The licensee must request such exemption prior to renewal and provide any information requested by the Board to assist in substantiating hardship cases. This exemption is granted at the sole discretion of the Board. There is no continuing education required of those holding a current inactive license. (3-29-10)

**(BREAK IN CONTINUITY OF SECTIONS)**

**501. -- ~~549~~24. (RESERVED)**

**525. DOCUMENTATION OF INFORMED CONSENT (RULE 525).**

In accordance with Section 54-3410A, Idaho Code, all licensees and registered interns will document the process of obtaining the informed consent of clients at the beginning of treatment and at other times as appropriate. Licensees and interns shall adhere to their respective Codes of Ethics and state law in obtaining informed consent and disclosing information to clients. The receipt of the disclosure shall be acknowledged in writing by both the client and the licensee or intern, and such disclosure of information concerning their practice must include: ( )

**01. Name, Business Address and Phone Number of Licensee or Intern.** If the licensee or intern is practicing under supervision, the statement shall include the licensee or intern status as such and the designated qualified supervisor's name, business address and phone number: ( )

**02. License Type and License Number, Credentials, and Certifications:** ( )

**03. Education and Training.** Formal education and training with the name(s) of the institution(s) attended and the specific degree(s) received: ( )

**04. Theoretical Orientation and Approach.** Counseling or marriage and family therapy: ( )

**05. Relationship.** Information about the nature of the clinical relationship; fee structure and billing

arrangements; cancellation policy; ( )

**06.     The Extent and Limits of Confidentiality.** ( )

a.     A statement that sexual intimacy is never appropriate with a client and should be reported to the board; ( )

b.     The client's rights to be a participant in treatment decisions, to seek a second opinion, to file a complaint without retaliation, and to refuse treatment, and ( )

c.     The name, address, and phone number of the Board with the information that the practice of licensees and interns is regulated by the Board. ( )

**526. -- 549.     (RESERVED)**



# **IDAPA 24 - BUREAU OF OCCUPATIONAL LICENSES**

## **24.17.01 - RULES OF THE STATE BOARD OF ACUPUNCTURE**

**DOCKET NO. 24-1701-1201**

### **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) 54-4705, Idaho Code.

**PUBLIC HEARING SCHEDULE:** Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 17, 2012.

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 State Board of Acupuncture is clarifying its rules on the process for active and inactive licenses. It also is making changes to the continuing education requirements to create two (2) separate categories to help ensure that the continuing education is appropriate. The changes to the records section clarify the release of the patient's records. New rules are also created to provide for disclosure of fees to the patient; clarify the nature of activities performed by unlicensed employees and non-exempt individuals, provide for supervision of trainees and technicians; and clarify limits on advertising.

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

**FISCAL IMPACT:** The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year resulting from this rulemaking: There is no impact on general or dedicated funds.

**NEGOTIATED RULEMAKING:** Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not conducted because the changes and additions are an effort to clarify the rules and create standards for public safety. The proposed rules were discussed at scheduled noticed board meetings and submitted to the Acupuncture Association which expressed no concerns.

**INCORPORATION BY REFERENCE:** Pursuant to Section 67-5229(2)(a), Idaho Code, the following is a brief synopsis of why the materials cited are being incorporated by reference into this rule: N/A

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the proposed rule, contact Cherie Simpson at (208) 334-3233.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 24, 2012.

DATED this 30<sup>th</sup> day of August, 2012.

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

**THE FOLLOWING IS THE PROPOSED TEXT FOR DOCKET NO. 24-1701-1201**

**301. RENEWAL OR REINSTATEMENT OF LICENSE (RULE 301).**

**01. Expiration Date.** All Acupuncture licenses and certificates expire and must be renewed annually on forms approved by the Board together with the required fee in accordance with Section 67-2614, Idaho Code. As part of a complete renewal application, the licensee will certify by signed affidavit completion of the required continuing education pursuant to Sections 305 through 307 of these rules. Licenses and certificates not so renewed will be cancelled in accordance with Section 67-2614, Idaho Code. (5-3-03)( )

**02. Reinstatement.** Any license or certificate cancelled for failure to renew may be reinstated in accordance with Section 67-2614, Idaho Code, with the exception that the reinstatement fee shall be two hundred fifty dollars (\$250) and the applicant shall submit proof of having met the required continuing education for each year the license or certificate was cancelled. (5-3-03)

**302. ~~RENEWAL REQUIREMENT~~ INACTIVE STATUS (RULE 302).**

~~01. Active Status. Each renewal application must be accompanied by:~~ (3-10-00)

~~a. The established fee; and~~ (3-10-00)

~~b. Beginning July 1, 2004, certification of having attended and completed a minimum of fifteen (15) hours of acupuncture study or oriental medical theory and techniques within the previous twelve (12) months, as approved by the Idaho Board of Acupuncture.~~ (3-20-04)

~~c. Compliance with the continuing education (CE) requirements for licensees shall be reported annually. A CE course taken in any renewal year, but not claimed for CE credit in that year, may be utilized for credit in the following renewal year.~~ (5-3-03)

~~02. Inactive Status.~~ A currently licensed or certified practitioner may request in writing to have their license placed on inactive status and pay the inactive status fee. Such request must be made prior to the expiration date of the license, otherwise the license shall be deemed cancelled for failure to renew. (5-3-03)( )

~~031. Definition of Inactive Status.~~ "Inactive" status means an Idaho Acupuncture license that may be made active by paying the renewal fee. Until payment of said fee, such individual may not practice acupuncture in the state of Idaho. (5-3-03)

~~042. Waiving Continuing Education Requirements - Inactive Status.~~ All continuing education requirements will be waived for any year or portion thereof that a licensee maintains an inactive license and is not actively practicing in Idaho. Inactive license renewal notices and licenses will be marked "Inactive." A licensee desiring active status must show acceptable fulfillment of continuing educational requirements for the current year and submit a fee equivalent to the difference between the inactive and active renewal fee. The continuing educational requirement and the fees will not be prorated for a partial year. (5-3-03)( )

03. Return to Active Status. A licensee desiring active status must show acceptable fulfillment of continuing educational requirements for the current year and submit a fee equivalent to the difference between the inactive fee and renewal fee. The continuing educational requirement and the fees will not be prorated for a partial year. ( )

**303. -- 304. (RESERVED)**

**305. CONTINUING EDUCATION REQUIREMENTS (RULE 305).**

In order to further protect the public health and to facilitate the administration of the Acupuncture Act, the Board has ~~formulated the following rules~~ adopted the following requirements: (5-3-03)( )

~~01. **Subject Material.** The subject material of the continuing education requirement shall be germane to the practice of acupuncture and;~~ **Requirement.** All practitioners, for renewal of their license or certificate, shall be required to complete a minimum of fifteen (15) hours of continuing education within the preceding twelve (12) months. Beginning July 1, 2014, a minimum of ten (10) hours of continuing education must be from Category I topics, and a maximum of five (5) hours of continuing education may be from Category II topics, as set forth in Sections 306 and 307 of these rules. (5-3-03)( )

~~a. Accepted by NCCAOM, offered by accredited schools of acupuncture and oriental medicine, or otherwise approved by the Board. (5-3-03)~~

~~b. "Germane to the practice of acupuncture" shall be consistent with Section 54-4702(1)(4), Idaho Code. (5-3-03)~~

**02. Verification of Attendance.** It shall be necessary for each licensee to maintain verification of attendance by securing authorized signatures or other documentation from the course instructors or sponsoring institution substantiating any hours attended by the applicant. This verification shall be maintained by the licensee for no less than seven (7) years and provided to the Board upon the request of the Board or its agent. (5-3-03)

**03. Distance Learning and Independent Study.** The Board may approve a course of study for continuing education credit that does not include the actual physical attendance of the applicant in a face-to-face setting with the course instructor. Distance Learning or Independent Study courses shall be eligible for continuing education credits if approved by NCCAOM or upon approval of the Board. (4-6-05)

~~04. **Requests for Approval.** All requests for approval or pre-approval of educational programs must be made to the Board in writing, and must be accompanied by a statement that includes the name of the instructor or instructors, the date and time and location of the course, the specific agenda for the course, the number of continuing education credit hours requested, and a statement of how the course is believed to be pertinent to the practice of acupuncture. (5-3-03)~~

**054. Special Exemption.** The Board shall have authority to make exceptions for reasons of individual hardship, including health (certified by a medical doctor) or other good cause. The licensee must provide any information requested by the Board to assist in substantiating hardship cases. This exemption is granted at the sole discretion of the Board. (4-6-05)

**05. Carryover.** A continuing education course taken in a renewal year, but not claimed for continuing education credit in that year, may only be claimed for credit in the following renewal year. ( )

**306. APPROVAL OF CONTINUING EDUCATION COURSES.**

Approved continuing education courses shall be those courses, programs, and activities that meet the general requirements, the content requirements of these rules, and that are approved or provided by the following entities or organizations, or otherwise approved by the Board: ( )

**01. NCCAOM;** ( )

**02. Accredited Schools.** Acupuncture and oriental medicine; and ( )

**03. Other Courses May Be Approved by the Board.** Other courses may be approved based upon documentation submitted by the licensee or course provider. All requests for approval or pre-approval of educational programs must be made to the Board in writing, and must be accompanied by a statement that includes the name of the instructor or instructors, the date and time and location of the course, the specific agenda for the course, the number of continuing education credit hours requested, and a statement of how the course is believed to be pertinent to the practice of acupuncture. ( )

**307. CONTENT OF CONTINUING EDUCATION COURSES.**

The content of a continuing education course must be germane to the practice of acupuncture as defined in Section 54-4702, Idaho Code, and ( )

**01. Category I. Category I courses shall relate to the following topics: ( )**

**a. Acupuncture and the practice of acupuncture as defined in Section 54-4702, Idaho Code including topics that directly concern the history and theory of acupuncture, oriental medicine diagnosis and treatment techniques, and techniques of adjunctive oriental medicine therapies: ( )**

**b. The role of acupuncture in individual and public health, such as emergencies and disasters; or ( )**

**c. Research and evidence-based medicine as related to acupuncture and Asian medicine: ( )**

**02. Category II. Category II courses shall relate to the following topics: ( )**

**a. Western biomedicine and biological sciences: ( )**

**b. Scientific or clinical content with a direct bearing on the quality of patient care, community or public health, or preventive medicine: ( )**

**c. Laws and ethics: ( )**

**d. Enhancement of effective communication with other medical practitioners: ( )**

**e. Behavioral sciences, patient counseling, and patient management and motivation when such courses are specifically oriented to the improvement of patient health: ( )**

**f. Practice management unrelated to clinical matters and direct patient care, including, but not limited to, administrative record keeping, insurance billing and coding, and general business organization and management; or ( )**

**g. Patient education including, but not limited to, patient education in East Asian therapeutic exercise techniques and Asian nutritional therapies. ( )**

**3068. -- 399. (RESERVED)**

**401. RECORDS (RULE 401).**

A practitioner shall keep accurate records of each patient the practitioner treats. The records shall include the name of the patient, the indication and nature of treatment given, and any other relevant data deemed important by the practitioner. Records shall be kept on file for a minimum of five (5) years and shall be open to inspection at any time by the Board or its duly authorized representative, ~~and~~ A patient's records shall be made available to the patient ~~on~~ within thirty (30) days of a request. Reasonable fees may be charged for copying the records. (3-10-00)( )

**402. DISCLOSURE OF FEES (RULE 402).**

Prior to providing treatment to a new patient, a practitioner shall explain to the patient the fees expected for treatment, accepted methods of payment, and payment policies including when payment is expected and any fees or interest to be charged for late payments. Such explanations should be provided in writing. ( )

**01. Payment. If the practitioner expects payment from the patient before receiving third party payments, the practitioner shall inform the patient before providing treatment. ( )**

**02. Fee Changes. If the practitioner's fees change during the course of treatment, the practitioner shall inform the patient of the new fees before providing treatment under the new fee schedule. ( )**

**403. EMPLOYMENT OF UNLICENSED, NON-EXEMPT INDIVIDUALS (RULE 403).**

Individuals who do not have a license and are not exempt from licensure shall not perform any insertion of acupuncture needles or use similar devices and therapies, including application of moxibustion. They may only support the practitioner's professional practice by performing office and ministerial acts related to acupuncture. The practitioner shall be responsible for the services provided by such employees. ( )

**404. SUPERVISION OF TRAINEES AND TECHNICIANS (RULE 404).**

A licensed or certified acupuncturist providing supervision to trainees or technicians shall be responsible for the services provided by such individuals. Failure to adequately supervise such an individual may subject the supervisor to discipline. ( )

**405. ADVERTISING (RULE 405).**

A practitioner shall not disseminate or cause the dissemination of any advertisement or advertising including offers, statements, or other representations, which is in any way fraudulent, false, deceptive, or misleading. Any advertisement or advertising shall be deemed by the board to be fraudulent, false, deceptive, or misleading if it: ( )

**01. Contains a Misrepresentation of Fact.** Contains a misrepresentation of fact; ( )

**02. Misleading or Deceptive.** Is misleading or deceptive because in its content or in the context in which it is presented it makes only a partial disclosure of relevant facts. It is misleading and deceptive for a practitioner to advertise free or services for a specific charge when in fact the practitioner is transmitting a higher charge for the advertised services to a third party payor for payment or charges the patient or a third party. It is misleading and deceptive for a practitioner to use the word "Doctor" in offering to perform services without also indicating the profession in which the licensee holds a doctorate level degree. ( )

**03. Creates False or Unjustified Expectations of Beneficial Treatment or Successful Cures.** Creates false, or unjustified expectations of beneficial treatment or successful cures; ( )

**04. Failure to Perform.** Contains any representations or claims, as to which the practitioner, referred to in the advertising, fails to perform; or ( )

**05. Deceptive or Misleading Heading.** Appears in any classified directory, listing, or compendium under a heading, which when considered together with the advertisement, has the capacity or tendency to be deceptive or misleading with respect to the profession or professional status of the practitioner. ( )

**4026. -- 499. (RESERVED)**