

Dear Senators TIPPETS, Patrick, Schmidt, and  
Representatives HENDERSON, Thompson, Smith:

The Legislative Services Office, Research and Legislation, has received the enclosed rules of the Bureau of Occupational Licenses - Idaho Board of Cosmetology:  
IDAPA 24.04.01 - Rules of the Idaho Board of Cosmetology (Docket No. 24-0401-1301) - **Fee Rule**.

Pursuant to Section 67-454, Idaho Code, a meeting on the enclosed rules may be called by the cochairmen or by two (2) or more members of the subcommittee giving oral or written notice to Research and Legislation no later than fourteen (14) days after receipt of the rules analysis from Legislative Services. The final date to call a meeting on the enclosed rules is no later than 10/21/2013. 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 11/19/2013.

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

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*Serving Idaho's Citizen Legislature*

## MEMORANDUM

**TO:** Rules Review Subcommittee of the Senate Commerce & Human Resources Committee and the House Business Committee  
**FROM:** Principal Legislative Research Analyst - Brooke Brouman  
**DATE:** October 01, 2013  
**SUBJECT:** Bureau of Occupational Licenses - Idaho Board of Cosmetology

IDAPA 24.04.01 - Rules of the Idaho Board of Cosmetology (Docket No. 24-0401-1301) - **Fee Rule**

The Bureau of Occupational Licenses, on behalf of the Idaho Board of Cosmetology, submits notice of proposed fee rulemaking. The proposed fee rule reduces 16 different fees that are listed in Rule 125 and found on page 328. The Bureau states that as a result of this fee rulemaking, it is anticipated that the amount of dedicated fund fees collected annually by the Board will be reduced by approximately \$119,905. There is no negative fiscal impact to the state general fund as a result of this rulemaking.

Other proposed rule changes include the following:

- (1) Defines the term "clinical services";
- (2) Requires inspection reports be submitted to the Board for its consideration in issuing a school of cosmetology license;
- (3) Clarifies that students may not render any clinical services to patrons until the student has completed at least 5% of the required hours of instruction; and
- (4) Clarifies that all shops and schools must display a copy of sanitary rules in the work area.

The Board's proposed fee rule changes are authorized pursuant to the provisions of Section 54-818, Idaho Code. The Board's other proposed rule changes are authorized pursuant to the provisions of Section 54-821, Idaho Code.

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

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

### **24.04.01 - RULES OF THE IDAHO BOARD OF COSMETOLOGY**

#### **DOCKET NO. 24-0401-1201 (FEE RULE)**

#### **NOTICE OF RULEMAKING - PROPOSED RULE**

**AUTHORITY:** In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Section 54-821, 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 16, 2013.

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:

Rule 010 is being amended to add a definition for clinical services; Rule 125 is being amended to reduce all fees: Establishments/retail dealers/glamour photography original license from \$30 to \$25; renewal from \$25 to \$20; original license and renewal for personal licenses from \$15 to \$10; original license and renewal for instructors from \$20 to \$15; original school license from \$400 to \$300; renewal from \$75 to \$65, and endorsement from \$85 to \$65; Rule 500 is being amended to clarify the inspection of new schools; Rule 575 is being amended to clarify when a student can provide clinical services; Rule 800 is being amended to clarify that schools and establishments must post the sanitary rules.

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

As authorized by Section 54-818, Idaho Code, rule 125 is being amended to reduce all fees: Establishments/retail dealers/glamour photography original license from \$30 to \$25; renewal from \$25 to \$20; original license and renewal for personal licenses from \$15 to \$10; original license and renewal for instructors from \$20 to \$15; original school license from \$400 to \$300; renewal from \$75 to \$65, and endorsement from \$85 to \$65.

**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:

This rulemaking is anticipated to reduce the amount of dedicated fund fees collected annually by the Board of Cosmetology by approximately \$119,905.00. There is no fiscal impact on general funds.

**NEGOTIATED RULEMAKING:** Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not conducted because the rules are simple in nature and were discussed in a noticed, open meeting of the Board of Cosmetology. The Board is also reducing its fees to confer a benefit to the licensees. The inspection of new schools and the posting of the sanitary rules in schools and establishments is being clarified.

**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 23, 2013.

DATED this 21st day of August, 2013.

Tana Cory, Bureau Chief  
Bureau of Occupational Licenses  
700 W State St.  
P.O. Box 83720  
Boise, ID 83720-0063  
Ph: 208 334-3233; Fax: 208 334-3945

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**THE FOLLOWING IS THE PROPOSED TEXT OF FEE DOCKET NO. 24-0401-1301**

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

These rules expressly adopt all definitions set forth in Section 54-802, Idaho Code, in addition to the following:

- (3-30-01)
- 01. Gender.** Any reference to a gender shall mean both masculine and feminine. (7-1-97)
- 02. Board.** The Idaho Board of Cosmetology as prescribed in Section 54-802, Idaho Code. (7-1-97)
- 03. Bureau.** The Bureau of Occupational Licenses, as prescribed in Section 54-828 and Section 67-2602, Idaho Code. (3-8-02)
- 04. Chief.** The Bureau Chief of the Bureau of Occupational Licenses as established by Section 67-2602, Idaho Code. (7-1-97)
- 05. Current License.** An unexpired license in good standing. (7-1-97)
- 06. Establishment.** A licensed cosmetological establishment. (7-1-97)
- 07. Record of Instruction.** The final documentation of total hours and operations completed by a student that is maintained by a school or, in the case of an apprentice, the instructor. (3-30-01)
- 08. Certificate of Graduation.** A signed, notarized statement from a school or, in the case of an apprentice, the instructor, which indicates that the student has fulfilled all requirements of that school or apprenticeship and is eligible for examination. (7-1-97)
- 09. Rules.** The rules of the Board. (7-1-97)
- 10. School.** A licensed school of cosmetology. (7-1-97)
- 11. School of Electrology.** A licensed school of cosmetology approved to teach electrology. (3-30-01)
- 12. Endorsement Certification.** In accordance with Section 54-812, Idaho Code. (7-1-97)
- 13. Hospital Grade.** Hospital grade means a disinfecting agent registered by the Environmental Protection Agency as an effective germicidal/bactericidal, fungicidal, and virucidal disinfectant or any other equivalent agent that effectively frees instruments from infectious or otherwise harmful microorganisms. Such agents must be used in accordance with the manufacturer's instructions. (3-19-07)
- 14. First-Aid Kit.** First-aid kit means a packaged and identifiable assortment of medical supplies, including adhesive bandages, skin antiseptic, disposable gloves, and gauze, which may be used for cleaning and protecting blood spills and other minor emergency traumas of the human body. (3-30-01)

**15. Patron.** Patron means any person who receives the services of anyone licensed or otherwise regulated by the provisions of Chapter 8, Title 54, Idaho Code. (3-19-07)

**16. Examination.** The examination approved by the board is the National Interstate Council of State Boards of Cosmetology examination. The examination shall consist of practical examination, theory examination and jurisprudence examination. (4-2-08)

**17. Clinical Services.** Clinical services mean performing hands on acts or techniques within the scope of practice of a profession regulated by the Board. ( )

**(BREAK IN CONTINUITY OF SECTIONS)**

**125. FEES (RULE 125).**

Fees are established in accord with Section 54-818, Idaho Code, as follows: (7-1-97)

- 01. Original Permits, Licenses, and Annual Renewals.** (3-30-01)
- a. Cosmetological establishment, original license - ~~thirty~~ **twenty-five** dollars (~~\$3025~~). (~~3-21-12~~)( )
  - b. Cosmetological establishment, annual renewals - ~~twenty~~ **five** dollars (~~\$250~~). (~~3-21-12~~)( )
  - c. Retail cosmetics Dealer, original license - ~~thirty~~ **twenty-five** dollars (~~\$3025~~). (~~3-21-12~~)( )
  - d. Retail cosmetics dealer, annual renewals - ~~twenty~~ **five** dollars (~~\$250~~). (~~3-21-12~~)( )
  - e. Makeover or glamour photography business, original license - ~~thirty~~ **twenty-five** dollars (~~\$3025~~). (~~3-21-12~~)( )
  - f. Makeover or glamour photography business, annual renewals - ~~twenty~~ **five** dollars (~~\$250~~). (~~3-21-12~~)( )
  - g. Domestic school of cosmetology, original license - ~~four~~ **three** hundred dollars (~~\$4300~~). (~~3-21-12~~)( )
  - h. Domestic school of cosmetology, annual renewals - ~~seventy~~ **sixty**-five dollars (~~\$765~~). (~~3-21-12~~)( )
  - i. Registered cosmetologist, original license/annual renewals - ~~fifteen~~ **ten** dollars (~~\$150~~). (~~3-21-12~~)( )
  - j. Nail technician, original license/annual renewals - ~~fifteen~~ **ten** dollars (~~\$150~~). (~~3-21-12~~)( )
  - k. Apprentice, original license (no renewal fees required) - ~~fifteen~~ **ten** dollars (~~\$150~~). (~~3-21-12~~)( )
  - l. Instructor, original license/annual renewals - ~~twenty~~ **fifteen** dollars (~~\$2015~~). (~~3-21-12~~)( )
  - m. Electrologist, original license/annual renewals - ~~fifteen~~ **ten** dollars (~~\$150~~). (~~3-21-12~~)( )
  - n. Esthetician, original license/annual renewals - ~~fifteen~~ **ten** dollars (~~\$150~~). (~~3-21-12~~)( )
  - o. Haircutter, original license/annual renewals - ~~fifteen~~ **ten** dollars (~~\$150~~). (~~3-21-12~~)( )
  - p. Endorsement fee - ~~eighty~~ **sixty**-five dollars (~~\$865~~). (~~3-21-12~~)( )

**02. Examination Fees.** The fee for those examinations administered by a third party administrator shall be that fee determined by the administrator and shall be paid directly to the administrator by the applicant. (4-9-09)

**03. Fees Shall Not Be Prorated or Returnable.** Fees shall not be prorated or returnable. (7-1-97)

**(BREAK IN CONTINUITY OF SECTIONS)**

**500. RULES OF SCHOOLS OF COSMETOLOGY (RULE 500).**

Section 54-808, Idaho Code, provides for the rules of schools of cosmetology. Supplementing this section, the Board adopts the following rules: (7-1-97)

**01. Application Before Opening and Operating a School.** No school of cosmetology will be opened and/or operated until the Board has issued its approval and a valid license has been received by the school. See Section 54-806, Idaho Code. Application for a school license shall be made on forms furnished by the Board. The fully completed application to operate a school, with the required fee, shall be submitted to the Board. (3-30-01)

**a.** As soon as practicable, upon receipt of said application, the Board or its designated agent, will cause the school to be inspected. ~~Based on this inspection, a recommendation for the issuance or rejection of a license will be made and a decision entered, within a reasonable time not to exceed thirty (30) days, after said application has been received.~~ The inspection report will be submitted to the Board for its consideration in issuing a license. (7-1-97)( )

**b.** All new schools applying for license must have one thousand eight hundred (1,800) square feet of space. Schools approved to teach electrology refer to Rule 550. (7-1-99)

**c.** All new schools must be separated completely from establishments and have no connecting entrances. (3-30-01)

**02. Adequate Space.** Schools provide adequate space for the number of students to be trained in said schools. An additional forty (40) square feet of floor space shall be provided in excess of the minimum one thousand eight hundred (1800) square feet required for each student enrolled over twenty (20) students. (7-1-97)

**03. Annual Review of Curriculum and Catalog.** Schools must provide a curriculum and catalog to the Board. Schools must provide a curriculum and catalog to the Board for review on an annual basis. Curricula must be submitted at the time of license renewal. If there are no changes in the curriculum or catalog during the previous year, the school may submit a letter of explanation to the Board. (7-1-97)

**04. Minimum Hours of Instruction.** Students shall not be permitted to render any clinical service to patrons until students have completed at least five percent (5%) of the required hours of instruction. (3-19-07)

**05. Records Required.** Records required of schools of cosmetology: (7-1-97)

**a.** Schools shall maintain records for each student as established by schools' policy and procedures which will show daily attendance and academic grades of instructional progress. (3-30-01)

**b.** Progress records shall be signed and dated by the student and school official. A copy of the signed and dated monthly record shall be provided to the student. The school shall maintain the records for a period of five (5) years following completion or termination of the student instruction. These records are subject to inspection by the Board at any time. (5-8-09)

**c.** When a student's course of instruction at a school has been completed or terminated, the completed operations, and number of hours of instruction are to be recorded by the school on the Record of Instruction Form. This form is to be maintained by the school for a period of five (5) years from completion or termination date.

(5-8-09)

**d.** Schools shall maintain on the premises proof of student meeting education requirements. Schools must maintain proof of student having satisfactorily completed two (2) years of high school (tenth grade) or having equivalent education. If student is a high school graduate, schools may accept a photostatic copy of the high school diploma or transcript. A letter written on high school stationary, signed by an officer of the high school, may be accepted to verify student's satisfactory completion of the tenth grade and eligibility to commence the eleventh grade. (7-1-97)

**e.** Proof of age must be submitted. Schools must maintain on their premises proof of students compliance with minimum age requirement. Acceptable proof of birth date will be a copy of the student's birth certificate, a passport, military identification, drivers license or other similar form of documentation. (7-1-97)

**f.** Schools shall have a written (published) attendance policy. (5-8-09)

**06. Record of Instruction.** A record of the operations completed by each student shall be maintained and include the following: (3-30-01)

**a.** Creative hair styling which shall include hair styles, wet sets/styling, thermal styles, fingerwaving, braiding/free styling; (3-30-01)

**b.** Scalp Treatments; (3-30-01)

**c.** Permanent Waves (All Methods); (3-30-01)

**d.** Haircutting/shaping which shall include scissor and razor/clipper; (3-30-01)

**e.** Bleaching; (3-30-01)

**f.** Tinting; (3-30-01)

**g.** Semi Permanent/Temporary Color; (3-30-01)

**h.** Frosting/Highlights; (5-8-09)

**i.** Facials which shall include plain, makeup and arches; (3-30-01)

**j.** Manicures which shall include plain and oil; (3-30-01)

**k.** Pedicures; and (3-30-01)

**l.** Artificial Nails. (3-30-01)

**07. Discontinuance of School.** If a school discontinues to operate as a school, records of instruction covering all students attending said school at the time of discontinuance or prior thereto, must be provided to the student(s). (5-8-09)

**08. Out-of-State Applicants.** Applicants who have received instruction in out-of-state schools and who wish to complete instruction in an Idaho school are required to file with the Board prior to applying for examination a copy of the record of instruction from the out of state school(s). For purposes of this section, the record of instruction will be a statement which gives detailed information regarding operations and hours of instruction, and which is to be verified by the licensing agency or school(s) in the state in which the instruction was obtained. (3-30-01)

**09. Outside School Activities.** Schools may allow a student credit for no more than thirty (30) hours per course for outside activities during the course of their instruction. These hours must be approved by the instructor. (5-8-09)

**(BREAK IN CONTINUITY OF SECTIONS)**

**575. RULES FOR COSMETOLOGY SCHOOLS TEACHING HAIRCUTTING (RULE 575).**  
Section 54-808, Idaho Code, provides for the teaching of haircutting in cosmetology schools. (3-19-07)

**01. Board Approval.** The Board may approve a school to teach haircutting who makes application on forms provided by the Board and who meets all the requirements set forth in the cosmetology law and these rules. Approval of curriculum must be submitted on a separate application. Approval may be suspended or terminated by the Board for the school's failure to meet any one or more of the minimum requirements set forth in the cosmetology law and rules to teach haircutting. (3-19-07)

**02. Records Required.** (3-19-07)

**a.** Records required of schools teaching haircutting shall be maintained in accordance with the records required for schools of cosmetology. (3-19-07)

**b.** Students may not render any **clinical** services to patrons until the student has completed at least five (5%) of the required hours of instruction. All work done on patrons must be completed by students and supervised by instructors. (~~3-19-07~~)(    )

**03. Record of Training.** A record of operations completed by each student shall be maintained of the following: (3-19-07)

**a.** Haircutting and Hair shaping; (3-19-07)

**b.** Creative hair styling which shall include hair styles, wet sets/styling, thermal styles, fingerwaving, braiding/free styling; (3-19-07)

**c.** Use of cutting implements; (3-19-07)

**d.** Basic shampooing and conditioning. (3-19-07)

**e.** Sanitation (3-19-07)

**(BREAK IN CONTINUITY OF SECTIONS)**

**800. INSPECTION AND SANITARY RULES. (RULE 800).**  
Each cosmetological establishment and school of cosmetology and barber shop and school of barbering is subject to inspection by the Board or its designated agents in accordance with the following rules (reference Section 54-824, and 54-524, Idaho Code). Maximum possible score is indicated by number. (7-1-97)

**01. Premises.** All shops and schools shall be open to inspection during business hours to authorized agents of the Cosmetology/Barber Boards. Shops and schools must be separated from living areas by substantial walls and/or closable doors. All shops and schools must be maintained in an orderly manner and shall be heated, lighted, and ventilated so as to be safe and comfortable to the operators and patrons. Score - five (5) (7-1-97)

**02. Floors, Walls, and Ceilings.** Floors, walls, ceilings, furniture, and all other fixtures shall be kept clean and in good repair at all times. Score - five (5) (7-1-97)

**03. Instrument Cleaning.** All instruments used by operators shall be thoroughly cleaned after each use and prior to storage and/or sanitation. Score - fifteen (15) (7-1-97)



**04. Instrument Sanitation.** All instruments used by operators shall be sanitized after cleaning and prior to use on each patron, with a sanitizing agent registered by the Environmental Protection Agency as Hospital Grade or better. Every precaution shall be taken to prevent the transfer of disease-causing pathogens from person to person. Score - fifteen (15) (7-1-97)

**05. Towels.** Clean towels shall be used for each patron. A clean paper or cloth neckband shall be used to provide a sanitary barrier which shall be maintained between each patron's neck and all multi-use capes. Paper towels and paper neckstrips shall be disposed of after one (1) use. Score - five (5) (7-1-97)

**06. Storage of Equipment.** All instruments, towels, and linens shall be stored in clean, closed cabinets, drawers, and/or containers after they are cleaned and sanitized. Score - five (5) (7-1-97)

**07. Dispensers.** All solutions and/or compounds shall be clearly labeled, maintained, and dispensed in a sanitary manner. All single-use applicators shall be disposed of after one (1) use. Paraffins, waxes and all other solutions and/or compounds shall be maintained free of any foreign contaminants. Score - five (5) (7-1-99)

**08. Uniforms.** All clothing worn by operators shall be clean and washable. Score - five (5) (7-1-97)

**09. Water Supply.** Water supplies shall be from an approved source. Sufficient basins with hot and cold running water, approved drainage systems, soap and single-use towels shall be conveniently located within the work area. Every operator and/or student shall wash their hands prior to providing service to any patron. Score - ten (10) (7-1-97)

**10. Toilet Facilities.** Clean, adequate and convenient toilet facilities, located and accessible from within the building where the shop or school is located, shall be available for use by operators and patrons. A basin with hot and cold running water, approved drainage systems, soap and single-use towels shall be provided within said facilities. Score - ten (10) (7-1-97)

**11. Safety.** Each shop and school shall have a clearly identifiable first-aid kit readily accessible on the premises. No animals are allowed in shops or schools except service dogs trained to do work or perform tasks for persons with disabilities. The definition of service animals and disabilities shall be as set forth in U.S. Department of Justice Regulations at 28 C.F. R. Section 36.104 effective March 15, 2011. Score - five (5) (3-27-13)

**12. Licenses and Certificates.** All shops and schools must be licensed prior to their operation and must be under the direct supervision of a licensed operator. A current shop and/or school license, valid operator license(s) or permit(s), a copy of these [sanitary](#) rules, and a valid classification card shall be conspicuously displayed in the work area of each shop and/or school for the information of operators, Board agents, and the public in general. Score - fifteen (15) (~~7-1-97~~)( )

**13. Classification of Shops and Schools.** Following an inspection, each shop and school will receive classification as follows: 100% - 90% = "A"; 89% - 80% = "B"; 79% and below = "C." The "C" classification denotes an unacceptable rating and improvements are required within thirty (30) days for continued operation. (7-1-97)

## PROPOSED RULE COST/BENEFIT ANALYSIS

Section 67-5223(3), Idaho Code, requires the preparation of an economic impact statement for all proposed rules imposing or increasing fees or charges. This cost/benefit analysis, which must be filed with the proposed rule, must include the reasonably estimated costs to the agency to implement the rule and the reasonably estimated costs to be borne by citizens, or the private sector, or both.

Department or Agency: Bureau of Occupational Licenses

Agency Contact: Cherie Simpson Phone: 208 334-3233

Date: August 29, 2013

IDAPA, Chapter and Title Number and Chapter Name:

24-04-01 – Title 54, Chapter 8

Fee Rule Status:  Proposed  Temporary

Rulemaking Docket Number: 24-0401-1301

### STATEMENT OF ECONOMIC IMPACT:

As authorized by 54-818, Idaho Code rule 125 is being amended to reduce all fees: Establishments/retail dealers/glamour photography original license from \$30 to \$25; renewal from \$25 to \$20; original license and renewal for personal licenses from \$15 to \$10; original license and renewal for instructors from \$20 to \$15; original school license from \$400 to \$300; renewal from \$75 to \$65, and endorsement from \$85 to \$65. This rulemaking is anticipated to reduce the amount of dedicated fund fees collected annually by the Board of Cosmetology by approximately \$119,905.00. There is no fiscal impact on general funds.