

Dear Senators HEIDER, Nuxoll, Schmidt, and  
Representatives WOOD, Packer, Rusche:

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

IDAPA 24.03.01 - Rules of the State Board of Chiropractic Physicians - (Fee Rule) Proposed Rule  
(Docket No. 24-0301-1601);

IDAPA 24.17.01 - Rules of the State Board of Acupuncture - Proposed Rule (Docket No.  
24-1701-1601).

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 10/25/2016. If a meeting is  
called, the subcommittee must hold the meeting within forty-two (42) days of receipt of the rules' analysis  
from Legislative Services. The final date to hold a meeting on the enclosed rules is 11/23/2016.

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 334-4834, or send a written request to the address on the  
memorandum attached below.



Eric Milstead  
Director

# Legislative Services Office

## Idaho State Legislature

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*Serving Idaho's Citizen Legislature*

### MEMORANDUM

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

**FROM:** Senior Legislative Research Analyst - Elizabeth Bowen

**DATE:** October 05, 2016

**SUBJECT:** Bureau of Occupational Licenses

IDAPA 24.03.01 - Rules of the State Board of Chiropractic Physicians - (Fee Rule) Proposed Rule (Docket No. 24-0301-1601)

IDAPA 24.17.01 - Rules of the State Board of Acupuncture - Proposed Rule (Docket No. 24-1701-1601)

The Bureau of Occupational Licenses submits notice of proposed rulemaking at IDAPA 24.03.01 and 24.17.01.

#### IDAPA 24.03.01

This rule for the Board of Chiropractic Physicians imposes or revises fees for license applications, original licenses, inactive licenses, temporary permits, and intern permits. The new fees are:

- Application: \$150 (previously \$250);
- Original license: \$150 (previously combined with the application fee);
- Inactive license: \$100 (previously \$50);
- Temporary permit: \$100 (previously \$50); and
- Intern permit: \$100 (new fee).

The purpose of the rule is to increase Board revenues to cover expenses. Additionally, the rule clarifies the Board's peer review process and includes a requirement that treating chiropractic physicians comply with the process.

Negotiated rulemaking was not conducted, but the changes were discussed in open, noticed meetings of the Board. There is no negative fiscal impact on the state general fund. This rule appears to be consistent with the authority granted under the Chiropractic Practice Act, chapter 7, title 54, Idaho Code.

#### IDAPA 24.17.01

Mike Nugent, Manager  
Research & Legislation

Cathy Holland-Smith, Manager  
Budget & Policy Analysis

April Renfro, Manager  
Legislative Audits

Glenn Harris, Manager  
Information Technology

This rule for the Board of Acupuncture repeals a rule regarding the regulation of acupuncture businesses, because regulating businesses is not within the scope of the Board's authority. Negotiated rulemaking was not conducted, but the changes were discussed in open, noticed meetings of the Board. There is no negative fiscal impact on the state general fund. This rule appears to be consistent with the authority granted under Section 54-4705, Idaho Code.

cc: Bureau of Occupational Licenses  
Tana Cory

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

### **24.03.01 - RULES OF THE STATE BOARD OF CHIROPRACTIC PHYSICIANS**

#### **DOCKET NO. 24-0301-1601 (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 Sections 54-707, 54-708, 54-709, and 54-711, 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 19, 2016.

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 150 is being amended to separate the application fee from the original license fee and to set the application fee at \$150 and the original license fee at \$150. The Board's expenses have been exceeding its revenues. This change will help balance the Board's annual budget while maintaining the services necessary to protect the public. The Board is also amending Rule 600 to clarify the peer review process.

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

The annual renewal fee will increase from \$100 to \$150; the inactive license fee will increase from \$50 to \$100; the temporary license fee will increase from \$50 to \$100 and the intern permit fee of \$100 will be added. The inactive retired fee is being deleted. These fees or charges are being imposed pursuant to Sections 54-708, 54-709, and 54-711.

**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 proposed changes to these rules 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: N/A

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the proposed rule, contact Mitchell Toryanski 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 26, 2016.

DATED this 2nd day of September, 2016.

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

**THE FOLLOWING IS THE PROPOSED FEE RULE TEXT OF DOCKET NO. 24-0301-1601**  
**(Only Those Sections With Amendments Are Shown.)**

**150. FEES (RULE 150).**

- 01. Application Fee.** Application Fee ~~(includes original license)~~ - ~~Two~~ **One** hundred fifty dollars  
(~~\$2150~~). ~~(3-10-00)~~ ( )
- 02. Original License Fee.** Original License Fee – One hundred fifty dollars (\$150). ( )
- 03. Annual Renewal Fee.** Annual Renewal Fee - One hundred **fifty** dollars (\$~~1050~~). ~~(7-1-93)~~ ( )
- 04. Inactive License.** Inactive License - ~~Fifty~~ **One hundred** dollars (~~\$5100~~). ~~(7-1-93)~~ ( )
- 04. Inactive.** ~~Inactive (retired, age sixty five (65) and over) License – Five dollars (\$5).~~ ~~(7-1-93)~~
- 05. Temporary Permit Fee.** Temporary Permit Fee - ~~Fifty~~ **One hundred** dollars (~~\$5100~~). ~~(7-1-93)~~ ( )
- 06. Intern Permit Fee.** Intern Permit Fee – One hundred dollars (\$100). ( )
- 07. Non-Refundable.** All fees are non-refundable. (7-1-93)

**(BREAK IN CONTINUITY OF SECTIONS)**

**600. CHIROPRACTIC PEER REVIEW (RULE 600).**

**01. Purpose and Composition of Peer Review Committee.** There is hereby established a Peer Review Committee, the members of which will function at the will of the Idaho State Board of Chiropractic Physicians. (7-1-98)

**a.** The purpose of the Peer Review Committee is to review those matters relative to the appropriateness, quality, utilization, and cost of chiropractic care in the state of Idaho. (7-1-98)

**b.** The Committee will be comprised of a chairman and a minimum of five (5) members, all of whom will be appointed by the members of the Board, and all of whom will serve at the pleasure of the Board. They may be removed from the Committee by vote of the Board, at any time, without cause. (7-1-98)

**c.** The Board will appoint one (1) of its members to act as a liaison between the Board and the Committee. This liaison will serve at the pleasure of the Board and may be removed by the Board, at any time, without cause. (7-1-98)

**02. Definitions.** (7-1-98)

**a.** “Board” means the Idaho State Board of Chiropractic Physicians. (7-1-98)

**b.** “Patient” means an individual who has received treatment from an Idaho licensed chiropractor, or who has received treatment under the supervision or direction of an Idaho licensed chiropractor, which treatment is within the scope of practice for a chiropractor within the state of Idaho. (7-1-98)

**c.** “Peer Review” means an evaluation performed by members of the Committee, which review will include the appropriateness, quality, utilization, and cost of chiropractic services and ethical performance of chiropractic care. (7-1-98)

**d.** “Peer Review Committee Members” shall mean those individuals appointed by the Board to serve on the Peer Review Committee. (7-1-98)

**e.** “Individual Reviewers” means those individual members of the Committee who are designated by the chairman of the Committee to conduct a peer review evaluation of any particular matter. (7-1-98)

**03. Committee Criteria.** (7-1-98)

**a.** Requirements for Membership: To be considered for appointment to the Committee, an applicant shall: (7-1-98)

i. Hold a current Idaho license to practice chiropractic, which license is in good standing and which has never been the subject of a formal disciplinary action in any jurisdiction; (7-1-98)

ii. Be actively engaged in the practice of chiropractic for the past four (4) years, with the most recent two (2) of those years having been spent in Idaho. (7-1-98)

iii. Obtain such peer review training as may be required by the Board. (3-15-02)

**b.** Appointment Process: Each year the Board will notify all Idaho licensed chiropractors of the process and deadlines by which they may self-submit for membership on the Committee. (7-1-98)

i. The submissions will be maintained on file for one (1) year; after which time they will be discarded without notice to the applicants. (7-1-98)

ii. The Board will notify those individuals who are named to the Committee of their appointment. (7-1-98)

**c.** Limitations of Peer Review Committee Members. While serving on the Peer Review Committee, a member shall not: (7-1-98)

i. Solicit to do independent medical examinations and/or reviews for insurance companies, attorneys or other third parties; (7-1-98)

ii. Utilize any designation or other reference to Committee membership on any advertisement, including telephone book, office, letterhead, or any other place. (7-1-98)

**d.** Reimbursement: Committee members will be afforded expense reimbursement in accordance with state employee travel regulations upon Board approval. (7-1-98)

**04. Standards.** (7-1-98)

**a.** In conducting any review, the Committee will utilize the Guidelines for Chiropractic Quality Assurance and Practice Parameters, Proceedings of the Mercy Center Consensus Conference, and Procedural/Utilization Facts, Chiropractic/Physical Therapy Treatment Standards, a Reference Guide, 6th Edition, Robert E. Olson, D.C. (3-30-07)

**b.** The reviewing chiropractors will be expected to utilize their own experience and other reference sources in ascertaining the reasonableness and appropriateness of care provided. (7-1-98)

**05. Who May Utilize the Services of the Committee.** A request for peer review may be submitted to the Committee by a patient, the patient’s legal representative, an insurer or other third-party payor or health care provider, or the treating chiropractic physician. (7-1-98)

**06. Form of Request.** A request for peer review must be submitted to the Committee on forms available from the Board offices. (7-1-98)

**07. Fees for Review.** The following fees will be assessed: (7-1-98)

**a.** If review is requested by a patient: no charge. (7-1-98)

**b.** If review is requested by a treating physician, an insurer or third party provider: (7-1-98)

**i.** One hundred twenty-five dollars (\$125) for a review of claims in the amount of one thousand dollars (\$1,000) or less; (3-30-01)

**ii.** Two hundred fifty dollars (\$250) for a review of claims in the amount of one thousand one dollars (\$1,001) or more and not exceeding three thousand dollars (\$3,000); (3-30-01)

**iii.** Three hundred fifty dollars (\$350) for a review of claims in the amount of three thousand one dollars (\$3,001) or more; (3-30-01)

**c.** Payment for reviews by the insurer or third-party provider is required prior to implementation of any review process. (7-1-98)

**08. Procedures for Review.** (7-1-98)

**a.** All reviews will be blind reviews. The identity of the patient, treating physician, and any insurer or third-party payor for the services will be unknown to the individual reviewers. (7-1-98)

**b.** Peer review will be conducted only upon request. The opportunity for participation in the review will be made available to the non-requesting party or parties. With the exception of the treating chiropractic physician, there is no requirement of participation in the peer review process. (7-1-98)

**c.** A treating chiropractic physician shall fully cooperate with a peer review and shall respond to any inquiry and deliver all records requested by the committee or its agent within fourteen (14) days. ( )

**d.** Reviews will be conducted by three (3) individual reviewers, to be chosen from the membership of the Committee by the chairman. (7-1-98)

**e.** The individual reviewers will conduct their evaluation, reach an agreement as to their recommended outcome, and report that outcome recommendation to the chairman. ~~If any of the parties desire to appeal this decision, they may within sixty (60) days of the decision notify the chairman who will appoint one (1) new reviewer to conduct an evaluation and report the outcome to the chairman. There will be no further rights to appeal.~~ Decisions The recommendation of the individual three reviewers will not be subject to challenge appeal. (4-11-06)( )

**f.** ~~The chairman will provide regular reports to the Board liaison.~~ If it is the opinion of the reviewers that a licensed chiropractic physician has violated any of the laws and rules governing continued licensure, the Committee chairman will notify the Board liaison, immediately. ~~The liaison will then~~ refer the matter original request for peer review for further investigation and potential disciplinary action by the Board. The chairman will also immediately notify the Board liaison (7-1-98)( )

## 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:** Mitchell Toryanski **Phone:** 208 334-3233

**Date:** \_\_\_\_\_

**IDAPA, Chapter and Title Number and Chapter Name:**

IDAPA 24.03.01 - Rules of the State Board Of Chiropractic Physicians

**Fee Rule Status:**  **Proposed**  **Temporary**

**Rulemaking Docket Number:** 24-0301-1601

### STATEMENT OF ECONOMIC IMPACT:

**There is no fiscal impact to the general fund. The rule change will result in an annual increase of approximately of \$36,150.00 in the Board's dedicated fund, based on the current number of licensees and an estimate of original applications received in a year.**



# IDAPA 24 - BUREAU OF OCCUPATIONAL LICENSES

## 24.17.01 - RULES OF THE STATE BOARD OF ACUPUNCTURE

DOCKET NO. 24-1701-1601

### 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 54-4705.

**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 19, 2016.

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 500 is being deleted as the State Board of Acupuncture does not regulate acupuncture businesses, only the individual licensees.

**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 proposed changes to these rules 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: N/A.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the proposed rule, contact Mitchell Toryanski 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 26, 2016.

DATED this 2nd day of September, 2016.

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

### THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 24-1701-1601 (Only Those Sections With Amendments Are Shown.)

~~500. **USE OF BUSINESS NAME OR TRADE NAME (RULE 500).**  
A business name or trade name used by a practitioner shall be registered with the Board within thirty (30) business days from commencement of using such name. (3-30-01)~~

~~501.0.~~ -- 524. (RESERVED)