

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 - State Board of Optometry:  
IDAPA 24.10.01 - Rules of the State Board of Optometry - (Fee Rule) Proposed Rule (Docket No. 24-1001-1601).

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 10/28/2016. 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 11/28/2016.

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 11, 2016

**SUBJECT:** Bureau of Occupational Licenses - State Board of Optometry

IDAPA 24.10.01 - Rules of the State Board of Optometry - (Fee Rule) Proposed Rule (Docket No. 24-1001-1601)

The Bureau of Occupational Licenses submits notice of proposed rulemaking at IDAPA 24.10.01. The proposed rule for the State Board of Optometry is intended to conform existing rules with Section 67-2614, Idaho Code, which sets the licensing reinstatement fee at \$35.00. Additionally, the rule revises requirements for continuing education.

Negotiated rulemaking was not conducted, but the proposed rule was discussed in noticed, open meetings of the Board. There is no anticipated negative fiscal impact on the state general fund. This rulemaking appears to be within the authority granted by Section 54-1509, Idaho Code.

cc: Bureau of Occupational Licenses - State Board of Optometry  
Tana Cory

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

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

#### **DOCKET NO. 24-1001-1601 (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 Section 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 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:

The 2016 Legislature passed House Bill 333 which amended the renewal and reinstatement statute to require that renewal and reinstatement be in compliance with Section 67-2614, Idaho Code. This proposed rule reflects this change and increases the number of continuing education hours for which licensees may receive credit from six (6) to nine (9) annually.

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

This amendment lowers the license reinstatement fee from \$150 to \$35.00.

**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. 24-1701-1601**  
**(Only Those Sections With Amendments Are Shown.)**

**250. LICENSES CANCELED FOR FAILURE TO RENEW (RULE 250).**

~~Any person whose license has been canceled for failure to renew for a period of less than five (5) years may be reinstated upon payment of the renewal fee for each year the license was lapsed, payment of a one hundred fifty dollars (\$150) reinstatement fee, and upon providing documentation of having met the continuing education requirement for each year their license was lapsed.~~ A license that has been canceled for failure to renew may be reinstated in accordance with Section 67-2614, Idaho Code. Any person whose license to practice optometry has been canceled for failure to renew for a period ~~in excess~~ of more than five (5) years ~~may be reinstated~~ must apply for a new license in accordance with the requirements of Section 67-2614, Idaho Code, ~~subject to examination by the State Board of Examiners of the State Board of Optometry at its discretion.~~ (3-15-02)( )

**(BREAK IN CONTINUITY OF SECTIONS)**

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

**01. Hours Required, Advance Approval. (4-11-15)**

**a.** Until January 1, 2017, each optometrist licensed by the state of Idaho shall attend, in each twelve-month (12) period preceding the renewal of his license, a minimum of twelve (12) full hours of approved optometric continuing education courses or meetings. (4-11-15)

**b.** Effective January 1, 2017, each optometrist licensed by the state of Idaho shall attend in each calendar year prior to license renewal, a minimum of twelve (12) full hours of approved optometric continuing education courses or meetings. (4-11-15)

**c.** Approved optometric continuing education courses or meetings shall be those 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 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. (4-11-15)

**02. Additional Hours Required to Use Therapeutic Pharmaceutical Agents. (4-11-15)**

**a.** Until January 1, 2017, each optometrist licensed by the state of Idaho to use therapeutic pharmaceutical agents shall attend, in each twelve-month (12) period preceding the renewal of his license, a minimum of six (6) additional full hours of approved optometric courses or meetings. (4-11-15)

**b.** Effective January 1, 2017, each optometrist licensed by the state of Idaho to use therapeutic pharmaceutical agents shall attend in each calendar year prior to license renewal, a minimum of six (6) additional full hours of approved optometric courses or meetings. (4-11-15)

**c.** This ~~six (6)~~ nine (9) 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. (4-11-15)( )

**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, 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. (4-4-13)

**08. Excess Hours.** A licensee may carryover a maximum of six (6) hours of continuing education to meet the next year’s continuing education requirement. Excess hours may be used only during the next renewal period and may not be carried forward more than one (1) year. (4-11-15)

**(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 Fund Fee.** Annual fund fee - seventy-five dollars (\$75). (4-4-13)

**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)

**05. Reinstatement Fee.** Reinstatement fee is as provided in Section 67-2614, Idaho Code. ( )

## 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 24.10.01 – Rules of the State Board of Optometry

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

**Rulemaking Docket Number:** 24-1001-1601

### **STATEMENT OF ECONOMIC IMPACT:**

There is no impact to the general fund. There could be an annual reduction of approximately \$1,000 in fees deposited in the Bureau of Occupational Licenses' dedicated fund based on the number of reinstated licenses each year.