

Dear Senators HEIDER, Souza, Jordan, and
Representatives WOOD, Packer, Chew:

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

IDAPA 22.01.13 - Rules for the Licensure of Dietitians - Proposed Rule (Docket No. 22-0113-1701).

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 11/06/2017. 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 12/06/2017.

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

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 18, 2017

SUBJECT: Board of Medicine

IDAPA 22.01.13 - Rules for the Licensure of Dietitians - Proposed Rule (Docket No. 22-0113-1701)

The Board of Medicine submits notice of proposed rulemaking at IDAPA 22.01.13. The purpose of the rule is to update licensure rules for dietitians in order for the rules to be consistent with Senate Bill 1191, enacted by the 2017 Legislature, which updated laws regarding dietetic practice.

Negotiated rulemaking was conducted, and there is no anticipated negative fiscal impact on the state general fund. The Board states that this rulemaking is authorized pursuant to Section 54-3505, Idaho Code.

cc: Board of Medicine
Anne Lawler

IDAPA 22 – BOARD OF MEDICINE
22.01.13 – RULES FOR THE LICENSURE OF DIETITIANS
DOCKET NO. 22-0113-1701
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 54-3505(2), Idaho Code.

PUBLIC HEARING SCHEDULE: A public hearing concerning this rulemaking will be held as follows:

PUBLIC HEARING
Wednesday, November 1, 2017 - 1:00 to 2:00 pm (MDT)

Idaho State Board of Medicine
1755 Westgate Drive, Suite 140
Boise, ID 83704

The hearing site 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:

These rules update the Board's rules regarding Dietetic licensure and practice, making the Dietetic rules consistent with the Dietetic Practice Act that was updated during the 2017 Legislative Session. These rules update Dietitians' scope of practice, definitions, and organizational titles, and add the option for licensure by endorsement.

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

This rule change is budget neutral and there is no fiscal impact to the general fund.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was conducted with interested parties, including the state association, and such negotiations shall continue through the comment period and hearing.

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 Anne K. Lawler, Executive Director, (208) 327-7000.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before November 1, 2017.

DATED this 25th day of August, 2017.

Anne K. Lawler, JD, RN, Executive Director
Idaho State Board of Medicine
1755 Westgate Drive, Suite 140
Boise, Idaho 83704
Phone (208) 327-7000
Fax (208) 327-7005

THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 22-0113-1701
(Only Those Sections With Amendments Are Shown.)

010. DEFINITIONS.

01. Academy of Nutrition and Dietetics. The national organization that credentials dietetics professionals and accredits undergraduate and graduate programs that prepare dietetics professionals. ()

02. Accreditation Council for Education in Nutrition and Dietetics. Accreditation Council for Education in Nutrition and Dietetics or “ACEND” means the accrediting organization of the Academy of Nutrition and Dietetics that is recognized by the United States Department of Education as the accrediting agency for education programs that prepare dietetic professionals. ()

043. **Board.** The Idaho State Board of Medicine. (4-2-03)

024. **Dietitian.** A person who meets all of the requirements of and is licensed under the provisions of Title 54, Chapter 35, Idaho Code, to engage in the practice of dietetics as set forth in Section 54-3505(3)2A, Idaho Code. Dietitian and dietician are interchangeable terms. (4-2-03)()

035. **Dietetic Practice.** ~~As set forth in Title 54, Chapter 35, Section 3502A of the Idaho Code, D~~ietetic practice, the practice of dietetics or practicing dietetics ~~means the integration and application of principles derived from the sciences of nutrition, biochemistry, food physiology, management, and behavioral and social sciences to achieve and maintain human health through the provision of medical nutrition services and the development of therapeutic nutrition care plans to assist in the maintenance of health and the prevention and treatment of disorders of body function, systems or organs~~ focuses on food and nutrition and related services developed and provided by dietitians to protect the public, enhance the health and well-being of patients/clients, and to deliver quality products, programs and services, and medical nutrition therapy. Clinical nutrition and dietetics practice is the utilization of skills, knowledge and applied judgment of the dietitian whose practice involves nutrition care, medical nutrition therapy, and related services provided to individuals and groups of all ages to address health promotion and prevention, delay or management of diseases and conditions. Dietetic practice is across varied settings, including health care, business and industry, communities and public health systems, schools, colleges, the military, government, research, food service management, teaching, consulting, media, writing, public speaking and informatics, and private practice. (4-2-03)()

06. Commission on Dietetic Registration (CDR). The credentialing organization of the Academy of Nutrition and Dietetics that awards and administers credentials to individuals at entry, specialist and advanced levels who have met CDR’s specified criteria to practice in the dietetics profession, including successful completion of its national accredited certification examination and recertification by continuing professional education and/or examination. ()

047. **Licensure Board.** The Dietetic Licensure Board. (4-2-03)

058. **Medical Nutrition ~~Services~~ Therapy.** Medical nutrition ~~services refers to the nutritional assessment, the design and implementation of therapeutic nutrition care plans, and nutrition therapy counseling provided by a licensed dietitian~~ therapy or “MNT” means an evidence-based application of the nutrition care process. The provision of MNT to a patient/client may include one (1) or more of the following: nutrition assessment or reassessment, nutrition diagnosis, and nutrition intervention for the prevention, delay or management of diseases or conditions. (4-2-03)()

069. **Monitor of Provisionally Licensed Graduate Dietitian.** An Idaho licensed dietitian who shall be responsible for the activities of the provisionally licensed graduate dietitian being supervised and shall review and countersign all patient documentation performed by the provisionally licensed graduate dietitian being supervised. (4-2-03)

~~07. **Nutritional Assessment.** The evaluation of nutritional needs of individuals and groups based upon appropriate biochemical, anthropometric, physical, and dietary data which is necessary to determine nutrient needs and to recommend appropriate enteral or parenteral nutritional intake. (4-2-03)~~

~~08. **Nutrition Therapy Counseling.** The advising or assisting individuals or groups on appropriate nutrient intake by integrating information from the nutritional assessment and therapeutic nutrition care plan with information on food and other sources of nutrients and meal preparation consistent with health needs, disease state, psychological status, cultural background, and available resources. (4-2-03)~~

10. Therapeutic Nutrition Care Plan Process. A plan of care developed by a licensed dietitian that includes systematic approach to providing high-quality nutrition care that consists of four (4) distinct, interrelated steps: (4-2-03)()

~~a. The design and implementation of nutrition goals and objectives for individuals and groups for the maintenance of health and prevention of disease; (4-2-03)~~

~~b. The design and implementation of therapeutic nutrition regimens, including enteral and parenteral nutrition for the treatment of disorders of body functions, systems, or organs; (4-2-03)~~

~~c. Establishing priorities, goals, and objectives that meet nutritional needs and are consistent with available resources and constraints; (4-2-03)~~

~~d. Developing, implementing, and managing nutrition care systems; and (4-2-03)~~

~~e. Evaluating, making changes in, and maintaining appropriate standards of quality in food and nutrition care services. (4-2-03)~~

a. Nutrition assessment, which means a systematic method for obtaining, verifying and interpreting data needed to evaluate nutritional needs and to identify nutrition-related problems, their causes and their significance; ()

b. Nutrition diagnosis, which means the identification of a specific nutrition problem that a dietitian is responsible for treating independently; ()

c. Nutrition intervention, which means a purposefully planned action intended to positively change a nutrition-related behavior, environmental condition or aspect of health status for the patient/client and family or caregivers, target group or the community at large; and ()

d. Nutrition monitoring and evaluation: ()

i. Nutrition monitoring means the preplanned review and measurement of selected nutrition care indicators of the patient/client's status relevant to the defined needs, nutrition diagnosis, nutrition intervention and outcomes; and ()

ii. Nutrition evaluation means the systematic comparison of current findings with the previous status, nutrition intervention goals, effectiveness of overall nutrition care or comparison to a reference standard. ()

~~**0911. Provisional License.** The Board may issue a provisional license to a graduate dietitian who meets the requirements set forth by Sections 54-3506(1) and 54-3506(2), Idaho Code. A provisional license shall authorize the practice of dietetics under the supervision of a monitor who is an Idaho licensed dietitian. (4-2-03)~~

011. -- 019. (RESERVED)

020. GENERAL QUALIFICATIONS FOR LICENSURE.

01. Applicant. An applicant must be of good moral character and shall meet the requirements set forth in Section 54-3506, Idaho Code. The Board may refuse licensure if it finds the applicant has engaged in conduct prohibited by Section 54-3510, Idaho Code, provided, the Board shall take into consideration the rehabilitation of the applicant and other mitigating circumstances. (12-28-94)

02. Examination. Each applicant shall either pass an examination required by the Board or shall be entitled to apply for ~~a waiver~~ Licensure by Endorsement pursuant to Section 54-3508, Idaho Code. ~~(4-2-03)~~()

a. The written examination shall be the examination conducted by the Commission on Dietetic Registration and the passing score shall be the passing score established by the Commission. (12-28-94)

b. An applicant who fails to pass the examination must submit a new application. (12-28-94)

c. An applicant who has failed to pass the examination on two (2) separate occasions will be denied eligibility to reapply; however, this application may be considered on an individual basis if the applicant submits proof of additional training. ~~(12-28-94)~~()

d. An applicant for Licensure by Endorsement will meet the requirements as set forth in Section 54-3508, Idaho Code. ()

03. Application Expiration. An application upon which the applicant takes no further action will be held for no longer than one (1) year. (12-28-94)

021. APPLICATION FOR LICENSURE.

01. Application. Each applicant for licensure shall submit a completed written application to the board on forms prescribed by the board, together with the application fee. The application shall be verified and under oath and shall require the following information: (12-28-94)

a. A certificate of successful completion of a program approved by the Academy of Nutrition and Dietetics or its successor and a certificate of successful completion of a dietetic internship or preprofessional program approved or accredited by the Academy of Nutrition and Dietetics or its successor organization; ~~(3-20-14)~~()

b. The disclosure of any criminal conviction or charges against the applicant other than minor traffic offenses; (12-28-94)

c. The disclosure of any disciplinary action against the applicant by any state professional regulatory agency or professional organization; (12-28-94)

d. The disclosure of the denial of registration or licensure by any state or district regulatory body; (12-28-94)

e. Not ~~less~~ fewer than two (2) certificates of recommendation from persons having personal knowledge of the applicant's character; ~~(12-28-94)~~()

f. Two (2) unmounted photographs of the applicant, no larger than three inches by four inches (3" x 4") (head and shoulders), taken not more than one (1) year prior to the date of the application; (12-28-94)

g. A copy of any registration by the Commission on Dietetic Registration, if applicable; (12-28-94)

h. A copy of examination results or the application to write the qualifying exam and the date the examination is scheduled; (4-2-03)

i. Such other information as deemed necessary for the Board to identify and evaluate the applicant's credentials; and (4-2-03)

j. A Provisional License Dietitian/Monitor Affidavit, if applicable. (4-2-03)

02. Personal Interview. The Board may, at its discretion, require the applicant to appear for a personal interview. This interview shall be limited to a review of the applicant's qualifications and professional credentials. ~~(12-28-94)~~()

022. LICENSE EXPIRATION AND RENEWAL.

01. Provisional Licensure Expiration. Provisional licenses shall become full active licenses to practice as a dietitian upon the date of receipt of a copy of registration by the Commission on Dietetic Registration. All provisional licenses shall expire on June 30 following issuance. (4-2-03)

02. Renewal. Each full license shall be renewed annually or biennially before July 1 of the expiration year by submitting a completed request for renewal accompanied by payment of the renewal fee and a copy of current registration as a registered dietitian, as determined by the Commission on Dietetic Registration of the American Dietetic Association, or ~~current credentialing as a credentialed dietitian by any other association which is also recognized by the National Commission for Health Certifying Agencies to the Board~~ its successor organization. Full licenses not renewed by the expiration date shall be canceled. ~~(4-2-03)~~()

023. PROVISIONAL LICENSURE.

01. Provisional License. The Board may issue a provisional license to a person who has successfully completed the academic requirements of an education program in dietetics approved by the licensure board and has successfully completed a dietetic internship or preprofessional practice program, coordinated program or such other equivalent experience as may be approved by the board and who has met all the other requirements set forth by Section 021 of this rule but who has not yet passed the examination conducted by the Commission on Dietetic Registration. (4-2-03)

02. Provisional License Dietitian/Monitor Affidavit. The provisionally licensed graduate dietitian must obtain ~~An~~ affidavit signed by an Idaho licensed dietitian affirming and attesting to be responsible for the activities of the provisionally licensed graduated dietitian being supervised and to review and countersign all patient documentation performed by the provisionally licensed graduate dietitian being supervised. ~~(4-2-03)~~()

03. Supervision by Monitor. The practice or provision of dietetics by a graduate dietitian holding a provisional license to practice dietetics shall be in direct association with an Idaho licensed dietitian who shall be responsible for the activities of the provisionally licensed graduate dietitian being supervised and shall review and countersign all patient documentation performed by the provisionally licensed graduate dietitian. The supervising monitor need not be physically present or on the premises at all times but must be available for telephonic consultation. The extent of communication between the monitor and the provisionally licensed graduate dietitian shall be determined by the competency of the individual, the treatment setting, and the diagnostic category of the patients. (4-2-03)

(BREAK IN CONTINUITY OF SECTIONS)

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

01. Disciplinary Authority. A new or renewal application may be denied or a license may be suspended or revoked by the Board, and every person licensed pursuant to Title 54, Chapter 35, Idaho Code and these rules is subject to disciplinary actions or probationary conditions pursuant to the procedures and powers established by and set forth in Section 54-3505, Idaho Code, IDAPA 04.11.01, "Idaho Rules of Administrative Procedure of the Attorney General," and IDAPA 22.01.07, "Rules of Practice and Procedure of the Board of Medicine." (3-20-14)

02. Grounds for Discipline. ~~In addition to the grounds set forth in Section 54-3510, Idaho Code, applicants may be refused licensure and licensees are subject to discipline upon the following grounds, including but not limited to~~ In addition to statutory grounds for discipline set forth in Section 54-3510, Idaho Code, every person

licensed or provisionally licensed as a dietitian is subject to discipline by the Board under the following grounds:
~~(12-28-94)~~()

a. Being guilty of unprofessional conduct, including the provision of care which fails to meet the standard of care provided by other qualified licensees within the state of Idaho. (12-28-94)

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

c. Being convicted of a crime which may or would have a direct and adverse bearing on the licensee's ability to practice dietetics; (3-27-13)

d. Demonstrating a manifest incapacity to carry out the functions of the licensee's ability to practice dietetics or deemed unfit by the Board to practice dietetics; (3-27-13)

e. Using any controlled substance or alcohol which may or would have a direct and adverse bearing on the licensee's ability to practice dietetics; (3-27-13)

f. Misrepresenting educational or experience attainments; (3-27-13)

g. Failing to maintain adequate dietetic records. Adequate dietetic records mean legible records that contain subjective information, an evaluation or report of objective findings, assessment or diagnosis, and the plan of care; (3-27-13)

h. ~~Failure~~ **Failing** to monitor and be responsible for the activities of the provisionally licensed graduate dietitian; ~~(3-27-13)~~()

i. Employing, directing or supervising the unlicensed practice of dietetics; (3-27-13)

j. Practicing in an area of dietetics for which the licensee is not trained; (3-27-13)

k. ~~Commission of~~ **Committing** any act of sexual contact, misconduct, exploitation, or intercourse with a patient or former patient or related to the licensee's practice of dietetics; ~~(3-27-13)~~()

i. Consent of the patient shall not be a defense; ()

ii. Subsection 032.02 does not apply to sexual contact between a dietitian and the dietitian's spouse or a person in a domestic relationship who is also a patient; ()

iii. A former patient includes a patient for whom the dietitian has provided dietetic services within the last twelve (12) months; ()

iv. Sexual or romantic relationships with former patients beyond that period of time may also be a violation if the dietitian uses or exploits the trust, knowledge, emotions or influence derived from the prior professional relationship with the patient; ()

l. Failing to report to the Board any known act or omission of a licensee, applicant, or any other person, that violates any of the rules promulgated by the Board under the authority of the act; (3-27-13)

m. Interfering with an investigation or disciplinary proceeding by willful misrepresentation of facts or by use of threats or harassment against any patient or witness to prevent them from providing evidence in a disciplinary proceeding, investigation or other legal action; (3-27-13)

n. ~~Failure~~ **Failing** to obey federal and local laws and rules governing the practice of dietetics; or ~~(3-27-13)~~()

o. ~~Failure~~ **Failing** to be lawfully present in the United States. ~~(3-27-13)~~()

033. DISCIPLINARY SANCTIONS.

01. Sanctions. As stated in Section 54-3510A, Idaho Code, if grounds for discipline are found to exist, the Board of Medicine, upon the recommendation of the licensure board, may issue an order to: ()

a. Revoke the dietitian's license to practice dietetics: ()

b. Suspend or restrict the dietitian's license to practice dietetics; and/or ()

c. Impose conditions or probation upon the dietitian's license to practice dietetics. ()

~~034.~~ -- 040. (RESERVED)

041. FEES.

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

01. Initial/Provisional Licensure and Examination Fee. The fee for initial licensure and examination shall be no more than one hundred fifty dollars (\$150). (3-27-13)

02. Renewal Fee. The ~~annual~~ renewal fee shall be no more than one hundred dollars (\$100) per year. (~~3-27-13~~)()

03. Reinstatement Fee. The reinstatement fee for a lapsed license shall be the annual renewal fee for each year of the two (2) years not licensed plus a fee of no more than fifty dollars (\$50). Lapsed licenses not reinstated after two (2) years shall be canceled. (3-27-13)

04. Inactive Fee. The fee for inactive licensure shall be no more than fifty dollars (\$50). (3-27-13)

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

a. The fee for converting an inactive license to ~~an~~ license shall be a fee of no more than fifty dollars (\$50) and the ~~annual~~ renewal fee for each year not actively licensed minus inactive fees previously paid. (~~3-27-13~~)()

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

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

07. Extraordinary Expenses. In situations where the processing of an application or a change in status requires extraordinary expenses, the Board will charge the applicant with reasonable fees to cover all the extraordinary expenses. (3-27-13)

~~042. -- 049.~~ (RESERVED)

~~050. EFFECTIVE DATE.~~

~~These rules shall be effective, December 28, 1994.~~ (12-28-94)

~~051.~~ -- 999. (RESERVED)