

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 Dentistry:

IDAPA 19.01.01 - Rules of the Idaho State Board of Dentistry - Proposed Rule (Docket No.
19-0101-1801).

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 05/24/2018. 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 06/22/2018.

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: Principal Legislative Research Analyst - Elizabeth Bowen

DATE: May 07, 2018

SUBJECT: Board of Dentistry

IDAPA 19.01.01 - Rules of the Idaho State Board of Dentistry - Proposed Rule (Docket No. 19-0101-1801)

The Board of Dentistry submits notice of proposed rulemaking at IDAPA 19.01.01. The proposed rule deletes references in existing rule to certain documents. Additionally, the proposed rule amends requirements to qualify for a moderate sedation permit.

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 54-912, Idaho Code.

cc: Board of Dentistry
Susan Miller

IDAPA 19 – IDAHO STATE BOARD OF DENTISTRY
19.01.01 – RULES OF THE IDAHO STATE BOARD OF DENTISTRY
DOCKET NO. 19-0101-1801

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 54-912, 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 May 16, 2018.

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:

A pending rule promulgated under Docket No. 19-0101-1701 was adopted by the Board on October 6, 2017, published in the November 1, 2017 Administrative Bulletin, and submitted for legislative review and approval during the 2018 legislative session. Errors made inadvertently during the promulgation of the proposed and pending rulemaking were discovered during the review of the pending rule. Because of this, the Board of Dentistry requested that the germane committees reject the rule so that the corrected rule could be re-promulgated.

Rule 19.01.01.004 is being amended to delete the American Dental Association’s sedation-related documents as incorporated by reference. The rules regarding moderate sedation (19.01.01.060) are being amended by the addition of qualifying course requirements.

A temporary rule was adopted under this docket effective March 30, 2018 and published in the March 7, 2018 Idaho Administrative Bulletin, [Vol. No. 18-3, page 15](#). This rule is now being promulgated as a proposed rulemaking.

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 when the rule was promulgated under Docket No. 19-0101-1701. The Notice of Intent to Promulgate Rules – Negotiated Rulemaking was published in the July 5, 2017 Idaho Administrative Bulletin, [Volume No. 17-7, page 69](#).

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 Susan Miller, (208) 334-2369. 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 May 23, 2018.

Dated this 6th day of April, 2018.

Susan Miller
Executive Director
Phone: (208) 334-2369
Fax: (208) 334-3247

Idaho Board of Dentistry
350 N. 9th St., Ste. M100
P.O. Box 83720
Boise, ID 83720-0021

Pursuant to Section 67-5221(1), Idaho Code, this docket is being published as a proposed rule.

This docket has been previously published as a temporary rule.
The temporary effective date is March 30, 2018.

The original text of the temporary rule was published in the Idaho Administrative Bulletin,
Volume 18-3, March 7, 2018, pages 15 through 21.

THE FOLLOWING IS THE TEXT OF THE PROPOSED RULE FOR DOCKET NO. 19-0101-1801
(Only Those Sections With Amendments Are Shown.)

004. INCORPORATION BY REFERENCE (RULE 4).

Pursuant to Section 67-5229, Idaho Code, this chapter incorporates by reference the following documents: (7-1-93)

01. Professional Standards. (3-29-12)

a. American Association of Oral and Maxillofacial Surgeons, Office Anesthesia Evaluation Manual, 8th Edition, 2012. (3-20-14)

~~**b.** American Dental Association, Guidelines for Teaching Pain Control and Sedation to Dentists and Dental Students, October 2007. (4-7-11)~~

~~**c.** American Dental Association, Guidelines for the Use of Sedation and General Anesthesia by Dentists, October 2007. (4-7-11)~~

~~**d.** American Dental Association Policy Statement: The Use of Sedation and General Anesthesia by Dentists, October 2007. (4-7-11)~~

~~**eb.** Centers for Disease Control and Prevention, DHHS, Guidelines for Infection Control in Dental Health-Care Settings, 2003. (4-6-05)~~

~~**fc.** American Dental Association, Principles of Ethics, Code of Professional Conduct and Advisory Opinions (ADA Code), January 2009. (4-7-11)~~

~~**gd.** American Dental Hygienists' Association, Code of Ethics for Dental Hygienists (ADHA Code), June 2009. (4-7-11)~~

~~**he.** American Dental Hygienists' Association, Standards for Clinical Dental Hygiene Practice, March 10, 2008. (4-7-11)~~

02. Availability. These documents are available for public review at the Idaho State Board of Dentistry, 350 North 9th Street, Suite M-100, Boise, Idaho 83720. (3-29-12)

(BREAK IN CONTINUITY OF SECTIONS)

060. MODERATE SEDATION (RULE 60).

Dentists licensed in the state of Idaho cannot administer moderate sedation in the practice of dentistry unless they have obtained the proper moderate sedation permit from the Idaho State Board of Dentistry. A moderate sedation permit may be either enteral or parenteral. A moderate enteral sedation permit authorizes dentists to administer

moderate sedation by either enteral or combination inhalation-enteral routes of administration. A moderate parenteral sedation permit authorizes a dentist to administer moderate sedation by any route of administration. A dentist shall not administer moderate sedation to children under sixteen (16) years of age and one hundred (100) pounds unless they have qualified for and been issued a moderate parenteral sedation permit. (3-29-12)

01. Training Requirements for a Moderate ~~Enteral~~ Sedation Permit. To qualify for a moderate ~~enteral~~ sedation permit, a dentist applying for a permit shall provide proof that the dentist has completed training in the administration of moderate sedation to a level consistent with that prescribed ~~in the American Dental Association's "Guidelines for Teaching Pain Control and Sedation to Dentists and Dental Students," as incorporated in Section 004 in these rules~~ by the Board within the five (5) year period immediately prior to the date of application for a moderate sedation permit. The five (5) year requirement regarding the required training for a moderate ~~enteral~~ sedation permit shall not be applicable to applicants who hold an equivalent permit in another state which has been in effect for the twelve (12) month period immediately prior to the application date. ~~To obtain a moderate enteral sedation permit, a dentist must provide verification of~~ Qualifying training courses must be sponsored by or affiliated with a dental school accredited by the Commission on Dental Accreditation of the American Dental Association or be approved by the Board of Dentistry. The training program shall include the following: (4-11-15)()

~~a. Completion of an American Dental Association accredited or Board of Dentistry approved post-doctoral training program within five (5) years of the date of application for a moderate enteral sedation permit that included documented training of a minimum of twenty-four (24) hours of instruction plus management of at least ten (10) adult case experiences by the enteral and/or enteral nitrous oxide/oxygen route. These ten (10) cases must include at least three live clinical dental experiences managed by participants in groups no larger than five (5). The remaining cases may include simulations and/or video presentations, but must include one experience in returning a patient from deep to moderate sedation; and~~ Course objectives: (4-7-11)()

- ~~i. List and discuss the advantages and disadvantages of moderate sedation;~~ ()
- ~~ii. Discuss prevention, recognition and management of complications associated with moderate sedation;~~ ()
- ~~iii. Administer moderate sedation to patients in a clinical setting in a safe and effective manner;~~ ()
- ~~iv. Discuss the abuse potential, occupational hazards and other untoward effects of the agents utilized to achieve moderate sedation;~~ ()
- ~~v. Describe and demonstrate the technique of intravenous access, intramuscular injection and other parenteral techniques;~~ ()
- ~~vi. Discuss the pharmacology of the drug(s) selected for administration;~~ ()
- ~~vii. Discuss the precautions, indications, contraindications and adverse reactions associated with the drug(s) selected;~~ ()
- ~~vii. Administer the selected drug(s) to dental patients in a clinical setting in a safe and effective manner;~~ ()
- ~~ix. List the complications associated with techniques of moderate sedation;~~ ()
- ~~x. Describe a protocol for management of emergencies in the dental office and list and discuss the emergency drugs and equipment required for the prevention and management of emergency situations;~~ ()
- ~~xi. Discuss principles of advanced cardiac life support or an appropriate dental sedation/anesthesia emergency course equivalent;~~ ()
- ~~xii. Demonstrate the ability to manage emergency situations; and~~ ()

- xiii. Demonstrate the ability to diagnose and treat emergencies related to the next deeper level of anesthesia than intended. ()
- b.** ~~Current certification in Advanced Cardiac Life Support.~~ Course Content: (4-11-15) ()
 - i. Historical, philosophical and psychological aspects of anxiety and pain control; ()
 - ii. Patient evaluation and selection through review of medical history taking, physical diagnosis and psychological considerations; ()
 - iii. Use of patient history and examination for ASA classification, risk assessment and pre-procedure fasting instructions; ()
 - iv. Definitions and descriptions of physiological and psychological aspects of anxiety and pain; ()
 - v. Description of the sedation anesthesia continuum, with special emphasis on the distinction between the conscious and the unconscious state; ()
 - vi. Review of pediatric and adult respiratory and circulatory physiology and related anatomy; ()
 - vii. Pharmacology of local anesthetics and agents used in moderate sedation, including drug interactions and contraindications; ()
 - viii. Indications and contraindications for use of moderate sedation; ()
 - ix. Review of dental procedures possible under moderate sedation; ()
 - x. Patient monitoring using observation and monitoring equipment, with particular attention to vital signs and reflexes related to consciousness; ()
 - xi. Maintaining proper records with accurate chart entries recording medical history, physical examination, informed consent, time-oriented anesthesia record, including the names of all drugs administered including local anesthetics, doses, and monitored physiological parameters; ()
 - xii. Prevention, recognition and management of complications and emergencies; ()
 - xiii. Description and use of moderate sedation monitors and equipment; ()
 - xiv. Discussion of abuse potential; ()
 - xv. Intravenous access: anatomy, equipment and technique; ()
 - xvi. Prevention, recognition and management of complications of venipuncture and other parenteral techniques; ()
 - xvii. Description and rationale for the technique to be employed; and ()
 - xviii. Prevention, recognition and management of systemic complications of moderate sedation, with particular attention to airway maintenance and support of the respiratory and cardiovascular systems. ()
- c.** Hours of instruction: ()
 - i. For a moderate enteral sedation permit, the applicant must provide proof of training with a minimum of twenty-four (24) hours of instruction plus management of at least ten (10) adult case experiences by the enteral and/or enteral-nitrous oxide/oxygen route. These ten (10) cases must include at least three live clinical dental experiences managed by participants in groups no larger than five (5). The remaining cases may include simulations

and/or video presentations, but must include one experience in returning a patient from deep to moderate sedation. ()

ii. For a moderate parenteral sedation permit, the applicant must provide proof of training with a minimum of sixty (60) hours of instruction, plus management of at least twenty (20) patients by the intravenous route. ()

02. ~~Requirements for a Moderate Parenteral Sedation Permit.~~ ~~To qualify for a moderate parenteral sedation permit, a dentist applying for a permit shall provide proof that the dentist has completed training in the administration of moderate parenteral sedation as prescribed in the American Dental Association's "Guidelines for Teaching Pain Control and Sedation to Dentists and Dental Students," as incorporated in Section 004 of these rules within the five (5) year period immediately prior to the date of application for a moderate parenteral sedation permit. The five (5) year requirement shall not be applicable to applicants who hold an equivalent permit in another state which has been in effect for the twelve (12) month period immediately prior to the date of application. The training program shall:~~ **Advanced Cardiac Life Support. Applicants for a moderate sedation permit must provide verification of current certification in Advanced Cardiac Life Support or Pediatric Advanced life Support, whichever is appropriate for the patient being sedated.** (4-7-11)()

~~a. Be sponsored by or affiliated with a dental school accredited by the Commission on Dental Accreditation of the American Dental Association or a teaching hospital or facility approved by the Board of Dentistry; and~~ (4-5-00)

~~b. Consist of a minimum of sixty (60) hours of instruction, plus management of at least twenty (20) patients by the intravenous route; and~~ (4-7-11)

~~c. Include the issuance of a certificate of successful completion that indicates the type, number of hours, and length of training received.~~ (3-18-99)

~~d. In addition, the dentist must maintain current certification in Advanced Cardiac Life Support or Pediatric Advanced Life Support, whichever is appropriate for the patient being sedated.~~ (3-29-17)

03. General Requirements for Moderate Enteral and Moderate Parenteral Sedation Permits. The qualified dentist is responsible for the sedative management, adequacy of the facility and staff, diagnosis and treatment of emergencies related to the administration of moderate sedation and providing the equipment, drugs and protocol for patient rescue. Evaluators appointed by the Idaho State Board of Dentistry will periodically assess the adequacy of the facility and competence of the anesthesia team. ~~The Board adopts the standards incorporated by reference in Section 004.01.c. and Section 004.01.d. of these rules as set forth by the American Dental Association.~~ (4-11-15)()

a. Facility, Equipment and Drug Requirements. The following facilities, equipment and drugs shall be available for immediate use during the sedation and recovery phase: (4-11-15)

i. An operating room large enough to adequately accommodate the patient on an operating table or in an operating chair and to allow an operating team of at least two (2) individuals to freely move about the patient; (4-11-15)

ii. An operating table or chair that permits the patient to be positioned so the operating team can maintain the patient's airway, quickly alter the patient's position in an emergency, and provide a firm platform for the administration of basic life support; (4-11-15)

iii. A lighting system that permits evaluation of the patient's skin and mucosal color and a backup lighting system of sufficient intensity to permit completion of any operation underway in the event of a general power failure; (4-11-15)

iv. Suction equipment that permits aspiration of the oral and pharyngeal cavities and a backup suction device which will function in the event of a general power failure; (4-11-15)

- v. An oxygen delivery system with adequate full face mask and appropriate connectors that is capable of delivering high flow oxygen to the patient under positive pressure, together with an adequate backup system; (4-11-15)
- vi. A recovery area that has available oxygen, adequate lighting, suction and electrical outlets. The recovery area can be the operating room; (4-11-15)
- vii. A sphygmomanometer, pulse oximeter, oral and nasopharyngeal airways, supraglottic airway devices, and automated external defibrillator (AED); and (4-11-15)
- viii. Emergency drugs including, but not limited to, pharmacologic antagonists appropriate to the drugs used, bronchodilators, and antihistamines. (4-11-15)
- ix. Additional emergency equipment and drugs required for moderate parenteral sedation permits include precordial/pretracheal stethoscope or end-tidal carbon dioxide monitor, intravenous fluid administration equipment, vasopressors, and anticonvulsants. (3-29-17)
- b.** Personnel. For moderate sedation, the minimum number of personnel shall be two (2) including: (4-7-11)
- i. The operator; and (10-1-87)
- ii. An assistant currently certified in Basic Life Support for Healthcare Providers. (4-7-11)
- iii. Auxiliary personnel must have documented training in basic life support for healthcare providers, shall have specific assignments, and shall have current knowledge of the emergency cart inventory. The dentist and all office personnel must participate in documented periodic reviews of office emergency protocol, including simulated exercises, to assure proper equipment function and staff interaction. (4-11-15)
- c.** Pre-sedation Requirements. Before inducing moderate sedation, a dentist shall: (4-11-15)
- i. Evaluate the patient's medical history and document, using the American Society of Anesthesiologists Patient Physical Status Classifications, that the patient is an appropriate candidate for moderate sedation; (4-11-15)
- ii. Give written preoperative and postoperative instructions to the patient or, when appropriate due to age or psychological status of the patient, the patient's guardian; (4-11-15)
- iii. Obtain written informed consent from the patient or patient's guardian for the sedation; and (4-11-15)
- iv. Maintain an anesthesia record, and enter the individual patient's sedation into a case/drug log. (4-11-15)
- d.** Patient Monitoring. Patients shall be monitored as follows: (4-11-15)
- i. Patients must be continuously monitored using pulse oximetry. The patient's blood pressure, heart rate, and respiration shall be recorded every five (5) minutes during the sedation and then continued every fifteen (15) minutes until the patient meets the requirements for discharge. These recordings shall be documented in the patient record. The record must also include documentation of preoperative and postoperative vital signs, all medications administered with dosages, time intervals and route of administration. If this information cannot be obtained, the reasons shall be documented in the patient's record. A patient under moderate sedation shall be continuously monitored; (3-29-17)
- ii. During the recovery phase, the patient must be monitored by an individual trained to monitor patients recovering from moderate sedation; (4-11-15)

iii. A dentist shall not release a patient who has undergone moderate sedation except to the care of a responsible third party; (4-11-15)

iv. The dentist shall assess the patient's responsiveness using preoperative values as normal guidelines and discharge the patient only when the following criteria are met: vital signs are stable, patient is alert and oriented, and the patient can ambulate with minimal assistance; and (4-11-15)

v. A discharge entry shall be made by the dentist in the patient's record indicating the patient's condition upon discharge and the name of the responsible party to whom the patient was discharged. (4-11-15)

e. Sedation of Other Patients. The permit holder shall not initiate sedation on another patient until the previous patient is in a stable monitored condition and in the recovery phase following discontinuation of their sedation. (4-11-15)

f. Permit Renewal. Before the expiration date of a permit, the Board will, as a courtesy, mail notice for renewal of permit to the last mailing address on file in the Board's records. The licensee must return the completed renewal application along with the current renewal fees prior to the expiration of said permit. Failure to submit a renewal application and permit fee shall result in expiration of the permit and termination of the licensee's right to administer moderate sedation. Failure to submit a complete renewal application and permit fee within thirty (30) days of expiration of the permit shall result in cancellation of the permit. A licensee whose permit is canceled due to failure to renew within the prescribed time is subject to the provisions of Paragraph 060.03.g. of these rules. Renewal of the permit will be required every five (5) years. Proof of a minimum of twenty-five (25) credit hours continuing education in moderate sedation which may include training in medical/office emergencies will be required to renew a permit. A fee shall be assessed to cover administrative costs. In addition to the continuing education hours, a dentist must: (3-29-17)

i. For a moderate enteral sedation permit, maintain current certification in basic life support for healthcare providers or advanced cardiac life support; (4-11-15)

ii. For a moderate parenteral sedation permit, maintain current certification in advanced cardiac life support. (3-20-14)

g. Reinstatement. A dentist may make application for the reinstatement of a canceled or surrendered permit issued by the Board under this rule within five (5) years of the date of the permit's cancellation or surrender. Applicants for reinstatement of a permit shall satisfy the facility and personnel requirements of this rule and shall be required to verify that they have obtained an average of five (5) credit hours of continuing education in moderate sedation for each year subsequent to the date upon which the permit was canceled or surrendered. A fee for reinstatement shall be assessed to cover administrative costs. (3-29-17)