

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.  
19-0101-1803);

IDAPA 19.01.01 - Rules of the Idaho State Board of Dentistry - Proposed Rule (Docket No.  
19-0101-1804).

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 09/21/2018. 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 10/22/2018.

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

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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:** Principal Legislative Research Analyst - Elizabeth Bowen

**DATE:** September 04, 2018

**SUBJECT:** Board of Dentistry

IDAPA 19.01.01 - Rules of the Idaho State Board of Dentistry - Proposed Rule (Docket No. 19-0101-1803)

IDAPA 19.01.01 - Rules of the Idaho State Board of Dentistry - Proposed Rule (Docket No. 19-0101-1804)

#### **Docket No. 19-0101-1803**

#### **Summary and Stated Reasons for the Rule**

This proposed rule eliminates a provision that allows for supplemental dosing during minimal sedation in order to align with the generally accepted standard for patient safety.

#### **Negotiated Rulemaking / Fiscal Impact**

Negotiated rulemaking was conducted. There is no anticipated negative fiscal impact on the state general fund.

#### **Statutory Authority**

I.C. 54-912.

#### **Docket No. 19-0101-1804**

#### **Summary and Stated Reasons for the Rule**

This proposed rule revises provisions regarding requirements for specialty dental licensure. Specifically, the rule provides that the Board of Dentistry may grant specialty licensure to a dentist who has completed a postdoctoral advanced dental education program accredited by the American Dental Association on Dental Accreditation. The rule also simplifies provisions regarding specialty advertising. The changes are being made to conform with House Bill 343 (2018), which revised the definition of "dental specialist" in I.C. 54-903.

#### **Negotiated Rulemaking / Fiscal Impact**

Negotiated rulemaking was conducted. There is no anticipated negative fiscal impact on the state general fund.

#### **Statutory Authority**

I.C. 54-912.

cc: Board of Dentistry  
Susan Miller

**\*\*\* PLEASE NOTE \*\*\***

Per the Idaho Constitution, all administrative rules must be reviewed by the Legislature during the next legislative session. The Legislature has 3 options with this rulemaking docket: **1)** Approve the docket in its entirety; **2)** Reject the docket in its entirety; or **3)** Reject the docket in part.

**IDAPA 19 – IDAHO STATE BOARD OF DENTISTRY**  
**19.01.01 – RULES OF THE IDAHO STATE BOARD OF DENTISTRY**  
**DOCKET NO. 19-0101-1803**  
**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 September 19, 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:

The Board of Dentistry is proposing to eliminate the option of supplemental dosing when providing minimal sedation for patients. The current rule allows for 1.5 times the MRD of medication on the day of treatment. This rule reduces the amount of sedation that can be given to no more than the MRD on the day of treatment. The reduced amount of medication that may be administered for minimal sedation is the generally accepted standard for patient safety.

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

There are no fees associated with this rulemaking.

**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:

There is no fiscal impact associated with this rulemaking.

**NEGOTIATED RULEMAKING:** Pursuant to Section 67-5220(1), Idaho Code, negotiated rulemaking was conducted. The Notice of Intent to Promulgate Rules – Negotiated Rulemaking was published in the June 6, 2018 Idaho Administrative Bulletin, [Vol. 18-6, page 78](#).

**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 September 26, 2018.

Dated this 1st day of August, 2018.

Susan Miller  
Executive Director  
Idaho Board of Dentistry  
350 N. 9th St., Ste. M100  
P.O. Box 83720  
Boise, ID 83720-0021  
Phone: (208) 334-2369  
Fax: (208) 334-3247

**THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 19-0101-1803**  
**(Only Those Sections With Amendments Are Shown.)**

**054. DEFINITIONS (RULE 54).**

For the purposes of these anesthesia rules, the following terms will be used, as defined below: (4-11-06)

**01. Methods of Anxiety and Pain Control.** (4-11-06)

**a.** Analgesia shall mean the diminution or elimination of pain. (4-7-11)

**b.** Local anesthesia shall mean the elimination of sensation, especially pain, in one (1) part of the body by the topical application or regional injection of a drug. (4-7-11)

**c.** Minimal sedation shall mean a minimally depressed level of consciousness that retains the patient's ability to independently and continuously maintain an airway and respond normally to tactile stimulation and verbal command. Although cognitive function and coordination may be modestly impaired, ventilator and cardiovascular functions are unaffected. In accord with this particular definition, the drugs and/or techniques used should carry a margin of safety wide enough never to render unintended loss of consciousness. Further, patients whose only response is reflex withdrawal from repeated painful stimuli would not be considered to be in a state of minimal sedation. (4-7-11)

**d.** Moderate sedation shall mean a drug-induced depression of consciousness during which patients respond purposefully to verbal commands, either alone or accompanied by light tactile stimulation. No interventions are required to maintain a patent airway, and spontaneous ventilation is adequate. Cardiovascular function is usually maintained. (4-7-11)

**e.** Deep sedation shall mean a drug-induced depression of consciousness during which patients cannot be easily aroused but respond purposefully following repeated or painful stimulation. The ability to independently maintain ventilator function may be impaired. Patients may require assistance in maintaining a patent airway, and spontaneous ventilation may be inadequate. Cardiovascular function is usually maintained. (4-7-11)

**f.** General anesthesia shall mean a drug-induced loss of consciousness during which patients are not arousable, even by painful stimulation. The ability to independently maintain ventilator function is often impaired. Patients often require assistance in maintaining a patent airway, and positive pressure ventilation may be required because of depressed spontaneous ventilation or drug-induced depression of neuromuscular function. Cardiovascular function may be impaired. (4-7-11)

**02. Sedation Terms.** (4-11-06)

**a.** Advanced Cardiac Life Support (ACLS) shall mean an advanced cardiac life support course or a pediatric advanced life support course offered by a recognized accredited organization. (4-11-15)

**b.** Monitor or monitoring shall mean the direct clinical observation of a patient during the administration of anesthesia by a person trained to observe the physical condition of the patient and capable of assisting with emergency or other procedures. (4-11-06)

**c.** Operator shall mean the supervising dentist or another person who is authorized by these rules to induce and administer the proper level of anesthesia/sedation. (4-11-15)

**d.** Titration shall mean the administration of incremental doses of a drug until a desired effect is reached. Knowledge of each drug's time of onset, peak response and duration of action is essential to avoid over sedation. Although the concept of titration of a drug to effect is critical for patient safety, when the intent is moderate sedation one must know whether the previous dose has taken full effect before administering an additional drug

increment. (4-7-11)

e. Maximum recommended dose (MRD) shall mean maximum FDA-recommended dose of a drug, as printed in FDA-approved labeling for unmonitored home use. (3-20-14)

f. Incremental dosing shall mean administration of multiple doses of a drug until a desired effect is reached, but not to exceed the maximum recommended dose (MRD). (4-7-11)

~~g. Supplemental dosing during minimal sedation shall mean a single additional dose of the initial drug that may be necessary for prolonged procedures. The supplemental dose should not exceed one-half of the initial dose and should not be administered until the dentist has determined the clinical half life of the initial dosing has passed. The total aggregate dose must not exceed one and one-half times (1.5x) MRD on the day of treatment. (4-7-11)~~

**03. Routes of Administration. (4-11-06)**

a. Enteral. Any technique of administration in which the agent is absorbed through the gastrointestinal (GI) tract or oral mucosa (i.e., oral, rectal, sublingual). (4-11-06)

b. Inhalation. A technique of administration in which a gaseous or volatile agent is introduced into the lungs and whose primary effect is due to absorption through the gas/blood interface. (4-7-11)

c. Parenteral. A technique of administration in which the drug bypasses the gastrointestinal (GI) tract [i.e., intramuscular (IM), intravenous (IV), intranasal (IN), submucosal (SM), subcutaneous (SC), intraosseous (IO)]. (4-7-11)

d. Transdermal. A technique of administration in which the drug is administered by patch or iontophoresis through skin. (4-7-11)

e. Transmucosal. A technique of administration in which the drug is administered across mucosa such as intranasal, sublingual, or rectal. (4-7-11)

**055. MINIMAL SEDATION (RULE 55).**

Persons licensed to practice dentistry in accordance with the Idaho Dental Practice Act and these rules are not required to obtain a permit to administer minimal sedation to patients of sixteen (16) years of age or older. When the intent is minimal sedation, the appropriate ~~initial~~ dosing of a single enteral drug is no more than the maximum recommended dose (MRD) of a drug that can be prescribed for unmonitored home use. In cases where the patient weighs less than one hundred (100) pounds, or is under the age of sixteen (16) years, minimal sedation may be administered without a permit by use of nitrous oxide, or with a single enteral dose of a sedative agent administered in the dental office. ~~(3-29-17)~~ ( )

**01. Patient Safety.** The administration of minimal sedation is permissible so long as it does not produce an alteration of the state of consciousness in a patient to the level of moderate sedation, deep sedation or general anesthesia. A dentist must first qualify for and obtain the appropriate permit from the Board of Dentistry to be authorized to sedate patients to the level of moderate sedation, deep sedation or general anesthesia. Nitrous oxide/oxygen may be used in combination with a single enteral drug in minimal sedation, except as described in Section 055 of these rules. Notwithstanding any other provision in these rules, a dentist shall initiate and regulate the administration of nitrous oxide/oxygen when used in combination with minimal sedation. (3-20-14)

**02. Personnel.** At least one (1) additional person currently certified in Basic Life Support for Healthcare Providers must be present in addition to the dentist. (4-7-11)

**IDAPA 19 – IDAHO STATE BOARD OF DENTISTRY**  
**19.01.01 – RULES OF THE IDAHO STATE BOARD OF DENTISTRY**  
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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 definition of a dental specialist was revised by the 2018 Legislature. The proposed rulemaking amends the eligibility requirements for specialty licensure and updates the provisions for specialty advertising.

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

There are no fees associated with this rulemaking.

**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:

There is no fiscal impact associated with this rulemaking.

**NEGOTIATED RULEMAKING:** Pursuant to Section 67-5220(1), Idaho Code, negotiated rulemaking was conducted. The Notice of Intent to Promulgate Rules – Negotiated Rulemaking was published in the June 6, 2018 Idaho Administrative Bulletin, [Vol. 18-6, page 79](#).

**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 September 26, 2018.

Dated this 1st day of August, 2018.

Susan Miller  
Executive Director  
Idaho Board of Dentistry  
350 N. 9th St., Ste. M100  
P.O. Box 83720  
Boise, ID 83720-0021  
Phone: (208) 334-2369  
Fax: (208) 334-3247

THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 19-0101-1804  
(Only Those Sections With Amendments Are Shown.)

045. LICENSURE OF DENTAL SPECIALISTS (RULE 45).

**01. Requirements for Specialty Licensure.** Each applicant shall have a general license for the practice of dentistry in the state of Idaho or another state. The Board may grant licensure in specialty areas of dentistry for which a dentist has completed a postdoctoral advanced dental education program of at least two full-time academic years and which program is accredited by the American Dental Association Commission on Dental Accreditation. Any applicant who desires to be licensed in ~~one (1) of the a~~ Board recognized specialties, ~~which include and are limited to Dental Public Health, Endodontics, Oral and Maxillofacial Pathology, Oral and Maxillofacial Radiology, Oral and Maxillofacial Surgery, Orthodontics, Pediatric Dentistry, Periodontics, and Prosthodontics,~~ must be a graduate of ~~and hold a certificate from both~~ a dental school ~~and a Graduate Training Program that are~~ accredited by the American Dental Association Commission on Dental Accreditation ~~of the American Dental Association.~~ (3-29-10)(    )

**02. Application.** Application for license to practice a recognized dental specialty must be filed in the office of the Board of Dentistry, ~~Statehouse Mail~~ P.O. Box 83720, Boise, Idaho. The application must be attested before a notary public. (7-1-93)(    )

**03. Examination.** Specialty licensure in those specialties recognized may be granted solely at the discretion of the Idaho State Board of Dentistry. An examination covering the applicant's chosen field may be required and, if so, will be given by the Idaho State Board of Dentistry or its agent. Applicants who have met the requirements for licensure as a specialist may be required to pass an examination as follows: (3-29-10)

a. Applicants who have passed a general licensure examination acceptable to the Board may be granted specialty licensure by Board approval. (3-29-10)

b. Applicants who have passed a general licensure examination not acceptable to the Board may be required to pass a specialty examination. (3-29-10)

c. Applicants who are certified by the American Board of that particular specialty as of the date of application for specialty licensure may be granted specialty licensure by Board approval. (3-29-10)

**04. Limitation of Practice.** No dentist shall announce or otherwise hold himself out to the public as a specialist unless he has first complied with the requirements established by the Idaho State Board of Dentistry for such specialty and has been issued a specialty license authorizing him to do so. Any individual granted a specialty license must limit his practice to the specialty(s) in which he is licensed. (3-20-04)

046. SPECIALTY ADVERTISING (RULE 46).

~~The Board recognizes and licenses the following specialty areas of dental practice: Dental Public Health; Endodontics; Oral and Maxillofacial Pathology; Oral and Maxillofacial Radiology; Oral and Maxillofacial Surgery; Orthodontics; Pediatric Dentistry; Periodontics; and Prosthodontics.~~ The specialty advertising rules are intended to allow the public to be informed about recognized dental specialties ~~and specialization competencies of licensees~~ and to require appropriate disclosures to avoid misperceptions on the part of the public. (3-29-17)(    )

**01. Recognized Specialty License.** An advertisement shall not state that a licensee is a specialist, ~~or specializes in a recognized specialty area of dental practice, or limits his practice to any recognized specialty area of dental practice~~ unless the licensee has been issued granted a license in that specialty area of dental practice by the Board. Use of words or terms in advertisements such as ~~"Endodontist," "Pedodontist," "Pediatric Dentist," "Periodontist," "Prosthodontist," "Orthodontist," "Oral and Maxillofacial Pathologist," "Oral Pathologist," "Oral and Maxillofacial Radiologist," "Oral Radiologist," "Oral and Maxillofacial Surgeon," "Oral Surgeon," "Specialist," "Board Certified," "Diplomate," "Practice Limited To," and "Limited To Specialty OP"~~ shall be prima

facie evidence that the licensee is holding himself out to the public as a licensed specialist in a specialty area of dental practice. ~~(3-29-17)~~( )

**02. Disclaimer.** A licensee who has not been ~~granted a specialty~~ licensed by the Board ~~in a recognized specialty area of dental practice~~ may advertise as being qualified in a recognized specialty area of dental practice so long as each such advertisement, regardless of form, contains a prominent, clearly worded disclaimer that the licensee is “licensed as a general dentist” or that the specialty services “will be provided by a general dentist.” Any disclaimer in a written advertisement shall be in the same font style and size as that in the listing of the specialty area. ~~(3-29-17)~~( )

**03. Unrecognized Specialty.** A licensee shall not advertise as being a specialist in or as specializing in any area of dental practice which is not a Board recognized and licensed specialty area unless the advertisement, regardless of form, contains a prominent, clearly worded disclaimer that the advertised area of dental practice is not recognized as a specialty area of dental practice by the Idaho Board of Dentistry. Any disclaimer in a written advertisement shall be in the same font style and size as that in the listing of the specialty area. (3-29-17)