

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

The Legislative Services Office, Research and Legislation, has received the enclosed rules of the Bureau of Occupational Licenses - State Board of Acupuncture:
IDAPA 24.17.01 - Rules of the State Board of Acupuncture - Proposed Rule (Docket No. 24-1701-1801).

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 11/06/2018. 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 12/06/2018.

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 334-4854, 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: Legislative Research Analyst - Matt Drake
DATE: October 18, 2018
SUBJECT: Bureau of Occupational Licenses - State Board of Acupuncture

IDAPA 24.17.01 - Rules of the State Board of Acupuncture - Proposed Rule (Docket No. 24-1701-1801)

Summary and Stated Reasons for the Rule

The Bureau of Occupational Licenses submits notice of proposed rulemaking at IDAPA 24.17.01 related to the State Board of Acupuncture. The purpose of the proposed rule is to clarify the requirements and qualifications for an acupuncture trainee permit. The proposed rule further ensures that trainees demonstrate competency in clean needle techniques before providing treatment to patients without a supervisor's presence. In addition, the proposed rule establishes supervision standards for licensed and certified acupuncturists who provide supervision to trainees and technicians.

Negotiated Rulemaking / Fiscal Impact

The Bureau states that negotiated rulemaking was not conducted because the proposed changes to these rules were discussed during noticed, open meetings of the Board. There is no fiscal impact.

Statutory Authority

The proposed rule appears authorized pursuant to sections 54-4705 and 54-4708, Idaho Code.

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

*** 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 24 – BUREAU OF OCCUPATIONAL LICENSES

24.17.01 – RULES OF THE STATE BOARD OF ACUPUNCTURE

DOCKET NO. 24-1701-1801

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 Sections 54-4705 and 54-4708, 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 17, 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:

This proposed rule will clarify the requirements and qualifications for an acupuncture trainee permit, and ensure trainees demonstrate competency in clean needle techniques prior to providing treatments to patients without the supervisor's presence. In addition, the proposed rule establishes supervision standards for licensed and certified acupuncturists who provide supervision to trainees and technicians.

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 Jennifer Carr 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 24, 2018.

Dated this 30th day of August, 2018.

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

THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 24-1701-1801
(Only Those Sections With Amendments Are Shown.)

200. QUALIFICATIONS FOR LICENSURE OR CERTIFICATION (RULE 200).

01. Requirements for Licensure. Applicants for licensure shall submit a complete application, required fee, and official certified documentation of either: (3-30-01)

- a. Certification from NCCAOM; or (5-3-03)
- b. Graduation from an approved formal full-time acupuncture program of at least one thousand seven hundred twenty-five (1,725) hours of entry-level acupuncture education which includes a minimum of one thousand (1000) hours of didactic course work and five hundred (500) clinical hours practice; and (3-30-01)
- c. Successful completion of an acupuncture internship, or other equivalent experience as approved by the Board; and (3-30-01)
- d. Receipt of a passing grade on an NCCAOM Acupuncture certification examination; or (3-30-01)
- e. Other demonstration of proficiency as uniformly required by the Board for other similarly qualified applicants for licensure; and (3-30-01)
- f. Successful completion of a Blood Borne Pathogen course and comprehensive examination that incorporates clean needle techniques and OSHA procedures and requirements. (3-30-01)

02. Requirements for Certification. Applicants for certification shall submit a complete application, required fee and official certified documentation of either: (3-30-01)

- a. Successful passage of an examination or other demonstration of proficiency as approved by the board; and (4-2-08)
- b. Successful completion of the requirements for full membership of the American Academy of Medical Acupuncture; or (4-2-08)
- c. Possess a doctoral degree in chiropractic, dentistry, podiatric medicine, or naturopathic medicine from a college or university accredited by an organization approved by the U.S. Department of Education or Idaho State Board of Education; and (4-2-08)
- d. Successful completion of a minimum of one hundred (100) hours of didactic course work in acupuncture taught by an NCCAOM certified acupuncturist who has been practicing acupuncture for at least five (5) years and is currently licensed, two hundred (200) hours of practice as a certified technician or as an acupuncture trainee permit holder over a one (1) year period, twenty-five (25) case studies; and (3-21-12)
- e. Receipt of a passing grade on a board approved examination that measures minimum competency; and (4-2-08)
- f. Successful completion of a Blood Borne Pathogen course and comprehensive examination that incorporates clean needle techniques and OSHA procedures and requirements. (3-30-01)

~~**03. Requirements for Acupuncture Trainee Permit.** Applicants for Acupuncture trainee permit shall submit a complete application, required fee, and official certified documentation of either: (3-21-12)~~

- ~~a. Current enrollment in an Approved Acupuncture Program and actively pursuing completion of the~~

- ~~program; or (3-21-12)~~
- ~~b. Must meet the requirement for certification as set forth in Subsection 200.02.e. and complete the one hundred (100) hours of didactic course work as set forth in Subsection 200.02.d. (3-21-12)~~
- ~~e. Permit holders must work under the board approved supervision of a licensed or certified acupuncturist. (3-21-12)~~
- ~~d. The permit will expire one (1) year from date of issue. The permit may be extended in accordance with Section 54-4708, Idaho Code. (3-21-12)~~

201. ACUPUNCTURE TRAINEE PERMIT.

The Board may issue an acupuncture trainee permit to allow a person to engage in the practice of acupuncture while actively pursuing licensure or certification. The permit will expire one (1) year from date of issue. The permit may be extended in accordance with Section 54-4708, Idaho Code. The holder of an acupuncture trainee permit may only practice under the supervision of a person licensed or certified under this chapter who meets the requirements in Section 404 of these rules. An applicant for a permit must present evidence satisfactory to the Board of meeting the following requirements: ()

01. Application. An applicant must submit a completed application on a form approved by the Board together with the required fee. ()

02. Education. An applicant must submit documentation of either: ()

a. Current enrollment in an Approved Acupuncture Program and actively pursuing completion of the program; or ()

b. Satisfaction of the requirement for certification as set forth in Paragraph 200.02.c. of these rules, and successful completion of the one hundred (100) hours of didactic course work as set forth in Paragraph 200.02.d. of these rules. ()

03. Supervision. Submission of a supervision plan specifying at a minimum the name of the supervisor and the setting and location where the permit holder will practice. A supervision plan may be approved by a designated Board member. ()

~~204. -- 225. (RESERVED)~~

(BREAK IN CONTINUITY OF SECTIONS)

404. SUPERVISION OF TRAINEES AND TECHNICIANS (RULE 404).

A licensed or certified acupuncturist providing supervision to trainees or technicians shall be responsible for the services provided by such individuals. Failure to adequately supervise such an individual may subject the supervisor to discipline. (4-4-13)

01. Qualifications of Supervisors. Prior to providing supervision to a trainee, a supervisor must: ()

a. Have held a current acupuncture license or certification without restriction for a minimum of five (5) years. ()

b. Have not been the subject of any disciplinary action within the preceding five (5) years, provided that the Board may in its discretion approve a supervisor with disciplinary action for failing to complete continuing education requirements. ()

02. Supervision. For the first one hundred (100) hours of practice, the supervisor must provide

supervision in person when the trainee is providing treatment. After the first one hundred (100) hours of practice, the supervisor may provide supervision by making themselves accessible to the trainee by telephone, or video conferencing, provided that the trainee has successfully completed the requirement in Paragraph 404.02.a. of this rule, and provided that the supervisor meets with the trainee in person on at least a monthly basis during which time the supervisor must review case studies and require the trainee to demonstrate acupuncture point location and needle placement technique. ()

a. Before providing treatment without in-person supervision, the trainee must successfully complete a Blood Borne Pathogen course and comprehensive examination that incorporates clean needle techniques and OSHA procedures and requirements. ()

b. The supervisor must provide the trainee with adequate training, which must include at a minimum charting, diagnosis, and treatment plans, and opportunities for the trainee to complete at least twenty-five (25) case studies. ()

c. The supervisor and trainee must keep adequate records of supervision, which shall include at a minimum, summary of case studies in progress or completed by the trainee under supervision, treatment plan for each patient, and the dates of supervision. ()

03. Continuing Education. A supervisor may annually count up to ten (10) hours of supervision of a trainee toward the Category I continuing education requirements. Supervision hours not claimed in the current renewal year may be claimed in the next renewal year. A maximum of ten (10) hours may be carried forward from the immediately preceding year, and may not be carried forward more than one renewal year. ()

04. Completion of Supervision. At the conclusion of supervision of a technician or trainee, the supervisor must verify the hours of supervision, the type of supervision provided to the technician or trainee, and the documentation of at least twenty-five (25) case studies by the technician or trainee. ()

05. Termination of Supervision or Change in Supervisor. A supervisor may terminate supervision at any time by submitting written notice of termination to the Board. ()