

Dear Senators MARTIN, Souza, Jordan, and  
Representatives WOOD, Wagoner, Chew:

The Legislative Services Office, Research and Legislation, has received the enclosed rules of the  
Bureau of Occupational Licenses - Genetic Counselors Licensing Board:

IDAPA 24.24.01 - Notice of Omnibus Rulemaking - Temporary and Proposed Fee Rulemaking  
(Docket No. 24-2401-1900F).

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 07/24/2019. 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 08/21/2019.

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

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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:** Legislative Drafting Attorney - Matt Drake

**DATE:** July 05, 2019

**SUBJECT:** Bureau of Occupational Licenses - Genetic Counselors Licensing Board

IDAPA 24.24.01 - Notice of Omnibus Rulemaking - Temporary and Proposed Fee Rulemaking (Docket No. 24-2401-1900F)

The Idaho Bureau of Occupational Licenses - Genetic Counselors Licensing Board - submits notice of temporary and proposed rules at IDAPA 24.24.01, Rules of the Genetic Counselors Licensing Board. The rulemaking adopts and re-publishes existing and previously approved chapters with minor edits in the nature of clean-up, deletion of obsolete material, and simplification. **No substantive changes are noted.** This is a fee rule. **No new fees or charges are imposed by this rule reauthorization and republication.** These rules were previously analyzed and reviewed by the Legislative Services Office upon their initial promulgation.

cc: Bureau of Occupational Licenses - Genetic Counselors Licensing Board  
Kelley Packer

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

Per the Idaho Constitution, all administrative rules may 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

### 24.24.01 – RULES OF THE GENETIC COUNSELORS LICENSING BOARD

DOCKET NO. 24-2401-1900F

#### NOTICE OF OMNIBUS RULEMAKING – TEMPORARY AND PROPOSED FEE RULEMAKING

**EFFECTIVE DATE:** The effective date of the temporary rules listed in the descriptive summary of this notice is June 30, 2019.

**AUTHORITY:** In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted temporary rules, and proposed rulemaking procedures have been initiated. The action is authorized pursuant to Section 54-5607, Idaho Code.

**PUBLIC HEARING SCHEDULE:** Oral comment concerning this rulemaking will be scheduled in accordance with Section 67-5222, Idaho Code.

**DESCRIPTIVE SUMMARY:** The following is the required finding and concise statement of its supporting reasons for adopting a temporary rule and a nontechnical explanation of the substance and purpose of the proposed rulemaking:

This temporary and proposed rulemaking adopts and re-publishes the following existing and previously approved and codified chapters under IDAPA 24.24.01, rules of the Genetic Counselors Licensing Board:

#### **IDAPA 24**

- 24.24.01, *Rules of the Genetic Counselors Licensing Board* - All rules *except Subsections/Sections 010.01, 010.02, 010.05, 010.06, 010.11, 010.12, 010.13, 010.14, 010.15, 011.02, 011.03, 301, and 400.*

**TEMPORARY RULE JUSTIFICATION:** Pursuant to Sections 67-5226(1) and 67-5226(2), Idaho Code, the Governor has found that temporary adoption of the rule is appropriate for the following reasons:

These temporary rules are necessary to protect the public health, safety, and welfare of the citizens of Idaho and confer a benefit on its citizens. These previously approved and codified rules implement the duly enacted laws of the state of Idaho, provide citizens with the detailed rules and standards for complying with those laws, and assist in the orderly execution and enforcement of those laws. The expiration of these rules without due consideration and processes would undermine the public health, safety, and welfare of the citizens of Idaho and deprive them of the benefit intended by these rules. These rules govern the qualifications, code of ethics, and standards of practice for genetic counselors. Allowing these rules to expire would harm the public health, safety, and welfare of those citizens who utilize genetic services.

The fee or charge imposed by the rules is necessary to avoid immediate danger. The fees or charges reauthorized in this rulemaking are currently existing and have been previously promulgated by the agency and reviewed and approved by the Legislature. These fees and charges are part of the dedicated fund portion of the state budget, which makes up a material portion of the FY2020 budget. The FY2020 budget has already been set by the Legislature and passed into law. That budget relies upon the existence of these fees and charges to meet the state's obligations and provide necessary state services. Failing to reauthorize these fee rules would create immediate danger to the state budget, immediate danger to necessary state functions and services, and the immediate danger of a violation of Idaho's constitutional requirement that it balance its budget. Absent the ability to impose the licensure fees outlined in this chapter, the Genetic Counselors Licensing Board would not be able to remain self-sufficient, contrary to its statutory mandate.

**FEE SUMMARY:** The preceding section and the attached rules provide a specific description of the fee or charge imposed or increased by this rulemaking. This rulemaking does not impose a fee or charge, or increase a fee or charge, beyond what was previously approved and codified in the prior rules. Fees are established in accordance with Section 54-5613, Idaho Code, as follows: application fee: \$200; original license fee: \$200; annual renewal fee: \$200; provisional license fee: \$200; license by endorsement fee: \$200; and duplicate license fee: \$10.

**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: This rulemaking is not anticipated to

have any fiscal impact on the state General Fund because the FY2020 budget has already been set by the Legislature, and approved by the Governor, anticipating the existence of the rules and fees being reauthorized by this rulemaking.

**NEGOTIATED RULEMAKING:** Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not feasible because of the need to adopt the rules as temporary, and because these existing chapters of IDAPA are being re-published and re-authorized. Negotiated rulemaking also is not feasible because of the need to implement these rules before they expire; the rules form the regulatory framework of the laws of this state and have been previously promulgated and reviewed by the Legislature pursuant to the Idaho Administrative Procedures Act, Chapter 52, Title 67, Idaho Code; and because engaging in negotiated rulemaking for all previously existing rules will inhibit the agency from carrying out its ability to serve the citizens of Idaho and to protect their health, safety, and welfare.

**INCORPORATION BY REFERENCE:** Pursuant to Section 67-5229(2)(a), Idaho Code, incorporated material may be obtained or electronically accessed as provided in the text of the temporary and proposed rules attached hereto.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the temporary and proposed rule, contact Rob McQuade at (208) 334-3233.

Anyone may submit written comments regarding the proposed rulemaking. All written comments must be directed to the undersigned and must be delivered within twenty-one (21) days after publication of this Notice in the Idaho Administrative Bulletin. Oral presentation of comments may be requested pursuant to Section 67-5222(2), Idaho Code, and must be delivered to the undersigned within fourteen (14) days of the date of publication of this Notice in the Idaho Administrative Bulletin.

Dated this 19th day of June, 2019.

Kelley Packer  
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

**IDAPA 24  
TITLE 24  
CHAPTER 01**

**24.24.01 – RULES OF THE GENETIC COUNSELORS LICENSING BOARD**

**000. LEGAL AUTHORITY.**

These rules are hereby prescribed and established pursuant to the authority vested in the Genetic Counselors Licensing Board by the provisions of Title 54, Chapter 56, Idaho Code. (3-24-16)

**001. TITLE AND SCOPE.**

**01. Title.** The rules are titled IDAPA 24.24.01, “Rules of the Genetic Counselors Licensing Board.” (3-24-16)

**02. Scope.** These rules implement the purposes and intent of Chapter 56, Title 54, Idaho Code, to regulate the profession of genetic counseling in the interest of the public health, safety, and welfare. (3-24-16)

**002. WRITTEN INTERPRETATIONS.**

In accordance with Section 67-5201(19)(b)(iv), Idaho Code, the Board may have written statements that pertain to the interpretation of the rules of this chapter, or to the documentation of compliance with the rules of this chapter. Such interpretations, if any, are available for public inspection and copying at cost in the main office of the Bureau of Occupational Licenses. (3-24-16)

**003. ADMINISTRATIVE APPEAL.**

Administrative appeals will be governed by the Administrative Procedure Act, Title 67, Chapter 52, Idaho Code and IDAPA 04.11.01, “Idaho Rules of Administrative Procedure of the Attorney General.” (3-24-16)

**004. INCORPORATION BY REFERENCE.**

The document titled “National Society of Genetic Counselors Code of Ethics,” adopted January 1992 and revised December 2004 and January 2006, is incorporated by reference into this rule and is available at the Board’s office and on the Board’s web site. (3-24-16)

**005. OFFICE – OFFICE HOURS – MAILING ADDRESS AND STREET ADDRESS.**

The office of the Genetic Counselors Licensing Board is located within the Bureau of Occupational Licenses, 700 W. State Street, Boise, Idaho 83702. The mailing address of the Board is PO Box 83720, Boise, ID 83720-0063. The Bureau is open between the hours of 8:00 a.m. and 5:00 p.m. (Mountain Time) each day except Saturdays, Sundays and holidays. The Board’s phone number: (208) 334-3233; fax number: (208) 334-3945. The Board’s e-mail address is [gen@ibol.idaho.gov](mailto:gen@ibol.idaho.gov) and the official website is <http://www.ibol.idaho.gov>. (3-24-16)

**006. PUBLIC RECORDS ACT COMPLIANCE.**

The rules contained herein and the records associated with the Board are subject to the Idaho Public Records Act, Title 74, Chapter 1, Idaho Code. (3-24-16)

**007. -- 009. (RESERVED)**

**010. DEFINITIONS.**

**01. ACGC.** Accreditation Council for Genetic Counseling, its successor or equivalent. (3-24-16)

**02. ACS.** Active candidate status conferred by the American Board of Genetic Counseling to an individual who has met the requirements established by the ABGC to take the ABGC certification examination in genetic counseling. (3-24-16)

**03. Certification.** Voluntary process by which the ABGC, ABMG, or NSGC, nongovernmental agencies, grant recognition and use of a credential to individuals who have met predetermined and standardized criteria. (3-24-16)

**04. Certification Examination.** Certification examination for genetic counselors administered by the ABGC, ABMG, or NSGC, certifying agencies approved by the Board. (3-24-16)

**05. CEU.** Continuing education unit. A measurable amount of credit granted to licensees by the Board for participation in education programs with content targeted to genetic counselors and pre-approved by the National Society of Genetic Counselors (NSGC). (3-24-16)

**06. Code of Ethics.** The National Society of Genetic Counselors Code of Ethics as approved by the Board as the code of ethics for Idaho and incorporated by reference in Section 004 of these rules. (3-24-16)

**07. PAC.** Professional Activity Credit. A measurable amount of credit granted to licensees by the Board for participation in a variety of professional activities determined by the ABGC to promote genetic counselor educational development. (3-24-16)

**011. CHANGES IN NAME AND ADDRESS -- ADDRESS FOR NOTIFICATION PURPOSES.**  
Whenever a change of a licensee's name of record occurs, the licensee must immediately notify the Bureau in writing of the change. Official documentation confirming the change of name must be provided to the Bureau on request. (3-24-16)

**012. -- 099. (RESERVED)**

**100. ORGANIZATION AND OPERATIONS OF THE BOARD.**

**01. Meetings.** The Board must meet at least annually and at other such times and places as designated by the Chairman or upon the written request to the Chairman of a majority of members of the Board. (3-24-16)

**a.** A majority of Board members constitute a quorum and is required for the transaction of business. A majority vote of the quorum present at a meeting will be considered the action of the Board as a whole. (3-24-16)

**b.** The Chairman is a voting member. (3-24-16)

**02. Organization.** At the first meeting of each fiscal year, the Board will elect from its members a Chairman, who will assume the duties of the office at the direction of the Board. (3-24-16)

**a.** The Chairman will, when present, preside at all meetings, appoint with the consent of the Board, all committees, and will otherwise perform all duties pertaining to the office of Chairman. (3-24-16)

**b.** The Bureau will act as an agent of the Board and will be the official keeper of all records of the Board. The Bureau will provide such services as may be authorized by Chapter 26, Title 67, Idaho Code, and as defined under contract between the Bureau and the Board. (3-24-16)

**101. -- 199. (RESERVED)**

**200. APPLICATION.**

**01. Filing an Application.** Applicants for licensure must submit a complete application, verified under oath, to the Board at its official address. The application must be on the forms approved by the Board and submitted together with the appropriate fee(s) and supporting documentation. (3-24-16)

**02. Supporting Documents.** The applicant must provide or facilitate the provision of any supporting third party documents that may be required under the qualifications for the license being sought. (3-24-16)

**03. Applications Must Be Complete.** Applications will not be considered complete until all required information, documents, and fees are received by the Board. (3-24-16)

**04. Lack of Activity.** If an applicant fails to respond to a Board request or an application has lacked activity for twelve (12) consecutive months, the application on file with the Board will be deemed denied and will be

terminated upon a thirty (30) day written notice, unless the applicant shows good cause to the Board. (3-24-16)

**201. -- 249. (RESERVED)**

**250. FEES.**

Fees are established in accord with Section 54-5613, Idaho Code as follows: (3-24-16)

- 01. Application Fee.** Application fee is two hundred dollars (\$200). (3-22-18)
- 02. Original License Fee.** Initial full license fee is two hundred dollars (\$200). (3-22-18)
- 03. Annual Renewal Fee.** Annual renewal fee is two hundred dollars (\$200). (3-22-18)
- 04. Provisional License Fee.** Provisional license fee is two hundred dollars (\$200). (3-22-18)
- 05. License by Endorsement Fee.** License by endorsement fee is two hundred dollars (\$200). (3-22-18)
- 06. Examination Fee.** The fee for those examinations administered by a third-party administrator is the fee determined by the administrator and must be paid by the applicant directly to the administrator. (3-24-16)
- 07. Duplicate License Fee.** Duplicate license fee is ten dollars (\$10). (3-24-16)
- 08. Reinstatement Fee.** Reinstatement fee is as provided in Section 67-2614, Idaho Code. (3-24-16)
- 09. Refund of Fees.** All fees are non-refundable except that, if a license fee is tendered but the Board does not issue a license, the respective license fee will be returned. (3-24-16)

**251. -- 299. (RESERVED)**

**300. REQUIREMENTS FOR ORIGINAL LICENSURE.**

The Board may grant an applicant a license as a genetic counselor who completes an application as set forth in Section 200, pays the applicable license fee as set forth in section 250, and meets the following requirements: (3-24-16)

- 01. General.** (3-24-16)
  - a.** An applicant must certify that he has not been found guilty, convicted, received a withheld judgment, or suspended sentence for a felony or a lesser crime conviction. If the applicant has been found guilty, convicted, received a withheld judgment, or suspended sentence for such a crime, the applicant must submit a written statement of suitability for licensure as set forth in Section 306 of these rules. (3-24-16)
  - b.** An applicant must certify that he or his license has not been subject to disciplinary action by a regulatory entity in another state, territory, or country including, but not limited to, having an application for licensure denied. If the applicant or his license has been subject to discipline, the applicant must submit to the Board a written statement of suitability for licensure as set forth in Section 306 of these rules. (3-24-16)
- 02. Education.** An applicant must hold a master's degree or higher in genetics from an ABGC, ABMG, ACGC, or NSGC accredited program or master's degree or higher in a related field of study as approved by the Board. (3-24-16)
- 03. Examination.** An applicant must pass an ABGC or ABMG administered genetic counselor certification exam. (3-24-16)
- 04. Certification.** An applicant must provide proof of current certification from the ABGC or ABMG. (3-24-16)

**301. -- 304. (RESERVED)**

**305. APPROVED EXAMINATION.**

Approved examinations will be the Genetic Counselor Certification Exam administered by the ABGC or ABMG. (3-24-16)

**01. Passing Score.** A passing score will be determined by the ABGC or ABMG. (3-24-16)

**02. Date of Exam.** The passage of the exam may have occurred prior to the effective date of these rules. (3-24-16)

**306. WRITTEN STATEMENT OF SUITABILITY FOR LICENSURE.**

An applicant who in any state, territory or country has had a license revoked or suspended or has been otherwise disciplined by a Board, a government agency, or any other disciplinary body, or has been found guilty, convicted, received a withheld judgment or suspended sentence for a felony or a lesser crime conviction must submit with his application a written statement and any supplemental information establishing his current suitability for licensure. (3-24-16)

**01. Consideration of Factors and Evidence.** The Board will consider the following factors or evidence: (3-24-16)

**a.** The severity or nature of the crime or discipline; (3-24-16)

**b.** The period of time that has passed since the crime or discipline under review; (3-24-16)

**c.** The number or pattern of crimes or discipline or other similar incidents; (3-24-16)

**d.** The circumstances surrounding the crime or discipline that would help determine the risk of repetition; (3-24-16)

**e.** The relationship of the crime or discipline to the practice of genetic counseling; (3-24-16)

**f.** The applicant's activities since the crime or discipline under review, such as employment, education, participation in treatment, payment of restitution, or any other factors which may be evidence of current rehabilitation; and (3-24-16)

**g.** Any other information regarding rehabilitation or mitigating circumstances. (3-24-16)

**02. Interview.** The Board may, at its discretion, grant an interview of the applicant. (3-24-16)

**03. Applicant Bears the Burden.** The applicant will bear the burden of establishing his current suitability for licensure. (3-24-16)

**307. -- 309. (RESERVED)**

**310. REQUIREMENTS FOR LICENSURE BY ENDORSEMENT.**

The Board may grant a license to an applicant for licensure by endorsement who completes an application as set forth in Section 200 of these rules and meets the following requirements: (3-24-16)

**01. General.** Meets the requirements prescribed in Subsection 300.01 of these rules; and (3-24-16)

**02. Holds a Current License.** The applicant must be the holder of a current active license in the profession and at the level for which a license is being sought, issued by the authorized regulatory entity of another state, territory, or jurisdiction of the United States. The state, territory, or jurisdiction must have licensing requirements substantially equivalent to or higher than those required for new applicants in Idaho. The certification of licensure must be received by the Board from the issuing agency. (3-24-16)

**311. REQUIREMENTS FOR PROVISIONAL LICENSE.**

The Board may issue a provisional license to allow a person who has been granted ACS to engage in the practice of genetic counseling. The holder of a provisional license may only practice under the general supervision of a person fully licensed under this chapter or a physician licensed in this state. (3-24-16)

**01. Application.** An applicant must submit a completed application on a form approved by the Board together with the required fee. (3-24-16)

**02. Supervision.** While the provisional licensee is providing genetic counseling services, the licensee's supervisor need not be physically present; however, the supervisor must be readily accessible to the provisional licensee by telephone or by electronic means for consultation and assistance. (3-24-16)

**03. Expiration and Renewal.** A provisional license expires automatically upon issuance of a full initial license. It is valid for one (1) year from the date it is issued and the licensee may renew it with an application for extension signed by the licensee's supervisor, at the discretion of the Board, for one (1) year periods up to a maximum of four (4) renewals. (3-24-16)

**312. -- 499. (RESERVED)**

**500. CONTINUING EDUCATION.**

All licensees must comply with the following continuing education requirements: (3-24-16)

**01. Requirement.** Beginning with the second renewal of their license, a licensee will be required to complete a minimum of two (2) CEUs within the preceding twelve (12) months or one (1) CEU and one (1) PAC within the preceding twelve (12) months. (3-24-16)

**02. Documentation.** Each licensee will maintain documentation verifying continuing education course attendance and curriculum, or completion of the educational activity for a period of five (5) years from the date of completion. This documentation will be subject to audit by the Board. (3-24-16)

**a.** Documented evidence of meeting the continuing education course requirement must be in the form of a certificate or letter from the sponsoring entity that includes verification of attendance by the licensee, the title of the activity, the subject material covered, the dates and number of hours credited, and the presenter's full name and professional credentials. Documented evidence of completing a continuing education activity must be in such form as to document both completion and date of the activity. (3-24-16)

**b.** A licensee must submit the verification documentation to the Board, if requested by the Board. If a licensee fails to provide the Board with acceptable documentation of the hours attested to on the renewal application, the licensee may be subject to disciplinary action. (3-24-16)

**03. Waiver.** The Board may waive the requirements of this rule for reasons of individual hardship, including health or other good cause. The licensee should request the waiver in advance of renewal and must provide any information requested by the Board to assist in substantiating hardship cases. This waiver is granted at the sole discretion of the Board. (3-24-16)

**04. Carryover of Continuing Education Hours.** CEUs and PACs not claimed in the current renewal year may be claimed in the next renewal year. A maximum of two (2) CEUs or one (1) PAC and one (1) CEU may be carried forward from the immediately preceding year, and may not be carried forward more than one renewal year. (3-24-16)

**05. Exemption.** A licensee is exempt from the continuing education requirements under this section for the period between the initial issuance of the original license and the first expiration date of that license. (3-24-16)

**501. -- 699. (RESERVED)**

**700. UNPROFESSIONAL CONDUCT.**

**01. Examples.** Unprofessional conduct includes any of the following: (3-24-16)

**a.** Failure to follow the guidelines for genetic counseling contained within the National Society of Genetic Counselors Code of Ethics as referenced in Section 004 of these rules. (3-24-16)

**b.** Failure of a genetic counselor to provide general supervision to a provisional genetic license holder as required by Subsection 311.02 of these rules when both are parties to a supervision contract. (3-24-16)

**701. -- 799. (RESERVED)**

**800. UNETHICAL CONDUCT.**

Unethical conduct is conduct that does not conform to the guidelines for genetic counseling contained within the National Society of Genetic Counselors Code of Ethics, incorporated by reference into Section 004 of these rules and approved by the Board as the Idaho Code of Ethics. (3-24-16)

**801. -- 899. (RESERVED)**

**900. DISCIPLINE.**

**01. Disciplinary Action.** If the Board determines that grounds for discipline exist for violations of Title 54, Chapter 56, Idaho Code, violations of these rules, or both, it may impose disciplinary sanctions against the licensee including, without limitation, any or all of the following: (3-24-16)

**a.** Refuse to issue, renew, or reinstate a license; (3-24-16)

**b.** Revoke or suspend the licensee's license; (3-24-16)

**c.** Condition, restrict, or limit the licensee's practice, license, or both; (3-24-16)

**d.** Impose an administrative fine not to exceed one thousand dollars (\$1,000) for each violation of the Board's laws and rules; and (3-24-16)

**e.** Order a licensee to pay the costs and fees incurred by the Board in the investigation, prosecution, or both, of the licensee for violation(s) of the Board's laws and rules. (3-24-16)

**901. -- 999. (RESERVED)**