



Eric Milstead
Director

Legislative Services Office Idaho State Legislature

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MEMORANDUM

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

FROM: Matt Drake - Legislative Drafting Attorney

DATE: April 22, 2020

SUBJECT: Temporary Rule

IDAPA 24.16.01 - Notice of Omnibus Rulemaking (Fee Rule) - Adoption of Temporary Rule - Docket
No. 24-1601-2000F

We are forwarding this temporary rule to you for your information only. No analysis was done by LSO. This rule is posted on our web site. If you have any questions, please call Matt Drake at the Legislative Services Office at (208) 334-4845. Thank you.

Attachment: Temporary Rule

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IDAPA 24 – DIVISION OF OCCUPATIONAL AND PROFESSIONAL LICENSES

24.16.01 – RULES OF THE STATE BOARD OF DENTURITRY

DOCKET NO. 24-1601-2000F (FEE RULE)

NOTICE OF OMNIBUS RULEMAKING – ADOPTION OF TEMPORARY RULE

EFFECTIVE DATE: The effective date of the temporary rules being adopted through this omnibus rulemaking is the adjournment date of the second regular session of the 65th Idaho State Legislature - March 20, 2020.

AUTHORITY: In compliance with Sections 67-5226, Idaho Code, notice is hereby given this agency has adopted a temporary rule. The action is authorized pursuant to Section 54-3309, Idaho Code.

DESCRIPTIVE SUMMARY: The following is the required finding and concise statement of its supporting reasons for adopting a temporary rule:

This temporary rulemaking adopts the following chapter under IDAPA 24.16.01:

IDAPA 24.16

- 24.16.01, *Rules of the State Board of Denturitry.*

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 temporary 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 and facility standards for the practice of denturitry. Allowing these rules to expire would deny the Board of its ability to ensure minimum qualifications for practice are met and facility standards are maintained.

FEE SUMMARY: Pursuant to Section 67-5226(2), the Governor has found that the fees or charges being imposed or increased are justified and necessary to avoid immediate danger and the fees are described herein:

The fees or charges, authorized in Section 54-3312, Idaho Code, are part of the agency's 2021 budget that relies upon the existence of these fees or charges to meet the state's obligations and provide necessary state services. Failing to reauthorize these temporary rules would create immediate danger to the state budget, immediate danger to necessary state functions and services, and immediate danger of a violation of Idaho's constitutional requirement that it balance its budget.

The following is a specific description of the fees or charges:

FEE TYPE	AMOUNT (Not to Exceed)
License Application and Examination	\$300
License Application and Re-examination	\$300
Intern Application and Permit	\$300
Initial License	\$300
Inactive License	\$50
Annual Renewal	\$750

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning the temporary rule, contact Rob McQuade at (208) 334-3233.

DATED this February 21, 2020.

Kelley Packer
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24.16.01 – RULES OF THE STATE BOARD OF DENTURITRY

000. LEGAL AUTHORITY.

In accordance with Section 54-3309, Idaho Code, the State Board of Denturitry has promulgated rules implementing the provisions of Chapter 33, Title 54, Idaho Code. (3-20-20)T

001. TITLE AND SCOPE.

These rules are titled IDAPA 24.16.01, “Rules of the State Board of Denturitry.” (3-20-20)T

002. -- 009. (RESERVED)

010. DEFINITIONS.

01. Denturist Services. For purposes of the unconditional ninety (90) day guarantee prescribed in Section 54-3320(c), Idaho Code, denturist services include any and all prosthetic dental appliances and materials and/or services related to the furnishing or supplying of such a denture, including preparatory work, construction, fitting, furnishing, supplying, altering, repairing or reproducing any prosthetic dental appliance or device. (3-20-20)T

02. Denture Technician. A person who is limited to making, constructing, altering, reproducing or repairing of a full upper or lower removable prosthetic denture, the repairing of a removable partial upper or lower prosthetic denture but is not allowed to make an impression or come in direct contact with a patient. (3-20-20)T

011. -- 149. (RESERVED)

150. EXAMINATIONS.

01. Date of Licensure Examination. The licensure examination will be held no less than two (2) times per year at such times and places as may be determined by the Board. (3-20-20)T

02. Content. Examinations include both a written theory examination and a practical demonstration of skills. (3-20-20)T

03. Grading. An applicant must obtain a score of seventy-five percent (75%) or better on each part of the examination in order to pass the examination. (3-20-20)T

04. Re-Examination. (3-20-20)T

a. Applicants who fail either part or all of the examination will be required to make application and pay the required fees prior to being eligible to retake the failed part of the examination. (3-20-20)T

b. Applicants failing either part or all of the examination on the first attempt will not be required to complete any additional instruction prior to being eligible to make application and retake the examination. (3-20-20)T

c. Applicants failing either part or all of the examination on a second attempt and all subsequent attempts are not eligible to make application and retake the examination within one (1) year of the date of the examination failure. The Board may recommend additional course work or clinical work for any applicant who has failed an examination two (2) or more times. (3-20-20)T

151. -- 199. (RESERVED)

200. APPLICATIONS.

01. Application Filing Date. Licensure applications must be received in the Division of Occupational and Professional Licenses at least seven (7) business days prior to the next scheduled meeting of the Board. Applications received after that date may be held over for the Board’s next meeting. (3-20-20)T

02. Application Form for Licensure. Applications for licensure must be made on forms approved by the Board and furnished by the Division of Occupational and Professional Licenses and must include all other documents necessary to establish the applicant meets the requirements for licensure except examination and is eligible to take the licensure examination. (3-20-20)T

03. Application Must Be Complete. All applications must be complete in every respect and

accompanied by the appropriate fees before being considered received by the Division of Occupational Professional Licenses. (3-20-20)T

04. Authorization for Examination. (3-20-20)T

a. After the Board evaluates the applicant's qualifications to take the examination the applicant will be notified in writing of the approval or denial, and, if denied, the reason for the denial. (3-20-20)T

b. At the time the Board approves an applicant to take the examination the Board will set the date and location(s) of the next examination if it has not already been set. Approved applicants will be notified of the date and location(s) of the next examination. (3-20-20)T

201. -- 249. (RESERVED)

250. FEES.

FEE TYPE	AMOUNT (Not to Exceed)
License Application and Examination	\$300
License Application and Re-examination	\$300
Intern Application and Permit	\$300
Initial License	\$300
Inactive License	\$50
Annual Renewal	\$750

(3-20-20)T

251. -- 299. (RESERVED)

300. INTERNSHIP.

01. Requirements and Conditions for Internship. (3-20-20)T

a. To be eligible for internship the applicant must have completed: (3-20-20)T

i. The educational requirements set forth in Section 54-3310(b), Idaho Code; or (3-20-20)T

ii. Have dentistry experience of three (3) years within the five (5) years immediately preceding application. (3-20-20)T

b. Where an internship is established based on experience, the internship is valid only while the intern is actively pursuing completion of Idaho licensure requirements. (3-20-20)T

c. Application must be made on forms provided by the Division of Occupational and Professional Licenses and must: (3-20-20)T

i. Document the location of practice; (3-20-20)T

ii. Include the name and address of the supervising denturist or dentist; (3-20-20)T

iii. Include a sworn or affirmed statement by the supervising denturist or dentist; (3-20-20)T

iv. Include a sworn or affirmed statement by the supervisor accepting supervision of the intern;

- (3-20-20)T
- v. Include a sworn statement by applicant that he is knowledgeable of law and rules and will abide by all requirements of such law and rules; and (3-20-20)T
- vi. Include such other information necessary to establish applicant's qualifications for licensure as a denturist and establish compliance with pre-intern requirements. (3-20-20)T
- d. The supervising denturist or dentist must be present and directly observe any intern interaction with a patient. (3-20-20)T
- e. Two (2) years of internship under the supervision of a licensed denturist must be completed in not less than twenty-four (24) months and may not exceed thirty (30) months except as approved by the Board. (3-20-20)T
- 02. Internship Equivalency.** A person is considered to have the equivalent of two (2) years internship under a licensed denturist who has met and verifies one (1) of the following within the five (5) years immediately preceding application: (3-20-20)T
- a. Two (2) years internship as a denture lab technician under a licensed dentist; or (3-20-20)T
- b. Two (2) years in the military as a denture lab technician; or (3-20-20)T
- c. Three (3) years experience as a denturist under licensure in another state or Canada. (3-20-20)T
- 03. Internship Not to Exceed One Year.** Internship not to exceed one (1) year acquired through a formal training program in an acceptable school will be accepted toward the two (2) year required internship for licensure. (3-20-20)T
- 04. Training Requirements.** Each year of required internship consists of two thousand (2,000) clock hours of training and performance of the following minimum procedures for licensure. (3-20-20)T
- a. Procedures include all steps required in constructing a finished denture but are not limited to the following: (3-20-20)T
- i. Patient charting -- thirty-six (36) minimum. (3-20-20)T
- ii. Operatory sanitation -- thirty-six (36) minimum. (3-20-20)T
- iii. Oral examination -- thirty-six (36) minimum. (3-20-20)T
- iv. Impressions, preliminary and final (pour models, custom trays) -- thirty-six (36) minimum. (3-20-20)T
- v. Bite registrations -- twelve (12) minimum. (3-20-20)T
- vi. Articulations -- twelve (12) minimum. (3-20-20)T
- vii. Set ups -- twelve (12) minimum. (3-20-20)T
- viii. Try ins -- twelve (12) minimum. (3-20-20)T
- ix. Processing (wax up, flask-boil out, packing, grind-polish) -- thirty-six (36) minimum. (3-20-20)T
- x. Delivery-post adjustment -- thirty-six (36) minimum. (3-20-20)T
- b. Processed relines (one (1) plate = one (1) unit) -- twenty-four (24) units. (3-20-20)T

c. Tooth repairs -- forty-eight (48) minimum. (3-20-20)T

d. Broken or fractured plates or partials -- forty-eight (48) minimum. (3-20-20)T

05. Reporting Requirements. Interns must file reports, attested to by the supervisor, with the Board on forms provided by the Division of Occupational and Professional Licenses on a monthly basis and recapped at termination or completion of the training. (3-20-20)T

06. Denture Clinic Requirements. Denture clinic requirements for approved internship training: (3-20-20)T

a. There may not be more than one (1) internee per licensed denturist or dentist who is practicing at the clinic on a full time basis. (3-20-20)T

b. There must be a separate work station in the laboratory area for each intern with standard equipment, i.e. lathe, torch and storage space. The intern must provide necessary hand tools to perform the duties of the denture profession. Use of the operatory facilities and other equipment will be shared with the intern. (3-20-20)T

07. Internship Supervisor Requirements. (3-20-20)T

a. A supervisor must: (3-20-20)T

i. Be approved in advance by the Board for each internship. (3-20-20)T

ii. Not have been the subject of any disciplinary action by the Board, by the Idaho Board of Dentistry or by any other jurisdiction for five (5) years immediately prior to being approved as the supervisor. (3-20-20)T

b. A supervisor that is a denturist must: (3-20-20)T

i. Hold an Idaho denturist license that is current and in good standing and is renewed as provided in these rules; and (3-20-20)T

ii. Have actively practiced dentistry for at least three (3) of the five (5) years immediately prior to being approved as the supervisor. (3-20-20)T

c. A supervisor that is a dentist must: (3-20-20)T

i. Hold an Idaho dentist license that is current and in good standing and is renewed as provided in Chapter 9, Title 54, Idaho Code; and (3-20-20)T

ii. Have actively practiced general dentistry, or a dental specialty accepted by the Board, for at least three (3) of the five (5) years immediately prior to being approved as a supervisor. (3-20-20)T

d. Supervise only one (1) intern. A supervisor will not be approved to supervise more than one (1) intern at a time. (3-20-20)T

e. Termination of supervisor approval. Approval of the supervisor immediately terminates if the supervisor is disciplined or ceases to meet supervisor requirements. (3-20-20)T

301. -- 314. (RESERVED)

315. INACTIVE LICENSURE STATUS.

01. Request License be Placed on Inactive Status. A dentistry licensee may request the Board that his license be placed upon inactive status. (3-20-20)T

02. License Fee for Inactive Status. A licensee is required to submit an annual renewal fee of fifty dollars (\$50) in order to remain on inactive status. (3-20-20)T

03. While on Inactive Status. A licensee on inactive status may not provide or perform denturist services as defined in these rules. (3-20-20)T

04. Reactivating Inactive License. A licensee on inactive status may reactivate his license to active status by paying the renewal fee for an active license and providing proof they have completed and obtained such continuing education as required by Board rule of not less than twelve (12) hours for each year of inactive licensure. (3-20-20)T

05. License Inactive over Five Years. No license may remain on inactive status for more than five (5) years. (3-20-20)T

316. -- 349. (RESERVED)

350. CONTINUING EDUCATION.

The Board may accredit education programs for purposes of continuing education where the subject matter of the program is determined to be pertinent to the practice of dentistry. (3-20-20)T

01. Subjects. Subjects deemed pertinent to the practice of dentistry are those set forth in Section 54-3311(b), Idaho Code and may also include ethics courses. (3-20-20)T

02. Request for Approval. Requests for approval of continuing education programs must be made to the Board, in writing, and provide an outline of the program which the Board is being asked to approve. The request must also address the matters set forth in Subsection 350.05 below. Requests may accompany the annual renewal form or may be made to the Board in advance of the program for which approval is sought as indicated in Subsection 350.03, below. (3-20-20)T

03. Requests for Pre-Approval. Requests for pre-approval of continuing education programs must be made to the Board, in writing, and provide an outline of the program which the Board is being asked to approve. Requests for pre-approval must also address the matters set forth in Subsection 350.05 below. (3-20-20)T

a. Requests for pre-approval must be received by the Division of Occupational and Professional Licenses no less than eleven (11) working days prior to the date of the program. (3-20-20)T

b. Requests for pre-approval which are not denied within ten (10) working days from receipt by the Division will be deemed approved. (3-20-20)T

c. Only those continuing education programs sponsored by recognized educational institutions (such as accredited colleges or universities), state or national denturist boards or associations, will be eligible for pre-approval consideration by the Board. All other programs will be considered at the time of renewal. (3-20-20)T

04. Credit for Continuing Education Attendance. Continuing education credit will be given only for actual time in attendance by the licensee. No credit will be given for non-instructive time. Correspondence or Home Study courses are not eligible for continuing education credits. (3-20-20)T

05. Requests for Approval of Programs. All requests for approval or pre-approval of educational programs must be accompanied by a statement that includes the name of the instructor or instructors, the date and time and location of the course, the specific agenda for the course, and a statement by the licensee of how the course is believed to be pertinent to the practice of dentistry as specified in Section 54-3311(b), Idaho Code. (3-20-20)T

351. -- 399. (RESERVED)

400. INSPECTIONS.

01. Who May Examine or Inspect. The Board or its agents may examine and inspect the place of

business of any dentist at anytime during business hours or upon at least seventy-two (72) hours notice made by U.S. mail to the address of record of the dentist when the Board or its agents are unable to establish the regular business hours. (3-20-20)T

02. Reason for Inspection. Inspections are made to insure compliance with the Standards of Conduct and practice set forth in Section 450. Deficiencies are a violation of Section 450 and actionable against the dentist under Section 54-3314(c), Idaho Code. (3-20-20)T

401. -- 449. (RESERVED)

450. STANDARDS OF CONDUCT AND PRACTICE.

01. Sanitation. (3-20-20)T

- a. There must be three (3) separate rooms; a reception room, and operatory room and a laboratory. (3-20-20)T
- b. The operatory room must have hot and cold running water, basin with approved disposal system; disinfectant soap; single-use towels, a cuspidor with running water and a closed waste receptacle. (3-20-20)T
- c. The laboratory room must have hot and cold running water, and basin with approved disposal system. (3-20-20)T
- d. There must be a method of sterilization and disinfection evident and in use to insure the protection of the public. (3-20-20)T
- e. All floors, walls, ceiling and benches must be kept in a sanitary condition at all times. (3-20-20)T
- f. Every patient must have a separate and clean bib and a disposable cup. (3-20-20)T
- g. The hands of every dentist must be washed in the presence of every patient with germicidal or antiseptic soap and water. Every dentist must wear disposable gloves. (3-20-20)T
- h. Adequate and conveniently located toilet facilities with hot and cold running water, basin with approved disposal system, soap and single use towels will be provided within the building. (3-20-20)T
- i. All dentist offices are open to inspection anytime during the business hours to inspection by the Board or its agents. (3-20-20)T

02. Office Standards. (3-20-20)T

- a. Dentists must take care to use proper sterilization and sanitation techniques in all phases of their work. (3-20-20)T
- b. A complete record of each patient must be kept. (3-20-20)T
- c. All teeth and materials used must meet ADA standards. (3-20-20)T

03. Advertisements. (3-20-20)T

- a. No dentist may disseminate or cause the dissemination of any advertisement or advertising that is any way fraudulent, false, deceptive or misleading. (3-20-20)T

04. General Conditions. (3-20-20)T

- a. Conditions deemed by investigators to be a menace to the public health will be brought to the attention of the Board for consideration and immediate action. (3-20-20)T

b. These Standards of Conduct and Practice must be conspicuously posted in every licensed dentist's place of business. (3-20-20)T

05. Patient Record. A dentist must record, update and maintain documentation for each patient relevant to health history, clinical examinations and treatment, and financial data. Documentation must be written or computerized. Records must be maintained in compliance with any applicable state and federal laws, rules and regulations, including the health insurance portability and accountability act (HIPAA), P.L. 104-191 (1996), and the health information technology for economic and clinical health act (HITECH), P.L. 111-115 (2009). Such records must be accessible to other providers and to the patient in accordance with applicable laws, rules and regulations. Records must include, but are not limited to, the following: (3-20-20)T

- a.** Patient data, including name, address, date and description of examination; (3-20-20)T
- b.** Evidence of informed consent; (3-20-20)T
- c.** Date and description of treatment, services rendered, and any complications; (3-20-20)T
- d.** Health history as applicable; and (3-20-20)T
- e.** Any other information deemed appropriate to patient care. (3-20-20)T

06. Record Retention. Patient documentation, written or archived electronically by computer, must be retained for a minimum of seven (7) years and available upon request by the Board. (3-20-20)T

451. -- 474. (RESERVED)

475. REGISTRATION STATEMENT.

To enable the Board to examine or inspect the place of business of any licensed dentist as referred to in Section 54-3314(5)(b), Idaho Code, the filing of an annual statement is required of all licensed denturists. (3-20-20)T

01. Statement. must list the name and principal place of business of the dentist who is responsible for the practice of dentistry at that location. (3-20-20)T

02. Other Business Locations. Any other business locations maintained by the principal dentist and all denturists employed at the business. (3-20-20)T

03. Date of Filing. must be filed with the Board annually or within ten (10) days of any change in either location, identity of principal dentist or dentist employees. (3-20-20)T

04. Failure to Timely File. Failure to timely file or update this statement will constitute grounds for discipline pursuant to Section 54-3314(a), Idaho Code. (3-20-20)T

476. GUARANTEE OF DENTURIST SERVICES.

As prescribed in Section 54-3320(c), Idaho Code, unconditional guarantee of dentist services will require that the licensee refund, in full, any monies received in connection with the providing of dentist services, if demanded by the purchaser within ninety (90) days of delivery of the dentures, or the providing of services for which a fee is charged. (3-20-20)T

01. Ninety Day Period. The ninety (90) day period will be tolled for any period in which the dentist has taken possession or control of the dentures after original delivery. (3-20-20)T

02. Written Contract. By written contract signed by the purchaser, the dentist may specify the amount of the purchase price of the dentures, if any, that is nonrefundable should the consumer choose to cancel the purchase within the guarantee period. (3-20-20)T

03. Nonrefundable Amount. Under no circumstances will the nonrefundable amount exceed twenty-

five percent (25%) of the total purchase price of the dentures. (3-20-20)T

04. Limitation. There is no limitation on the consumer's right to cancel. (3-20-20)T

05. Cancellation of Agreement. If the licensee elects to cancel the agreement or refuses to provide adjustments or other appropriate services to the consumer, the consumer will be entitled to a complete refund. (3-20-20)T

477. -- 479. (RESERVED)

480. DISCIPLINE.

01. Civil Fine. The Board may impose a civil fine not to exceed one thousand dollars (\$1,000) upon a licensed dentist for each violation of Section 54-3314(a), Idaho Code. (3-20-20)T

02. Costs and Fees. The Board may order a licensed dentist to pay the costs and fees incurred by the Board in the investigation or prosecution of the licensee for violation of Section 54-3314(a), Idaho Code. (3-20-20)T

481. -- 999. (RESERVED)