

Dear Senators VANORDEN, Wintrow, and
Representatives VANDER WOUDE, Erickson, Rubel:

The Legislative Services Office, Research and Legislation, has received the enclosed rules of the Division of Occupational and Professional Licenses - Board of Examiners of Residential Care Facility Administrators:

IDAPA 24.19.01 - Rules of the Board of Examiners of Residential Care Facility Administrators (ZBR Chapter Rewrite, Fee Rule) - Proposed Rule (Docket No. 24-1901-2401).

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 08/22/2024. 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 09/19/2024.

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.



Terri Kondeff
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: Division Manager - Matt Drake

DATE: August 6, 2024

SUBJECT: Division of Occupational and Professional Licenses - Board of Examiners of Residential Care Facility Administrators

IDAPA 24.19.01 - Rules of the Board of Examiners of Residential Care Facility Administrators (ZBR Chapter Rewrite, Fee Rule) - Proposed Rule (Docket No. 24-1901-2401)

Summary and Stated Reasons for the Rule

The Division of Occupational and Professional Licenses - Idaho State Board of Examiners of Residential Care Facility Administrators submits notice of proposed rulemaking at Docket No. 24-1901-2401. The Division notes that this is a Zero-Based Regulation ("ZBR") Chapter rewrite pursuant to Executive Order 2020-01. Accordingly, the Division states that this rulemaking is intended to streamline and simplify existing rules that were previously submitted to and reviewed by the Legislature. The Division also states that the rulemaking reflects a comprehensive review of the chapter in collaboration with the public to streamline the rules, use plain language, and to update the rules to comply with statute.

The proposed rules increase the application, annual renewal, and provisional permit fees from \$150 to \$200. The Division states that these increases are in response to a decreasing overall cash balance.

Negotiated Rulemaking / Fiscal Impact

Negotiated rulemaking was conducted. The rulemaking is not anticipated to have a negative fiscal impact on the state General Fund. The Division projects an increase of approximately \$26,250 in dedicated funds for the Board of Examiners of Residential Care Facility Administrators.

Statutory Authority

The rulemaking appears to be authorized pursuant to sections 54-4205, 54-4209, 67-2614, and 67-9409, Idaho Code.

cc: Division of Occupational and Professional Licenses - Board of Examiners of Residential Care Facility Administrators
Krissy Veseth

Paul Headlee, Deputy Director Matt Drake, Manager Keith Bybee, Manager April Renfro, Manager Norma Clark, Manager
Legislative Services Office Research & Legislation Budget & Policy Analysis Legislative Audits Information Technology

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Boise, Idaho 83720-0054

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***** 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 – DIVISION OF OCCUPATIONAL AND PROFESSIONAL LICENSES

24.19.01 – RULES OF THE BOARD OF EXAMINERS OF RESIDENTIAL CARE FACILITY ADMINISTRATORS

DOCKET NO. 24-1901-2401 (ZBR CHAPTER REWRITE, FEE RULE)

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. This rulemaking action is authorized pursuant to Section 67-2604, Idaho Code, Sections 67-9404, 67-9405, 67-9406, 67-9409, and 67-9413, Idaho Code, and Sections 54-4201 through 54-4216, Idaho Code.

PUBLIC HEARING SCHEDULE: The public hearing concerning this rulemaking will be held as follows:

<p>24.19.01 – Rules of the Board of Examiners of Residential Care Facility Administrators</p>
<p>Tuesday, July 16, 2024 – 9:00 a.m. (MT) Division of Occupational and Professional Licenses Coolwater Room, Chinden Campus Building 4 11341 W. Chinden Blvd. Boise, ID 83714</p> <p>Virtual Meeting Link</p> <p>Telephone and web conferencing information will be posted on https://dopl.idaho.gov/calendar/ and https://townhall.idaho.gov/.</p>

The hearing site will be accessible to persons with disabilities, if needed. Requests for accommodation must be made not later than five (5) days prior to the meeting to the agency address below.

DESCRIPTIVE SUMMARY AND STATEMENT OF PURPOSE: The following is a nontechnical explanation of the substance and purpose of the proposed rulemaking:

Under [Executive Order 2020-01, Zero-Based Regulation](#), the Idaho State Board of Examiners of Residential Care Facility Administrators is striving to prevent the accumulation of costly, ineffective, and outdated regulations and reduce regulatory burden to achieve a more efficient operation of government. In conjunction with stakeholders, the proposed rule changes reflect a comprehensive review of this chapter by collaborating with the public to streamline or simplify the rule language in this chapter and to use plain language for better understanding. This proposed rulemaking updates the rules to comply with governing statute and Executive Order 2020-01.

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

The application fee, annual renewal fee, provisional permit fee, and reissuance of lost license fee has been increased from \$150 to \$200.

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 as a result of this rulemaking:

This rulemaking is not anticipated to have any negative fiscal impact on the state General Fund.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220, Idaho Code, negotiated rulemaking was conducted under Docket No. 24-ZBRR-2401-2401. The Omnibus Notice of Intent to Promulgate Rules - Negotiated Rulemaking was published in the April 3, 2024, Idaho Administrative Bulletin, [Vol. 24-4, p.42](#).

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:

The American College of Health Care Administrators (ACHA) Code of Ethics was incorporated by reference in the administrative rules effective March 28, 2023. That incorporation by reference remains in these proposed rules.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS, OBTAINING DRAFT COPIES: For assistance on technical questions concerning this proposed rule, contact Krissy Veseth, Bureau Chief, at (208) 577-2491. Materials pertaining to the proposed rulemaking, including any available preliminary rule drafts, can be found on the following DOPL website: <https://dopl.idaho.gov/rulemaking/>.

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 July 24, 2024.

DATED this 7th day of June, 2024.

Krissy Veseth
Bureau Chief
11341 W. Chinden Blvd., Bldg. #4
Boise, ID 83714
Phone: (208) 577-2491
Email: krissy.veseth@dopl.idaho.gov

THE FOLLOWING IS THE PROPOSED TEXT OF FEE DOCKET NO. 24-1901-2401
(ZBR Chapter Rewrite.)

24.19.01 – RULES OF THE BOARD OF EXAMINERS
OF RESIDENTIAL CARE FACILITY ADMINISTRATORS

000. LEGAL AUTHORITY.

These rules are promulgated pursuant to Section 54-4205, Idaho Code. (3-28-23)

001. SCOPE.

These rules govern the practice of residential care facility administration in Idaho. (3-28-23)

002. – 003. (RESERVED)

004. INCORPORATION BY REFERENCE.

The document titled “ACHCA Code of Ethics,” published by the American College of Health Care Administrators (ACHCA), ~~current as of May, 2024, as referenced in Section 650,~~ is herein adopted and incorporated by reference and is available from the Board’s office and on the Board web site. (3-28-23)()

005. -- 099. (RESERVED)

100. APPLICATIONS LICENSURE.

01. Applications. Applications will be on forms approved by the Board. No application will be considered for any action unless accompanied by the appropriate fees and until the required supporting

documentation is received by the Division. ~~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 thirty (30) days written notice, unless good cause is established to the Board.~~

~~(3-28-23)()~~

02. Qualifications for Administrator License. To be granted an Administrator License the applicant must: ()

a. Submit a criminal background check by an entity approved by the Board; ()

b. Document completion of a specialized course or program of study as set forth in Subsection 150 of these rules; ()

c. Submit proof that the applicant has passed the Residential Care Facility Administrators examination developed and administered by the National Association of Boards of Examiners of Long Term Care Administrators (NAB), or other examinations as approved by the Board; and ()

d. Any applicant holding a Health Services Executive (HSE) credential issued by NAB has met all educational and training requirements for licensure in Idaho. ()

03. Nursing Home Administrator Qualifications for License. Applicants must take and pass the Board-approved residential care administrator examination. This requirement may be waived if the applicant submits evidence satisfactory to the Board showing at least one (1) year of leadership or management experience working in a residential care facility or nursing home facility within the five (5) years preceding the application. ()

101. CONTINUING EDUCATION.

01. Educational Requirements. In order to qualify as continuing education, a seminar or course of study must be sponsored by accredited universities or colleges, State or National health related associations, and/or approved by NCERS (National Continuing Education Review Service), or as otherwise approved by the Board. ()

02. Renewal of License. Applicants for renewal of license are required to complete, in a twenty-four (24) month renewal cycle, twelve (12) job-related continuing education hours relevant to residential care administration. ()

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 will provide any information requested by the Board to assist in substantiating hardship cases. This waiver is granted at the sole discretion of the Board. ()

~~104~~2. -- 149. (RESERVED)

~~150. QUALIFICATIONS FOR ADMINISTRATOR LICENSE.~~

~~Each applicant for an administrator's license must submit proof, along with their application, that said individual is at least twenty-one (21) years of age and meets all the following qualifications for the issuance of a license: (3-28-23)~~

~~**01. Criminal Background Check.** The applicant must submit a criminal background check by an entity approved by the Board establishing that the applicant has not been convicted, pled guilty or nolo contendere or received a withheld judgment for a felony or any crime involving dishonesty or the health or safety of a person. (3-28-23)~~

~~**02. Education and Experience.** The applicant must document one (1) of the combinations of education and experience in accordance with Section 54-4206, Idaho Code, and Subsection 400 of these rules. (3-28-23)~~

~~**03. Coursework.** The applicant must document completion of a specialized course or program of study~~

~~as set forth in Subsection 400 of these rules. (3-28-23)~~

~~**04. Examination.** The applicant must submit proof of successful passage of a relevant examination as approved by the Board and defined in Subsection 300 of these rules. (3-28-23)~~

~~**151.—159. (RESERVED)**~~

~~**160. NURSING HOME ADMINISTRATOR QUALIFICATIONS FOR LICENSE.**~~

~~Any applicant who holds a valid Idaho nursing home administrator license must meet the requirements provided in Section 54-4211(2), Idaho Code, and must take and pass the Board approved residential care administrator examination. This requirement may be waived if the applicant submits evidence satisfactory to the Board that he has at least one (1) year of leadership or management experience working in a residential care facility or nursing home facility within the five (5) years preceding the application. (3-28-23)~~

~~**161.—299. (RESERVED)**~~

~~**300. EXAMINATIONS.**~~

~~**01. Examination.** The Board approves the following examinations for licensure: (3-28-23)~~

~~**a.** The Residential Care Facility Administrators examination developed and administered by the National Association of Boards of Examiners of Long Term Care Administrators (NAB) and an open book examination of law and rules governing residential care administrators in Idaho. The passing score for the NAB examination is determined by NAB. An applicant for examination is required to register with NAB and pay any required examination fees directly to NAB. The passing score for the open book examination is seventy five percent (75%). (3-28-23)~~

~~**b.** Other examinations as approved by the Board. (3-28-23)~~

~~**301.—399. (RESERVED)**~~

~~**400**~~**150. EDUCATIONAL AND TRAINING REQUIREMENTS.**

~~**01. Approved Course.** (3-28-23)~~

~~**a.** The Certification Program for Residential Care Facility Administrators course, administered by the Idaho Health Care Association (IHCA), ~~Idaho Center for Assisted Living (ICAL), are~~ is the approved courses of study to qualify for licensure. (3-28-23)()~~

~~**b.** ~~Any Certification Program for Residential Care Facility Administrators provided by a state or national Residential Care Facility Administrator organization or a nationally or regionally accredited college or university must be an approved course of study to qualify for licensure.~~ (3-28-23)~~

~~**02. Approval of Other Courses.** Applicants may, in lieu of completion of the Certification Program for Residential Care Facility Administrators, submit official documentation of successful completion of relevant courses. These courses must be approved by the Board before equivalency will be given. (3-28-23)~~

~~**151. -- 299. (RESERVED)**~~

~~**300. DISCIPLINE.**~~

~~**01. Costs and Fees.** The Board may order a licensed residential care facility administrator to pay the costs and fees incurred by the Board in the investigation or prosecution of the licensee for violation of Section 54-4213(1), Idaho Code. ()~~

~~**401. CONTINUING EDUCATION.**~~

~~01. **Minimum Hours Required.** Applicants for annual renewal or reinstatement are required to complete a minimum of twelve (12) hours of continuing education courses within the preceding twelve month (12) period. Basic First Aid, Cardio-Pulmonary Resuscitation, medication assistance, or fire safety courses will not be considered for continuing education credit. (3-28-23)~~

~~02. **Course Approval.** Courses of study relevant to residential care facility administration and sponsored or provided by the following entities or organizations are approved for continuing education credits: (3-28-23)~~

- ~~a. Accredited colleges or universities. (3-28-23)~~
- ~~b. Federal, state or local government entities. (3-28-23)~~
- ~~c. National or state associations. (3-28-23)~~
- ~~d. Otherwise approved by the Board based upon documentation submitted by the licensee or course provider reviewing the nature and subject of the course and its relevancy to residential care administration, name of instructor(s) and their qualifications, date, time and location of the course and procedures for verification of attendance. (3-28-23)~~

~~03. **Credit.** Continuing education credit will only be given for actual time in attendance or for the time spent participating in the educational activity. One (1) hour of continuing education is equal to sixty (60) minutes. Courses taken by correspondence or by computer on line may be approved for continuing education if the courses require an exam or other proof of successful completion. Each licensee must maintain proof of attendance or successful completion documentation of all continuing education courses for a period of three (3) years. (3-28-23)~~

~~04. **Special Exemption.** The Board has authority to make exceptions for reasons of individual hardship, including health, when certified by a medical doctor, or other good cause. The licensee must provide any information requested by the Board to assist in substantiating hardship cases. This exemption is granted at the sole discretion of the Board. (3-28-23)~~

~~402. — 449. (RESERVED)~~

~~450. **SCOPE OF PRACTICE.**~~

~~A residential care facility administrator must possess the education, training, and experience necessary to insure that appropriate services and care are provided for each facility resident within any facility under the licensee's administration. Information contained within the application together with supporting documentation maintained by the licensee is prima facie evidence of the licensee's education and experience. It is the responsibility of the individual licensee to maintain adequate documentation of education and experience appropriate to the planning, organizing, directing and control of the operation of a residential care facility. (3-28-23)~~

~~451-301. -- 599-399.(RESERVED)~~

~~600-400. FEES.~~

FEE TYPE	AMOUNT (Not to Exceed)
Application	\$ 150 <u>200</u>
Annual Renewal	\$ 150 <u>200</u>
Provisional Permit	\$ 150 <u>200</u>
Reissuance of Lost License	\$10
Reinstatement	As provided in Section 67-2614, Idaho Code

~~(3-28-23)()~~

~~601-401.~~ -- ~~649-999.~~(RESERVED)

~~650.~~ **DISCIPLINE.**

~~01. **Civil Fine.** The Board may impose a civil fine not to exceed one thousand dollars (\$1,000) upon a licensed residential care facility administrator for each violation of Section 54-4213(1), Idaho Code. (3-28-23)~~

~~02. **Costs and Fees.** The Board may order a licensed residential care facility administrator to pay the costs and fees incurred by the Board in the investigation or prosecution of the licensee for violation of Section 54-4213(1), Idaho Code. (3-28-23)~~

~~03. **Code of Ethics.** The Board has adopted (ACHCA) Code of Ethics. Violations of the code of ethics is considered grounds for disciplinary action. (3-28-23)~~

~~651.—999.~~ **(RESERVED)**

PROPOSED RULE COST/BENEFIT ANALYSIS

Section 67-5223(3), Idaho Code, requires the preparation of an economic impact statement for all proposed rules imposing or increasing fees or charges. This cost/benefit analysis, which must be filed with the proposed rule, must include the reasonably estimated costs to the agency to implement the rule and the reasonably estimated costs to be borne by citizens, or the private sector, or both.

Department or Agency: Idaho Division of Occupational and Professional Licenses

Agency Contact: Krissy Veseth **Phone:** 208-577-2491

Date: June 7, 2024

IDAPA, Chapter and Title Number and Chapter Name:

IDAPA 24.19.01 - Rules of the Board of Examiners of Residential Care Facility Administrators

Fee Rule Status: X Proposed _____ Temporary

Rulemaking Docket Number: 24-1901-2401

STATEMENT OF ECONOMIC IMPACT:

The proposed rules increase the application, annual renewal, and provisional permit fees from \$150 to \$200 pursuant to 54-4205(1)(g), Idaho Code. These fees are proposed to be increased in response to the board's decreasing overall cash balance. Currently, the board has a negative cash balance when comparing revenue to expenditures. These proposed fees will cost residential care facility administrator applicants and licensees an additional \$50 for initial licensure and renewals and an additional \$50 for those applying for a provisional permit.

By May of Fiscal Year 2024, the board had 447 active licenses, 78 applications, and 74 issuances of licenses. If these proposed fees are approved, the division projects an increase of approximately \$26,250 in dedicated funds for the board.