

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 - Medicine, Board of:

IDAPA 24.33.01 - Rules of the Board of Medicine for the Practice of Medicine and Osteopathic  
Medicine in Idaho (ZBR Chapter Rewrite, Fee Rule) - Proposed Rule (Docket No.  
24-3301-2401).

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 08/23/2024. 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 09/20/2024.

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 7, 2024

**SUBJECT:** Division of Occupational and Professional Licenses - Medicine, Board of

IDAPA 24.33.01 - Rules of the Board of Medicine for the Practice of Medicine and Osteopathic Medicine in Idaho (ZBR Chapter Rewrite, Fee Rule) - Proposed Rule (Docket No. 24-3301-2401)

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

The Division of Occupational and Professional Licenses - Idaho State Board of Medicine submits notice of proposed rulemaking at Docket No. 24-3301-2401. 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 rulemaking creates a new three-year provisional license for international physicians pursuant to HB 542a (2024) as well as a single-year license for bridge year physicians pursuant to HB 062 (2023). Accordingly, the proposed rulemaking imposes new fees of up to \$300 for each of these new license types.

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

Negotiated rulemaking was conducted. The rulemaking is not anticipated to have any negative fiscal impact. The Division states that the estimated positive impact to the Division's dedicated funds will be unknown until a specified fee amount for the provisional license of international physicians is set and data related to the number of current and projected international and bridge year physicians the state will license on an annual basis is gathered.

#### **Statutory Authority**

This rulemaking appears to be authorized pursuant to sections 54-1806, 54-1807, 54-1812, 54-1813, 54-1867, and 67-2614, Idaho Code.

cc: Division of Occupational and Professional Licenses - Medicine, Board of  
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

Statehouse, P.O. Box 83720  
Boise, Idaho 83720-0054

Tel: 208-334-2475  
legislature.idaho.gov

**\*\*\* 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**

## **24.33.01 – RULES OF THE BOARD OF MEDICINE FOR THE PRACTICE OF MEDICINE AND OSTEOPATHIC MEDICINE IN IDAHO**

**DOCKET NO. 24-3301-2401 (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, and Sections 6-1002, 54-1806, 54-1806A, 54-1807, 54-1812, 54-1813, 54-1814, 54-1841, 54-1867, 67-2614, 67-9406 and 67-9409, Idaho Code.

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

<p><b>24.33.01 – Rules of the Board of Medicine for the Practice of Medicine and Osteopathic Medicine in Idaho</b></p>
<p><b>Monday, July 15, 2024 – 3:00 p.m. (MT)</b> <b>Division of Occupational and Professional Licenses</b> <b>Chinden Campus Building 4</b> <b>11341 W. Chinden Blvd.</b> <b>Boise, ID 83714</b></p> <p><b>Virtual Meeting Link</b></p> <p>Telephone and web conferencing information will be posted on <a href="https://dopl.idaho.gov/calendar/">https://dopl.idaho.gov/calendar/</a> and <a href="https://townhall.idaho.gov/">https://townhall.idaho.gov/</a>.</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 Medicine 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. It also amended the rules in response to recent statutes passed by the Idaho legislature: H0542a (2024) and H0062 (2023).

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

The proposed rules create new license types of a three-year provisional license for international physicians, pursuant to H0542a (2024), and a single-year license for bridge year physicians, pursuant to H0062 (2023), and impose new fees of up to \$300 for each license type, consistent with the statutes.

**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. The Omnibus Notice of Intent to Promulgate Rules - Negotiated Rulemaking was published in the April 3, 2024, Idaho Administrative Bulletin, [Vol. 24-4, p.43](#).

**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. No materials have been incorporated by reference into the 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](mailto:krissy.veseth@dopl.idaho.gov)

**THE FOLLOWING IS THE PROPOSED TEXT OF FEE DOCKET NO. 24-3301-2401**  
**(ZBR Chapter Rewrite.)**

**24.33.01 – RULES OF THE BOARD OF MEDICINE FOR THE LICENSURE TO PRACTICE OF**  
**MEDICINE AND OSTEOPATHIC MEDICINE IN IDAHO**

**000. LEGAL AUTHORITY.**

These rules are promulgated pursuant to Sections 6-1002, 54-1806(2), ~~54-1806(4)~~, ~~54-1806(11)~~, 54-1806A, 54-1807, 54-1812, 54-1813, 54-1814, ~~and~~ 54-1841, and 54-1867 Idaho Code. ~~(3-28-23)( )~~

**001. SCOPE.**

These rules govern the ~~licensure to~~ practice of medicine and osteopathic medicine in Idaho. Nothing in this rule chapter authorizes the practice of medicine or any of its branches by a person not so licensed by the Board. ~~(3-28-23)( )~~

~~002. — 009.~~ **(RESERVED)**

~~010~~02. **DEFINITIONS.**

**01. Ablative. The separation, eradication, removal, or destruction of human tissue. ( )**

**02. Acceptable International School of Medicine. An international medical school located outside the United States or Canada that meets the standards for medical educational facilities set forth in Subsection ~~051~~**

~~100.~~02 and is accredited by the ECFMG. (3-28-23)( )

~~02.~~ **Medical Practice Act.** Title 54, Chapter 18, Idaho Code. (3-28-23)

~~242.~~ **DEFINITIONS RELATED TO INTERNS AND RESIDENTS.**

~~043.~~ **Acceptable Intern or Resident Training Program.** A medical training program or course of medical study that has been approved by the LCME, Council on Medical Education or COCA of the AOA. (3-28-23)( )

~~024.~~ **Acceptable Postgraduate Training Program.** A post graduate medical training program or course of medical study that has been approved by the ACGME or AOA. (3-28-23)( )

~~151.~~ **DEFINITIONS RELATING TO SUPERVISING AND DIRECTING PHYSICIANS.**

~~01.~~ **Athletic Trainer.** A person who has met the qualifications for licensure as set forth in Title 54, Chapter 39, Idaho Code, is licensed under that chapter, and carries out the practice of athletic training under the direction of a designated Idaho licensed physician, registered with the Board. (3-28-23)

~~05.~~ **Cosmetic Treatment.** An aesthetic treatment prescribed by a physician for a patient that uses prescriptive medical/cosmetic devices or products to penetrate or alter human tissue. ( )

~~026.~~ **Directing Physician.** A designated Idaho licensed physician, registered with the Board pursuant to this chapter and Title 54, Chapter 39, Idaho Code, who oversees the practice of athletic training and is responsible for the athletic training services provided by the athletic trainer. ~~This chapter does not authorize the practice of medicine or any of its branches by a person not so licensed by the Board.~~ (3-28-23)( )

~~07.~~ **Incisive.** The power and quality of cutting of human tissue. ( )

~~038.~~ **Medical Personnel.** An individual who, under the direction and supervision of a supervising physician, pursuant to the applicable Idaho statutes and the applicable rules promulgated by the Board, provides cosmetic treatments using prescriptive medical/cosmetic devices and products that are exclusively non-incisive or non-ablative under the direction and supervision of a supervising physician, pursuant to the applicable Idaho statutes and the applicable rules promulgated by the Board to patients. (7-1-24)( )

~~09.~~ **Parenteral Admixture.** A preparation of sterile products intended for administration by injection. ( )

~~10.~~ **Prescriptive Medical/Cosmetic Device.** An FDA-approved prescriptive device that uses waveform energy including, but not limited to, intense pulsed light or lasers, to cosmetically alter human tissue. ( )

~~11.~~ **Prescriptive Medical/Cosmetic Product.** An FDA-approved prescriptive product whose primary intended use of the product is achieved through chemical action and cosmetically alters human tissue including, but not limited to, filler substances such as collagen or fat; lipo transfer; muscle immobilizers or sclerosing agents. ( )

~~0412.~~ **Supervising Physician of Interns or Residents.** Any person approved by the Board who is licensed to practice medicine and surgery or osteopathic medicine and surgery in Idaho, who signs the application for registration of an intern or resident, and who is responsible for the direction and supervision of their activities. (7-1-24)

~~0513.~~ **Supervising Physician of Medical Personnel.** An Idaho licensed physician who supervises and has full responsibility for ~~cosmetic treatments using prescriptive medical/cosmetic devices and products~~ provided by medical personnel. (7-1-24)( )

~~04103.~~ **ABBREVIATIONS.**

- 01. ACGME. Accreditation Council for Graduate Medical Education. (3-28-23)
- 02. AOA. American Osteopathic Association. (3-28-23)
- 03. COCA. Commission on Osteopathic College Accreditation. (3-28-23)
- 04. ECFMG. Educational Commission for Foreign Medical Graduates. (3-28-23)
- 05. FAIMER. Foundation for Advancement of International Medical Education. (3-28-23)
- ~~06.~~ FDA. United States Food and Drug Administration. ( )
- ~~067.~~ FSMB. Federation of State Medical Boards. (3-28-23)
- ~~078.~~ LCME. Liaison Committee on Medical Education. (3-28-23)
- ~~089.~~ USMLE. United States Medical Licensing Exam. (3-28-23)
- ~~0910.~~ WFME. World Federation for Medical Education. (3-28-23)

~~01204.~~ -- ~~04999.~~ (RESERVED)

**100. LICENSURE.**

**05001. General Qualifications for Licensure and Renewal.** ( )

~~Requirements for licensure and renewal are found in Title 54, Chapter 18, Idaho Code, IDAPA 24.33.03, and on Board approved forms.~~ (3-28-23)

~~01. Additional Circumstances. The Board may require further inquiry when in its judgment the need is apparent as outlined in Board policy.~~ (3-28-23)

a. Residence. No period of residence in Idaho is required of any applicant, however, each applicant for licensure must be legally able to work and live in the United States. Original documentation of lawful presence in the United States must be provided upon request. The Board may refuse licensure or to renew a license if the applicant is not lawfully present in the United States. ( )

02b. Special Purpose Examination. Upon inquiry, if further examination is required, the Board may require passage of the Special Purpose Examination (SPEX) administered by the FSMB, a post licensure assessment conducted by the FSMB, or an evaluation by an independent agency accepted by the Board to evaluate physician competence. (3-28-23)

03c. Board Determinations. ~~Where~~ When the Board deems necessary, it may limit, condition, or restrict a newly issued license based on the Board's determination and the recommendation of the assessment or evaluation. (3-28-23)( )

04d. Postgraduate Training Program. Successful completion of one year of a medical residency or internship program constitutes successful completion of a postgraduate training program acceptable to the Board. (3-28-23)

**05102. Licensure for Graduates of International Medical Schools Located Outside of the United States and Canada.** ( )

01a. International Medical Graduate. In addition to meeting the ~~requirements of Section 050 General Qualifications for Licensure and Renewal~~, graduates of international medical schools located outside of the United States and Canada, who do not meet the requirements set forth in Section 54-1812, Idaho Code, must submit to the Board: (3-28-23)( )

~~a.i.~~ Original certificate from the ECFMG or original documentation that the applicant has passed the examination either administered or recognized by the ECFMG and passed an examination acceptable to the Board that demonstrates qualification for licensure or successfully completed the USMLE; (3-28-23)

~~b.ii.~~ Original documentation directly from the international medical school that establishes the satisfaction of the Board that the international medical school meets the standards for medical educational facilities set forth in Subsection ~~051.02~~ 100.02.b. of this Rule; (~~3-28-23~~)(    )

~~e.iii.~~ A transcript from the international medical school showing successful completion of all the courses taken and grades received and original documentation of successful completion of all clinical coursework; and (3-28-23)

~~d.iv.~~ Original documentation of successful completion of two (2) years of progressive postgraduate training at one (1) training program accredited for internship, residency, or fellowship training by the ACGME, AOA or the Royal College of Physicians and Surgeons of Canada or its successor organization, provided however, a resident who is attending an Idaho based residency program may be licensed after successful completion of one (1) years of progressive post graduate training, if the following conditions are met: (3-28-23)

~~i.(1)~~ Written approval of the residency program director; (3-28-23)

~~ii.(2)~~ Signed written contract with the Idaho residency program to complete the entire residency program; (3-28-23)

~~iii.(3)~~ Remained in good standing at the Idaho-based residency program; (3-28-23)

~~iv.(4)~~ Notified the Board within thirty (30) days if there is a change in circumstances or affiliation with the program; and (3-28-23)

~~v.(5)~~ Received an MD or DO degree from an approved school that is eligible for Idaho licensure after graduation. (~~3-28-23~~)(    )

~~02b.~~ International Medical School Requirements. An international medical school must be listed in the World Directory of Medical Schools, a joint venture of WFME and FAIMER. Graduates of schools not listed in WFME or FAIMER must submit to the Board original documentation of three (3) of the four (4) requirements listed below: (3-28-23)

~~a.i.~~ A valid ECFMG Certificate. (3-28-23)

~~b.ii.~~ Successful completion of three (3) years of progressive post graduate training at one (1) training program accredited for internship, residency or fellowship training in an ACGME or AOA or Royal College of Physicians and Surgeons of Canada or its successor organization's approved program. (3-28-23)

~~e.iii.~~ Current board certification by a specialty board approved by the American Board of Medical Specialties or the AOA. (3-28-23)

~~d.iv.~~ Evidence of five (5) years of unrestricted practice as a licensee of any United States or Canadian jurisdiction. (3-28-23)

~~24303.~~ **Temporary Registration.** (    )

~~04a.~~ Eligibility. Any person ~~identified in Section 54-1813(2), Idaho Code~~ practicing under the supervision of an Idaho-licensed physician as part of a postgraduate medical training program. (~~7-1-24~~)(    )

~~02b.~~ Registration Certificate. Each registration will be issued for a period of one (1) year and will identify the supervising physician. Each registrant will notify the Board in writing of any change of the supervising physician or the program or course of study fourteen (14) days prior to any such change. If the Board deems the



applicant qualified, and if the course of study requires, the Board may additionally certify on the registration certificate that the registrant is qualified to write prescriptions for Class III through Class V scheduled medications. (7-1-24)

**03c.** Discipline. Registrations may be terminated, suspended, or made conditional by the Board on the grounds set forth in Section 54-1814, Idaho Code. (7-1-24)

**04d.** Annual Renewal. Registration may be renewed annually and, if not renewed by the expiration date, will be canceled. (7-1-24)

**05e.** Notification of Changes. Registrants must notify the Board in writing of any adverse action or termination, whatever the outcome, from any post graduate training program and any name changes within fourteen (14) days of such event. (7-1-24)

**06f.** Disclosure. A registrant must ensure patients are informed that the registrant is currently enrolled in a post graduate training program and working under the supervision of a licensed physician. (7-1-24)

~~052. -- 078.~~ (RESERVED)

~~079~~**04.** Continuing Medical Education (CME) ~~Required~~ **Requirements.** ( )

~~01a.~~ Renewal. ~~Each person licensed to practice medicine and surgery or osteopathic medicine or surgery in Idaho shall complete no less than forty (40) hours of practice relevant, Category 1, CME every two (2) years.~~ (3-28-23)

~~02.~~ **Verification of Compliance.** Licensees will, at Prior to license renewal, each licensee shall provide an attestation to the Board indicating compliance. The Board, in its discretion, may require such additional evidence as is necessary to verify compliance. that they have either: (3-28-23)( )

i. Completed no less than forty (40) hours of practice-relevant CME during the prior two (2) years; ( )

~~03ii.~~ **Alternate Compliance.** ~~The Board may accept~~ Maintained current board certification ~~or recertification by a member of from~~ the American Board of Medical Specialties, the AOA, or the Royal College of Physicians and Surgeons of Canada or its successor organization; or ( )

~~iii.~~ ~~in lieu of compliance with continuing education requirements during the cycle in which the certification or recertification is granted. The Board may also grant an exemption for~~ Participated full time ~~participation~~ in a residency or fellowship training program at a professionally accredited institution. (3-28-23)( )

~~b.~~ **Verification of Compliance.** The Board, in its discretion, may require such additional evidence as is necessary to verify compliance. ( )

~~04.~~ **Penalties for Noncompliance.** ~~The Board may condition, limit, suspend, or refuse to renew the license of any person whom the Board determines has failed to comply with the continuing education requirements of this chapter.~~ (3-28-23)

~~101. -- 150~~**99.** (RESERVED)

**200.** **PRACTICE STANDARDS.**

~~162~~**01.** Duties of Collaborating Physicians. ( )

**01a.** Responsibilities. A collaborating physician is responsible for complying with the requirements set forth in Title 54, Chapter 18 and IDAPA 24.33.02 when collaborating and consulting in the medical services provided by any physician assistant or graduate physician assistant either through a collaborative practice agreement or through the facility bylaws or procedures of any facility with credentialing and privileging systems. (3-28-23)

**~~161~~02. Duties ~~O~~of Directing Physicians. ( )**

**~~01~~a.** Responsibilities. The directing physician accepts full responsibility for the acts and athletic training services provided by the athletic trainer and oversees the practice of athletic training of the athletic trainer, and for the supervision of such acts which include, but are not limited to: (3-28-23)

**~~a~~i.** An on-site visit at least semiannually to personally observe the quality of athletic training services provided; and (3-28-23)

**~~b~~ii.** Recording of a periodic review of a representative sample of the records, including, but not limited to, records made from the past six (6) months of the review to evaluate the athletic training services that were provided. (3-28-23)

**~~02~~b.** Scope of Practice. The directing physician must ensure the scope of practice of the athletic trainer, as set forth in IDAPA 24.33.05, and Section 54-3903, Idaho Code, will be limited to and consistent with the scope of practice of the directing physician and exclude any independent practice of athletic training by an athletic trainer. (3-28-23)

**~~03~~c.** Directing Responsibility. The responsibilities and duties of a directing physician may not be transferred to a business entity, professional corporation, or partnership, nor may they be assigned to another physician without prior notification and Board approval. (3-28-23)

**~~04~~d.** Available Supervision. The directing physician will oversee the activities of the athletic trainer and must be available either in person or by telephone to supervise, direct, and counsel the athletic trainer. The scope and nature of the direction of the athletic trainer will be outlined in an athletic training service plan or protocol, as set forth in IDAPA 24.33.05. (3-28-23)

**~~05~~e.** Disclosure. It is the responsibility of each directing physician to ensure that each athlete who receives athletic training services is aware of the fact that said person is not a licensed physician. (3-28-23)

**~~163~~03. Duties ~~O~~of Supervising Physicians ~~O~~of Interns ~~A~~and Residents. ( )**

**~~01~~a.** Responsibilities. The supervising physician is responsible for the direction and supervision of the medical acts and patient services provided by an intern or resident. The direction and supervision of such activities include, but are not limited to: (3-28-23)

**~~a~~i.** Synchronous direct communication at least monthly with intern or resident to ensure the quality of care provided; (3-28-23)

**~~b~~ii.** Recording of a periodic review of a representative sample of medical records to evaluate the medical services that are provided; and (3-28-23)

**~~e~~iii.** Regularly scheduled conferences between the supervising physician and the intern or resident. (3-28-23)

**~~02~~b.** Available Supervision. The supervising physician will oversee the activities of the intern or resident, and must always be available either in person or by telephone to supervise, direct and counsel the intern or resident. (3-28-23)

**~~03~~c.** Disclosure. It is the responsibility of each supervising physician to ensure that each patient who receives the services of an intern or resident is notified of the fact that said person is not a licensed physician. (3-28-23)

**~~164~~04. Duties ~~O~~of Supervising Physicians ~~O~~of Medical Personnel. ( )**

**~~a~~.** Purpose. The “practice of medicine,” as defined in Section 54-1803(1), Idaho Code, includes the

~~administration of parenteral admixtures and the~~ performance of cosmetic treatments using prescriptive medical/cosmetic devices and products which penetrate ~~and or~~ alter human tissue. Such ~~cosmetic~~ treatments can ~~result in lead to significant~~ complications such as visual impairment, blindness, inflammation, burns, scarring, hypopigmentation, and hyperpigmentation ~~that may result in permanent injury or death~~ and, therefore, can only be performed as set forth herein. ~~This chapter does not authorize the practice of medicine or any of its branches by a person not so licensed by the Board.~~ (3-28-23)(    )

~~01. Definitions. (3-28-23)~~

~~a. Ablative. Ablative is the separation, eradication, removal, or destruction of human tissue. (3-28-23)~~

~~b. Incisive. Incisive is the power and quality of cutting of human tissue. (3-28-23)~~

~~c. Cosmetic Treatment. An aesthetic treatment prescribed by a physician for a patient that uses prescriptive medical/cosmetic devices and/or products to penetrate or alter human tissue. (3-28-23)~~

~~d. Prescriptive Medical/Cosmetic Device. A federal food and drug administration approved prescriptive device that uses waveform energy including, but not limited to, intense pulsed light or lasers, to cosmetically alter human tissue. (3-28-23)~~

~~e. Prescriptive Medical/Cosmetic Product. A federal food and drug administration approved prescriptive product whose primary intended use of the product is achieved through chemical action and cosmetically alters human tissue including, but not limited to, filler substances such as collagen or fat; lipo transfer; muscle immobilizers or sclerosing agents. (3-28-23)~~

~~02b. Duties and Responsibilities of Supervising Physicians. The supervising physician accepts full responsibility for all treatments provided by medical personnel and for the supervision of such treatments. The supervising physician must be trained in the safety and use of prescriptive medical/cosmetic devices and products. (3-28-23)(    )~~

~~a.i. Patient Record. The supervising physician must document an adequate legible patient record of his evaluation, assessment, and plan for the patient prior to the initial ~~cosmetic~~ treatment. (3-28-23)(    )~~

~~b. Supervisory Responsibility. A supervising physician of medical personnel may not supervise more than three (3) such medical personnel contemporaneously. The Board, however, may authorize a supervising physician to supervise a total of six (6) such medical personnel contemporaneously if necessary to provide adequate cosmetic treatments and upon prior petition documenting adequate safeguards to protect the public health and safety. (3-28-23)~~

~~e.ii. Available Supervision. The supervising physician will be on-site or immediately available to respond promptly to any questions or problems that may occur while a ~~cosmetic~~ treatment is being performed by medical personnel. Such supervision includes, but is not limited to: (3-28-23)(    )~~

~~i.(1) Periodic review of the medical records to evaluate the prescribed ~~cosmetic~~ treatments that are provided by such medical personnel including any adverse outcomes or changes in the treatment protocol; and (3-28-23)(    )~~

~~ii.(2) Regularly scheduled conferences between the supervising physician and such medical personnel. (3-28-23)~~

~~e.iii. Verification of Training. The supervising physician is responsible to ensure that, with respect to any treatment performed, the medical personnel possess the proper training to perform the treatment, the indications for the prescribed treatment, and the pre- and post-procedure care involved. The supervising physician will verify the training of medical personnel upon the board-approved Medical Personnel Supervising Physician Registration form. The Medical Personnel Supervising Physician Registration Form will be maintained on file at each practice location and at the address of record of the supervising physician. (3-28-23)(    )~~

**~~div.~~ Scope of Cosmetic Treatments.- ( )**

**~~(1) Scope.~~ Cosmetic treatments can only be performed by a physician or by medical personnel under the supervision of a physician. Physicians who supervise cosmetic treatments must be trained in the safety and use of prescriptive medical/cosmetic devices and products. Medical personnel providing cosmetic treatments are limited to using prescriptive medical/cosmetic devices and products that are exclusively non-incisive and non-ablative. The supervising physician will ensure cosmetic treatments provided by medical personnel are limited to and consistent with the scope of practice of the supervising physician. ~~The supervising physician will ensure that, with respect to each procedure performed, the medical personnel possess the proper training in cutaneous medicine, the indications for the prescribed treatment, and the pre- and post-procedure care involved.~~ (3-28-23)( )**

**~~(2) Supervision.~~ A supervising physician of medical personnel may not supervise more than three (3) medical personnel providing cosmetic treatments contemporaneously. The Board, however, may authorize a supervising physician to supervise a total of six (6) such medical personnel contemporaneously if necessary to provide adequate treatments and upon prior petition documenting adequate safeguards to protect the public health and safety. ( )**

**~~fv.~~ Disclosure. It is the responsibility of each supervising physician to ensure that every patient receiving a ~~cosmetic treatment~~ from medical personnel is advised of the education and training of the medical personnel rendering the treatment and that such medical personnel are not licensed physicians. (3-28-23)( )**

**~~gvi.~~ Patient Complaints. The supervising physician will report to the Board of Medicine all patient complaints received against medical personnel that relate to the quality and nature of ~~cosmetic~~ treatments rendered. (3-28-23)( )**

**~~hvi.~~ Duties and Responsibilities Nontransferable. The responsibilities and duties of a supervising physician may not be transferred to a business entity, professional corporation, or partnership, nor may they be assigned to another physician or person. (3-28-23)**

**~~165201.~~ -- ~~24199.~~(RESERVED)**

**300. DISCIPLINE. In addition to the grounds for discipline set forth in Idaho Code, every person licensed or permitted by the Board is subject to discipline upon any of the following grounds: ( )**

**01. Unethical Advertising. Advertising the licensee or permittee's practice in any unethical or unprofessional manner, including but not limited to: ( )**

**a. Using advertising or representations likely to deceive, defraud, or harm the public. ( )**

**b. Making a false or misleading statement regarding the licensee or permittee's skill or the efficacy or value of the treatment, remedy, or service offered, performed, or prescribed by the licensee or permittee. ( )**

**03. Standard of Care. Providing health care that fails to meet the standard of health care provided by other qualified licensees or permittees of the same profession, in the same community or similar communities, including but not limited to: ( )**

**a. Being found mentally incompetent or insane by any court of competent jurisdiction. ( )**

**b. Engaging in practice or behavior that demonstrates a manifest incapacity or incompetence to practice his or her profession. ( )**

**c. Allowing another person or organization to use his or her license or permit to practice his or her profession. ( )**

**d. Prescribing, selling, administering, distributing or giving any drug legally classified as a controlled substance or recognized as an addictive or dangerous drug to himself or herself or to a spouse, child, or stepchild.**

- ( )
- e. Using any controlled substance or alcohol to an extent that use impairs the licensee or permittee's ability to practice his or her profession competently. ( )
- f. Violating any state or federal law or regulation relating to controlled substances. ( )
- g. Directly promoting surgical procedures or laboratory tests that are unnecessary and not medically indicated. ( )
- h. Failure to transfer pertinent and necessary medical records to another provider when requested to do so by the subject patient or client or by his or her legally designated representative. ( )
- i. Failing to maintain adequate records. Adequate patient or client records means legible records that contain, at a minimum, subjective information, an evaluation and report of objective findings, assessment or diagnosis, and the plan of care. ( )
- j. Providing care or performing any service outside the licensee or permittee's scope of practice as set forth in Idaho Code, including providing care or performing a service without supervision, if such is required by Idaho Code or Board rule. ( )
- k. Failing to have a supervising or directing physician who is licensed by the Board, if such supervision is required by Idaho Code or Board rule. ( )
- 04. Conduct. Engaging in any conduct that constitutes an abuse or exploitation of a patient or client arising out of the trust and confidence placed in the licensee or permittee by the patient or client, including but not limited to:** ( )
- a. Obtaining any fee by fraud, deceit, or misrepresentation. ( )
- b. Employing abusive billing practices. ( )
- c. Commission of any act of sexual contact, misconduct, exploitation, or intercourse with a patient or client or former patient or client or related to the licensee's practice. ( )
- i. Consent of the patient or client shall not be a defense. ( )
- ii. This section does not apply to sexual contact between a licensee or permittee and the licensee or permittee's spouse or a person in a domestic relationship who is also a patient or client. ( )
- iii. A former patient or client includes a patient or client for whom the licensee or permittee has provided services related to the licensee or permittee's practice, including prescriptions, within the last twelve (12) months; sexual or romantic relationships with former patients or clients beyond that period of time may also be a violation if the licensee or permittee uses or exploits the trust, knowledge, emotions, or influence derived from the prior professional relationship with the patient or client. ( )
- d. Accepting any reimbursement for service, beyond actual expenses, while providing services under a volunteer license. ( )
- e. Employing, supervising, directing, aiding, or abetting a person not licensed or permitted in this state who directly or indirectly performs activities or provides services requiring a license or permit. ( )
- f. Failing to report to the Board any known act or omission of a Board licensee or permittee that violates any provision of these rules. ( )
- g. Interfering with an investigation or disciplinary proceeding by willful misrepresentation of facts or by use of threats or harassment against any patient or client, Board or Advisory Board or Committee member, Board

~~staff, hearing officer, or witness in an attempt to influence the outcome of a disciplinary proceeding, investigation, or other legal action.~~ ( )

~~h. Failing to obey any and all state and local laws and rules related to the licensee or permittee's practice or profession.~~ ( )

~~05. Failure to Cooperate. Failing to cooperate with the Board during any investigation or disciplinary proceeding, even if such investigation or disciplinary proceeding does not personally concern the particular licensee.~~ ( )

~~06. On-Site Review. The Board, by and through its designated agents, is authorized to conduct on-site reviews of the activities of its licensees at the locations and facilities in which the licensees practice at such times as the Board deems necessary.~~ ( )

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

~~1400. FEES—TABLE.~~

~~01. Fees—Table.~~ Nonrefundable fees are as follows:

Fees – Table <del>(Non-Refundable)</del>		
Licensure Fee	-	Not more than \$600
<del>Provisional License</del>	<del>=</del>	<del>Not more than \$300</del>
Temporary License	-	Not more than \$300
Reinstatement License Fee plus total of renewal fees not paid by applicant	-	Not more than \$300
<del>Inactive License Renewal Fee</del>	<del>=</del>	<del>Not more than \$100</del>
Renewal of License to Practice Medicine Fee	-	Not more than \$300
<del>Duplicate Wallet License</del>	<del>=</del>	<del>Not more than \$20</del>
<del>Duplicate Wall Certificate</del>	<del>=</del>	<del>Not more than \$50</del>
Volunteer License Application Fee	-	\$0
Volunteer License Renewal Fee	-	\$0
<del>Limited License for Bridge Year Physicians</del>	<del>=</del>	<del>Not more than \$300</del>
<del>Temporary Registration</del>	<del>=</del>	<del>Not more than \$25</del>

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

~~02. Administrative Fees for Services. Administrative fees for services shall be billed on the basis of time and cost.~~ (3-28-23)

*[existing Section 151 has been moved under proposed Section 002]*

~~152.—160. (RESERVED)~~

*[existing Sections 161-164 have been moved under proposed Section 200]*

~~165.—241. (RESERVED)~~

*[existing Sections 242-243 have been moved under proposed Sections 002 & 100, respectively]*

**244. FEES TABLE.**

Nonrefundable fees are as follows:

Fees	
Temporary Registration	- \$25 annually

(7-1-24)

**245401. -- 9799. (RESERVED)**

**0800. PHYSICIAN PANELIST FOR PRELITIGATION CONSIDERATION OF ~~MEDICAL~~ MALPRACTICE CLAIMS.**

**01. Eligibility Obligation.** A physician licensed to practice medicine or osteopathic medicine in Idaho must be available to serve in any two (2) year period, or a longer period not to exceed five (5) years, as determined by the panel chairman, as a physician panelist for prelitigation consideration of a medical malpractice claim.

(3-28-23)( )

**02. Excusing Physicians from Serving.** A physician panelist so selected must serve unless he had served on a prelitigation panel during any previous two (2) year period, or a longer period not to exceed five (5) years, as determined by the panel chairman or for good cause shown, is excused by the panel chairman. To show good cause for relief from serving, the selected physician panelist must present an affidavit to the panel chairman which shall set out the facts showing that service would constitute an unreasonable burden or undue hardship. The panel chairman has the sole authority to excuse a selected physician from serving on a prelitigation panel.

(3-28-23)

**03. Penalties for Noncompliance.** The Board may condition, limit, suspend, or refuse to renew the license of any physician whom the Board determines has failed to serve as a physician panelist for the prelitigation consideration of a medical malpractice claim.

(3-28-23)

**0801. -- 0999. (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 24.33.01 - Rules of the Board of Medicine for the Licensure to Practice Medicine and Osteopathic Medicine in Idaho

**Fee Rule Status:**  Proposed       Temporary

**Rulemaking Docket Number:** 24-3301-2401

### **STATEMENT OF ECONOMIC IMPACT:**

The proposed rules establish fees for a three-year provisional license for international physicians, as passed by the legislature in HB542a from the 2024 Legislation Session, as well as a single-year limited license for bridge year physicians, as passed by the legislature in HB153 from the 2023 Legislative Session.

-HB542a (2024): Section 54-1813(1), Idaho Code establishes the authority for the Idaho Board of Medicine to establish and collect fees in rule for the international physicians' provisional license effective on January 1, 2025. An amount of up to \$300 was approved by the board to be provided in the rule to align with other statutory caps on fees required by the Idaho Board of Medicine. The specific fee for the provisional license has not yet been voted on or approved by the board as the statute's January 1, 2025 effective date. The final board vote to establish that specific amount will take place at their next board meeting as an action item on the agenda.

-HB153 (2023): Section 54-1867, Idaho Code establishes a one-year limited license for bridge year physicians and authorizes the Idaho Board of Medicine to establish and collect a fee up to \$300 in rule pursuant to 54-1867(5)(b), Idaho Code. The board approved a \$25 fee to align with the same fees that interns and residents who are similarly situated are required to pay.

Without a specified fee amount for the provisional license for international physicians, as well as current/projected data of how many international physicians and bridge year physicians the state can expect to see on an annual basis, the estimated positive impact to the division's dedicated funds is unknown.