

IDAPA 22 - BOARD OF MEDICINE
22.01.13 - RULES FOR THE LICENSURE OF DIETITIANS
DOCKET NO. 22-0113-1201 (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. The action is authorized pursuant to Section(s) 54-3505(2), Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be held as follows:

October 23, 2012

1:00 - 2:00 p.m.

**Idaho State Board of Medicine, Conference Room
1755 Westgate Dr., Ste. 140, Boise, Idaho**

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

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

The substance and purpose of these proposed Rule changes include providing the Board's website and E-mail address, provision for severability, provisions for denial or refusal to renew, suspension or revocation of a license and amending the Fee schedule according to future administration costs for change in license status. Amending the Fee Schedule may also be necessary to balancing the Board's future budget.

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

The Idaho State Board of Medicine and Dietetic Licensure Board approved of amending the Fee schedule in anticipation of rising administrative costs. Authority for imposition of fees is found in Sections 54-1806 and 54-3509(2), Idaho Code.

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: N/A

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(1), Idaho Code, negotiated rulemaking was not conducted. The Board also received input and comments from its constituents and licensees.

INCORPORATION BY REFERENCE: Pursuant to Section 67-5229(2) (a), Idaho Code, the following is a brief synopsis of why the materials cited are being incorporated by reference into this rule: N/A

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Nancy M. Kerr, Executive Director, Idaho State Board of Medicine, (208) 327-7000.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 24, 2012.

DATED this 21st of August, 2012.

Nancy M. Kerr, Executive Director
Idaho State Board of Medicine
1755 Westgate Drive, Ste. 140, Boise, ID
PO Box 83720 Boise, ID 83720-0058
Phone: (208) 327-7000 Fax: (208) 327-7005

THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 22-0113-1201

006. OFFICE -- OFFICE HOURS -- MAILING ADDRESS AND STREET ADDRESS.

The central office of the Board of Medicine will be in Boise, Idaho. (4-2-03)

01. Address. The Board's mailing address, unless otherwise indicated, will be Idaho State Board of Medicine, Statehouse Mail, Boise, Idaho 83720. The Board's street address is 1755 Westgate Drive, Suite 140, Boise, Idaho 83704. (4-2-03)

02. Telephone. The telephone number of the Board is (208) 327-7000. (4-2-03)

03. FAX. The Board's facsimile (FAX) number is (208) 327-7005. (4-2-03)

04. Office Hours. The Board's office hours for filing documents are 8 a.m. to 5 p.m. MST. (4-2-03)

05. Website. The Board's website is bom.idaho.gov. ()

007. FILING OF DOCUMENTS -- NUMBER OF COPIES.

All documents in rulemaking or contested case proceedings must be filed with the office of the Board. The original and ~~ten~~ one (1) electronic ~~copies~~ of all documents must be filed with the office of the Board. ~~(3-16-04)~~()

008. SEVERABILITY.

The sections and subsections of these administrative rules are presumed severable unless specifically provided to the contrary. If any rule, or part thereof, or the application of such rule to any person or circumstance is declared invalid, that invalidity does not affect the validity of any remaining portion. ()

~~008.~~ **009. (RESERVED)**

(BREAK IN CONTINUITY OF SECTIONS)

032. DENIAL OR REFUSAL TO RENEW, SUSPENSION OR REVOCATION OF LICENSE.

01. Disciplinary Authority. A new or renewal application may be denied, and every person licensed pursuant to Title 54, Chapter 35, Idaho Code and these rules is subject to discipline, pursuant to the procedures and powers established by and set forth in Section 54-3710, Idaho Code, IDAPA 04.11.01, "Idaho Rules of Administrative Procedure of the Attorney General," and IDAPA 22.01.07, "Rules of Practice and Procedure of the Board of Medicine." (4-2-03)

02. Grounds for Discipline. In addition to the grounds set forth in Section 54-3510, Idaho Code, applicants may be refused licensure and licensees are subject to discipline upon the following grounds, including but not limited to: (12-28-94)

a. Being guilty of unprofessional conduct, including the provision of care which fails to meet the

standard of care provided by other qualified licensees within the state of Idaho. (12-28-94)

b. Violating any provisions of this act or any of the rules promulgated by the Board under the authority of the act. (12-28-94)

c. Being convicted of a crime which may or would have a direct and adverse bearing on the licensee's ability to practice dietetics; ()

d. Demonstrating a manifest incapacity to carry out the functions of the licensee's ability to practice dietetics or deemed unfit by the Board to practice dietetics; ()

e. Using any controlled substance or alcohol which may or would have a direct and adverse bearing on the licensee's ability to practice dietetics; ()

f. Misrepresenting educational or experience attainments; ()

g. Failing to maintain adequate dietetic records. Adequate dietetic records mean legible records that contain subjective information, an evaluation or report of objective findings, assessment or diagnosis, and the plan of care; ()

h. Failure to monitor and be responsible for the activities of the provisionally licensed graduate dietitian; ()

i. Employing, directing or supervising the unlicensed practice of dietetics; ()

j. Practicing in an area of dietetics for which the licensee is not trained; ()

k. Commission of any act of sexual contact, misconduct, exploitation or intercourse with a patient or former patient or related to the licensee's practice of dietetics; ()

l. Failing to report to the Board any known act or omission of a licensee, applicant, or any other person, that violates any of the rules promulgated by the Board under the authority of the act; ()

m. Interfering with an investigation or disciplinary proceeding by willful misrepresentation of facts or by use of threats or harassment against any patient or witness to prevent them from providing evidence in a disciplinary proceeding, investigation or other legal action; ()

n. Failure to obey federal and local laws and rules governing the practice of dietetics; or ()

o. Failure to be lawfully present in the United States. ()

033. -- 040. (RESERVED)

041. FEES.

Actual fees shall be set to reflect costs of Board administration. (12-28-94)

01. Initial/Provisional Licensure and Examination Fee. The fee for initial licensure and examination shall be no more than ~~eighty~~ one hundred fifty dollars (\$~~150~~). (~~4-2-03~~)()

02. Renewal Fee. The annual renewal fee shall be no more than ~~forty-five~~ one hundred dollars (~~\$45~~100). (~~12-28-94~~)()

03. Reinstatement Fee. The reinstatement fee for a lapsed license shall be the annual renewal fee for each year of the two (2) years not licensed plus a fee of no more than ~~thirty-five~~ fifty dollars (~~\$350~~). Lapsed licenses not reinstated after two (2) years shall be canceled. (~~12-28-94~~)()

04. Inactive Fee. The fee for inactive licensure shall be no more than ~~twenty-five~~ fifty dollars (~~\$250~~).

~~(12-28-94)~~()

05. Inactive to Active License Fee. An inactive license may be converted to an active license by application to the Board and payment of required fees. (4-2-03)

a. The fee for converting an inactive license to an license shall be a fee of ~~no more than thirty-five~~ ~~fifty~~ dollars (~~\$350~~) and the annual renewal fee for each year not actively licensed minus inactive fees previously paid. ~~(4-2-03)~~()

b. Before the license will be converted, the applicant must account for the time during which an inactive license was held. The Board, in its discretion, may require a personal interview. (4-2-03)

06. Application Fees and Refunds. Necessary fees shall accompany applications. Fees shall not be refundable. (4-2-03)

07. Extraordinary Expenses. In situations where the processing of an application ~~or a change in status~~ requires extraordinary expenses, the Board will charge the applicant with reasonable fees to cover all ~~or part of~~ the extraordinary expenses. ~~(4-2-03)~~()