

HEALTH AND WELFARE COMMITTEE

ADMINISTRATIVE RULES REVIEW

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2014 Legislative Session

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IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE

16.05.06 - CRIMINAL HISTORY AND BACKGROUND CHECKS

DOCKET NO. 16-0506-1301 (FEE RULE)

NOTICE OF RULEMAKING - ADOPTION OF PENDING FEE RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2014 Idaho State Legislature for final approval. Pursuant to Section 67-5224(5)(c), Idaho Code, this pending rule will not become final and effective until it has been approved, amended, or modified by concurrent resolution of the legislature because of the fee being imposed or increased through this rulemaking. The rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending fee rule. The action is authorized pursuant to Sections 56-202(b), 56-203(2), 56-204A, 56-1004A, 56-1007, 39-1105, 39-1107, 39-1111, 39-1210(10), 39-1211(4), 39-3520 and 39-5604, Idaho Code, and 2013 Legislation in House Bill 125.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change:

There are no changes to the pending rule and it is being adopted as originally proposed. The complete text of the proposed rule was published in the August 7, 2013, Idaho Administrative Bulletin, [Vol. 13-8, pages 284 through 287](#). The changes in this rule docket added a new class of individuals required or ordered by the courts to have a Department criminal history and background check.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased. This fee or charge is being imposed pursuant to Sections 66-404(7), 15-5-308(4), 15-5-311(5), and 15-5-316(5), Idaho Code.

The fee amount for a Department fingerprint-based criminal history and background check is \$65 based on the actual cost. The 2013 Legislature added new individuals that are required to have a criminal history and background check prior to being appointed by the court as a guardian or conservator, or any individual who will reside in the incapacitated person's residence.

FISCAL IMPACT: The following is a specific description, if applicable, of any fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year:

There are no additional costs to be paid for by the Department or the state general fund due to this rulemaking. It is anticipated that 700 individuals will request these criminal history and background checks at \$65 per check for a total of \$45,500 in total receipts.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning the pending rule, contact Fernando Castro, at (208) 332-7999.

DATED this 3rd day of October, 2013.

Tamara Prisock
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**THE FOLLOWING NOTICE WAS PUBLISHED WITH
THE TEMPORARY AND PROPOSED RULE**

EFFECTIVE DATE: The effective date of the temporary rule is **July 1, 2013**.

AUTHORITY: In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a temporary rule, and proposed rulemaking procedures have been initiated. The action is authorized pursuant to Sections 56-202(b), 56-203(2), 56-204A, 56-1004A, 56-1007, 39-1105, 39-1107, 39-1111, 39-1210(10), 39-1211(4), 39-3520 and 39-5604, Idaho Code, and 2013 Legislation in House Bill 125.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than August 21, 2013.

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 the required finding and concise statement of its supporting reasons for adopting a temporary rule and a nontechnical explanation of the substance and purpose of the proposed rulemaking:

These rule changes are needed to implement HB 125 (2013) adopted by the 2013 Legislature that requires the Department to conduct a criminal history check (CHC) on a new class of individuals required or ordered by the courts. An individual will be required to undergo the CHC prior to being appointed as a guardian or conservator for a vulnerable adult. HB 125 also requires that a CHC be conducted at the proposed guardian's expense, for any individual who will reside in the incapacitated person's proposed residence.

The changes to these rules added statutory references and the class of individuals requiring the Department's criminal history and background checks.

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

In order to protect children and vulnerable adults, statutes taking effect July 1, 2013, require that guardians and conservators appointed by the courts must have a Department criminal history and background check. Statutes require an applicant for a criminal history check to cover the cost of the check.

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

The fee amount for a Department fingerprint-based criminal history and background check is \$65 based on the actual cost. The 2013 Legislature added a new class of individuals that are required to have a criminal history and background check prior to being appointed by the court as a guardian or conservator, or any individual who will reside in the incapacitated person's residence.

FISCAL IMPACT: The following is a specific description, if applicable, of any fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year:

There are no additional costs to be paid for by the Department or the state general fund due to this rulemaking. It is anticipated that 700 individuals will request these criminal history and background checks at \$65 per check for a total of \$45,500 in total receipts.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not conducted because the rulemaking action was necessary to meet statutory requirements.

INCORPORATION BY REFERENCE: No materials are being incorporated by reference into these rules.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary and proposed rule, contact Fernando Castro, at (208) 332-7999.

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 August 28, 2013.

DATED this 9th day of July, 2013.

[LSO Rules Analysis Memo](#)

THE FOLLOWING IS THE TEXT OF DOCKET NO. 16-0506-1301

000. LEGAL AUTHORITY.

The Idaho Legislature has authorized the Department of Health and Welfare to promulgate rules to conduct criminal history and background checks under Sections 56-202(b), 56-203(2), 56-204A, 56-1004A, 56-1007, 39-1105, 39-1107, 39-1111, 39-1210(10), 39-1211(4), 39-3520, and 39-5604, 66-404(7), 15-5-308(4), 15-5-311(5), and 15-5-316(5), Idaho Code. ~~(3-26-08)~~()

(BREAK IN CONTINUITY OF SECTIONS)

100. INDIVIDUALS SUBJECT TO A CRIMINAL HISTORY AND BACKGROUND CHECK.

Individuals subject to a Department criminal history and background check are those persons or classes of individuals who are required by statute, or Department rules to complete a criminal history and background check. (3-4-11)

01. Adoptive Parent Applicants. Individuals who must comply with IDAPA 16.06.01, “Child and Family Services,” and IDAPA 16.06.02, “Rules Governing Standards for Child Care Licensing.” (3-4-11)

02. Alcohol or Substance Use Disorders Treatment Facilities and Programs. Individuals who must comply with IDAPA 16.07.20, “Alcohol and Substance Use Disorders Treatment and Recovery Support Services Facilities and Programs,” and IDAPA 16.03.09, “Medicaid Basic Plan Benefits.” (3-4-11)

03. Certified Family Homes. Individuals who must comply with Section 39-3520, Idaho Code, IDAPA 16.03.19, “Rules Governing Certified Family Homes,” and IDAPA 16.03.10, “Medicaid Enhanced Plan Benefits.” (3-4-11)

04. Children's Residential Care Facilities. Individuals who must comply with Section 39-1210, Idaho Code, and IDAPA 16.06.02, “Rules Governing Standards for Child Care Licensing.” (3-4-11)

05. Children's Therapeutic Outdoor Programs. Individuals who must comply with Section 39-1208, Idaho Code, and IDAPA 16.06.02, “Rules Governing Standards for Child Care Licensing.” (3-4-11)

06. Contracted Non-Emergency Medical Transportation Providers. Individuals who must comply with IDAPA 16.03.09, “Medicaid Basic Plan Benefits.” (3-4-11)

07. Court Appointed Guardians and Conservators. Individuals who must comply with the requirements of Title 15, Chapter 5, Idaho Code, and Title 66, Chapter 4, Idaho Code.

Court required guardian and conservator criminal history and background checks are not provided Department clearances described in Section 180.01 of these rules. ()

078. Designated Examiners and Designated Dispositioners. Individuals who must comply with IDAPA 16.07.39, “Appointment of Designated Examiners and Designated Dispositioners.” (3-4-11)

089. Developmental Disabilities Agencies. Individuals who must comply with IDAPA 16.03.21, “Developmental Disabilities Agencies (DDA),” and IDAPA 16.03.10, “Medicaid Enhanced Plan Benefits.” (3-4-11)

0910. Emergency Medical Services (EMS). Individuals who must comply with IDAPA 16.02.03, “Rules Governing Emergency Medical Services,” and IDAPA 16.01.07, “Emergency Medical Services (EMS) -- Personnel Licensing Requirements.” (7-1-12)

101. Home and Community-Based Services (HCBS). Individuals who must comply with IDAPA 16.03.10, “Medicaid Enhanced Plan Benefits,” and IDAPA 16.04.17, “Rules Governing Residential Habilitation Agencies.” (7-1-12)

112. Home Health Agencies. Individuals who must comply with IDAPA 16.03.07, “Home Health Agencies.” (3-4-11)

123. Idaho Child Care Program (ICCP). Individuals who must comply with IDAPA 16.06.12, “Rules Governing the Idaho Child Care Program.” (3-4-11)

134. Intermediate Care Facilities for Persons with Intellectual Disabilities (ICF/ID). Individuals who must comply with IDAPA 16.03.11, “Intermediate Care Facilities for Persons with Intellectual Disabilities (ICF/ID).” (3-4-11)

145. Licensed Foster Care. Individuals who must comply with Section 39-1211, Idaho Code, and IDAPA 16.06.02, “Rules Governing Standards for Child Care Licensing.” (3-4-11)

156. Licensed Day Care. Individuals who must comply with Sections 39-1105, 39-1113, and 39-1114, Idaho Code, and IDAPA 16.06.02, “Rules Governing Standards for Child Care Licensing.” (3-4-11)

167. Mental Health Clinics. Individuals who must comply with IDAPA 16.03.10, “Medicaid Enhanced Plan Benefits,” and IDAPA 16.03.09, “Medicaid Basic Plan Benefits.” (3-4-11)

178. Nonhospital, Medically-Monitored Detoxification/Mental Health Diversion Units. Individuals who must comply with IDAPA 16.07.50, “Minimum Standards for Nonhospital, Medically-Monitored Detoxification/Mental Health Diversion Units.” (3-4-11)

189. Personal Assistance Agencies. Individuals who must comply with IDAPA 16.03.10, “Medicaid Enhanced Plan Benefits.” (3-4-11)

1920. Personal Care Service Providers. Individuals who must comply with Section 39-

5604, Idaho Code, and IDAPA 16.03.10, “Medicaid Enhanced Plan Benefits.” (3-4-11)

201. Psychosocial Rehabilitation Providers. Individuals who must comply with IDAPA 16.03.10, “Medicaid Enhanced Plan Benefits.” (3-4-11)

222. Residential Care or Assisted Living Facilities in Idaho. Individuals who must comply with IDAPA 16.03.22, “Residential Care or Assisted Living Facilities in Idaho.” (3-4-11)

223. Semi-Independent Group Residential Care Facilities for the Developmentally Disabled or Mentally Ill. Individuals who must comply with IDAPA 16.03.15, “Rules and Minimum Standards for Semi-Independent Group Residential Care Facilities for the Developmentally Disabled or Mentally Ill.” (3-4-11)

234. Service Coordinators and Paraprofessional Providers. Individuals who must comply with IDAPA 16.03.10, “Medicaid Enhanced Plan Benefits.” (3-4-11)

245. Skilled Nursing and Intermediate Care Facilities. Individuals who must comply with IDAPA 16.03.02, “Rules and Minimum Standards for Skilled Nursing and Intermediate Care Facilities.” (3-4-11)

256. Support Brokers and Community Support Workers. Individuals who must comply with IDAPA 16.03.13, “Consumer-Directed Services.” (3-4-11)

(BREAK IN CONTINUITY OF SECTIONS)

180. CRIMINAL HISTORY AND BACKGROUND CHECK RESULTS.

01. Department Clearance. The Department will issue a clearance or denial once the criminal history and background check is completed. The results may be accessed by the individual on the Department’s website. The employer may access the information that is provided by the applicant and information obtained from the state, county, or through registries.

(3-26-08)()

02. Findings for Court Required Criminal History and Background Checks. As required in Section 56-1004A(2)(b), Idaho Code, the Department will provide findings of a court ordered criminal history and background check to individuals appointed by the court according to Title 15, Chapter 5, or Title 66, Chapter 4, Idaho Code. ()

IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE

16.06.01 - CHILD AND FAMILY SERVICES

DOCKET NO. 16-0601-1302 (FEE RULE)

NOTICE OF RULEMAKING - ADOPTION OF PENDING FEE RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2014 Idaho State Legislature for final approval. Pursuant to Section 67-5224(5)(c), Idaho Code, this pending rule will not become final and effective until it has been approved, amended, or modified by concurrent resolution of the legislature because of the fee being imposed or increased through this rulemaking. The rule becomes final and effective upon adoption of the concurrent resolution, or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending fee rule. The action is authorized pursuant to Sections 56-204A, 56-204B, 56-1007, and Title 16, Chapter 16, Idaho Code.

DESCRIPTIVE SUMMARY: There are no changes to the pending rule and it is being adopted as originally proposed. The complete text of the proposed rule was published in the September 4, 2013, Idaho Administrative Bulletin, [Vol. 13-9, pages 130 and 131](#).

The Department is establishing a process for individuals to obtain confidential information that is on the child protection central registry. This information will only be released with an individual's written consent to obtain such confidential information. The Department is not mandating that individuals and other entities check the child protection central registry as a precondition of employment or non-department licensure. This change aligns IDAPA 16.06.01 with rules pertaining to the public records act and with current practice. The Department is adding a fee of \$20 for a name-based Child Protection Central Registry Check to cover costs. Updates are being made to the mailing process to meet federal regulations for notifications to the Indian Child Welfare Act (ICWA) designated agent for a child's tribe.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased. This fee or charge is being imposed pursuant to Section 56-202(b), 56-204A, and 56-1007, Idaho Code.

A fee of \$20 is being added for a name-based Child Protection Central Registry check.

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:

It is estimated that 2,100 additional central registry checks will be completed annually. The Department will collect receipts in a projected amount of \$42,000. The receipted amount will cover costs associated with the operating expenses without a need for additional funds. There is no anticipated fiscal impact to the state general fund or need for federal funds.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending fee rule, contact Miren Unsworth at (208) 334-6925.

DATED this 21st day of November, 2013.

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THE FOLLOWING NOTICE WAS PUBLISHED WITH THE PROPOSED FEE 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 56-202(b) and 56-204A, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than September 18, 2013.

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 Department is establishing a process for individuals to obtain confidential information that is on the child protection central registry. This information will only be released with an individual's written consent to obtain such confidential information. The Department is not mandating that individuals and other entities check the child protection central registry as a precondition of employment or non-department licensure. This change aligns IDAPA 16.06.01 with rules pertaining to the public records act and with current practice. The Department is adding a fee of \$20 for a name-based Child Protection Central Registry Check to cover costs. Updates are being made to the mailing process to meet federal regulations for notifications to the ICWA designated agent for a child's tribe.

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

A fee of \$20 is being added for a name-based Child Protection Central Registry check.

FISCAL IMPACT: The following is a specific description, if applicable, of any fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year:

It is estimated that 2,100 additional central registry checks will be completed annually. The Department will collect receipts in a projected amount of \$42,000. The receipted amount will cover costs associated with the operating expenses without a need for additional funds. There is no anticipated fiscal impact to the state general fund or need for federal funds.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not conducted because the Department is establishing a process for individuals to obtain confidential information and determined it was not feasible to negotiate this rulemaking. The Department is not mandating that these checks be done and is aligning these rules with public records requirements and current practice.

INCORPORATION BY REFERENCE: No materials are being incorporated by reference into these rules.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Miren Unsworth at (208) 334-6925.

Anyone may submit written comments regarding the proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before September 25, 2013.

DATED this 1st day of August, 2013.

LSO Rules Analysis Memo

THE FOLLOWING IS THE TEXT OF FEE DOCKET NO. 16-0601-1302

051. NOTICE REQUIREMENTS FOR ICWA.

01. Notice of Pending Proceedings -- Who Must be Notified. When there is reason to believe that a child is an Indian child, the initial and any subsequent Notice of Pending Proceedings must be sent to the Indian child's parent(s), custodian(s), and tribe. Notices of Pending Proceedings must be sent to the ICWA Designated Agent for the child's tribe via ~~Certified Mail~~ **Registered Mail**, Return Receipt Requested. All Notices of Pending Proceedings must be received by the child's parent(s), Indian custodian(s) and tribe at least 10 (ten) days before the proceeding is scheduled to occur. Returned receipts are to be kept in the child's file and made available for review by the court. (3-29-12)()

02. Rights Under a Notice of Pending Proceedings. Notices of Pending Proceedings must also include notice of the tribe's right to intervene; their right to twenty (20) additional days to prepare for the proceedings; the right to appointment of counsel if the parent(s) or Indian custodian(s) are indigent; and the right to examine all documents filed with the court upon which placement may be based. (3-29-12)

03. Notice of Pending Proceedings--When Identity or Location of Parent(s), Indian Custodian(s), or Tribe is Unknown. If the identity or location of the parent(s) or Indian custodian(s) or the tribe is unknown, the Notice of Pending Proceedings must be sent to the Secretary of the Interior by certified mail with a return receipt requested at the following address: Department of the Interior, Bureau of Indian Services, Division of Human Services, Code 450, Mail Stop, 1849 C Street N.W., Washington, D.C. 20240. (3-29-12)

(BREAK IN CONTINUITY OF SECTIONS)

562. CONFIDENTIALITY OF THE CHILD PROTECTION CENTRAL REGISTRY AND REQUESTS TO CHECK THE REGISTRY.

01. Confidentiality of Child Protection Central Registry. The names on the Child Protection Central Registry are confidential and may only be released with the written consent of the individual on whom a ~~Department~~ criminal history and background check is being conducted, ~~in accordance with IDAPA 16.05.06, "Criminal History and Background Checks,"~~ unless otherwise required by federal or state law. No information is released regarding the severity or type of child abuse, neglect, or abandonment. (5-8-09)()

02. Child Protection Central Registry Check Fee. The fee for requesting a name-based check of the Child Protection Central Registry is twenty (\$20) dollars. The request must be accompanied with a signed written consent by the individual whose name is being checked. ()

IDAPA 19 - IDAHO STATE BOARD OF DENTISTRY

19.01.01 - RULES OF THE IDAHO STATE BOARD OF DENTISTRY

DOCKET NO. 19-0101-1301 (FEE RULE)

NOTICE OF RULEMAKING - ADOPTION OF PENDING FEE RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2014 Idaho State Legislature for final approval. Pursuant to Section 67-5224(5)(c), Idaho Code, this pending fee rule will not become final and effective until it has been approved, amended, or modified by concurrent resolution of the legislature because of the fee being imposed or increased through this rulemaking. The rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending fee rule. The action is authorized pursuant to Section 54-912, Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change:

The text of the pending rule has been amended in accordance with Section 67-5227, Idaho Code. Only those sections that have changes that differ from the proposed text are printed in this bulletin. The original text of the proposed rule was published in the October 2, 2013 Idaho Administrative Bulletin, [Vol. 13-10, pages 288 through 306](#).

Additional wording has been added to Rule 031.01 and 035.02.b. regarding the prohibited duties of dental hygienists and dental assistants with respect to the placement or carving of restorative materials. The word “intraoral” was added to the language in order to provide further clarification.

Rule 046.03 relates to specialty advertising. Previous language regarding requirements of disclaimer language will be retained.

Language was added to Rule 055 in order to clarify requirements for minimal sedation of patients under the age of sixteen (16) years or less than one hundred (100) pounds.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased. This fee or charge is being imposed pursuant to Section 54-916, Idaho Code.

Fees for licensure are authorized pursuant to Section 54-916, Idaho Code. The Board is proposing a reduction in the fee for a dentist application by credentials from six hundred dollars (\$600) to three hundred dollars (\$300). The Board does not require applicants to present case histories of patients treated by an applicant as is authorized by Section 54-916B(5), 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:

The proposed reduction in the fee for a dentist application by credentials from \$600 to \$300 would negatively impact the Board's dedicated fund by approximately \$4,800 per fiscal year. This figure is based upon the number of applications processed in FY2013.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending fee rule, contact Susan Miller, Executive director, (208) 334-2369.

DATED this 25th day of October, 2013.

Susan Miller, Executive Director
Board of Dentistry
350 N. 9th St., Ste. M-100
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Telephone: (208) 334-2369
Facsimile: (208) 334-3247

THE FOLLOWING NOTICE WAS PUBLISHED WITH THE PROPOSED FEE 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 54-912, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 16, 2013.

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:

Updates to reflect current practice standards, clarify practice standards, reduce an application fee, and general housekeeping changes. Proposed rules include an edition update to a document included in the list of documents incorporated by reference; a reduction of the application fee for a dentist application by credentials; clarification that a dental hygienist is prohibited from taking any type of final impression; clarification of dental assistant prohibited duties and the addition of the use of an air polisher to prohibited duties; an addition to unprofessional conduct rules of failure to release patient records or failure to cooperate with authorities; revisions to advertising rules; reduction in the number of continuing education hours required for renewal of an extended

access dental hygiene license endorsement from twelve (12) to four (4) hours; addition of requirement for dentist to maintain certification in basic life support for healthcare providers for renewal of moderate enteral sedation permit, and advanced cardiac life support certification for renewal of moderate parenteral sedation permit; and various housekeeping changes.

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

Fees for licensure are authorized pursuant to Section 54-916, Idaho Code. The Board is proposing a reduction in the fee for a dentist application by credentials from six hundred dollars (\$600) to three hundred dollars (\$300). The Board does not require applicants to present case histories of patients treated by an applicant as is authorized by Section 54-916B(5), 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 resulting from this rulemaking:

The proposed reduction in the fee for a dentist application by credentials from \$600 to \$300 would negatively impact the Board's dedicated fund by approximately \$4,800 per fiscal year. This figure is based upon the number of applications processed in FY2013.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(1), Idaho Code, negotiated rulemaking was conducted. The Notice of Intent to Promulgate Rules - Negotiated Rulemaking was published in the July 3, 2013 Idaho Administrative Bulletin, [Vol. 13-7, page 68](#).

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 Association of Oral and Maxillofacial Surgeons, Office Anesthesia Evaluation Manual, currently incorporated by reference in the Board's rules, is being updated to reflect the 8th Edition, 2012.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Susan Miller, Executive director, (208) 334-2369.

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 23, 2013.

DATED this 28th day of August, 2013.

[LSO Rules Analysis Memo](#)

THE FOLLOWING IS THE TEXT OF FEE DOCKET NO. 19-0101-1301

004. INCORPORATION BY REFERENCE (RULE 4).

Pursuant to Section 67-5229, Idaho Code, this chapter incorporates by reference the following documents: (7-1-93)

01. Professional Standards. (3-29-12)

a. American Association of Oral and Maxillofacial Surgeons, Office Anesthesia Evaluation Manual, ~~78~~⁸th Edition, ~~2006~~¹². (~~4-7-11~~)()

b. American Dental Association, Guidelines for Teaching Pain Control and Sedation to Dentists and Dental Students, October 2007. (4-7-11)

c. American Dental Association, Guidelines for the Use of Sedation and General Anesthesia by Dentists, October 2007. (4-7-11)

d. American Dental Association Policy Statement: The Use of Sedation and General Anesthesia by Dentists, October 2007. (4-7-11)

e. Centers for Disease Control and Prevention, DHHS, Guidelines for Infection Control in Dental Health-Care Settings, 2003. (4-6-05)

f. American Dental Association, Principles of Ethics, Code of Professional Conduct and Advisory Opinions (ADA Code), January 2009. (4-7-11)

g. American Dental Hygienists' Association, Code of Ethics for Dental Hygienists (ADHA Code), June 2009. (4-7-11)

h. American Dental Hygienists' Association, Standards for Clinical Dental Hygiene Practice, March 10, 2008. (4-7-11)

i. American Association of Dental Boards, the Dental Patient Record, June 12, 2009. (4-7-11)

02. Availability. These documents are available for public review at the Idaho State Board of Dentistry, 350 North 9th Street, Suite M-100, Boise, Idaho 83720. (3-29-12)

(BREAK IN CONTINUITY OF SECTIONS)

012. LICENSE AND APPLICATION FEES (RULE 12).

The license fees and application fees shall be as follows: (3-30-07)

- 01. Application Fees for Dentists:** (7-1-91)
 - a. General:** (3-18-99)
 - i. By examination -- three hundred dollars (\$300). (3-26-08)
 - ii. By credentials -- ~~six~~ **three** hundred dollars (\$~~6~~**3**00). (~~3-18-99~~)()
 - b. Specialty:** (7-1-91)
 - i. By examination -- three hundred dollars (\$300). (3-26-08)
 - ii. By credentials -- ~~six~~ **three** hundred dollars (\$~~6~~**3**00). (~~3-18-99~~)()
- 03. Biennial License Fees for Dentists:** (3-30-07)
 - a. Active** -- three hundred seventy-five dollars (\$375). (3-26-08)
 - b. Inactive** -- one hundred sixty dollars (\$160). (3-26-08)
 - c. Specialty** -- three hundred seventy-five dollars (\$375). (3-26-08)
- 04. Biennial License Fees for Hygienists:** (3-30-07)
 - a. Active** -- one hundred seventy-five dollars (\$175). (3-26-08)
 - b. Inactive** -- eighty-five dollars (\$85). (3-26-08)
- 05. Application Fees for General Anesthesia and Moderate Sedation Permits:** (4-7-11)
 - a. Initial Application** -- three hundred dollars (\$300). (4-2-03)
 - b. Renewal Application** -- three hundred dollars (\$300). (4-2-03)
 - c. Reinstatement Application** -- three hundred dollars (\$300). (4-2-03)

(BREAK IN CONTINUITY OF SECTIONS)

014. EXAMINATION FOR GENERAL DENTAL LICENSES (RULE 14).

Pursuant to Section 54-918, Idaho Code, the Board shall conduct both written and clinical examinations of such duration and character and upon such subjects in dentistry as the Board shall determine to thoroughly test the fitness and ability of the applicant to practice dentistry in the state of Idaho. The Board may accept as meeting this requirement successful completion of an

examination administered by the Board or its agent, and completion of supplementary examinations as the Board deems necessary to determine the competency of the applicant for licensure. Any exam conducted by the Board may include: (7-1-93)

01. Written Examination. Evidence of passing the National Board examination may be required of all candidates applying for a license to practice dentistry. Any other written examination will be specified by the Board. (7-1-93)

02. Clinical Examination. All applicants for license to practice general dentistry shall be required to ~~take~~ **pass** a clinical examination. (~~7-1-93~~)()

015. EXAMINATION FOR DENTAL HYGIENE LICENSES (RULE 15).

Pursuant to Section 54-918, Idaho Code, the Board shall conduct both written and clinical examinations, which shall be of such duration and character and upon such subjects in dental hygiene as the Board shall determine to thoroughly test the fitness and ability of the applicants to practice dental hygiene in the state of Idaho. The Board may accept as meeting this requirement successful completion of an examination administered by the Board or its agent, and completion of supplementary examinations as the Board deems necessary to determine the competency of the applicant for licensure. Any examination conducted by the Board may include: (7-1-93)

01. Written Examination. Evidence of passing the National Board examination may be required of all candidates applying for a dental hygiene license. Any other written examination will be specified by the Board. (7-1-93)

02. Clinical Examination. All applicants for license to practice dental hygiene shall be required to ~~take~~ **pass** a clinical examination including local anesthesia. (~~7-1-93~~)()

016. REQUIREMENTS FOR DENTAL LICENSURE (RULE 16).

~~The Idaho State Board of Dentistry will approve Applicants for licensure only graduates of dental schools to practice dentistry must furnish proof of graduation from a school of dentistry accredited by the Commission on Dental Accreditation of the American Dental Association at the time of graduation.~~ (~~3-18-99~~)()

017. REQUIREMENTS FOR DENTAL HYGIENE LICENSURE (RULE 17).

Applicants for licensure to practice dental hygiene must furnish proof of graduation from a school of dental hygiene accredited by the Commission on Dental Accreditation of the American Dental Association at the time of applicant's graduation. (~~10-1-65~~)()

(BREAK IN CONTINUITY OF SECTIONS)

020. DENTAL HYGIENE LICENSURE BY CREDENTIALS (RULE 20).

Applications for dental hygiene licensure by credentials must be filed with the Board along with the following: (3-18-99)

01. Graduation. Proof of graduation from a school of dental hygiene accredited by

the Commission on Dental Accreditation of the American Dental Association at the time of applicant's graduation. (7-1-92)

02. National Board Examination. Evidence of successful completion of the National Board of Dental Hygiene. Any other written examinations will be specified by the Board. (3-18-99)

03. Cardiopulmonary Resuscitation. Evidence of current CPR certification. (7-1-92)

04. Local Anesthesia. Applicants who are currently licensed in another jurisdiction to practice local anesthesia must submit evidence of satisfactory completion of a Board-approved examination ~~and attest to the regular practice of local anesthesia.~~ (3-18-99)()

05. Provisional License. Applicants who meet all the requirements to be licensed by credentials, but who have not completed a Board-approved local anesthesia examination, may be provisionally licensed to practice without local anesthesia for a period of not more than one (1) year. Within that year, the applicant must pass a local anesthesia examination approved by the Board. (3-18-99)

06. Interview. At the Board's discretion, applicants may be required to appear for a personal interview conducted by the Board. (3-18-99)

(BREAK IN CONTINUITY OF SECTIONS)

028. VOLUNTEER DENTAL HYGIENE SERVICES (RULE 28).

A person holding an unrestricted active status dental hygienist's license issued by the Board may provide dental hygiene services in an extended access oral health care program without being issued an extended access dental hygiene license endorsement under the following circumstances: (3-30-07)

01. Extended Access Oral Health Care Program. The dental hygiene services must be performed in an extended access oral health care program under the supervision of a dentist who is employed, ~~or~~ retained by, or is a volunteer for the program; (3-30-07)()

02. Dental Hygiene Services Performed. The dental hygiene services performed shall be limited to oral health screening and patient assessment, preventive and oral health education, preparation and review of health history, ~~fluoride treatment~~, non-surgical periodontal treatment, oral prophylaxis, the application of caries preventive agents including fluoride, the application of pit and fissure sealants with recommendation that the patient will be seen examined by a dentist ~~and preventive dental health instruction~~; (3-30-07)()

03. Volunteers. The dental hygienist must perform the dental hygiene services on a volunteer basis and shall not accept any form of remuneration for providing the services; and (3-30-07)

04. Volunteer Time Limit. The dental hygienist may not provide dental hygiene services under this provision for more than five (5) days within any calendar month. (3-30-07)

029. DENTAL HYGIENISTS - LICENSE ENDORSEMENTS (RULE 29).

Subject to the provisions of the Dental Practice Act, Chapter 9, Title 54, Idaho Code, and these rules, the Board may grant license endorsements to qualified dental hygienists as follows: (4-6-05)

01. Extended Access Dental Hygiene Endorsement. Upon application, the Board may grant an extended access dental hygiene endorsement to a person holding an unrestricted active status dental hygienist's license issued by the Board who provides satisfactory proof that all of the following requirements are met: ~~(4-6-05)~~()

a. The person has been licensed as a dental hygienist during the two (2) year period immediately prior to the date of application for an extended access dental hygiene endorsement; (4-6-05)

b. For a minimum of one thousand (1000) total hours within the previous two (2) years, the person has either been employed as a dental hygienist in supervised clinical practice or has been engaged as a clinical practice educator in an approved dental hygiene school; (4-6-05)

c. The person has not been disciplined by the Board or another licensing authority upon grounds that bear a demonstrable relationship to the ability of the dental hygienist to safely and competently practice under general supervision in an extended access oral health care program; and ~~(4-6-05)~~()

d. Any person holding an unrestricted active status dental hygienist's license issued by the Board who is employed as a dental hygienist in an extended access oral health care program in this state shall be granted an extended access dental hygiene endorsement without being required to satisfy the experience requirements specified in this rule. (3-30-07)

02. Extended Access Dental Hygiene Restorative Endorsement. Notwithstanding any other provision of these rules, a qualified dental hygienist holding an extended access dental hygiene restorative endorsement may perform specified restorative functions under the direct supervision of a dentist in an extended access oral health care program. Permissible restorative functions under this endorsement shall be limited to the placement of a restoration into a tooth prepared by a dentist and the carving, contouring and adjustment of the contacts and occlusion of the restoration. Upon application, the Board may grant an extended access dental hygiene restorative endorsement to a person holding an unrestricted active status dental hygienist's license issued by the Board who provides satisfactory proof that the following requirements are met: (3-30-07)

a. The person has successfully completed the Western Regional Examining Board's restorative examination or an equivalent restorative examination approved by the Board; or (3-30-07)

b. The person holds an equivalent restorative permit in another state as of the date of endorsement application which required successful completion of the Western Regional

Examining Board's restorative examination or an equivalent restorative examination approved by the Board for its issuance; and (3-30-07)

c. The person has not been disciplined by the Board or another licensing authority upon grounds that bear a demonstrable relationship to the ability of the dental hygienist to safely and competently practice under in an extended access oral health care program. (3-30-07)

03. Renewal. Upon payment of the appropriate license fee and completion of required continuing education credits specified for a dental hygiene license endorsement, a person meeting all other requirements for renewal of a license to practice dental hygiene shall also be entitled to renewal of a dental hygiene license endorsement for the effective period of the license. An endorsement shall immediately expire and be cancelled at such time as a person no longer holds an unrestricted active status dental hygienist's license issued by the Board or upon a person's failure to complete the required continuing education credits. (3-30-07)

030. DENTAL HYGIENISTS - PRACTICE (RULE 30).

Subject to the provisions of the Dental Practice Act, Chapter 9, Title 54, Idaho Code, dental hygienists are hereby authorized to perform the activities specified below: (4-6-05)

01. General Supervision. A dental hygienist may perform specified duties under general supervision as follows: (4-6-05)

a. Oral prophylaxis (~~including~~ removal of ~~supragingival and subgingival calculus~~, stains and plaque biofilm ~~from teeth~~ and if present, supragingival and/or subgingival calculus); (4-11-06)()

b. Medical history assessments and intra-oral and extra-oral assessments (including charting of the oral cavity and surrounding structures, taking case histories and periodontal assessment); (4-11-06)

c. Developing patient care plans for prophylaxis, non-surgical periodontal therapy and supportive and evaluative care in accordance with the treatment parameters set by supervising dentist; (4-11-06)

d. Root planing; (4-11-06)

e. Non-surgical periodontal therapy; (4-11-06)

f. Closed subgingival curettage; (4-11-06)

g. Administration of local anesthesia; (4-6-05)

h. Removal of marginal overhangs (use of high speed handpieces or surgical instruments is prohibited); (4-6-05)

i. Application of topical antibiotics or antimicrobials (used in non-surgical periodontal therapy); (4-6-05)

j. ~~Instructing~~ Provide patients education and instruction in techniques of oral hygiene health education and preventive procedures techniques; (4-6-05)()

k. Placement of antibiotic treated materials pursuant to written order and site specific dentist authorization; and (4-6-05)()

l. All duties which may be performed by a dental assistant; and (4-11-06)()

~~m. Such other duties as approved by the Board. (4-11-06)~~

02. Indirect Supervision. A dental hygienist may perform specified duties under indirect supervision as follows: (4-6-05)

a. Administration and monitoring of nitrous oxide/oxygen; (4-7-11)

b. All dental hygienist duties specified under general supervision; and (4-6-05)

c. Such other duties as approved by the Board. (4-11-06)

03. Direct Supervision. A dental hygienist may perform specified duties under direct supervision as follows: (4-6-05)

a. Use of a laser restricted to gingival curettage and bleaching; (4-6-05)

b. All dental hygienist duties specified under general and indirect supervision; and (4-6-05)

c. Such other duties as approved by the Board. (4-11-06)

031. DENTAL HYGIENISTS - PROHIBITED PRACTICE (RULE 31).

Subject to the provisions of the Dental Practice Act, Chapter 9, Title 54, Idaho Code, and these rules, a dental hygienist may not perform certain specified duties. (4-6-05)

01. Prohibited Duties. A dental hygienist is prohibited from performing the duties specified below: (4-6-05)

a. Definitive diagnosis and dental treatment planning; (4-6-05)

b. The operative preparation of teeth for the placement of restorative materials; (4-6-05)

c. The intraoral placement or carving of restorative materials unless authorized by issuance of an extended access restorative license endorsement; (3-29-12)()

d. Administration of any general anesthesia, minimal sedation, or moderate sedation; (4-7-11)

e. Final placement of any fixed or removable appliances; (4-6-05)

- f. Final removal of any fixed appliance; (4-6-05)
- g. Cutting procedures utilized in the preparation of the coronal or root portion of the tooth; (4-6-05)
- h. Cutting procedures involving the supportive structures of the tooth; (4-6-05)
- i. Placement of the final root canal filling; (4-6-05)
- j. Final impressions of any type, including digital, of any tissue-bearing area, whether hard or soft tissue; ~~(4-6-05)~~()
- k. Occlusal equilibration procedures for any prosthetic restoration, whether fixed or removable; and ~~(4-6-05)~~()
- l. Final placement of prefabricated or cast restorations or crowns; and ~~(4-6-05)~~()
- ~~m. Such other duties as specifically prohibited by the Board. (4-6-05)~~

032. -- 034. (RESERVED)

035. DENTAL ASSISTANTS - PRACTICE (RULE 35).

- 01. Direct Supervision.** A dental assistant may perform specified activities under direct supervision as follows: (4-6-05)
- a. Recording the oral cavity (existing restorations, missing and decayed teeth); (4-6-05)
 - b. Placement of topical anesthetic agents (prior to administration of a local anesthetic by a dentist or dental hygienist); (4-6-05)
 - c. Removal of excess bonding material from temporary and permanent restorations and orthodontic appliances (using hand instruments or contra-angle handpieces with disks or polishing wheels only); (4-6-05)
 - d. Expose and process radiographs; (4-6-05)
 - e. FMake impressions for preparation of diagnostic models, bleach trays, fabrication of night guards, temporary appliances, temporary crowns or bridges; ~~(4-6-05)~~()
 - f. Record diagnostic bite registration; (4-6-05)
 - g. Record bite registration for fabrication of restorations; (4-6-05)
 - h. Provide patient education and instruction in oral hygiene and preventive services;

- (4-6-05)
- i. Placement of cotton pellets and temporary restorative materials into endodontic access openings; (4-6-05)
 - j. Placement and removal of arch wire; (4-6-05)
 - k. Placement and removal of orthodontic separators; (4-6-05)
 - l. Placement and removal of ligature ties; (4-6-05)
 - m. Cutting arch wires; (4-6-05)
 - n. Removal of loose orthodontic brackets and bands to provide palliative treatment; (4-6-05)
 - o. Adjust arch wires; (4-6-05)
 - p. Etching of teeth prior to placement of restorative materials; (4-6-05)
 - q. Etching of enamel prior to placement of orthodontic brackets or appliances by a Dentist; (4-6-05)
 - r. Placement and removal of rubber dam; (4-6-05)
 - s. Placement and removal of matrices; (4-6-05)
 - t. Placement and removal of periodontal pack; (4-6-05)
 - u. Removal of sutures; (4-6-05)
 - v. Application of cavity liners and bases; (4-6-05)
 - w. Placement and removal of gingival retraction cord; and ~~(4-6-05)~~()
 - x. Application of topical fluoride agents; and ~~(4-6-05)~~()
 - ~~y. Performing such other duties as approved by the Board. (4-6-05)~~
- 02. Prohibited Duties.** Subject to other applicable provisions of these rules and of the Act, dental assistants are hereby prohibited from performing any of the activities specified below: (7-1-93)
- a. Definitive diagnosis and treatment planning. (4-6-05)
 - b. The intraoral placement or carving of permanent restorative materials in any manner. ~~(7-1-93)~~()

- c. Any irreversible procedure using lasers. (4-6-05)()
- d. The administration of any general or local injectable anesthetic, ~~infiltration anesthetic or any injectable nerve block procedure.~~ (4-6-05)()
- e. Any oral prophylaxis. ~~Oral prophylaxis is defined as the~~ (removal of stains and plaque, calculus, biofilm and ~~stains from the exposed~~ if present, supragingival and/or ~~unexposed surfaces of the teeth by sealing and polishing~~ subgingival calculus). (7-1-93)()
- f. Use of an air polisher. ()
- fg. Any intra-oral procedure using a high-speed handpiece, except to the extent authorized by a Certificate of Registration or certificate or diploma of course completion issued by an approved teaching entity. (4-6-05)
- gh. The following expanded functions, unless authorized by a Certificate of Registration or certificate or diploma of course completion issued by an approved teaching entity and performed under direct supervision: (4-6-05)
- i. Fabrication and placement of temporary crowns; (4-6-05)
- ii. Perform the mechanical polishing of restorations; (7-1-93)
- iii. Initiating, regulating and monitoring the administration of nitrous oxide/oxygen to a patient; (4-7-11)
- iv. Application of pit and fissure sealants; (7-1-93)
- v. Coronal polishing, ~~unless authorized by a Certificate of Registration; this refers to the technique of removing soft substances~~ (removal of plaque biofilm and stains from the teeth ~~with pumice or other such~~ using an abrasive ~~substances~~ agent with a rubber cup or brush). ~~This in no way authorizes the mechanical removal of calculus nor is it to be considered a complete oral prophylaxis. This technique (coronal polishing) would be applicable only after examination by a dentist and removal of calculus by a dentist or dental hygienist.~~ (7-1-93)()
- vi. Use of a high-speed handpiece ~~restricted to~~ only for the removal of orthodontic cement or resin. (4-6-05)()

03. Expanded Functions Qualifications. A dental assistant may be considered Board qualified in expanded functions, authorizing the assistant to perform any or all of the expanded functions described in Subsection 035.02.g. upon satisfactory completion of the following requirements: (4-6-05)

- a. Completion of Board-approved training in each of the expanded functions with verification of completion of the training to be provided to the Board upon request by means of a Certificate of Registration or other certificate evidencing completion of approved training. The required training shall include adequate training in the fundamentals of dental assisting, which may be evidenced by: (4-6-05)

- i. Current certification by the Dental Assisting National Board; or (7-1-93)
- ii. Successful completion of Board-approved curriculum in the fundamentals of dental assisting; or (3-29-12)
- iii. Successfully challenging the fundamentals course. (7-1-93)
- b. Successful completion of a Board-approved competency examination in each of the expanded functions. There are no challenges for expanded functions. (3-18-99)

04. Curriculum Approval. Any school, college, institution, university or other teaching entity may apply to the Board to obtain approval of its course curriculum in expanded functions. Before approving such curriculum, the Board may require satisfactory evidence of the content of the instruction, hours of instruction, content of examinations or faculty credentials. (3-29-12)

05. Other Credentials. Assistants, who have completed courses or study programs in expanded functions that have not been previously approved by the Board, may submit evidence of the extent and nature of the training completed, and, if in the opinion of the Board the same is at least equivalent to other Board-approved curriculum, and demonstrates the applicant's fitness and ability to perform the expanded functions, the Board may consider the assistant qualified to perform any expanded function(s). (3-29-12)

036. -- 039. (RESERVED)

040. UNPROFESSIONAL CONDUCT (RULE 40).

A dentist or **dental** hygienist shall not engage in unprofessional conduct in the course of his practice. Unprofessional conduct by a person licensed under the provisions of Title 54, Chapter 9, Idaho Code, is defined as, but not limited to, one (1) of the following: ~~(7-1-93)~~()

01. Fraud. Obtaining fees by fraud or misrepresentation, or over-treatment either directly or through an insurance carrier. (7-1-93)

02. Unlicensed Practice. Employing directly or indirectly any suspended or unlicensed dentist or dental hygienist to practice dentistry or dental hygiene as defined in Title 54, Chapter 9, Idaho Code. (7-1-93)

03. Unlawful Practice. Aiding or abetting licensed persons to practice dental hygiene or dentistry unlawfully. (7-1-93)

04. Dividing Fees. A dentist shall not divide a fee for dental services with another party, who is not a partner or associate with him in the practice of dentistry, unless: (7-1-93)

a. The patient consents to employment of the other party after a full disclosure that a division of fees will be made; (7-1-93)

b. The division is made in proportion to the services performed and responsibility

assumed by each dentist or party. (7-1-93)

05. Controlled Substances. Prescribing or administering controlled substances not reasonably necessary for, or within the scope of, providing dental services for a patient. In prescribing or administering controlled substances, a dentist shall exercise reasonable and ordinary care and diligence and exert his best judgment in the treatment of his patient as dentists in good standing in the state of Idaho, in the same general line of practice, ordinarily exercised in like cases. A dentist may not prescribe controlled substances for or administer controlled substances to himself. A dentist shall not use controlled substances as an inducement to secure or maintain dental patronage or aid in the maintenance of any person's drug addiction by selling, giving or prescribing controlled substances. (3-18-99)

06. Harassment. The use of threats or harassment to delay or obstruct any person in providing evidence in any possible or actual disciplinary action, or other legal action; or the discharge of an employee primarily based on the employee's attempt to comply with the provisions of Title 54, Chapter 9, Idaho Code, or the Board's Rules, or to aid in such compliance. (7-1-93)

07. Discipline in Other States. Conduct himself in such manner as results in a suspension, revocation or other disciplinary proceedings with respect to his license in another state. (3-18-99)

08. Altering Records. Alter a patient's record with intent to deceive. (7-1-93)

09. Office Conditions. Unsanitary or unsafe office conditions, as determined by the customary practice and standards of the dental profession in the state of Idaho and current recommendations of the American Dental Association and the Centers for Disease Control as referred to in Section 004. (7-1-93)

10. Abandonment of Patients. Abandonment of patients by licensees before the completion of a phase of treatment, as such phase of treatment is contemplated by the customary practice and standards of the dental profession in the state of Idaho, without first advising the patient of such abandonment and of further treatment that is necessary. (7-1-93)

11. Use of Intoxicants. Practicing dentistry or dental hygiene while under the influence of an intoxicant or controlled substance where the same impairs the dentist's or hygienist's ability to practice dentistry or hygiene with reasonable and ordinary care. (7-1-93)

12. Mental or Physical Illness. Continued practice of dentistry or dental hygiene in the case of inability of the licensee to practice with reasonable and ordinary care by reason of one (1) or more of the following: (7-1-93)

a. Mental illness; (7-1-93)

b. Physical illness, including but not limited to, deterioration through the aging process, or loss of motor skill. (7-1-93)

13. Consent. Revealing personally identifiable facts, data or information obtained in a

professional capacity without prior consent of the patient, except as authorized or required by law. (3-18-99)

14. Scope of Practice. Practicing or offering to practice beyond the scope permitted by law, or accepting and performing professional responsibilities that the licensee knows or has reason to know that he or she is not competent to perform. (3-18-99)

15. Delegating Duties. Delegating professional responsibilities to a person when the licensee delegating such responsibilities knows, or with the exercise of reasonable care and control should know, that such a person is not qualified by training or by licensure to perform them. (3-18-99)

16. Unauthorized Treatment. Performing professional services that have not been authorized by the patient or his legal representative. (3-18-99)

17. Supervision. Failing to exercise appropriate supervision over persons who are authorized to practice only under the supervision of a licensed professional. (7-1-93)

18. Legal Compliance. Failure to comply with any provisions of federal, state or local laws, statutes, rules, and regulations governing or affecting the practice of dentistry or dental hygiene. (3-29-12)

19. Exploiting Patients. Exercising undue influence on a patient in such manner as to exploit a patient for the financial or personal gain of a practitioner or of a third party. (7-1-93)

20. Misrepresentation. Willful misrepresentation of the benefits or effectiveness of dental services. (7-1-93)

21. Disclosure. Failure to advise patients or their representatives in understandable terms of the treatment to be rendered, alternatives, and disclosure of reasonably anticipated fees relative to the treatment proposed. (3-18-99)

22. Sexual Misconduct. Making suggestive, sexual or improper advances toward a patient or committing any lewd or lascivious act upon or with a patient. (7-1-93)

23. Patient Management. Use of unreasonable and/or damaging force to manage patients, including but not limited to hitting, slapping or physical restraints. (7-1-93)

24. Compliance With Dentist Professional Standards. Failure by a dentist to comply with professional standards applicable to the practice of dentistry, as incorporated by reference in this chapter. (3-29-12)

25. Compliance With Dental Hygienist Professional Standards. Failure by a dental hygienist to comply with professional standards applicable to the practice of dental hygiene, as incorporated by reference in this chapter. (3-29-12)

26. Failure to Provide Records to a Patient or Patient's Legal Guardian. Refusal or failure to provide a patient or patient's legal guardian legible copies of dental records. Failure

to provide a patient or patient's legal guardian with records under Subsection 040.26 within five (5) business days shall be considered unprofessional conduct. A patient or patient's legal guardian may not be denied a copy of his records for any reason, regardless of whether the person has paid for the dental services rendered. A person may be charged for the actual cost of providing the records but in no circumstances may a person be charged an additional processing or handling fee or any charge in addition to the actual cost. ()

27. Failure to Cooperate With Authorities. Failure to cooperate with authorities in the investigation of any alleged misconduct or interfering with a Board investigation by willful misrepresentation of facts, willful failure to provide information upon request of the Board, or the use of threats or harassment against any patient or witness to prevent them from providing evidence. ()

(BREAK IN CONTINUITY OF SECTIONS)

046. ADVERTISING (RULE 46).

Dentists and dental hygienists licensed to practice in Idaho may advertise in any medium or by other form of public communication so long as any such advertising is not false, deceptive, misleading or not readily subject to verification. ~~In addition to any other applicable grounds, a~~ violation of this advertising rule shall constitute and be considered as ~~unethical and~~ unprofessional conduct pursuant to the Idaho Dental Practice Act and this chapter.

~~(3-20-04)~~()

01. General Advertising Provisions.

(3-20-04)

a. "Advertisement" shall mean any public communication, made in any form or manner whatsoever, about a licensee's professional services, fees or qualifications for the purpose of soliciting business. ~~"Advertising" or "advertise" shall mean holding out, broadcasting, mailing, publishing, transmitting, announcing, distributing or otherwise disseminating any advertisement, whether directly or indirectly through the efforts of another person or entity. Any sign soliciting business, whether at the location of the dental practice or otherwise, shall be considered as an advertisement.~~ A licensee who engages or authorizes another person or entity to advertise for or on the licensee's behalf is responsible for the content of the advertisement unless the licensee can prove that the content of the advertisement was contrary to the licensee's specific directions.

~~(3-20-04)~~()

b. If the form or manner of advertising consists of or contains verbal communication to the public by television, radio, or other means, the advertisement shall be prerecorded and approved for broadcast by the licensee and a recording of the actual advertisement shall be retained by the licensee for a period of two (2) years. Upon receipt of a written request from the Board, a licensee shall provide any such recorded advertisement to the Board within five (5) working days.

(3-20-04)

c. Any advertisement made under or by means of a fictitious or assumed business name ~~or in the name of a professional service corporation~~ shall be the responsibility of all

licensees who are owners, members, partners or proprietors of the business ~~or corporation~~ entity.
(3-20-04)()

02. Prohibited Advertising. A licensee shall not advertise in any form or manner which is false, misleading or deceptive to the public or which is not readily susceptible to verification. False, misleading or deceptive advertising or advertising that is not readily susceptible to verification includes, but is not limited to, advertising that: (3-20-04)

a. Makes a material misrepresentation of fact or omits a material fact; (3-20-04)

~~**b.** Makes a representation likely to create an unjustified expectation about the results of a dental procedure;~~ (3-20-04)

~~**c.** Compares a licensee's services with another licensee's services unless the comparison can be factually substantiated;~~ (3-20-04)

~~**b.**~~ Makes a representation that is misleading false as to the credentials, education, or the licensing status of any licensee; (3-20-04)()

~~**c.**~~ Represents that the benefits of a dental insurance plan will be accepted as full payment when deductibles or copayments are required; (3-20-04)

~~**f.** Refers to benefits of dental procedures or products that involve significant risks without including realistic assessments of the safety and efficacy of those procedures or products.~~ (3-20-04)

03. Specialty Advertising. The Board recognizes and licenses the following specialty areas of dental practice: Dental Public Health; Endodontics; Oral and Maxillofacial Pathology; Oral and Maxillofacial Radiology; Oral and Maxillofacial Surgery; Orthodontics; Pediatric Dentistry; Periodontics; and Prosthodontics. The specialty advertising rules are intended to allow the public to be informed about recognized dental specialties and specialization competencies of licensees and to require appropriate disclosures to avoid misperceptions on the part of the public. (4-6-05)

a. An advertisement shall not state that a licensee is a specialist, or specializes in a recognized specialty area of dental practice, or limits his practice to any recognized specialty area of dental practice unless the licensee has been issued a license in that specialty area of dental practice by the Board. Use of words or terms in advertisements such as "Endodontist," "Pedodontist," "Pediatric Dentist," "Periodontist," "Prosthodontist," "Orthodontist," "Oral and Maxillofacial Pathologist," "Oral Pathologist," "Oral and Maxillofacial Radiologist," "Oral Radiologist," "Oral and Maxillofacial Surgeon," "Oral Surgeon," "Specialist," "Board Certified," "Diplomate," "Practice Limited To," and "Limited To Specialty Of" shall be prima facie evidence that the licensee is ~~announcing or~~ holding himself out to the public as a licensed specialist ~~or that the licensee specializes~~ in a recognized specialty area of dental practice. (3-29-12)()

b. A licensee who has not been licensed by the Board in a recognized specialty area of dental practice may advertise as being qualified in a recognized specialty area of dental practice so long as each such advertisement, regardless of form, contains a prominent, clearly

worded disclaimer that the licensee is “licensed as a general dentist” or that the specialty services “will be provided by a general dentist.” Any disclaimer in a written advertisement shall be in the same font style and size as that in the listing of the specialty area. ~~(3-29-12)~~()

c. A licensee shall not advertise as being a specialist in or as specializing in any area of dental practice which is not a Board recognized and licensed specialty area unless the advertisement, regardless of form, contains a prominent, clearly worded disclaimer that the advertised area of dental practice is not recognized as a specialty area of dental practice by the Idaho Board of Dentistry. Any disclaimer in a written advertisement shall be in the same font style and size as that in the listing of the specialty area. ~~(3-20-04)~~()

047. -- 049. (RESERVED)

050. CONTINUING EDUCATION FOR DENTISTS (RULE 50).

Effective October 1994, renewal of any active dental license will require evidence of completion of continuing education or volunteer dental practice that meets the following requirements.

(4-6-05)

01. Requirements:

(3-18-99)

a. All active dentists must hold a current CPR card.

(7-1-93)

b. All active dentists shall acquire thirty (30) credits of verifiable continuing education in each biennial renewal period. One (1) credit is defined as one (1) hour of instruction.

(3-29-12)

c. Continuing education must be oral health/health-related for the professional development of a dentist. ~~The thirty (30) credits shall be obtained through continuing education courses, correspondence courses, college credit courses, and viewing of videotape or listening to other media devoted to dental education.~~

~~(3-29-12)~~()

d. A dentist holding an active status license issued by the Board shall be allowed one (1) credit of continuing education for every two (2) hours of verified volunteer dental practice performed during the biennial renewal period up to a maximum of ten (10) credits.

(3-30-07)

e. Any person who becomes licensed as an active dentist during any biennial renewal period shall be required at the time of the next successive license renewal to report a prorated amount of continuing education credits as specified by the Board.

(3-30-07)

02. Documentation. In conjunction with license renewal, the dentist shall provide a list of continuing education credits obtained and verification of hours of volunteer dental practice performed and certify that the minimum requirements were completed in the biennial renewal period.

(3-30-07)

051. CONTINUING EDUCATION FOR DENTAL HYGIENISTS (RULE 51).

Effective April 1994, renewal of any active dental hygiene license or dental hygiene license endorsement will require evidence of completion of continuing education or volunteer dental hygiene practice that meets the following requirements.

(4-6-05)

01. Requirements for Renewal of an Active Status Dental Hygiene License:

(4-6-05)

a. All active dental hygienists must hold a current CPR card.

(6-2-92)

b. All active dental hygienists shall acquire twenty-four (24) credits of verifiable continuing education in each biennial renewal period. One (1) credit is defined as one (1) hour of instruction.

(3-29-12)

c. Continuing education must be oral health/health-related education for the professional development of a dental hygienist. ~~The twenty-four (24) credits shall be obtained through continuing education courses, correspondence courses, college credit courses, viewing of videotape or listening to other media devoted to dental hygiene education.~~

(3-29-12)()

d. A dental hygienist holding an active status license issued by the Board shall be allowed one (1) credit of continuing education for every two (2) hours of verified volunteer dental hygiene practice performed during the biennial renewal period up to a maximum of ten (10) credits.

(3-30-07)

e. Any person who becomes licensed as an active dental hygienist during any biennial renewal period shall be required at the time of the next successive license renewal to report a prorated amount of continuing education credits as specified by the Board.

(3-30-07)

02. Requirements for Renewal of an Extended Access Dental Hygiene License Endorsement. In addition to any other continuing education requirements for renewal of a dental hygiene license, a person granted an extended access dental hygiene license endorsement shall complete ~~twelve~~ **four** ~~(12)~~ credits of verifiable continuing education in each biennial renewal period in the specific practice areas of medical emergencies, local anesthesia, oral pathology, care and treatment of geriatric, medically compromised or disabled patients and treatment of children. Any person who is issued an extended access dental hygiene license endorsement during any biennial renewal period shall be required at the time of the next successive license renewal to report a prorated amount of those continuing education credits required under this section as specified by the Board.

(3-29-12)()

03. Documentation. In conjunction with license and endorsement renewal, the dental hygienist shall provide a list of continuing education credits obtained and verification of hours of volunteer dental hygiene practice performed and certify that the minimum requirements were completed in the biennial renewal period.

(3-30-07)

052. -- 053. (RESERVED)

054. DEFINITIONS (RULE 54).

For the purposes of these anesthesia rules, the following terms will be used, as defined below:

(4-11-06)

01. Methods of Anxiety and Pain Control.

(4-11-06)

- a.** Analgesia shall mean the diminution or elimination of pain. (4-7-11)
- b.** Local anesthesia shall mean the elimination of sensation, especially pain, in one (1) part of the body by the topical application or regional injection of a drug. (4-7-11)
- c.** Minimal sedation shall mean a minimally depressed level of consciousness that retains the patient's ability to independently and continuously maintain an airway and respond normally to tactile stimulation and verbal command. Although cognitive function and coordination may be modestly impaired, ventilator and cardiovascular functions are unaffected. In accord with this particular definition, the drugs and/or techniques used should carry a margin of safety wide enough never to render unintended loss of consciousness. Further, patients whose only response is reflex withdrawal from repeated painful stimuli would not be considered to be in a state of minimal sedation. (4-7-11)
- d.** Moderate sedation shall mean a drug-induced depression of consciousness during which patients respond purposefully to verbal commands, either alone or accompanied by light tactile stimulation. No interventions are required to maintain a patent airway, and spontaneous ventilation is adequate. Cardiovascular function is usually maintained. (4-7-11)
- e.** Deep sedation shall mean a drug-induced depression of consciousness during which patients cannot be easily aroused but respond purposefully following repeated or painful stimulation. The ability to independently maintain ventilator function may be impaired. Patients may require assistance in maintaining a patent airway, and spontaneous ventilation may be inadequate. Cardiovascular function is usually maintained. (4-7-11)
- f.** General anesthesia shall mean a drug-induced loss of consciousness during which patients are not arousable, even by painful stimulation. The ability to independently maintain ventilator function is often impaired. Patients often require assistance in maintaining a patent airway, and positive pressure ventilation may be required because of depressed spontaneous ventilation or drug-induced depression of neuromuscular function. Cardiovascular function may be impaired. (4-7-11)

02. Sedation Terms. (4-11-06)

- a.** Advanced Cardiac Life Support (ACLS) shall mean an advanced cardiac life support course offered by a recognized accrediting organization. (4-11-06)
- b.** Monitor or monitoring shall mean the direct clinical observation of a patient during the administration of anesthesia by a person trained to observe the physical condition of the patient and capable of assisting with emergency or other procedures. (4-11-06)
- c.** Operator shall mean the supervising dentist or another person who is authorized by these rules or holds a permit to induce and administer the proper level of anesthesia/sedation. (4-11-06)
- d.** Titration shall mean the administration of incremental doses of a drug until a desired effect is reached. Knowledge of each drug's time of onset, peak response and duration of action is essential to avoid over sedation. Although the concept of titration of a drug to effect is

critical for patient safety, when the intent is moderate sedation one must know whether the previous dose has taken full effect before administering an additional drug increment. (4-7-11)

e. Maximum recommended **dose** (MRD) shall mean maximum FDA-recommended dose of a drug, as printed in FDA-approved labeling for unmonitored home use. ~~(4-7-11)~~()

f. Incremental dosing shall mean administration of multiple doses of a drug until a desired effect is reached, but not to exceed the maximum recommended dose (MRD). (4-7-11)

g. Supplemental dosing during minimal sedation shall mean a single additional dose of the initial drug that may be necessary for prolonged procedures. The supplemental dose should not exceed one-half of the initial dose and should not be administered until the dentist has determined the clinical half-life of the initial dosing has passed. The total aggregate dose must not exceed one and one-half times (1.5x) MRD on the day of treatment. (4-7-11)

03. Routes of Administration. (4-11-06)

a. Enteral. Any technique of administration in which the agent is absorbed through the gastrointestinal (GI) tract or oral mucosa (i.e., oral, rectal, sublingual). (4-11-06)

b. Inhalation. A technique of administration in which a gaseous or volatile agent is introduced into the lungs and whose primary effect is due to absorption through the gas/blood interface. (4-7-11)

c. Parenteral. A technique of administration in which the drug bypasses the gastrointestinal (GI) tract [i.e., intramuscular (IM), intravenous (IV), intranasal (IN), submucosal (SM), subcutaneous (SC), intraosseous (IO)]. (4-7-11)

d. Transdermal. A technique of administration in which the drug is administered by patch or iontophoresis through skin. (4-7-11)

e. Transmucosal. A technique of administration in which the drug is administered across mucosa such as intranasal, sublingual, or rectal. (4-7-11)

055. MINIMAL SEDATION (RULE 55).

Persons licensed to practice dentistry in accordance with the Idaho Dental Practice Act and these rules are not required to obtain a permit to administer minimal sedation to ~~adult~~ patients of sixteen (16) years of age or older. In cases where the patient weighs less than one hundred (100) pounds, or is under the age of sixteen (16) years, minimal sedation may be administered without a permit by use of nitrous oxide, or with a single enteral dose of a sedative agent administered in the dental office. When the intent is minimal sedation ~~for adults~~, the appropriate initial dosing of a single enteral drug is no more than the maximum recommended dose (MRD) of a drug that can be prescribed for unmonitored home use. ~~(4-7-11)~~()

01. Patient Safety. The administration of minimal sedation is permissible so long as it does not produce an alteration of the state of consciousness in a patient to the level of moderate sedation, deep sedation or general anesthesia. A dentist must first qualify for and obtain the

appropriate permit from the Board of Dentistry to be authorized to sedate patients to the level of moderate sedation, deep sedation or general anesthesia. Nitrous oxide/oxygen may be used in combination with a single enteral drug in minimal sedation, except as described in Section 055 of these rules. Notwithstanding any other provision in these rules, a dentist shall initiate and regulate the administration of nitrous oxide/oxygen when used in combination with minimal sedation.

(4-7-11)()

02. Personnel. At least one (1) additional person currently certified in Basic Life Support for Healthcare Providers must be present in addition to the dentist. (4-7-11)

(BREAK IN CONTINUITY OF SECTIONS)

057. NITROUS OXIDE/OXYGEN (RULE 57).

Persons licensed to practice dentistry and dental hygiene and dental assistants certified in accordance with the Idaho Dental Practice Act and these rules are not required to obtain a permit to administer nitrous oxide/oxygen to patients. Nitrous oxide/oxygen when used in combination with other sedative agents may produce an alteration of the state of consciousness in a patient to the level of moderate sedation, deep sedation or general anesthesia. A dentist must first qualify for and obtain the appropriate permit from the Board of Dentistry to be authorized to sedate patients to the level of moderate sedation, deep sedation or general anesthesia. (4-7-11)

01. Patient Safety. In connection with the administration of nitrous oxide/oxygen, a dentist shall: (4-7-11)

a. Evaluate the patient to insure that the patient is an appropriate candidate for nitrous/oxygen; and (4-7-11)

b. Insure that any patient under nitrous/oxygen shall be continually monitored; and (4-7-11)

c. Insure that a second person shall be on the office premises who can immediately respond to any request from the person administering the nitrous/oxygen. (4-7-11)

02. Required Facilities and Equipment. Dental offices in which nitrous oxide/oxygen is administered to patients shall, at a minimum and in addition to emergency medications, maintain appropriate facilities and have equipment on site for immediate use as follows: (4-7-11)

a. A nitrous oxide delivery system with a fail-safe system that is appropriately checked and calibrated. The equipment must also have either maintained in working order: (4-7-11)()

i. A functioning device that prohibits the delivery of less than thirty percent (30%) oxygen; or (4-7-11)

ii. An appropriately calibrated and functioning in-line oxygen analyzer with audible alarm; and (4-7-11)

- b.** An appropriate scavenging system must be available; and (4-7-11)
- c.** A positive-pressure oxygen delivery system suitable for the patient being treated. (4-7-11)

03. Personnel. For nitrous oxide/oxygen administration, personnel shall include: (4-7-11)

- a.** An operator; and (4-11-06)
- b.** An assistant currently certified in Basic Life Support for Healthcare Providers. (4-7-11)

c. Auxiliary personnel must have documented training in Basic Life Support for Healthcare Providers, shall have specific assignments, and shall have current knowledge of the emergency cart inventory. The dentist and all office personnel must participate in periodic reviews of office emergency protocol. (4-7-11)

058. -- 059. (RESERVED)

060. MODERATE SEDATION (RULE 60).

Dentists licensed in the state of Idaho cannot administer moderate sedation in the practice of dentistry unless they have obtained the proper moderate sedation permit from the Idaho State Board of Dentistry. A moderate sedation permit may be either enteral or parenteral. A moderate enteral sedation permit authorizes dentists to administer moderate sedation by either enteral or combination inhalation-enteral routes of administration. A moderate parenteral sedation permit authorizes a dentist to administer moderate sedation by any route of administration. A dentist shall not administer moderate sedation to children under sixteen (16) years of age and one hundred (100) pounds unless they have qualified for and been issued a moderate parenteral sedation permit. (3-29-12)

01. Requirements for a Moderate Enteral Sedation Permit. To qualify for a moderate enteral sedation permit, a dentist applying for a permit shall provide proof that the dentist has completed training in the administration of moderate sedation to a level consistent with that prescribed in the American Dental Association's "Guidelines for Teaching Pain Control and Sedation to Dentists and Dental Students," as incorporated in Section 004 in these rules. The five (5) year requirement regarding the required training for a moderate enteral sedation permit shall not be applicable to applicants who hold an equivalent permit in another state which has been in effect for the twelve (12) month period immediately prior to the application date. To obtain a moderate enteral sedation permit, a dentist must provide certification of the following: (4-7-11)

a. Completion of an American Dental Association accredited or Board of Dentistry approved post-doctoral training program within five (5) years of the date of application for a moderate enteral sedation permit that included documented training of a minimum of twenty-four (24) hours of instruction plus management of at least ten (10) adult case experiences by the enteral and/or enteral-nitrous oxide/oxygen route. These ten (10) cases must include at least three

live clinical dental experiences managed by participants in groups no larger than five (5). The remaining cases may include simulations and/or video presentations, but must include one experience in returning a patient from deep to moderate sedation; and (4-7-11)

- b.** Proof of current certification of Advanced Cardiac Life Support or its equivalent. (4-7-11)

02. Requirements for a Moderate Parenteral Sedation Permit. To qualify for a moderate parenteral sedation permit, a dentist applying for a permit shall provide proof that the dentist has completed training in the administration of moderate parenteral sedation as prescribed in the American Dental Association's "Guidelines for Teaching Pain Control and Sedation to Dentists and Dental Students," as incorporated in Section 004 of these rules within the five (5) year period immediately prior to the date of application for a moderate parenteral sedation permit. The five (5) year requirement shall not be applicable to applicants who hold an equivalent permit in another state which has been in effect for the twelve (12) month period immediately prior to the date of application. The training program shall: (4-7-11)

- a.** Be sponsored by or affiliated with a dental school accredited by the Commission on Dental Accreditation of the American Dental Association or a teaching hospital or facility approved by the Board of Dentistry; and (4-5-00)

- b.** Consist of a minimum of sixty (60) hours of instruction, plus management of at least twenty (20) patients by the intravenous route; and (4-7-11)

- c.** Include the issuance of a certificate of successful completion that indicates the type, number of hours, and length of training received. (3-18-99)

- d.** In addition, the dentist must maintain current certification in Advanced Cardiac Life Support or its equivalent. (4-7-11)

03. General Requirements for Moderate Enteral and Moderate Parenteral Sedation Permits. (4-7-11)

- a.** Facility Requirements. The dentist must have a properly equipped facility for the administration of moderate sedation. The qualified dentist is responsible for the sedative management, adequacy of the facility and staff, diagnosis and treatment of emergencies related to the administration of moderate sedation and providing the equipment, drugs and protocol for patient rescue. Evaluators appointed by the Idaho State Board of Dentistry will periodically assess the adequacy of the facility and competence of the anesthesia team. The Board adopts the standards incorporated by reference in Section 004.01.c. and Section 004.01.d. of these rules as set forth by the American Dental Association. (4-7-11)

- b.** Personnel. For moderate sedation, the minimum number of personnel shall be two (2) including: (4-7-11)

- i.** The operator; and (10-1-87)

- ii.** An assistant currently certified in Basic Life Support for Healthcare Providers.

(4-7-11)

iii. Auxiliary personnel must have documented training in basic life support for healthcare providers, shall have specific assignments, and shall have current knowledge of the emergency cart inventory. The practitioner and all office personnel must participate in documented periodic reviews of office emergency protocol, including simulated exercises, to assure proper equipment function and staff interaction. (4-7-11)

c. Permit Renewal. Renewal of the permit will be required every five (5) years. Proof of a minimum of twenty-five (25) credit hours continuing education in moderate sedation which may include training in medical/office emergencies will be required to renew a permit. A fee shall be assessed to cover administrative costs. In addition to the continuing education hours, a dentist must: ~~(4-7-11)~~()

i. For a moderate enteral sedation permit, maintain current certification in basic life support for healthcare providers or advanced cardiac life support; or ()

ii. For a moderate parenteral sedation permit, maintain current certification in advanced cardiac life support. ()

d. Reinstatement. A dentist may make application for the reinstatement of an expired or surrendered permit issued by the Board under this rule within five (5) years of the date of the permit's expiration or surrender. Applicants for reinstatement of a permit shall satisfy the facility and personnel requirements of this rule and shall be required to verify that they have obtained an average of five (5) credit hours of continuing education in moderate sedation for each year subsequent to the date upon which the permit expired or was surrendered. A fee for reinstatement shall be assessed to cover administrative costs. (4-7-11)

IDAPA 24 - BUREAU OF OCCUPATIONAL LICENSES

24.11.01 - RULES OF THE STATE BOARD OF PODIATRY

DOCKET NO. 24-1101-1301 (FEE RULE)

NOTICE OF RULEMAKING - ADOPTION OF PENDING FEE RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2014 Idaho State Legislature for final approval. Pursuant to Section 67-5224(5)(c), Idaho Code, this pending fee rule will not become final and effective until it has been approved, amended, or modified by concurrent resolution of the legislature because of the fee being imposed or increased through this rulemaking. The rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending fee rule. The action is authorized pursuant to Section 54-605, Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending fee rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change:

There are no changes to the pending rule and it is being adopted as originally proposed. The complete text of the proposed rule was published in the October 2, 2013 Idaho Administrative Bulletin, [Vol. 13-10, pages 335 through 339](#).

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased. This fee or charge is being imposed pursuant to Section 54-606, Idaho Code.

As authorized by Section 54-606, Idaho Code, Rule 300 is being amended to remove fees associated with the Idaho examination and clarify refunds.

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:

There is no impact on general or dedicated funds.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending fee rule, contact Cherie Simpson at 208-334-3233.

DATED this 28th day of October, 2013.

Tana Cory, Bureau Chief
Bureau of Occupational Licenses
700 W State St.
P O Box 83720
Boise, ID 83720-0063

Phone: 208-334-3233
Fax: 208-334-3945

THE FOLLOWING NOTICE WAS PUBLISHED WITH THE PROPOSED FEE 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 54-605, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 16, 2013.

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 Board is amending its rules to correct terminology to update the code of ethics version that is incorporated by reference, to update the examination rules since the Board no longer gives the examination, and to update the application process. It is also clarifying the fee section. Finally, the continuing education requirement is being amended to increase the continuing education requirement from 12 hours to 15 hours after 1/1/2015, to allow carryover of hours and for a special exemption.

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

Rule 300 is being amended to remove fees associated with the Idaho examination and clarify refunds.

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 resulting from this rulemaking: N/A

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not conducted because the rules being amended are simple in nature and were discussed in a noticed open meeting of the Board.

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 Board has adopted the American Podiatric Medical Association's Code of Ethics as published by the American Podiatric Medical Association. They are updating to the version dated March 2013.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Cherie Simpson at 208 334-3233.

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 23, 2013.

DATED this 21st day of August, 2013.

LSO Rules Analysis Memo

THE FOLLOWING IS THE TEXT OF FEE DOCKET NO. 24-1101-1301

004. INCORPORATION BY REFERENCE (RULE 4).

The document titled American Podiatric Medical Association's Code of Ethics as published by the American Podiatric Medical Association, dated ~~April~~ March 2008 and referenced in Section 500, is herein incorporated by reference and is available ~~from~~ for review at the Board's office and on the Board's web site at <http://www.ibol.idaho.gov>. ~~(3-29-10)()~~

(BREAK IN CONTINUITY OF SECTIONS)

010. DEFINITIONS AND STANDARDS (RULE 10).

01. Act. The Act means Chapter 143 Idaho session Laws of 1957 codified as Chapter 6, Title 54, Idaho Code, and any amendments thereto. (7-1-93)

02. Board. The Board means the State Board of Podiatry, as prescribed in Section 54-604, Idaho Code. (7-1-93)

03. Licensure. Licensure means a license to practice podiatry in Idaho. (3-13-02)

04. Reputable School. A "reputable school" of podiatry is defined as an approved podiatry school located within the United States or Canada and designated as such by the eCouncil on Podiatric Medical Education and the American Podiatric Medical Association.

~~(3-13-02)~~()

05. Bureau. The Bureau means the Bureau of Occupational Licenses, as prescribed in Sections 54-605 and 67-2602, Idaho Code. (3-13-02)

011. -- 099. (RESERVED)

100. GENERAL QUALIFICATIONS OF LICENSURE (RULE 100).

01. Residence. Residence in Idaho shall not be an eligibility requirement for licensure. (3-13-02)

02. Age. All applicants shall be at least twenty-one (21) years of age. (3-13-02)

03. Character. All applicants shall be of good moral character. (3-13-02)

04. Citizenship Requirement for Exam. Citizenship shall not be an eligibility requirement for ~~the Idaho podiatry~~ examination or licensure. All persons making application for licensure are required to be legally eligible to reside and obtain employment in the United States. ~~(3-13-02)~~()

101. -- 149. (RESERVED)

150. PRE-PROFESSIONAL EDUCATION.

All applicants shall provide ~~official documentation of graduation from an accredited high school, or its equivalent, and provide~~ official documentation of credits granted for at least two (2) full years of general college study in a college or university of recognized standing. ~~(3-13-02)~~()

(BREAK IN CONTINUITY OF SECTIONS)

200. CREDENTIALS TO BE FILED BY ALL APPLICANTS (RULE 200).

01. Application. An application for licensure shall be completed on a form approved by the board and submitted to the bureau ~~ninety (90) days before the date of the Idaho board examination.~~ ~~(3-13-02)~~()

02. Certified Copy of National Board Results. A copy of the applicable National Board results which has been certified as true and correct by the examining entity. (7-1-97)

03. Photograph Requirement. All applications shall be accompanied by an unmounted passport photograph of the applicant taken not more than one (1) year prior to the date of application. (3-13-02)

04. Educational Certificate Requirement. Each applicant shall be required to provide official ~~documentation of graduation from a four (4) year high school, or the equivalent,~~

~~and official~~ documentation of a collegiate education of not less than two (2) years in an accredited college or university giving instruction in letters and sciences. (3-13-02)()

05. Diploma. Certified photostatic copy of diploma granted by any college of podiatry and official certified transcripts indicating graduation from the program. (3-13-02)

06. Residency Certification Requirement. All applications shall include certification of completion of a residency as defined in Rule 152. (3-13-02)

201. -- 299. (RESERVED)

300. FEES (RULE 300).

01. Application Fee. A fee shall accompany all applications. The fee shall be two hundred dollars (\$200). (7-1-97)

02. Original License Fee. The original license fee shall be four hundred dollars (\$400). (4-9-09)

03. Written Exam Fee. The fee for examination shall be equal to that charged by the national examining entity, ~~together with an additional twenty-five (\$25) dollar administrative fee~~ and shall be paid directly to the examination provider. (3-13-02)()

04. Annual Renewal Fee. Fee for annual renewal of licenses, five hundred dollars (\$500). (3-21-12)

~~**05. Re-Exam Fee.** For candidates re-examining for the written and practical examinations or written examination only, the fee for re-examination will be four hundred dollars (\$400). For candidates re-examining for the practical only, the fee shall be two hundred dollars (\$200). (3-13-02)~~

065. Fee Non-Refundable. All fees are non-refundable, except that if a license is not issued, the license fee will be refunded. (3-13-02)()

301. -- 399. (RESERVED)

400. LICENSURE BY EXAMINATION (RULE 400).

01. Examination of Applicants. All applicants must successfully pass all parts of the ~~national board~~ American Podiatric Medical Licensing eExamination ~~given~~ developed and administered by the National Board of Podiatric Medical Examiners. (4-2-08)()

02. Passing Grade. A passing grade in all subjects examined shall be the grade as established by the ~~National Board of Podiatric Medical Examiners for the~~ examination ~~with a general average of not less than seventy percent (70%)~~ provider. (4-2-08)()

401. LICENSURE BY ENDORSEMENT (RULE 401).

Under Section 54-613, Idaho Code, applicants for licensure by endorsement may be granted a

license upon the approval of the Board. Each applicant for licensure by endorsement must provide documentation for each of the following before licensure will be considered: (3-15-02)

- 01. Complete Application.** A complete application together with the required fee. (4-11-06)
- 02. Certification of License.** Certification of having maintained a current license or other authority to practice issued by a regulatory board of Podiatry in any state or territory. (4-11-06)
- 03. Credentials.** Credentials as required in Subsections 200.02 through 200.05. (3-29-10)
- 04. Examination.** Successful passage of a written licensure examination covering all those subjects noted in Section 54-606, Idaho Code. Official certification of examination must be received by the board directly from: (4-11-06)
 - a.** The applicant's state or territory of licensure; or (3-15-02)
 - b.** The national board of podiatric medical examiners. ~~(4-11-06)~~()
- 05. Residency.** Proof of completion of the residency requirement as set forth in Subsection 200.06 of this rule. However, if the applicant graduated from a college of podiatry prior to 1993, this requirement will be waived. (3-29-10)
- 06. Practical Experience.** Having practiced podiatry under licensure for three (3) of the last five (5) years immediately prior to the date of application. (4-11-06)
- 07. Continuing Education.** Having obtained at least twelve (12) hours of continuing education during the twelve (12) months prior to the date of application. Effective January 1, 2015, having obtained at least fifteen (15) hours of continuing education germane to the practice of podiatry during the twelve (12) months prior to the date of application. ~~(4-11-06)~~()
- 08. Disciplinary Action.** Has not been the subject of any disciplinary action including pending or unresolved licensure actions within the last five (5) years immediately prior to application and has never had a license to practice podiatry revoked or suspended either voluntarily or involuntarily in any jurisdiction. (3-29-10)

(BREAK IN CONTINUITY OF SECTIONS)

~~551. -- 599. (RESERVED)~~

~~600. GENERAL PROVISIONS (RULE 600).~~

~~Regular meetings of the board shall be the third Monday of July and at such other times as determined by the board.~~ (4-5-00)

~~601.—699.~~ (RESERVED)

700. CONTINUING EDUCATION (RULE 700).

01. Post Graduate Education Requirement for License Renewal. Each podiatrist licensed by the state of Idaho shall attend in each twelve (12) month period preceding the renewal of a license to practice podiatry in Idaho, a minimum of twelve (12) full hours of post-graduate podiatry education courses. Effective January 1, 2015, each podiatrist licensed by the state of Idaho shall attend in each twelve-month period preceding the renewal of a license to practice podiatry in Idaho, a minimum of fifteen (15) full hours of post-graduate podiatry education courses. No more than ~~six ten~~ (610) hours of continuing education may be ~~home study~~ obtained on-line. Courses must be germane to the practice of podiatry; and ~~(4-2-08)~~()

- a. Approved by the Council on Podiatric Medical Education; or (4-2-08)
- b. Otherwise approved by the Board. (4-2-08)

02. Submission of License Renewal Application Form. Each licensed Idaho podiatrist will be furnished a license renewal application form by the Bureau of Occupational Licenses on which each podiatrist shall be required to certify by signed affidavit that compliance with the continuing education requirements has been met and shall submit the renewal application together with the required fees to the Bureau. (3-15-02)

03. Verification of Attendance. It shall be necessary for each licensee to maintain verification of attendance by securing authorized signatures or other documentation from the course instructors or sponsoring institution substantiating any and all hours attended by the ~~applicant~~ licensee. This verification shall be maintained by the licensee and provided to the Board upon the request of the Board or its agent. The Board will conduct random audits to monitor compliance. Failure to provide proof of meeting the continuing education upon request of the Board shall be grounds for disciplinary action. ~~(3-15-02)~~()

04. Carryover of Continuing Education Hours. Continuing education courses not claimed for credit in the current renewal year may be credited for the next renewal year. A maximum of fifteen (15) hours may be carried forward from the immediately preceding year. ()

05. Special Exemption. The Board shall have authority to make exceptions for reasons of individual hardship, including health, when certified by a medical doctor, or for 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.()

IDAPA 24 - BUREAU OF OCCUPATIONAL LICENSES

24.13.01 - RULES GOVERNING THE PHYSICAL THERAPY LICENSE BOARD

DOCKET NO. 24-1301-1302 (FEE RULE)

NOTICE OF RULEMAKING - ADOPTION OF PENDING FEE RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2014 Idaho State Legislature for final approval. Pursuant to Section 67-5224(5)(c), Idaho Code, this pending fee rule will not become final and effective until it has been approved, amended, or modified by concurrent resolution of the legislature because of the fee being imposed or increased through this rulemaking. The rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending fee rule. The action is authorized pursuant to Section 54-2206, Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending fee rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change:

There are no changes to the pending rule and it is being adopted as originally proposed. The complete text of the proposed rule was published in the August 7, 2013 Idaho Administrative Bulletin, [Vol. 13-8, pages 291 and 292](#).

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased. This fee or charge is being imposed pursuant to Section 54-2214, Idaho Code.

As authorized by Section 54-2214, Idaho Code, Rule 200 is being amended to decrease the initial license and annual renewal fee for physical therapists from \$40 to \$20; decrease the initial license and annual renewal fee for physical therapist assistants from \$35 to \$20; decrease the exam administration fee from \$40 to \$25; and decrease the application fee from \$50 to \$25. Rule 200.05 concerning extraordinary expenses is being deleted in its entirety.

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year:

This rulemaking is anticipated to reduce the amount of dedicated fund fees collected by the Physical Therapy Licensure Board by approximately \$27,510.00.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending fee rule, contact Cherie Simpson at 208-334-3233.

DATED this 28th day of October, 2013.

Tana Cory, Bureau Chief
Bureau of Occupational Licenses
700 W State St.
P O Box 83720
Boise, ID 83720-0063
Phone: 208-334-3233
Fax: 208-334-3945

THE FOLLOWING NOTICE WAS PUBLISHED WITH THE PROPOSED FEE 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 54-2206, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than August 21, 2013.

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 Physical Therapy Licensure Board operates on dedicated funds from fees paid by its licensees and applicants. This change would decrease the exam administrative fee, application fee, original license fee, and annual renewal fee for licensure in an effort to reduce the Board's dedicated fund balance and convey a benefit to licensees and applicants through lower fees.

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

Rule 200 is being amended to decrease the initial license and annual renewal fee for physical therapists from \$40 to \$25; decrease the initial license and annual renewal fee for physical therapist assistants from \$35 to \$20; decrease the exam administration fee from \$40 to \$20; and decrease the application fee from \$50 to \$25. Rule 200.05 concerning extraordinary expenses is being deleted in its entirety.

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 resulting from this rulemaking:

This rulemaking is anticipated to reduce the amount of dedicated fund fees collected by the Physical Therapy Licensure Board by approximately \$27,510.00.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not conducted because the proposed revisions to the fee rule are simple in nature and confer a benefit to the licensees and applicants. No opposition to this proposed fee reduction is anticipated.

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 Cherie Simpson at 208 334-3233.

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 August 28, 2013.

DATED this 24th day of June, 2013.

LSO Rules Analysis Memo

THE FOLLOWING IS THE TEXT OF FEE DOCKET NO. 24-1301-1302

200. FEES (RULE 200).

01. License Fee. (3-19-07)

a. The fee for the initial licensure and the annual renewal of a physical therapist shall be ~~forty~~ twenty-five dollars (~~\$4025~~). (~~4-9-09~~)()

b. The fee for the initial licensure and the annual renewal of a physical therapist assistant shall be ~~thirty-five~~ twenty dollars (~~\$3520~~). (~~4-9-09~~)()

02. Examination Fee. The fee for examination shall be that set by the examination entity approved by the Board and shall include an additional administrative fee of ~~forty~~ twenty dollars (~~\$420~~). (~~3-19-07~~)()

03. Reinstatement Fee. A reinstatement fee shall be twenty-five dollars (\$25) and satisfactory proof of successful completion of the continuing education requirement. (4-9-09)

04. Application Fee. The application fee shall be ~~fifty~~ **twenty-five** dollars (~~\$250~~) and shall accompany all applications. Fees shall not be refundable. ~~(3-19-07)~~()

~~**05. Extraordinary Expenses.** In those situations where the processing of an application requires extraordinary expenses, the Board may charge the applicant reasonable fees to cover all or part of the extraordinary expenses.~~ ~~(3-19-07)~~

IDAPA 24 - BUREAU OF OCCUPATIONAL LICENSES

24.26.01 - RULES OF THE IDAHO BOARD OF MIDWIFERY

DOCKET NO. 24-2601-1301 (FEE RULE)

NOTICE OF RULEMAKING - ADOPTION OF PENDING FEE RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2014 Idaho State Legislature for final approval. Pursuant to Section 67-5224(5)(c), Idaho Code, this pending fee rule will not become final and effective until it has been approved, amended, or modified by concurrent resolution of the legislature because of the fee being imposed or increased through this rulemaking. The rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending fee rule. The action is authorized pursuant to Sections 54-5504 and 54-5509, Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending fee rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change:

There are no changes to the pending rule and it is being adopted as originally proposed. The complete text of the proposed rule was published in the October 2, 2013 Idaho Administrative Bulletin, [Vol. 13-10, pages 355 and 356](#).

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased. This fee or charge is being imposed pursuant to Section 54-818, Idaho Code.

This change would increase the initial application fee from \$50 to \$200; the initial license fee from \$550 to \$800; and the annual renewal fee from \$550 to \$850.

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year:

This rulemaking will result in an annual increase of approximately \$10,000 in the board's dedicated fund, based on the current number of licensees and an estimate of one new application.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending fee rule, contact Cherie Simpson at 208-334-3233.

DATED this 28th day of October, 2013.

Tana Cory, Bureau Chief
Bureau of Occupational Licenses
700 W State St.
P O Box 83720

Boise, ID 83720-0063
Phone: 208-334-3233
Fax: 208-334-3945

THE FOLLOWING NOTICE WAS PUBLISHED WITH THE PROPOSED FEE 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 Sections 54-5504 and 54-5509, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 16, 2013.

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 Idaho Board of Midwifery operates on dedicated funds from fees paid by its licensees and applicants. The Board's expenses have been exceeding its revenues. The fee increases will help balance the Board's annual budget while maintaining the services necessary to protect the health and safety of the public. At the end of Fiscal Year 2013, the Board's balance was (\$79,908).

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

This change would increase the initial application fee from \$50 to \$200; the initial license fee from \$550 to \$800; and the annual renewal fee from \$550 to \$850.

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 resulting from this rulemaking:

This rulemaking will result in an annual increase of approximately \$10,000 in the board's dedicated fund, based on the current number of licensees and an estimate of one new application.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not conducted because the proposed revisions to the fee rule are simple in nature and were discussed during noticed, open meetings of the Board.

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 Cherie Simpson at 208 334-3233.

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 23, 2013.

DATED this 23rd day of August, 2013.

LSO Rules Analysis Memo

THE FOLLOWING IS THE TEXT OF FEE DOCKET NO. 24-2601-1301

175. FEES (RULE 175).

01. Initial Application Processing Fee. A ~~fifty two hundred~~ dollars (~~\$50200~~) application processing fee must accompany initial licensure applications. (3-29-10)()

02. License Fee. The initial license fee is ~~five eight~~ hundred ~~fifty~~ dollars (~~\$550800~~). This initial, one-time fee will be refunded if the Board does not issue the license for which application has been made. (3-29-10)()

03. Annual Renewal Fee. The annual license renewal fee is ~~five eight~~ hundred fifty dollars (~~\$5850~~). The annual license renewal fee will be refunded if the license is not renewed by the Board. (3-29-10)()

04. Reinstatement Fee. The fee to reinstate a license that has been cancelled for failure to renew is fifty dollars (\$50). (3-29-10)

05. Refund of Fees. Unless otherwise provided for in this Rule, all fees are non-refundable. (3-29-10)