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**IDAPA 22
TITLE 01
CHAPTER 01**

IDAPA 22 - IDAHO STATE BOARD OF MEDICINE

**22.01.01 - RULES OF THE BOARD OF MEDICINE FOR LICENSURE TO PRACTICE
MEDICINE AND SURGERY AND OSTEOPATHIC SURGERY IN IDAHO**

000. LEGAL AUTHORITY.

Pursuant to Sections 54-1806(2), 54-1806(11), and Section 54-1806A, Idaho Code, the Idaho State Board of Medicine is authorized to promulgate rules to govern the practice of Medicine in Idaho. (3-30-01)

001. TITLE AND SCOPE.

These rules shall be cited as IDAPA 22.01.01, "Rules of the Board of Medicine for the Licensure to Practice Medicine and Surgery and Osteopathic Medicine and Surgery in Idaho". (7-1-93)

002. WRITTEN INTERPRETATIONS.

Written interpretations of these rules in the form of explanatory comments accompanying the notice of proposed rule making that originally proposed the rules and review of comments submitted in the rulemaking process in the adoption of these rules are available for review and copying at cost from the Board of Medicine, 1755 Westgate Drive, Suite 140, Box 83720 Boise, Idaho 83720-0058. (5-3-03)

003. ADMINISTRATIVE APPEAL.

All contested cases shall be governed by the provisions of IDAPA 04.11.01, "Idaho Rules of Administrative Procedures of the Attorney General" and IDAPA 22.01.07, "Rules of Practice and Procedure of the Board of Medicine". (5-3-03)

004. PUBLIC RECORD ACT COMPLIANCE.

These rules have been promulgated according to the provisions of Title 67, Chapter 52, Idaho Code, and are public records. (5-3-03)

005. INCORPORATION BY REFERENCE.

There are no documents incorporated by reference into this rule. (5-3-03)

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

The central office of the Board of Medicine will be in Boise, Idaho. The Board's mailing address, unless otherwise indicated, will be Idaho State Board of Medicine, Statehouse Mail, Boise, Idaho 83720. The Board's street address is 1755 Westgate Drive, Suite 140, Boise, Idaho 83704. The telephone number of the Board is (208) 327-7000. The Board's facsimile (FAX) number is (208) 377-7005. The Board's office hours for filing documents are 8 a.m. to 5 p.m. MST. (5-3-03)

007. FILING OF DOCUMENTS - NUMBER OF COPIES.

All documents in rulemaking or contested case proceedings must be filed with the office of the Board. The original and ten (10) copies of all documents must be filed with the office of the Board. (5-3-03)

008. -- 009. (RESERVED).

010. DEFINITIONS.

01. Act. Title 54, Chapter 18, Idaho Code. (7-1-93)

02. Board. The Idaho State Board of Medicine. (7-1-93)

03. Acceptable School of Medicine. A medical school located within the United States or Canada and designated as an approved medical school by the Liaison Committee on Medical Education, or a school of osteopathy located within the United States and designated as an approved school of osteopathy by the American Osteopathic

Association, or a medical school acceptable to the Board. (7-1-93)

04. License to Practice Medicine. A license to practice medicine and surgery, a license to practice osteopathic medicine and surgery and a license to practice osteopathic medicine. A license to practice osteopathic medicine is limited to those areas of medicine in which they were authorized to practice prior to the combining of the Board of Medicine and the Osteopathic Board. (7-1-93)

05. Applicant. Any person seeking a license to practice medicine from the Board. (7-1-93)

06. Original Certificate or Document. Unless otherwise specified, shall mean either the original document itself or a certified copy thereof. (7-1-93)

011. -- 049. (RESERVED).

050. GENERAL QUALIFICATIONS FOR LICENSURE.

01. Residence. No period of residence in Idaho shall be required of any applicant. (7-1-93)

02. Character. The Board may refuse licensure if it finds that the applicant has engaged in conduct prohibited by Section 54-1814, Idaho Code; provided the Board shall take into consideration the rehabilitation of the applicant and other mitigating circumstances. (7-1-93)

051. LICENSURE BY WRITTEN EXAMINATION.

01. Application. Each applicant must have graduated from an acceptable school of medicine and completed one (1) year of postgraduate training approved by the Liaison Committee on Graduate Medical Education, the American Osteopathic Association or the Board, and shall submit completed written application to the Board on forms prescribed by the Board seventy-five (75) days prior to the written examination date, together with the application and examination fees and shall submit full set of the applicant's fingerprints on forms supplied by the board which shall be forwarded to the Idaho Department of Law Enforcement to the FBI Identification Division for the purpose of a fingerprint-based criminal history check of the Idaho central criminal database and the federal bureau of investigation criminal history database. The application form shall be verified and shall require the following: (5-3-03)

a. The education background of the applicant including his college education, medical school education and postgraduate training; (7-1-93)

b. A certificate of graduation from an acceptable school of medicine, and evidence of satisfactory completion of postgraduate training; (7-1-93)

c. The disclosure of any criminal charges, convictions or guilty pleas against the applicant other than minor traffic offenses; (7-1-93)

d. The current mental and physical condition of the applicant, together with disclosure of any previous physical or mental illness which impacts the applicant's ability to practice medicine; (3-30-01)

e. The disclosure of any past or pending medical malpractice actions against the applicant, and the settlements, if any, of such claims; (7-1-93)

f. The disclosure of any disciplinary action by any state board of medicine, medical society, professional society, hospital or institution staff; (7-1-93)

g. The disclosure of the refusal to issue a license to practice medicine by any other state; (7-1-93)

h. References; (7-1-93)

i. An unmounted photograph of the applicant, three inches by three inches (3" x 3"), taken not more

than one (1) year prior to the date of the application; (7-1-93)

j. A certified copy of a full set of the applicant's fingerprints on forms supplied by the board which shall be forwarded to the Idaho Department of Law Enforcement and to the FBI Identification Division for the purpose of a fingerprint-based criminal history check of the Idaho central criminal database and the Federal Bureau of Investigation criminal history database; (7-1-93)

k. Such other information or examinations as the Board deems necessary to identify and evaluate the applicant's credentials and competency. (7-1-93)

02. Examination. Each applicant must pass an examination conducted by or acceptable to the Board which shall thoroughly test the applicant's fitness to practice medicine. If an applicant fails to pass the examination on two (2) separate occasions, the applicant shall not be eligible to take the examination for at least one (1) year, and before taking the examination again, the applicant must make a showing to the Board that he has successfully engaged in a course of study for the purpose of improving his ability to engage in the practice of medicine. Applicants who fail two (2) separate examinations in another state, territory, or district of the United States or Canada, must make the same showing of successful completion of a course of study prior to examination for licensure. (7-1-93)

03. Interview. Each applicant may be personally interviewed by the Board or a designated committee of the Board. The interview shall include a review of the applicant's qualifications and professional credentials. (3-30-01)

04. Applicants. All applicants must appear to be examined or receive their license within one (1) year unless extended by the Board after filing an application. (7-1-93)

052. LICENSURE BY WRITTEN EXAMINATION FOR GRADUATES OF MEDICAL SCHOOLS LOCATED OUTSIDE OF THE UNITED STATES AND CANADA.

01. Foreign Graduate. In addition to meeting the requirements of Section 051, graduates of medical schools located outside of the United States and Canada must submit to the Board: (3-19-99)

a. An original certificate from the Educational Commission for Foreign Medical School Graduates or must submit documentation that the applicant has passed the examination either administered or recognized by the Educational Commission for Foreign Medical School Graduates; and IDAPA 22.01.01. (7-1-93)

b. Evidence directly from the foreign medical school which establishes to the satisfaction of the Board that the foreign medical school meets the standards for medical educational facilities set forth in Subsection 052.02; and (3-19-99)

c. An Affidavit from the foreign medical school that to its knowledge no state of the United States has refused to license its graduates on the grounds that the school fails to meet reasonable standards for medical education facilities. (7-1-93)

d. A complete transcript from the medical school showing the courses taken and grades received including an English translation of the documents provided. (5-3-03)

02. Requirements. A foreign medical school must meet and comply with the following requirements: (7-1-93)

a. The degree issued must be comparable to the degrees issued by medical schools located within the United States or Canada. (7-1-93)

b. If the foreign medical school issued its first M.D. degrees after 1975, the school must provide a site visit or documented evidence of equivalent evaluation efforts acceptable to the Board is required. (3-30-01)

c. If the foreign medical school issued valid degrees prior to 1975, the Board, in its discretion may require a site visit. (3-30-01)

d. A site visit of the school, when required, must be financed by the school. The visiting team shall consist of at least one (1) member of the Board; one (1) consultant, a clinical medical educator acceptable to the Board; one (1) consultant, a basic science educator acceptable to the Board; such administrative support personnel as deemed necessary. The school will be required to pay consultant fees and expenses. (7-1-93)

e. The Board may waive the site visit requirement if: (7-1-93)

i. Information assembled by a similarly or comparably constituted site visit team is available from another state licensing board; or (7-1-93)

ii. In the case of review for renewal of approval. (7-1-93)

f. All schools approved by the Board will be subject to review of approval as deemed necessary by the Board, taking into consideration need and feasibility. (7-1-93)

g. The Board will review all available information in considering approval, including investigative reports by other states, national and international agencies, and may consider the comparative performance of graduates with those of other schools on standard examination. (7-1-93)

03. Postgraduate Training. The foreign medical school graduate must submit documentation that the applicant has satisfactorily completed three (3) years of postgraduate training in a program which is located in the United States or Canada, which is approved for such training by the Liaison Committee on Graduate Medical Education and which is conducted under the direction of an acceptable school of medicine; provided however, applicants who do not have an ECFMG certificate must also submit documentation that their three (3) years of postgraduate training included at least one (1) academic year of supervised clinical training conducted under the direction of an acceptable school of medicine. (7-1-93)

04. ECFMG. The certificate from the Educational Commission for Foreign Medical School Graduates is not required if the applicant holds a license to practice medicine which was issued prior to 1958 in one (1) of the states of the United States and which was obtained by written examination. (7-1-93)

05. English Language. The foreign medical student applicant must be able to speak, write and read the English language. (7-1-93)

053. GRADUATES OF UNAPPROVED MEDICAL SCHOOLS LOCATED OUTSIDE THE UNITED STATES OR CANADA.

Graduates of schools located outside the United States or Canada that do not meet the requirements of Subsections 052.01 and 052.02 shall meet three (3) of the following requirements. (5-3-03)

01. Hold Valid Certificate. Hold a valid certificate issued by ECFMG. (5-3-03)

02. Three Years of Completed Post Graduate Training. Completed three (3) years of progressive post graduate training in an American Council on Graduate Medical Education (ACGME) or American Osteopathic Association (AOA) approved program. (5-3-03)

03. Hold Board Certification. Hold board certification by a speciality board approved by the American Board of Medical Specialities or the AOA. (5-3-03)

04. Have Five Years Unrestricted Practice. Provide evidence of five (5) years of unrestricted practice as a licensee of any United States or Canadian jurisdiction. (5-3-03)

054. -- 075. (RESERVED).

076. LICENSURE BY ENDORSEMENT.

01. Endorsement. A license to practice medicine may be granted by endorsement without written

examination to an applicant (including an applicant who has graduated from a foreign medical school) who submits a completed written application to the Board on forms furnished by the Board, together with the necessary application fee. The application form shall be verified and in addition to the information required by Section 051 or Subsection 052.02, as applicable, the following additional information shall be required: (3-19-99)

- a. The employment history and practice location of the applicant; (7-1-93)
- b. Each state in which the applicant has applied for a license to practice medicine; (7-1-93)
- c. Each state wherein the applicant is licensed to practice medicine. (7-1-93)

02. Qualifications. The applicant must also have any one (1) of the following qualifications: (7-1-93)

a. The applicant is a diplomat of the National Board of Medical Examiners or the National Board of Examiners for Osteopathic Physicians and Surgeons; (7-1-93)

b. The applicant holds a valid, unrevoked, unsuspended license to practice medicine and surgery, or osteopathic medicine and surgery in a state, territory or district of the United States or Canada obtained after an equivalent written examination as required by Subsection 051.02; (3-19-99)

c. The applicant has earned a D.O. degree issued after January 1, 1963, and holds a valid, unrevoked, unsuspended license to practice osteopathic medicine and surgery in an unlimited state, territory or district of the United States, which in the Board's opinion maintains standards equivalent to Idaho. The term "unlimited state" means a state where a composite examining board exists, where medical doctors and osteopaths take the same examination, and where a license to practice osteopathy includes authorization to practice unlimited medicine and surgery, these requirements being in effect at the time of licensure. (7-1-93)

03. Interview. Each applicant may be personally interviewed by the Board or a designated committee of the Board. The interview shall include a review of the applicant's qualifications and professional credentials. (3-30-01)

04. Health Care Standards. In reviewing the application or conducting the applicant's interview, the Board shall determine whether the applicant possesses the requisite qualifications to provide the same standard of health care as provided by licensed physicians in this state. If the Board is unable to reach such a conclusion through the application and interview, it shall conduct further written or oral examination, or both, to establish such qualifications. (7-1-93)

a. If further written examination is required, the Board may require passage of Part 2 of the Federation Licensing Examination (FLEX) or the Specialty Purpose Examination (SPEX) prepared by the Federation of State Medical Boards of the United States. (7-1-93)

b. If further oral examination is required, the Board may utilize either of two (2) oral examinations: (7-1-93)

i. A test administered by a member of the Board testing responses to clinical situations; or (7-1-93)

ii. A test prepared by a physician practicing in the appropriate specialty, consisting of no less than twelve (12) questions selected to determine current clinical awareness. (7-1-93)

c. The Board will require further written or oral examination when in its judgement the need is apparent, including but not limited to the following circumstances: (7-1-93)

i. Graduate of a foreign medical school not accredited by the Liaison Committee on Medical Education; (7-1-93)

ii. Applicant whose background investigation reveals evidence of impairment or competency deficit; (7-1-93)

iii. When the applicant has not been in active practice for a period exceeding one (1) year, or when practice has been significantly interrupted; (7-1-93)

iv. When the applicant has not written a recognized examination intended to determine ability to practice medicine within a period of five (5) years preceding application; (7-1-93)

v. When the applicant received initial licensure on the basis of an examination not listed in Section 051 of this policy; or (3-19-99)

vi. When there is any reason whatsoever to question the identity of the applicant. (7-1-93)

d. Oral Examinations will be administered by at least two (2) physicians, licensed in Idaho, at least one (1) a member of the Board. (7-1-93)

05. Failure to Pass Examination. (7-1-93)

a. When an applicant fails to pass the oral examination, he may be offered an opportunity to take a current clinical written examination acceptable to the Board. (7-1-93)

b. When an applicant fails to achieve a passing score in the clinical written examination, he may be offered an opportunity to write the Federation Licensing Examination, whether or not he has previously written this examination. (7-1-93)

c. Each applicant who has failed a licensing examination, a current competency written examination, or the Board oral examination, will be required to appear for a personal interview with the Board at a regularly scheduled meeting. (7-1-93)

077. TEMPORARY LICENSE.

01. Application for Temporary Licensure. Any applicant eligible to be licensed without written examination pursuant to Section 076, may apply for a temporary license to practice medicine; however, any applicant who has failed to receive a passing grade in any written examination before a state, territorial or district licensing agency or before the National Board of Medical Examiners or the National Board of Examiners for Osteopathic Physicians and Surgeons is not eligible to apply for or to receive a temporary license. (3-19-99)

02. File Completed Application. All applicants for a temporary license shall file a completed written application in accordance with Section 076 and shall file with the Board an application for a temporary license fee and regular license fee. The temporary license application shall require a showing by the applicant of the necessity and need for such a license. (3-19-99)

03. Board Member. The chairman or designated member of the Board shall review the application for a temporary license and the application required by Section 076 and may interview the applicant. If he is of the opinion that the applicant possesses qualifications and credentials for a permanent license without written examination, and the applicant for the temporary license has made a showing of circumstances requiring immediate action that cannot be delayed, he may approve issuance of a temporary license. The temporary license shall bear the word "temporary" and will show the date of issuance and the date of expiration. The temporary license expiration date may be extended by the Board upon a showing of good cause. (5-3-03)

078. INACTIVE LICENSE.

01. Converted License. Any license issued by the Board may be converted to an inactive license on the condition that the licensee will not engage in the practice of medicine in this state. An inactive license fee shall be collected by the Board. (7-1-93)

02. Issuance of Inactive License. Any applicant who is entitled to be issued a license to practice medicine may be issued, upon request, an inactive license to practice medicine on the condition that he will not

engage in the practice of medicine in this state. An inactive license fee shall be collected by the Board. (7-1-93)

03. Annually Renewed. Inactive licenses shall be issued for a period of not less than one (1) year or more than five (5) years and such licenses shall be renewed upon payment of an inactive license renewal fee. The inactive license certificate shall set forth its date of expiration. (3-30-01)

04. Inactive to Active License. An inactive license may be converted to an active license to practice medicine by application to the Board and payment of required fees. Before the license will be converted the applicant must account for the time during which an inactive license was held. The Board may, in its discretion, require a personal interview. (7-1-93)

079. LICENSES.

01. Licensure Expiration. Each license to practice medicine shall be issued for a period of not less than one (1) year or more than five (5) years. Each license shall set forth its expiration date on the face of the certificate. The Board may condition the issuance of such a license for the full term upon the occurrence of events specified by the Board and the Board may extend a license for an intermediate period of time. (3-30-01)

02. Renewal. Each license to practice medicine may be renewed prior to its expiration date by the payment of a renewal fee to the Board and by completion of a renewal form provided by the Board. In order to be eligible for renewal, a licensee must provide a current address to the Board and must notify the Board of any change of address during the renewal period. Licenses not renewed by their termination date shall be canceled. (4-2-93)

03. Reinstatement. Licenses canceled for nonpayment of renewal fees may be reinstated by filing a reinstatement application on forms prescribed by the Board and upon payment of a reinstatement fee. (3-30-01)

04. Relicensure. Persons whose licenses have been canceled for a period of more than five (5) years, shall be required to make application to the Board as new applicants for licensure. (7-1-93)

080. CONTINUING MEDICAL EDUCATION (CME) REQUIRED.

01. Purpose. The purpose of practice relevant CME is to enhance competence, performance, understanding of current standards of care, and patient outcomes. (5-3-03)

02. Renewal. Each person licensed to practice medicine and surgery or osteopathic medicine or surgery in Idaho shall complete no less than forty (40) hours of practice relevant, Category 1, CME every two (2) years. (5-3-03)

03. Approved Programs. All education offered by institutions or organizations accredited by the Accreditation Council on Continuing Medical Education (ACCME) and reciprocating organizations or the American Osteopathic Association (AOA) are considered approved. (5-3-03)

04. Verification of Compliance. Licensees shall, at license renewal, provide a signed statement to the Board indicating compliance. The board, in its discretion, may require such additional evidence as is necessary to verify compliance. (5-3-03)

05. Alternate Compliance. The board may accept certification or recertification by a member of the American Board of Medical Specialties, the American Osteopathic Association Bureau of Professional Education, or the Royal College of Physicians and Surgeons of Canada in lieu of compliance with continuing education requirements during the cycle in which the certification or recertification is granted. The board may also grant an exemption for full time participation in a residency or fellowship training at a professionally accredited institution. (5-3-03)

06. Penalties for Noncompliance. The board may condition, limit, suspend, or refuse to renew the license of any person whom the board determines has failed to comply with the continuing education requirements of this chapter. (5-3-03)

081. -- 099. (RESERVED).

100. FEES. -- TABLE.

01. Fixed Fees -- Table. Fees by the Board shall be fixed as follows:

Fixed Fees -- Table	
Written Examination and Application Fee plus costs of the examination.	\$300
Licensure by Endorsement Fee	\$400
Temporary License	\$100
Reinstatement License Fee plus total of renewal fees not paid by applicant	\$100
Inactive License Renewal Fee	\$ 75
Renewal of License to Practice Medicine Fee	\$200
Reactivation License Fee	\$100
Oral Examination Fee	\$100
Duplicate Wallet License	\$ 10
Duplicate Wall License	\$ 25

(3-19-99)

02. Administrative Fees for Services. Administrative fees for services shall be billed on the basis of time and cost. (7-1-93)

101. ADDITIONAL GROUNDS FOR SUSPENSION, REVOCATION OR DISCIPLINARY SANCTIONS.

01. Discipline. In addition to the statutory grounds for medical discipline set forth in Idaho Code, Section 54-1814, every person licensed to practice medicine or registered as an extern, intern, resident or physician's assistant is subject to discipline by the board upon any of the following grounds: (7-1-93)

02. Unethical Advertising. Advertising the practice of medicine in any unethical or unprofessional manner, includes but is not limited to: (7-1-93)

a. Using advertising or representations likely to deceive, defraud or harm the public. (7-1-93)

b. Making a false or misleading statement regarding his or her skill or the efficacy or value of the medicine, treatment or remedy prescribed by him or her at his or her direction in the treatment of any disease or other condition of the body or mind. (7-1-93)

03. Standard of Care. Providing health care which fails to meet the standard of health care provided by other qualified physicians in the same community or similar communities, includes but is not limited to: (7-1-93)

a. Being found mentally incompetent or insane by any court of competent jurisdiction. (7-1-93)

b. Engaging in practice or behavior that demonstrates a manifest incapacity or incompetence to practice medicine. (7-1-93)

c. Allowing another person or organization to use his or her license to practice medicine. (7-1-93)

- d.** Prescribing, selling, administering, distributing or giving any drug legally classified as a controlled substance or recognized as an addictive or dangerous drug to himself or herself or to a spouse, child or stepchild. (3-19-99)
- e.** Violating any state or federal law or regulation relating to controlled substances. (7-1-93)
- f.** Directly promoting surgical procedures or laboratory tests that are unnecessary and not medically indicated. (7-1-93)
- g.** Failure to transfer pertinent and necessary medical records to another physician when requested to do so by the subject patient or by his or her legally designated representative. (7-1-93)
- 04. Conduct.** Engaging in any conduct which constitutes an abuse or exploitation of a patient arising out of the trust and confidence placed in the physician by the patient, includes but is not limited to: (7-1-93)

 - a.** Obtaining any fee by fraud, deceit or misrepresentation. (7-1-93)
 - b.** Employing abusive billing practices. (7-1-93)
 - c.** Failure to transfer pertinent and necessary medical records to another physician when requested to do so by the subject patient or by his or her legally designated representative. (7-1-93)
 - d.** Commission of any act of sexual contact, misconduct, exploitation or intercourse with a patient or former patient or related to the licensee's practice of medicine. (7-1-93)

 - i.** Consent of the patient shall not be a defense. (3-19-99)
 - ii.** Section 101 does not apply to sexual contact between a medical care provider and the provider's spouse or a person in a domestic relationship who is also a patient. (3-19-99)
 - iii.** A former patient includes a patient for whom the physician has provided medical services or prescriptions within the last twelve (12) months. (3-19-99)
 - iv.** Sexual or romantic relationships with former patients beyond that period of time may also be a violation if the physician uses or exploits the trust, knowledge, emotions or influence derived from the prior professional relationship with the patient. (3-19-99)

102. EFFECTIVE DATE.

The rules found in IDAPA 22.01.01, "Rules of the Board of Medicine for Licensure to Practice Medicine and Surgery and Osteopathic Medicine and Surgery," were effective July 15, 1980, and the remainder of these rules were effective March 15, 1978 and thereafter. Certain amendments became effective on February 28, 1986; September 15, 1987; March 24, 1989; March 15, 1991; and April 2, 1993. (7-1-93)

103. -- 999. (RESERVED).

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