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**IDAPA 22
TITLE 01
CHAPTER 01**

IDAPA 22 - 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, P.O. Box 83720, Boise, Idaho 83720-0058. 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) 327-7005. The Board's web site is www.bom.state.id.us. The Board's office hours for filing documents are 8 a.m. to 5 p.m. MST. (3-30-06)

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. Medical Practice Act. Title 54, Chapter 18, Idaho Code. (3-30-06)

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 issued by the Board to practice medicine and surgery or a license to practice osteopathic medicine and surgery in Idaho. (3-30-06)

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

06. Original Certificate or Document. Shall mean either the original document itself or a certified copy thereof issued by the agency or institution and mailed or delivered directly from the source to the Board or a Board approved credential verification service. (3-30-06)

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)

03. Application. Each applicant must have graduated from an acceptable school of medicine, passed an examination acceptable to the Board and completed one (1) year of postgraduate training approved by the Accreditation Council for 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, together with the nonrefundable application fee. The application form shall be verified and shall require the following: (3-30-06)

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 or renew a license to practice medicine by any state, Canadian or foreign licensing authority; (3-30-06)

h. References to include two (2) letters of recommendation signed by licensed physicians who have known the applicant professionally for at least one (1) year; (3-30-06)

i. An unmounted photograph of the applicant, of adequate size and clarity to identify the applicant and no larger than four inches tall by three inches wide (4" x 3"), taken not more than one (1) year prior to the date of the application; (3-30-06)

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; (5-3-03)

- k.** The employment history and relevant practice locations of the applicant; (3-30-06)
- l.** Each state in which the applicant has applied for a license to practice medicine; (3-30-06)
- m.** Each state wherein the applicant is licensed to practice medicine. (3-30-06)
- n.** Such other information or examinations as the Board deems necessary to identify and evaluate the applicant's credentials and competency. (3-30-06)

04. Examination. Each applicant must pass an examination acceptable to the Board, within the time period recommended by the examination authority, 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 may be required to be interviewed, evaluated or examined by the Board. (3-30-06)

05. 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)

06. Applicants. All applicants must complete their license application within one (1) year unless extended by the Board after filing an application for extension. Unless extended, applications that remain on file for more than one (1) year will be considered null and void and a new application and new fees will be required as if filing for the first time. (3-30-06)

07. 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 inquiry, to establish such qualifications. (3-30-06)

a. Upon inquiry, if further examination is required, the Board may require passage of the Special Purpose Examination (SPEX) administered by the Federation of State Medical Boards of the United States (FSMB), a post licensure assessment conducted by the Federation of State Medical Boards, or a evaluation by an independent agency approved by the Board to evaluate physician competence, (3-30-06)

b. The Board will require further inquiry when in its judgment the need is apparent, including but not limited to the following circumstances: (3-30-06)

i. Graduate of a foreign medical school not accredited by the Liaison Committee on Medical Education; (3-30-06)

ii. Applicant whose background investigation reveals evidence of impairment, competency deficit, or disciplinary action by another licensing or regulatory agency; (3-30-06)

iii. An applicant has not been in active medical practice for a period exceeding one (1) year, or when practice has been significantly interrupted; (3-30-06)

iv. An applicant has not written a recognized examination intended to determine ability to practice medicine within a period of five (5) years preceding application; (3-30-06)

v. An applicant whose initial licensure was issued on the basis of an examination not recognized by the Board; or (3-30-06)

vi. When there is any reason whatsoever to question the identity of the applicant. (3-30-06)

c. Recommendations of the assessment and or evaluation acceptable to the Board related to the ability

of the applicant to practice medicine and surgery will be considered by the Board in its decision whether to issue a license and the Board may limit, condition, or restrict a license based on the Board's determination and the recommendation of the assessment or evaluation. (3-30-06)

051. LICENSURE FOR GRADUATES OF MEDICAL SCHOOLS LOCATED OUTSIDE OF THE UNITED STATES AND CANADA.

01. Foreign Graduate. In addition to meeting the requirements of Section 050, graduates of medical schools located outside of the United States and Canada must submit to the Board: (3-30-06)

a. An original certificate from the Educational Commission for Foreign Medical Graduates (ECFMG) or must submit documentation that the applicant has passed the examination either administered or recognized by the Educational Commission for Foreign Medical Graduates; and IDAPA 22.01.01. (3-30-06)

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 051.02; and (3-30-06)

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 documented evidence of degree equivalency acceptable to the Board. (3-30-06)

c. If the foreign medical school issued valid degrees prior to 1975, the Board, in its discretion may require documented evidence of degree equivalency. (3-30-06)

03. Postgraduate Training. The foreign medical school graduate must submit documentation that the applicant has satisfactorily completed three (3) years of progressive postgraduate training in a program which is located in the United States or Canada, which is approved for such training by the Accreditation Council for 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. (3-30-06)

04. ECFMG. The certificate from the Educational Commission for Foreign Medical 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. (3-30-06)

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

052. 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 Section 051 shall meet three (3) of the following requirements. (3-30-06)

- 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 for Graduate Medical Education (ACGME) or American Osteopathic Association (AOA) approved program. (3-30-06)
- 03. Hold Board Certification.** Hold board certification by a speciality board approved by the American Board of Medical Specialties 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)

053. -- 075. (RESERVED).

076. TEMPORARY LICENSE.

- 01. Application for Temporary Licensure.** Any applicant eligible to be licensed without examination or inquiry pursuant to Section 050, except a volunteer license applicant, may apply for a temporary license to practice medicine provided he has met all requirements of Section 050 or Section 051 of these rules, submitted all required application forms and fees, has no history of disciplinary action, limitation, pending investigation or restriction on any license to practice and is only awaiting the criminal background check outcome. (3-30-06)
- 02. File Completed Application.** All applicants for a temporary license shall file a completed written application in accordance with Section 050 and or Section 051 along with the required temporary license fee and regular license fee. (3-30-06)
- 03. Temporary License.** The temporary license shall bear the word "temporary" and will show the date of issuance and the date of expiration. Temporary licenses shall expire in one hundred twenty (120) days unless extended by the Board or its designated representative upon a showing of good cause. (3-30-06)

077. INACTIVE LICENSE.

- 01. Issuance of Inactive License.** Any applicant who is entitled to be issued a license to practice medicine, except a volunteer license, 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. (3-30-06)
- 03. Inactive License Renewal.** 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. (3-30-06)
- 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)

078. 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. Prorated fees may be assessed by the Board to bring the expiration date of the license within the next occurring license renewal period. 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. (3-30-06)
- 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 prior to the renewal period. Licenses not renewed by their expiration date shall be canceled. (3-30-06)

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 and applicable renewal fees for the period the license was lapsed. (3-30-06)

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)

079. 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)

080. VOLUNTEER LICENSE.

01. License. Upon completion of an application and verification of qualifications, the Board may issue a volunteer license to a physician who is retired from active practice for the purpose of providing medical service to people who, due to age, infirmity, handicap, indigence or disability, are unable to receive regular medical treatment. (3-30-06)

02. Retired Defined. A physician previously holding a license to practice medicine and surgery and osteopathic medicine and surgery in Idaho or another state shall be considered retired if, prior to the date of the application for a volunteer's license, he has: (3-30-06)

a. Surrendered or allowed his license with active status to expire with the intent of ceasing active practice for remuneration or; (3-30-06)

b. Converted his active license to an inactive status with the intention of ceasing to actively practice for remuneration or; (3-30-06)

c. Converted his license with active or inactive status to a license with retirement or similar status that proscribed the active practice of medicine. (3-30-06)

03. Eligibility. A physician whose license has been restricted, suspended, revoked surrendered, resigned, converted, allowed to lapse or expire as the result of disciplinary action or in lieu of disciplinary action shall not be eligible for a volunteer license. The volunteer license cannot be converted to a license with active, inactive or temporary status. (3-30-06)

04. Application. The application for a volunteer license shall include the requirements listed in Section 050 of these rules and: (3-30-06)

a. Verification that the applicant held an active license in good standing in Idaho or another state within five (5) years of the date of application for a volunteer license. (3-30-06)

b. The Board may at its discretion issue a volunteer license to a physician who has not held an active license in good standing for greater than five (5) years if the applicant has completed an examination acceptable to the board that demonstrates the applicant possesses the knowledge and skills required to practice. (3-30-06)

c. A notarized statement from the applicant on a form prescribed by the board, that the applicant will not provide any physician services to any person other than those permitted by the license and that the applicant will not accept any amount or form of remuneration, other than as reimbursement for the amount of actual expenses incurred as a volunteer physician, for any physician services provided under the authority of a volunteer's license. (3-30-06)

d. A completed self query of the National Practitioner Databank submitted to the Board. (3-30-06)

05. Expiration. The volunteer license shall be valid until the expiration date printed on the license and may be renewed in accordance with these rules. (3-30-06)

06. Discipline. The volunteer license is subject to discipline in accordance with Section 54-1814, Idaho Code, and these rules. (3-30-06)

081. -- 099. (RESERVED).

100. FEES. -- TABLE.

01. Fees -- Table. Fees by the Board are as follows:

Fixed Fees -- Table	
Licensure 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
Duplicate Wallet License	\$10
Duplicate Wall License	\$25
Volunteer License Application Fee	\$0
Volunteer License Renewal Fee	\$0

(3-30-06)

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)

h. Failing to maintain adequate records. Adequate patient records means legible records that contain, at a minimum, subjective information, an evaluation and report of objective findings, assessment or diagnosis, and the plan of care. (3-30-06)

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)

e. Accepting any reimbursement for service, beyond actual expenses, while providing physician services under a volunteer license. (3-30-06)

f. Interfering with an investigation or disciplinary proceeding by willful misrepresentation of facts or by use of threats or harassment against any patient, Board or Committee on Professional Discipline member, Board staff, hearing officer or witness in an attempt to influence the outcome of a disciplinary proceeding, investigation or other legal action. (3-30-06)

102. -- 999. (RESERVED).

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