Table of Contents

22.01.07 - Rules of Practice and Procedure of the Board of Medicine

000. Legal Authority (Rule 0). 2
001. Title And Scope (Rule 1). 2
002. Written Interpretations -- Agency Guidelines (Rule 2). 2
003. Administrative Appeal (Rule 3). 2
004. Public Record Act Compliance (Rule 4). 2
005. Incorporation By Reference (Rule 5). 2
006. Office -- Office Hours -- Mailing Address And Street Address (Rule 6). 2
007. Filing Of Documents -- Number Of Copies (Rule 7). 2
008. -- 149. (Reserved) 2
150. Parties To Contested Cases Listed (Rule 150). 2
151. -- 155. (Reserved) 2
156. Rights Of Parties And Of Agency Staff (Rule 156). 2
157. Persons Defined -- Persons Not Parties -- Interested Persons (Rule 157). 3
158. -- 201. (Reserved) 3
202. Representation Of Parties At Hearing (Rule 202). 3
203. -- 299. (Reserved) 3
300. Filing Documents With The Agency -- Number Of Copies -- Facsimile Transmission (Fax) (Rule 300). 3
301. -- 349. (Reserved) 3
350. Intervention Prohibited (Rule 350). 3
351. -- 519. (Reserved) 3
520. Kinds And Scope Of Discovery Listed (Rule 520). 3
521. -- 523. (Reserved) 4
524. Subpoenas (Rule 524). 4
525. Statutory Inspection, Examination, Investigation, Etc. -- Contrasted With Other Discovery (Rule 525). 4
526. Filing And Service Of Discovery-Related Documents (Rule 526). 4
527. Exhibit Numbers (Rule 527). 4
528. Prepared Testimony And Exhibits (Rule 528). 4
529. Sanctions For Failure To Obey Order Compelling Discovery (Rule 529). 4
530. Protective Orders (Rule 530). 4
531. -- 603. (Reserved) 4
603. Depositions. 4
604. -- 999. (Reserved) 4

IDAPA 22
TITLE 01
CHAPTER 07

22.01.07 - RULES OF PRACTICE AND PROCEDURE OF THE BOARD OF MEDICINE

000. LEGAL AUTHORITY (RULE 0).
This chapter is adopted under the legal authority of Sections 54-1806(2), Idaho Code. (3-30-01)

001. TITLE AND SCOPE (RULE 1).
The title of this chapter is IDAPA 22.01.07, "Rules of Practice and Procedure of the Board of Medicine." This chapter has the following scope: these rules govern all aspects of administrative procedure before the Board of Medicine including rulemaking, contested cases, meeting procedure, and appearances before the Board. (3-30-01)

002. WRITTEN INTERPRETATIONS -- AGENCY GUIDELINES (RULE 2).
Written interpretations of these rules in the form of explanatory comments accompanying the notice of proposed rulemaking 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. (3-30-01)

003. ADMINISTRATIVE APPEAL (RULE 3).
All contested cases shall be governed by the provisions of IDAPA 04.11.01, "Idaho Rules of Administrative Procedures of the Attorney General" and this chapter. (3-30-01)

004. PUBLIC RECORD ACT COMPLIANCE (RULE 4).
These rules have been adopted in accordance with Title 67, Chapter 52, Idaho Code and are public records. (3-30-01)

005. INCORPORATION BY REFERENCE (RULE 5).
The Board of Medicine adopts Subchapters A, B and C, of IDAPA 04.11.01, "Idaho Rules of Administrative Procedure of the Attorney General," with minor changes to parts of Subchapters A and B. The following Sections have been incorporated by reference from IDAPA 04.11.01: Section(s) 04.11.01.005, 006, 050 through 057, 100 through 104, 151 through 155, 200, 201, 203 through 206, 210, 220, 230, 240, 250, 260, 270, 280, 301 through 305, 400 through 402, 410 through 417, 420 through 425, 500 through 502, 510 through 514, 521 through 523, 550 through 566, 600 through 602, 604 through 606, 610 through 614, 650, 651, 700 through 702, 710, 711, 720, 730, 740, 750, 760, 770, 780, 790 through 791, 800, 810 through 815, 820 through 836, 840, 850, and 860. (3-30-01)

006. OFFICE -- OFFICE HOURS -- MAILING ADDRESS AND STREET ADDRESS (RULE 6).
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 8:00 a.m. to 5:00 p.m. MST. (3-30-01)

007. FILING OF DOCUMENTS -- NUMBER OF COPIES (RULE 7).
All documents in rule-making 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. (3-30-01)

008. -- 149. (RESERVED)

150. PARTIES TO CONTESTED CASES LISTED (RULE 150).
Parties to contested cases before the agency are called applicants or claimants or appellants, petitioners, complainants, respondents or protestants. On reconsideration or appeal within the agency parties are called by their original titles listed in the previous sentence. (3-30-01)

151. -- 155. (RESERVED)

156. RIGHTS OF PARTIES AND OF AGENCY STAFF (RULE 156).
Subject to IDAPA 04.11.01.558, 04.11.01.560, and 04.11.01.600, as incorporated by reference, all parties and agency

staff may appear at hearing or argument, introduce evidence, examine witnesses, make and argue motions, state positions, and otherwise fully participate in hearings or arguments. (3-30-01)

157. PERSONS DEFINED -- PERSONS NOT PARTIES -- INTERESTED PERSONS (RULE 157).
The term "person" includes natural persons, partnerships, corporations, associations, municipalities, government entities and subdivisions, and any other entity authorized by law to participate in the administrative proceeding. Persons other than the persons named in Rules 151 through 156 of IDAPA 04.11.01, as incorporated by reference, are not parties for the purpose of any statute or rule addressing rights or obligations of parties to a contested case. (3-30-01)

158. -- 201. (RESERVED)

202. REPRESENTATION OF PARTIES AT HEARING (RULE 202).

01. Appearances and Representation. To the extent authorized or required by law, appearances and representation of parties or other persons at formal hearing or prehearing conference must be as follows: (3-30-01)

a. Natural Person. A natural person may represent himself or herself or be represented by an attorney. (3-30-01)

b. A partnership may be represented by a partner or an attorney. (3-30-01)

c. A corporation may be represented by an officer or an attorney. (3-30-01)

d. A municipal corporation, local government agency, unincorporated association or nonprofit organization may be represented by an officer, duly authorized employee, or attorney. (3-30-01)

e. A state, federal or tribal governmental entity or agency may be represented by an officer, duly authorized employee, or attorney. (3-30-01)

02. Representatives. The representatives of parties at hearing, and no other persons or parties appearing before the agency, are entitled to examine witnesses and make or argue motions. (3-30-01)

03. Attorneys. Attorneys who represent parties must be licensed to practice law in the state of Idaho. (3-30-01)

203. -- 299. (RESERVED)

300. FILING DOCUMENTS WITH THE AGENCY -- NUMBER OF COPIES -- FACSIMILE TRANSMISSION (FAX) (RULE 300).
An original and necessary copies (if any are required by the agency) of all documents intended to be part of an agency record must be filed with the officer designated by the agency to receive filing in the case and a copy must be mailed to any Hearing Officer appointed by the Board. Pleadings and other documents not exceeding ten (10) pages in length requiring urgent or immediate action may be filed by facsimile transmission (FAX) if the agency's individual rule of practice lists a FAX number for that agency. Whenever any document is filed by FAX, if possible, originals must be delivered by overnight mail the next working day. (3-30-01)

301. -- 349. (RESERVED)

350. INTERVENTION PROHIBITED (RULE 350).
Persons not applicants or claimants or appellants, petitioners, complainants, protestants, or respondents to a proceeding shall not be allowed to intervene. (3-30-01)

351. -- 519. (RESERVED)

520. KINDS AND SCOPE OF DISCOVERY LISTED (RULE 520).

01. Kinds of Discovery. The kinds of discovery recognized by these rules in contested cases are:

(3-30-01)

a. Depositions; (3-30-01)

b. Subpoenas; and (3-30-01)

c. Statutory inspection, examination (including physical or mental examination), investigation, etc. (3-30-01)

02. Rules of Civil Procedure. Unless otherwise provided by statute, rule, order or notice, when discovery is authorized before the agency, the scope of discovery, other than statutory inspection, examination, investigation, etc., is governed by the Idaho Rules of Civil Procedure (see Idaho Rule of Civil Procedure 26(b). (3-30-01)

521. -- 523. (RESERVED)

524. SUBPOENAS (RULE 524).
The agency may issue subpoenas as authorized by statute, upon a party's motion or upon its own initiative. The agency upon motion to quash made promptly, and in any event, before the time to comply with the subpoena, may quash the subpoena, or condition denial of the motion to quash upon reasonable terms. (3-30-01)

525. STATUTORY INSPECTION, EXAMINATION, INVESTIGATION, ETC. -- CONTRASTED WITH OTHER DISCOVERY (RULE 525).
This rule recognizes, but does not enlarge or restrict, an agency's statutory right of inspection, examination (including mental or physical examination), investigation, etc. This statutory right of an agency is independent of and cumulative to any right of discovery in formal proceedings and may be exercised by the agency whether or not a person is party to a formal proceeding before the agency. Information obtained from statutory inspection, examination, investigation, etc., may be used in formal proceedings or for any other purpose, except as restricted by statute or rule. The rights of deposition, and subpoena, can be used by parties only in connection with formal proceedings before the agency. (3-30-01)

526. FILING AND SERVICE OF DISCOVERY-RELATED DOCUMENTS (RULE 526).
Notices of deposition, and objections to discovery must be filed and served as provided in the order compelling discovery. (3-30-01)

527. EXHIBIT NUMBERS (RULE 527).
The agency assigns exhibit numbers to each party. (3-30-01)

528. PREPARED TESTIMONY AND EXHIBITS (RULE 528).
Order, notice or rule may require a party or parties to file before hearing and to serve on all other parties prepared expert testimony and exhibits to be presented at hearing. Assigned exhibit numbers should be used in all prepared testimony. (3-30-01)

529. SANCTIONS FOR FAILURE TO OBEY ORDER COMPELLING DISCOVERY (RULE 529).
The agency may impose all sanctions recognized by statute or rules for failure to comply with an order compelling discovery. (3-30-01)

530. PROTECTIVE ORDERS (RULE 530).
As authorized by statute or rule, the agency may issue protective orders limiting access to information generated during settlement negotiations, discovery or hearing. (3-30-01)

531. -- 603. (RESERVED)

603. DEPOSITIONS.
Depositions may be offered into evidence if notice is given prior to the taking of the deposition that the deposition will be offered in lieu of testimony at the hearing and if all parties have had an opportunity to examine or cross-examine the deponent's testimony. (3-30-01)

604. -- 999. (RESERVED)

Subject Index

D

Depositions 4

F

Filing & Service Of Discovery, Related Documents 4
Filing Documents With The Agency, Number Of Copies, Facsimile Transmission (FAX) 3

I

Intervention Prohibited 3

K

Kinds & Scope Of Discovery Listed 3
- Kinds of Discovery 3
- Rules of Civil Procedure 4

P

Parties To Contested Cases Listed 2
Persons Defined, Persons Not Parties, Interested Persons 3
Prepared Testimony & Exhibits 4

R

Representation Of Parties At Hearing 3
- Appearances & Representation 3
- Attorneys 3
- Representatives 3

Rights Of Parties & Of Agency Staff 2

S

Sanctions For Failure To Obey Order Compelling Discovery 4
Statutory Inspection, Examination, Investigation, Etc. -- Contrasted With Other Discovery 4
Subpoenas 4