

## IDAPA 24 – DIVISION OF OCCUPATIONAL AND PROFESSIONAL LICENSES

### IDAHO STATE BOARD OF MEDICINE

#### 24.33.03 – General Provisions of the Board of Medicine

##### **Who does this rule apply to?**

*This rule applies to medical physicians, osteopathic physicians, physician assistants, athletic trainers, respiratory therapists, dietitians, and naturopathic medical doctors who are licensed or seek to be licensed under the Board of Medicine (“Board”). This rule also applies to polysomnographers who seek to be permitted under the Board.*

##### **What is the purpose of this rule?**

*The purpose of this rule is to provide information on the eligibility and requirements for licensure or permitting, requirements for renewal licensure or permitting, license by endorsement, provisional licensure, and inactive or volunteer licenses. In addition, this rule provides grounds for discipline of a license or permit along with complaint investigation. This rule also provides guidelines for the practice of telehealth.*

##### **What is the legal authority for the agency to promulgate this rule?**

*This rule implements the following statutes passed by the Idaho Legislature:*

The Medical Practice Act

Physicians and Physician Assistants:

- [54-1801, et seq.](#)
- [54-1806, Idaho Code](#) – Powers and Duties
- [54-1806A, Idaho Code](#) – Medical Disciplinary Enforcement
- [54-1808, Idaho Code](#) – The Board to Issue Licenses
- [54-1813, Idaho Code](#) – Temporary License and Registration
- [54-1814, Idaho Code](#) – Grounds for Medical Discipline
- [54-1841, Idaho Code](#) – Volunteer’s License – Qualifications

The Athletic Trainer Practice Act -

- [54-3901, et seq.](#)

The Respiratory Care Practice Act -

- [54-4301, et seq.](#)

The Dietitian Practice Act

- [54-3501, et seq.](#)

##### **Who do I contact for more information on this rule?**

Idaho State Board of Medicine

Office hours: 8:00 am to 5:00 pm

345 W. Bobwhite Court, Suite 150

Boise, ID 83706

Phone: (208) 327-7000

Fax: (208) 327-7005

Email: [info@bom.idaho.gov](mailto:info@bom.idaho.gov)

<https://bom.idaho.gov/BOMPortal/Home.aspx>

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## 24.33.03 – GENERAL PROVISIONS OF THE BOARD OF MEDICINE

### 000. LEGAL AUTHORITY.

The rules are promulgated pursuant to Section 54-1806(2), Idaho Code. (7-1-21)T

### 001. SCOPE.

The rules govern general aspects of Board of Medicine operations. (7-1-21)T

### 002. -- 099. (RESERVED)

### 100. GENERAL QUALIFICATIONS FOR LICENSURE.

**01. Application.** All applications for license or permit will be made to the Board on forms supplied by the Board, will be verified, must include all requested information, and must include the nonrefundable application fee. (7-1-21)T

**02. Application Expiration.** 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. (7-1-21)T

**03. Personal Interview.** The Board may, at its discretion, require the applicant to appear for a personal interview. (7-1-21)T

**04. Residence.** No period of residence in Idaho is required of any applicant, however, each applicant for licensure must be legally able to work and live in the United States. Original documentation of lawful presence in the United States must be provided upon request only. The Board may refuse licensure or to renew a license if the applicant is not lawfully present in the United States. (7-1-21)T

### 101. LICENSE OR PERMIT EXPIRATION AND RENEWAL.

**01. License Expiration.** Licenses and permits will be issued for a period of not more than five (5) years. All licenses expire on the expiration date printed on the face of the certificate and become invalid after that date unless renewed. The Board will collect a fee for each renewal year of a license. Prorated fees may be assessed by the Board to bring the expiration date of the license within the next occurring license renewal period. (7-1-21)T

**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 and e-mail address to the Board and must notify the Board of any change of address or e-mail address prior to the renewal period. Licenses not renewed by their expiration date will be canceled. (7-1-21)T

**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. (7-1-21)T

**04. Reapplication.** A person whose license has been canceled for a period of more than five (5) years, is required to make application to the Board as a new applicant for licensure. (7-1-21)T

### 102. LICENSE BY ENDORSEMENT.

Where permitted by law, an applicant, in good standing with no restrictions upon or actions taken against their license to practice in a state, territory or district of the United States or Canada is eligible for licensure by endorsement to practice medicine in Idaho. An applicant with any disciplinary action, including past, pending, or confidential, by any board of medicine, licensing authority, medical society, professional society, hospital, medical school or institution staff in any state, territory, district or country is not eligible for licensure by endorsement. An applicant ineligible for licensure by endorsement may make a full and complete application pursuant to the requirements found in Title 54, Idaho Code, IDAPA 24.33.03, and on Board-approved forms. (7-1-21)T

**01. Application.** All applications for license or permit will be made to the Board on forms supplied by the Board, will be verified, must include all requested information, and the nonrefundable application fee. (7-1-21)T

**02. Character.** An applicant is not eligible for licensure by endorsement if the Board finds the applicant has engaged in conduct prohibited by state law for that specific category of licensure. (7-1-21)T

**03. Residence.** No period of residence in Idaho is required of any applicant, however, each applicant for licensure must be legally able to work and live in the United States. Original documentation of lawful presence in the United States must be provided upon request. The Board may refuse licensure or to renew a license if the applicant is not lawfully present in the United States. (7-1-21)T

**103. (RESERVED)**

**104. INACTIVE LICENSE**

**01. Issuance of Inactive License.** Any applicant who is eligible to be issued a license by the Board, except a volunteer license, may be issued, upon request, an inactive license to practice on the condition that he will not engage in the practice of the relevant profession in this state. An inactive license fee will be collected by the Board. (7-1-21)T

**02. Renewal of Inactive License.** Inactive licenses will be issued for a period of not more than five (5) years and such licenses will be renewed upon payment of an inactive license renewal fee. The inactive license certificate will set forth its date of expiration. (7-1-21)T

**03. Inactive to Active License.** An inactive license may be converted to an active license 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. (7-1-21)T

**105. -- 149. (RESERVED)**

**150. ADDITIONAL GROUNDS FOR SUSPENSION, REVOCATION, DISCIPLINARY SANCTIONS OR DENIAL OR RESTRICTION OF A LICENSE.**

**01. Discipline.** In addition to the grounds for discipline set forth in Idaho Code, every person licensed or permitted by the Board is subject to discipline upon any of the following grounds: (7-1-21)T

**02. Unethical Advertising.** Advertising the licensee or permittee's practice in any unethical or unprofessional manner, including but not limited to: (7-1-21)T

**a.** Using advertising or representations likely to deceive, defraud or harm the public. (7-1-21)T

**b.** Making a false or misleading statement regarding the licensee or permittee's skill or the efficacy or value of the treatment, remedy, or service offered, performed, or prescribed by the licensee or permittee. (7-1-21)T

**03. Standard of Care.** Providing health care that fails to meet the standard of health care provided by other qualified licensees or permittees of the same profession, in the same community or similar communities, including but not limited to: (7-1-21)T

**a.** Being found mentally incompetent or insane by any court of competent jurisdiction. (7-1-21)T

**b.** Engaging in practice or behavior that demonstrates a manifest incapacity or incompetence to practice his or her profession. (7-1-21)T

**c.** Allowing another person or organization to use his or her license or permit to practice his or her profession. (7-1-21)T

**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. (7-1-21)T

**e.** Using any controlled substance or alcohol to an extent that use impairs the licensee or permittee's

- ability to practice his or her profession competently. (7-1-21)T
- f.** Violating any state or federal law or regulation relating to controlled substances. (7-1-21)T
  - g.** Directly promoting surgical procedures or laboratory tests that are unnecessary and not medically indicated. (7-1-21)T
  - h.** Failure to transfer pertinent and necessary medical records to another provider when requested to do so by the subject patient or client or by his or her legally designated representative. (7-1-21)T
  - i.** Failing to maintain adequate records. Adequate patient or client 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. (7-1-21)T
  - j.** Providing care or performing any service outside the licensee or permittee's scope of practice as set forth in Idaho Code, including providing care or performing a service without supervision, if such is required by Idaho Code or Board rule. (7-1-21)T
  - k.** Failing to have a supervising or directing physician who is licensed by the Board, if such supervision is required by Idaho Code or Board rule. (7-1-21)T
- 04. Conduct.** Engaging in any conduct that constitutes an abuse or exploitation of a patient or client arising out of the trust and confidence placed in the licensee or permittee by the patient or client, including but not limited to: (7-1-21)T
- a.** Obtaining any fee by fraud, deceit or misrepresentation. (7-1-21)T
  - b.** Employing abusive billing practices. (7-1-21)T
  - c.** Commission of any act of sexual contact, misconduct, exploitation or intercourse with a patient or client or former patient or client or related to the licensee's practice. (7-1-21)T
    - i.** Consent of the patient or client shall not be a defense. (7-1-21)T
    - ii.** This Section 150 does not apply to sexual contact between a licensee or permittee and the licensee or permittee's spouse or a person in a domestic relationship who is also a patient or client. (7-1-21)T
    - iii.** A former patient or client includes a patient or client for whom the licensee or permittee has provided services related to the licensee or permittee's practice, including prescriptions, within the last twelve (12) months; sexual or romantic relationships with former patients or clients beyond that period of time may also be a violation if the licensee or permittee uses or exploits the trust, knowledge, emotions or influence derived from the prior professional relationship with the patient or client. (7-1-21)T
  - d.** Accepting any reimbursement for service, beyond actual expenses, while providing services under a volunteer license. (7-1-21)T
  - e.** Employing, supervising, directing, aiding or abetting a person not licensed or permitted in this state who directly or indirectly performs activities or provides services requiring a license or permit. (7-1-21)T
  - f.** Failing to report to the Board any known act or omission of a Board licensee or permittee that violates any provision of these rules. (7-1-21)T
  - g.** Interfering with an investigation or disciplinary proceeding by willful misrepresentation of facts or by use of threats or harassment against any patient or client, Board or Advisory Board or Committee member, Board staff, hearing officer, or witness in an attempt to influence the outcome of a disciplinary proceeding, investigation, or other legal action. (7-1-21)T

**h.** Failing to obey any and all state and local laws and rules related to the licensee or permittee's practice or profession. (7-1-21)T

**05. Failure to Cooperate.** Failing to cooperate with the Board during any investigation or disciplinary proceeding, even if such investigation or disciplinary proceeding does not personally concern the particular licensee. (7-1-21)T

**151. ON SITE REVIEW.**

The Board, by and through its designated agents, is authorized to conduct on-site reviews of the activities of its licensees at the locations and facilities in which the licensees practice at such times as the Board deems necessary. (7-1-21)T

**152. – 999. (RESERVED)**

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