

Dear Senators HEIDER, Nuxoll, Schmidt, and
Representatives WOOD, Packer, Rusche:

The Legislative Services Office, Research and Legislation, has received the enclosed rules of
the Board of Pharmacy:

IDAPA 27.01.01 - Rules of the Idaho State Board of Pharmacy - Proposed Rule (Docket No.
27-0101-1606).

Pursuant to Section 67-454, Idaho Code, a meeting on the enclosed rules may be called by the
cochairmen or by two (2) or more members of the subcommittee giving oral or written notice to Research
and Legislation no later than fourteen (14) days after receipt of the rules' analysis from Legislative
Services. The final date to call a meeting on the enclosed rules is no later than 10/21/2016. If a meeting is
called, the subcommittee must hold the meeting within forty-two (42) days of receipt of the rules' analysis
from Legislative Services. The final date to hold a meeting on the enclosed rules is 11/18/2016.

The germane joint subcommittee may request a statement of economic impact with respect to a
proposed rule by notifying Research and Legislation. There is no time limit on requesting this statement,
and it may be requested whether or not a meeting on the proposed rule is called or after a meeting has
been held.

To notify Research and Legislation, call 334-4834, or send a written request to the address on the
memorandum attached below.



Eric Milstead
Director

Legislative Services Office

Idaho State Legislature

Serving Idaho's Citizen Legislature

MEMORANDUM

TO: Rules Review Subcommittee of the Senate Health & Welfare Committee and the House Health & Welfare Committee

FROM: Senior Legislative Research Analyst - Elizabeth Bowen

DATE: October 03, 2016

SUBJECT: Board of Pharmacy

IDAPA 27.01.01 - Rules of the Idaho State Board of Pharmacy - Proposed Rule (Docket No. 27-0101-1606)

The Board of Pharmacy submits notice of proposed rulemaking at IDAPA 27.01.01. The purpose is to conform Idaho rules to the federal Comprehensive Addiction and Recovery Act of 2016. Specifically, the proposed rule allows prescriptions for Schedule II controlled substances to be partially filled to reduce the number of Schedule II controlled substances that are dispensed at a time. Schedule II drugs include opiates.

Negotiated rulemaking was not conducted due to timing difficulties based on when the federal law was enacted (July 22, 2016) and when the Board conducted its negotiated rulemaking session (August 3, 2016). However, the Board circulated a draft of the rule to known stakeholders and will hold an open meeting on October 26, 2016. The Board states that this rulemaking is authorized pursuant to Section 54-1717, Idaho Code, which grants rulemaking authority to the Board.

cc: Board of Pharmacy
Alex Adams, PharmD, MPH

IDAPA 27 - BOARD OF PHARMACY

27.01.01 - RULES OF THE IDAHO STATE BOARD OF PHARMACY

DOCKET NO. 27-0101-1606

NOTICE OF RULEMAKING - PROPOSED 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 54-1717, Idaho Code.

PUBLIC HEARING SCHEDULE: A public hearing concerning this rulemaking will be held as follows:

Wednesday, October 26, 2016 – 1 p.m. (MDT)

**Idaho State Capital Building, Room WW53
514 W. Jefferson
Boise, Idaho**

For those planning to attend the open, public hearing, written and verbal comments will be accepted by and/or presented before the Board. For all others not planning to attend the meeting, written comments will be accepted by the Executive Director on or before October 25, 2016 as follows:

- Written comments received by October 12, 2016 will be included in the Board's distributed meeting materials for consideration in advance of the meeting;
- Written comments received between October 13, 2016 and October 25, 2016 will be printed and provided to the Board at the open, public hearing.

The hearing site 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:

On July 22, 2016, S. 524, the Comprehensive Addiction and Recovery Act (CARA) of 2016, took effect. One provision of this Act is a loosening of restrictions on the partial filling of Schedule II controlled substance prescriptions. The federal law change would allow a patient to receive fewer Schedule II controlled substance pills than written by a prescriber, while not forfeiting the balance if picked up within a certain timeframe. This federal law change is intended to reduce the amount of Schedule II controlled substances dispensed, and reduce the number of unused pills that remain in Idaho households and need discarded. This proposed rule would harmonize Idaho law with the new federal law.

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

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

There is no anticipated fiscal impact as a result of these rule changes, though it could conceivably reduce healthcare costs if patients fill fewer pills than prescribed.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not conducted. The Board's negotiated rulemaking session was held on August 3, 2016. This proposed rule change stems from a change in federal law that was signed by President Obama on July 22, 2016. Thus, the timing of the federal law change and specifically when the Board was notified, did not lend itself to adding this to the negotiated rulemaking meeting. A draft has been circulated to known stakeholders on this topic, and an open meeting will be held on October 26, 2016 at which the Board will consider both written and verbal comments on this proposed rule.

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 Alex Adams, Executive Director, at (208) 334-2356 or at alex.adams@bop.idaho.gov.

DATED this 25th day of August, 2016.

Alex Adams, Pharm D, MPH
Executive Director
Board of Pharmacy
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THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 27-0101-1601
(Only Those Sections With Amendments Are Shown.)

114. PRESCRIPTION DRUG ORDER: PARTIAL FILLING.

01. Partial Filing of Schedule II Prescriptions. A Schedule II controlled substance prescription drug order may be partially filled and dispensed ~~if the pharmacist is unable to supply~~ **within** the ~~full quantity ordered~~ **limits of federal law.** (3-21-12)()

~~**a.** The remaining portion of the prescription drug order may be filled if within seventy-two (72) hours of the first partial filling. If the remaining portion is not or cannot be filled within seventy-two (72) hours, the pharmacist must notify the prescriber. (3-21-12)~~

~~**b.** Additional quantities must not be dispensed beyond seventy-two (72) hours without a new prescription drug order. (3-21-12)~~

02. Partial Filing of Schedule II Prescriptions for LTCF or Terminally Ill Patients. A Schedule II controlled substance prescription drug order for a patient in an LTCF or for a patient with a documented terminal illness may be filled in partial quantities and individual dosage units. The pharmacist must record that the patient is either “terminally ill” or an “LTCF patient.” (3-21-12)

03. Schedule II Partial-Fill Documentation. For each partially filled prescription drug order, the following information must be recorded: (3-21-12)

- a.** The date; (3-21-12)
- b.** The quantity dispensed; (3-21-12)
- c.** The remaining quantity authorized for dispensing; and (3-21-12)
- d.** The identification of the dispensing pharmacist. (3-21-12)

- 04. Partial Filling of Schedule III, IV, and V Prescriptions.** The partial filling of a prescription drug order for a controlled substance listed in Schedules III, IV, or V is permissible if: (3-21-12)
- a.** Each partial fill is recorded in the same manner as a refill; (3-21-12)
 - b.** The total quantity dispensed in partial fillings does not exceed the total quantity prescribed; and (3-21-12)
 - c.** Dispensing does not occur after six (6) months from the date on which the prescription drug order was issued. (3-21-12)