

Dear Senators MARTIN, Souza, Jordan, and
Representatives WOOD, Wagoner, Chew:

The Legislative Services Office, Research and Legislation, has received the enclosed rules of the
Division of Occupational and Professional Licenses - State Board of Dentistry:
IDAPA 24.16.01 - Notice of Omnibus Rulemaking (Fee Rule) - Proposed Rule (Docket No.
24-1601-2000F).

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 11/03/2020. 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 12/01/2020.

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 334-4854, 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: Legislative Drafting Attorney - Matt Drake
DATE: October 15, 2020
SUBJECT: Division of Occupational and Professional Licenses - State Board of Dentistry

IDAPA 24.16.01 - Notice of Omnibus Rulemaking (Fee Rule) - Proposed Rule (Docket No. 24-1601-2000F)

Summary and Stated Reasons for the Rule

The Division of Occupational and Professional Licenses submits notice of proposed fee rule. According to the Division, the rulemaking republishes the temporary rule chapter that was previously submitted under IDAPA 24.16.01, Rules of the State Board of Dentistry. The Division states that the fee rules do not impose a fee or charge, or increase a fee or charge, beyond what was previously submitted to and reviewed by the Legislature in the prior rules.

Negotiated Rulemaking/Fiscal Impact

The Division notes that negotiated rulemaking was not conducted because engaging in negotiated rulemaking for all previously existing rules would inhibit the Division's ability to serve the citizens of Idaho and to protect their health, safety, and welfare. The Division also confirms that the rulemaking is not anticipated to have any fiscal impact on the general fund.

Statutory Authority

The rulemaking appears to be authorized pursuant to Section 54-3309, Idaho Code.

cc: Division of Occupational and Professional Licenses - State Board of Dentistry
Russ Barron

*** PLEASE NOTE ***

Per the Idaho Constitution, all administrative rules may be reviewed by the Legislature during the next legislative session. The Legislature has 3 options with this rulemaking docket: **1)** Approve the docket in its entirety; **2)** Reject the docket in its entirety; or **3)** Reject the docket in part.

Kristin Ford, Manager
Research & Legislation

Paul Headlee, Manager
Budget & Policy Analysis

April Renfro, Manager
Legislative Audits

Glenn Harris, Manager
Information Technology

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IDAPA 24 – DIVISION OF OCCUPATIONAL AND PROFESSIONAL LICENSES

24.16.01 – RULES OF THE STATE BOARD OF DENTURITRY

DOCKET NO. 24-1601-2000F (FEE RULE)

NOTICE OF OMNIBUS 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 54-3309, Idaho Code.

PUBLIC HEARING SCHEDULE: Opportunity for presentation of oral comments concerning this rulemaking will be scheduled in accordance with Section 67-5222, Idaho Code.

DESCRIPTIVE SUMMARY: The following is the required finding and concise statement of the purpose of the proposed rulemaking:

This proposed rulemaking re-publishes the following existing temporary rule chapter previously submitted to and reviewed by the Idaho Legislature under IDAPA 24.16.01, rules of the State Board of Denturitry:

IDAPA 24.16

- 24.16.01, *Rules of the State Board of Denturitry.*

FEE SUMMARY: This rulemaking does not impose a fee or charge, or increase a fee or charge, beyond what was previously submitted to and reviewed by the Idaho Legislature in the prior rules. Fees are established in accordance with Section 54-3312, Idaho Code, as follows:

FEE TYPE	AMOUNT (Not to Exceed)
License Application and Examination	\$300
License Application and Re-examination	\$300
Intern Application and Permit	\$300
Initial License	\$300
Inactive License	\$50
Annual Renewal	\$750

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: This rulemaking is not anticipated to have any fiscal impact on the state general fund because the FY2021 budget has already been set by the Legislature, and approved by the Governor, anticipating the existence of the rules and fees being reauthorized by this rulemaking.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not feasible because engaging in negotiated rulemaking for all previously existing rules will inhibit the agency from carrying out its ability to serve the citizens of Idaho and to protect their health, safety, and welfare.

INCORPORATION BY REFERENCE: Pursuant to Section 67-5229(2)(a), Idaho Code, incorporated material may be obtained or electronically accessed as provided in the text of the proposed rules attached hereto.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Rob McQuade at (208) 334-3233.

Anyone may submit written comments regarding the proposed rulemaking. All written comments must be directed to the undersigned and must be delivered within twenty-one (21) days after publication of this Notice in the

Idaho Administrative Bulletin. Oral presentation of comments may be requested pursuant to Section 67-5222(2), Idaho Code, and must be delivered to the undersigned within fourteen (14) days of the date of publication of this Notice in the Idaho Administrative Bulletin.

Dated this 1st day of September, 2020.

Russell Barron
Administrator
Division of Occupational and Professional Licenses
700 W. State Street
P.O. Box 83720
Boise, ID 83720-0063
Phone: (208) 334-3233
ibol@ibol.idaho.gov

24.16.01 – RULES OF THE STATE BOARD OF DENTURITRY

000. LEGAL AUTHORITY.

In accordance with Section 54-3309, Idaho Code, the State Board of Denturitry has promulgated rules implementing the provisions of Chapter 33, Title 54, Idaho Code. ()

001. TITLE AND SCOPE.

These rules are titled IDAPA 24.16.01, “Rules of the State Board of Denturitry.” ()

002. -- 009. (RESERVED)

010. DEFINITIONS.

01. Denturist Services. For purposes of the unconditional ninety (90) day guarantee prescribed in Section 54-3320(c), Idaho Code, denturist services include any and all prosthetic dental appliances and materials and/or services related to the furnishing or supplying of such a denture, including preparatory work, construction, fitting, furnishing, supplying, altering, repairing or reproducing any prosthetic dental appliance or device. ()

02. Denture Technician. A person who is limited to making, constructing, altering, reproducing or repairing of a full upper or lower removable prosthetic denture, the repairing of a removable partial upper or lower prosthetic denture but is not allowed to make an impression or come in direct contact with a patient. ()

011. -- 149. (RESERVED)

150. EXAMINATIONS.

01. Date of Licensure Examination. The licensure examination will be held no less than two (2) times per year at such times and places as may be determined by the Board. ()

02. Content. Examinations include both a written theory examination and a practical demonstration of skills. ()

03. Grading. An applicant must obtain a score of seventy-five percent (75%) or better on each part of the examination in order to pass the examination. ()

04. Re-Examination. ()

a. Applicants who fail either part or all of the examination will be required to make application and pay the required fees prior to being eligible to retake the failed part of the examination. ()

b. Applicants failing either part or all of the examination on the first attempt will not be required to complete any additional instruction prior to being eligible to make application and retake the examination. ()

c. Applicants failing either part or all of the examination on a second attempt and all subsequent attempts are not eligible to make application and retake the examination within one (1) year of the date of the examination failure. The Board may recommend additional course work or clinical work for any applicant who has failed an examination two (2) or more times. ()

151. -- 199. (RESERVED)

200. APPLICATIONS.

01. Application Filing Date. Licensure applications must be received in the Division of Occupational and Professional Licenses at least seven (7) business days prior to the next scheduled meeting of the Board. Applications received after that date may be held over for the Board’s next meeting. ()

02. Application Form for Licensure. Applications for licensure must be made on forms approved by the Board and furnished by the Division of Occupational and Professional Licenses and must include all other documents necessary to establish the applicant meets the requirements for licensure except examination and is eligible to take the licensure examination. ()

03. Application Must Be Complete. All applications must be complete in every respect and accompanied by the appropriate fees before being considered received by the Division of Occupational Professional

Licenses. ()

04. Authorization for Examination. ()

a. After the Board evaluates the applicant's qualifications to take the examination the applicant will be notified in writing of the approval or denial, and, if denied, the reason for the denial. ()

b. At the time the Board approves an applicant to take the examination the Board will set the date and location(s) of the next examination if it has not already been set. Approved applicants will be notified of the date and location(s) of the next examination. ()

201. -- 249. (RESERVED)

250. FEES.

FEE TYPE	AMOUNT (Not to Exceed)
License Application and Examination	\$300
License Application and Re-examination	\$300
Intern Application and Permit	\$300
Initial License	\$300
Inactive License	\$50
Annual Renewal	\$750

()

251. -- 299. (RESERVED)

300. INTERNSHIP.

01. Requirements and Conditions for Internship. ()

a. To be eligible for internship the applicant must have completed: ()

i. The educational requirements set forth in Section 54-3310(b), Idaho Code; or ()

ii. Have dentistry experience of three (3) years within the five (5) years immediately preceding application. ()

b. Where an internship is established based on experience, the internship is valid only while the intern is actively pursuing completion of Idaho licensure requirements. ()

c. Application must be made on forms provided by the Division of Occupational and Professional Licenses and must: ()

i. Document the location of practice; ()

ii. Include the name and address of the supervising dentist or dentist; ()

iii. Include a sworn or affirmed statement by the supervising dentist or dentist; ()

iv. Include a sworn or affirmed statement by the supervisor accepting supervision of the intern; ()

v. Include a sworn statement by applicant that he is knowledgeable of law and rules and will abide by all requirements of such law and rules; and ()

vi. Include such other information necessary to establish applicant's qualifications for licensure as a dentist and establish compliance with pre-intern requirements. ()

d. The supervising dentist or dentist must be present and directly observe any intern interaction with a patient. ()

e. Two (2) years of internship under the supervision of a licensed dentist must be completed in not less than twenty-four (24) months and may not exceed thirty (30) months except as approved by the Board. ()

02. Internship Equivalency. A person is considered to have the equivalent of two (2) years internship under a licensed dentist who has met and verifies one (1) of the following within the five (5) years immediately preceding application: ()

a. Two (2) years internship as a denture lab technician under a licensed dentist; or ()

b. Two (2) years in the military as a denture lab technician; or ()

c. Three (3) years experience as a dentist under licensure in another state or Canada. ()

03. Internship Not to Exceed One Year. Internship not to exceed one (1) year acquired through a formal training program in an acceptable school will be accepted toward the two (2) year required internship for licensure. ()

04. Training Requirements. Each year of required internship consists of two thousand (2,000) clock hours of training and performance of the following minimum procedures for licensure. ()

a. Procedures include all steps required in constructing a finished denture but are not limited to the following: ()

i. Patient charting -- thirty-six (36) minimum. ()

ii. Operatory sanitation -- thirty-six (36) minimum. ()

iii. Oral examination -- thirty-six (36) minimum. ()

iv. Impressions, preliminary and final (pour models, custom trays) -- thirty-six (36) minimum. ()

v. Bite registrations -- twelve (12) minimum. ()

vi. Articulations -- twelve (12) minimum. ()

vii. Set ups -- twelve (12) minimum. ()

viii. Try ins -- twelve (12) minimum. ()

ix. Processing (wax up, flask-boil out, packing, grind-polish) -- thirty-six (36) minimum. ()

x. Delivery-post adjustment -- thirty-six (36) minimum. ()

b. Processed relines (one (1) plate = one (1) unit) -- twenty-four (24) units. ()

c. Tooth repairs -- forty-eight (48) minimum. ()

d. Broken or fractured plates or partials -- forty-eight (48) minimum. ()

05. Reporting Requirements. Interns must file reports, attested to by the supervisor, with the Board on forms provided by the Division of Occupational and Professional Licenses on a monthly basis and recapped at termination or completion of the training. ()

06. Denture Clinic Requirements. Denture clinic requirements for approved internship training: ()

a. There may not be more than one (1) internee per licensed denturist or dentist who is practicing at the clinic on a full time basis. ()

b. There must be a separate work station in the laboratory area for each intern with standard equipment, i.e. lathe, torch and storage space. The intern must provide necessary hand tools to perform the duties of the denture profession. Use of the operatory facilities and other equipment will be shared with the intern. ()

07. Internship Supervisor Requirements. ()

a. A supervisor must: ()

i. Be approved in advance by the Board for each internship. ()

ii. Not have been the subject of any disciplinary action by the Board, by the Idaho Board of Dentistry or by any other jurisdiction for five (5) years immediately prior to being approved as the supervisor. ()

b. A supervisor that is a denturist must: ()

i. Hold an Idaho denturist license that is current and in good standing and is renewed as provided in these rules; and ()

ii. Have actively practiced dentistry for at least three (3) of the five (5) years immediately prior to being approved as the supervisor. ()

c. A supervisor that is a dentist must: ()

i. Hold an Idaho dentist license that is current and in good standing and is renewed as provided in Chapter 9, Title 54, Idaho Code; and ()

ii. Have actively practiced general dentistry, or a dental specialty accepted by the Board, for at least three (3) of the five (5) years immediately prior to being approved as a supervisor. ()

d. Supervise only one (1) intern. A supervisor will not be approved to supervise more than one (1) intern at a time. ()

e. Termination of supervisor approval. Approval of the supervisor immediately terminates if the supervisor is disciplined or ceases to meet supervisor requirements. ()

301. -- 314. (RESERVED)

315. INACTIVE LICENSURE STATUS.

01. Request License be Placed on Inactive Status. A dentistry licensee may request the Board that his license be placed upon inactive status. ()

02. License Fee for Inactive Status. A licensee is required to submit an annual renewal fee of fifty dollars (\$50) in order to remain on inactive status. ()

03. While on Inactive Status. A licensee on inactive status may not provide or perform denturist services as defined in these rules. ()

04. Reactivating Inactive License. A licensee on inactive status may reactivate his license to active status by paying the renewal fee for an active license and providing proof they have completed and obtained such continuing education as required by Board rule of not less than twelve (12) hours for each year of inactive licensure. ()

05. License Inactive over Five Years. No license may remain on inactive status for more than five (5) years. ()

316. -- 349. (RESERVED)

350. CONTINUING EDUCATION.

The Board may accredit education programs for purposes of continuing education where the subject matter of the program is determined to be pertinent to the practice of dentistry. ()

01. Subjects. Subjects deemed pertinent to the practice of dentistry are those set forth in Section 54-3311(b), Idaho Code and may also include ethics courses. ()

02. Request for Approval. Requests for approval of continuing education programs must be made to the Board, in writing, and provide an outline of the program which the Board is being asked to approve. The request must also address the matters set forth in Subsection 350.05 below. Requests may accompany the annual renewal form or may be made to the Board in advance of the program for which approval is sought as indicated in Subsection 350.03, below. ()

03. Requests for Pre-Approval. Requests for pre-approval of continuing education programs must be made to the Board, in writing, and provide an outline of the program which the Board is being asked to approve. Requests for pre-approval must also address the matters set forth in Subsection 350.05 below. ()

a. Requests for pre-approval must be received by the Division of Occupational and Professional Licenses no less than eleven (11) working days prior to the date of the program. ()

b. Requests for pre-approval which are not denied within ten (10) working days from receipt by the Division will be deemed approved. ()

c. Only those continuing education programs sponsored by recognized educational institutions (such as accredited colleges or universities), state or national denturist boards or associations, will be eligible for pre-approval consideration by the Board. All other programs will be considered at the time of renewal. ()

04. Credit for Continuing Education Attendance. Continuing education credit will be given only for actual time in attendance by the licensee. No credit will be given for non-instructive time. Correspondence or Home Study courses are not eligible for continuing education credits. ()

05. Requests for Approval of Programs. All requests for approval or pre-approval of educational programs must be accompanied by a statement that includes the name of the instructor or instructors, the date and time and location of the course, the specific agenda for the course, and a statement by the licensee of how the course is believed to be pertinent to the practice of dentistry as specified in Section 54-3311(b), Idaho Code. ()

351. -- 399. (RESERVED)

400. INSPECTIONS.

01. Who May Examine or Inspect. The Board or its agents may examine and inspect the place of business of any denturist at anytime during business hours or upon at least seventy-two (72) hours notice made by U.S. mail to the address of record of the denturist when the Board or its agents are unable to establish the regular business hours. ()

02. Reason for Inspection. Inspections are made to insure compliance with the Standards of Conduct and practice set forth in Section 450. Deficiencies are a violation of Section 450 and actionable against the dentist under Section 54-3314(c), Idaho Code. ()

401. -- 449. (RESERVED)

450. STANDARDS OF CONDUCT AND PRACTICE.

01. Sanitation. ()

a. There must be three (3) separate rooms; a reception room, and operator room and a laboratory. ()

b. The operator room must have hot and cold running water, basin with approved disposal system; disinfectant soap; single-use towels, a cuspidor with running water and a closed waste receptacle. ()

c. The laboratory room must have hot and cold running water, and basin with approved disposal system. ()

d. There must be a method of sterilization and disinfection evident and in use to insure the protection of the public. ()

e. All floors, walls, ceiling and benches must be kept in a sanitary condition at all times. ()

f. Every patient must have a separate and clean bib and a disposable cup. ()

g. The hands of every dentist must be washed in the presence of every patient with germicidal or antiseptic soap and water. Every dentist must wear disposable gloves. ()

h. Adequate and conveniently located toilet facilities with hot and cold running water, basin with approved disposal system, soap and single use towels will be provided within the building. ()

i. All dentist offices are open to inspection anytime during the business hours to inspection by the Board or its agents. ()

02. Office Standards. ()

a. Dentists must take care to use proper sterilization and sanitation techniques in all phases of their work. ()

b. A complete record of each patient must be kept. ()

c. All teeth and materials used must meet ADA standards. ()

03. Advertisements. ()

a. No dentist may disseminate or cause the dissemination of any advertisement or advertising that is any way fraudulent, false, deceptive or misleading. ()

04. General Conditions. ()

a. Conditions deemed by investigators to be a menace to the public health will be brought to the attention of the Board for consideration and immediate action. ()

b. These Standards of Conduct and Practice must be conspicuously posted in every licensed dentist's place of business. ()

05. Patient Record. A dentist must record, update and maintain documentation for each patient relevant to health history, clinical examinations and treatment, and financial data. Documentation must be written or computerized. Records must be maintained in compliance with any applicable state and federal laws, rules and regulations, including the health insurance portability and accountability act (HIPAA), P.L. 104-191 (1996), and the health information technology for economic and clinical health act (HITECH), P.L. 111-115 (2009). Such records must be accessible to other providers and to the patient in accordance with applicable laws, rules and regulations. Records must include, but are not limited to, the following: ()

- a. Patient data, including name, address, date and description of examination; ()
- b. Evidence of informed consent; ()
- c. Date and description of treatment, services rendered, and any complications; ()
- d. Health history as applicable; and ()
- e. Any other information deemed appropriate to patient care. ()

06. Record Retention. Patient documentation, written or archived electronically by computer, must be retained for a minimum of seven (7) years and available upon request by the Board. ()

451. -- 474. (RESERVED)

475. REGISTRATION STATEMENT.

To enable the Board to examine or inspect the place of business of any licensed dentist as referred to in Section 54-3314(5)(b), Idaho Code, the filing of an annual statement is required of all licensed dentists. ()

01. Statement. must list the name and principal place of business of the dentist who is responsible for the practice of dentistry at that location. ()

02. Other Business Locations. Any other business locations maintained by the principal dentist and all dentists employed at the business. ()

03. Date of Filing. must be filed with the Board annually or within ten (10) days of any change in either location, identity of principal dentist or dentist employees. ()

04. Failure to Timely File. Failure to timely file or update this statement will constitute grounds for discipline pursuant to Section 54-3314(a), Idaho Code. ()

476. GUARANTEE OF DENTIST SERVICES.

As prescribed in Section 54-3320(c), Idaho Code, unconditional guarantee of dentist services will require that the licensee refund, in full, any monies received in connection with the providing of dentist services, if demanded by the purchaser within ninety (90) days of delivery of the dentures, or the providing of services for which a fee is charged. ()

01. Ninety Day Period. The ninety (90) day period will be tolled for any period in which the dentist has taken possession or control of the dentures after original delivery. ()

02. Written Contract. By written contract signed by the purchaser, the dentist may specify the amount of the purchase price of the dentures, if any, that is nonrefundable should the consumer choose to cancel the purchase within the guarantee period. ()

03. Nonrefundable Amount. Under no circumstances will the nonrefundable amount exceed twenty-five percent (25%) of the total purchase price of the dentures. ()

04. Limitation. There is no limitation on the consumer's right to cancel. ()

05. Cancellation of Agreement. If the licensee elects to cancel the agreement or refuses to provide adjustments or other appropriate services to the consumer, the consumer will be entitled to a complete refund. ()

477. -- 479. (RESERVED)

480. DISCIPLINE.

01. Civil Fine. The Board may impose a civil fine not to exceed one thousand dollars (\$1,000) upon a licensed dentist for each violation of Section 54-3314(a), Idaho Code. ()

02. Costs and Fees. The Board may order a licensed dentist to pay the costs and fees incurred by the Board in the investigation or prosecution of the licensee for violation of Section 54-3314(a), Idaho Code. ()

481. -- 999. (RESERVED)

PROPOSED RULE COST/BENEFIT ANALYSIS

Section 67-5223(3), Idaho Code, requires the preparation of an economic impact statement for all proposed rules imposing or increasing fees or charges. This cost/benefit analysis, which must be filed with the proposed rule, must include the reasonably estimated costs to the agency to implement the rule and the reasonably estimated costs to be borne by citizens, or the private sector, or both.

Department or Agency: Division of Occupational and Professional Licenses

Agency Contact: Rob McQuade **Phone:** 208-334-3233

Date: August 19, 2020

IDAPA, Chapter and Title Number and Chapter Name:

[24.16.01, Rules of the State Board of Dentistry](#)

Fee Rule Status: X **Proposed** _____ **Temporary**

Rulemaking Docket Number: 24-1601-2000F

STATEMENT OF ECONOMIC IMPACT: The fees are unchanged from the previous year's temporary fee rule.

FEE TYPE	AMOUNT (Not to Exceed)
License Application and Examination	\$300
License Application and Re-examination	\$300
Intern Application and Permit	\$300
Initial License	\$300
Inactive License	\$50
Annual Renewal	\$750