

Dear Senators HEIDER, Souza, Jordan, and
Representatives WOOD, Packer, Chew:

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

IDAPA 23.01.01 - Rules of the Idaho Board of Nursing - Proposed Rule (Docket No. 23-0101-1701).

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 09/29/2017. 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 10/30/2017.

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: September 12, 2017
SUBJECT: Board of Nursing

IDAPA 23.01.01 - Rules of the Idaho Board of Nursing - Proposed Rule (Docket No. 23-0101-1701)

The Board of Nursing submits notice of proposed rulemaking at IDAPA 23.01.01. The rule amends the process under which limited licenses may be issued to nurses suffering from certain disabilities. Currently, nurses must first surrender their regular licenses before being granted a limited license; the proposed rule, in order to make the process more efficient, would allow the regular licenses to be converted to limited licenses rather than being surrendered. The proposed rule also clarifies qualifications for nursing program faculty members.

Negotiated rulemaking was conducted, and there is no anticipated negative fiscal impact on the state general fund. The Board states that this rulemaking is authorized pursuant to Section 54-1404(13), Idaho Code.

cc: Board of Nursing
Sandra Evans, M.A.Ed., R.N.

IDAPA 23 – BOARD OF NURSING

23.01.01 – RULES OF THE IDAHO BOARD OF NURSING

DOCKET NO. 23-0101-1701

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 54-1404(13), Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than September 20, 2017.

The hearing site(s) 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:

The current Board of Nursing rule that addresses when limited licenses are appropriate and how they are processed is not as clear as it should be and needs streamlining to eliminate an unwarranted step. Furthermore, the existing rule places an unnecessary restriction on otherwise qualified faculty members in nursing educational programs. Board of Nursing Rule 132 will be amended to clarify that, in applicable cases, such as disability due to substance use disorder or mental health disorder, the existing license may be converted to a limited license for a period not to exceed five (5) years, rather than the current process of requiring that the nurse first voluntarily surrender the existing license for the limited license to then be issued. The rulemaking will also amend Board Rules 640 and 643 to clarify requirements for nursing program faculty and remove an unneeded restriction currently imposed on would-be nursing program faculty.

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

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(1), Idaho Code, negotiated rulemaking was conducted. The Notice of Intent to Promulgate Rules - Negotiated Rulemaking was published in the July 5, 2017 Idaho Administrative Bulletin, [Vol. 17-7, page 74](#).

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 Sandra Evans, Executive Director, at (208) 577-2482 or at sandra.evans@ibn.idaho.gov.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before September 27, 2017.

DATED this 28th day of July, 2017.

Sandra Evans, M.A.Ed., R.N., Executive Director
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THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 23-0101-1701
(Only Those Sections With Amendments Are Shown.)

132. LIMITED LICENSES.

Limited licenses may be issued to qualified individuals in four (4) categories: post-discipline, non-practicing status, restricted status, and substance use and mental health disorders. Failure to comply with the terms and conditions of a limited license will be cause for summary suspension. (3-24-17)

01. Following Disciplinary Action. (3-30-07)

a. After evaluation of an application for licensure reinstatement, the Board may issue a limited license to a nurse whose license has been revoked. (3-15-02)

b. The Board shall specify the conditions of issuance of the limited license in writing. The conditions may be stated on the license. (3-15-02)

02. Non-Practicing Status. (3-15-02)

a. Individuals who are prevented from engaging in the active practice of nursing may be issued a limited license. (3-15-02)

b. The Board shall specify that the license being issued does not entitle the licensee to engage in the active practice of nursing. The non-practicing status shall be noted on the license. (3-15-02)

c. The non-practicing limitation may be removed by the Board following receipt and evaluation of evidence satisfactory to the Board confirming that the licensee's physical or mental health status no longer prevents the individual from engaging in the active practice of nursing. (3-15-02)

03. Restricted Status. (3-15-02)

a. Individuals whose disabilities restrict or inhibit their ability to provide a full range of nursing services may be issued a limited license. (3-15-02)

b. In order to determine the appropriate limitations, the Board may evaluate statements from qualified professional persons who have personal knowledge of the applicant or licensee. The Board may also evaluate job descriptions and statements from potential employers and consider input from the applicant for the limited license. (3-15-02)

c. The Board shall specify the conditions of issuance of the limited license in writing. The conditions may be stated on the license. The conditions may include, but are not limited to: (3-15-02)

i. Notifying the Board of changes in employment status. (3-15-02)

ii. Submission of regular reports by the employer or by such other entities or individuals as the Board may desire. (3-15-02)

iii. Meeting with Board representatives. (3-15-02)

iv. Specific parameters of practice, excluding the performance of specific nursing functions. (3-15-02)

d. The conditions of limited practice may be removed by the Board following receipt and evaluation of satisfactory evidence confirming that the health status of the licensee no longer restricts or inhibits the person's ability to provide a full range of nursing services. (3-15-02)

- 04. Disability Due to Substance Use Disorder or Mental Health Disorder.** (3-24-17)
- a.** Individuals whose practice is or may be impaired due to substance use disorder or to mental health disorder may qualify for issuance of a limited license as an alternative to discipline. (3-24-17)
- b.** The executive director may ~~issue a limited~~ **restrict the** license ~~for a period not to exceed five (5) years to~~ of an individual who ~~voluntarily surrenders his license by reason of~~ **has** a substance use disorder or ~~relating to~~ mental health disorder ~~for a period not to exceed five (5) years~~ and who: ~~(3-24-17)()~~
- i.** Holds a current license to practice in Idaho as a registered nurse, advanced practice registered nurse, or licensed practical nurse, or is otherwise eligible, and is in the process of applying for licensure; (3-24-17)
- ii.** Has a demonstrated or diagnosed substance use disorder or mental health disorder such that ability to safely practice is, or may be, impaired; (3-24-17)
- iii.** Sign a written statement admitting to all facts which may constitute grounds for disciplinary action or demonstrate impairment of the safe practice of nursing, and waiving the right to a hearing and all other rights to due process in a contested case under the Idaho Administrative Procedures Act and the Nursing Practice Act; and (3-15-02)
- iv.** Submit reliable evidence, satisfactory to the executive director, that he is competent to safely practice nursing ~~before being authorized to return to active practice.~~ ~~(3-15-02)()~~
- c.** If required, the applicant shall satisfactorily complete a treatment program accepted by the Board. (3-30-07)
- d.** The applicant must agree to participation in the Board's monitoring program to include: (3-15-02)
- i.** Evaluation and diagnosis of the disorder; (3-24-17)
- ii.** Approval of treatment program regimen; (5-21-89)
- iii.** Monitoring of progress; (5-21-89)
- iv.** Determination of when return to the workplace will be allowed. (7-1-96)
- e.** Admission to the Program for Recovering Nurses or issuance of a limited license, or both, may be denied for any reason including, but not limited to the following: (3-15-02)
- i.** The applicant diverted controlled substances for other than self-administration; or (3-15-02)
- ii.** The applicant creates too great a safety risk; or (3-15-02)
- iii.** The applicant has been terminated from this, or any other, alternative program for non-compliance. (3-15-02)
- f.** Upon satisfactory compliance with all of the terms of the limited license, and provided that the licensee demonstrates that he is qualified and competent to practice nursing, the executive director shall ~~reinstate lift~~ the ~~renewable nursing license voluntarily surrendered~~ **restriction imposed.** ~~(3-30-07)()~~
- 05. Compliance Required.** Limited licensure shall be conditioned upon the individual's prompt and faithful compliance with terms and conditions, which may include: (3-24-17)
- a.** Satisfactory progress in any required continuing treatment or rehabilitation program. (3-15-02)
- b.** Regular and prompt notification to the Board of changes in name and address of self or any employer. (7-1-96)

- c.** Obtaining of performance evaluations prepared by the employer to be submitted at specified intervals and at any time upon request. (7-1-96)
- d.** Continuing participation in, and compliance with all recommendations and requirements of, the approved treatment or rehabilitation program, and obtaining of reports of progress submitted by the person directing the treatment or rehabilitation program at specified intervals and at any time upon request. (7-1-96)
- e.** Submission of self-evaluations and personal progress reports at specified intervals and at any time upon request. (3-24-17)
- f.** Submission of reports of supervised random alcohol/drug screens at specified intervals and at any time upon request. Participant is responsible for reporting as directed, submitting a sufficient quantity of sample to be tested, and payment for the screening. (7-1-96)
- g.** Meeting with the Board's professional staff or advisory committee at any time upon request. (3-24-17)
- h.** Working only in approved practice settings. (7-1-96)
- i.** Authorization by licensee of the release of applicable records pertaining to assessment, diagnostic evaluation, treatment recommendations, treatment and progress, performance evaluations, counseling, random chemical screens, and after-care at periodic intervals as requested. (7-1-93)
- j.** Compliance with all laws pertaining to nursing practice, all nursing standards, and all standards, policies and procedures of licensee's employer relating to any of the admitted misconduct or facts as set out in the written statement signed by licensee, or relating to the providing of safe, competent nursing service. (3-24-17)
- k.** Compliance with other specific terms and conditions as may be required by the executive director. (3-15-02)
- 06. Summary Suspension - Lack of Compliance.** (3-30-07)
- a.** Summary Suspension. Any failure to comply with the terms and conditions of a limited license shall be deemed to be an immediate threat to the health, safety, and welfare of the public and the executive director shall, upon receiving evidence of any such failure, summarily suspend the limited license. (3-30-07)
- i.** Summary suspension of a limited license may occur if, during participation in the program, information is received which, after investigation, indicates the individual may have violated a provision of the law or Board rules governing the practice of nursing. (3-30-07)
- ii.** Upon summary suspension of a limited license, the executive director shall provide prompt written notice to the licensee stating the reason for the suspension, setting forth the evidence relied upon and notifying the licensee of his right to a hearing upon request at the earliest possible date in accordance with Section 54-1413(3)(a), Idaho Code. (3-30-07)
- b.** Right to Hearing. An individual whose limited license has been summarily suspended by the executive director may request a hearing regarding the suspension by certified letter addressed to the Board. If the individual fails to request a hearing within twenty (20) days after service of the notice of suspension by the executive director, the right to a hearing is waived. If a hearing is timely requested, after the hearing the Board shall enter an order affirming or rejecting summary suspension of the limited license and enter such further orders revoking, suspending, or otherwise disciplining the nursing license as may be necessary. The above provisions do not limit or restrict the right of Board staff to bring any summary suspension order before the Board for further proceedings, even if the licensee has not requested a hearing. (4-2-08)
- c.** Other Orders. The Board may, for good cause, stay any order of the executive director or may modify the terms and conditions of a limited license as deemed appropriate to regulate, monitor or supervise the practice of any licensee. (3-30-07)

(BREAK IN CONTINUITY OF SECTIONS)

640. FACULTY QUALIFICATIONS.

01. Programs for Unlicensed Assistive Personnel. Primary instructors shall be approved by the Board and shall have: (4-5-00)

- a. A current unencumbered license to practice as a registered nurse in this state; (4-5-00)
- b. Evidence of three (3) years experience working as a registered nurse; (4-5-00)
- c. Evidence of two (2) years experience in caring for the elderly or chronically ill of any age; and (4-5-00)
- d. Evidence of completion of a course in methods of instruction or a Train-the-Trainer type program. (4-5-00)

e. Licensed practical nurses with a minimum of two (2) years experience in caring for the elderly or chronically ill of any age may assist with skills supervision under the supervision of an approved primary instructor. (4-5-00)

02. Practical Nurse Program Faculty Qualifications. Nursing faculty who have primary responsibility for planning, implementing, and evaluating curriculum in a program leading to licensure as a practical nurse shall have: (4-5-00)

- a. A current, unencumbered license to practice as a registered nurse in this state; (4-5-00)
- b. A minimum of a baccalaureate degree with a major in nursing; and (4-5-00)
- c. Evidence of nursing practice experience. (4-5-00)

03. Registered Nurse Program Faculty Qualifications. There shall be sufficient faculty to achieve the purpose of the program. (4-5-00)

a. Nursing faculty who have primary responsibility for planning, implementing, and evaluating curriculum in a program leading to licensure as a registered nurse shall have: (4-5-00)

- i. A current, unencumbered license to practice as a registered nurse in this state; (4-5-00)
- ii. A minimum of a master's degree with a major in nursing; and (4-5-00)
- iii. Evidence of nursing practice experience. (4-5-00)

b. Additional support faculty necessary to accomplish program objectives shall have: (4-5-00)

- i. A current, unencumbered license to practice as a registered nurse in this state; (4-5-00)
- ii. A minimum of a baccalaureate degree with a major in nursing; and (4-5-00)
- iii. A plan approved by the Board for accomplishment of the master's of nursing within three (3) years of appointment to the faculty position. (4-5-00)

04. Advanced Practice Registered Nurse Program Faculty Qualifications. There shall be sufficient faculty to achieve the purpose of the program. Faculty who have primary responsibility for planning, implementing

and evaluating curriculum in a program preparing individuals to license as an advanced practice registered nurse program shall have: (4-5-00)()

- a. A current, unencumbered license to practice as a registered nurse in this state; and (4-5-00)
- b. A master's graduate degree ~~and an earned doctoral or post-graduate~~ degree, ~~one (1) of which is~~ in nursing; ~~or~~ (4-5-00)()
- c. ~~A master's degree with a major in nursing and a~~ An appropriate advanced practice registered nurse credential license and national certification if responsible for courses in a specific advanced practice registered nurse category role and population; and (4-5-00)()
- d. Evidence of advanced registered nursing practice experience. (4-5-00)()

05. Non-clinical Nursing Courses Faculty Qualifications. Interprofessional faculty teaching non-clinical nursing course shall have advanced preparation appropriate for the content being taught. ()

056. Clinical Preceptors in Registered Nurse, Practical Nurse, and Advanced Practice Registered Nurse Programs. Clinical preceptors may be used to enhance clinical learning experiences. (3-29-17)

- a. Clinical preceptors in registered and practical nurse programs shall be licensed for nursing practice at or above the license role for which the student is preparing. (3-29-17)
- b. Clinical preceptors in advanced practice registered nurse programs shall be licensed to practice as an advanced practice registered nurse (APRN), a physician (MD or DO), or a physician assistant (PA) in an area of practice relevant to the educational course objectives. (3-29-17)
- c. Student-Preceptor ratio shall be appropriate to accomplishment of learning objectives; to provide for patient safety; and to the complexity of the clinical situation. (4-5-00)
- d. Criteria for selecting preceptors shall be in writing. (4-5-00)
- e. Functions and responsibilities of the preceptor shall be clearly delineated in a written agreement between the agency, the preceptor, and the educational program. (4-5-00)
- f. The faculty shall be responsible to: (4-5-00)
 - i. Make arrangements with agency personnel in advance of the clinical experience, providing information such as numbers of students to be in the agency at a time, dates and times scheduled for clinical experience, faculty supervision to be provided, and arrange for formal orientation of preceptors. (4-5-00)
 - ii. Inform agency personnel of faculty-defined objectives and serve as a guide for selecting students' learning experiences and making assignments. (4-5-00)
 - iii. Monitor students' assignments, make periodic site visits to the agency, evaluate students' performance on a regular basis with input from the student and from the preceptor, and be available by telecommunication during students' scheduled clinical time. (4-5-00)
- g. Provide direct supervision, by either a qualified faculty person or an experienced registered nurse employee of the agency, during initial home visits and whenever the student is implementing a nursing skill for the first time or a nursing skill with which the student has had limited experience. (4-5-00)

067. Continued Study. The parent institution will support and make provisions for continued professional development of the faculty. (7-1-91)

(BREAK IN CONTINUITY OF SECTIONS)

643. ADMINISTRATOR RESPONSIBILITIES AND QUALIFICATIONS.

01. Administrator Responsibilities. The administrator provides the leadership and is accountable for the administration, planning, implementation, and evaluation of the program. The administrator's responsibilities include, but are not limited to: (4-5-00)

- a. Development and maintenance of an environment conducive to the teaching and learning processes; (4-5-00)
- b. Liaison with and maintenance of the relationship with administrative and other units within the institution; (4-5-00)
- c. Leadership within the faculty for the development and implementation of the curriculum; (4-5-00)
- d. Preparation and administration of the program budget; (4-5-00)
- e. Facilitation of faculty recruitment, development, performance review, promotion, and retention; (4-5-00)
- f. Liaison with and maintenance of the relationship with the Board; and (4-5-00)
- g. Facilitation of cooperative agreements with practice sites. (4-5-00)

02. Administrator Qualifications. The administrator of the program shall be a licensed registered nurse, with a ~~current~~ unencumbered license ~~to practice~~ in this state, and with the additional education and experience necessary to direct the program. (4-5-00)()

- a. Programs for Unlicensed Assistive Personnel. Meet institutional requirements. (4-5-00)
- b. Practical Nurse Administrator. The administrator in a program preparing for practical nurse licensure shall:
 - i. Hold a minimum of a ~~master's~~ graduate degree with a major in nursing; and (4-5-00)()
 - ii. Have evidence of experience in education, administration, and practice sufficient to administer the program. (4-5-00)
- c. Registered Nurse Administrator. The administrator in a program preparing for registered nurse licensure shall:
 - i. Hold a minimum of a ~~master's~~ graduate with a major in nursing and meet institutional requirements; and (4-5-00)()
 - ii. Have evidence of experience in education, administration, and practice sufficient to administer the program. (4-5-00)
- d. Advanced Practice Registered Nurse Administrator. The administrator in a program preparing for advanced practice registered nursing shall:
 - i. Hold a ~~master's~~ graduate and ~~an earned doctoral~~ post-graduate degree, one of which is in nursing; and (4-5-00)()
 - ii. Have evidence of experience in education, administration, and practice sufficient to administer the program. (4-5-00)

03. Numbers of Administrators Needed. There shall be at least one (1) qualified nursing administrator for each nursing education department or division. In institutions that offer nursing education programs for more than one (1) level of preparation and where the scope of administrative responsibility so requires, there shall be an individual administrator for each nursing education program. (4-7-11)