

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

The Legislative Services Office, Research and Legislation, has received the enclosed rules of the Bureau of Occupational Licenses - ID Licensing Board of Professional Counselors & Marriage & Family Therapists:

IDAPA 24.15.01 - Rules of the Idaho Licensing Board of Professional Counselors and Marriage and Family Therapists - Proposed Rule (Docket No. 24-1501-1802).

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 11/06/2018. 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 12/06/2018.

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 Research Analyst - Matt Drake

DATE: October 18, 2018

SUBJECT: Bureau of Occupational Licenses - ID Licensing Board of Professional Counselors & Marriage & Family Therapists

IDAPA 24.15.01 - Rules of the Idaho Licensing Board of Professional Counselors and Marriage and Family Therapists - Proposed Rule (Docket No. 24-1501-1802)

Summary and Stated Reasons for the Rule

The Bureau of Occupational Licenses submits notice of proposed rulemaking at IDAPA 24.15.01 regarding the Idaho Licensing Board of Professional Counselors & Marriage & Family Therapists. The proposed rule changes increase portability for individuals moving to Idaho by recognizing licenses that are equivalent to an Idaho license. The rule also clarifies language regarding group supervision and the informed consent requirements for patients who are treated by an individual who is practicing under supervision. The changes allow the Board to credit supervision hours that an applicant completes in another state under a registration or permit rather than a "license." The proposed rule also increases flexibility for licensees by allowing all continuing education requirements to be completed through online and home study courses. Finally, the rule removes unnecessary language regarding rulemaking history.

Negotiated Rulemaking / Fiscal Impact

The Bureau states that negotiated rulemaking was not conducted because the proposed rule was discussed and decided upon during noticed, open meetings of the Board. There is no fiscal impact.

Statutory Authority

The rulemaking appears to be authorized pursuant to Sections 54-3401 and 54-3404.

cc: Bureau of Occupational Licenses - ID Licensing Board of Professional Counselors & Marriage & Family Therapists

Tana Cory

*** PLEASE NOTE ***

Kristin Ford, Manager
Research & Legislation

Paul Headlee, Manager
Budget & Policy Analysis

April Renfro, Manager
Legislative Audits

Glenn Harris, Manager
Information Technology

Statehouse, P.O. Box 83720
Boise, Idaho 83720-0054

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Per the Idaho Constitution, all administrative rules must 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.

IDAPA 24 – BUREAU OF OCCUPATIONAL LICENSES

24.15.01 – RULES OF THE IDAHO LICENSING BOARD OF PROFESSIONAL COUNSELORS AND MARRIAGE AND FAMILY THERAPISTS

DOCKET NO. 24-1501-1802

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 Sections 54-3401 and 54-3404, 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 October 17, 2018.

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 Board of Professional Counselors and Marriage and Family Therapists is amending its rules to clarify areas of the rule that are confusing, to increase portability for individuals moving to Idaho, and to increase flexibility for completion of continuing education requirements. Specifically, the proposed rule clarifies confusing language regarding group supervision and the informed consent requirements for patients who are treated by an individual who is practicing under supervision. The changes also increase portability for individuals moving to Idaho by recognizing licenses that are equivalent to an Idaho license but titled differently. It will allow the Board to credit supervision hours that an applicant completed in another state under a registration or permit rather than a “license.” Finally, the rule increases flexibility for licensees by allowing all continuing education requirements to be completed through online and home study courses, and updates and removes outdated and unnecessary language.

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(2), Idaho Code, negotiated rulemaking was not conducted because the proposed rule was discussed and decided upon during noticed, open meetings of the Board.

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 Jennifer Carr at (208) 334-3233.

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 October 24, 2018.

Dated this 30th day of August, 2018.

Tana Cory, Bureau Chief
Bureau of Occupational Licenses
700 W. State Street
P.O. Box 83720
Boise, ID 83720
Phone: (208) 334-3233
Fax: (208) 334-3945

THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 24-1501-1802
(Only Those Sections With Amendments Are Shown.)

149. MATERIALS TO BE FILED BY ALL LICENSURE APPLICANTS (RULE 149).

Each applicant for licensure shall: (3-13-02)

01. Complete an Application. Complete an application upon a form prescribed by the Board. (3-13-02)

02. Provide Verification of Educational Program. Verify completion of the approved educational program identified on the application with official graduate transcripts. Official transcripts must be received by the Board directly from the registrar of the appropriate college or university. (3-13-02)

03. Submit Verification of Supervised Experience. The verification of supervised experience shall be provided directly to the Board by those supervisors listed on the application. (3-13-02)

04. Submit Application Fee. Submit a non-refundable application fee as determined by Subsection 250.01. (3-13-02)

05. Deadline. To be considered by the Board, a properly completed application together with all supporting documentation and required fees must be received by the Bureau at least seven (7) calendar days prior to the next scheduled meeting of the Board. (3-30-06)

06. Lack of Activity. Applications on file with the Board from an applicant who has not provided any written contact with the Board during the previous twelve (12) consecutive months shall be deemed denied and shall be terminated upon a thirty (30) day written notice, unless good cause is demonstrated to the Board. ~~(3-30-06)~~ (____)

(BREAK IN CONTINUITY OF SECTIONS)

200. COUNSELOR SUPERVISOR REQUIREMENTS (RULE 200).

Effective July 1, 2004, Idaho licensed counselors shall be registered with the Board in order to provide supervision for those individuals pursuing licensure in Idaho as a counselor. (3-29-12)

01. Requirements for Registration. (4-2-03)

a. Document at least two (2) years experience as a licensed counselor. (3-30-07)

b. Document at least one thousand five hundred (1,500) hours of direct client contact as a counselor. (4-2-03)

c. Document fifteen (15) contact hours of education in supervisor training as approved by the Board. (4-2-03)

d. Have not been the subject of any disciplinary action for five (5) years prior to application for registration, provided that the Board may in its discretion approve a supervisor with disciplinary action for failing to complete continuing education requirements. ~~(4-2-03)~~ (____)

02. Registration. A supervisor applicant shall submit to the Bureau a completed application form as approved by the Board. (4-2-03)

a. Upon receipt of a completed application verifying compliance with the requirements for

registration as a supervisor, the applicant shall be registered as a supervisor. ~~The applicant shall include a copy of the informed consent form used to ensure clients are aware of the roles of the supervisor and supervisee.~~

~~(3-29-12)()~~

b. A supervisor's registration shall be valid only so long as the supervisor's counselor license remains current and in good standing, is not disciplined, and is renewed as provided in these rules. (3-25-16)

03. Supervision. (4-2-03)

a. A Registered Counselor Supervisor shall provide supervision in conformance with the guidelines for supervisors set forth in the ACA Code of Ethics. (3-29-12)

b. A Registered Counselor Supervisor must ensure that informed consent containing information about the roles of the supervisor and supervisee is obtained from clients of the supervisee. ()

~~**b.c.**~~ Unless the primary work role of an individual is as a clinical supervisor a Registered Counselor Supervisor shall not provide supervision to more than six (6) supervisees concurrently. (3-29-12)

~~**e.d.**~~ Supervision shall be provided in a face-to-face setting. Face-to-face setting may include a secure live electronic face-to-face connection between the supervisor and supervisee. (3-25-16)

04. Renewal. Subject to the conditions in Paragraph 200.04.c. of this rule, a supervisor's registration is valid for a term of five (5) years. To renew a supervisor registration, the registered supervisor must submit to the Board a complete application for registration renewal prior to the expiration of the current registration on forms approved by the Board and meet the following requirements: (3-25-16)

a. Hold an active Idaho counselor license which has not been subject to discipline and is current and in good standing; and (3-25-16)

b. Document six (6) hours of continuing education in advanced supervisor training as approved by the Board and completed within the previous five (5) years. (3-25-16)

~~**c.**~~ ~~For supervisors registered prior to the effective date of Subsection 200.04 of this rule, the following renewal requirements and conditions apply:~~ (3-25-16)

~~**i.**~~ ~~A registered supervisor who has been registered for at least five (5) years prior to July 1, 2016 must submit a complete application for registration renewal and meet the renewal requirements by July 1, 2018.~~ (3-25-16)

~~**ii.**~~ A registered supervisor who has been registered for less than five (5) years prior to July 1, 2016 must submit a complete application for registration renewal and meet the renewal requirements by July 1, 2020. (3-25-16)

201. -- 224. (RESERVED)

225. CLINICAL PROFESSIONAL COUNSELOR LICENSURE (RULE 225).

Licensure as a "clinical professional counselor" shall be restricted to persons who have successfully passed the required examination and have met the following requirements: (3-29-12)

01. License. Hold a ~~valid~~ licensed professional counselor license that is current and in good standing in this state or in another state that has substantially similar requirements to a licensed professional counselor in this state; and ~~(3-25-16)()~~

02. Experience. Document two thousand (2,000) hours of direct client contact experience under supervision accumulated in no less than a two (2) year period after licensure or other authorization to practice in any state. ~~(3-29-12)()~~

a. All applicants for Clinical Professional Counselor license must provide verification of meeting at

least one thousand (1,000) hours of supervised experience under the supervision of a licensed Clinical Professional Counselor registered as a supervisor with the Board. The remainder of the supervision may be provided by licensed Psychiatrists, Licensed Psychologists, Licensed Clinical Social Workers registered as supervisors with the Board of Social Work Examiners, or Marriage and Family Therapists registered as supervisors with the Board. If the applicant's supervision was provided in another state, it must have been provided by a counseling professional licensed by that state, provided the requirements for license and supervision are substantially equivalent to the requirements of Title 54, Chapter 34, Idaho Code. (3-25-16)

b. One (1) hour of clinical supervision for every thirty (30) hours of direct client contact is required. Individual supervision is defined as one (1) hour of face-to-face, one-on-one (1:1) or one-to-two (1:2) supervision to every thirty (30) hours of direct client contact. Supervision shall be provided in a face-to-face setting. Face-to-face setting may include a secure live electronic face-to-face connection between the supervisor and supervisee. (3-25-16)

c. No more than one-half (1/2) of ~~the required supervision hours may be~~ group supervision ~~shall be allowed.~~ ~~(3-30-07)~~()

03. Examination. Successful passage of the required written examination. (3-29-12)

04. Recommendation of the Supervisor(s). The Board shall consider the recommendation of the supervisor(s) when determining the acceptability of the applicant's supervised experience. (3-29-12)

(BREAK IN CONTINUITY OF SECTIONS)

425. CONTINUING EDUCATION (RULE 425).

Every person holding an Idaho license as a Professional Counselor, Clinical Professional Counselor, Associate Marriage and Family Therapist, or a Marriage and Family Therapist must complete in each twelve-month period preceding the renewal of a license, twenty (20) contact hours of continuing education. A contact hour is one (1) hour of actual participation in a continuing education activity, exclusive of breaks. (3-29-10)

01. Contact Hours. The contact hours of continuing education must be obtained in areas of study germane to the practice for which the license is issued as approved by the Board. No less than three (3) contact hours for each renewal period must be in ethics, which must be specific to legal issues, law, or ethics. ~~Ethics contact hours must be obtained in a face to face setting where you can interact with the instructor and participants.~~ Therapeutic workshops, retreats and other self-help activities are not considered continuing education training unless specific parts of the experience are applicable to counseling or therapy practice. ~~(4-4-13)~~()

02. Documentation of Attendance. It shall be necessary for the licensee to maintain documentation verifying attendance by securing authorized signatures or other documentation from the course instructors, providers, or sponsoring institution substantiating any hours attended by the licensee. This documentation must be provided to the Board upon request by the Board or its agent. (3-29-10)

03. Approved Contact Hours, Limitations, and Required Documents. (3-29-10)

a. College or University Courses for Credit or Audit. There is no limit to the contact hours that a licensee may obtain in this category during each reporting period. However, all courses are subject to Board approval. For college or university courses, one (1) semester credit equals fifteen (15) contact hours; one (1) quarter credit equals ten (10) contact hours. The licensee must provide the Board with a copy of the licensee's transcript substantiating any hours attended by the licensee. (3-29-10)

b. Seminars, Workshops, Conferences. There is no limit to the contact hours that a licensee may obtain in this category during each reporting period. Teleconferences must feature an interactive format in order to qualify for contact hour credit. Interactive conferences are those that provide the opportunity for participants to communicate directly with the instructor. The licensee must provide the Board with a copy of the certificate, or letter signed by course instructors, providers, or sponsoring institution substantiating any hours attended by the licensee. (3-29-10)

c. Publications. A maximum of four (4) contact hours may be counted in this category during each reporting period. Publication activities are limited to articles in journals, a chapter in an edited book, or a published book or professional publication. The licensee must provide the Board with a copy of the cover page or the article or book in which the licensee has been published. For a chapter in an edited book the licensee must submit a copy of the table of contents. (3-29-10)

d. Presentations. A maximum of four (4) contact hours may be counted in this category during each reporting period. Class, conference, or workshop presentations may be used for contact hour credit if the topic is germane to the field. A specific presentation given repeatedly can only be counted once. A particular presentation will qualify for contact hour credit one (1) time in a five (5) year period. Only actual presentation time may be counted; preparation time does not qualify for contact hour credit. The licensee must provide the Board with a copy of the conference program or a letter from the sponsor, host organization, or professional colleague. (3-29-12)

e. Clinical Supervision and Case Consultation. A maximum of five (5) contact hours of received supervision/consultation may be counted in this category during each reporting period. In order to qualify for contact hour credit, supervision/consultation must be received on a regular basis with a set agenda. No credit will be given for the licensee's supervision of others. The licensee must provide the Board with a letter from the supervisor or consultant listing periods of supervision or consultation. (4-4-13)

f. Dissertation. A maximum of five (5) contact hours may be counted in this category during each reporting period. The licensee must provide the Board with a copy of the licensee's transcript and the title of the dissertation. (3-29-10)

g. Leadership. A maximum of four (4) contact hours may be counted in this category during each reporting period. The licensee must provide the Board with a letter from a professional colleague listing the position of leadership, periods of leadership, and the name of the organization under which the leadership took place. The following leadership positions qualify for continuing education credits: (3-29-10)

- i. Executive officer of a state or national counseling or therapy organization; (3-29-12)
- ii. Editor or editorial board service of a professional counseling or therapy journal; (3-29-12)
- iii. Member of a national ethics disciplinary review committee rendering licenses, certification, or professional membership; (3-29-10)
- iv. Active member of a counseling or therapy working committee producing a substantial written product; (3-29-10)
- v. Chair of a major counseling or therapy conference or convention; or (3-29-10)
- vi. Other leadership positions with justifiable professional learning experiences. (3-29-10)

h. Home Study and On-line Education. ~~A maximum of ten (10) contact hours may be counted through self-study during each reporting period. In order for a~~ **There is no limit to the contact hours that a licensee may obtain in this category during each reporting period.** ~~Home study or on-line courses~~ **to** qualify for contact hours, **provided that** the course ~~must be~~ **is** provided by a Board-approved continuing education provider or a course pre-approved by the Board. (3-29-12)()

i. Copy of Certification Required. A licensee applying for home study or on-line credit must provide the Board a copy of the certification that is verified by the authorized signatures from the course instructors, providers, or sponsoring institution and substantiates any hours completed by the licensee. A licensee seeking contact credit for reading a publication must submit results from a test on the information contained within the publication and administered by an independent third-party. (3-29-10)

j. Continuing Education Credit. Continuing education credit may be granted for a maximum of two (2) hours each renewal period for time spent attending one (1) Board meeting. ~~Members of the Board are not entitled~~

~~to continuing education credit for Board service.~~

~~(3-29-10)~~()

04. Excess Hours. Continuing education hours accumulated during the twelve (12) months immediately preceding the license renewal date may be applied toward meeting the continuing education requirement for the next license renewal. No more than ten (10) hours in excess of the required twenty (20) hours shall be carried forward. Excess hours may be used only during the next renewal period and may not be carried forward more than one (1) time. (3-29-12)

05. Compliance Audit. The Board may conduct random continuing education audits of those persons required to obtain continuing education in order to renew a license and require that proof acceptable to the Board of meeting the continuing education requirement be submitted to the Bureau. Failure to provide proof of meeting the continuing education upon request of the Board shall be grounds for disciplinary action in accordance with section 54-3407, Idaho Code. (4-2-03)

06. Special Exemption. The Board shall have authority to make exceptions for reasons of individual hardship, including health (certified by a medical doctor) or other good cause. The licensee must request such exemption prior to renewal and provide any information requested by the Board to assist in substantiating hardship cases. This exemption is granted at the sole discretion of the Board. There is no continuing education required of those holding a current inactive license. (3-29-10)

(BREAK IN CONTINUITY OF SECTIONS)

~~550. RULEMAKING HISTORY PRIOR TO JULY 1, 1993 (RULE 550).~~

~~Adopted October 4, 1983~~

~~Amended and Readopted December 24, 1985~~

~~Effective January 13, 1986~~

~~Amended and Readopted May 10, 1988~~

~~Effective May 30, 1988~~

~~Amended and Readopted May 16, 1991~~

~~(7-1-93)~~

~~551.0. -- 999. (RESERVED)~~