

Dear Senators MARTIN, Souza, Jordan, and
Representatives WOOD, Wagoner, 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. 23-0101-1901).

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 11/04/2019. 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 12/04/2019.

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 16, 2019

SUBJECT: Board of Nursing

IDAPA 23.01.01 - Rules of the Idaho Board of Nursing - Proposed Rule (Docket No. 23-0101-1901)

Summary and Stated Reasons for the Rule

This proposed rule deletes rules related to Medication Assistant - Certified (MA-C) personnel. The purpose is to comply with the Red Tape Reduction Act (Executive Order 2019-02) by reducing the overall volume of the Board of Nursing rules. This rulemaking would consolidate the common rules for MA-C personnel and nurses.

Negotiated Rulemaking / Fiscal Impact

Negotiated rulemaking was conducted. There is no fiscal impact.

Statutory Authority

The rulemaking appears authorized pursuant to 54-1404, Idaho Code.

cc: Board of Nursing
Russell 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.

IDAPA 23 – BOARD OF NURSING
23.01.01 – RULES OF THE IDAHO BOARD OF NURSING
DOCKET NO. 23-0101-1901
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, 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 16, 2019.

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:

This proposed rulemaking is being done to delete all rules related to ‘Medication Assistant – Certified’ (MA-C) personnel.

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 June 5, 2019 Idaho Administrative Bulletin, [Vol. 19-6, pages 65 through 66](#).

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 Janet Summers at (208) 577-2500.

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 23, 2019.

Dated this 18th day of September, 2019.

Russell Barron, Executive Director
Idaho Board of Nursing
280 N. 8th St. (8th & Bannock), Ste. 210
P. O. Box 83720
Boise, ID 83720-0061
Phone: (208) 577-2479
Fax: (208) 334-3262

THE FOLLOWING IS THE TEMPORARY RULE AND THE PROPOSED TEXT
OF DOCKET NO. 23-0101-1901
(Only Those Sections With Amendments Are Shown.)

491. TECHNICIANS/TECHNOLOGISTS.

01. **Functions.** Technicians/technologists may perform limited nursing functions within the ordinary, customary, and usual roles in their fields and are exempted from licensure by the Board under Section 54-1412, Idaho Code, (~~Nursing Practice Act~~), provided they are: (5-3-03)()

- a. Enrolled in or have completed a formal training program acceptable to the Board; or (5-3-03)
- b. Registered with or certified by a national organization acceptable to the Board. (5-3-03)

02. **Supervision.** Technicians/technologists providing basic nursing care services on an organized nursing unit in an institutional setting must function under the supervision of a licensed registered nurse. (3-30-07)

~~492. MEDICATION ADMINISTRATION BY MEDICATION ASSISTANTS—CERTIFIED (MA-C).~~

~~01. **When Tasks May Be Performed.** A medication assistant—certified may perform the delegated function of administration of medications and related tasks under the direct supervision of a licensed nurse, if:~~ (3-26-08)

- ~~a. The medication assistant—certified does not assume other unrelated tasks while he is administering drugs;~~ (3-26-08)
- ~~b. The medication is given by an approved medication route, to include:~~ (3-26-08)
- ~~i. Orally, to include sublingual, buccal;~~ (3-26-08)
 - ~~ii. Topically;~~ (3-26-08)
 - ~~iii. For the eye, ear, or nose;~~ (3-26-08)
 - ~~iv. Vaginally;~~ (3-26-08)
 - ~~v. Rectally;~~ (3-26-08)
 - ~~vi. Transdermally;~~ (3-26-08)
 - ~~vii. Oral inhaler;~~ (3-26-08)
 - ~~viii. Established gastric (non-nasogastric) tube; and~~ (3-26-08)
- ~~e. The delegation does not conflict with provisions of Subsection 400.02 of these rules.~~ (3-26-08)

~~02. **When Tasks Shall Not Be Performed.** A medication assistant—certified shall not perform a task involving the administration of medication if:~~ (3-26-08)

- ~~a. The medication administration requires a nurse's assessment of the patient prior to or following the medication, a calculation of the dosage of the medication, or the conversion of the dosage. The provision does not restrict the medication assistant—certified from administering PRN medication to stable patients; or~~ (3-26-08)

~~b. The supervising nurse is unavailable to monitor the progress of the patient and the effect on the patient of the medication; or (3-26-08)~~

~~e. The patient's condition is unstable or the patient has changing nursing needs. (3-26-08)~~

~~03. **Report Medication Errors.** A medication assistant—certified who has any reason to believe that he has made an error in the administration of medication shall follow facility policy and procedure to report the possible or known error to his supervising nurse and shall assist in completing any required documentation of the medication error. (3-26-08)~~

~~04. **Medication Administration Policies.** (3-26-08)~~

~~a. The medication assistant—certified shall report to the supervising nurse: (3-26-08)~~

~~i. Signs or symptoms that appear life-threatening; (3-26-08)~~

~~ii. Events that appear health threatening; and (3-26-08)~~

~~iii. Medications that produce no results or undesirable effects as reported by the patient. (3-26-08)~~

~~b. A licensed nurse shall supervise medication assistant—certified. (3-26-08)~~

~~e. A licensed registered nurse shall periodically review the following: (3-26-08)~~

~~i. Authorized provider orders; and (3-26-08)~~

~~ii. Patient medication records. (3-26-08)~~

~~d. Tasks that may not be performed by the medication assistant—certified: (3-26-08)~~

~~i. Receive controlled substances. (3-26-08)~~

~~ii. Administration of parenteral or injectable medications. (3-26-08)~~

~~iii. Administration of any medication by nasogastric tube. (3-26-08)~~

~~iv. Calculate drug dosage. (3-26-08)~~

~~v. Destruction of medications. (3-26-08)~~

~~vi. Receive written or verbal medication orders. (3-26-08)~~

~~vii. Request initial dose medications. (3-26-08)~~

~~viii. Evaluate medication error reports. (3-26-08)~~

~~ix. Perform treatments unrelated to the administration of medications. (3-26-08)~~

~~x. Conduct patient assessments. (3-26-08)~~

~~xi. Engage in patient teaching activities. (3-26-08)~~

~~xii. Administer initial dose or non-routine medications when the patient's response to the medication is not predictable. (3-26-08)~~

~~493. **EDUCATION AND TRAINING FOR MEDICATION ASSISTANT—CERTIFIED.**~~

- ~~01. **Education Program Content.** Education for medication assistant—certified shall include:~~ (3-26-08)
- ~~a. At least eighty (80) clock hours of didactic content in:~~ (3-26-08)
- ~~i. The role of the medication assistant—certified, to include, but not be limited to, medication administration as a delegated nursing function under the supervision of a licensed nurse in a setting or facility where the performance of the delegated function is not otherwise prohibited by law.~~ (3-26-08)
- ~~ii. Fundamentals of medication administration, to include, but not be limited to, medication orders, medication storage, measurement, forms of medications, preparation of medications, role of the medication assistant—certified, and role of the delegating nurse.~~ (3-26-08)
- ~~iii. Safety factors in administering medications, to include, but not be limited to, rights of medication administration, prevention of medication errors, and reporting medication errors.~~ (3-26-08)
- ~~iv. Communication and documentation, to include, but not be limited to, communication process, boundaries, reporting symptoms and side effects, reporting deviations from normal, and documenting medication administration.~~ (3-26-08)
- ~~v. Medication administration, to include, but not be limited to, routes of administration, factors affecting how the body responds to medications, and classes of medications.~~ (3-26-08)
- ~~vi. Ethical and legal issues, to include, but not be limited to, responsibility of the medication assistant—certified, patient rights, patient self-administration of medications, and ethical and legal violations.~~ (3-26-08)
- ~~b. At least forty (40) clock hours of correlated supervised practicum in medication administration.~~ (3-26-08)
- ~~02. **Board Approval.** Programs preparing medication assistant—certified must be approved by the Board:~~ (3-26-08)
- ~~a. Institutions applying for initial approval must make application to the Board on forms supplied by the Board. The following information must be included:~~ (3-26-08)
- ~~i. Accreditation status, relationship of educational program to parent institution.~~ (3-26-08)
- ~~ii. Curriculum to be used.~~ (3-26-08)
- ~~iii. Clinical sites to be used.~~ (3-26-08)
- ~~iv. Provision for qualified faculty.~~ (3-26-08)
- ~~b. Provisional approval for one (1) year will be granted to programs on initial application that provide evidence that Board-approved training standards will be met.~~ (3-26-08)
- ~~c. Programs with provisional approval must apply for full approval on forms supplied by the Board and submit such application to the Board office one (1) month prior to the expiration of provisional approval.~~ (3-26-08)
- ~~d. A representative of the Board shall visit the program one (1) year following initial provisional approval and submit a written report to the Board.~~ (3-26-08)
- ~~i. Following the Board's review of the visit report, the institution shall be notified of the Board's decision within thirty (30) days of the review.~~ (3-26-08)

- ~~ii. Following its review, the Board may grant full approval, if all conditions have been met; or conditional approval, if all conditions have not been met; or denial of approval if, conditions have not been met and the institution can provide no indication that they will be met within a reasonable timeframe. (3-26-08)~~
- ~~e. A letter of continuing approval will be granted annually to programs that substantially meet the Board's requirements, as evidenced by: (3-26-08)~~
- ~~i. Information included in annual reports to the Board; and (3-26-08)~~
- ~~ii. Information obtained by Board representative during on site visits. (3-26-08)~~
- ~~03. Administration of Program. The educational program shall be administered by an educational institution accredited by an organization recognized by the U.S. Department of Education. (3-26-08)~~
- ~~04. Medication Assistant—Certified Program Requirements. An educational program preparing medication assistant—certified shall: (3-26-08)~~
- ~~a. Provide evidence of financial support and resources adequate to achieve the purpose of the program, to include, but not limited to, classrooms, laboratories, equipment, supplies, and qualified administrative, instructional, and support personnel and services. (3-26-08)~~
- ~~b. Maintain current and final records for each student enrolled in the program in accordance with policies of the parent institution. (3-26-08)~~
- ~~c. Provide sufficient numbers of qualified faculty to implement the curriculum. (3-26-08)~~
- ~~d. Provide sufficient numbers of faculty in the clinical setting to assure patient safety and meet student learning needs. (3-26-08)~~
- ~~e. Use a curriculum approved by the Board that includes didactic content and supervised clinical as defined in Subsection 493.01 of these rules. (3-26-08)~~
- ~~05. Program Administrator. Medication assistant—certified program administrator shall meet institutional requirements for the position. (3-26-08)~~
- ~~06. Program Instructors. Medication assistant—certified instructors shall: (3-26-08)~~
- ~~a. Hold a current, unencumbered license to practice as a registered nurse in Idaho. (3-26-08)~~
- ~~b. Have a minimum of two (2) years practice experience in a health care facility. (3-26-08)~~
- ~~c. Have at least one (1) year clinical experience relevant to areas of teaching responsibility. (3-26-08)~~
- ~~d. Provide documented evidence of preparation for teaching adults. (3-26-08)~~
- ~~07. Instructor Responsibilities. Medication assistant—certified instructor responsibilities are the same as those identified in Subsection 644.01 of these rules. (3-26-08)~~
- ~~08. Program Changes. Board approval is required to make substantive changes in an approved medication assistant—certified training program. The program provider shall submit a description of the proposed change in curriculum or other substantive change to the Board for review at least sixty (60) days before the program provider plans to implement the changes. The Board will notify the provider in writing of its decision. (3-26-08)~~
- ~~09. Periodic Training Program Evaluation. To insure compliance with the requirements for medication assistant—certified programs: (3-26-08)~~

~~a. Each program shall submit a report annually regarding the program's operation and compliance with the Board rules. (3-26-08)~~

~~b. Each program shall be on-site surveyed by representatives of the Board and evaluated for ongoing approval every four (4) years or as requested by the Board. (3-26-08)~~

~~c. A copy of the survey visit report will be made available to the education and training program. (3-26-08)~~

~~10. **Withdrawal of Approval.** (3-26-08)~~

~~a. The Board shall withdraw approval of medication assistant certified education and training programs when the Board determines that there is not sufficient evidence that the program is meeting requirements. (3-26-08)~~

~~b. The Board shall provide due process rights and adhere to the procedures of the Idaho Administrative Procedures Act, providing notice, opportunity for hearing, and correction of deficiencies. (3-26-08)~~

~~e. The Board may consider reinstatement or approval of an educational program upon submission of satisfactory evidence that the program meets the requirements. (3-26-08)~~

~~11. **Closing of Education Programs.** When a person or entity plans to discontinue offering an education program, it shall comply with the requirements set forth at Section 604 of these rules. (3-26-08)~~

~~494. **APPLICATION FOR CERTIFICATION FOR MEDICATION ASSISTANT CERTIFIED.**~~

~~01. **Application Submission.** An applicant for medication assistant certified shall submit to the Board:~~

~~a. A completed, notarized application form provided by the Board; (3-26-08)~~

~~b. A notarized affidavit of graduation from an approved medication assistant certified education and training program; (3-26-08)~~

~~c. Evidence of successful completion of a medication assistant certified competency evaluation, approved by the Board; (3-26-08)~~

~~d. Payment of application fees as established in Section 497 of these rules; and (3-26-08)~~

~~e. Applicant's current fingerprint-based criminal history check as set forth in Section 54-1406A(5), Idaho Code. (3-26-08)~~

~~02. **Temporary Certification.** (3-26-08)~~

~~a. At the Board's discretion, and pending completion of the competency evaluation and receipt of the criminal background report, a temporary certification may be issued to an applicant who meets all other requirements. (3-29-12)~~

~~b. Temporary certification is valid for six (6) months from the date of issuance or until a permanent certification is issued or denied, whichever occurs first. (3-26-08)~~

~~c. The applicant must pay the temporary certification fee established in Section 498 of these rules. (3-26-08)~~

~~03. **Denial of Certification.** Certification as a medication assistant certified may be denied for any of the following grounds: (3-26-08)~~

- ~~a. Failure to meet any requirement established by statute or these rules; or (3-26-08)~~
- ~~b. False representation of facts on an application for certification; or (3-26-08)~~
- ~~c. Failure to pass any certification examination required by the Board; or (3-29-12)~~
- ~~d. Having another person appear in his place for any certification examination required by the Board; or (3-29-12)~~
- ~~e. Engaging in any conduct which would be grounds for discipline under Section 54 1406A, Idaho Code, or these rules; or (3-26-08)~~
- ~~f. Revocation, suspension, limitation, reprimand, voluntary surrender, or any other disciplinary action or proceeding including investigation against a certificate to practice by another state or jurisdiction. (3-26-08)~~

~~04. **Notification.** If certification is denied, the Board will notify the applicant in writing of the reason for denial and inform him of his procedural rights under the Idaho Administrative Procedures Act. (3-26-08)~~

~~495. **CERTIFICATION RENEWAL FOR MEDICATION ASSISTANT—CERTIFIED.**~~

~~01. **Renewal Time.** Certifications of medication assistants certified must be renewed every two (2) years. (3-26-08)~~

~~02. **Renewal Application.** A renewal application will be provided by the Board to persons certified under these rules. The application will be either mailed to the applicant's address on record with the Board no later than one (1) month before expiration of the certification, or be available to applicants on the Board's website. (3-26-08)~~

~~03. **Final Date to Renew.** The original signed renewal application and renewal fees, as establish in Section 497 of these rules, must be submitted to the Board by personal delivery or postmarked no later than August 31 of every even-numbered year. (3-26-08)~~

~~04. **Attestation of Good Standing.** Along with the renewal application and applicable fees, the applicant must submit evidence that he is currently listed in good standing on the state's certified nurse aide registry and has been employed as a medication assistant certified within the preceding twenty four (24) month period. (3-26-08)~~

~~05. **Date Certification Lapsed.** Certifications not renewed prior to September 1 of the appropriate year will automatically lapse and be invalid. (3-26-08)~~

~~496. **REINSTATEMENT OF CERTIFICATION.**~~

~~01. **Within One Year.** A person whose certificate has lapsed for failure to pay the renewal fee by the specified date may apply for reinstatement within one (1) year by:~~

- ~~a. Filing a completed renewal application; and (3-26-08)~~
- ~~b. Payment of the verification of records fee and the reinstatement fee as prescribed in Section 498 of these rules. (3-26-08)~~

~~02. **After One Year.** After one (1) year, but less than three (3) years, a person whose certificate has lapsed for failure to pay the renewal fee by the specified date may apply for reinstatement by:~~

- ~~a. Filing a completed reinstatement application; (3-26-08)~~
- ~~b. Payment of the fees prescribed in Section 497 of these rules; (3-26-08)~~

- ~~e. Providing evidence satisfactory to the Board of the applicant's ability to practice safely and competently; and (3-26-08)~~
- ~~d. A current fingerprint based criminal history check as set forth in Section 54-1406A(5), Idaho Code. (3-26-08)~~
- ~~03. **After Three Years.** After three (3) years, a person whose certificate has lapsed for failure to timely pay the renewal fee may apply for reinstatement by: (3-26-08)~~
 - ~~a. Filing a completed reinstatement application; (3-26-08)~~
 - ~~b. Payment of the fees prescribed in Section 497 of these rules; (3-26-08)~~
 - ~~c. Payment of the temporary certification fee prescribed in Section 497 of these rules, if required; (3-26-08)~~
 - ~~d. Providing evidence, satisfactory to the Board, of the applicant's ability to practice safely and competently; and (3-26-08)~~
 - ~~e. A current fingerprint based criminal history check as set forth in Section 54-1406A(5), Idaho Code. (3-26-08)~~
- ~~04. **After Discipline.** A person whose certificate has been subject to disciplinary action by the Board may apply for reinstatement of the certificate to active and unrestricted status by: (3-26-08)~~
 - ~~a. Submitting a completed application for reinstatement; (3-26-08)~~
 - ~~b. Payment of the fees prescribed in Section 497 of these rules; (3-26-08)~~
 - ~~c. Documenting compliance with any term and restrictions set forth in any order as a condition of reinstatement; (3-26-08)~~
 - ~~d. Providing evidence, satisfactory to the Board, of the applicant's ability to practice safely and competently; and (3-26-08)~~
 - ~~e. A current fingerprint based criminal history check as set forth in Section 54-1406A(5), Idaho Code. (3-26-08)~~
 - ~~f. A person whose certificate has been revoked may not apply for reinstatement until two (2) years following the order of revocation. (3-26-08)~~

~~**497. FEES APPLICABLE TO MEDICATION ASSISTANT CERTIFIED AND THE CERTIFICATION PROCESS.**
The applicable fees are as follows: (3-26-08)~~

- ~~01. **Initial Fee By Examination.** The initial application fee for medication assistant certified, by examination: thirty five dollars (\$35). (3-26-08)~~
- ~~02. **Initial Fee By Endorsement.** The initial application fee for medication assistant certified, by endorsement: forty dollars (\$40). (3-26-08)~~
- ~~03. **Temporary.** Temporary certification fee: twenty five dollars (\$25). (3-26-08)~~
- ~~04. **Renewal.** Renewal of certification fee: sixty five dollars (\$65). (3-26-08)~~
- ~~05. **Reinstatement.** Reinstatement of certification fee: fifty dollars (\$50). (3-26-08)~~

- ~~06. **Records.** Verification of records fee: thirty five dollars (\$35). (3-26-08)~~
- ~~07. **Verification.** Fee for verification of certification to another state or jurisdiction: thirty dollars (\$30). (3-26-08)~~
- ~~08. **Evaluation of Education Programs.** A fee not to exceed one hundred dollars (\$100) per day will be assessed for survey and evaluation of medication assistant certified education programs, which will be due at the time the evaluation is requested. (3-26-08)~~
- ~~498. **CHANGES IN NAME AND ADDRESS FOR NOTIFICATION PURPOSES.**~~
- ~~01. **Change of Name.** Whenever a change of certificate holder name occurs, the Board must be immediately notified of the change. Documentation confirming the change of name must be provided to the Board on request. (3-26-08)~~
- ~~02. **Change of Address.** Whenever a change of certificate holder mailing address occurs, the Board must be immediately notified of the change. (3-26-08)~~
- ~~03. **Address for Notification Purposes.** The most recent mailing address on record with the Board will be utilized for purposes of all written communication with the certificate holder including, but not limited to, notification of renewal and notices related to disciplinary actions. (3-26-08)~~

~~499. -- 599. (RESERVED)~~