

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 Acupuncture:
IDAPA 24.17.01 - Notice of Omnibus Rulemaking (Fee Rule) - Proposed Rule (Docket No.
24-1701-2000F).

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 Acupuncture

IDAPA 24.17.01 - Notice of Omnibus Rulemaking (Fee Rule) - Proposed Rule (Docket No. 24-1701-2000F)

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 24.17.01, Rules of the State Board of Acupuncture. 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 54-4705, Idaho Code.

cc: Division of Occupational and Professional Licenses - State Board of Acupuncture
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

24.17.01 – RULES OF THE STATE BOARD OF ACUPUNCTURE

DOCKET NO. 24-1701-2000F (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 54-4705, 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 24.17.01, rules of the State Board of Acupuncture:

IDAPA 24.17

- 24.17.01, *Rules of the State Board of Acupuncture.*

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 54-4710(2), Idaho Code, as follows:

License/Certification/Permit/Certification	Initial Fee (Not to Exceed)	Annual Renewal Fee (Not to Exceed)
Application	\$50	n/a
License	\$150	\$75
Certification	\$150	\$75
Acupuncture Trainee	\$150	\$50
Inactive License or Certification	n/a	\$50
Reinstatement	\$250	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: 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

24.17.01 – RULES OF THE STATE BOARD OF ACUPUNCTURE

000. LEGAL AUTHORITY.

These rules are hereby prescribed and established pursuant to the authority vested in the State Board of Acupuncture by the provisions of Section 54-4705, Idaho Code. ()

001. TITLE AND SCOPE.

01. Title. These rules are titled IDAPA 24.17.01, “Rules of the State Board of Acupuncture.” ()

02. Scope. These rules review and establish the minimum requirements for licensure/certification of acupuncturists. ()

002. -- 009. (RESERVED)

010. DEFINITIONS.

01. Accredited College or University. An accredited college or university is a college or university accredited by an accrediting organization approved by the U.S. Department of Education. ()

02. Approved Acupuncture Program. A formal full-time acupuncture educational program that has met the standards of the Accreditation Commission for Acupuncture and Oriental Medicine or an equivalent educational body. An acupuncture program may be established as having satisfied this requirement by obtaining: ()

a. Accreditation; or ()

b. Candidacy for accreditation; or ()

c. An equivalent evaluation performed by a private, state government, or foreign government agency recognized for that purpose by the NCCAOM (National Certification Commission for Acupuncture and Oriental Medicine) Eligibility Committee. ()

03. License. Any license or certification issued to a qualified applicant pursuant to the laws and rules of the Board, permitting said applicant to practice acupuncture in the state of Idaho. ()

04. Practitioner. A person to whom a license, certification, or acupuncture trainee has been issued pursuant to Title 54, Chapter 47, Idaho Code. ()

011. -- 199. (RESERVED)

200. QUALIFICATIONS FOR LICENSURE OR CERTIFICATION.

01. Requirements for Licensure. Applicants for licensure must submit a complete application, required fee, and official certified documentation of either: ()

a. Certification from NCCAOM; or ()

b. Graduation from an approved formal full-time acupuncture program of at least one thousand seven hundred twenty-five (1,725) hours of entry-level acupuncture education which includes a minimum of one thousand (1000) hours of didactic course work and five hundred (500) clinical hours practice; and ()

c. Successful completion of an acupuncture internship, or other equivalent experience as approved by the Board; and ()

d. Receipt of a passing grade on an NCCAOM Acupuncture certification examination; or ()

e. Other demonstration of proficiency as uniformly required by the Board for other similarly qualified applicants for licensure; and ()

f. Successful completion of a Blood Borne Pathogen course and comprehensive examination that incorporates clean needle techniques and OSHA procedures and requirements. ()

201. ACUPUNCTURE TRAINEE PERMIT.

The Board may issue an acupuncture trainee permit to allow a person to engage in the practice of acupuncture while actively pursuing licensure or certification. The permit will expire one (1) year from date of issue. The permit may be extended in accordance with Section 54-4708, Idaho Code. The holder of an acupuncture trainee permit may only practice under the supervision of a person licensed or certified under this chapter who meets the requirements in Section 404 of these rules. An applicant for a permit must present evidence satisfactory to the Board of meeting the following requirements: ()

01. Education. An applicant must submit documentation of either: ()

a. Current enrollment in an Approved Acupuncture Program and actively pursuing completion of the program; or ()

b. Satisfaction of the requirement for certification as set forth in Section 54-4707, Idaho Code. ()

02. Supervision. Submission of a supervision plan specifying at a minimum the name of the supervisor and the setting and location where the permit holder will practice. A supervision plan may be approved by a designated Board member. ()

202. -- 225. (RESERVED)

226. REQUEST FOR APPROVAL OF QUALIFICATION.

01. Course Review. A person or entity may request approval of a course of study in acupuncture that will be offered to qualify applicants for a credential to practice acupuncture. The request must include a complete description of the required hours, scope and extent of academic and other training and clinical experience offered through the course along with appropriate supporting documentation and course materials. The request must also designate whether approval is sought for compliance with standards for certification. ()

02. Individual Qualification. An applicant may request approval of his individual qualification for licensure or certification in acupuncture. The request must include a complete description of the number of hours, scope and extent of academic and other training and clinical experience the individual has received along with available supporting documentation. The request must also designate whether qualification is sought for licensure or certification. A demonstration of proficiency or examination may be required as a part of the determination of the individual's qualification. ()

227. -- 299. (RESERVED)

300. FEES.

All fees are non-refundable:

License/Certification/Permit/Certification	Initial Fee (Not to Exceed)	Annual Renewal Fee (Not to Exceed)
Application	\$50	n/a
License	\$150	\$75
Certification	\$150	\$75
Acupuncture Trainee	\$150	\$50
Inactive License or Certification	n/a	\$50
Reinstatement	\$250	n/a

()

301. REINSTATEMENT OF LICENSE.

The applicant must submit proof of having met the continuing education required of licensees by Section 305 through 307 of these rules as follows: ()

01. Expired for One Year or Less. For licenses or certificates expired for one (1) year or less, one (1) year of continuing education; ()

02. Expired More than One Year. For licenses or certificates expired for more than one (1) year, two (2) years of continuing education. ()

302. INACTIVE STATUS.

A currently licensed or certified practitioner may request in writing to have their license placed on inactive status and pay the inactive status fee. Such request must be made prior to the expiration date of the license. ()

01. Waiving Continuing Education Requirements – Inactive Status. All continuing education requirements will be waived for any year or portion thereof that a licensee maintains an inactive license. ()

02. Return to Active Status. ()

a. A licensee desiring to return to active status must complete the equivalent of one (1) year of continuing education for every year the license was inactive and submit a fee equivalent to the difference between the inactive fee and renewal fee. ()

b. For licenses inactive five (5) years or greater, the licensee shall complete forty-five (45) hours of continuing education and either provide proof that the licensee has actively engaged in the practice of acupuncture in another state or territory of the United States for at least three (3) of the immediately preceding five (5) years, or provide proof that the licensee is competent to practice acupuncture in Idaho. ()

c. The Board may consider the following factors when determining proof of competency: ()

i. Practice of acupuncture in another jurisdiction; ()

ii. Number of years of practice prior to transfer from active status; ()

iii. Completion of continuing education courses; ()

iv. Employment in a field similar to acupuncture; and ()

v. Any other factors the Board deems appropriate. ()

303. -- 304. (RESERVED)

305. CONTINUING EDUCATION REQUIREMENTS.

In order to further protect the public health and to facilitate the administration of the Acupuncture Act, the Board has adopted the following requirements: ()

01. Requirement. All practitioners are required to complete a minimum of fifteen (15) hours of continuing education within the preceding twelve (12) months. A minimum of ten (10) hours of continuing education must be from Category I topics, and a maximum of five (5) hours of continuing education may be from Category II topics, as set forth in Sections 306 and 307 of these rules. ()

02. Verification of Attendance. Each licensee must maintain verification of attendance by securing authorized signatures or other documentation from the course instructors or sponsoring institution substantiating any hours attended by the applicant. This verification must be maintained by the licensee for no less than four (4) years and provided to the Board upon the request of the Board or its agent. ()

03. Distance Learning and Independent Study. The Board may approve a course of study for

continuing education credit that does not include the actual physical attendance of the applicant in a face-to-face setting with the course instructor. Distance Learning or Independent Study courses are eligible for continuing education credits if approved by NCCAOM or upon approval of the Board. ()

04. Special Exemption. The Board has authority to make exceptions for reasons of individual hardship. The licensee must provide any information requested by the Board to assist in substantiating hardship cases. This exemption is granted at the sole discretion of the Board. ()

05. Carryover. A continuing education course taken in a renewal year, but not claimed for continuing education credit in that year, may only be claimed for credit in the following renewal year. ()

06. Credit for Teaching. Licensees may earn continuing education credit by teaching Board-approved courses. A licensee will earn one (1) credit hour for every two (2) hours of teaching. Credit for teaching will not exceed five (5) hours of the total continuing education hours required for a renewal period and will be credited to the category of the topic taught. ()

306. APPROVAL OF CONTINUING EDUCATION COURSES.

Approved continuing education courses are those courses, programs, and activities that are approved or provided by the following entities or organizations, or otherwise approved by the Board: ()

01. NCCAOM; ()

02. Accredited Schools. Acupuncture and oriental medicine; and ()

03. Other Courses May Be Approved by the Board. Other courses may be approved based upon documentation submitted by the licensee or course provider. All requests for approval or pre-approval of educational programs must be made to the Board in writing, and 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, the number of continuing education credit hours requested, and a statement of how the course is believed to be pertinent to the practice of acupuncture. ()

307. CONTENT OF CONTINUING EDUCATION COURSES.

The content of a continuing education course must be germane to the practice of acupuncture as defined in Section 54-4702, Idaho Code, and: ()

01. Category I. Category I courses relate to the following topics: ()

a. Acupuncture and the practice of acupuncture as defined in Section 54-4702, Idaho Code including topics that directly concern the history and theory of acupuncture, oriental medicine diagnosis and treatment techniques, and techniques of adjunctive oriental medicine therapies; ()

b. The role of acupuncture in individual and public health, such as emergencies and disasters; or ()

c. Research and evidence-based medicine as related to acupuncture and Asian medicine; ()

02. Category II. Category II courses relate to the following topics: ()

a. Western biomedicine and biological sciences; ()

b. Scientific or clinical content with a direct bearing on the quality of patient care, community or public health, or preventive medicine; ()

c. Laws and ethics; ()

d. Enhancement of effective communication with other medical practitioners; ()

e. Behavioral sciences, patient counseling, and patient management and motivation when such courses are specifically oriented to the improvement of patient health; ()

f. Practice management unrelated to clinical matters and direct patient care, including, but not limited to, administrative record keeping, insurance billing and coding, and general business organization and management; or ()

g. Patient education including, but not limited to, patient education in East Asian therapeutic exercise techniques and Asian nutritional therapies. ()

308. -- 400. (RESERVED)

401. RECORDS.

A practitioner must keep accurate records of each patient the practitioner treats. The records must at a minimum include the name of the patient and the indication and nature of treatment given. Records must be kept on file for a minimum of five (5) years. A patient's records will be made available to the patient within thirty (30) days of a request. ()

402. (RESERVED)

403. EMPLOYMENT OF UNLICENSED, NON-EXEMPT INDIVIDUALS.

Individuals who do not have a license and are not exempt from licensure may not perform any insertion of acupuncture needles or use similar devices and therapies, including application of moxibustion. They may only support the practitioner's professional practice by performing office and ministerial acts related to acupuncture. The practitioner is responsible for the services provided by such employees. ()

404. SUPERVISION OF TRAINEES.

A licensed or certified acupuncturist providing supervision to trainees shall be responsible for the services provided by such individuals. Failure to adequately supervise such an individual may subject the supervisor to discipline. ()

01. Qualifications of Supervisors. Prior to providing supervision to a trainee, a supervisor must: ()

a. Have held a current acupuncture license or certification without restriction for a minimum of five (5) years. ()

b. Have not been the subject of any disciplinary action within the preceding five (5) years, provided that the Board may in its discretion approve a supervisor with disciplinary action for failing to complete continuing education requirements. ()

02. Supervision. For the first one hundred (100) hours of practice, the supervisor must provide supervision in person when the trainee is providing treatment. After the first one hundred (100) hours of practice, the supervisor may provide supervision by making themselves accessible to the trainee by telephone, or video conferencing, provided that the trainee has successfully completed the requirement in Paragraph 404.02.a. of this rule, and provided that the supervisor meets with the trainee in person on at least a monthly basis during which time the supervisor must review case studies and require the trainee to demonstrate acupuncture point location and needle placement technique. ()

a. Before providing treatment without in-person supervision, the trainee must successfully complete a Blood Borne Pathogen course and comprehensive examination that incorporates clean needle techniques and OSHA procedures and requirements. ()

b. The supervisor must provide the trainee with adequate training, which must include at a minimum charting, diagnosis, and treatment plans, and opportunities for the trainee to complete at least twenty-five (25) case studies. ()

c. The supervisor and trainee must keep adequate records of supervision, which shall include at a minimum, summary of case studies in progress or completed by the trainee under supervision, treatment plan for each patient, and the dates of supervision. ()

03. Continuing Education. A supervisor may annually count up to ten (10) hours of supervision of a trainee toward the Category I continuing education requirements. Supervision hours not claimed in the current renewal year may be claimed in the next renewal year. A maximum of ten (10) hours may be carried forward from the immediately preceding year, and may not be carried forward more than one renewal year. ()

04. Completion of Supervision. At the conclusion of supervision of a trainee, the supervisor must verify the hours of supervision, the type of supervision provided to the trainee, and the documentation of at least twenty-five (25) case studies by the trainee. ()

05. Termination of Supervision or Change in Supervisor. A supervisor may terminate supervision at any time by submitting written notice of termination to the Board. ()

405. ADVERTISING.

A practitioner shall not disseminate or cause the dissemination of any advertisement or advertising including offers, statements, or other representations, which is in any way fraudulent, false, deceptive, or misleading. ()

406. – 524. (RESERVED)

525. DISPLAY OF LICENSE.

The license shall be conspicuously displayed in the office of the Practitioner. ()

526. -- 574. (RESERVED)

575. DISCIPLINE.

01. Civil Fine. The Board may impose a civil fine not to exceed one thousand dollars (\$1,000) upon a licensee for each violation of Section 54-4711, Idaho Code. ()

02. Costs and Fees. The Board may order a licensee to pay the costs and fees incurred by the Board in the investigation or prosecution of the licensee for violation of Section 54-4711, Idaho Code. ()

576. -- 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:

[24.17.01, Rules of the State Board of Acupuncture](#)

Fee Rule Status: **Proposed** **Temporary**

Rulemaking Docket Number: 24-1701-2000F

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

License/Certification/Permit/Certification	Initial Fee (Not to Exceed)	Annual Renewal Fee (Not to Exceed)
Application	\$50	n/a
License	\$150	\$75
Certification	\$150	\$75
Acupuncture Trainee	\$150	\$50
Inactive License or Certification	n/a	\$50
Reinstatement	\$250	n/a