

Dear Senators HEIDER, Nuxoll, Schmidt, and
Representatives WOOD, Packer, Rusche:

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

IDAPA 22.01.01 - Rules of the Board of Medicine for the Licensure to Practice Medicine and
Surgery and Osteopathic Medicine and Surgery in Idaho - Proposed Rule (Docket No.
22-0101-1501);

IDAPA 22.01.15 - Rules Relating to Telehealth Services (New Chapter) - Proposed Rule (Docket
No. 22-0115-1501).

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 09/29/2015. 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 10/27/2015.

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: Principal Legislative Research Analyst - Brooke Brouman

DATE: September 10, 2015

SUBJECT: Board of Medicine

IDAPA 22.01.01 - Rules of the Board of Medicine for the Licensure to Practice Medicine and Surgery and Osteopathic Medicine and Surgery in Idaho - Proposed Rule (Docket No. 22-0101-1501)

IDAPA 22.01.15 - Rules Relating to Telehealth Services (New Chapter) - Proposed Rule (Docket No. 22-0115-1501)

(1) IDAPA 22.01.01 - Rules of the Board of Medicine for the Licensure to Practice Medicine and Surgery and Osteopathic Medicine and Surgery in Idaho - Proposed Rule (Docket No. 22-0101-1501)

The Board of Medicine submits notice of proposed rulemaking relating generally to Licensure to Practice Medicine and Surgery and Osteopathic Medicine and Surgery in Idaho, and specifically to Licensure for Graduates of International Medical Schools Located Outside of the United States and Canada. The proposed rule allows residents attending an Idaho based residency program to be licensed after successful completion of two years of progressive post graduate training if certain enumerated conditions are met.

The Board's proposed rule appears to be authorized pursuant to Sections 54-1806 and 54-1812, Idaho Code.

(2) IDAPA 22.01.15 - Rules Relating to Telehealth Services (New Chapter) - Proposed Rule (Docket No. 22-0115-1501)

The Board of Medicine submits notice of proposed rulemaking relating to Telehealth Services, which constitutes a new chapter. The proposed rule is prompted by the passage of House Bill No. 189, which created the Idaho Telehealth Access Act found in Chapter 57, Title 54, Idaho Code. The proposed rule clarifies the obligations of licensed health care providers in providing telehealth services to patients located in Idaho.

A public hearing concerning this rulemaking is scheduled to take place on Tuesday, September 15, 2015 at 12:00 p.m. (MT) in Boise, Idaho.

The Board's proposed rule appears to be authorized pursuant to Section 54-5713, Idaho Code.

Mike Nugent, Manager
Research & Legislation

Cathy Holland-Smith, Manager
Budget & Policy Analysis

April Renfro, Manager
Legislative Audits

Glenn Harris, Manager
Information Technology

cc: Board of Medicine
Nancy M. Kerr

IDAPA 22 - BOARD OF MEDICINE

22.01.01 - RULES OF THE BOARD OF MEDICINE FOR THE LICENSURE TO PRACTICE MEDICINE AND SURGERY AND OSTEOPATHIC MEDICINE AND SURGERY IN IDAHO

DOCKET NO. 22-0101-1501

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 54-1806(2), 54-1806(4), (11), 54-1806A, 54-1812, 54-1813, 54-1814 and 54-1841, 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 16, 2015.

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 rule change allows international graduates enrolled in Idaho residency programs the opportunity to apply for full licensure after completing two years of residency training with the approval of the director of the Idaho residency program.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased: None.

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: The proposed rule change is budget neutral.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not conducted because in early 2015 interested parties approached the Board to request this rule change and in a negotiated process with interested parties this rule was drafted and vetted with the interested and participating parties.

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: Not applicable.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Anne K. Lawler, Executive Director, (208) 327-7000.

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 23, 2015.

DATED this 28th Day of August, 2015.

Anne K. Lawler, JD, RN
Executive Director
Idaho State Board of Medicine
1755 Westgate Drive, Suite 140
PO Box 83720
Boise, Idaho 83720-0058
Phone (208) 327-7000 / Fax (208) 327-7005

THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 22-0101-1501
(Only Those Sections With Amendments Are Shown.)

051. LICENSURE FOR GRADUATES OF INTERNATIONAL MEDICAL SCHOOLS LOCATED OUTSIDE OF THE UNITED STATES AND CANADA.

01. International Medical Graduate. In addition to meeting the requirements of Section 050, graduates of international medical schools located outside of the United States and Canada must submit to the Board: (3-26-08)

a. Original certificate from the ECFMG or original documentation that the applicant has passed the examination either administered or recognized by the ECFMG and passed an examination acceptable to the Board that demonstrates qualification for licensure or successfully completed the United States Medical Licensing Exam (USMLE). (5-8-09)

b. Original documentation directly from the international medical school that establishes to the satisfaction of the Board that the international medical school meets the standards for medical educational facilities set forth in Subsection 051.02, and that both the scope and content of the applicant's coursework and performance were equivalent to those required of students of medical schools accredited by the LCME; (3-26-08)

c. Original documentation directly from the international medical school that it has not been disapproved or has its authorization, accreditation, certification or approval denied or removed by any state, country or territorial jurisdiction and that to its knowledge no state of the United States or any country or territorial jurisdiction has refused to license its graduates on the grounds that the school fails to meet reasonable standards for medical education facilities; (3-26-08)

d. A complete and original transcript from the international medical school showing successful completion of all the courses taken and grades received and original documentation of successful completion of all clinical coursework; and (3-26-08)

e. Original documentation of successful completion of three (3) years of progressive postgraduate training at one (1) training program accredited for internship, residency, or fellowship training by the ACGME, AOA or the Royal College of Physicians and Surgeons of Canada- provided however, a resident who is attending an Idaho based residency program may be licensed after successful completion of two (2) years of progressive post graduate training, if the following conditions are met: ~~(3-26-08)~~()

i. The resident must have the written approval of the residency program director; ()

ii. The resident must have a signed written contract with the Idaho residency program to complete the entire residency program; ()

iii. The resident must remain in good standing at the Idaho-based residency program; ()

iv. The residency program must notify the Board within thirty (30) days if there is a change in circumstances or affiliation with the program (for example, if the resident resigns or does not demonstrate continued satisfactory clinical progress); and ()

v. The Idaho residency program and the Idaho Board have prescreened the applicant to ensure that the applicant has received an MD or DO degree from an approved school that is eligible for Idaho licensure after graduation. ()

f. ECFMG. The certificate from the ECFMG is not required if the applicant holds a license to practice medicine which was issued prior to 1958 in one (1) of the states of the United States and which was obtained by

written examination. (3-26-08)

02. International Medical School Requirements. (3-26-08)

a. An international medical school, as listed in the World Health Organization Directory of Medical Schools, which issued its first doctor of medicine degree less than fifteen (15) years prior to an application for licensure, must provide documented evidence of degree equivalency acceptable to the Board including, but not limited to: (3-26-08)

i. The doctor of medicine degrees issued must be substantially equivalent to the degrees issued by acceptable medical schools located within the United States or Canada. Equivalency shall be demonstrated, in part, by original documentation of a medical curriculum of not less than thirty-two (32) months, or its equivalent, of full-time classroom instruction and supervised clinical coursework. Such clinical coursework shall be in a hospital or hospitals that, at the time of the applicant's coursework, documented its evaluation of the applicant's performance in writing as a basis for academic credit by the medical school; (3-26-08)

ii. The medical school's admission requirements, including undergraduate academic subject requirements, entrance examination scores, and core curriculum are substantially equivalent to medical schools located within the United States or Canada; (3-26-08)

iii. The medical school has adequate learning facilities, class attendance, medical instruction, and clinical rotations consistent with quality medical education. (3-26-08)

iv. The medical school has not been disapproved or has its authorization, accreditation, certification, licensure, or approval denied or removed by any state, country or territorial jurisdiction; and (3-26-08)

v. The medical school does not issue diplomas, confer degrees or allow graduation based on Internet or on-line courses inconsistent with quality medical education. (3-26-08)

b. An international medical school, as listed in the World Health Organization Directory of Medical Schools, which issued its first doctor of medicine degree more than fifteen (15) years prior to an application for licensure, may, in the Board's discretion, be required to provide original documented evidence of degree equivalency acceptable to the Board. (3-26-08)

IDAPA 22 - BOARD OF MEDICINE
22.01.15 - RULES RELATING TO TELEHEALTH SERVICES
DOCKET NO. 22-0115-1501 (NEW CHAPTER)
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 54-5613 and Section 54-1806(2) Idaho Code.

PUBLIC HEARING SCHEDULE: A public hearing concerning this rulemaking will be held as follows:

Tuesday, September 15, 2015 - 12:00 P.M. (MST)

Idaho State Board of Medicine
1755 Westgate Drive, Suite 140
Boise, Idaho 83704

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:

Passage of the Telehealth Access Act provides for the licensing boards to promulgate rules specific for the licensees that they regulate. The rules clarify the obligations of the licensed health care provider in providing telehealth services to Idaho citizens.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased:

No fees are assessed by this rule.

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 as a result of this rulemaking:

Not applicable. This rule is budget neutral and there is no fiscal impact to the general fund.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not conducted because the rules were drafted in conjunction with the Idaho Telehealth Council, Idaho Medical Association, Idaho Hospital Association, and other interested parties and comments and corrections were incorporated into this rule.

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:

The Idaho Telehealth Access Act, Chapter 56, Title 54, Idaho Code is incorporated by reference into these rules as the guiding statute.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Anne K. Lawler, Executive Director, (208) 327-7000.

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 23, 2015.

DATED this 28th Day of August 2015.

Anne K. Lawler, JD, RN
Executive Director
Idaho Board of Medicine
1755 Westgate Drive, Suite 140
PO Box 83720
Boise, Idaho 83720-0058
Phone (208) 327-7000 / Fax (208) 327-7005

THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 22-0115-1501

IDAPA 22
TITLE 01
CHAPTER 15

22.01.15 - RULES RELATING TO TELEHEALTH SERVICES

000. LEGAL AUTHORITY.

Pursuant to Section 54-5713 and Section 54-1806(2), Idaho Code, the Idaho State Board of Medicine is authorized to promulgate rules relating to telehealth services. ()

001. TITLE AND SCOPE.

01. Title. These rules shall be cited as IDAPA 22.01.15, "Rules Relating to Telehealth Services." ()

02. Scope. These rules define the scope of practice for telehealth service providers and defines how the patient-provider relationship may be established without face-to-face, in-person contact and places limitations on the prescriptions that can be authorized via telehealth tools. ()

002. WRITTEN INTERPRETATIONS.

Written interpretations of these rules in the form of explanatory comments accompanying the notice of proposed rulemaking that originally proposed the rules and review of comments submitted in the rulemaking process in the adoption of these rules are available for review and copying at cost from the Board, 1755 Westgate Drive, Suite 140, Box 83720 Boise, Idaho 83720-0058. ()

003. ADMINISTRATIVE APPEAL.

All contested cases shall be governed by the provisions of IDAPA 04.11.01, "Idaho Rules of Administrative Procedures of the Attorney General," and this chapter. ()

004. PUBLIC RECORD ACT COMPLIANCE.

These rules have been promulgated according to the provisions of Title 67, Chapter 52, Idaho Code, and are public records. ()

005. INCORPORATION BY REFERENCE.

The Idaho Telehealth Access Act, Chapter 57, Title 54, Idaho Code, is incorporated by reference into these rules. ()

006. OFFICE -- OFFICE HOURS -- MAILING ADDRESS AND STREET ADDRESS.

The central office of the Board shall be in Boise, Idaho. The Board's mailing address, unless otherwise indicated, shall be Idaho State Board of Medicine, Statehouse Mail, Boise, Idaho 83720. The Board's street address is 1755 Westgate Drive, Suite 140, Boise, Idaho 83704. The telephone number of the Board is (208) 327-7000. The Board's facsimile (FAX) number is (208) 327-7005. The Board's website is www.bom.idaho.gov. The Board's office hours for filing documents are 8:00 a.m. to 5:00 p.m. MST. ()

007. FILING OF DOCUMENTS -- NUMBER OF COPIES.

All documents in rulemaking or contested case proceedings must be filed with the office of the Board. The original and one (1) electronic copy of all documents must be filed with the office of the Board. ()

008. -- 009. (RESERVED)

010. DEFINITIONS.

01. Board. The Idaho State Board of Medicine. ()

02. Referenced Definitions. The other definitions applicable to these rules are those definitions set forth in the Idaho Telehealth Access Act and in Section 54-5703, Idaho Code. ()

011. IDAHO LICENSE REQUIRED.

Any physician, physician's assistant, respiratory therapist, polysomnographer, dietician, or athletic trainer who provides any telehealth services to patients located in Idaho must hold an active Idaho license issued by the Idaho State Board of Medicine for their applicable practice. ()

012. PROVIDER-PATIENT RELATIONSHIP.

In addition to the requirements set forth in Section 54-5705, Idaho Code, during the first contact with the patient, a provider licensed by the Idaho State Board of Medicine who is providing telehealth services shall: ()

01. Verification. Verify the location and identity of the patient; ()

02. Disclose. Disclose to the patient the provider's identity, their current location and telephone number and Idaho license number; ()

03. Consent. Obtain appropriate consents from the patient after disclosures regarding the delivery models and treatment methods or limitations, including a special informed consent regarding the use of telehealth technologies; and ()

04. Provider Selection. Allow the patient an opportunity to select their provider rather than being assigned a provider at random to the extent possible. ()

013. STANDARD OF CARE.

A provider providing telehealth services to patients located in Idaho must comply with the applicable Idaho community standard of care. The provider shall be personally responsible to familiarize themselves with the applicable Idaho community standard of care. If a patient's presenting symptoms and conditions require a physical examination, lab work or imaging studies in order to make a diagnosis, the provider shall not provide diagnosis or treatment through telehealth services unless or until such information is obtained. ()

014. INFORMED CONSENT.

In addition to the requirements of Section 54-5708, Idaho Code, evidence documenting appropriate patient informed consent for the use of telehealth technologies must be obtained and maintained at regular intervals consistent with the community standard of care. Appropriate informed consent should, at a minimum, include the following terms: ()

01. Verification. Identification of the patient, the provider and the provider's credentials; ()

02. Telehealth Determination. Agreement of the patient that the provider will determine whether or not the condition being diagnosed and/or treated is appropriate for telehealth services; ()

03. Security Measures Information. Information on the security measures taken with the use of telehealth technologies, such as encrypting data, password protected screen savers and data files, or utilizing other reliable authentication techniques, as well as potential risks to privacy and notwithstanding such measures; ()

04. Potential Information Loss. Disclosure that information may be lost due to technical failures. ()

015. MEDICAL RECORDS.

As required by Section 54-5711, Idaho Code, any provider providing telehealth services as part of his or her practice shall generate and maintain medical records for each patient. The medical record should include, copies of all patient-related electronic communications, including patient-physician communications, prescriptions, laboratory and test results, evaluations and consultations, relevant information of past care, and instructions obtained or produced in connection with the utilization of telehealth technologies. Informed consents obtained in connection with the provision of telehealth services should also be documented in the medical record. The patient record established during the provision of telehealth services must be accessible and documented for both the physician and the patient, consistent with all established laws and regulations governing patient healthcare records. ()

016. -- 999. (RESERVED)