

IDAPA 24 - BUREAU OF OCCUPATIONAL LICENSES

24.27.01 - RULES OF THE IDAHO STATE BOARD OF MASSAGE THERAPY

DOCKET NO. 24-2701-1601 (FEE RULE)

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 54-4007.

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 19, 2016.

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 2016 Legislature passed House Bill 519 which authorized the Board to establish requirements for a temporary license and provisional permit. These rules establish the requirements for a temporary license and a provisional permit and set fees for each. The rules also lower the fee for an original license and annual license renewal and update the list of approved licensure examinations.

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

Rule 250 lowers the original license fee and the annual license renewal fee from \$75 to \$65 and adds a temporary license and provisional permit fee of \$25. These fees or charges are being imposed pursuant to Section 54-4008, Idaho Code.

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 changes to these rules were discussed 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:

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Mitchell Toryanski 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 26, 2016.

DATED this 2nd day of September, 2016.

Tana Cory, Bureau Chief
Bureau of Occupational Licenses
700 W State St.
P O Box 83720
Boise, ID 83720-0063
Phone: (208) 334-3233
Fax: (208) 334-3945

THE FOLLOWING IS THE FEE RULE PROPOSED TEXT OF DOCKET NO. 24-2701-1601
(Only Those Sections With Amendments Are Shown.)

250. FEES.

Fees are established in accordance with Section 54-4008, Idaho Code, as follows: (3-27-13)

01. Application Fee. Application fee is fifty dollars (\$50). (3-27-13)

02. Original License Fee. Original license fee is ~~seventy~~six-five dollars (\$~~76~~5). (~~3-27-13~~)()

03. Annual Renewal Fee. Annual renewal fee is ~~seventy~~six-five dollars (\$~~76~~5). (~~3-27-13~~)()

04. License by Endorsement Fee. License by endorsement fee is seventy-five dollars (\$75). (3-27-13)

05. Temporary License. Temporary license fee is twenty-five dollars (\$25). ()

06. Provisional Permit. Provisional permit fee is twenty-five dollars (\$25). ()

~~05~~**7. Duplicate License Fee.** Duplicate license fee is ten dollars (\$10). (3-27-13)

~~06~~**8. Reinstatement Fee.** Reinstatement fee is as provided in Section 67-2614, Idaho Code. (3-24-16)

~~07~~**9. Examination Fee.** The fee for those examinations administered by a third party administrator shall be that fee determined by the administrator, and shall be paid directly to the administrator by the applicant. (3-27-13)

~~08~~**10. Refund of Fees.** All fees are non-refundable except that, if a license is not issued, the license fee will be refunded. (3-27-13)

251. -- 299. (RESERVED)

300. REQUIREMENTS FOR ORIGINAL LICENSURE.

The Board may grant a license to an applicant for licensure who completes an application as set forth in Section 200 of these rules and meets the following general, education, and examination requirements: (3-27-13)

01. General. (3-27-13)

a. An applicant must provide evidence of being at least eighteen (18) years of age. (3-27-13)

b. An applicant must certify that he/she has not been found guilty, convicted, received a withheld judgment, or suspended sentence for a felony or a crime involving moral turpitude, or if the applicant has been found guilty, convicted, received a withheld judgment, or suspended sentence for such a crime, the applicant must submit a written statement of suitability for licensure as set forth in Section 306 of these rules. (3-27-13)

c. An applicant must certify that he/she has not been convicted of a crime under any municipal, state, or federal narcotic or controlled substance law, or if the applicant has been convicted of such a crime, the applicant must submit a written statement of suitability for licensure as set forth in Section 306 of these rules. (3-27-13)

d. An applicant must certify that he/she or his/her license has not been subject to any disciplinary action by a regulatory entity in another state, territory or country including, but not limited to, having an application for licensure denied. If the applicant or his/her license has been subject to discipline, the applicant must submit a written statement of suitability for licensure as set forth in Section 306 of these rules. (3-27-13)

- 02. Education.** Each applicant shall: (3-27-13)
- a. Certify that he/she has obtained a high school diploma or the equivalent; and (3-27-13)
 - b. Present evidence satisfactory to the Board of having successfully completed an approved massage program as defined in Section 010 of these rules. (3-27-13)

03. Examination. Each applicant shall also present evidence satisfactory to the Board of having successfully passed an approved examination. (3-27-13)

~~**04. Waiver of Requirements.** Until July 1, 2014, the Board may waive the requirements of Subsections 300.02 and 300.03 of these rules and issue a license to any applicant who meets one (1) of the following requirements: (3-27-13)~~

~~a. Completion of a minimum of five hundred (500) hours of supervised classroom and hands-on instruction relating to massage therapy; (3-27-13)~~

~~b. Completion of at least three hundred (300) hours of formal training in massage therapy as determined by the Board, and has practiced massage therapy for at least five (5) hours per week on average for at least three (3) years prior to the date of application; (3-27-13)~~

~~c. Completion of at least two hundred (200) hours of formal training in massage therapy, as determined by the Board, and has practiced massage therapy for at least five (5) hours per week on average for at least five (5) years prior to the date of application; (3-27-13)~~

~~d. Active membership in good standing as a massage therapist for a period of at least twelve (12) months of a national professional massage association or organization that offers professional liability insurance; or (3-27-13)~~

~~e. Successful passage of a nationally recognized competency examination in massage therapy that is approved by the Board. The passage of this exam may have occurred prior to the effective date of these rules. (3-27-13)~~

301. -- 304. (RESERVED)

305. APPROVED EXAMINATIONS.

Approved examinations shall be the following examinations or another nationally recognized competency examination in massage therapy that is approved by the Board. (3-27-13)

01. Approved Examinations. (3-27-13)

a. Massage and Bodywork Licensing Examination (MBLEx) as administered by the Federation of State Massage Therapy Boards (FSMTB); (3-27-13)

b. National Certification Examination for Therapeutic Massage and Bodywork (NCETMB) ~~as administered by the National Certification Board for Therapeutic Massage and Bodywork (NCBTMB); (3-27-13)~~

e. or National Certification Examination for Therapeutic Massage (NCETM) as administered by the National Certification Board for Therapeutic Massage and Bodywork (NCBTMB); ~~and if taken before February 1, 2015.~~ (3-27-13)()

~~c.~~ Other nationally recognized competency examinations in massage therapy that are approved by the Board. A written request for approval must be submitted to the Board together with supporting documentation as may be requested by the Board. (3-27-13)

02. Successful Passage. A passing score, or successful passage of the exam, will be determined by the entity administering the exam. (3-27-13)

03. **Date of Exam.** The passage of the exam may have occurred prior to the effective date of these rules. (3-27-13)

(BREAK IN CONTINUITY OF SECTIONS)

311. -- 319. (RESERVED)

320. TEMPORARY LICENSE.

01. General. Any person who has submitted to the board a complete application for licensure by examination under section 54-4009 or by endorsement under section 54-4010, Idaho Code together with the required fees, may apply for a temporary license to practice massage therapy while their application is being processed by the board. ()

02. Duration. An applicant will be issued only one temporary license which will be valid for a period not to exceed four (4) months or until the board acts upon the licensure application, whichever occurs first. ()

321. -- 329. (RESERVED)

330. PROVISIONAL PERMIT.

Upon application to the board and payment of the required fees, an applicant may be issued a provisional permit to practice massage therapy if the applicant meets all the requirements for licensure under section 54-4009, Idaho Code except for having successfully passed a nationally recognized competency examination in massage therapy that is approved by the Board as described in Subsection 305.01. ()

01. General. A provisional permit will be issued subject to the following conditions: ()

a. The applicant must certify that the applicant will take the next scheduled examination for licensure approved by the board, and that the applicant has not failed two (2) previous examinations for licensure; and ()

b. A licensed massage therapist certifies to the board that the applicant will practice massage therapy only under the supervision of the licensed massage therapist while both are in the same location. ()

02. Duration and Renewal. An applicant will be issued only one provisional permit which shall be valid for a period not to exceed six (6) months or until the applicant is issued a temporary license or the board acts upon the massage therapist license application, whichever occurs first. A provisional permit may only be renewed once upon a showing of good cause. ()

~~343~~1. -- 399. (RESERVED)