

**Zero-Based Regulation
Prospective Analysis
[Idaho Board of Acupuncture]
[24-0000-2202F]**

1. What is the specific legal authority for this proposed rule?

Statute Section (include direct link)	Is the authority mandatory or discretionary?
Idaho Code § 54-4705	Mandatory

2. Define the specific problem that the proposed rule is attempting to solve? Can it be solved through non-regulatory means?

The rules are designed to protect the public from harm from untrained and incompetent acupuncturists and from acupuncturists that are violating the rules of practice. Further, licensure ensures that minimum qualifications are met for all practitioners engaging in acupuncture with the associated risks of undiagnosed or improper treatment of medical conditions associated with any practitioner of the medical arts. Licensure, also provides a regulatory disciplinary framework to ensure that licensees are practicing competently and within the prescribed scope of practice.

The Benenson Strategy Group (BSG) conducted a recent national study to understand public opinion toward professional licensing standards. BSG conducted interviews with 952 “likely voters”— individuals who are registered to vote and have voted in the 2016 or 2018 elections or indicated that they are likely to vote in the 2020 election. This was a national opinion study with a diverse respondent pool—mix of gender, age, race, and political ideology. Research was conducted from October 25 through November 6, 2019.

BSG’s critical finding were that the public overwhelmingly supports licensing regulations for complex, highly technical professions that have a direct impact on public health, safety, and welfare. Research found that 75% of voters believe it is important to ensure qualifications for professionals in certain industries. And a majority of voters believe current professional licensing requirements protect the public and should not be reformed.

The public expects that professions tasked with safeguarding their physical and financial wellbeing are regulated. More than 70% of voters believe that regulating professionals in accounting, engineering, architecture, and related fields with high impact on public safety and welfare is important. Licensing standards are the public’s preferred default position with 71% of voters believing professional licensing should be required unless it can be proven that eliminating licensing will not have a negative impact on public health and safety. The public is wary of the alternative approach: requiring licensing only when it is proven necessary for health and safety.

Professional licensing boards are also viewed favorably and are seen as critical regulatory entities. 67% of voters believe that consumers are best protected by a system that regulates education, examination, and experience standards—all of which are overseen by a professional licensing board. And the public intuitively understands what roles the boards play and why

those roles are important. A majority of the public believes that it is “very important” that the boards oversee qualifications to enter a profession and regulate continuing education and certification standards.

Also, The Alliance for Responsible Professional Licensing (ARPL) commissioned Oxford Economics to produce a first-of-its-kind quantitative research study, *Valuing Professional Licensing in the U.S.*, which explored the impacts of professional licensing in highly complex, technical fields.

The study produced the following findings: Across all professions and occupations, licensing is associated with a 6.5% average increase in hourly earnings, even after accounting for the job holder’s educational attainment, gender, and racial demographics. Among professionals in technical fields requiring significant education and training, a license narrows the gender-driven wage gap by about one third and the race-driven wage gap by about half. Minority CPAs can expect an 8.1% hourly wage increase on average after becoming licensed in their field. Female CPAs can expect a 6.1% hourly wage increase on average after becoming licensed in their field. Both white professionals and male professionals were shown to benefit from licensing too, but to a lesser degree. White CPAs can expect a 2.9% hourly wage increase after becoming licensed; and males in the profession can expect a 0.7% hourly wage increase after becoming licensed. Those in a profession requiring advanced education and training such as a CPA can expect a 3.6% wage increase after becoming licensed.

3. How have other jurisdictions approached the problem this proposed rule intends to address?

a. Is this proposed rule related to any existing federal law?

Federal citation	Summary of Law (include direct link)	How is the proposed Idaho rule more stringent? (if applicable)
	N/A	

b. How does this proposed rule compare to other state laws?

State	Summary of Law (include direct link)	How is the proposed Idaho rule more stringent? (if applicable)

Washington	https://app.leg.wa.gov/rcw/default.aspx?cite=18.06 https://app.leg.wa.gov/wac/default.aspx?cite=246-803	Comparable to Idaho
Oregon	https://secure.sos.state.or.us/oard/displayDivisionRules.action?selectedDivision=3898 https://oregon.public.law/statutes/ors_677.010	Comparable to Idaho
Nevada	https://www.leg.state.nv.us/nrs/nrs-634a.html#NRS634ASec010 https://www.leg.state.nv.us/nac/nac-634a.html	Comparable to Idaho
Utah	https://le.utah.gov/xcode/Title58/Chapter72/58-72-S101.html https://rules.utah.gov/wp-content/uploads/r156-73.pdf	
Wyoming	https://drive.google.com/file/d/1YEsFtsgPLDgid2viSrotmhGASiF1uIAD/view https://casetext.com/regulation/wyoming-administrative-code/agency-252-acupuncture-board-of/subagency-0001-acupuncture-board-of	Comparable to Idaho
Montana	https://leg.mt.gov/bills/mca/title_0370/chapter_0130/part_0010/sections_index.html https://rules.mt.gov/gateway/ruleno.asp?RN=24%2E156%2E1401	Comparable to Idaho
Alaska	https://www.commerce.alaska.gov/web/portals/5/pub/AcupunctureStatutes.pdf	Comparable to Idaho
South Dakota	N/A	Less restrictive.

c. If the Idaho proposed rule has a more stringent requirement than the federal government or the reviewed states, describe the evidence base or unique circumstances that justifies the enhanced requirement:

The proposed rule is generally uniform throughout the comparator jurisdictions.

4. What evidence is there that the rule, as proposed, will solve the problem?

The Acupuncture Board has been in existence since 1999. The Board prosecutes licensees that violate the Board's rules regarding competency and scope of practice. The nature of the profession presents the risk of undiagnosed or improper treatment of medical conditions associated with any practitioner of the medical arts.

The Board is presented by unique questions regarding qualifications and scope of practice that require the subject matter expertise of the professionals on the Board.

5. What is the anticipated impact of the proposed rule on various stakeholders?

Category	Potential Impact
Fiscal impact to the state General Fund, any dedicated fund, or federal fund	No impact on the state general fund.
Impact to Idaho businesses, with special consideration for small businesses	Minimal impact of licensure costs passed on to those that choose to practice in the profession.
Impact to any local government in Idaho	No impact to local government.

6. What cumulative regulatory volume does this proposed rule add?

Category	Impact
Net change in word count	1140 less words
Net change in restrictive word count	2 less restrictive words