

**PROSPECTIVE ANALYSIS**  
**BOARD OF PSYCHOLOGIST EXAMINERS**

IDAPA 24.12.01

**RULE 200 EXAMINATIONS**

**Proposed Rule:**

Failure of Exam. The first time the examination is failed the applicant may take it again the next time it is given upon application and payment of fees.

**Current Rule:**

Failure of Exam. The first time the examination is failed the applicant may take it again the next time it is given upon application and payment of fees. If the examination has been failed twice, the individual must wait at least one (1) year and petition the Board for approval to take the examination the third time. The petition must include evidence satisfactory to the Board that the applicant has taken additional study in the field of Psychology before approval will be granted.

**Legal Authority:** The Board of Psychologist Examiners is empowered by statute to establish qualifications for the licensing of applicants, which includes the power "to adopt and revise rules requiring applicants to pass examinations relating to their qualifications as a prerequisite to the issuance of licenses." *See* Idaho Code § 54-2305. The language is discretionary.

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

The proposed rule removes a hindrance to licensing by allowing unsuccessful examination candidates to retake the examination without petitioning the Board and undergoing a waiting period.
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**Federal Law Comparison (where applicable)**

Summary of Law (include direct link)	How is the proposed Idaho rule more stringent? (if applicable)
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Not applicable	
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**State Law Comparison**

<b>State</b>	<b>Summary of Law (include direct link)</b>	<b>How is the proposed Idaho rule more stringent? (if applicable)</b>
<b>Idaho</b>	Must pass EPPP (minimum score of 500) If failed twice, must wait one year before retaking and petition Board. (current rule)	
<b>Alaska</b>	EPPP, passing score of 500 or higher on computerized version; 70 or higher on non-computerized. Applicant who fails must notify Board and wait 6 months to retake.  AS 08.86.130; 12 AAC 60.110-1170	The proposed Idaho rule is less stringent
<b>Montana</b>	Exam not specified in statute or rule, passing score is 500. Applicants who fail two or more times must file a plan with the Board.  <a href="https://leg.mt.gov/bills/mca/title_0370/chapter_0170/part_0030/section_0020/0370-0170-0030-0020.html">https://leg.mt.gov/bills/mca/title_0370/chapter_0170/part_0030/section_0020/0370-0170-0030-0020.html</a>	The proposed Idaho rule is less stringent
<b>Nevada</b>	Must pass national examination but Board has basis to waive exam requirements and its discretion. May retake up to two times before requesting approval from Board.  <a href="https://www.leg.state.nv.us/nrs/nrs-641.html">https://www.leg.state.nv.us/nrs/nrs-641.html</a>	The proposed Idaho rule is less stringent
<b>Oregon</b>	EPPP, passing score of 500; after failing two times, must apply to Board to retake.  <a href="https://www.oregon.gov/psychology/pages/exams.aspx">https://www.oregon.gov/psychology/pages/exams.aspx</a>	The proposed Idaho rule is less stringent
<b>South Dakota</b>	EPPP; written and oral exam. 75% on oral exam required. No passing score for written exam in rule or statute.  <a href="https://sdlegislature.gov/Rules/Administrative/10923">https://sdlegislature.gov/Rules/Administrative/10923</a>	The proposed Idaho rule is comparable to the South Dakota rule.

<b>Utah</b>	EPPP with passing score recommended y ASPPB, Utah Psychologists Law and Ethics Exam with score of 75%; after failing three times, must appear before the Board and ask to retake.  <a href="https://le.utah.gov/xcode/Title58/Chapter61/58-61-S304.html">https://le.utah.gov/xcode/Title58/Chapter61/58-61-S304.html</a>	The proposed Idaho rule is less stringent
<b>Washington</b>	EPPP w score of 70% or national mean, whichever is lowest. Jurisprudence exam administered by Dept. of Health.  <a href="https://app.leg.wa.gov/wac/default.aspx?cite=246-924-070">https://app.leg.wa.gov/wac/default.aspx?cite=246-924-070</a>	The proposed Idaho rule is less stringent
<b>Wyoming</b>	EPPP w score of 70% or 500; applicants unable to pass within two years must wait two years to retake.  <a href="https://rules.wyo.gov/Search.aspx?Agency=068">https://rules.wyo.gov/Search.aspx?Agency=068</a>	The proposed Idaho rule is less stringent

**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:**

N/A

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

The EPPP is the standard licensure examination for psychology and has been administered since 1965 and was developed by the Association of State and Provincial Boards of Psychology. Recent APA statistics show that ninety (90) percent of test takers passed the EPPP on their first attempt. The proposed rule is designed to remove barriers for repeat test takers so that they can take the exam when they are prepared, rather than wait for an arbitrary time period to retake. The proposed rule also eases the work of the Board by no longer requiring the Board to review petitions to retake the exam by those applicants who have failed twice.

<https://www.apa.org/pi/oema/resources/communique/2018/06/pass-rates>

**Anticipated impact of the proposed rule on various stakeholders:**

<b>Category</b>	<b>Potential Impact</b>
Fiscal impact to the state General Fund, any dedicated fund, or federal fund	N/A

Impact to Idaho businesses, with special consideration for small businesses	N/A
Impact to any local government in Idaho	N/A

**Cumulative regulatory volume this proposed rule adds:**

<b>Category</b>	<b>Potential Impact</b>
Net change in word count	TBD after ZBR
Net change in restrictive word count	TBD after ZBR

**RULES 401 AND 402 CONTINUING EDUCATION REQUIREMENTS FOR PSYCHOLOGISTS**

**Proposed Rule:**

Hours Required. A licensed psychologist must complete fifteen (15) hours per year of continuing education credits each year. Two of those credits must be in Laws and Ethics. A prescribing psychologist must complete fifteen (15) hours each calendar year of continuing education credits in psychopharmacotherapy. Continuing education credits for prescribing psychologists are in addition to the continuing education credits required to renew their psychologist license.

Professional Level of Continuing Education. This continuing education experience must be at an appropriate level for professional training in psychology. The licensees have responsibility for demonstrating the relevance and adequacy of the educational experience they select. The licensees are also responsible for keeping an accurate record of their own personal continuing education hours for a period of three (3) years. A random audit may be conducted to ensure compliance.

Continuing Education Credit. Licensees are responsible for choosing quality continuing education programs that focus on protecting the health and safety of the public and contribute to their germane profession.

Newly Licensed Individuals. Newly licensed individuals will be considered to have satisfied the continuing education requirements for the remainder of the year in which their license is granted.

**Current Rule:**

The current rule requires twenty (20) hours of continuing education per year. The current rule also mandates that continuing education credit will be given to classes or workshops under the auspices of: regionally accredited institutions of higher education; the American Psychological Association; a Regional Psychological Association; a State Psychological Association. *See* Rule 402.01. In addition to those entities, prescribing psychologists may take continuing education from various medical associations. The proposed rule eliminates those requirements and replaces them with continuing education programs that "focus on protecting the health and safety of the public and contribute to their germane profession."

**Legal Authority:**

Discretionary. The Board has the authority to adopt rules requiring continuing education as a condition of continued licensure and certification. *See* I.C. § 54-2305. However, the Board is not mandated by statute to require licensees take continuing education courses.

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

The proposed rule is attempting to solve two issues. First, the proposed rule aligns Idaho with other jurisdictions' continuing education (CE) requirements and makes Idaho's requirement less stringent than previously. Second, the rule simplifies the requirements for licensees and provides clarity by eliminating an enumerated list of acceptable programs and replacing that language with allowing the licensee the opportunity to choose courses that are germane to their professional development.

Because CE's are not statutorily required for license renewal, the problem could also be solved through non-regulatory means by eliminating a CE requirement altogether. However, in Board discussions, the Board agreed upon the reduced, 15 hour CE requirement in the proposed rule as well as the simplified language.

**Federal Law Comparison (where applicable).** Not applicable.

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

**State Law Comparison.** Please note that not all jurisdictions are on the same renewal cycle and the requirements are stated either annually or biannually, or every three years.

State	Summary of Law (include direct link)	How is the proposed Idaho rule more stringent? (if applicable)
<b>Idaho</b>	See above. Full text in rule is available here:  chrome-extension://efaidnbmnnnibpcajpcglclefindmkaj/https://adminrules.idaho.gov/rules/current/24/241201.pdf	N/A
<b>Alaska</b>	20 hours annually Can be done by individual study, instruction, discussion or publication and presentation. <i>See</i> 12 AAC 60.250 et. seq.  chrome-extension://efaidnbmnnnibpcajpcglclefindmkaj/https://www.commerce.alaska.gov/web/portals/5/pub/PsychologistStatutes.pdf	N/A
<b>Montana</b>	20 hours biennially. Licensed behavior analyst or assistant analyst must have two hours in ethics and one hour in suicide prevention. <i>See</i> ARM 24.189.913.  <a href="https://rules.mt.gov/gateway/RuleNo.asp?RN=24%2E189%2E913">https://rules.mt.gov/gateway/RuleNo.asp?RN=24%2E189%2E913</a>	N/A

<b>Nevada</b>	<p>30 hours biennially. Psychologist- 30 hours, with at least 6 hours must include ethics/professional misconduct, 2 hours must include suicide prevention</p> <p>Behavior analyst or assistance behavior analyst- 30 hours, 6 must include ethics and professional responsibility, 2 hours must include suicide prevention. <i>See</i> NAC 641.136</p> <p><a href="https://www.leg.state.nv.us/nac/nac-641.html#NAC641Sec136">https://www.leg.state.nv.us/nac/nac-641.html#NAC641Sec136</a></p>	N/A
<b>Oregon</b>	<p>40 hours biennially. Must include 4 credits of professional ethics, 7 credits for pain management, 4 hours of cultural competency, 2 hours of suicide risk assessment. <i>See</i> OAR 858-040-0015.</p> <p><a href="https://secure.sos.state.or.us/oard/viewSingleRule.action?ruleVrsnRsn=283457">https://secure.sos.state.or.us/oard/viewSingleRule.action?ruleVrsnRsn=283457</a></p>	N/A
<b>South Dakota</b>	<p>15 hours annually. No more than five hours from "independent professional reading." <i>See</i> S.D.C.L. 20:60:10 <i>et. seq.</i></p> <p><a href="https://sdlegislature.gov/Rules/Administrative/39789">https://sdlegislature.gov/Rules/Administrative/39789</a></p>	N/A
<b>Utah</b>	<p>24-48 hours biennially, depending on type of license. Licensed psychologist must have 48 hours, whereas a clinical psychologist must have 24 hours. 6 hours per year for ethics. No more than 18 hours per year of internet research, no more than 10 hours per year teaching at a college. <i>See</i> R156-61-302h.</p> <p>chrome-extension://efaidnbmnnnibpcajpcglclefindmkaj/https://dopl.utah.gov/laws/R156-61.pdf</p>	See analysis below
<b>Washington</b>	<p>60 hours every three years. Minimum of 6 hours for suicide assessment; four hours of ethics.</p> <p><i>See</i> WAC 246-924-230.</p> <p><a href="https://app.leg.wa.gov/wac/default.aspx?cite=246-924&amp;full=true#246-924-230">https://app.leg.wa.gov/wac/default.aspx?cite=246-924&amp;full=true#246-924-230</a></p>	N/A

<b>Wyoming</b>	30 hours biennially, of which 10-20 hours must be reviewed and approved by WPA or WSPA. <i>See</i> 068.0001.8.0801 Wyo. Code R 2012.  <a href="https://rules.wyo.gov/Search.aspx?Agency=068">https://rules.wyo.gov/Search.aspx?Agency=068</a>	N/A
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**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:**

Utah requires more hours for a licensed psychologist, but three fewer hours for a clinical psychologist. Utah’s rule is overall more restrictive because it requires far more hours for a licensed psychologist and also has limitations on the types of credits that may be accepted, which the rule, as proposed, does not.

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

The rule, as proposed, reduces the total number of CE hours to be more aligned with surrounding states which have similar requirements. The proposed rule is designed to be less restrictive and enable practitioners to meet their CE requirements.

The rule also simplifies types of acceptable CE credits. This provides additional clarity to licensees and allows them greater access to fulfilling their CE requirements. The APA’s website contains many types of CE Resources for practitioners:  
<https://www.apa.org/ed/ce/resources>

**Anticipated impact of the proposed rule on various stakeholders:**

Category	Potential Impact
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Fiscal impact to the state General Fund, any dedicated fund, or federal fund	N/A
Impact to Idaho businesses, with special consideration for small businesses	N/A
Impact to any local government in Idaho	N/A

**Cumulative regulatory volume this proposed rule adds:**

Category	Potential Impact
Net change in word count	TBD after ZBR
Net change in restrictive word count	TBD after ZBR

**RULE 550 REQUIREMENTS FOR SUPERVISED PRACTICE**

**Proposed Rule(s):**

**Requirements for supervised practice.**

Duration and Setting of Supervised Practice. A year of supervised experience is defined as a minimum of one thousand (1000) hours of supervised service provision acquired during not less than twelve (12) months and no more than a thirty-six (36) calendar month period. The first year of supervised experience must be accredited only after acquiring the equivalent of one (1) year of full-time graduate study. A second year must be obtained post-doctorally.

Qualifications of Supervisors. Supervising psychologists must be licensed and in good standing.

Amount of Supervisory Contact. One (1) hour per week of face-to-face individual contact per forty (40) hours of applicable experience is a minimum.

Evaluation and Accreditation of Supervised Practice. At the conclusion of the supervisory period, the supervisor will submit a written evaluation on a Board approved form.

**Current Rule:**

The current rule is similar to the proposed rule. However, the current rule requires the supervisor to submit information to the Board that "enable it to evaluate the credit and extent and quality of the candidate's supervised practice." The current rule also requires the supervisor to have training in the specific area in which they are offering supervision. The proposed rule simplifies both of these requirements. The current rule also states that if the supervisor deems the supervisee's practice unacceptable for an amount of time, this time will not be credited towards total hours.

**Legal Authority:**

I.C. § 54-2305 allows the Board to "pass upon the qualifications and fitness of applicants for licenses," which is discretionary language. However, the qualifications for applicants by examination are set by statute, in I.C. § 54-2307. This rule requires, "[g]raduation from an accredited college or university with a doctoral degree in psychology and two (2) years of supervised experience acceptable to the board, one (1) year of which may include a predoctoral practicum or internship and one (1) of which must be postdoctoral," or, "[g]raduation from an accredited college or university with a doctoral degree in a field related to psychology, provided experience and training are acceptable to the board." An applicant who has graduated from a doctoral program in psychology must have two years of supervised experience under I.C. 54-2307(2)(a).

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

The proposed rule attempts to simplify the supervision requirements for candidates for licensure. This is intended to simplify the process for both the supervisor and supervisee. Because there is a supervision requirement set in statute, this cannot be eliminated entirely. However, the terms of the supervision agreement may be modified through rulemaking.

**Federal Law Comparison (where applicable):**

Summary of Law (include direct link)	How is the proposed Idaho rule more stringent? (if applicable)
Not applicable.	

**State Law Comparison:**

State	Summary of Law (include direct link)	How is the proposed Idaho rule more stringent? (if applicable)
<b>Idaho</b>	See above and: <a href="https://legislature.idaho.gov/statutesrules/idstat/title54/t54ch23/sect54-2307/">https://legislature.idaho.gov/statutesrules/idstat/title54/t54ch23/sect54-2307/</a>	
<b>Alaska</b>	<p>Alaska requires two years of supervision, one year of which is satisfied by one-year of post-doctoral experience, per board rule. (Statute only specifies one year of post-doctoral experience). 1 year of experience is defined as 1500 clock hours in not less than 10 months and not more than 24 months. Supervisor must be a licensed psychologist in same/similar field as applicant’s training and education, a diplomate of the American Board of Professional Psychology, or a person who the board approves. There is a minimum of one hour per week of face-to-face supervision.</p> <p><i>See AS 08.86.130; 12 AAC 60.080</i></p>	N/A

	chrome-extension://efaidnbmnnnibpcajpcglclefindmkaj/https://www.commerce.alaska.gov/web/portals/5/pub/PsychologistStatutes.pdf	
<b>Montana</b>	<p>Montana requires both post-doctoral and pre-doctoral supervision. Post-doctoral must be 1600 hours. Pre-doctoral may be APA accredited or substantially similar. The candidate for licensure must have 400 hours experience administering and interpreting psychological tests; 400 hours supervising graduate level practicum; 800 hours designing original research projects.</p> <p>There is a requirement of one hour of face-to-face supervision per week; supervisee provides direct clinical services at least 25 % of the time, licensed psychologist must have training similar to Montana's requirements. Must have at least one other board-approved licensed mental health professional in addition to trainer. The supervisor must be licensed for at least 3 years.</p> <p>Supervisor must complete quarterly evaluations, retained for five years and provided to the Board upon request. Must be signed by both supervisor and supervisee.</p> <p><i>See ARM 24.189.607.</i></p> <p><a href="https://rules.mt.gov/gateway/ruleno.asp?RN=24.189.607">https://rules.mt.gov/gateway/ruleno.asp?RN=24.189.607</a></p>	N/A
<b>Nevada</b>	<p>Nevada requires 1 year post-doctoral and 1 year pre-doctoral. Post-doctoral must consist of at least 2000 hours. Pre-doctoral must be equivalent to an APA accredited internship. Forty hours must be spent receiving training in cultural, ethic, and group processes.</p> <p>There must be at least four hours per week of supervision by doctoral-level licensed psychologists.</p> <p>If the doctoral internship is not APA accredited, both supervisor and applicant must submit training plan to the Board.</p> <p><i>See NAC 641.080.</i></p>	N/A

	<a href="https://www.leg.state.nv.us/nac/nac-641.html">https://www.leg.state.nv.us/nac/nac-641.html</a>	
<b>Oregon</b>	<p>Oregon requires one year of post-doctoral supervised work experience. One year is defined as 1500 supervised hours performed over a period of twelve months. Services must be direct services. There must be two hours of supervision for every 20 hours worked. A resident supervision agreement must be submitted to the Board for approval and is valid for only two years.</p> <p><i>See</i> OAR 858-010-0036</p> <p><a href="https://secure.sos.state.or.us/oard/viewSingleRule.action?ruleVrsnRsn=285889">https://secure.sos.state.or.us/oard/viewSingleRule.action?ruleVrsnRsn=285889</a></p>	N/A
<b>South Dakota</b>	<p>Must have one year of post-doctoral psychology practice. At least 25% of the intern's time must be in direct client contact. Two-thirds of the internship must be supervised by one or more psychologists licensed at the doctoral level. There must be at least two hours per week of regularly scheduled, formal, face-to-face supervision. Must have at least</p> <p><i>See</i> SDCL 36-27A-12(3); ARSD 20:60:08:01</p> <p><a href="https://sdlegislature.gov/Statutes/Codified_Laws/2060974">https://sdlegislature.gov/Statutes/Codified_Laws/2060974</a></p> <p><a href="https://sdlegislature.gov/Rules/Administrative/10923">https://sdlegislature.gov/Rules/Administrative/10923</a></p>	N/A
<b>Utah</b>	<p>An applicant must have 4,000 hours of training approved by the Board in not more than four years following the award of the degree. The training must consist of 40 hours per week for full-time internships, or 20 hours per week for part-time internships. There must be one hour of supervision for every 40 hours of post-doctoral training and two hours of supervision for every 20 hours of pre-doctoral training.</p> <p><i>See</i> R156-61-302b.</p> <p><a href="https://adminrules.utah.gov/public/search/R156-61-101/Current%20Rules">https://adminrules.utah.gov/public/search/R156-61-101/Current%20Rules</a></p>	N/A

<b>Washington</b>	<p>Washington requires a minimum of experience requirement of 3,000 hours. Of this, 1,500 hours of supervised experience completed as an internship and 1500 hours as a pre-internship; supervised experience hours; or combination of pre-internship and post-doctoral. There must be at least one hour of individual supervision for every 20 hours of psychological work. <i>See</i> WAC 246-924-059.</p> <p><a href="https://app.leg.wa.gov/WAC/default.aspx?cite=246-924-043">https://app.leg.wa.gov/WAC/default.aspx?cite=246-924-043</a></p>	N/A
<b>Wyoming</b>	<p>An applicant must have completed 3,000 hours of supervised experience related to the practice of psychology in no less than two years. 1500 hours of supervised experience is equal to one year. There must be an APA accredited pre-doctoral program, or a member of APPIC. Post-doctoral experience can satisfy 1,500 of the total number of hours.</p> <p><a href="https://rules.wyo.gov/Search.aspx?Agency=068">https://rules.wyo.gov/Search.aspx?Agency=068</a></p>	N/A

**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:**

Not applicable.

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

This rule is attempting to simplify the requirements and process for supervision by no longer requiring the supervisor to submit a supervision agreement to the Board. Idaho is less stringent in terms of overall hours required.

**Anticipated impact of the proposed rule on various stakeholders:**

<b>Category</b>	<b>Potential Impact</b>
Fiscal impact to the state General Fund, any dedicated fund, or federal fund	N/A
Impact to Idaho businesses, with special consideration for small businesses	N/A
Impact to any local government in Idaho	N/A

**Cumulative regulatory volume this proposed rule adds:**

<b>Category</b>	<b>Potential Impact</b>
Net change in word count	TBD after ZBR
Net change in restrictive word count	TBD after ZBR

## **RULES 700.05 and 701- SUPERVISION AND SUPERVISION AGREEMENTS FOR PROVISIONAL CERTIFICATE HOLDER**

### **Proposed Rule(s):**

This rule deals with the supervision requirements and scope of practice for a holder of a provisional certificate holders of prescriptive authority.

### **Provisional Certification of Prescriptive Authority**

Scope and Supervision Agreement. The scope of practice of a psychologist with provisional certification of prescriptive authority includes only those duties and responsibilities identified in a written supervision agreement with a licensed physician.

The agreement will contain the following elements: The parties to the agreement and authorized scope of authority for each prescribing psychologist; The direct supervision methods, including supervision on a one-to-one basis for a minimum of four (4) hours each month and a minimum of a total of forty-eight (48) hours each year; A requirement that the prescribing psychologist must collaborate with, consult with, or refer to the supervising physician as indicated by the condition of the patient; the education, experience, and competence of the prescribing psychologist; and the community standard of care; and the procedures for an emergency consultation, and if necessary, any patient monitoring parameters. Documentation. The licensed psychologist will maintain documentation of the supervision agreements for not less than three (3) years for each service extender and submit to the Board upon request.

**Current Rule:** The current rule requires the applicant to submit the supervision agreement to the Board. This supervision agreement must include the following: the supervising physician's information, including board certification; designation of a primary supervising physician who is responsible for coordinating with other supervising physician to obtain progress reports every six months; the types of cases in which each supervisor will be responsible for supervising and in which the supervisor has training and experience; the number of provisional certification holders supervised by the supervising physician, not to exceed three at a time; and the name and nature of setting in which the applicant will practice. There are additional requirements for prescriptive authority for pediatric and geriatric patients.

The physician must supervise for two (2) years before the holder of provisional certification may apply to the Board for a certificate of prescriptive authority, which includes: a minimum of 2,000 hours of supervision in a 24-48 month period; direct supervision of four hours per month, and a minimum of 50 patients seen.

Additionally, the current rule requires the Board to approve a change in supervision which is eliminated in the proposed rule. The proposed rule also eliminates the requirement that the agreement is submitted to the Board. Under this rule, the licensed physician must submit the agreement to the Board upon request.

**Legal Authority:** In 2017, Idaho passed a law, now codified as I.C. §54-2316, allowing prescriptive authority to psychologists who met certain requirements. This law required the Board to establish an advisory panel to review and advise the Board on prescriptive rules and other regulations governing the prescriptive authority for psychologists. The statute includes a requirement for a supervision agreement, which is mandatory for holders of provisional certification. *See* I.C. § 54-2317(6). There is no requirement in statute regarding the contents of the agreement, although it is required that a party to the agreement is "board-certified psychiatrists, neurologists; family medicine physicians, or other physicians with a minimum of two (2) years of experience in the management of psychotropic medications." *See* I.C. § 54-2317(6).

Under I.C. § 54-2305(12) the Board has discretionary authority to "establish by rule certification and provisional certification of prescriptive authority pursuant to sections 54-2316 through 54-2319, Idaho Code."

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

This rule was designed to simplify the process of obtaining provisional prescriptive authority for both the applicant and the supervising physician.

Public comment received during public comment period indicated that the amount of supervision required under the current rule is excessive and presents a barrier for applicants because it is difficult to find a supervising physician to commit that much time. Additionally, some members of the public were concerned that this represented a barrier to both: (1) applicants seeking prescriptive authority and; (2) health care practitioners coming from out of state.

In terms of the supervision agreement itself, the problem could not be addressed through non-regulatory means because the statute requires some sort of supervision agreement to be in place. *See* I.C. § 54-2317(6). However, the contents of the supervision agreement are not set by statute, apart from who may supervise. *See* I.C. § 54-2317(6).

**Federal Law Comparison (where applicable):**

Summary of Law (include direct link)	How is the proposed Idaho rule more stringent? (if applicable)
<p>The Department of Defense (DOD) allows prescriptive authority to psychologists with appropriate training and experience. There are two pathways to obtain prescriptive authority from DOD. Specifically, the clinical psychologist must be a graduate of the Department of Defense Psychopharmacology Demonstration Project, or meet all of the following requirements (1) a master's degree in psychopharmacology from a regionally accredited university; (2) one year of clinical supervision by a board certified psychiatrist or psychologist with prescribing privileges, and a score of 70% or higher on the Psychopharmacology exam. There is not a specific requirement for the contents of the supervision agreement, although potential supervisors are directed to contact the "Clinical Psychology Consultant," prior to initiating supervision.</p> <p><i>See</i> DOD Memo MCHO-CL-Q issued 2/13/2009; Army Regulation 40-68. <i>See:</i></p> <p>chrome-extension://efaidnbmnnnibpcajpcglclefindmkaj/https://www.qmo.amedd.army.mil/credentialing/FY%2004/Regulations/AR%2040-68.pdf</p>	<p>Idaho has more specific contents for the supervision agreement, although there may be more specific military guidance implemented informally.</p>

**State Law Comparison:** Not applicable. The only other states which grant prescriptive authority to psychologists are: Illinois, Iowa, Louisiana, and New Mexico.

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

<b>Idaho</b>	See above and: <a href="https://legislature.idaho.gov/statutesrules/idstat/title54/t54ch23/sect54-2316/#:~:text=54%2D2316.,54%2D2319%2C%20Idaho%20Code.">https://legislature.idaho.gov/statutesrules/idstat/title54/t54ch23/sect54-2316/#:~:text=54%2D2316.,54%2D2319%2C%20Idaho%20Code.</a>	
<b>Alaska</b>	N/A for all surrounding states, AK and SD.	
<b>Montana</b>	N/A	
<b>Nevada</b>	N/A	
<b>Oregon</b>	N/A	
<b>South Dakota</b>	N/A	
<b>Utah</b>	N/A	
<b>Washington</b>	N/A	
<b>Wyoming</b>	N/A	

**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:**

Some requirements for provisional certification are set by statute and cannot be changed. This rule attempts to simplify the supervision process/agreement for provisional permit holders.

In 1991, the Military Health Service (MHS) instituted the Psychopharmacology Demonstration Project (PDP), which was designed to train and use military psychologists to prescribe psychotropic medications. The program enrolled ten military psychologists. In June of 1999, the General Accounting Office issued a report to the US Senate on the efficacy of this program. Overall, the PDP graduates were found to have performed well as prescribers. It was noted that the PDP graduates initially had a high level of supervision under PDP guidance. The elements of supervision varied but included: observing patient sessions; holding formal weekly meetings to discuss cases; and requiring written approval for either starting, stopping, or changing dosage of medication. After the period of initial supervision, the majority of graduates received independent status, indicating that the initial supervision period was beneficial to the PDP graduates training.

*See* United States General Accounting Office, "Prescribing Psychologists: DOD Demonstration Participants Perform Well but Have Little Effect on Readiness or Costs," Report to the Chairman and Ranking Minority Member, Committee on Armed Services, U.S. Senate, Issued June 1999.

### **What evidence is there that the rule, as proposed, will solve the problem?**

The proposed rules attempt to increase access to care. As of the date of this prospective analysis, there are only three psychologists in Idaho who have prescriptive authority. *See*: <https://apps.dopl.idaho.gov/DOPLPublic/LPRBrowser.aspx> (last visited 9/6/22).

Across the United States, there were roughly 220 psychologists with prescriptive authority in the jurisdictions which permit it. This proposed rule would put Idaho's rule more in line with the other jurisdictions by simplifying the requirements for supervision of provisional permit holders. The process is currently difficult for both the certificate holder and the supervising physician based on the requirements.

During public comment on the proposed rule, there was discussion centered around the specialized training and experience of psychologists that make them exceptionally qualified to prescribe psychotropic medication. The specific requirements to apply for a provisional certification of prescriptive authority are enumerated in I.C. § 54-2317. Psychologists have more training than other types of medical providers who are granted prescriptive authority, such as physician assistants who have collaborative practice agreements

rather than supervision agreements. Simplifying the supervision agreements is intended to increase the ability of licensed psychologists to obtain prescriptive authority and align with other health professions.

**Anticipated impact of the proposed rule on various stakeholders:**

<b>Category</b>	<b>Potential Impact</b>
Fiscal impact to the state General Fund, any dedicated fund, or federal fund	N/A
Impact to Idaho businesses, with special consideration for small businesses	N/A
Impact to any local government in Idaho	N/A

**Cumulative regulatory volume this proposed rule adds:**

<b>Category</b>	<b>Potential Impact</b>
Net change in word count	TBD after ZBR
Net change in restrictive word count	TBD after ZBR

**RULE 720 STANDARDS OF PRACTICE FOR PRESCRIPTIVE AUTHORITY**

**Proposed Rule:** A prescribing psychologist who issues a prescription to a patient must collaborate with the patient’s licensed medical provider, if the patient has one, and follow the community standard of care.

**Current Rule:** The current rule does not address a situation in which a patient does not have a primary care provider.

**Legal Authority:** Idaho Code 54-2316(4) requires a psychologist issuing prescriptions to collaborate with a patient's medical provider.

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

The proposed rule attempts to increase access to care. Many Idahoans do not have primary care providers. This allows a prescribing psychologist to treat a patient who does not have a primary care provider.

**Federal Law Comparison (where applicable)**

<b>Summary of Law (include direct link)</b>	<b>How is the proposed Idaho rule more stringent? (if applicable)</b>
Department of Defense allows prescriptive authority for psychologists who meet certain criteria. There is no requirement of a primary care provider, although many patients accessing services already have a primary care provider because their care is managed through the VA system.	The proposed rule is consistent with the federal standard because it does not bar the prescribing psychologist from treating a patient who does not have a primary care provider, although the psychologist shall make a referral to a provider in that instance.

**State Law Comparison** None of our surrounding states, AK, or SD allow prescription authority for psychologists.

State	Summary of Law (include direct link)	How is the proposed Idaho rule more stringent? (if applicable)
<b>Idaho</b>	See above	
<b>Alaska</b>	N/A	
<b>Montana</b>	N/A	
<b>Nevada</b>	N/A	
<b>Oregon</b>	N/A	
<b>South Dakota</b>	N/A	
<b>Utah</b>	N/A	
<b>Washington</b>	N/A	
<b>Wyoming</b>	N/A	

**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:**

N/A

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

The Department of Health and Welfare statistics show that there is a 97.7 percent shortage of primary care health providers in Idaho. This is particularly a problem in rural and underserved areas. This rule would provide access to treatment by prescribing psychologists for those individuals who experience a shortage of access to primary care in their communities.

See: <https://publicdocuments.dhw.idaho.gov/WebLink/DocView.aspx?id=3351&dbid=0&repo=PUBLIC-DOCUMENTS&cr=1>

**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	N/A
Impact to Idaho businesses, with special consideration for small businesses	N/A
Impact to any local government in Idaho	N/A

**Cumulative regulatory volume this proposed rule adds:**

Category	Potential Impact
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Net change in word count	TBD after ZBR
Net change in restrictive word count	TBD after ZBR

### **RULE 730 FORMULARY**

**Proposed Rule:** A prescribing psychologist may not prescribe any opioid-controlled substance medication, unless authorized pursuant to 21 U.S.C. 823(g). A prescribing psychologist may not prescribe medication to treat a primary endocrine, cardiovascular, orthopedic, neurologic, gynecologic, obstetric, metabolic, hematologic, respiratory, renal, gastrointestinal, hepatic, dermatologic, oncologic, infectious, ophthalmologic, or rheumatologic illness or disorder.

**Current Rule:** The current rule is similar to the proposed rule in substance but contains provisions that are duplicative of statute. The current rule also does not have any language about a "federal waiver." The federal waiver is codified in 21 U.S.C. 823(g). This section of United States Code specifies which type of treatment providers may apply for a waiver allowing them to prescribe certain controlled substances.

**Legal Authority:** Idaho Code Section 54-2316 specifies limitations on prescriptive authority for prescribing psychologists. This is mandatory. However, the rule which allows the Board to grant certificates of prescriptive authority is discretionary.

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

The proposed rule is targeted specifically to address two issues. First, comment received during public comment period and discussion amongst the Board established that providers would like to prescribe some classes of opioid-controlled substances, such as buprenorphine, which are used to treat addiction. Prescribing psychologists are not currently in the class of providers eligible to obtain a waiver to prescribe these opioid-controlled substances under federal law. The language in reference to 21 U.S.C. 823(g) would allow prescribing psychologists in Idaho to begin prescribing these substances if federal law changes and they are allowed to apply for a waiver.

Second, the proposed rule attempts to simplify the formulary language for clarity, and to eliminate portions of the rule which are duplicative of statute.

Federal Law Comparison (where applicable). There is federal law regarding which treatment providers may obtain a waiver to prescribe certain types of controlled substances, but this does not currently apply to prescribing psychologists. The Department of Defense (DoD) allows prescriptive authority to psychologists but does not permit an open formulary.

Summary of Law (include direct link)	How is the proposed Idaho rule more stringent? (if applicable)
<p>Because a waiver allowing a provider to prescribe opioid controlled substances is controlled by federal law, the Idaho rule is neither more stringent nor less stringent than federal law.</p> <p><a href="https://www.law.cornell.edu/uscode/text/21/823">https://www.law.cornell.edu/uscode/text/21/823</a></p> <p>Additionally, the Department of Defense allows prescriptive authority to psychologists who meet certain requirements, but it does not allow an open formulary. <i>See</i> DOD Memo MCHO-CL-Q issued 2/13/2009; Army Regulation 40-68. <i>See:</i></p> <p>chrome-extension://efaidnbmnnnibpcajpcgclefindmkaj/https://www.qmo.amedd.army.mil/credentialing/FY%2004/Regulations/AR%2040-68.pdf</p>	N/A

**State Law Comparison.** None of our surrounding states, AK, or SD allow prescriptive authority for psychologists. Model language from the Association of the State and Provincial Psychology Boards recommends the following formulary, which is consistent with Idaho law: " Controlled substances except narcotics, but shall be limited to only those agents related to the diagnosis and treatment or management of mental, nervous, emotional, behavioral, substance abuse or cognitive disorders."

State	Summary of Law (include direct link)	How is the proposed Idaho rule more stringent? (if applicable)
<b>Idaho</b>	See above.	
<b>Alaska</b>	N/A	
<b>Montana</b>	N/A	
<b>Nevada</b>	N/A	
<b>Oregon</b>	N/A	
<b>South Dakota</b>	N/A	
<b>Utah</b>	N/A	
<b>Washington</b>	N/A	
<b>Wyoming</b>	N/A	

**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:**

N/A

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

The proposed rule would allow prescribing psychologists to apply for a waiver if federal law changes. This is intended to create greater flexibility so that a rule re-write would not be necessary under these circumstances.

Board and advisory committee discussion during ZBR and public comment indicated that there was little controversy over the proposed rule and the addition of the citation to the federal statute.

**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	N/A
Impact to Idaho businesses, with special consideration for small businesses	N/A
Impact to any local government in Idaho	N/A

**Cumulative regulatory volume this proposed rule adds:**

Category	Potential Impact
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Net change in word count	TBD after ZBR
Net change in restrictive word count	TBD after ZBR