

STATE DRIVING BUSINESSES LICENSURE BOARD
Division of Occupational and Professional Licenses
P.O. Box 83720
Boise, ID 83720-0063

Board Meeting Minutes of 3/10/2022

BOARD MEMBERS PRESENT: Jared Hugh Haustveit - Chair
Theresa A Bradford
Robert M Fenn
C Randal Willie

DIVISION STAFF: Anne Lawler, Bureau Chief
Kent Absec, Licensing Program Manager
Nicholas Krema, General Counsel
Cesley Metcalfe, Board Support Supervisor
Christian Runnalls, Board Support Specialist

The meeting was called to order at 9:05 AM MST by Jared Hugh Haustveit.

APPROVAL OF MINUTES

Mr. Fenn made a motion to approve the minutes of 1/27/2022. It was seconded by Mr. Willie. Motion carried.

FINANCIAL MEMO FROM DIVISION ADMINISTRATOR

The Board reviewed and discussed a financial memo from the Division Administrator regarding Board finances and allocation of funds. Mr. Absec stated that a financial report should be available for the Board at the next meeting depending on availability from the Finance Department.

DIVISION BUSINESS

Multiple Board members stated a desire to testify on House Bill 683. Mr. Absec reminded the Board that regulatory boards and individuals who serve on boards need approval from the Governor's Office to comment or testify on legislation. Ms. Lawler clarified that the Board and its members must avoid the appearance of a conflict of interest. Ms. Lawler stated that individuals associated with Board members who want to testify on legislation must do so as a member of the public who does not represent the Board in any way.

ZERO-BASED REGULATION

Mr. Absec restated the purpose and process of ZBR. The Board reviewed staff recommendations for the rules outlined below. Unless otherwise stated, the Board approved the recommendations presented.

Rule 002- Changes in Licensee Information:

Mr. Absec suggested deleting this rule as duplicative of Idaho Code § 67-2614(5)(a). This information can be added to the website, if needed.

Rule 175- Fees:

Mr. Absec stated that this rule will be moved to the end of the chapter to align with the formatting of other boards within the Division.

Rule 200- Renewal of License:

Mr. Absec suggested deleting this rule as duplicative of Idaho Code § 67-2614. The Board and Division staff concluded that there is no negative impact to the public by removing this rule.

Rule 201.01a- Continuing Education Requirement:

Mr. Absec explained that the Board is granted authority to conduct continuing education audits by Idaho Code § 54-5403(6). The Board struck “and require verification of attendance as deemed necessary to ensure compliance with the CE requirements” from the rule.

Rule 201.02- Hours:

The Board discussed allowing all CE hours to be completed online. The Board also discussed moving to a two-year CE requirement cycle and asked the Division to research whether this change would conflict with statute.

Rule 201.03- Providers/Sponsors/Subjects of Continuing Education:

Mr. Fenn requested that language be added to the rule stating that any “state approved course for health and safety of individuals be also recognized as continuing ed.” Mr. Absec advised the Board that additional language should only be added to rules when absolutely necessary to protect the health, welfare, and safety of the public, but that additional guidance on issues such as CE courses could be added to the Board’s website.

Rule 201.04- Verification of Attendance:

Mr. Absec suggested deleting this rule as duplicative of Idaho Code § 54-5403(6).

Rule 201.05- Special Exemption:

Mr. Absec informed the Board that the statements requiring production of information to substantiate a hardship request, and that exemptions are granted at the discretion of the Board are redundant to language in other sections of rule. The Board struck “each licensee must provide any information requested by the board to assist in sustaining hardship eases, this exemption is granted at the sole discretion of the Board.”

Rule 201.06- Carryover of Continuing Education Hours:

The Board Discussed striking this rule if it moves to a two-year CE requirement cycle, as previously discussed for Rule 201.02.

Rule 225- Driving Business License:

Mr. Absec requested input from the Board on why there is a need to know information for secondary locations. Board members discussed that this was added because there were individuals providing instruction in places like garages, and the Board wanted the students to be in a safe environment. There were also concerns about whether the utilized spaces had adequate occupancy. This rule may have been added to keep track of schools that were providing instruction at locations other than the office. The Board agreed that requiring a Certificate of Occupancy would alleviate these concerns and negate the need for additional secondary location information. Mr. Crema stated that Division staff will revise the rule as appropriate.

Rule 225.01- Applicant Identity:

Mr. Absec suggested changing the title from Applicant Identity to Ownership for clarity and striking the sentence “The applicant must provide such identifying information as may be requested by the Board on a form approved by the Board.” The application requires identifying information, which makes this statement unnecessary. Mr. Absec also suggested adding a reference to Idaho Code § 54-5505(1) to provide clarity to the rule when requesting owner information.

Rule 225.02- Criminal History Background Check:

Mr. Absec suggested striking the final two sentences of this rule regarding submission of a fingerprint card and fees, and processing applications after background check results have been received. The first is duplicative of the first sentence of the rule and the second is unnecessary language.

Rule 225.05- Licensed Instructors:

Mr. Absec suggested striking the requirement that businesses submit and retain a list of licensed instructors as that information is already contained within the Division's licensing database.

Rule 225.06- Vehicles:

Mr. Krema requested input from the Board on why a list of the vehicles utilized by a driving business must be submitted to the Board. Mr. Fenn stated that it is a cross-check to ensure that all cars utilized by the business have had a safety inspection. No changes were made to the rule.

Rule 225.06d- Signage:

Mr. Absec requested input from the Board on why specific examples were provided in rule on the required verbiage for vehicle signage. The Board members stated that the examples were important to demonstrate the expectations so that personal interpretations don't result in the use of ambiguous language. No changes were made to the rule.

Rule 225.07- Course of Instruction:

Mr. Absec suggested deleting the minimum instruction hours as that information is duplicative of language in Idaho Code § 54-5405(01).

Rule 226- Driving Business- Minimum Curriculum Components:

Mr. Absec suggested that the individual components of instruction could be deleted and replaced by a provision to meet the minimum requirements of designated source material. Mr. Haustveit stated that the teaching components generally come from the State driving manual. Mr. Fenn voiced concern over removing the specific list from Board rule and instead requiring designated source material for curriculum. He stated that if the designated source changes its criteria without notification to private driving businesses, the private business curriculum would be out of compliance. Ms. Lawler suggested listing the specific curriculum components on the Board's website, with language in the rule directing licensees to the website for the required minimum components. The Board approved the suggestion to modify the rule to direct licensees to the website for the minimum curriculum components.

Rule 227.01- Driving Business- Course of Instruction:

Mr. Absec requested clarification from the Board regarding the reference to permits. Mr. Haustveit stated that both instances refer to the student's driving permit. The Board added clarification to the rule that the physical permit will be given to the student after successful completion of the course.

Rule 227.04- Grading Criteria:

Mr. Absec suggested removing reference to Rules 225.07 and 226 that are being amended as previously discussed.

Rule 227.05- Driving Log:

Mr. Absec requested input from the Board regarding the importance of listing the birthdate, phone number, driving permit number and the instructor's name on the driving log. Mr. Haustveit stated that it is important to have the instructor's name and the student's driving permit number on the driving log for potential civil suits for accidents involving student drivers. The birthdate demonstrates that the student meets the minimum age requirements for the program. The Board agreed that the requirement that the student's phone number be included on the driving log can be removed.

Rule 227.07- Record Retention:

Mr. Krema requested input from the Board regarding the requirement for businesses to retain records on site for three years when the information is sent to the Idaho Division of Motor Vehicles. The Board discussed the importance of record keeping in relation to complaints and civil suits. No changes were made to the rule.

Rule 250.01- Application:

Mr. Absec suggested striking Rule 250.01 and adding the language to Rule 250.02.

Rule 250.02- Driving Record and Driver's License:

Mr. Absec suggested striking the phrase "in a good standing" because unsatisfactory records is defined in the rule.

Rule 250.03- Criminal History Background Check:

Mr. Absec suggested removing the language regarding a full set of fingerprints and relevant fees for a background check. These items are required to meet the provision that each applicant submit to a fingerprint-based criminal history check.

Rule 250.04- Medical Certificate:

Mr. Absec suggested removing the phrase "documenting that the examination occurred, and that the applicant does not suffer from any physical or mental condition or disease that would impair the applicant's ability to safely instruct student drivers" from the rule because this information is disclosed on the form that the applicant must submit with the application.

Rule 250.05- Instructor Apprenticeship Training Program:

Mr. Absec suggested removing the phrase “or have met the requirements for a waiver of the apprenticeship training program as set forth in these rules” for redundancy of Rule 250.06.

250.05.a.- Instructor Apprenticeship Training Program:

Mr. Absec suggested removing language referring to an applicant’s ability to go through a single program to complete training. Mr. Krema stated that there is nothing in the Board’s rules that specifically prohibits an apprentice from attending multiple programs, so this rule doesn’t need to state affirmatively that an apprentice can attend multiple programs.

Rule 275.02- Suspension or Revocation of Approval and Discipline:

Mr. Absec suggested deleting this rule because Idaho Code § 54-5408 authorizes the Board to discipline the business license.

Rule 275.04 - Instruction and Training Hours:

Mr. Absec suggested replacing the current language in the main section with a reference to Idaho Code § 54-5406(2) and deleting all but the reference to online coursework in subsection a to eliminate redundancy. He also suggested removing the first sentence in subsection b that specifies the number of instruction hours and curriculum for an apprentice instructor as redundant of Idaho Code § 54-5406(2).

Rule 275.06- Recordkeeping:

Mr. Absec suggested removing the final sentence that requires a business to maintain apprentice instruction records for five years.

Rule 450- Grounds for Discipline:

Mr. Absec suggested deleting subsection 01.a. as duplicative of Idaho Code § 54-5403(6).

Rule 450.02- Disciplinary Sanctions:

Mr. Absec suggested deleting this rule as duplicative of Idaho Code § 54-5408(1).

EXECUTIVE SESSION

Mr. Willie made a motion that the Board go into executive session under Idaho Code § 74-206(1)(d) to consider records that are exempt from disclosure under the Idaho Public Records Law, Idaho Code § 74-106(9). The purpose of the executive session

was to consider documents relating to the fitness of an applicant to be granted a license or registration. It was seconded by Mr. Haustveit. The vote was: Mr. Willie, aye; Mr. Fenn, aye; Ms. Bradford, aye; and Mr. Haustveit, aye. Motion carried.

Mr. Willie made a motion to come out of executive session. It was seconded by Ms. Bradford. Motion carried.

APPLICATIONS

Mr. Willie made a motion to table application 901189498 pending receipt of additional information. It was seconded by Ms. Bradford. Motion carried.

ADJOURNMENT

Mr. Haustveit adjourned the meeting at 11:15 AM MST.