

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 37

BY HEALTH AND WELFARE COMMITTEE

AN ACT

RELATING TO NURSES; AMENDING SECTION 54-1413, IDAHO CODE, TO REVISE A PROVISION REGARDING DISCIPLINARY ACTION AND TO MAKE TECHNICAL CORRECTIONS.

Be It Enacted by the Legislature of the State of Idaho:

SECTION 1. That Section 54-1413, Idaho Code, be, and the same is hereby amended to read as follows:

54-1413. DISCIPLINARY ACTION. (1) Grounds for discipline. The board shall have the power to refuse to issue, renew or reinstate a license issued pursuant to this chapter and may revoke, suspend, place on probation, reprimand, limit, restrict, condition or take other disciplinary action against the licensee as it deems proper, upon a determination by the board that the licensee engaged in conduct constituting any one (1) of the following grounds:

- (a) Made, or caused to be made, a false, fraudulent or forged statement or representation in procuring or attempting to procure a license to practice nursing;
- (b) Practiced nursing under a false or assumed name;
- (c) Is convicted of or enters a guilty plea for a crime that is deemed relevant in accordance with section 67-9411(1), Idaho Code;
- (d) Is or has been grossly negligent or reckless in performing nursing functions;
- (e) Habitually uses alcoholic beverages or drugs as defined by rule;
- (f) Is physically or mentally unfit to practice nursing;
- (g) Violates the provisions of this chapter or rules and standards of conduct and practice as may be adopted by the board;
- (h) Otherwise engages in conduct of a character likely to deceive, defraud or endanger patients or the public, which includes, but is not limited to, failing or refusing to report criminal conduct or other conduct by a licensee that endangers patients;
- (i) Has been disciplined by a nursing regulatory authority in any jurisdiction. A certified copy of the order entered by the jurisdiction shall be prima facie evidence of such discipline;
- (j) Failure to comply with the terms of any board order, negotiated settlement or probationary agreement of the board, or to pay fines or costs assessed in a prior disciplinary proceeding;
- (k) Engaging in conduct with a patient that is sexual, sexually exploitative, sexually demeaning or may reasonably be interpreted as sexual, sexually exploitative or sexually demeaning; or engaging in conduct with a former patient that is sexually exploitative or may reasonably be interpreted as sexually exploitative. It would not be a violation under this subsection for a nurse to continue a sexual relationship with a spouse or individual of majority if a consensual sexual

1 relationship existed prior to the establishment of the nurse-patient
2 relationship; or

3 (1) Failure to comply with the requirements of the abortion complica-
4 tions reporting act, chapter 95, title 39, Idaho Code.

5 (2) Separate offense. Each day an individual violates any of the provi-
6 sions of this chapter or rules and standards of conduct and practice as may be
7 adopted by the board shall constitute a separate offense.

8 (3) Proceedings.

9 (a) The executive director shall conduct such investigations and ini-
10 tiate such proceedings as necessary to ensure compliance with this
11 section. The board may accept the voluntary surrender of a license
12 from any nurse under investigation and accordingly enter an order re-
13 voking or suspending such license and/or imposing such conditions,
14 limitations, or restrictions on the practice of any such nurse as may
15 be appropriate in the discretion of the board. Otherwise, every person
16 subject to disciplinary proceedings shall be afforded an opportunity
17 for hearing after reasonable notice. All proceedings hereunder shall
18 be in accordance with chapter 52, title 67, Idaho Code.

19 (b) Hearings shall be conducted by the board or by persons appointed by
20 the board to conduct hearings and receive evidence. The board and any
21 person duly appointed by the board to conduct hearings shall have all
22 powers as are necessary and incident to the orderly and effective re-
23 ceipt of evidence including, but not limited to, the power to administer
24 oaths and to compel by subpoena attendance of witnesses and production
25 of books, records and things at the hearing or at a deposition taken by a
26 party in accordance with the Idaho rules of civil procedure. Any party
27 shall be entitled to the use of subpoena upon application therefor.

28 (c) In the event any person fails to comply with a subpoena personally
29 served upon him or refuses to testify to any matter regarding which he
30 may be lawfully interrogated, the board shall petition the district
31 court in the county where such failure or refusal occurred, or where
32 such person resides, to enforce such subpoena or compel such testimony.
33 Proceedings before the district court shall be for contempt in the same
34 nature as contempt of court for failure or refusal to comply with an
35 order of the court, and the court shall have the same powers to secure
36 compliance with subpoena and testimony or to impose penalties as in con-
37 tempt of court proceedings.

38 (d) The assessment of costs and attorney's fees incurred in the inves-
39 tigation and prosecution or defense of an administrative proceeding
40 against a licensee under this chapter shall be governed by the provi-
41 sions of section 12-117(5), Idaho Code.

42 (4) Probation/subsequent review. Any order of the board entered un-
43 der this section may be withheld or suspended for a probationary period to be
44 fixed by the board upon such terms and conditions as may be appropriate in or-
45 der to regulate, monitor and/or supervise the practice of nursing by the li-
46 censee subject to such order for the prescribed probationary period. Any or-
47 der of the board entered under this section may be withdrawn, reversed, mod-
48 ified or amended upon a showing by the person subject to the order that the
49 grounds for discipline no longer exist or that he is rehabilitated, quali-

1 fied and competent to practice nursing and that he is not likely to violate
2 this chapter or rules adopted hereunder in the future.

3 (5) Reporting investigative information.

4 (a) Nothing in section 74-106(8) and (9), Idaho Code, shall be con-
5 strued as limiting the authority of the board to report current
6 significant investigative information to the coordinated licensure
7 information system for transmission to states that are parties to any
8 multistate agreements or compacts regarding nurse licensure.

9 (b) The executive director of the board may, in the administration of
10 this chapter, share information and otherwise cooperate with govern-
11 ment regulatory and law enforcement agencies.