

IN THE SENATE

SENATE BILL NO. 1021, As Amended

BY HEALTH AND WELFARE COMMITTEE

AN ACT

1 RELATING TO THE UNLICENSED PRACTICE OF MEDICINE AND THE EMS SYSTEM; AMENDING
2 SECTION 54-1804, IDAHO CODE, TO CLARIFY AN EXCEPTION AS IT PERTAINS TO
3 SKI PATROLLERS WHO ARE MEMBERS OF THE NATIONAL SKI PATROL SYSTEM, INC.,
4 AND ARE TRAINED IN AND HOLD A CURRENT OUTDOOR EMERGENCY CARE CREDENTIAL
5 AS ISSUED BY THE NATIONAL SKI PATROL SYSTEM, INC., UNDER CERTAIN CIRCUM-
6 STANCES AND TO MAKE TECHNICAL CORRECTIONS.
7

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

9 SECTION 1. That Section 54-1804, Idaho Code, be, and the same is hereby
10 amended to read as follows:

11 54-1804. UNLICENSED PRACTICE -- PENALTIES AND REMEDIES RELATING TO
12 UNLICENSED PRACTICE. (1) Under the circumstances described and subject in
13 each case to limitations stated, the following persons, though not holding
14 a license to practice medicine in this state, may engage in activities in-
15 cluded in the practice of medicine:

16 (a) A medical officer of the armed forces of the United States, of the
17 United States public health service, or of the ~~veteran's administration~~
18 United States department of veterans affairs, while engaged in the per-
19 formance of his official duties;

20 (b) A person residing in another state or country and authorized to
21 practice medicine there, who is called in consultation by a person li-
22 censed in this state to practice medicine, or who for the purpose of
23 furthering medical education is invited into this state to conduct a
24 lecture, clinic, or demonstration, while engaged in activities in con-
25 nection with the consultation, lecture, clinic, or demonstration, so
26 long as he does not open an office or appoint a place to meet patients or
27 receive calls in this state;

28 (c) A person authorized to practice medicine in another state or coun-
29 try while rendering medical care in a time of disaster or while caring
30 for an ill or injured person at the scene of an emergency and while con-
31 tinuing to care for such person;

32 (d) An extern, intern or resident who is registered with the board as
33 provided in this chapter and while engaged in programs authorized pur-
34 suant to rules of the board or a physician assistant licensed by the
35 board;

36 (e) A person authorized or licensed by this state to engage in activi-
37 ties which may involve the practice of medicine;

38 (f) A person engaged in good faith in the practice of the religious
39 tenets of any church or religious beliefs;

40 (g) A person administering a remedy, diagnostic procedure or advice as
41 specifically directed by a physician;

1 (h) A person rendering aid in an emergency, where no fee for the service
 2 is contemplated, charged or received. This exception shall specifi-
 3 cally include ski patrollers who are members of the national ski patrol
 4 system, inc., and are trained in and holding a current outdoor emergency
 5 care (OEC) credential, as issued by the national ski patrol system,
 6 inc., while rendering aid in accordance with the standards of train-
 7 ing of such credential, where no fee for the service is contemplated,
 8 charged or received, and in the course of alpine, nordic or cross-coun-
 9 try skiing and other recreational activities conducted in whole or in
 10 part at ski areas in the state of Idaho;

11 (i) A person administering a family remedy to a member of the family;

12 (j) A person who administers treatment or provides advice regarding the
 13 human body and its functions that:

14 (i) Does not use legend drugs or prescription drugs in such prac-
 15 tice;

16 (ii) Uses natural elements such as air, heat, water and light;

17 (iii) Only uses class I or class II nonprescription, approved,
 18 medical devices as defined in section 513 of the federal food, drug
 19 and cosmetic act;

20 (iv) Only uses vitamins, minerals, herbs, natural food products
 21 and their extracts, and nutritional supplements; and who

22 (v) Does not perform surgery;

23 (vi) Requires each person receiving services to sign a decla-
 24 ration of informed consent which includes an overview of the
 25 health care provider's education which states that the health care
 26 provider is not an "M.D." or "D.O." and is not licensed under the
 27 provisions of this chapter.

28 (2) Except as provided in subsection (1) of this section, it shall con-
 29 stitute a felony for any person to practice medicine in this state without a
 30 license and upon conviction thereof shall be imprisoned in the state prison
 31 for a period not to exceed five (5) years, or shall be fined not more than ten
 32 thousand dollars (\$10,000), or shall be punished by both such fine and im-
 33 prisonment.

34 (3) Except as provided in subsections (1) (a), (1) (b), and (1) (c) above,
 35 it is unlawful for any person to assume or use the title or designation
 36 "medical doctor," "medical physician," "osteopathic doctor," "osteopathic
 37 physician," "M.D." or "D.O." or any other title, designation, words, let-
 38 ters, abbreviation, sign, card, or device to indicate to the public that
 39 such person is licensed to practice medicine pursuant to this chapter unless
 40 such person is so licensed, and upon conviction thereof, such person shall be
 41 imprisoned not to exceed one (1) year, or shall be fined not more than three
 42 thousand dollars (\$3,000), or shall be punished by both fine and imprison-
 43 ment.

44 (4) When a person has been the recipient of services constituting the
 45 unlawful practice of medicine, whether or not he knew the rendition of the
 46 services was unlawful, proof of the rendition of such unlawful services
 47 by the recipient or his personal representative in an action against the
 48 provider of such services for damages allegedly caused by the services con-
 49 stitutes prima facie evidence of negligence shifting the burden of proof to

1 such provider of unlawful services. The following damages in addition to any
2 other remedies provided by law may be recovered in such an action:

3 (a) The amount of any fees paid for the unlawful services.

4 (b) Reasonable attorney's fees and court costs.

5 (5) The board shall refer all violations of this section made known to
6 it to appropriate prosecuting attorneys. The board may render assistance to
7 a prosecuting attorney in the prosecution of a case pursuant to this section.