

IN THE SENATE

SENATE BILL NO. 1019

BY HEALTH AND WELFARE COMMITTEE

AN ACT

RELATING TO NURSES; AMENDING SECTION 54-1401, IDAHO CODE, TO REVISE PROVISIONS RELATING TO CRIMINAL HISTORY CHECKS AND TO MAKE A TECHNICAL CORRECTION; AND AMENDING SECTION 54-1413, IDAHO CODE, TO REVISE PROVISIONS RELATING TO DISCIPLINARY ACTION AND TO MAKE A TECHNICAL CORRECTION.

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

SECTION 1. That Section 54-1401, Idaho Code, be, and the same is hereby amended to read as follows:

54-1401. PURPOSE -- LICENSE REQUIRED -- REPRESENTATION TO THE PUBLIC. In order to safeguard the public health, safety and welfare, it is in the public interest to regulate and control nursing in the state of Idaho, to promote quality health care services, to prohibit unqualified and dishonest persons from practicing nursing, and to protect against acts or conduct which may endanger the health and safety of the public.

(1) License required. It shall be unlawful for any person to practice nursing or offer to practice nursing unless that person is duly licensed pursuant to this ~~act~~ chapter.

(2) Representation to the public. Only a person who holds a valid and current license to practice registered nursing in this state or a party state pursuant to sections 54-1408 and 54-1418, Idaho Code, may use the title "nurse," "registered nurse," "graduate nurse" or "professional nurse" or the abbreviation "R.N." or any other designations, titles or abbreviations to indicate that the person is practicing nursing in this state. Only a person who holds a valid and current license to practice practical nursing in this state or a party state pursuant to sections 54-1407 and 54-1418, Idaho Code, may use the title "nurse," "licensed practical nurse," or the abbreviation "L.P.N." or any other designations, titles or abbreviations to indicate that the person is practicing nursing in this state.

(3) ~~On and after July 1, 2005, a~~ All applicants for original licensure and for license reinstatement will be required to shall submit to a fingerprint-based criminal history check of both the Idaho central criminal database and the federal bureau of investigation criminal history database. ~~Each All such applicants for original licensure and for license reinstatement must shall~~ submit a full set of the applicant's their fingerprints and any relevant fees directly to the Idaho board of nursing for forwarding to the appropriate law enforcement agency for processing. Criminal background reports received by the board from the Idaho state police and the federal bureau of investigation identification division shall be used only for this purpose licensing decisions and handled and disposed of in a manner consistent with requirements imposed by the Idaho state police and the federal bureau of investigation.

1 SECTION 2. That Section 54-1413, Idaho Code, be, and the same is hereby  
2 amended to read as follows:

3 54-1413. DISCIPLINARY ACTION. (1) Grounds for discipline. The board  
4 shall have the power to refuse to issue, renew or reinstate a license is-  
5 sued pursuant to this chapter, and may revoke, suspend, place on probation,  
6 reprimand, limit, restrict, condition or take other disciplinary action  
7 against ~~the~~ an applicant or licensee as it deems proper, including assess-  
8 ment of the costs of investigation and discipline against the applicant or  
9 licensee, upon a determination by the board that the applicant or licensee  
10 engaged in conduct constituting any one (1) of the following grounds:

11 (a) Made, or caused to be made, a false, fraudulent or forged state-  
12 ment or representation in procuring or attempting to procure a license  
13 to practice nursing;

14 (b) Practiced nursing under a false or assumed name;

15 (c) Is convicted of a felony or of any offense involving moral turpi-  
16 tude;

17 (d) Is or has been grossly negligent or reckless in performing nursing  
18 functions;

19 (e) Habitually uses alcoholic beverages or drugs as defined by rule;

20 (f) Is physically or mentally unfit to practice nursing;

21 (g) Violates the provisions of this chapter or rules and standards of  
22 conduct and practice as may be adopted by the board;

23 (h) Otherwise engages in conduct of a character likely to deceive,  
24 defraud or endanger patients or the public, which includes, but is not  
25 limited to, failing or refusing to report criminal conduct or other con-  
26 duct by a licensee that endangers patients;

27 (i) Has had a license to practice nursing or other professional license  
28 suspended, ~~or~~ revoked or otherwise disciplined in any jurisdiction. A  
29 certified copy of the order of suspension or revocation entered by the  
30 jurisdiction shall be prima facie evidence of such suspension, ~~or~~ revo-  
31 cation or discipline; or

32 (j) ~~Failure~~ Failed to comply with the terms of any board order, negoti-  
33 ated settlement or probationary agreement of the board, or to pay fines  
34 or costs assessed in a prior disciplinary proceeding.

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

38 (3) Proceedings.

39 (a) The executive director shall conduct such investigations and ini-  
40 tiate such proceedings as necessary to ensure compliance with this  
41 section. The board may accept the voluntary surrender of a license  
42 from any nurse under investigation and accordingly enter an order re-  
43 voking or suspending such license and/or imposing such conditions,  
44 limitations, or restrictions on the practice of any such nurse as may  
45 be appropriate in the discretion of the board. Otherwise, every person  
46 subject to disciplinary proceedings shall be afforded an opportunity  
47 for hearing after reasonable notice. All proceedings hereunder shall  
48 be in accordance with chapter 52, title 67, Idaho Code.

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

10 (c) In the event any person fails to comply with a subpoena personally  
11 served upon him or refuses to testify to any matter regarding which he  
12 may be lawfully interrogated, the board shall petition the district  
13 court in the county where such failure or refusal occurred or where  
14 such person resides, to enforce such subpoena or compel such testimony.  
15 Proceedings before the district court shall be for contempt in the same  
16 nature as contempt of court for failure or refusal to comply with an  
17 order of the court and the court shall have the same powers to secure  
18 compliance with subpoena and testimony or to impose penalties as in con-  
19 tempt of court proceedings.

20 (4) Probation/Subsequent review. Any order of the board entered un-  
21 der this section may be withheld or suspended for a probationary period to be  
22 fixed by the board upon such terms and conditions as may be appropriate in or-  
23 der to regulate, monitor and/or supervise the practice of nursing by the li-  
24 censee subject to such order for the prescribed probationary period. Any or-  
25 der of the board entered under this section may be withdrawn, reversed, mod-  
26 ified or amended upon a showing by the person subject to the order that the  
27 grounds for discipline no longer exist or that he is rehabilitated, quali-  
28 fied and competent to practice nursing and that he is not likely to violate  
29 this chapter or rules adopted hereunder in the future. The board may, as a  
30 condition to withdrawal, reversal, modification or amendment of the order,  
31 require the person to pay all or part of the costs incurred by the board in  
32 proceedings upon which the order was entered.

33 (5) Reporting investigative information. Nothing in section 9-340C(8)  
34 and (9), Idaho Code, shall be construed as limiting the authority of the  
35 board to report current significant investigative information to the coor-  
36 dinated licensure information system for transmission to states that are  
37 parties to any multistate agreements or compacts regarding nurse licensure.