

IN THE SENATE

SENATE BILL NO. 1316

BY JUDICIARY AND RULES COMMITTEE

AN ACT

1 RELATING TO ATTORNEY'S FEES AND COSTS REGARDING AN ADMINISTRATIVE PROCEED-
2 ING; AMENDING SECTION 12-117, IDAHO CODE, TO AUTHORIZE THE ASSESSMENT
3 OF REASONABLE COSTS AND REASONABLE ATTORNEY'S FEES IN FAVOR OF A PRE-
4 VAILING PARTY IN CERTAIN ADMINISTRATIVE PROCEEDINGS INVOLVING LICENS-
5 ING AUTHORITIES AND TO PROVIDE A DEFINITION; AMENDING SECTION 36-2113,
6 IDAHO CODE, TO PROVIDE APPLICATION TO OUTFITTERS AND GUIDES AND TO
7 MAKE A TECHNICAL CORRECTION; AMENDING SECTION 54-406, IDAHO CODE, TO
8 PROVIDE APPLICATION TO LICENSEES OF THE ATHLETIC COMMISSION; AMENDING
9 SECTION 54-713, IDAHO CODE, TO PROVIDE APPLICATION TO CHIROPRACTORS;
10 AMENDING SECTION 54-1406A, IDAHO CODE, TO PROVIDE APPLICATION TO MED-
11 ICATION ASSISTANTS; AMENDING SECTION 54-1413, IDAHO CODE, TO PROVIDE
12 APPLICATION TO LICENSEES OF THE NURSING BOARD AND TO MAKE A TECHNICAL
13 CORRECTION; AMENDING SECTION 54-1502A, IDAHO CODE, TO PROVIDE APPLICA-
14 TION TO UNLICENSED OPTOMETRISTS; AMENDING SECTION 54-1512, IDAHO CODE,
15 TO PROVIDE APPLICATION TO LICENSED OPTOMETRISTS AND TO MAKE TECHNICAL
16 CORRECTIONS; AMENDING SECTION 54-1728, IDAHO CODE, TO PROVIDE APPLICA-
17 TION TO PHARMACISTS; AMENDING SECTION 54-1732, IDAHO CODE, TO PROVIDE
18 A CORRECT CODE REFERENCE AND TO MAKE A TECHNICAL CORRECTION; AMENDING
19 SECTION 54-1806, IDAHO CODE, TO PROVIDE APPLICATION TO PHYSICIANS AND
20 SURGEONS; AMENDING SECTION 54-1914, IDAHO CODE, TO PROVIDE APPLICATION
21 TO PUBLIC WORKS CONTRACTORS AND TO MAKE TECHNICAL CORRECTIONS; AMENDING
22 SECTION 54-2059, IDAHO CODE, TO PROVIDE APPLICATION TO REAL ESTATE LI-
23 CENSEES; AMENDING SECTION 54-2118, IDAHO CODE, TO PROVIDE APPLICATION
24 TO VETERINARIANS AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION
25 54-2220, IDAHO CODE, TO PROVIDE APPLICATION TO PHYSICAL THERAPISTS AND
26 TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 54-2221, IDAHO CODE, TO
27 PROVIDE APPLICATION TO PHYSICAL THERAPISTS; AMENDING SECTION 54-2925,
28 IDAHO CODE, TO PROVIDE APPLICATION TO SPEECH AND HEARING LICENSEES;
29 AMENDING SECTION 54-3113, IDAHO CODE, TO PROVIDE APPLICATION TO CER-
30 TIFIED SHORTHAND REPORTERS; AMENDING SECTION 54-3720, IDAHO CODE, TO
31 PROVIDE APPLICATION TO OCCUPATIONAL THERAPISTS AND TO MAKE TECHNICAL
32 CORRECTIONS; AMENDING SECTION 54-3913, IDAHO CODE, TO PROVIDE APPLI-
33 CATION TO ATHLETIC TRAINERS; AMENDING SECTION 54-4132, IDAHO CODE, TO
34 PROVIDE APPLICATION TO APPRAISAL MANAGEMENT COMPANIES; AMENDING SEC-
35 TION 54-5215, IDAHO CODE, TO PROVIDE APPLICATION TO CONTRACTORS AND TO
36 MAKE A TECHNICAL CORRECTION; AMENDING SECTION 54-5607, IDAHO CODE, TO
37 PROVIDE APPLICATION TO GENETIC COUNSELORS AND TO MAKE TECHNICAL COR-
38 RECTIONS; AMENDING SECTION 55-1811, IDAHO CODE, TO PROVIDE APPLICATION
39 TO REAL ESTATE SUBDIVIDERS; AMENDING SECTION 67-2601A, IDAHO CODE, TO
40 PROVIDE APPLICATION TO LICENSEES UNDER THE JURISDICTION OF THE DIVISION
41 OF BUILDING SAFETY AND TO PROVIDE A CORRECT CODE REFERENCE; AMENDING
42 SECTION 67-2602, IDAHO CODE, TO PROVIDE APPLICATION TO LICENSEES UNDER
43 THE AUTHORITY OF THE OCCUPATIONAL LICENSES BUREAU; AND AMENDING SECTION
44 67-2609, IDAHO CODE, TO PROVIDE FOR RULEMAKING AUTHORITY PROVIDING AP-
45

1 PLICATION TO BOARDS UNDER THE OCCUPATIONAL LICENSES BUREAU AND TO MAKE
2 TECHNICAL CORRECTIONS.

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

4 SECTION 1. That Section 12-117, Idaho Code, be, and the same is hereby
5 amended to read as follows:

6 12-117. ATTORNEY'S FEES, WITNESS FEES AND EXPENSES AWARDED IN CER-
7 TAIN INSTANCES. (1) Unless otherwise provided by statute, in any proceeding
8 involving as adverse parties a state agency or a political subdivision and
9 a person, the state agency, political subdivision or the court hearing the
10 proceeding, including on appeal, shall award the prevailing party reason-
11 able attorney's fees, witness fees and other reasonable expenses, if it
12 finds that the nonprevailing party acted without a reasonable basis in fact
13 or law.

14 (2) If a party to a proceeding prevails on a portion of the case, and
15 the state agency or political subdivision or the court hearing the proceed-
16 ing, including on appeal, finds that the nonprevailing party acted without a
17 reasonable basis in fact or law with respect to that portion of the case, it
18 shall award the partially prevailing party reasonable attorney's fees, wit-
19 ness fees and other reasonable expenses with respect to that portion of the
20 case on which it prevailed.

21 (3) Expenses awarded against a state agency or political subdivision
22 pursuant to this section shall be paid from funds in the regular operating
23 budget of the state agency or political subdivision. If sufficient funds are
24 not available in the budget of the state agency, the expenses shall be con-
25 sidered a claim governed by the provisions of section 67-2018, Idaho Code.
26 If sufficient funds are not available in the budget of the political subdivi-
27 sion, the expenses shall be considered a claim pursuant to chapter 9, ti-
28 tle 6, Idaho Code. Every state agency or political subdivision against which
29 litigation expenses have been awarded under this act shall, at the time of
30 submission of its proposed budget, submit a report to the governmental body
31 which appropriates its funds in which the amount of expenses awarded and paid
32 under this act during the fiscal year is stated.

33 (4) In any civil judicial proceeding involving as adverse parties a
34 governmental entity and another governmental entity, the court shall award
35 the prevailing party reasonable attorney's fees, witness fees and other rea-
36 sonable expenses. For purposes of this subsection, "governmental entity"
37 means any state agency or political subdivision.

38 (5) Notwithstanding any other provision of law, in any administrative
39 proceeding or administrative judicial proceeding involving as adverse par-
40 ties a licensing authority and a licensee, the prevailing party shall be en-
41 titled to recover its reasonable attorney's fees and reasonable investiga-
42 tive or defense costs, as the case may be, necessarily and actually incurred.
43 "Prevailing party," for the purpose of this subsection, means a party that
44 prevailed on the claims or allegations that constituted the gravamen of the
45 claims and allegations as a whole. An assessment of fees and costs made pur-
46 suant to this section is subject to judicial review. Notwithstanding any
47 other provision of law, the failure of a licensee to pay an award of costs or

1 attorney's fees awarded under this subsection shall not be deemed a viola-
 2 tion of a licensure requirement.

3 (6) For purposes of this section:

4 (a) "Licensing authority" means any professional or occupational li-
 5 icensing board charged with granting, suspending or revoking the license
 6 or certificate of any individual to practice a profession or occupa-
 7 tion.

8 (b) "Person" means any individual, partnership, limited liability
 9 partnership, corporation, limited liability company, association or
 10 any other private organization;

11 (bc) "Political subdivision" means a city, a county, any taxing dis-
 12 trict or a health district;

13 (ed) "Proceeding" means any administrative proceeding, administrative
 14 judicial proceeding, civil judicial proceeding or petition for judi-
 15 cial review or any appeal from any administrative proceeding, adminis-
 16 trative judicial proceeding, civil judicial proceeding or petition for
 17 judicial review.

18 (de) "State agency" means any agency as defined in section 67-5201,
 19 Idaho Code.

20 (67) If the amount pleaded in an action by a person is twenty-five thou-
 21 sand dollars (\$25,000) or less, the person must satisfy the requirements of
 22 section 12-120, Idaho Code, as well as the requirements of this section be-
 23 fore he or she may recover attorney's fees, witness fees or expenses pursuant
 24 to this section.

25 SECTION 2. That Section 36-2113, Idaho Code, be, and the same is hereby
 26 amended to read as follows:

27 36-2113. REVOCATION OR SUSPENSION OF LICENSE -- GROUNDS. (a) Every li-
 28 cense shall, by virtue of this chapter, be subject to suspension, revoca-
 29 tion, probation or other restriction by the board for the commission of any
 30 of the following acts:

31 1. For supplying false information or for failure to provide informa-
 32 tion required to be furnished by the license application form for a li-
 33 cense currently valid or for other fraud or deception in procuring a li-
 34 cense under the provisions of this chapter.

35 2. For fraudulent, untruthful or misleading advertising.

36 3. For conviction of a felony.

37 4. For two (2) or more forfeitures of any deposits of money or collat-
 38 eral with a court or administrative agency or for a conviction for vio-
 39 lation of regulations of the United States forest service or the bureau
 40 of land management.

41 5. For unethical or unprofessional conduct as defined by rules of the
 42 board.

43 6. For conviction of any violation of any state or federal fish and game
 44 or outfitting and guiding laws.

45 7. For a substantial breach of any contract with any person utilizing
 46 his services.

47 8. For willfully (i) operating in any area for which the licensee is not
 48 licensed, or (ii) engaging in any activity for which the licensee is not
 49 licensed.

1 9. For the employment of an unlicensed guide by an outfitter.

2 10. For inhumane treatment of any animal used by the licensed outfit-
3 ter or guide in the conduct of his business which endangers the health or
4 safety of any guest or patron or which interferes with the conduct of his
5 business.

6 11. For failure by any firm, partnership, corporation or other organ-
7 ization or any combination thereof licensed as an outfitter to have at
8 least one (1) licensed outfitter as designated agent conducting its
9 outfitting business who meets all of the qualifications and require-
10 ments of a licensed outfitter.

11 12. For the failure to provide any animal used by the licensed outfitter
12 or guide in the conduct of his business with proper food, drink and shel-
13 ter, or for the subjection of any such animal to needless abuse or cruel
14 and inhumane treatment.

15 13. For failure of an outfitter to serve the public in any of the follow-
16 ing ways: (i) by nonuse of license privileges as defined by rules of the
17 board, (ii) by limiting services to any individual, group, corporation
18 or club that limits its services to a membership, or (iii) by not offer-
19 ing services to the general public.

20 14. For violation of or noncompliance with any applicable provision of
21 this chapter, or for violation of any lawful rule or order of the outfit-
22 ters and guides licensing board.

23 (b) For the purposes of this section, the term "conviction" shall mean a
24 finding of guilt, an entry of a guilty plea by a defendant and its acceptance
25 by the court, or a forfeiture of bail bond or collateral deposited to secure
26 a defendant's appearance, suspended sentence, probation or withheld judg-
27 ment.

28 (c) In addition to the penalties imposed in this section, the board may
29 impose an administrative fine not to exceed five thousand dollars (\$5,000) ~~or~~
30 ~~or the administrative costs of bringing the action before the board includ-~~
31 ~~ing, but not limited to, attorney's fees and costs of hearing transcripts,~~
32 for each violation of the provisions of this chapter.

33 (d) The jurisdiction and authority of the board pursuant to this sec-
34 tion and section 36-2114, Idaho Code, extend to any former licensee for a vi-
35 olation of this section which occurred during the period of licensure.

36 (e) The assessment of costs and fees incurred in the investigation and
37 prosecution or defense of a licensee under this section shall be governed by
38 the provisions of section 12-117(5), Idaho Code.

39 SECTION 3. That Section 54-406, Idaho Code, be, and the same is hereby
40 amended to read as follows:

41 54-406. DUTIES OF COMMISSION -- SANCTIONING PERMITS -- LICENSING --
42 EXEMPTIONS -- MEDICAL CERTIFICATION. (1) The commission shall have power,
43 and it shall be its duty, to direct, supervise and control all amateur and
44 professional contests and exhibitions within the state and no such contest
45 or exhibition shall be held or given within this state except in accordance
46 with the provisions of this chapter. The commission has authority to adopt
47 rules to implement the provisions of this chapter and to implement each of
48 the duties and responsibilities conferred upon the commission including,
49 but not limited to:

1 (a) Development of an ethical code of conduct for commissioners, com-
2 mission staff and commission officials;

3 (b) Facility and safety requirements relating to the ring, floor
4 plan and apron seating, emergency medical equipment and services, and
5 other equipment and services necessary for the conduct of a program of
6 matches;

7 (c) Requirements regarding a participant's apparel, bandages, hand-
8 wraps, gloves, mouthpiece and appearance during a match;

9 (d) Requirements relating to a manager's participation, presence and
10 conduct during a match;

11 (e) Duties and responsibilities of all licensees under this chapter;

12 (f) Procedures for hearings and resolution of disputes, including the
13 commission's recovery of its costs and fees incurred from an unsuccess-
14 ful challenger of a contest decision as well as a deposit in an amount
15 determined by the commission;

16 (g) Qualifications for appointment of referees and judges;

17 (h) Designation and duties of a knockdown timekeeper;

18 (i) Setting fee and reimbursement schedules for referees and other of-
19 ficials appointed by the commission or the representative of the com-
20 mission;

21 (j) Establishment of criteria for approval, disapproval, suspension
22 of approval and revocation of approval of amateur sanctioning or-
23 ganizations for amateur contests and exhibitions held in this state
24 including, but not limited to, the health and safety standards the
25 organizations use before, during and after the matches to ensure the
26 health, safety and well-being of the amateur combatants participat-
27 ing in the matches, including the qualifications and numbers of health
28 care personnel required to be present, the qualifications required for
29 referees, and other requirements relating to the health, safety and
30 well-being of the amateur combatants participating in the matches. The
31 commission may adopt by rule, or incorporate by reference into rule, the
32 health and safety standards of United States amateur boxing, inc., as
33 the minimum health and safety standards for an amateur boxing sanction-
34 ing organization, and the health and safety standards of the interna-
35 tional amateur kickboxing sport association as the minimum health and
36 safety standards for an amateur kickboxing sanctioning organization;
37 and

38 (k) Establish fees to be paid by an amateur athletic sanctioning organ-
39 ization that is approved pursuant to subsection (3) (b) (ii) of this sec-
40 tion, which fees shall include:

41 (i) Initial and annual application processing fees of not less
42 than two hundred fifty dollars (\$250) and not more than one thou-
43 sand dollars (\$1,000); and

44 (ii) Initial and annual approval fees of not less than two hun-
45 dred fifty dollars (\$250) and not more than one thousand dollars
46 (\$1,000).

47 (2) The commission may, in its discretion, issue or refuse to issue and
48 for cause immediately revoke any sanctioning permit whether or not an admis-
49 sion fee is charged by any person, organization, association or fraternal
50 society. The commission may also, in its discretion, issue or refuse to is-

1 sue and for cause immediately revoke, suspend or otherwise discipline li-
2 censes for participants of sanctioned contests and exhibitions. ~~The commis-~~
3 ~~sion may recover the costs and fees incurred in the investigation and prose-~~
4 ~~cution of a licensee or permit holder who is found in violation of the provi-~~
5 ~~sions of this chapter or the commission's rules~~ The assessment of costs and
6 fees incurred in the investigation and prosecution or defense of a licensee
7 or permit holder shall be governed by the provisions of section 12-117(5),
8 Idaho Code.

9 (3) Specifically exempt from the provisions of this chapter are all
10 contests or exhibitions that:

11 (a) Are contests or exhibitions conducted by any secondary school,
12 college or university, whether public or private, where all the partic-
13 ipating contestants are bona fide students enrolled in any secondary
14 school, college or university, within or without this state;

15 (b) Are entirely contests or exhibitions in which all combatants are
16 amateurs and which have been sanctioned as amateur athletic contests or
17 exhibitions by any of the following associations:

18 (i) United States amateur boxing, inc., also known as USA boxing,
19 inc., the amateur athletic union of the United States, inc., also
20 known as the national amateur athletic union, the amateur athletic
21 union and the AAU or any similar nationally recognized entity ap-
22 proved by the commission; or

23 (ii) Any other entity that the commission approves to be an ama-
24 teur athletic sanctioning organization, which approval shall be
25 subject to annual review for purposes of renewal. Notwithstanding
26 any other provision of this chapter, the promoter of any contest
27 or exhibition sanctioned by an organization approved pursuant
28 to this subparagraph shall comply with sections 54-408, 54-411,
29 54-413, 54-417, 54-419, 54-421 and 54-422, Idaho Code, and the
30 promoter and each participant in such contest or exhibition are
31 subject to sections 54-416, 54-418 and 54-420, Idaho Code, unless
32 specifically exempted by commission rule;

33 (c) Are contests or exhibitions held under the auspices or sanction of
34 an established nonprofit secondary school activities organization or
35 of its public or nonprofit accredited secondary school members, or held
36 under the auspices or sanction of an established college or university
37 activities organization or its public or not-for-profit accredited
38 college or university members; or

39 (d) Are contests or exhibitions conducted by any military installa-
40 tion or branch of the United States armed forces, or the state national
41 guard, where the participants are employed by the military instal-
42 lation, are members of the branch of the armed forces, or the state
43 national guard unit conducting the contest or exhibition.

44 (4) Provided further that every combatant in any contest or exhibi-
45 tion exempt under the provisions of this chapter, prior to engaging in and
46 conducting such contest or exhibition, shall be examined by a licensed
47 physician at least once in each calendar year, or where such contest is
48 conducted by a secondary school, college or university or organization as
49 further described in this section, once in each academic year in which in-
50 stance the physician shall also designate the maximum and minimum weights at

1 which the combatant shall be medically certified to participate. Provided
 2 further that no combatant shall be permitted to participate in any such con-
 3 test or exhibition in any weight classification other than that or those for
 4 which he is certificated. Provided further that the exempted organizations
 5 shall be governed by the provisions of section 54-414, Idaho Code, as that
 6 section applies to contests or exhibitions conducted by persons exempted
 7 in this section from the general provisions of this chapter. No contest or
 8 exhibition shall be conducted within this state except pursuant to a license
 9 issued in accordance with the provisions of this chapter and the rules of the
 10 commission except as hereinabove provided.

11 SECTION 4. That Section 54-713, Idaho Code, be, and the same is hereby
 12 amended to read as follows:

13 54-713. PENALTIES AND REINSTATEMENT. (1) Upon the finding of the ex-
 14 istence of grounds for discipline of any person holding a license, seeking
 15 a license, or renewing a license under the provisions of this chapter, the
 16 board may impose one (1) or more of the following penalties:

- 17 (a) Suspension of the offender's license for a term to be determined by
 18 the board;
- 19 (b) Revocation of the offender's license;
- 20 (c) Restriction of the offender's license to prohibit the offender from
 21 performing certain acts or from engaging in the practice of chiroprac-
 22 tic in a particular manner for a term to be determined by the board;
- 23 (d) Refusal to renew the offender's license;
- 24 (e) Placement of the offender on probation and supervision by the board
 25 for a period of time and under terms and conditions to be determined by
 26 the board;
- 27 (f) Imposition of an administrative fine not to exceed two thousand
 28 dollars (\$2,000) ~~plus costs of prosecution and reasonable attorney~~
 29 ~~fees;~~
- 30 (g) Written letters of censure or reprimand which shall become a per-
 31 manent record in the files of the licensee and which may be published
 32 within the discretion of the board; or
- 33 (h) Restitution for losses suffered or reimbursement for any damages
 34 incurred by a patient as a result of a violation of this chapter.

35 (2) In lieu of the penalties imposed by subsection (1) of this section,
 36 the board and licensee may enter into a written mutual agreement whereby the
 37 licensee agrees to discontinue a particular activity or comply with the pro-
 38 visions of this chapter without an admission or finding of culpability of the
 39 licensee, the violation of which may be the basis for disciplinary action by
 40 the board.

41 (3) The assessment of costs and fees incurred in the investigation and
 42 prosecution or defense of a person holding a license, seeking a license or
 43 renewing a license under this chapter shall be governed by the provisions of
 44 section 12-117(5), Idaho Code.

45 (4) Any person whose license to practice chiropractic in this state has
 46 been suspended, revoked or restricted pursuant to this chapter, whether vol-
 47 untarily or by action of the board, shall have the right, at reasonable in-
 48 tervals, to petition the board for reinstatement of such license. Such pe-
 49 tition shall be made in writing and in the form prescribed by the board. Upon

1 investigation and hearing, the board may in its discretion grant or deny such
2 petition, or it may modify its original finding to reflect any circumstances
3 which have changed sufficiently to warrant such modifications.

4 (45) Nothing herein contained shall be construed as barring criminal
5 prosecutions for violations of the provisions of this chapter where such vi-
6 olations are deemed as criminal offenses in other statutes of this state or
7 of the United States.

8 (56) All final decisions by the board shall be subject to judicial re-
9 view pursuant to the provisions of the administrative procedure act.

10 SECTION 5. That Section 54-1406A, Idaho Code, be, and the same is hereby
11 amended to read as follows:

12 54-1406A. CERTIFIED MEDICATION ASSISTANT (MA-C). (1) Effective July
13 1, 2008, an individual registered as a nursing assistant, without substanti-
14 ated charges, on the nursing assistant registry currently maintained by the
15 Idaho department of health and welfare, may, with additional education and
16 training as set forth in rule as established by the board, become a certified
17 medication assistant (MA-C) permitted to administer medications as pre-
18 scribed by an authorized provider within the parameters set forth in rule. A
19 licensed nurse shall supervise the certified medication assistant.

20 (2) The board shall adopt rules regarding the certification of cer-
21 tified medication assistants, including rules applicable to education,
22 training and other qualifications for certification that will ensure that
23 the certified medication assistant is competent to perform safely within the
24 range of authorized functions.

25 (3) The board shall maintain a public registry of the names and ad-
26 dresses of all certified medication assistants.

27 (4) The board is authorized to impose and collect initial application
28 and two (2) year renewal fees, as well as reinstatement fees, not to exceed
29 one hundred dollars (\$100), as determined by board rule. Fees collected
30 pursuant to this section shall be deposited in the state board of nursing
31 account for the administration of examinations, evaluations and investiga-
32 tions of applicants, issuance of certifications, evaluation of education
33 and training programs, duplication and verification of records, and other
34 administrative expenses.

35 (5) The board shall adopt by rule an application process.

36 (a) The application process shall include conducting a state and fed-
37 eral criminal background check on all applicants seeking certification
38 pursuant to this section.

39 (b) All applicants for original certification or for certification re-
40 instatement shall submit to a fingerprint-based criminal history check
41 of both the Idaho central criminal database and the federal bureau of
42 investigation criminal history database. All such applicants shall
43 submit a full set of their fingerprints and any relevant fees directly
44 to the Idaho board of nursing for forwarding to the appropriate law
45 enforcement agency for processing. Criminal background reports re-
46 ceived by the board from the Idaho state police and the federal bureau
47 of investigation shall be used only for licensing decisions and handled
48 and disposed of in a manner consistent with requirements imposed by the
49 Idaho state police and the federal bureau of investigation.

1 (c) Upon meeting all requirements and upon the successful completion of
2 additional education, training and competency assessment prescribed by
3 rule, an applicant shall be certified as a certified medication assis-
4 tant (MA-C).

5 (6) A person may not use the title "certified medication assistant" or
6 the abbreviation "MA-C" unless such person has been duly certified pursuant
7 to this section.

8 (7) The board shall adopt rules governing the approval of education and
9 training programs for certified medication assistants.

10 (8) The board shall set forth in rule criteria for acceptable certified
11 medication assistant competency evaluations.

12 (9) (a) For any one (1) or a combination of grounds for discipline as
13 set forth in paragraph (b) of this subsection, the board shall have the
14 authority to:

15 (i) File a letter of concern if the board believes there is insuf-
16 ficient evidence to support direct action against a certified med-
17 ication assistant;

18 (ii) Deny certification or recertification, suspend, revoke,
19 place on probation, reprimand, limit, restrict, condition or ac-
20 cept the voluntary surrender of a certificate issued pursuant to
21 this section if a certified medication assistant commits an act
22 that constitutes grounds for discipline;

23 (iii) Refer criminal violations of this section to the appropriate
24 law enforcement agency; and

25 (iv) Impose a civil penalty of not more than one hundred dollars
26 (\$100) per violation; ~~and~~

27 ~~(v) Recover costs of investigation and disciplinary proceedings,~~
28 ~~including attorney's fees.~~

29 (b) Grounds for discipline shall include:

30 (i) Substance abuse or dependency;

31 (ii) Client abandonment, neglect or abuse;

32 (iii) Fraud or deceit, which may include, but is not limited to:

33 (A) Filing false credentials;

34 (B) Falsely representing facts on an application for ini-
35 tial certification, renewal or reinstatement; and

36 (C) Giving or receiving assistance in taking the competency
37 evaluation;

38 (iv) Boundary violations;

39 (v) Performance of unsafe client care;

40 (vi) Performing acts beyond the range of authorized functions or
41 beyond those tasks delegated under the provisions of this section;

42 (vii) Misappropriation or misuse of property;

43 (viii) Obtaining money or property of a client, resident or other
44 person by theft, fraud, misrepresentation or duress committed
45 during the course of employment as a certified medication assis-
46 tant;

47 (ix) Criminal conviction of a misdemeanor that directly relates
48 to or affects the functions of a certified medication assistant or
49 conviction of any felony as set forth in rule;

1 (x) Failure to conform to the standards of a certified medication
2 assistant;

3 (xi) Putting clients at risk of harm; and

4 (xii) Violating the privacy or failing to maintain the confiden-
5 tiality of client or resident information.

6 (10) The board shall comply with the provisions of the Idaho administra-
7 tive procedure act, chapter 52, title 67, Idaho Code, in taking any disci-
8 plinary action against a certified medication assistant and shall maintain
9 records of any such disciplinary action, which records shall be available
10 for public inspection to the same extent as records regarding disciplinary
11 proceedings against nurses and as otherwise consistent with chapter 1, title
12 74, Idaho Code. The assessment of costs and fees incurred in the investiga-
13 tion and prosecution or defense of a certified medication assistant shall be
14 governed by the provisions of section 12-117(5), Idaho Code.

15 (11) The board shall notify the Idaho nursing assistant registry of any
16 disciplinary action taken against a certified medication assistant pursuant
17 to this section.

18 SECTION 6. That Section 54-1413, Idaho Code, be, and the same is hereby
19 amended to read as follows:

20 54-1413. DISCIPLINARY ACTION. (1) Grounds for discipline. The board
21 shall have the power to refuse to issue, renew or reinstate a license is-
22 sued pursuant to this chapter, and may revoke, suspend, place on probation,
23 reprimand, limit, restrict, condition or take other disciplinary action
24 against the licensee as it deems proper, ~~including assessment of the costs~~
25 ~~of investigation and discipline against the licensee,~~ upon a determination
26 by the board that the licensee engaged in conduct constituting any one (1) of
27 the following grounds:

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

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

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

34 (d) Is or has been grossly negligent or reckless in performing nursing
35 functions;

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

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

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

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

44 (i) Has been disciplined by a nursing regulatory authority in any ju-
45 risdiction. A certified copy of the order entered by the jurisdiction
46 shall be prima facie evidence of such discipline;

47 (j) Failure to comply with the terms of any board order, negotiated set-
48 tlement or probationary agreement of the board, or to pay fines or costs
49 assessed in a prior disciplinary proceeding; or

1 (k) Engaging in conduct with a patient that is sexual, sexually ex-
2 ploitative, sexually demeaning or may reasonably be interpreted as
3 sexual, sexually exploitative or sexually demeaning; or engaging in
4 conduct with a former patient that is sexually exploitative or may
5 reasonably be interpreted as sexually exploitative. It would not be a
6 violation under this subsection for a nurse to continue a sexual rela-
7 tionship with a spouse or individual of majority if a consensual sexual
8 relationship existed prior to the establishment of the nurse-patient
9 relationship.

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

13 (3) Proceedings.

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

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

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

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

47 (4) Probation/Subsequent review. Any order of the board entered un-
48 der this section may be withheld or suspended for a probationary period to be
49 fixed by the board upon such terms and conditions as may be appropriate in or-
50 der to regulate, monitor and/or supervise the practice of nursing by the li-

1 censee subject to such order for the prescribed probationary period. Any or-
2 der of the board entered under this section may be withdrawn, reversed, mod-
3 ified or amended upon a showing by the person subject to the order that the
4 grounds for discipline no longer exist or that he is rehabilitated, quali-
5 fied and competent to practice nursing and that he is not likely to violate
6 this chapter or rules adopted hereunder in the future. ~~The board may, as a~~
7 ~~condition to withdrawal, reversal, modification or amendment of the order,~~
8 ~~require the person to pay all or part of the costs incurred by the board in~~
9 ~~proceedings upon which the order was entered.~~

10 (5) Reporting investigative information.

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

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

19 SECTION 7. That Section 54-1502A, Idaho Code, be, and the same is hereby
20 amended to read as follows:

21 54-1502A. NONLICENSED PERSONS -- PENALTIES AND REMEDIES. (1) The
22 board may investigate any person engaged in the practice of optometry within
23 the state of Idaho or any person believed to have acted as an optometrist
24 without being duly licensed as required by this chapter. Upon receipt of
25 a written complaint, the board shall perform an investigation of the facts
26 alleged. If the board investigation reveals that the facts alleged or re-
27 ceived are sufficient to proceed with formal action, the board may authorize
28 the filing of an administrative complaint against the person and may seek
29 injunctive relief prohibiting such person from engaging in the practice of
30 optometry. In addition or alternatively, the board may refer violators of
31 the provisions of this chapter for prosecution pursuant to section 54-1513,
32 Idaho Code.

33 (2) Each violation of the provisions of section 54-1502, Idaho Code,
34 shall, upon conviction, result in a fine in an amount not to exceed one thou-
35 sand dollars (\$1,000), or imprisonment in the county jail for not less than
36 thirty (30) days but not more than ninety (90) days, or by both such fine and
37 imprisonment and, ~~in addition, shall require the payment of the cost and fees~~
38 ~~incurred in the investigation and prosecution of the violation.~~

39 (3) The assessment of costs and fees incurred in the investigation and
40 prosecution or defense of a person under this section shall be governed by
41 the provisions of section 12-117(5), Idaho Code.

42 SECTION 8. That Section 54-1512, Idaho Code, be, and the same is hereby
43 amended to read as follows:

44 54-1512. PENALTIES AND REINSTATEMENT. (1) Upon the finding of the ex-
45 istence of grounds for discipline of any person holding a license, seeking
46 a license, or renewing a license under the provisions of this chapter, the
47 board of optometry may impose one (1) or more of the following penalties:

1 (a) Suspension of the offender's license for a term to be determined by
2 the board;

3 (b) Revocation of the offender's license;

4 (c) Restriction of the offender's license to prohibit the offender from
5 performing certain acts or from engaging in the practice of optometry in
6 a particular manner for a term to be determined by the board;

7 (d) Refusal to renew offender's license;

8 (e) Placement of the offender on probation and supervision by the board
9 for a period of time and under terms and conditions to be determined by
10 the board;

11 (f) Imposition of an administrative fine not to exceed two thousand
12 dollars (\$2,000) plus costs of prosecution and reasonable attorney's
13 fees; or

14 (g) Written letters of censure or reprimand which shall become a perma-
15 nent record in the files of the licensee.

16 (2) The assessment of costs and fees incurred in the investigation and
17 prosecution or defense of a person holding a license, seeking a license, or
18 renewing a license under this chapter shall be governed by the provisions of
19 section 12-117(5), Idaho Code.

20 (3) Any person whose license to practice optometry in this state has
21 been suspended, revoked or restricted pursuant to this chapter, whether vol-
22 untarily or by action of the board, shall have the right, at reasonable in-
23 tervals, to petition the board for reinstatement of such license. Such pe-
24 tition shall be made in writing and in the form prescribed by the board. Upon
25 investigation and hearing, the board may in its discretion grant or deny such
26 petition, or it may modify its original finding to reflect any circumstances
27 which have changed sufficiently to warrant such modifications.

28 (34) Nothing herein shall be construed as barring criminal prosecu-
29 tions for violations of this chapter where such violations are deemed as
30 criminal offenses in other statutes of this state or of the United States.

31 (45) All final decisions by the board shall be subject to judicial re-
32 view pursuant to the provisions of the administrative procedure act.

33 SECTION 9. That Section 54-1728, Idaho Code, be, and the same is hereby
34 amended to read as follows:

35 54-1728. PENALTIES AND REINSTATEMENT. (1) Upon the finding of the ex-
36 istence of grounds for discipline of any person or business entity holding
37 a license or registration, seeking a license or registration, or a renewal
38 license or registration under the provisions of this chapter, the board of
39 pharmacy may impose one (1) or more of the following penalties:

40 (a) Suspension of the offender's license or registration for a term to
41 be determined by the board;

42 (b) Revocation of the offender's license or registration;

43 (c) Restriction of the offender's license or registration to prohibit
44 the offender from performing certain acts or from engaging in the prac-
45 tice of pharmacy in a particular manner for a term to be determined by
46 the board;

47 (d) Refusal to renew the offender's license or registration;

48 (e) Placement of the offender on probation and supervision by the board
49 for a period to be determined by the board;

1 (f) Imposition of an administrative fine not to exceed two thousand
2 dollars (\$2,000) ~~plus costs of prosecution and administrative costs of~~
3 ~~bringing the action including, but not limited to, attorney's fees and~~
4 ~~costs and costs of hearing transcripts.~~

5 (2) The board may take any action against a nonresident licensee or reg-
6 istrant that the board can take against a resident licensee or registrant for
7 violation of the laws of this state or the state in which it resides.

8 (3) The board may report any violation by a nonresident licensee or reg-
9 istrant, or its agent or employee, of the laws and rules of this state, the
10 state in which it resides or the United States to any appropriate state or
11 federal regulatory or licensing agency including, but not limited to, the
12 regulatory agency of the state in which the nonresident licensee or regis-
13 trant is a resident.

14 (4) The board may elect to not initiate an administrative action under
15 Idaho law against a nonresident licensee or registrant upon report of a vi-
16 olation of law or rule of this state if the licensee's or registrant's home
17 state commences an action for the violation complained of; provided however,
18 that the board may elect to initiate an administrative action if the home
19 state action is unreasonably delayed or the home state otherwise fails to
20 take appropriate action for the reported violation.

21 (5) The suspension, revocation, restriction or other action taken
22 against a licensee or registrant by a state licensing board with authority
23 over a licensee's or registrant's professional license or registration or
24 by the drug enforcement administration may result in the board's issuance of
25 an order likewise suspending, revoking, restricting or otherwise affecting
26 the license or registration in this state, without further proceeding, but
27 subject to the effect of any modification or reversal by the issuing state or
28 the drug enforcement administration.

29 (6) The assessment of costs and fees incurred in the investigation and
30 prosecution or defense of a person holding a license or registration, seek-
31 ing a license or registration, or renewing a license or registration under
32 this chapter shall be governed by the provisions of section 12-117(5), Idaho
33 Code.

34 (7) Any person whose license to practice pharmacy in this state has
35 been suspended, revoked or restricted pursuant to this chapter, or any drug
36 outlet whose certificate of registration has been suspended, revoked or re-
37 stricted pursuant to this chapter, whether voluntarily or by action of the
38 board, shall have the right, at reasonable intervals, to petition the board
39 for reinstatement of such license. Such petition shall be made in writing
40 and in the form prescribed by the board. Upon investigation and hearing,
41 the board may in its discretion grant or deny such petition, or it may modify
42 its original finding to reflect any circumstances which have changed suffi-
43 ciently to warrant such modifications.

44 (78) Nothing herein shall be construed as barring criminal prosecu-
45 tions for violations of the act where such violations are deemed as criminal
46 offenses in other statutes of this state or of the United States.

47 (89) All final decisions by the board shall be subject to judicial re-
48 view pursuant to the procedures of the administrative procedure act.

49 SECTION 10. That Section 54-1732, Idaho Code, be, and the same is hereby
50 amended to read as follows:

1 54-1732. VIOLATIONS AND PENALTIES. (1) No drug outlet designated in
2 section 54-1729, Idaho Code, shall be operated until a certificate of reg-
3 istration has been issued to said facility by the board. Upon the finding of
4 a violation of this subsection, the board may impose one (1) or more of the
5 penalties enumerated in section 54-1728, Idaho Code.

6 (2) Reinstatement of a certificate that has been suspended, revoked
7 or restricted by the board may be granted in accordance with the procedures
8 specified in section 54-1728 (~~67~~), Idaho Code.

9 (3) The following acts, or the failure to act, and the causing of any
10 such act or failure are unlawful:

11 (a) The sale, delivery or administration of any prescription drug or
12 legend drug, except an opioid antagonist pursuant to section 54-1733B,
13 Idaho Code, or an epinephrine auto-injector pursuant to sections
14 54-1733C and 54-1733D, Idaho Code, unless:

15 (i) Such legend drug is dispensed or delivered by a pharmacist
16 upon an original prescription, drug order or prescription drug or-
17 der by a practitioner in good faith in the course of his practice.
18 Any person violating the provisions of this subparagraph shall
19 be guilty of a felony, and on conviction thereof shall be impris-
20 oned in the state penitentiary for a term not to exceed three (3)
21 years, or punished by a fine of not more than five thousand dollars
22 (\$5,000) or by both such fine and imprisonment.

23 (ii) In the case of a legend drug dispensed by a pharmacist or pre-
24 scriber, there is a label affixed to the immediate container in
25 which such drug is dispensed. Any person violating this subpara-
26 graph shall be guilty of a misdemeanor and upon conviction thereof
27 shall be fined not more than five hundred dollars (\$500). Noth-
28 ing in this subparagraph prohibits a practitioner from delivering
29 professional samples of legend drugs in their original contain-
30 ers in the course of his practice when oral directions for use are
31 given at the time of such delivery.

32 (b) The refilling of any prescription or drug order for a legend drug
33 except as designated on the prescription or drug order, or by the autho-
34 rization of the practitioner. Any person guilty of violating the pro-
35 visions of this paragraph shall be guilty of a misdemeanor and upon con-
36 viction thereof shall be incarcerated in the county jail for a term not
37 to exceed one (1) year, or punished by a fine of not more than one thou-
38 sand dollars (\$1,000) or by both such fine and incarceration.

39 (c) The possession or use of a legend drug or a precursor, except an
40 opioid antagonist pursuant to section 54-1733B, Idaho Code, or an epi-
41 nephrine auto-injector pursuant to sections 54-1733C and 54-1733D,
42 Idaho Code, by any person unless such person obtains such drug on the
43 prescription or drug order of a practitioner. Any person guilty of vio-
44 lating the provisions of this paragraph shall be guilty of a misdemeanor
45 and upon conviction thereof shall be incarcerated in the county jail for
46 a term not to exceed one (1) year, or punished by a fine of not more than
47 one thousand dollars (\$1,000) or by both such fine and incarceration.

48 (d) The wholesale distribution of drugs or devices by a pharmacy except
49 for:

1 (i) The sale, transfer, merger or consolidation of all or part of
2 the business of a pharmacy or pharmacies from or with another phar-
3 macy or pharmacies, whether accomplished as a purchase and sale of
4 stock or business assets.

5 (ii) The sale of minimal quantities of prescription drugs to prac-
6 titioners for office use.

7 (iii) The sale of a prescription drug for emergency medical rea-
8 sons, but never to a wholesale distributor.

9 (iv) Intracompany sales of prescription drugs, meaning any trans-
10 action or transfer between any division, subsidiary, parent or af-
11 filiated or related company under common ownership and control of
12 a corporate entity, or any transaction or transfer between colli-
13 censees or a colicensed product, but never to a wholesale distrib-
14 utor.

15 (e) The failure to keep records as required by the board. Any person
16 guilty of violating the provisions of this paragraph shall be guilty of
17 a misdemeanor and upon conviction thereof shall be incarcerated in the
18 county jail for a term not to exceed one (1) year, or punished by a fine
19 of not more than one thousand dollars (\$1,000) or by both such fine and
20 incarceration.

21 (f) The refusal to make available and to accord full opportunity to
22 check any record, as required by the board. Any person guilty of vio-
23 lating the provisions of this paragraph shall be guilty of a misdemeanor
24 and upon conviction thereof shall be incarcerated in the county jail for
25 a term not to exceed one (1) year, or punished by a fine of not more than
26 one thousand dollars (\$1,000) or by both such fine and incarceration.

27 (g) It is unlawful to:

28 (i) Obtain or attempt to obtain a legend drug or procure or at-
29 tempt to procure the administration of a legend drug by fraud, de-
30 ceit, misrepresentation or subterfuge; by the forgery or alter-
31 ation of a prescription, drug order, or of any written order; by
32 the concealment of a material fact; or by the use of a false name or
33 the giving of a false address.

34 (ii) Communicate information to a physician in an effort unlaw-
35 fully to procure a legend drug, or unlawfully to procure the ad-
36 ministration of any such drug. Any such communication shall not be
37 deemed a privileged communication.

38 (iii) Intentionally make a false statement in any prescription,
39 drug order, order, report or record required by this chapter.

40 (iv) For the purpose of obtaining a legend drug to falsely assume
41 the title of, or represent himself to be, a manufacturer, whole-
42 saler, pharmacist, physician, dentist, veterinarian or other per-
43 son.

44 (v) Make or utter any false or forged prescription or false drug
45 order or forged written order.

46 (vi) Affix any false or forged label to a package or receptacle
47 containing legend drugs. This subparagraph does not apply to law
48 enforcement agencies or their representatives while engaged in
49 enforcing state and federal drug laws.

1 (vii) Wholesale or retail any prescription or legend drug to any
2 person in this state not entitled by law to deliver such drug to
3 another.

4 Every violation of paragraph (g) (i) through (vi) of this subsection shall
5 be a misdemeanor, and any person convicted thereof shall be incarcerated in
6 the county jail for a term not to exceed one (1) year, or fined not more than
7 one thousand dollars (\$1,000), or punished by both such fine and imprison-
8 ment. Any person violating paragraph (g) (vii) of this subsection is guilty
9 of a felony and on conviction thereof shall be imprisoned in the state peni-
10 tentiary for a term not to exceed three (3) years, or punished by a fine of not
11 more than five thousand dollars (\$5,000), or by both such fine and imprison-
12 ment.

13 (4) Provided however, that a veterinarian may dispense or deliver a
14 legend drug prescribed for an animal upon the prescription, drug order, or
15 prescription drug order of another veterinarian. The label shall be affixed
16 pursuant to subsection (3) (a) (ii) of this section, and penalties for vio-
17 lations of the provisions of this subsection shall be as provided in this
18 section for like violations by a pharmacist.

19 (5) The ultimate user of a legend drug who has lawfully obtained such
20 legend drug may deliver, without being registered, the legend drug to an-
21 other person for the purpose of disposal of the legend drug if the person re-
22 ceiving the legend drug for purposes of disposal is authorized under a state
23 or federal law or regulation to engage in such activity.

24 SECTION 11. That Section 54-1806, Idaho Code, be, and the same is hereby
25 amended to read as follows:

26 54-1806. POWERS AND DUTIES. The board shall have the authority to:

27 (1) Hire or appoint employees, including an executive director, inves-
28 tigators, attorneys, consultants and independent hearing examiners.

29 (2) Establish pursuant to the administrative procedure act rules for
30 administration of this chapter, including rules governing all activities of
31 persons employed as physician's assistants by persons licensed to practice
32 medicine in this state. The board shall adopt rules pursuant to the adminis-
33 trative procedure act establishing procedures for the receipt of complaints
34 and for the investigation and disposition thereof. Such rules shall provide
35 for notice to a person when the board has authorized the committee to inves-
36 tigate that person and shall provide an opportunity for a person under in-
37 vestigation to meet with the committee or its staff before the initiation of
38 formal disciplinary proceedings by the board.

39 (3) Conduct investigations and examinations and hold hearings as au-
40 thorized by this section and by section 54-1806A, Idaho Code.

41 (4) The board shall have the power in any investigation or disciplinary
42 proceeding pursuant to this chapter to administer oaths, take depositions
43 of witnesses within or without the state in the manner consistent with rules
44 adopted by the board pursuant to the administrative procedure act, and upon a
45 determination that there is good cause the board shall have power throughout
46 the state of Idaho to require the attendance of such witnesses and the pro-
47 duction of such books, records, and papers as it may deem appropriate for any
48 investigation, deposition or hearing. For that purpose the board may issue
49 a subpoena for any witnesses or a subpoena duces tecum to compel the produc-

1 tion of any books, records or papers, directed to the sheriff of any county
 2 of the state of Idaho, where such witness resides, or may be found, which
 3 shall be served and returned in the same manner as a subpoena in a criminal
 4 case is served and returned. The fees and mileage of the witnesses shall be
 5 the same as that allowed in the district courts in criminal cases, which fees
 6 and mileage shall be paid from any funds in the state treasury in the same
 7 manner as other expenses of the board are paid. In any case of disobedience
 8 to, or neglect of, any subpoena or subpoena duces tecum served upon any per-
 9 son, or the refusal of any witness to testify to any matter regarding which
 10 he may lawfully be interrogated, it shall be the duty of the district court of
 11 any county in this state in which such disobedience, neglect or refusal oc-
 12 curs, or any judge thereof, on application by the board to compel compliance
 13 with the subpoena by proceedings for contempt as in the case of disobedience
 14 of the requirements of a subpoena issued from such court or for refusal to
 15 testify therein. The licensed person accused in such formal contested case
 16 shall have the same right of subpoena upon making application to the board
 17 therefor.

18 (5) Seek injunctive relief prohibiting the unlawful practice of
 19 medicine.

20 (6) Make and enter into contracts.

21 (7) Operate, manage, superintend and control the licensure of physi-
 22 cians.

23 (8) Develop and submit a proposed budget setting forth the amount nec-
 24 essary to perform its functions.

25 (9) Perform such other duties as set forth in the laws of this state.

26 (10) Provide such other services and perform such other functions as are
 27 necessary to fulfill its responsibilities.

28 ~~(11) Provide for reasonable fees through rules for administrative costs~~
 29 ~~and assess costs reasonably and necessarily incurred in the enforcement of~~
 30 ~~this chapter when a licensee has been found to be in violation of the provi-~~
 31 ~~sions of this chapter~~ Apply the provisions of section 12-117(5), Idaho Code,
 32 regarding the assessment of costs and fees incurred in the investigation and
 33 prosecution or defense of a licensee under this chapter.

34 (12) Prepare an annual report.

35 (13) Share with the department of labor personal identifying informa-
 36 tion of persons licensed under the provisions of this chapter necessary for
 37 the department of labor to identify workforce shortage areas in Idaho. The
 38 information provided to the department of labor concerning any person li-
 39 censed under this chapter shall remain confidential and not subject to pub-
 40 lic disclosure, as required in section 74-106, Idaho Code.

41 SECTION 12. That Section 54-1914, Idaho Code, be, and the same is hereby
 42 amended to read as follows:

43 54-1914. ADMINISTRATIVE ENFORCEMENT PROCEEDINGS. (1) The administra-
 44 tor may upon his own motion or at the direction of the board, and shall upon
 45 the verified complaint in writing of any person, investigate the actions of
 46 any public works contractor within the state and may undertake to reclas-
 47 sify, retype, place on probation, defer or precondition licensure, impose an
 48 administrative fine not to exceed twenty thousand dollars (\$20,000) per vi-
 49 olation, ~~impose the administrative costs of bringing the action including,~~

1 ~~but not limited to, hearing officer fees, expert witness fees, attorney's~~
2 ~~fees, costs of hearing transcripts and copies,~~ temporarily suspend or perma-
3 nently revoke any license if the holder, while a licensee or applicant here-
4 under, is guilty of or commits any one (1) or more of the following acts or
5 omissions:

6 (a) Abandonment without legal excuse of any construction project or op-
7 eration engaged in or undertaken by the licensee as a contractor-;i

8 (b) Diversion of funds or property received under express agreement for
9 prosecution or completion of a specific construction project or opera-
10 tion, or for a specified purpose in the prosecution or completion of any
11 construction project or operation, and their application or use for any
12 other construction project or operation, obligation or purpose, with
13 intent to defraud or deceive creditors or the owner-;i

14 (c) Willful departure from or disregard of, plans or specifications in
15 any material respect, and prejudicial to another, without consent of
16 the owner or his duly authorized representative, and without the con-
17 sent of the person entitled to have the particular construction project
18 or operation completed in accordance with such plans and specifica-
19 tions-;i

20 (d) Willful or deliberate disregard and violation of valid building
21 laws of the state, or of any political subdivision thereof, or of the
22 safety laws or labor laws or compensation insurance laws of the state-;i

23 (e) Misrepresentation of a material fact by an applicant in obtaining a
24 license-;i

25 (f) Aiding or abetting an unlicensed person to evade the provisions of
26 this chapter or conspiring with an unlicensed person, or allowing one's
27 license to be used by an unlicensed person, or acting as agent or partner
28 or associate or otherwise, of an unlicensed person, with the intent to
29 evade the provisions of this chapter-;i

30 (g) Failure in any material respect to comply with the provisions of
31 this chapter-;i

32 (h) Acting in the capacity of a contractor under any license issued
33 hereunder except: (1) in the name of the licensee as set forth upon the
34 license-;i or (2) in accordance with the personnel of the licensee as set
35 forth in the application for such license, or as later changed as pro-
36 vided in this chapter-;i

37 (i) Knowingly accepting a bid from, or entering into a contract with an-
38 other contractor for a portion of a public works project if at that time
39 such contractor does not possess the appropriate license to do that work
40 as provided in this chapter-;i

41 (j) Willful failure or refusal without legal excuse on the part of a
42 licensee as a contractor to finish a construction project or operation
43 with reasonable diligence, causing material injury to another-;i

44 (k) Willful or deliberate failure by any licensee, or agent or offi-
45 cer thereof, to pay any moneys when due, for any materials or services
46 rendered in connection with his operations as a contractor, when he has
47 the capacity to pay or when he has received sufficient funds therefor as
48 payment for the particular construction work, project or operation for
49 which the services or materials were rendered or purchased; or denial
50 of any such amount due or the validity of the claim thereof with intent

1 to secure for himself, his employer, or other person, any discount upon
 2 such indebtedness or with intent to hinder, delay or defraud the person
 3 to whom such indebtedness is due;i

4 (l) Suffers a change in financial circumstances which may impair the
 5 licensee's financial responsibility;i

6 (m) Holding oneself or one's firm out as a public works contractor by
 7 engaging in any act meeting the definition or character of a public
 8 works contractor as defined herein without a legally required license;i

9 or

10 (n) Failure to comply with subsection (1), (2) or (3) of section
 11 67-2310, Idaho Code.

12 (2) The administrator may upon his own motion or at the direction of the
 13 board, and shall upon the verified complaint in writing of any licensed pub-
 14 lic works contractor eligible to perform public works contracting duties,
 15 investigate the actions of any public entity within the state and may impose
 16 an administrative fine not to exceed five thousand dollars (\$5,000) per vi-
 17 olation ~~or impose the administrative costs of bringing the action includ-~~
 18 ~~ing, but not limited to, hearing officer fees, expert witness fees, attor-~~
 19 ~~ney's fees, costs of hearing transcripts and copies,~~ if the public agency
 20 contracts for public works construction with an unlicensed or improperly li-
 21 censed contractor or knowingly awards a contract based upon a bid or proposal
 22 not in compliance with subsection (1) or (2) of section 67-2310, Idaho Code.

23 (3) The assessment of costs and fees incurred to investigate and prose-
 24 cute or defend a complaint under this section shall be governed by the provi-
 25 sions of section 12-117(5), Idaho Code.

26 SECTION 13. That Section 54-2059, Idaho Code, be, and the same is hereby
 27 amended to read as follows:

28 54-2059. DISCIPLINARY POWERS -- REVOCATION, SUSPENSION OR OTHER DIS-
 29 CIPLINARY ACTION. (1) The commission may temporarily suspend or permanently
 30 revoke licenses issued under the provisions of this chapter, issue a formal
 31 reprimand and impose a civil penalty in an amount not to exceed five thousand
 32 dollars (\$5,000), ~~and assess costs and attorney's fees for the cost of any~~
 33 ~~investigation and administrative or other proceedings~~ against any licensee
 34 who is found to have violated any section of the Idaho Code, the commission's
 35 administrative rules or any order of the commission. The executive director
 36 may issue informal letters of reprimand to licensees without civil penalty
 37 or cost assessment.

38 (2) The commission may impose a civil penalty in an amount not to exceed
 39 five thousand dollars (\$5,000) ~~and assess costs and attorney's fees for the~~
 40 ~~cost of any investigation and administrative or other proceedings~~ against
 41 any person who is found, through a court or administrative proceeding, to
 42 have acted without a license in violation of section 54-2002, Idaho Code.
 43 The civil penalty provisions of this section are in addition to and not in
 44 lieu of any other actions or criminal penalties for acting as a broker or
 45 salesperson without a license which might be imposed by other sections of
 46 this chapter or Idaho law.

47 (3) The commission may also accept, on such conditions as it may pre-
 48 scribe, or reject any offer to voluntarily terminate the license of a person

1 whose activity is under investigation or against whom a formal complaint has
2 been filed.

3 (4) The assessment of fees and costs incurred in the investigation and
4 prosecution or defense of a licensee or other person under this section shall
5 be governed by the provisions of section 12-117(5), Idaho Code.

6 (25) If the commission suspends or revokes a license, or imposes a civil
7 penalty, or assesses costs and attorney's fees, the commission may withhold
8 execution of the suspension, revocation or civil penalty, or costs and at-
9 torney's fees on such terms and for such time as it may prescribe.

10 (36) If any amounts assessed against a defendant by final order of the
11 commission become otherwise uncollectible or payment is in default, and only
12 if all the defendant's rights to appeal have passed, the commission may then
13 proceed to district court and seek to enforce collection through judgment
14 and execution.

15 (47) All civil penalties, costs, and attorney's fees collected by the
16 commission under this chapter shall be deposited in the state treasury to the
17 credit of the special real estate fund established by section 54-2021, Idaho
18 Code. Any amounts of civil penalties so collected, deposited and credited
19 shall be expended for exclusive use in developing and delivering Idaho real
20 estate education.

21 SECTION 14. That Section 54-2118, Idaho Code, be, and the same is hereby
22 amended to read as follows:

23 54-2118. VIOLATIONS OF CHAPTER -- REMEDIES AND PENALTIES. In addition
24 to the disciplinary actions set forth in section 54-2115, Idaho Code:

25 (1) Administrative actions.

26 (a) Any person violating the provisions of this chapter, or violating a
27 rule promulgated by the board to implement the provisions of this chap-
28 ter, may be fined by the board or its duly authorized agent not more than
29 five thousand dollars (\$5,000) for each offense ~~and shall be liable for~~
30 ~~investigatory expenses and reasonable paralegal and attorney's fees,~~
31 ~~and;~~ provided that each act on each day of violation shall constitute
32 a separate offense. Imposition of a fine may be made in conjunction
33 with any other board administrative action. No fine may be assessed
34 unless the person charged was given notice and opportunity for a hearing
35 pursuant to the Idaho administrative procedure act. If a person fined
36 fails to fully pay the fine, investigatory expenses or reasonable para-
37 legal and attorney's fees, the board may recover such amount by action
38 in the appropriate district court. Any assessment for costs and attor-
39 ney's fees incurred in the investigation and prosecution or defense of a
40 person under this chapter shall be governed by the provisions of section
41 12-117(5), Idaho Code.

42 (b) The board may establish alternatives to formal disciplinary ac-
43 tion for violations of this chapter or board rules that may include a
44 practice remediation program to educate and remediate licensees and
45 certificate holders as a result of practice deficiencies. An alterna-
46 tive to formal discipline may be offered by the board's liaison officer
47 to a licensee or certificate holder when the officer has determined,
48 in his sound discretion, after consultation with and approval of the
49 board president or vice president if the president is unavailable, that

1 animal and public safety will not be compromised and the violation can
2 most appropriately be resolved without formal discipline. To further
3 the purposes of an alternative to discipline, it will be offered only
4 by or through the liaison officer and, unless the person violates its
5 terms, the full board will not be informed of the alternative to disci-
6 pline or have to expressly approve its terms. An alternative to formal
7 discipline shall not be available and may not be offered by the liaison
8 officer in any of the following circumstances:

9 (i) Within the preceding five (5) years, the person has been for-
10 mally disciplined by the board or been the subject of an alterna-
11 tive to discipline under this subsection;

12 (ii) The person is currently on probation by the board;

13 (iii) The person is currently under investigation by the board for
14 any other offense;

15 (iv) Felony charges are pending against the person, or the person
16 is the subject of a current criminal investigation involving al-
17 legations that, if verified, may reasonably be expected to affect
18 the person's qualifications or eligibility to remain licensed or
19 certified under this chapter; or

20 (v) The act or omission committed by the person:

21 1. Caused significant harm to an animal;

22 2. Created a substantial risk likely to cause significant
23 harm to an animal; or

24 3. Involved fraud or deception.

25 Among other terms and conditions, an alternative to formal discipline
26 may require the licensee or certificate holder to comply with the in-
27 structions of the board's liaison officer on remedying the violation,
28 pay a monetary civil penalty to the board of up to one thousand dollars
29 (\$1,000) and pay all board investigative expenses and costs associated
30 with the file, if warranted under section 12-117(5), Idaho Code.

31 Upon successful completion of the terms and conditions of the alterna-
32 tive to discipline, the violation shall not be considered "discipline,"
33 shall not be reported to any national disciplinary database, and docu-
34 ments and records related to the violation shall be exempt from disclo-
35 sure under chapter 1, title 74, Idaho Code.

36 (2) Civil court proceedings. The board, the attorney general's of-
37 fice, a county prosecuting attorney or any citizen of this state may bring an
38 action in the district court of either Ada county or any county where a viola-
39 tion is occurring, to enjoin any person from practicing veterinary medicine
40 or practicing as a certified veterinary technician, certified euthanasia
41 technician or any agency operating as a certified euthanasia agency without
42 a currently valid, active license, certification, temporary permit or tem-
43 porary certification. If the court finds that the person is violating the
44 provisions of this chapter, it shall enter an injunction restraining that
45 person from such unlawful acts.

46 (3) Criminal actions. Any person who practices veterinary medicine,
47 any person practicing as a certified veterinary technician, a certified eu-
48 thanasia technician or any agency operating as a certified euthanasia agency
49 without a currently valid, active license, certification, temporary permit
50 or temporary certification shall be guilty of a misdemeanor and upon convic-

1 tion or withheld judgment shall be fined not less than one hundred dollars
 2 (\$100), nor more than ten thousand dollars (\$10,000), or incarcerated for no
 3 more than one hundred eighty (180) days, or both fined and incarcerated, and
 4 provided that each act of such unlawful practice shall constitute a distinct
 5 and separate offense.

6 (4) The remedies set forth in this section are not mutually exclusive
 7 and a successful action on any one (1) remedy does not preclude action on some
 8 or all of the other remedies.

9 SECTION 15. That Section 54-2220, Idaho Code, be, and the same is hereby
 10 amended to read as follows:

11 54-2220. DISCIPLINE ACTIONS AND PROCEDURES. (1) The board shall regu-
 12 late the practice of physical therapy in the state of Idaho. The board is au-
 13 thorized to institute any investigation, hearing or other legal proceeding
 14 necessary to effect compliance with this chapter.

15 (2) The board or its hearing officer, upon a finding that action is nec-
 16 essary, shall have the power pursuant to this chapter to administer oaths,
 17 take depositions of witnesses within or without the state in the manner pro-
 18 vided by the administrative rules adopted by the board, and shall have power
 19 throughout the state of Idaho to require the attendance of such witnesses and
 20 the production of such books, records and papers as it may desire at any hear-
 21 ing and for that purpose the board may issue a subpoena for any witness or a
 22 subpoena duces tecum to compel the production of any books, records or pa-
 23 pers, directed to the sheriff of any county of the state of Idaho, where such
 24 witness resides or may be found which shall be served and returned. The board
 25 may require a licensee to be examined to determine his or her mental or phys-
 26 ical competence when the board has probable cause to believe the licensee is
 27 suffering from an impairment that might impede his or her ability to practice
 28 competently.

29 (3) When it is brought to the attention of the board by the written
 30 statement of any person that a person licensed under this chapter has done
 31 any act or thing in violation of any provision of this chapter, the board
 32 shall immediately make an investigation of such person, and, if the board
 33 finds that there is probable cause to institute proceedings against such
 34 person, it shall without unnecessary delay transmit to that person by mail, a
 35 copy of the charges and shall fix a day for a hearing upon the matter. ~~S.~~ Said
 36 hearing shall be conducted in accordance with chapter 52, title 67, Idaho
 37 Code, and with the administrative rules adopted by the board.

38 (4) An assessment for costs and attorney's fees incurred in the inves-
 39 tigation and prosecution or defense of a person under this section shall be
 40 governed by the provisions of section 12-117(5), Idaho Code.

41 (5) The board may investigate any person to the extent necessary to de-
 42 termine if the person is engaged in the unlawful practice of physical ther-
 43 apy. If an investigation indicates that a person may be practicing physical
 44 therapy unlawfully, the board shall inform the person of the alleged viola-
 45 tion. The board may refer the matter for prosecution whether or not the per-
 46 son ceases the unlawful practice of physical therapy.

47 (56) The board may, in the name of the people of the state of Idaho, ap-
 48 ply for injunctive relief in any court of competent jurisdiction to enjoin
 49 any person from committing any act in violation of this chapter. Such in-

1 junction proceedings shall be in addition to, and not in lieu of, all penal-
2 ties and other remedies provided for in this chapter.

3 SECTION 16. That Section 54-2221, Idaho Code, be, and the same is hereby
4 amended to read as follows:

5 54-2221. DISCIPLINARY ACTIONS -- PENALTIES. The board may, upon
6 proof that a person has violated any provision contained in this chapter,
7 take the following disciplinary actions singly or in combination:

8 (1) Issue a censure or reprimand by informal admonition for minor mis-
9 conduct found by the board, which censure or reprimand shall be subject to
10 disclosure according to chapter 1, title 74, Idaho Code;

11 (2) Impose restrictions and/or conditions as to scope of practice,
12 place of practice, supervision of practice, duration of licensed status, or
13 type or condition of patient or client served. The board may require a li-
14 censee to report regularly to the board on matters regarding the restricted
15 license;

16 (3) Suspend a license, the duration of which shall be determined by the
17 board;

18 (4) Revoke a license;

19 (5) Refuse to issue or renew a license;

20 (6) Impose a reasonable fine for violation of this chapter in an amount
21 not to exceed a maximum amount as set forth in the administrative rules
22 adopted by the board;

23 (7) Accept a voluntary surrender of a license;

24 (8) Assess costs and attorney's fees against a licensee for any inves-
25 tigation and/or administrative proceeding, pursuant to the provisions of
26 section 12-117(5), Idaho Code.

27 SECTION 17. That Section 54-2925, Idaho Code, be, and the same is hereby
28 amended to read as follows:

29 54-2925. DISCIPLINARY ACTIONS -- PENALTIES. (1) The board, upon re-
30 ceipt of a recommendation received from the licensure board that a person has
31 violated any provision of this chapter, may take the following disciplinary
32 actions singly or in combination:

33 (1a) Issue a formal reprimand;

34 (2b) Require additional education as a requirement for continued prac-
35 tice;

36 (3c) Impose restrictions and/or conditions as to scope of practice,
37 place of practice, supervision of practice, duration of license status,
38 or type or condition of client served. The board may require a licensee
39 to report regularly to the board on matters regarding the restricted
40 license;

41 (4d) Suspend a license, the duration of which shall be determined by the
42 board;

43 (5e) Revoke a license;

44 (6f) Refuse to issue or renew a license; or

45 (7g) Impose a fine not to exceed one thousand dollars (\$1,000) for each
46 violation of this chapter; ~~or.~~

1 (82) ~~Assess~~ The assessment of costs and attorney's fees against a li-
2 icensee for any investigation and/or and prosecution or defense in an admin-
3 istrative proceeding against a licensee shall be governed by the provisions
4 of section 12-117(5), Idaho Code.

5 SECTION 18. That Section 54-3113, Idaho Code, be, and the same is hereby
6 amended to read as follows:

7 54-3113. INVESTIGATION OF VIOLATIONS -- HEARING. The board shall,
8 upon a verified complaint in writing by any member of the board or by a cer-
9 tified shorthand reporter or any person claiming to have been injured or
10 defrauded, investigate the actions of any certified shorthand reporter al-
11 leged to have committed a violation of this chapter or any of the grounds for
12 revocation or suspension of a certificate. For the purpose of such inves-
13 tigation and hearings, each member of the board is empowered to administer
14 oaths and affirmations, subpoena witnesses, and hear and receive evidence
15 anywhere in the state. Upon conclusion of the hearings, the board shall
16 determine by majority vote whether the certificate of the certified short-
17 hand reporter should be revoked or suspended for a stated period of time, or
18 whether such disciplinary action short of suspension or revocation should
19 be imposed, including, but not limited to, conditional probationary periods
20 and the imposition of fines ~~and costs~~, or whether the complaint should be
21 dismissed. The proceedings and hearings pursuant to this section shall be
22 governed by chapter 52, title 67, Idaho Code. The assessment of costs and
23 attorney's fees shall be governed by the provisions of section 12-117(5),
24 Idaho Code.

25 SECTION 19. That Section 54-3720, Idaho Code, be, and the same is hereby
26 amended to read as follows:

27 54-3720. PENALTIES AND DISCIPLINARY ACTIONS. (1) Any person who vio-
28 lates any provision of this chapter shall, upon conviction, be guilty of a
29 misdemeanor.

30 (2) In addition to the penalties provided for in subsection (1) of this
31 section, the board may impose separately, or in combination, any of the fol-
32 lowing disciplinary actions on a licensee as provided in this chapter:

33 (a) Refuse to issue or renew a license;

34 (b) Suspend or revoke a license;

35 (c) Impose probationary conditions;

36 (d) Issue a letter of reprimand or concern;

37 (e) Require restitution of fees;

38 (f) Impose a fine as provided for by rule ~~which that~~ deprives the li-
39 censee of any economic advantage gained by the violation ~~and which reim-~~
40 ~~burses the board for costs of the investigation and proceeding;~~

41 (g) Impose practice and/or supervision requirements;

42 (h) Require licensees to participate in continuing competence activi-
43 ties specified by the board;

44 (i) Accept a voluntary surrendering of license; or

45 (j) Take other appropriate corrective actions, including advising
46 other parties, as needed, to protect their legitimate interests and to
47 protect the public.

1 (3) The assessment of costs and attorney's fees incurred in an inves-
2 tigation and prosecution or defense in an administrative proceeding against
3 a licensee shall be governed by the provisions of section 12-117(5), Idaho
4 Code.

5 (4) If the board imposes suspension or revocation of license, applica-
6 tion may be made to the board for reinstatement, subject to the limits of this
7 chapter. The board shall have discretion to accept or reject an application
8 for reinstatement and may require an examination or other satisfactory proof
9 of eligibility for reinstatement.

10 (45) If a licensee is placed on probation, the board may require the li-
11 cense holder to:

12 (a) Report regularly to the board on matters that are the basis of pro-
13 bation;

14 (b) Limit practice to the areas prescribed by the board;

15 (c) Continue to review continuing competence activities until the
16 license holder attains a degree of skill satisfactory to the board in
17 those areas that are the basis of the probation; or

18 (d) Provide other relevant information to the board.

19 (56) (a) The board is empowered to apply for relief by injunction, with-
20 out bond, to restrain any person, partnership, or corporation from any
21 threatened or actual act or practice, ~~which that~~ constitutes an offense
22 under the provisions of this chapter. It shall not be necessary for the
23 board to allege and prove that there is no adequate remedy at law in or-
24 der to obtain the relief requested. The members of the board shall not
25 be individually liable for applying for such relief.

26 (b) If a person other than a licensed occupational therapist or occu-
27 pational therapy assistant threatens to engage in or has engaged in any
28 act or practice ~~which that~~ constitutes an offense under the provisions
29 of this chapter, a district court of any county on application of the
30 board may issue an injunction or other appropriate order restraining
31 such conduct.

32 SECTION 20. That Section 54-3913, Idaho Code, be, and the same is hereby
33 amended to read as follows:

34 54-3913. BOARD OF MEDICINE AND BOARD OF ATHLETIC TRAINERS -- POWERS
35 AND DUTIES. (1) The board shall administer, coordinate, and enforce the pro-
36 visions of this chapter, evaluate the qualifications and fitness of appli-
37 cants, and approve the applications for licensure under this chapter, and
38 may issue subpoenas, examine witnesses, and administer oaths, and may inves-
39 tigate practices which are alleged to violate the provisions of this chap-
40 ter. The board of athletic trainers shall evaluate all applicants for qual-
41 ification and fitness for licensure and make recommendations to and consult
42 with the board concerning issuance of licenses, revocation of licenses and
43 rules to be promulgated under this chapter.

44 (2) The board shall, upon recommendation of the board of athletic
45 trainers, adopt rules pursuant to chapter 52, title 67, Idaho Code, relating
46 to professional conduct to carry out the policy of this chapter including,
47 but not limited to, rules relating to professional licensure and to the
48 establishment of ethical standards of practice, disciplinary proceedings,
49 refusal to renew license proceedings, license suspension proceedings, or

1 license revocation proceedings for persons licensed to practice as an ath-
2 letic trainer in this state.

3 (3) The board of athletic trainers shall hold meetings, conduct hear-
4 ings and keep records and minutes as are necessary to carry out its func-
5 tions.

6 (4) Every person licensed as an athletic trainer in Idaho shall be sub-
7 ject to discipline pursuant to the powers set forth in this chapter and the
8 rules of the board of medicine promulgated pursuant thereto. The board of
9 athletic trainers shall have no authority to impose sanctions or limitations
10 or conditions on licenses issued under this chapter and shall be authorized
11 only to make recommendations to the board with respect thereto. Members of
12 the board of athletic trainers shall disqualify themselves and, on motion of
13 any interested party, may on proper showing, be disqualified in any proceed-
14 ing concerning which they have an actual conflict of interest or bias which
15 interferes with their fair and impartial service.

16 (5) In addition to its other powers, the board of athletic trainers
17 shall be empowered and authorized:

18 (a) To recommend that the board reprimand by informal admonition any
19 licensed athletic trainer respecting any matter it finds is minor mis-
20 conduct. Such reprimand shall be subject to disclosure according to
21 chapter 1, title 74, Idaho Code.

22 (b) To recommend that the board order, for good cause, nondisciplinary
23 suspension or transfer to inactive status of any licensed athletic
24 trainer incapacitated by illness, senility, disability, or addiction
25 to drugs, intoxicants or other chemical or like substances, and to
26 provide terms and conditions therefor, including provisions and con-
27 ditions controlling reinstatement and any request therefor; provided,
28 this paragraph shall not be construed to amend or repeal specific leg-
29 islation expressly dealing with disabled athletic trainers whether
30 heretofore or hereafter enacted by the legislature of the state of
31 Idaho, but rather shall be construed as complementary thereto.

32 (c) To recommend that the board accept the resignation and surrender of
33 the license of any athletic trainer under investigation or prosecution
34 who tenders the same, and to impose terms and conditions in connection
35 therewith as it may deem appropriate in the best interests of the public
36 and of justice.

37 (d) To recommend that the board provide by order for reciprocal disci-
38 pline in cases involving a licensed athletic trainer or applicant disci-
39 plined in any other jurisdiction, provided that such licensee or ap-
40 plicant shall be entitled to appear and show cause why such order should
41 not apply in his or her case.

42 (e) To recommend that the board provide for reasonable fees through
43 rules for administrative costs and ~~assess costs reasonably and neces-~~
44 ~~sarily incurred in the enforcement of this chapter when a licensee or~~
45 ~~applicant has been found to be in violation of this chapter.~~

46 (6) The assessment of attorney's fees and costs incurred in an investi-
47 gation and prosecution or defense in an administrative proceeding against a
48 licensee under this chapter shall be governed by the provisions of section
49 12-117(5), Idaho Code.

1 SECTION 21. That Section 54-4132, Idaho Code, be, and the same is hereby
2 amended to read as follows:

3 54-4132. ADDITIONAL POWERS OF THE BOARD. In addition to the powers
4 conferred elsewhere in this chapter, the board shall have the power under
5 this act, in relation to appraisal management companies, to:

6 (1) Authorize by written agreement the bureau of occupational licenses
7 to act as its agent, to act in its interest and, in its discretion, to con-
8 tract with the bureau of occupational licenses for those services deemed
9 necessary for the proper administration of this act;

10 (2) Adopt, pursuant to the administrative procedure act, rules that are
11 consistent with the provisions of this act and are not in conflict with state
12 or federal law that may be reasonably necessary to implement, administer and
13 enforce the provisions of this act;

14 (3) Conduct investigations into violations of this act;

15 (4) Receive applications for and approve registration of appraisal
16 management companies pursuant to the provisions of this act;

17 (5) Hold meetings and hearings at such times as it may designate;

18 (6) Collect, deposit and disburse application and other fees and in-
19 come;

20 (7) Collect the actual costs and fees, including attorney's fees, in-
21 curred by the board in the investigation and prosecution of an AMC upon the
22 finding of a violation of this act or a rule adopted or an order issued by the
23 board under this act. Provided, however, that the assessment of costs and
24 fees against or in favor of a licensee under this chapter shall be governed by
25 the provisions of section 12-117(5), Idaho Code;

26 (8) Take such action as may be necessary to enforce the provisions of
27 this act and to regulate appraisal management companies;

28 (9) Report an AMC's violation of applicable appraisal-related laws,
29 regulations or orders, as well as disciplinary and enforcement actions or
30 other relevant information about an AMC's operations to state and federal
31 agencies; and

32 (10) Require new applicants, owners or designated controlling persons
33 for each new applicant to submit to a satisfactory fingerprint-based crimi-
34 nal history check of the Idaho central criminal database and the federal bu-
35 reau of investigation criminal history database and to collect fees from ap-
36 plicants for the cost of such background checks.

37 SECTION 22. That Section 54-5215, Idaho Code, be, and the same is hereby
38 amended to read as follows:

39 54-5215. AUTHORITY TO INVESTIGATE AND DISCIPLINE -- SUSPENSION OR
40 REVOCATION OF REGISTRATION. (1) The board may investigate any person en-
41 gaged in contracting within the state of Idaho, or any person believed to
42 have acted as a contractor without being duly registered as required by this
43 chapter. Upon receipt of a written complaint from a person who claims to have
44 been injured or defrauded by such person, or upon information received by the
45 board, the board shall perform an investigation of the facts alleged against
46 such person. If the board investigation reveals that the facts alleged or
47 received are sufficient to proceed with a formal action, the board may autho-
48 rize the filing of an administrative complaint against such person and may

1 seek injunctive relief prohibiting such person from engaging in construc-
2 tion.

3 (2) The board shall have the authority to issue informal letters of rep-
4 rimand, suspend or revoke a registration, impose a civil penalty in an amount
5 not to exceed one thousand dollars (\$1,000), ~~recover the costs and fees in-~~
6 ~~curring in an investigation and prosecution,~~ or to issue a formal reprimand
7 against any registered contractor if, after an opportunity for a hearing,
8 the board determines that:

9 (a) A contractor has violated any of the provisions of this chapter in-
10 cluding, but not limited to, failure to keep current or provide insur-
11 ance coverage as required by this chapter;

12 (b) A contractor has violated any of the provisions of chapter 6, title
13 48, Idaho Code, relating to consumer protection including, but not lim-
14 ited to, making fraudulent misrepresentations to consumers;

15 (c) A contractor employed fraud or deception, made a misrepresentation
16 or misstatement, or employed any unlawful means in applying for or se-
17 curing registration as a contractor;

18 (d) A contractor employed fraud or deception, made a misrepresentation
19 or misstatement, or employed any unlawful means in applying for or se-
20 curing a building permit or other permits for construction of any type;

21 (e) A contractor failed to pay the required fee for registration as pro-
22 vided in this chapter;

23 (f) A contractor has been convicted of or has engaged in conduct consti-
24 tuting a violation of public laws, ordinances or rules of this state,
25 or any subdivision thereof, relevant to contracting, reflecting on
26 the registered contractor's ability or qualifications to continue
27 contracting for other persons, and making the registered contractor a
28 threat to the public safety, health or well-being;

29 (g) A contractor has engaged in any other conduct whether of the same
30 or a different character than hereinabove specified which constitutes
31 dishonest or dishonorable dealings;

32 (h) A contractor was grossly negligent or reckless in his conduct in
33 the performance of construction. For purposes of this chapter, conduct
34 is grossly negligent or reckless if, when taken as a whole, it is con-
35 duct which substantially fails to meet the generally accepted standard
36 of care in the practice of construction in Idaho;

37 (i) A contractor had a license, registration or certification revoked,
38 suspended or refused by this or another state, territory, incorporated
39 municipality, county, alternative form of local government, or other
40 municipal or political corporation or subdivision of this or another
41 state, or omitted such information from any application to the board, or
42 failed to divulge such information when requested by the board;

43 (j) A contractor has been adjudged mentally incompetent by a court of
44 competent jurisdiction; or

45 (k) A contractor interfered with an investigation or disciplinary pro-
46 ceeding by a willful misrepresentation of facts or by the use of threats
47 or harassment against any person to prevent such person from providing
48 evidence in a disciplinary proceeding, investigation or other legal ac-
49 tion instituted in accordance with this chapter.

1 (3) A contractor whose registration has been revoked or suspended shall
 2 be required to return his certificate of registration within the time de-
 3 termined by the board or, upon a failure to do so, shall be liable for civil
 4 penalties as set by the board but not to exceed fifty dollars (\$50.00) per day
 5 for each day the certificate is not returned after the expiration of the pe-
 6 riod allowed.

7 (4) The suspension or revocation of a registration shall be considered
 8 a contested case as provided for in chapter 52, title 67, Idaho Code, and
 9 shall be subject to the provisions of that chapter as well as the administra-
 10 tive rules adopted by the board governing contested cases.

11 (5) The assessment of attorney's fees and costs incurred in the inves-
 12 tigation and prosecution or defense of a person under this section shall be
 13 governed by the provisions of section 12-117(5), Idaho Code.

14 SECTION 23. That Section 54-5607, Idaho Code, be, and the same is hereby
 15 amended to read as follows:

16 54-5607. BOARD POWERS. (1) The board shall have the following powers:
 17 (1a) To receive applications for licensure, determine the qualifica-
 18 tions of persons applying for licensure, provide licenses to applicants
 19 qualified under the provisions of this chapter and reinstate and deny
 20 licenses;
 21 (2b) To establish by rule and collect fees as prescribed by this chap-
 22 ter;
 23 (3c) To maintain records necessary to carry out its duties under this
 24 chapter;
 25 (4d) To pass upon the qualifications and fitness of applicants for
 26 licenses and to adopt rules requiring annual continuing education as a
 27 condition for the renewal of licenses issued under this chapter;
 28 (5e) To prescribe by rule the minimum number of and qualifications for
 29 continuing education units (CEUs) to be required of each genetic coun-
 30 selor seeking to obtain or renew a license in the state of Idaho and for
 31 the approval of continuing education courses;
 32 (6f) To examine for, deny, approve, issue, revoke and suspend licenses
 33 pursuant to this chapter and to conduct investigations and hearings in
 34 connection with such actions;
 35 (7g) Establish requirements for reinstatement and renewal of licenses;
 36 (8h) To adopt and revise such rules as may be necessary to carry into ef-
 37 fect the provisions of this chapter in compliance with chapter 52, title
 38 67, Idaho Code. The rules shall include, but shall not be limited to,
 39 a code of ethics for genetic counselors and licensed genetic counselor
 40 standards of practice;
 41 (9i) In any proceeding before the board authorized by this chapter, the
 42 board or its designee may administer oaths or affirmations to witnesses
 43 appearing before it; and
 44 ~~(10) The board may recover the actual costs and fees, including attor-~~
 45 ~~ney's fees, incurred by the board in the investigation and prosecution of a~~
 46 ~~licensee upon the finding of a violation of this chapter or a rule adopted or~~
 47 ~~an order issued by the board under this chapter;~~
 48 (11j) To take such action as may be necessary to enforce the provisions
 49 of this chapter and to regulate the practice of genetic counseling.

1 (±2) In a final order, the board may impose a civil penalty not to exceed
2 one thousand dollars (\$1,000) for each violation by a licensee of this chap-
3 ter or of rules adopted by the board, ~~and.~~

4 (±3) ~~To~~ The board may authorize, by written agreement, the bureau of oc-
5 cupational licenses as its agent to act in its interest and, in its discre-
6 tion, to contract with the bureau of occupational licenses for those ser-
7 vices deemed necessary for the proper administration of this chapter.

8 (4) The assessment of costs and attorney's fees incurred in the inves-
9 tigation and prosecution or defense of a licensee under this chapter shall be
10 governed by the provisions of section 12-117(5), Idaho Code.

11 SECTION 24. That Section 55-1811, Idaho Code, be, and the same is hereby
12 amended to read as follows:

13 55-1811. GENERAL POWERS AND DUTIES. (1) The commission shall have the
14 authority to promulgate, to amend and to repeal reasonable rules for the ad-
15 ministration and enforcement of this chapter. Such rules may include provi-
16 sions for advertising standards to assure full and fair disclosure; provi-
17 sions for bond, escrow or trust agreements or other means to assure that all
18 improvements referred to in the application for registration and advertis-
19 ing will be completed and that purchasers will receive the interest in land
20 for which they contracted; provisions for operating procedures; and such
21 other rules as are necessary or proper to accomplish the purposes of this
22 chapter.

23 (2) The commission may revoke a registration ordered under the provi-
24 sions of this chapter, ~~and~~ issue a cease and desist order ~~and assess costs~~
25 ~~and attorney's fees for the cost of any investigation and administrative or~~
26 ~~other proceedings~~ against any person who is found to have violated any sec-
27 tion of this chapter, the commission's administrative rules or any order of
28 the commission. The assessment of costs and attorney's fees for the investi-
29 gation and prosecution or defense of a person registered under this chapter
30 shall be governed by the provisions of section 12-117(5), Idaho Code. If any
31 amounts assessed against a subdivider by final order of the commission be-
32 come otherwise uncollectible or payment is in default, and only if all of the
33 defendant's rights to appeal have passed, the commission may then proceed
34 to district court and seek to enforce collection through judgment and execu-
35 tion, including an action against any bond filed or escrow or trust funds de-
36 posited pursuant to section 55-1806, Idaho Code.

37 (3) Whenever it appears that a person has engaged or is about to engage
38 in acts or practices that constitute or will constitute a violation of the
39 provisions of this chapter or of a rule or order hereunder, the commission,
40 with or without prior administrative proceedings, may bring an action in any
41 district court to enjoin the acts or practices and to enforce compliance with
42 this chapter or any rule or order hereunder. Upon a proper showing, a perma-
43 nent or temporary injunction or restraining order may be granted.

44 (4) The commission may intervene in a suit involving subdivided lands.
45 In any suit by or against a subdivider involving subdivided lands, the subdi-
46 vider promptly shall furnish the commission notice of the suit and copies of
47 all pleadings.

48 (5) The commission may:

- 1 (a) Accept registrations filed in other states or with the federal gov-
 2 ernment;
- 3 (b) Contract with the association of real estate license law officials
 4 to use its web-based file management system to accept registrations and
 5 related filings and to reduce the registration fees for applicants who
 6 use the web-based system to file registration documents;
- 7 (c) Contract with similar agencies in this state or other jurisdictions
 8 to perform investigative functions.
- 9 (6) The commission shall cooperate with similar agencies in other ju-
 10 risdications to establish uniform filing procedures and forms, uniform pub-
 11 lic offering statements, advertising standards, rules and common adminis-
 12 trative practices.

13 SECTION 25. That Section 67-2601A, Idaho Code, be, and the same is
 14 hereby amended to read as follows:

15 67-2601A. DIVISION OF BUILDING SAFETY. (1) The division of building
 16 safety will be headed by an administrator appointed by and serving at the
 17 will of the governor. The division administrator, deputy administrators and
 18 regional managers shall be nonclassified employees exempt from the provi-
 19 sions of chapter 53, title 67, Idaho Code.

20 (2) The administrator shall administer the following provisions and
 21 shall perform such additional duties as are imposed on him by law: chapter
 22 41, title 39, Idaho Code, relating to the building code board; chapter 40,
 23 title 39, Idaho Code, relating to manufactured homes; chapter 43, title 39,
 24 Idaho Code, relating to factory built structures; chapter 21, title 44,
 25 Idaho Code, relating to manufactured home dealer and installer licensing;
 26 chapter 25, title 44, Idaho Code, relating to mobile home rehabilitation;
 27 chapter 10, title 54, Idaho Code, relating to electrical contractors and
 28 journeymen; chapter 19, title 54, Idaho Code, relating to licensing of
 29 public works contractors; chapter 26, title 54, Idaho Code, relating to
 30 plumbing and plumbers; chapter 45, title 54, Idaho Code, relating to public
 31 works construction management licensing; chapter 50, title 54, Idaho Code,
 32 relating to heating, ventilation and air conditioning systems; chapter 80,
 33 title 39, Idaho Code, relating to school building safety; chapter 589, title
 34 33, Idaho Code, relating to Idaho school safety and security; chapter 86,
 35 title 39, Idaho Code, relating to elevator safety; and chapter 22, title 55,
 36 Idaho Code, relating to underground facilities damage prevention.

37 (3) The administrator shall also have the authority to perform safety
 38 inspections and safety training programs for logging operations in Idaho.

39 (a) When an inspection reveals evidence of a condition that poses an im-
 40 mediate threat of serious bodily harm or loss of life to any person, the
 41 administrator may issue an order to immediately stop the work or close
 42 the facility or site where the threat exists. The safety order shall not
 43 be rescinded until after the threat has been corrected or removed.

44 (b) The safety order may be enforced by the attorney general in a civil
 45 action brought in the district court for the county wherein the haz-
 46 ardous work site or facility is located.

47 (c) Any person who knowingly fails or refuses to comply with such an or-
 48 der is guilty of a misdemeanor.

1 (d) The administrator shall promulgate rules adopting minimum logging
2 safety standards and procedures for conducting inspections and safety
3 training.

4 (4) In addition to safety inspections of state-owned public buildings
5 conducted under chapter 23, title 67, Idaho Code, the administrator may con-
6 duct safety inspections of buildings owned or maintained by political sub-
7 divisions of the state upon receipt of a written request from the governing
8 body of that political subdivision, subject to the availability of division
9 resources and the requesting entity's agreement to pay the division's cur-
10 rent fees for such an inspection.

11 (a) The findings of the inspection shall be reported to the governing
12 body of the political subdivision.

13 (b) The administrator may promulgate rules adopting minimum safety
14 standards and procedures for conducting such inspections, as well as
15 fees for performing the same.

16 (c) For purposes of this section, "political subdivision" means any
17 governmental unit or special district of the state of Idaho other than
18 public school districts.

19 (5) In administering the laws regulating professions, trades and occu-
20 pations that are devolved for administration upon the division, and in addi-
21 tion to the authority granted to the administrator by the laws and rules of
22 the agencies and entities within the division, the administrator may:

23 (a) Revise the operating structure of the division as needed to provide
24 efficient and appropriate services to the various professions, trades,
25 occupations and programs administered within the division;

26 (b) Conduct examinations to ascertain the qualifications and fitness
27 of applicants to exercise the profession, trade or occupation for which
28 an examination is held; pass upon the qualifications of applicants for
29 reciprocal licenses, certificates and authorities; prescribe rules for
30 a fair and impartial method of examination of candidates to exercise the
31 respective professions, trades or occupations; issue registrations,
32 licenses and certificates; and until fees are established in rule, the
33 administrator shall charge a fee of seventy-five dollars (\$75.00) for
34 each examination administered;

35 (c) Conduct hearings on proceedings to discipline, renew or reinstate
36 licenses, certificates or authorities of persons exercising the re-
37 spective professions, trades or occupations; appoint hearing officers,
38 administer oaths, issue subpoenas, and compel the attendance of wit-
39 nesses; revoke, suspend, refuse to renew, or take other disciplinary
40 action against such licenses, certifications or authorities; and
41 prescribe rules to ~~recover~~ assess costs and fees incurred in the inves-
42 tigation and prosecution or defense of any certificate holder, licensee
43 or registrant of the division, its boards, bureaus and programs, in ac-
44 cordance with the provisions of section 12-117(5), Idaho Code, the con-
45 tested case provisions of chapter 52, title 67, Idaho Code, and the laws
46 and rules of the boards, bureaus and programs the division administers;

47 (d) Assess civil penalties as authorized;

48 (e) Promulgate rules establishing: a coordinated system for the
49 issuance, renewal, cancellation and reinstatement of licenses, cer-
50 tificates, registrations and permits; assessment of all related fees;

1 the terms by which fees may be prorated, if any; and procedures for the
2 replacement of lost or destroyed licenses, certificates or registra-
3 tions; and

4 (f) Promulgate other rules as may be necessary for the orderly adminis-
5 tration of the chapters specified in subsection (2) of this section, ex-
6 cept for those related to underground facilities damage prevention con-
7 tained in chapter 22, title 55, Idaho Code, and such rules as may other-
8 wise be required by those chapters as well as rules for the standardiza-
9 tion of operating procedures.

10 (6) Notwithstanding any law governing any specific board, bureau or
11 program comprising the division of building safety, each board member shall
12 hold office until a successor has been duly appointed and qualified.

13 (7) The administrator shall have the authority to employ individuals,
14 make expenditures, enter into contracts, require reports, make investiga-
15 tions, travel, and take other actions deemed necessary.

16 SECTION 26. That Section 67-2602, Idaho Code, be, and the same is hereby
17 amended to read as follows:

18 67-2602. BUREAU OF OCCUPATIONAL LICENSES. (1) The bureau of occupa-
19 tional licenses created in the department of self-governing agencies by
20 section 67-2601, Idaho Code, shall be empowered, by written agreement be-
21 tween the bureau and each agency for which it provides administrative or
22 other services as provided by law, to provide such services for the board of
23 acupuncture, board of architectural examiners, athletic commission, board
24 of barber examiners, certified shorthand reporters board, board of chiro-
25 practic physicians, Idaho contractors board, board of cosmetology, licens-
26 ing board of professional counselors and marriage and family therapists,
27 state board of dentistry, drinking water and wastewater professionals,
28 state driving businesses licensure board, Idaho board of massage therapy,
29 Idaho board of registration for professional geologists, speech and hear-
30 ing services licensure board, physical therapy licensure board, board of
31 landscape architects, liquefied petroleum gas safety board, board of mor-
32 ticians, board of naturopathic medical examiners, board of examiners of
33 nursing home administrators, occupational therapy licensure board, board of
34 optometry, board of podiatry, board of psychologist examiners, real estate
35 appraiser board, board of examiners of residential care facility adminis-
36 trators, board of social work examiners, board of midwifery and such other
37 professional and occupational licensing boards or commodity commissions as
38 may request such services. The bureau may charge a reasonable fee for such
39 services provided any agency not otherwise provided for by law and shall
40 maintain proper accounting methods for all funds under its jurisdiction.

41 (2) Notwithstanding the statutes governing specific boards, for any
42 board that contracts with the bureau of occupational licenses, each board
43 member shall hold office until a successor has been duly appointed and qual-
44 ified.

45 (3) The department of self-governing agencies, by and through the bu-
46 reau of occupational licenses, shall be empowered to provide administrative
47 or other services for the administration of chapter 48, title 54, Idaho Code,
48 to issue, suspend, revoke or refuse to renew licenses and certificates, to

1 issue subpoenas, to prescribe and impose fees and to assess administrative
2 penalties pursuant to the provisions of chapter 48, title 54, Idaho Code.

3 (4) Agencies that contract with the bureau of occupational licenses
4 for administrative services may assess and the bureau may ~~collect~~ assess
5 costs, fees and attorney's fees reasonably incurred in the investigation and
6 prosecution or defense of a licensee or registrant ~~who is found to have vio-~~
7 ~~lated the laws or rules of the agency,~~ pursuant to the provisions of section
8 12-117(5), Idaho Code.

9 SECTION 27. That Section 67-2609, Idaho Code, be, and the same is hereby
10 amended to read as follows:

11 67-2609. REGISTRATION OF OCCUPATIONS. (a) The bureau of occupational
12 licenses shall, wherever the several laws regulating professions, trades
13 and occupations which are devolved upon the bureau for administration so
14 require or pursuant to written agreement as provided in section 67-2604,
15 Idaho Code, exercise, in its name, or as authorized agent, but subject to the
16 provisions of this chapter, the following powers:

17 (1) To conduct examinations to ascertain the qualifications and fit-
18 ness of applicants to exercise the profession, trade or occupation for
19 which an examination is held; to pass upon the qualifications of appli-
20 cants for reciprocal licenses, certificates and authorities-;

21 (2) To prescribe rules for a fair and wholly impartial method of exami-
22 nation of candidates to exercise the respective professions, trades or
23 occupations-;

24 (3) To prescribe rules defining, for the respective professions,
25 trades and occupations, what shall constitute a school, college or uni-
26 versity, or department of a university, or other institution, reputable
27 and in good standing and to determine the reputability and good standing
28 of a school, college or university, or department of a university, or
29 other institution, by reference to a compliance with such rules-;

30 (4) To establish a standard of preliminary education deemed requisite
31 to admission to a school, college or university, and to require satis-
32 factory proof of the enforcement of such standard by schools, colleges
33 and universities-;

34 (5) To conduct hearings on proceedings to revoke or refuse renewal of
35 licenses, certificates or authorities of persons exercising the re-
36 spective professions, trades or occupations, and to revoke or refuse to
37 renew such licenses, certificates or authorities-;

38 (6) To formulate rules for adoption by the boards allowing the boards
39 to ~~recover~~ assess costs and fees incurred in the investigation and pros-
40 ecution or defense of a licensee in accordance with the provisions of
41 section 12-117(5), Idaho Code, and with the contested case provisions
42 of chapter 52, title 67, Idaho Code, for an alleged violation of laws or
43 rules of the boards-;

44 (7) To formulate rules for adoption by the boards establishing a sched-
45 ular of civil fines which may be imposed upon a licensee prosecuted in
46 accordance with the contested case provisions of chapter 52, title 67,
47 Idaho Code, for a violation of laws or rules of the boards. Any civil
48 fine collected by a board for a violation of its laws or rules shall
49 not exceed one thousand dollars (\$1,000), unless otherwise provided by

1 statute, and shall be deposited in the bureau of occupational licensing
2 account-; i

3 (8) To formulate rules when required in any act to be administered-; and

4 (9) To collect and pay such fees as are required for criminal background
5 checks of applicants, licensees or registrants.

6 (b) None of the ~~above enumerated~~ functions and duties in subsection (a)
7 of this section shall be exercised by the bureau of occupational licenses ex-
8 cept upon the action and report in writing of persons designated from time to
9 time by the chief of the bureau of occupational licenses to take such action
10 and to make such report, for the respective professions, trades and occupa-
11 tions.