

**MINUTES**  
**Approved by the Committee**  
**Occupational Licensing and Certification Laws Committee**  
**Tuesday, August 27, 2019**  
**1:30 P.M.**  
**Room EW41**  
**Boise, Idaho**

Co-chair Lakey called the meeting to order at 1:30 p.m.; a silent roll call was requested. Members present: Co-chair Senator Todd Lakey and Senators Fred Martin, Lori Den Hartog, and Grant Burgoyne; Co-chair Representative Gayann DeMordaunt and Representatives Robert Anderst, Randy Armstrong, and Elaine Smith (by phone); LSO staff Matt Drake, Christine Otto, Maggie Smith, and Jennifer Kish.

Other attendees: Jack Lyman - Idaho Housing Alliance; Jane McClaran - Idaho Real Estate Associates; Luke Kilcup - Lobby Idaho LLC; Kelley Packer - Idaho Bureau of Occupational Licensing; Susan Miller, Stephanie Lotridge - Idaho Board of Dentistry; Jeremy Brown - Idaho Board of Veterinary Medicine; John Foster, Kate Haas - Kestrel West; Melissa Ferguson - Idaho Real Estate Commission; Colby Cameron, Brad Hunt - Idaho Department of Financial Management; Russ Hendricks - Idaho Farm Bureau; Anne Lawler - Idaho Board of Medicine; Betsy Russell - Idaho Press.

NOTE: presentations and handouts provided by the presenters/speakers are posted to the Idaho Legislature website: <https://legislature.idaho.gov/sessioninfo/2019/interim>; and copies of those items are on file at the Legislative Services Office located in the State Capitol.

Co-chair Lakey identified items that the committee would like to focus on for the interim: the transfer of licensure, the necessity of licensing in general, a sunrise and/or a sunset policy, and a review of criminal background language regarding licensure.

At 1:35 p.m., Co-chair Lakey called Suzanne Hultin, Program Director for Employment, Labor, and Retirement Programs for the National Conference of State Legislatures (NCSL), to the podium for her [presentation](#). Ms. Hultin gave an overview on national trends of occupational licensing, occupational licensing projects, licensing recognition legislation, and burdens for those with criminal histories regarding occupational licensing.

- Sen. Den Hartog inquired whether there was concern in Pennsylvania or Arizona about conflicts with existing compacts for certain professions. Ms. Hultin responded that she was not aware of any.
- Co-chair Lakey asked whether the PA or AZ legislation was limited to certain professions. Ms. Hultin believed it to be universal to all professions licensed within the state.
- Co-chair DeMordaunt questioned whether there were any specific challenges encountered in the PA or AZ legislation. Ms. Hultin noted that the process was well vetted to stakeholders to avert any later opposition. Co-chair DeMordaunt inquired whether any other states were considering legislation similar to PA and AZ. Ms. Hultin reported that she was not aware of any others, but she suspected that Utah may consider such legislation in light of its 2018 legislation to permit reciprocity licensing for military members and military spouses. She noted that discussions most often centered on whether one state's requirements were equivalent to another's and that was the largest barrier in adopting reciprocity.
- Sen. Burgoyne inquired whether there were concerns about the elimination of "redundant training." Ms. Hultin explained that most decisions about whether training was "redundant" was at the discretion of a licensing board. She noted that AZ law allowed a licensing board to request that an applicant still take the state exam.

- Co-chair Lakey asked whether there existed any parameters or guidance to the boards in making their determinations. Ms. Hultin was not aware of any parameters per those states.
- Co-chair Lakey questioned how moral turpitude or good behavior was described in those states that were eliminating the phrases and whether the offenses were limited per the profession. Ms. Hultin explained that most states established that an offense had to be a detriment in relation to the duties of the profession.
- Rep. Anderst inquired whether there was any criminal liability on a board if an individual committed another offense after being licensed at a board's discretion. Ms. Hultin was not aware of any per the new legislation, but noted that such a concern existed whenever a board approved a licensure and assumed provisions for such an instance would be the same.
- Co-chair DeMordaunt commented that there were many resources that explored the issues related to licensing boards, and encouraged committee members to use both the NCSL and the Institute for Justice websites. Ms. Hultin noted that NCSL had partnered with the Council on State Governments' Justice Center and would be a good resource as well.
- Co-chair Lakey requested that NCSL and LSO staff research how other states have dealt with the liability and immunity issues for licensing boards.

At 2:25 p.m., Matt Drake, Legislative Drafting Attorney for the Legislative Services Office, began the first of his presentations, which dealt with the term ["moral turpitude" in Idaho Code](#). Mr. Drake explained that his chart was organized first by relevancy to licensing and then as it occurred chronologically in the code. He noted that the law most often referenced a crime and the phrase "moral turpitude" in regard to denial, revocation, or non-renewal of a license and/or discipline.

- Sen. Den Hartog inquired whether the same language occurred in administrative rule. Mr. Drake believed it did.

Mr. Drake provided a [handout](#) that summarized sunrise and sunset reviews and combinations of such, and an updated summary of how other states perform those types of review and oversight. He also noted how [Executive Order 2019-02](#) tied into other states' efforts to reduce regulation without compromising public safety.

- Co-chair Lakey asked whether one method of delegation was used more often than another by other states for review and oversight. Mr. Drake reported that there was no one method as states were so diverse in structure.
- Rep. Anderst inquired whether adding/removing a restriction to a license would be of a sunrise or sunset nature. Mr. Drake surmised that it would be of a sunrise nature, noting that a sunrise provision should be detailed enough in its composition to identify what falls under it to activate a review.
- Rep. Den Hartog proposed that an impartial sunrise entity might be created to review proposed licensing legislation and to recommend to the Legislature and/or to a board who was tasked with administrative rules for a profession. Rep. Smith inquired whether the task of review should be assigned by the legislative council or the council should assign a review committee. Co-chair Lakey agreed that there were many avenues to consider, including the legislative council, an independent council, or even LSO.

At 2:42 p.m., Colby Cameron, Regulatory Analyst for the Division of Financial Management, was called upon for his [comments](#) to the committee regarding the progress for licensing review as stated in [Executive Order 2019-01](#).

- Co-chair DeMordaunt inquired whether DFM would be able to provide results on the elimination of vague terms such as "moral turpitude" and "good moral character" with the September 30th report. Mr. Cameron noted that DFM would add that to the list of items on which to report, but he was not sure that the report would be available until after the committee's next meeting as items weren't due from agencies until October 16th.

At 2:50 p.m., Kelley Packer, Bureau Chief of Idaho Bureau of Licensing (IBOL), was called to the podium for her update on the agency's efforts under her brief eight-month tenure:

- required review of all rules for each of the 29 boards/commissions assisted by IBOL (14 to be reviewed in 2019 and 15 to be reviewed in 2020)
  - implemented a fee table rather than fee language for ease of use
  - requested a rewrite of IBOL statutes, to be presented to Legislature next session (name change, streamline administrative procedures, information storage)
  - enforced parliamentary procedure to be used accurately in board/commission meetings
  - researched methods for licensing mobility and portability that do not conflict with national compacts
  - investigated military "cross-walking," so that skills learned during service can be translated into civilian life/employment
  - studied methods to reduce licensing renewal and reinstatement burdens
  - researched DoD requirements necessary for active military in relation to the state's desire to waive requirements for continuing education and related fees
  - planned for technology updates within IBOL for record keeping and licensing possibilities
  - standardized honoraria through IBOL rather than through each board/commission
  - standardized the review process for felony convictions and improvement to the disciplinary process
  - removed terms "moral turpitude" and "good moral character" from administrative rules; recommended review of offenses as being relevant to the profession and that a board/commission may have the discretion to make that determination
  - considered alternative methods for testing (English-language alternative tests, qualified tutorial assistance)
- Rep. Anderst cautioned the desire to overlook felony convictions when licensing an individual, wondering whether boards/commission would be willing to take on that gamble. Ms. Packer reported that boards/commissions were in support of removing the terms "moral turpitude" and "good moral character" because the terms were vague and hard to evaluate. She added that feedback from the boards/commissions was in support of the relevancy factor of prior convictions. Ms. Packer noted that boards/commissions were already bonded for liability. Rep. Anderst noted that the rule was very clear: felony = no license and so there was no "grey area" for a board. Ms. Packer noted that it was not actually a carte blanche application of the rule because a board/commission most often still had "discretion" to approve a license.
  - Co-chair DeMordaunt and Rep. Anderst both asked for clarification on whether an incarcerated individual could consult with a board/commission about the possibility of receiving licensure in relation to convictions prior to completing training. Ms. Packer reported that an individual may petition a board on such an issue. She noted that there would be some difficulties with security to accomplish a petition in front of a board/commission, and noted that any preemptive approval was not a guarantee of licensure. Ms. Packer also cautioned that unknown convictions or additional convictions, after the fact, would definitely play into a board's advisory decision. She noted that many boards were not authorized to perform background checks on individuals who were applying for licensure. Sen. Burgoyne commented that a background check entity, possibly under ISP, would be beneficial to licensure applicants and boards/commissions.
  - Co-chair DeMordaunt inquired whether continuing education requirements had to be completed within the state of Idaho. Ms. Packer reported that the final authority of such requirements resided with each board/commission.

At 3:26 p.m., Matt Drake, returned to the podium for a review and discussion on the goals of the [Occupational Licensing Reform Act\(2019\)](#). In addition to his discussion on the act, he provided a [memorandum](#) from military leaders of the US Army, Air Force, and Navy encouraging states to take legislative measures to support efforts for military members and their spouses in acquiring employment in skill-based occupations. He noted that he had been contacted by Tammie Perreault, Northwest Regional Liaison for the US Department of Defense, who offered her assistance to the committee's efforts.

Co-chair Lakey asked committee members for comments and requests.

- Sen. Burgoyne requested information of Idaho statutes and administrative rules that disqualified applicants for licensure due to a conviction of a crime and what those terms/phrases were. He supported a discussion on language requirements and its relevancy on licensure and supported the application of the Occupational Licensing Reform Act to all individuals.
- Co-chair DeMordaunt suggested that the next meeting be scheduled after NCSL's Occupational Licensing Multi-State Consortium (September 11-13) so that information from that event could be conveyed.

Having decided on the next meeting date, the committee adjourned at 3:45 p.m.