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LEGISLATURE OF THE STATE OF IDAHO
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1 AN ACT
2 RELATING TO OCCUPATIONAL LICENSING REFORM; AMENDING CHAPTER 94, TITLE 67,
3 IDAHO CODE, BY THE ADDITION OF A NEW SECTION 67-9408, IDAHO CODE, TO PRO-
4 VIDE FOR THE CREATION OF AN OCCUPATIONAL AND PROFESSIONAL LICENSURE RE-
5 VIEW PILOT COMMITTEE; AMENDING CHAPTER 94, TITLE 67, IDAHO CODE, BY THE
6 ADDITION OF A NEW SECTION 67-9409, IDAHO CODE, TO PROVIDE FOR UNIVERSAL
7 LICENSURE; AMENDING CHAPTER 94, TITLE 67, IDAHO CODE, BY THE ADDITION OF
8 A NEW SECTION 67-9410, IDAHO CODE, TO PROVIDE A PROCESS FOR CERTAIN PRE-
9 QUALIFICATION REQUESTS; AND AMENDING CHAPTER 94, TITLE 67, IDAHO CODE,
10 BY THE ADDITION OF A NEW SECTION 67-9411, IDAHO CODE, TO ESTABLISH PRO-
11 VISIONS REGARDING THE EVALUATION OF CRIMINAL CONVICTIONS WITH RESPECT
12 TO MORAL CHARACTER REQUIREMENTS.

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

14 SECTION 1. That Chapter 94, Title 67, Idaho Code, be, and the same is
15 hereby amended by the addition thereto of a NEW SECTION, to be known and des-
16 ignated as Section 67-9408, Idaho Code, and to read as follows:

17 67-9408. OCCUPATIONAL AND PROFESSIONAL LICENSURE REVIEW PILOT COM-
18 MITTEE. (1) In order to establish oversight of occupational and professional
19 licensure and related issues in Idaho, there is hereby established an occu-
20 pational and professional licensure review pilot committee.

21 (2) The committee shall consist of eight (8) members, with four (4) mem-
22 bers from the senate, one (1) of whom shall be cochair of the committee, and
23 four (4) members from the house of representatives, one (1) of whom shall be
24 cochair of the committee. Members from the senate shall be appointed by the
25 president pro tempore of the senate and members from the house of represen-
26 tatives shall be appointed by the speaker of the house of representatives.
27 No more than three (3) members from the senate and no more than three (3)
28 members from the house of representatives shall be from the same political
29 party. Appointments to the committee shall be for the term of office of the
30 member appointed. Any vacancy shall be filled in a manner consistent with
31 the appointment procedure set forth in this subsection, except the appoint-
32 ment shall be for the remainder of the unexpired term. A committee member may
33 be reappointed to the committee.

34 (3) The committee shall have as a primary duty and responsibility the
35 task of conducting a sunrise review upon request that a lawful profession or
36 occupational group that is not licensed become licensed. The sunrise review
37 process shall be as follows:

38 (a) The legislative services office shall prepare an application form
39 to be used for the sunrise review process described in this subsection.

40 (b) If a government requestor or a representative of a profession or oc-
41 cupation that is not licensed proposes that the state license or regu-
42 late a profession or occupation, the requestor or representative shall,

1 prior to the introduction of any proposed legislation, submit an appli-
2 cation for sunrise review to the legislative services office in a form
3 approved by the committee. An application shall be submitted by June
4 1 for review and processing prior to the next regular legislative ses-
5 sion.

6 (c) In addition to any other information requested by the committee or
7 staff, the application shall include a description of:

8 (i) Why licensing or other regulation of the profession or occu-
9 pation is necessary to protect against present, recognizable, and
10 substantial harm to the health or safety of the public;

11 (ii) Why the proposed licensing or other regulation is the least
12 restrictive regulation necessary to protect against present, rec-
13 ognizable, and substantial harm to the health or safety of the pub-
14 lic;

15 (iii) Why the public cannot be effectively protected by other
16 means; and

17 (iv) Any other relevant information.

18 (d) With respect to an application timely received pursuant to para-
19 graph (3) of this subsection, the legislative services office shall, by
20 August 15, submit a report with factual analysis to the committee and
21 the applicant. Such report shall be made available to the public. Such
22 report shall verify the contents of an application and address any other
23 related factual matters, but shall not contain a recommendation.

24 (e) With respect to an application timely received pursuant to para-
25 graph (3) of this subsection, by November 1, the committee shall review
26 all timely applications and reports prepared by the legislative ser-
27 vices office, along with any other relevant information, and shall
28 issue a recommendation as to whether a requested occupation or profes-
29 sion should be regulated.

30 (4) The committee shall meet as often as may be necessary for the proper
31 performance of its duties upon the call of the cochairs.

32 (5) In addition to the sunrise process, the committee may study and
33 review occupational licensing and certification laws in general in order
34 to determine, as applicable, how the legislature may be able to ease occu-
35 pational licensing barriers while still protecting the public health and
36 safety.

37 (6) The committee shall operate on a pilot basis for two (2) years and
38 shall cease to exist following its report to the second regular session of
39 the sixty-sixth Idaho legislature in 2022 unless legislative action is taken
40 to extend the duration of the pilot committee or to make it permanent.

41 SECTION 2. That Chapter 94, Title 67, Idaho Code, be, and the same is
42 hereby amended by the addition thereto of a NEW SECTION, to be known and des-
43 ignated as Section 67-9409, Idaho Code, and to read as follows:

44 67-9409. UNIVERSAL LICENSURE. (1) A licensing authority shall estab-
45 lish a procedure for the issuance of licensure to a person who possesses cur-
46 rent, valid, and unrestricted licensure in another state, district, or ter-
47 ritory of the United States and has practiced in such other state, district,
48 or territory of the United States for two (2) of the past five (5) years. Each

1 applicant for universal licensure under this section must apply to the ap-
2 plicable licensing authority for licensure. An applicant under this section
3 shall be subject to the laws regulating the person's practice in Idaho and is
4 subject to the applicable licensing authority's jurisdiction.

5 (2) To determine whether an applicant for universal licensure, who pos-
6 sesses the licensure requirements established in subsection (1) of this sec-
7 tion, is otherwisely qualified for licensure under Idaho law, a licensing au-
8 thority shall:

9 (a) If it administers an examination on laws of this state as part of
10 its application requirement, require an applicant to take and pass such
11 examination;

12 (b) Require an applicant to complete an application, submit supporting
13 materials, and undergo the same background checks as required of other
14 applicants for licensure; and

15 (c) Compare the applicant's qualifications pursuant to his existing
16 licensure to the scope of work authorized under Idaho law. If the ap-
17 plicant's existing licensure in another state is not deemed sufficient
18 to warrant the issuance of licensure as to the full scope of practice in
19 Idaho, the licensing authority shall issue a provisional license that
20 limits the applicant's scope of practice to his existing qualifica-
21 tions, along with an explanation as to how the applicant may qualify for
22 non-provisional licensure to practice in Idaho.

23 (3) An applicant for universal licensure shall pay all applicable fees
24 and shall be subject to all applicable requirements related to maintaining
25 licensure as established by the licensing authority.

26 (4) This section shall not apply to a person who is a member of a profes-
27 sion or occupation covered by an interstate licensure compact that the per-
28 son's home state and Idaho have each adopted. In such a situation, a person
29 shall apply for licensure pursuant to the terms of the applicable licensure
30 compact rather than through universal licensure pursuant to this section.
31 A person from a state that has not adopted an interstate licensure compact
32 that Idaho has adopted is eligible for universal licensure pursuant to this
33 section, provided that such person is otherwise eligible pursuant to the re-
34 quirements of this section; however, such licensure shall be valid only in
35 Idaho. A licensing authority for a profession or occupation affected by an
36 interstate licensure compact that Idaho has adopted shall promulgate appli-
37 cable rules if necessary to implement the provisions of this section.

38 (5) Each licensing authority shall promulgate applicable rules if nec-
39 essary to implement the provisions of this section.

40 SECTION 3. That Chapter 94, Title 67, Idaho Code, be, and the same is
41 hereby amended by the addition thereto of a NEW SECTION, to be known and des-
42 ignated as Section 67-9410, Idaho Code, and to read as follows:

43 67-9410. PREQUALIFICATION REQUESTS. (1) An individual who has been
44 convicted of any criminal offense may request, at any time, that a licens-
45 ing authority determine whether the individual's criminal conviction would
46 disqualify the individual from obtaining a license issued or conferred by
47 the licensing authority. An individual making such a request shall include
48 details of the individual's criminal conviction and any payment required by

1 the licensing authority. A licensing authority may charge a fee of not more
2 than twenty five dollars (\$25.00) for each request made under this section,
3 to reimburse the costs it incurs in making the determination.

4 (2) Not later than thirty (30) days after receiving a request under this
5 section, the licensing authority shall inform the individual whether, based
6 on the criminal record information submitted, the individual is disquali-
7 fied from receiving or holding the license about which the individual in-
8 quired.

9 (3) A licensing authority is not bound by a determination made under
10 this section, if, on further investigation, the licensing authority deter-
11 mines that the individual's criminal convictions differ from the informa-
12 tion presented in the determination request.

13 (4) A licensing authority shall make available to the public on the
14 licensing authority's website a non-exhaustive list of criminal offenses
15 that would likely disqualify an individual from obtaining a license issued
16 or conferred by the licensing authority. Such list shall be provided with
17 a notice that it is for informational purposes only and that a licensing
18 authority shall not be bound by such list when making final eligibility de-
19 terminations.

20 SECTION 4. That Chapter 94, Title 67, Idaho Code, be, and the same is
21 hereby amended by the addition thereto of a NEW SECTION, to be known and des-
22 ignated as Section 67-9411, Idaho Code, and to read as follows:

23 67-9411. EVALUATION OF CRIMINAL CONVICTIONS -- MORAL CHARACTER RE-
24 QUIREMENTS. (1) Notwithstanding any other provision of law, a licensing
25 authority shall evaluate a criminal conviction for relevancy to the licensed
26 profession or occupation to determine whether such criminal conviction
27 shall disqualify the convicted person from holding a license issued by the
28 licensing authority.

29 (2) Pursuant to the provisions of this section:

30 (a) The phrases "moral character," "good moral character," and "ac-
31 ceptable moral character," when used as a requirement for an occupa-
32 tional or professional license, and the phrases "moral turpitude" and
33 "bad moral character" when used as a prohibition against occupational
34 or professional licensure, shall not be deemed to prevent persons with
35 criminal convictions that are not criminally relevant to the licensed
36 occupation or profession from obtaining licensure.

37 (b) With respect to a determination of moral character or the absence
38 of moral character under Idaho Code or an applicable rule, a licensing
39 authority shall not disqualify a person convicted of a felony or a mis-
40 demeanor unless such conviction is deemed relevant to the licensed pro-
41 fession or occupation.

42 (3) In evaluating whether a criminal conviction is relevant to the
43 licensed profession or occupation, the licensing authority shall consider
44 whether the specific offense has a direct and specific negative effect on
45 a person's ability to perform the duties authorized by the occupational or
46 professional license at issue. The licensing authority shall further deter-
47 mine whether the state's interest in protecting public health, safety, and
48 welfare as implicated by the person's criminal conviction outweighs the harm

1 caused by denying such person the right to pursue the occupation or profes-
2 sion, based on clear and convincing evidence that all of the following are
3 met:

4 (a) The specific offense of which the individual was convicted is sub-
5 stantially related to the state's interest in protecting public health,
6 safety, and welfare;

7 (b) The individual has not sufficiently demonstrated rehabilitation;

8 (c) The individual, based on the nature of the offense for which he or
9 she was convicted, and based on any additional information, is more
10 likely to commit a subsequent offense because he has the occupational or
11 professional license at issue than if he did not possess such licensure;
12 and

13 (d) A subsequent offense committed with the aid of the occupational
14 or professional license will cause greater harm to the public than it
15 would if the individual did not have the occupational or professional
16 license.

17 (4) In evaluating the relevancy of a person's criminal conviction, a
18 licensing authority may consider the unique aspects of the profession or oc-
19 cupation, how long ago the offense at issue occurred, whether the sentence
20 for the offense has been completed, other evidence of rehabilitation, testi-
21 monials, the person's employment history, and the person's employment aspi-
22 rations.

23 (5) In evaluating the relevancy of a person's criminal conviction, a
24 licensing authority shall not consider:

25 (a) Records of an arrest that is not followed by a conviction; or

26 (b) Records of a conviction that has been reversed or vacated, includ-
27 ing the arrest records relevant to that conviction.

28 (6) This section shall not prohibit the use by a licensing authority of
29 any source of unbiased and accurate information in making a determination as
30 to an individual's qualification to practice, nor shall this section pro-
31 hibit a licensing authority from requiring that a licensee of a profession or
32 occupation maintain a record free from relevant criminal convictions, as de-
33 termined by such licensing authority.