

# **FINAL REPORT**

## **Occupational Licensing and Certification Laws Committee SCR 112 (2019)**

### **Members of the Committee**

Senator Todd Lakey, Co-chair  
Senator Fred Martin  
Senator Lori Den Hartog  
Senator Grant Burgoyne

Representative Gayann DeMordaunt, Co-Chair  
Representative Robert Anderst  
Representative Randy Armstrong  
Representative Elaine Smith

### **Staff**

Matt Drake, Legislative Drafting Attorney  
Christine Otto, Senior Budget and Policy Analyst  
Maggie Smith, Senior Budget and Policy Analyst  
Jennifer Kish, Committee Secretary

I. **Committee Charge**

The Occupational Licensing and Certification Laws Committee, authorized by Senate Concurrent Resolution 112 in 2019, was assigned to review occupational licensing and certification laws in order to determine, as applicable, how the Legislature may be able to ease occupational licensing barriers while still protecting the public health and safety.

II. **Meetings**

The Committee met on the following dates at the State Capitol in Boise:

1. August 27, 2019;
2. September 27, 2019;
3. October 29, 2019;
4. November 12, 2019; and
5. December 5, 2019.

III. **Scope of Study**

On August 27th, the Committee met and identified its legislative priorities for the interim. The Committee then heard a presentation from Suzanne Hultin, a program director at NCSL, regarding universal licensing and occupational licensing burdens on those with criminal backgrounds.

On September 27<sup>th</sup>, the Committee met and reviewed draft legislation regarding sunrise review, universal Licensure, prequalification requests, and the removal of outdated moral turpitude language from occupational licensing laws.

On October 29th, the Committee received an update from the Governor's office regarding occupational licensing. It then reviewed revised draft legislation.

On November 12<sup>th</sup>, the Committee reviewed and proposed further modifications to the draft legislation and heard public testimony.

On December 5th, the Committee met to hear further public testimony and to discuss its recommendations to the Legislature, including with respect to the draft legislation. The Committee voted to recommend two pieces of draft legislation (attached).

IV. **Recommendation**

The Committee recommends that legislative drafts DRMDD110 and DRMDD084 be considered and enacted by the Legislature during the 2020 legislative session. The Committee further recommends that it be that it be reauthorized to continue its work during the 2020 interim.

Draft legislation is included in Appendix I of this report.

# **APPENDIX I**

## Proposed Legislation

### **DRMDD110**

Additions to the Occupational Licensing Reform Act: Sunrise Review, Universal Licensure, Inquiries Regarding the Impact of Criminal Background, and Evaluation of Criminal Convictions

### **DRMDD084**

Removal of vague and archaic character language relating to persons with criminal convictions

**DRAFT**

DRMDD110

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 LEGISLATURE OF THE STATE OF IDAHO  
 Sixty-fifth Legislature Second Regular Session - 2020  
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This bill draft contains confidential and privileged information exempt from disclosure under Section 74-109(1), Idaho Code. If you have received this message by mistake, please notify us immediately by replying to this message or telephoning the Legislative Services Office at (208) 334-2475.

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  
 4 PROVIDE FOR THE CREATION OF AN OCCUPATIONAL AND PROFESSIONAL LICENSURE  
 5 REVIEW 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  
 8 OF A NEW SECTION 67-9410, IDAHO CODE, TO PROVIDE FOR CERTAIN INQUIRIES  
 9 REGARDING THE POTENTIAL IMPACT OF A CRIMINAL CONVICTION; AND AMEND-  
 10 ING CHAPTER 94, TITLE 67, IDAHO CODE, BY THE ADDITION OF A NEW SECTION  
 11 67-9411, IDAHO CODE, TO ESTABLISH PROVISIONS REGARDING THE EVALUATION  
 12 OF CRIMINAL CONVICTIONS WITH RESPECT 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 COMMIT-  
 18 TEE. (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 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) In addition to conducting sunrise reviews as set forth in this sec-  
 35 tion, the committee is authorized to study and review occupational licensing  
 36 and certification laws in general in order to determine, as applicable, how  
 37 the legislature may be able to ease occupational licensing barriers while  
 38 still protecting the public health and safety. The committee shall meet as  
 39 often as may be necessary for the proper performance of its duties upon the  
 40 call of the cochairs.

41 (4) The committee shall operate for three (3) years and make a report  
 42 to the first regular session of the sixty-seventh Idaho legislature in 2023.

1 The legislature may take subsequent action to extend the duration of the com-  
2 mittee or to make it permanent.

3 (5) Effective January 1, 2021, the committee shall conduct a sunrise  
4 review upon request that a lawful profession or occupational group that is  
5 not licensed become licensed. For purposes of this section, a profession or  
6 occupation becoming "licensed" means adding a requirement that a person must  
7 hold a license, certificate, registration, permit, or other authorization  
8 issued by a licensing authority to engage in such profession or occupation.

9 (a) Sunrise review by the committee shall be required prior to the  
10 introduction of any proposed legislation that a lawful profession or  
11 occupational group that is not licensed become licensed; provided,  
12 however, that a germane committee of the legislature later considering  
13 such proposed legislation shall not be bound by the recommendation of  
14 the committee. The sunrise review process shall be as follows:

15 (i) The legislative services office shall prepare and publish an  
16 application form to be approved by the committee and used for the  
17 sunrise review process.

18 (ii) A requestor shall, prior to the introduction of any proposed  
19 legislation, submit the application for sunrise review to the leg-  
20 islative services office. The application shall be submitted by  
21 May 1 for review and processing prior to the next regular legisla-  
22 tive session.

23 (iii) In addition to any other information requested by the com-  
24 mittee or staff, the application shall include a copy of the appli-  
25 cant's proposed draft legislation and a description of:

- 26 1. The requestor's identity and relationship to the profes-  
27 sion or occupational group;
- 28 2. Why licensing or other regulation of the profession or  
29 occupation is necessary to protect against present, recog-  
30 nizable, and sufficient harm to the health, safety, or wel-  
31 fare of the public to warrant the regulation proposed;
- 32 3. Why the proposed licensing or other regulation is the  
33 least restrictive regulation necessary to protect against  
34 present, recognizable, and sufficient harm to the health,  
35 safety, or welfare of the public to warrant the regulation  
36 proposed;
- 37 4. Why the public cannot be effectively protected by other  
38 means;
- 39 5. Whether the overall cost-effectiveness and economic im-  
40 pact of the proposed regulation, including the direct and  
41 indirect costs to consumers, will be outweighed by the bene-  
42 fits of the proposed licensing or other regulation;
- 43 6. Whether the proposed licensing or other regulation will  
44 have an unreasonably negative effect on job creation, job  
45 retention, or wages in the state or will place unreasonable  
46 restrictions on the ability of individuals who seek to prac-  
47 tice or who are practicing a given profession or occupation  
48 to continue to practice or to find employment; and
- 49 7. Any other relevant information.

1 (iv) With respect to an application timely received by the leg-  
2 islative services office by May 1:

3 1. By August 1, the legislative services office shall submit  
4 a report with factual analysis to the committee and the ap-  
5 plicant. Such report shall be made available to the public.  
6 Such report shall verify the contents of an application and  
7 submitted information and address any other related factual  
8 matters, but shall not contain a recommendation.

9 2. By October 1, the committee shall review such appli-  
10 cation and submitted information and the associated report  
11 prepared by the legislative services office, along with any  
12 other relevant information, and hold a public hearing on  
13 such application.

14 3. By November 1, the committee shall prepare a written  
15 recommendation as to whether a requested occupation or pro-  
16 fession should be licensed in the manner set forth in the  
17 application and shall and deliver such recommendation to  
18 the president pro tempore of the senate and the speaker of  
19 the house of representatives for subsequent delivery to the  
20 appropriate germane committee chairpersons. Such written  
21 recommendation may include non-mandatory suggestions as to  
22 how the application, including the proposed legislation,  
23 may be improved. An applicant receiving such suggestions  
24 shall be encouraged to follow the recommended suggestions of  
25 the committee before offering the legislation for introduc-  
26 tion during the next legislative session.

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

30 67-9409. UNIVERSAL LICENSURE. (1) A licensing authority shall estab-  
31 lish a procedure for the issuance of licensure to a person who:

32 (a) Possesses current, valid, and unrestricted licensure in another  
33 state, district, or territory of the United States; and

34 (b) Demonstrates competency in the profession or occupation through  
35 methods determined by the licensing board or commission.

36 (2) Each applicant for universal licensure under this section must ap-  
37 ply to the applicable licensing authority for relevant licensure. An appli-  
38 cant under this section shall be subject to the laws regulating the person's  
39 practice in Idaho and is subject to the applicable licensing authority's ju-  
40 risdiction. For purposes of this section, the term "licensure" means a li-  
41 cense, certificate, registration, permit, or other authorization to prac-  
42 tice a profession or occupation.

43 (3) To determine whether an applicant for universal licensure, who  
44 possesses the licensure requirements established in subsection (1) of this  
45 section, is otherwise qualified for licensure under Idaho law, a licensing  
46 authority shall require an applicant to complete an application, submit  
47 supporting materials, and undergo the same background checks as required of  
48 other applicants for licensure.

1 (4) In addition to the requirements set forth in this section, if it ad-  
2 ministers an examination as part of the application requirements, a licens-  
3 ing authority may require an applicant to take and pass all or a portion of  
4 such examination as may be necessary to demonstrate competence to practice  
5 in Idaho.

6 (5) An applicant for universal licensure shall pay all applicable fees  
7 and shall be subject to all applicable requirements related to maintaining  
8 licensure as established by the licensing authority.

9 (6) A licensing authority may, at its discretion, compare the au-  
10 thorized scope of practice in the state, or states, where the applicant  
11 currently holds licensure to the authorized scope of practice in Idaho. If  
12 such licensing authority determines that the authorized scope of practice  
13 in Idaho is broader than the scope of practice authorized in the state, or  
14 states, where the applicant currently holds licensure, such licensing au-  
15 thority may, instead of issuing a denial on the basis of the difference in  
16 scope of practice, issue a limited license to such applicant pending com-  
17 pletion of the additional education, training, and any other requirements  
18 determined necessary by the licensing authority. A limited license issued  
19 under this section shall restrict the applicant's practice in Idaho to the  
20 scope of practice authorized in the state where the applicant holds prior  
21 licensure until such time that the applicant satisfies the education, train-  
22 ing, or other requirements deemed necessary by the licensing authority for a  
23 limited period of time necessary for an applicant to meet the qualifications  
24 for a full license.

25 (7) This section shall not restrict a person who is a member of a pro-  
26 fession or occupation covered by an applicable interstate licensure compact  
27 or applicable reciprocity agreement from seeking licensure pursuant to this  
28 section. In such a situation, a person may apply for universal licensure un-  
29 der this section or may apply for licensure pursuant to the terms of the ap-  
30 plicable licensure compact or reciprocity agreement. A licensing authority  
31 may promulgate applicable rules if necessary to implement the provisions of  
32 this section.

33 (8) Each licensing authority shall promulgate applicable rules if nec-  
34 essary to implement the provisions of this section.

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

38 67-9410. INQUIRY REGARDING THE POTENTIAL IMPACT OF A CRIMINAL CONVICT-  
39 TION. (1) An individual who has been convicted of a criminal offense may re-  
40 quest, at any time, that a licensing authority opine as to whether the in-  
41 dividual's criminal conviction could disqualify the individual from obtain-  
42 ing a license, certificate, registration, permit, or other authorization to  
43 practice a profession or occupation issued or conferred by the licensing au-  
44 thority. An individual making such an inquiry shall include details of the  
45 individual's criminal record and any payment required by the licensing au-  
46 thority. A licensing authority may charge a fee of not more than twenty five  
47 dollars (\$25.00) for each inquiry made under this section, to reimburse the  
48 costs it incurs in issuing the opinion.

1 (2) Not later than sixty (60) days after receiving an inquiry under this  
2 section, the licensing authority shall inform the individual whether, based  
3 on the criminal record information submitted, the individual is disquali-  
4 fied from receiving or holding the license about which the individual in-  
5 quired.

6 (3) A licensing authority shall not be bound by an opinion made under  
7 this section if it later determines that the facts and circumstances submit-  
8 ted in the individual's inquiry were not complete and accurate, that the in-  
9 dividual's criminal background is different than described in the inquiry,  
10 or that a subsequent criminal offense or other relevant conduct occurred af-  
11 ter the inquiry was submitted, or that a change in law or regulation requires  
12 a different determination.

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

16 67-9411. EVALUATION OF CRIMINAL CONVICTIONS. (1) A licensing author-  
17 ity shall not deny a license, certificate, registration, permit, or other  
18 authorization to practice a profession or occupation to an applicant on the  
19 basis of such applicant having a prior conviction of a crime, unless such  
20 conviction is currently relevant to the applicant's fitness to engage in  
21 such profession or occupation as determined by the licensing authority. The  
22 licensing authority shall make its determination based upon consideration  
23 of the following factors:

- 24 (a) The nature and seriousness of the crime for which the individual was  
25 convicted;
- 26 (b) The relationship of the crime to the ability, capacity, and fit-  
27 ness required to perform the duties and discharge the responsibilities  
28 of the occupation;
- 29 (c) The passage of time since the commission of the crime;
- 30 (d) Any evidence of rehabilitation or treatment undertaken by the indi-  
31 vidual; and
- 32 (e) Any other relevant factor.

33 (2) A licensing authority shall not deny a license, certificate, reg-  
34 istration, permit, or other authorization to practice a profession or occu-  
35 pation to an applicant on the basis of vague or generic terminology related  
36 to a criminal conviction, including but not limited to "moral turpitude" or  
37 "moral character." Where such terms appear in code or rule with respect to a  
38 criminal conviction, a licensing authority shall conduct a relevancy evalu-  
39 ation pursuant to subsection (1) of this section.



**DRAFT**

DRMDD084

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LEGISLATURE OF THE STATE OF IDAHO  
Sixty-fifth Legislature Second Regular Session - 2020  
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AN ACT

1 RELATING TO PROFESSIONS, VOCATIONS, AND BUSINESSES; AMENDING SECTION  
2 26-2227, IDAHO CODE, TO REMOVE OBSOLETE LANGUAGE AND PROVIDE THAT A  
3 DISQUALIFYING CRIMINAL OFFENSE MUST BE DEEMED RELEVANT; AMENDING SEC-  
4 TION 30-907, IDAHO CODE, TO REMOVE OBSOLETE LANGUAGE AND PROVIDE THAT  
5 A DISQUALIFYING CRIMINAL OFFENSE MUST BE DEEMED RELEVANT; AMENDING  
6 SECTION 33-1208, IDAHO CODE, TO REMOVE OBSOLETE LANGUAGE AND PRO-  
7 VIDE THAT A DISQUALIFYING CRIMINAL OFFENSE MUST BE DEEMED RELEVANT;  
8 AMENDING SECTION 38-1218, IDAHO CODE, TO REMOVE OBSOLETE LANGUAGE AND  
9 PROVIDE THAT A DISQUALIFYING CRIMINAL OFFENSE MUST BE DEEMED RELEVANT;  
10 AMENDING SECTION 41-327, IDAHO CODE, TO REMOVE OBSOLETE LANGUAGE AND  
11 PROVIDE THAT A DISQUALIFYING CRIMINAL OFFENSE MUST BE DEEMED RELEVANT;  
12 AMENDING SECTION 41-915, IDAHO CODE, TO REVISE LANGUAGE AND PROVIDE  
13 THAT A DISQUALIFYING CRIMINAL OFFENSE MUST BE DEEMED RELEVANT; AMEND-  
14 ING SECTION 41-1016, IDAHO CODE, TO REVISE LANGUAGE AND PROVIDE THAT  
15 A DISQUALIFYING CRIMINAL OFFENSE MUST BE DEEMED RELEVANT; AMENDING  
16 SECTION 41-1104, IDAHO CODE, TO REMOVE OBSOLETE LANGUAGE AND PROVIDE  
17 THAT A DISQUALIFYING CRIMINAL OFFENSE MUST BE DEEMED RELEVANT; AMEND-  
18 ING SECTION 41-5811, IDAHO CODE, TO REVISE LANGUAGE AND PROVIDE THAT  
19 A DISQUALIFYING CRIMINAL OFFENSE MUST BE DEEMED RELEVANT; AMENDING  
20 SECTION 50-1604, IDAHO CODE, TO REMOVE OBSOLETE LANGUAGE AND PROVIDE  
21 THAT A DISQUALIFYING CRIMINAL OFFENSE MUST BE DEEMED RELEVANT; AMENDING  
22 SECTION 54-206, IDAHO CODE, TO REVISE A DEFINITION; AMENDING SECTION  
23 54-219, IDAHO CODE, TO REMOVE OBSOLETE LANGUAGE AND PROVIDE THAT A DIS-  
24 QUALIFYING CRIMINAL OFFENSE MUST BE DEEMED RELEVANT; AMENDING SECTION  
25 54-608, IDAHO CODE, TO REMOVE OBSOLETE LANGUAGE AND PROVIDE THAT A DIS-  
26 QUALIFYING CRIMINAL OFFENSE MUST BE DEEMED RELEVANT; AMENDING SECTION  
27 54-712, IDAHO CODE, TO REMOVE OBSOLETE LANGUAGE AND PROVIDE THAT A DIS-  
28 QUALIFYING CRIMINAL OFFENSE MUST BE DEEMED RELEVANT; AMENDING SECTION  
29 54-915, IDAHO CODE, TO REMOVE OBSOLETE LANGUAGE AND PROVIDE THAT A DIS-  
30 QUALIFYING CRIMINAL OFFENSE MUST BE DEEMED RELEVANT; AMENDING SECTION  
31 54-923, IDAHO CODE, TO REMOVE OBSOLETE LANGUAGE AND PROVIDE THAT A DIS-  
32 QUALIFYING CRIMINAL OFFENSE MUST BE DEEMED RELEVANT; AMENDING SECTION  
33 54-1116, IDAHO CODE, TO REMOVE OBSOLETE LANGUAGE AND PROVIDE THAT A DIS-  
34 QUALIFYING CRIMINAL OFFENSE MUST BE DEEMED RELEVANT; AMENDING SECTION  
35 54-1413, IDAHO CODE, TO REMOVE OBSOLETE LANGUAGE AND PROVIDE THAT A DIS-  
36 QUALIFYING CRIMINAL OFFENSE MUST BE DEEMED RELEVANT; AMENDING SECTION  
37 54-1510, IDAHO CODE, TO REMOVE OBSOLETE LANGUAGE AND PROVIDE THAT A DIS-  
38 QUALIFYING CRIMINAL OFFENSE MUST BE DEEMED RELEVANT; AMENDING SECTION  
39 54-1726, IDAHO CODE, TO REMOVE OBSOLETE LANGUAGE AND PROVIDE THAT A DIS-  
40 QUALIFYING CRIMINAL OFFENSE MUST BE DEEMED RELEVANT; AMENDING SECTION  
41 54-1844, IDAHO CODE, TO REVISE A DEFINITION; AMENDING SECTION 54-1910,  
42 IDAHO CODE, TO REVISE LANGUAGE AND PROVIDE THAT A DISQUALIFYING CRIM-  
43 INAL OFFENSE MUST BE DEEMED RELEVANT; AMENDING SECTION 54-2103, IDAHO  
44 CODE, TO REVISE A DEFINITION; AMENDING SECTION 54-2508, IDAHO CODE,  
45

1 TO REMOVE OBSOLETE LANGUAGE AND PROVIDE THAT A DISQUALIFYING CRIMINAL  
2 OFFENSE MUST BE DEEMED RELEVANT; AMENDING SECTION 54-2819, IDAHO CODE,  
3 TO REMOVE OBSOLETE LANGUAGE AND PROVIDE THAT A DISQUALIFYING CRIMINAL  
4 OFFENSE MUST BE DEEMED RELEVANT; AMENDING SECTION 54-2916A, IDAHO CODE,  
5 TO REVISE A PROVISION REGARDING ELIGIBILITY REQUIREMENTS; AMENDING  
6 SECTION 54-3112, IDAHO CODE, TO REMOVE OBSOLETE LANGUAGE AND PROVIDE  
7 THAT A DISQUALIFYING CRIMINAL OFFENSE MUST BE DEEMED RELEVANT; AMENDING  
8 SECTION 54-3211, IDAHO CODE, TO REMOVE OBSOLETE LANGUAGE AND PROVIDE  
9 THAT A DISQUALIFYING CRIMINAL OFFENSE MUST BE DEEMED RELEVANT; AMENDING  
10 SECTION 54-3510, IDAHO CODE, TO REMOVE OBSOLETE LANGUAGE AND PROVIDE  
11 THAT A DISQUALIFYING CRIMINAL OFFENSE MUST BE DEEMED RELEVANT; AMENDING  
12 SECTION 54-3804, IDAHO CODE, TO REMOVE OBSOLETE LANGUAGE AND PROVIDE  
13 THAT A DISQUALIFYING CRIMINAL OFFENSE MUST BE DEEMED RELEVANT; AMENDING  
14 SECTION 54-4013, IDAHO CODE, TO REMOVE OBSOLETE LANGUAGE AND PROVIDE  
15 THAT A DISQUALIFYING CRIMINAL OFFENSE MUST BE DEEMED RELEVANT; AMENDING  
16 SECTION 54-4711, IDAHO CODE, TO REMOVE OBSOLETE LANGUAGE AND PROVIDE  
17 THAT A DISQUALIFYING CRIMINAL OFFENSE MUST BE DEEMED RELEVANT; AMEND-  
18 ING SECTION 54-4805, IDAHO CODE, TO REMOVE OBSOLETE LANGUAGE; AMENDING  
19 SECTION 54-4806, IDAHO CODE, TO REMOVE OBSOLETE LANGUAGE AND PROVIDE  
20 THAT A DISQUALIFYING CRIMINAL OFFENSE MUST BE DEEMED RELEVANT; AMENDING  
21 SECTION 54-5303, IDAHO CODE, TO REVISE A DEFINITION; AMENDING SECTION  
22 54-5307, IDAHO CODE, TO REVISE A PROVISION REGARDING QUALIFICATIONS;  
23 AMENDING SECTION 54-5408, IDAHO CODE, TO REMOVE OBSOLETE LANGUAGE AND  
24 PROVIDE THAT A DISQUALIFYING CRIMINAL OFFENSE MUST BE DEEMED RELEVANT;  
25 AND AMENDING SECTION 67-5309, IDAHO CODE, TO REMOVE OBSOLETE LANGUAGE  
26 AND PROVIDE THAT A DISQUALIFYING CRIMINAL OFFENSE MUST BE DEEMED RELE-  
27 VANT.

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

29 SECTION 1. That Section 26-2227, Idaho Code, be, and the same is hereby  
30 amended to read as follows:

31 26-2227. DENIAL, SUSPENSION OR REVOCATION OF LICENSE. (1) An applica-  
32 tion for a license may be denied or, after notice and the opportunity for a  
33 hearing, a license may be suspended or revoked by the director if he finds  
34 that facts or conditions exist which would have justified the director in re-  
35 fusing to grant a license had such facts or conditions been known to exist at  
36 the time the license was issued, or that the licensee or the applicant, or any  
37 officer, member, owner, manager or agent of a licensee or applicant:

38 (a) Has violated any provision of this act, the federal fair debt col-  
39 lection practices act, 15 U.S.C. section 1692, et seq., as amended, or  
40 any rule or order of the director under this act;

41 (b) Is not legally qualified to do business in this state;

42 (c) Has failed to retain a natural person with three (3) years of ex-  
43 perience related to the type of business conducted by the licensee un-  
44 der this act to supervise each office from which business activities are  
45 conducted under this act;

46 (d) Has failed, refused or neglected to pay or remit to any creditor  
47 client the agreed portion of any sum collected by the applicant or li-

- 1 censee on any bill, claim, account or other indebtedness entrusted to  
2 such applicant or licensee for collection;
- 3 (e) Has failed to return to a debtor an amount that was not owed on his  
4 debt;
- 5 (f) Has made a material misstatement in the application for such li-  
6 cense or renewal;
- 7 (g) Has obtained or attempted to obtain a license or renewal by fraud or  
8 misrepresentation;
- 9 (h) Has misappropriated or converted to his own use or improperly with-  
10 held moneys collected or held for any other person, except that a col-  
11 lection agency licensee may convert into business funds his portion of  
12 any moneys collected on behalf of a creditor client, pursuant to a writ-  
13 ten agreement with the creditor client and in compliance with this act;
- 14 (i) Has falsely represented himself as a licensee for the purpose of so-  
15 liciting for or representing any business covered in this act;
- 16 (j) Has been convicted of, or a court of competent jurisdiction has en-  
17 tered a withheld judgment for any felony, or for a misdemeanor a crime  
18 that is deemed relevant in accordance with section 67-9411(1), Idaho  
19 Code, including a crime involving financial wrongdoing or moral turpi-  
20 tude;
- 21 (k) Has had a license substantially equivalent to a license under this  
22 act issued by another state revoked, suspended or denied; or
- 23 (l) Demonstrates a lack of fitness to engage in business activities au-  
24 thorized for a licensee under this act.
- 25 (2) The director may, after notice and the opportunity for a hearing,  
26 impose upon any licensee, or person required to be licensed under this act, a  
27 civil penalty of not more than five thousand dollars (\$5,000) for each viola-  
28 tion of this act.
- 29 (3) The director may, after notice and the opportunity for a hearing,  
30 impose upon a licensee, or person required to be licensed under this act, any  
31 sanction authorized by this section if the director finds that an agent of  
32 the licensee, or person required to be licensed under this act, has violated  
33 any provision of this act.
- 34 (4) The director may, in his discretion, and by an order issued in ac-  
35 cordance with chapter 52, title 67, Idaho Code, prohibit a licensee from us-  
36 ing an individual as an agent if the individual has violated any provision of  
37 this act, or any similar statute or rule of another state.
- 38 (5) Any denial, suspension or revocation of any license issued under  
39 this act shall be governed by chapter 52, title 67, Idaho Code.

40 SECTION 2. That Section 30-907, Idaho Code, be, and the same is hereby  
41 amended to read as follows:

42 30-907. DIRECTOR'S ISSUANCE OR DENIAL OF LICENSE. (1) The director  
43 shall receive and act upon all applications for licenses to engage in busi-  
44 ness as an escrow agency under this chapter. If the director finds that all  
45 requirements of statute and rule have been met and all applicable fees paid,  
46 and the applicant is not otherwise unqualified for licensure, the director  
47 shall issue a license to the applicant.

1 (2) An application for a license as an escrow agency shall be in writ-  
2 ing and filed with the director in such form as is prescribed by the direc-  
3 tor, shall include such information as the director may reasonably require,  
4 and shall be verified on oath by the applicant. Such information shall be up-  
5 dated and filed with the director as necessary to keep the information cur-  
6 rent. The application for licensure shall be accompanied by an application  
7 fee of three hundred fifty dollars (\$350). When an application for licensure  
8 is denied or withdrawn, the director shall retain all fees paid by the appli-  
9 cant.

10 (3) An application for an escrow agency license under this chapter may  
11 be denied if the director finds that:

12 (a) The escrow agency's business was or will be formed for any business  
13 other than legitimate escrow services, or proposes to use a name that is  
14 misleading or in conflict with the name of an existing licensee;

15 (b) Any incorporator, officer, director, member, general partner, em-  
16 ployee or agent of the escrow agency applicant has been-

17 ~~(i) Convicted of, or received a withheld judgment for, any~~  
18 ~~felony; or~~

19 ~~(ii) Convicted of, or received a withheld judgment for, a misde-~~  
20 ~~meanor involving dishonesty or moral turpitude; or~~

21 ~~(iii) Committed any crime or act involving dishonesty, fraud or~~  
22 ~~deceit, which crime or act is substantially related to the qual-~~  
23 ~~ifications, functions, or duties of a person engaged in an escrow~~  
24 ~~business or which crime is otherwise deemed relevant in accordance~~  
25 ~~with section 67-9411(1), Idaho Code;~~

26 (c) There is no natural person possessing a minimum of three (3) years  
27 of supervisory experience in relation to an escrow business supervising  
28 each escrow agency office;

29 (d) The applicant or any officer, director, member, general partner,  
30 employee or agent of the applicant has demonstrated lack of fitness to  
31 transact escrow business;

32 (e) The applicant has made any false statement of a material fact in the  
33 application for a license; or

34 (f) The applicant, any officer, director, member, general partner or  
35 any person owning or controlling, directly or indirectly, ten percent  
36 (10%) or more of the outstanding equity securities of the applicant has  
37 violated any provision of this chapter or rules promulgated thereunder,  
38 or any similar regulatory scheme in this state or in any foreign juris-  
39 diction.

40 SECTION 3. That Section 33-1208, Idaho Code, be, and the same is hereby  
41 amended to read as follows:

42 33-1208. REVOCATION, SUSPENSION, DENIAL, OR PLACE REASONABLE CONDI-  
43 TIONS ON CERTIFICATE -- GROUNDS. 1. The professional standards commission  
44 may deny, revoke, suspend, or place reasonable conditions on any certificate  
45 issued or authorized under the provisions of section 33-1201, Idaho Code,  
46 upon any of the following grounds:

- 47 a. Gross neglect of duty;
- 48 b. Incompetency;

- 1 c. Breach of the teaching contract;
- 2 d. Making any material statement of fact in the application for a cer-
- 3 tificate, which the applicant knows to be false;
- 4 e. Revocation, suspension, denial or surrender of a certificate in an-
- 5 other state for any reason constituting grounds for revocation in this
- 6 state;
- 7 f. Conviction, finding of guilt, withheld judgment or suspended sen-
- 8 tence, in this or any other state of a crime ~~involving moral turpitude~~
- 9 that is deemed relevant in accordance with section 67-9411(1), Idaho
- 10 Code;
- 11 g. Conviction, finding of guilt, withheld judgment, or suspended sen-
- 12 tence in this state or any other state for the delivery, manufacture or
- 13 production of controlled substances or simulated controlled substances
- 14 as those terms are defined in section 37-2701, Idaho Code;
- 15 h. A guilty plea or a finding of guilt, notwithstanding the form of the
- 16 judgment or withheld judgment in this or any other state, of the crime
- 17 of involuntary manslaughter, section 18-4006 2. or section 18-4006 3.,
- 18 Idaho Code;
- 19 i. Any disqualification which would have been sufficient grounds for
- 20 refusing to issue or authorize a certificate, if the disqualification
- 21 existed or had been known at the time of its issuance or authorization;
- 22 j. Willful violation of any professional code or standard of ethics or
- 23 conduct, adopted by the state board of education;
- 24 k. The kidnapping of a child, section 18-4503, Idaho Code;
- 25 l. Conviction, finding of guilt, withheld judgment, or suspended sen-
- 26 tence, in this state or any other state of any felony crime that is
- 27 deemed relevant in accordance with section 67-9411(1), Idaho Code, the
- 28 commission of which renders the certificated person unfit to teach or
- 29 otherwise perform the duties of the certificated person's position.
- 30 2. The professional standards commission shall permanently revoke any
- 31 certificate issued or authorized under the provisions of section 33-1201,
- 32 Idaho Code, and shall deny the application for issuance of a certificate of
- 33 a person who pleads guilty to or is found guilty of, notwithstanding the form
- 34 of the judgment or withheld judgment, any of the following felony offenses
- 35 against a child:
  - 36 a. The aggravated assault of a child, section 18-905, Idaho Code, or the
  - 37 assault with intent to commit a serious felony against a child, section
  - 38 18-909, Idaho Code.
  - 39 b. The aggravated battery of a child, section 18-907, Idaho Code, or the
  - 40 battery with intent to commit a serious felony against a child, section
  - 41 18-911, Idaho Code.
  - 42 c. The injury or death of a child, section 18-1501, Idaho Code.
  - 43 d. The sexual abuse of a child under sixteen (16) years of age, section
  - 44 18-1506, Idaho Code.
  - 45 e. The ritualized abuse of a child under eighteen (18) years of age,
  - 46 section 18-1506A, Idaho Code.
  - 47 f. The sexual exploitation of a child, section 18-1507, Idaho Code.
  - 48 g. Lewd conduct with a child under the age of sixteen (16) years, sec-
  - 49 tion 18-1508, Idaho Code.

- 1 h. The sexual battery of a minor child sixteen (16) or seventeen (17)
- 2 years of age, section 18-1508A, Idaho Code.
- 3 i. The sale or barter of a child for adoption or other purposes, section
- 4 18-1511, Idaho Code.
- 5 j. The murder of a child, section 18-4003, Idaho Code, or the voluntary
- 6 manslaughter of a child, section 18-4006 1., Idaho Code.
- 7 k. The kidnapping of a child, section 18-4502, Idaho Code.
- 8 l. The importation or exportation of a juvenile for immoral purposes,
- 9 section 18-5601, Idaho Code.
- 10 m. The abduction of a person under eighteen (18) years of age for pros-
- 11 titution, section 18-5610, Idaho Code.
- 12 n. The rape of a child, section 18-6101, Idaho Code.

13 The general classes of felonies listed in subsection 2. of this section  
14 shall include equivalent laws of federal or other state jurisdictions. For  
15 the purpose of this subsection, "child" means a minor or juvenile as defined  
16 by the applicable state or federal law.

17 3. The professional standards commission may investigate and follow  
18 the procedures set forth in section 33-1209, Idaho Code, for any allegation  
19 of inappropriate conduct as defined in this section, by a holder of a cer-  
20 tificate whether or not the holder has surrendered his certificate without a  
21 hearing or failed to renew his certificate. In those cases where the holder  
22 of a certificate has surrendered or failed to renew his certificate and it  
23 was found that inappropriate conduct occurred, the commission shall record  
24 such findings in the permanent record of the individual and shall deny the  
25 issuance of a teaching certificate.

26 4. Any person whose certificate may be or has been revoked, suspended  
27 or denied under the provisions of this section shall be afforded a hearing  
28 according to the provisions of section 33-1209, Idaho Code.

29 5. The professional standards commission may deny the issuance of a  
30 certificate for any reason that would be a ground for revocation or suspen-  
31 sion.

32 SECTION 4. That Section 38-1218, Idaho Code, be, and the same is hereby  
33 amended to read as follows:

34 38-1218. REVOCATION OR SUSPENSION OF CERTIFICATE. The board shall  
35 have power to (1) revoke the certificate of registration or, (2) to suspend  
36 the certificate of registration for a period of time not exceeding two (2)  
37 years, of any registrant who is found guilty of:

38 (a) The practice of any fraud or deceit in obtaining a certificate of  
39 registration;

40 (b) Gross negligence, incompetency, habitual intemperance, insanity,  
41 conviction of a ~~felony, moral turpitude~~ crime that is deemed relevant in ac-  
42 cordance with section 67-9411(1), Idaho Code, or misconduct in the practice  
43 of professional scaling as a registered professional scaler.

44 Any person may prefer charges, based on any of the above grounds,  
45 against any registrant. Such charges shall be in writing, and shall be sworn  
46 to by the person making them and shall be filed with the secretary of the  
47 board.

1 All charges, unless dismissed by the board as unfounded or trivial,  
2 shall be heard by the board as soon as possible but not to exceed three (3)  
3 months after the date on which they shall have been preferred.

4 The time and place for said hearing shall be fixed by the board and a copy  
5 of the charges, together with a notice of the time and place of hearing, shall  
6 be personally served on, or mailed to the last known address of, such regis-  
7 trant, at least thirty (30) days before the date fixed for the hearing. At  
8 any hearing, the accused registrant shall have the right to appear person-  
9 ally and by counsel, to cross-examine witnesses in his own defense.

10 If, after such hearing, three (3) or more members of the board vote in  
11 favor of finding the accused guilty, the board shall revoke or suspend, as  
12 herein provided, the certificate of registration of such registered profes-  
13 sional scaler.

14 In addition to the foregoing, provisions contained in chapter 52, title  
15 67, Idaho Code, shall also apply.

16 SECTION 5. That Section 41-327, Idaho Code, be, and the same is hereby  
17 amended to read as follows:

18 41-327. ADMINISTRATIVE PENALTY -- SUSPENSION OR REVOCATION OF CER-  
19 TIFICATE OF AUTHORITY -- DISCRETIONARY AND SPECIAL GROUNDS. (1) The director  
20 may, in his discretion, impose an administrative penalty not to exceed five  
21 thousand dollars (\$5,000), for deposit in the general fund of the state of  
22 Idaho, or refuse to continue or suspend or revoke an insurer's certificate of  
23 authority if he finds after a hearing thereon that the insurer has violated  
24 or failed to comply with any lawful order of the director, or any provision of  
25 this code other than those for which suspension or revocation is mandatory.

26 (2) The director shall suspend or revoke an insurer's certificate of  
27 authority on any of the following grounds if he finds after a hearing thereon  
28 that the insurer:

29 (a) Is in unsound condition, or in such condition or using such methods  
30 and practices in the conduct of its business, as to render its further trans-  
31 action of insurance in this state hazardous or injurious to its policyhold-  
32 ers or to the public.

33 (b) Has failed, after written request therefor by the director, to  
34 remove or discharge an officer or director who has been convicted of any  
35 crime involving fraud, dishonesty, or like moral turpitude that is otherwise  
36 deemed relevant in accordance with section 67-9411 (1), Idaho Code.

37 (c) With such frequency as to indicate its general business practice in  
38 this state, has without just cause refused to pay claims arising under cov-  
39 erages provided by its policies, whether the claim is in favor of an insured  
40 or is in favor of a third person with respect to the liability of an insured  
41 to such third person, or, with like frequency, without just cause compels in-  
42 sureds or claimants to accept less than the amount due them or to employ at-  
43 torneys or to bring suit against the insurer or such an insured to obtain full  
44 payment or settlement of such claims.

45 (d) Is affiliated with and under the same general management, or inter-  
46 locking directorate, or ownership as another insurer which transacts direct  
47 insurance in this state without having a certificate of authority therefor,  
48 except as permitted under this code.

1 (e) Refuses to be examined, or if its directors, officers, employees,  
2 or representatives refuse to submit to examination relative to its affairs,  
3 or to produce its accounts, records, and files for examination by the direc-  
4 tor when required, or refuse to perform any legal obligation relative to the  
5 examination.

6 (f) Has failed to pay any final judgment rendered against it in this  
7 state upon any policy, bond, recognizance, or undertaking issued or guar-  
8 anteed by it, within thirty (30) days after the judgment became final, or  
9 within thirty (30) days after time for taking an appeal has expired, or  
10 within thirty (30) days after dismissal of an appeal before final determi-  
11 nation, whichever date is the later.

12 (3) The director may, in his discretion and without advance notice or  
13 a hearing thereon, immediately suspend the certificate of authority of any  
14 insurer as to which proceedings for receivership, conservatorship, rehabil-  
15 itation, or other delinquency proceedings, have been commenced in any state  
16 by the public insurance supervisory official of such state.

17 SECTION 6. That Section 41-915, Idaho Code, be, and the same is hereby  
18 amended to read as follows:

19 41-915. GROUNDS FOR DENIAL, SUSPENSION OR REVOCATION OF LICENSE. (1)  
20 The license of an administrator shall be denied, suspended or revoked if the  
21 director finds that the administrator:

22 (a) Is in an unsound financial condition;

23 (b) Is using such methods or practices in the conduct of its business so  
24 as to render its further transaction of business in this state hazardous  
25 or injurious to insured persons or the public; or

26 (c) Has failed to pay any judgment rendered against it in this state  
27 within sixty (60) days after the judgment has become final.

28 (2) The director may deny, suspend or revoke the license of an adminis-  
29 trator if the director finds that the administrator:

30 (a) Has violated any lawful rule or order of the director or any provi-  
31 sion of title 41, Idaho Code;

32 (b) Has refused to be examined or to produce its accounts, records and  
33 files for examination, or if any individual responsible for the con-  
34 duct of affairs of the administrator, including members of the board of  
35 directors, board of trustees, executive committee or other governing  
36 board or committee, the principal officers in the case of a corporation  
37 or the partners or members in the case of a partnership, association or  
38 limited liability company, any shareholder or member holding directly  
39 or indirectly ten percent (10%) or more of the voting stock, voting se-  
40 curities or voting interest of the administrator and any other person  
41 who exercises control or influence over the affairs of the administra-  
42 tor, has refused to give information with respect to its affairs or has  
43 refused to perform any other legal obligation as to an examination, when  
44 required by the director;

45 (c) Has, without just cause, refused to pay proper claims or perform  
46 services arising under its contracts or has, without just cause, caused  
47 covered individuals to accept less than the amount due them or caused



1 covered individuals to employ attorneys or bring suit against the ad-  
2 ministrators to secure full payment or settlement of such claims;

3 (d) Fails, at any time, to meet any qualification for which issuance  
4 of the license could have been refused had the failure then existed and  
5 been known to the director;

6 (e) Or any of the individuals responsible for the conduct of its af-  
7 fairs, including members of the board of directors, board of trustees,  
8 executive committee or other governing board or committee, the prin-  
9 cipal officers in the case of a corporation or the partners or members  
10 in the case of a partnership, association or limited liability com-  
11 pany, any shareholder or member holding directly or indirectly ten  
12 percent (10%) or more of its voting stock, voting securities or voting  
13 interest and any other person who exercises control or influence over  
14 its affairs, has been convicted of, or has entered a plea of guilty or  
15 nolo contendere to any ~~felony, or to a misdemeanor that evidences bad~~  
16 ~~moral character~~ crime that is deemed relevant in accordance with sec-  
17 tion 67-9411(1), Idaho Code, or that evidences dishonesty, a lack of  
18 integrity and financial responsibility, or an unfitness and inability  
19 to provide acceptable service to the consuming public without regard to  
20 whether adjudication was withheld; or

21 (f) Is under suspension or revocation in another state.

22 (3) The director may, in his discretion and without advance notice or  
23 hearing, immediately suspend the license of an administrator if the director  
24 finds that one (1) or more of the following circumstances exist:

25 (a) The administrator is insolvent or impaired;

26 (b) A proceeding for receivership, conservatorship, rehabilitation or  
27 other delinquency proceeding regarding the administrator has been com-  
28 menced in any state;

29 (c) The financial condition or business practices of the administrator  
30 otherwise pose an imminent threat to the public health, safety or wel-  
31 fare of the residents of this state; or

32 (d) A final order suspending or revoking the administrator's license in  
33 its home state has been entered.

34 (4) If the director finds that one (1) or more grounds exist for the sus-  
35 pension or revocation of a license issued under the provisions of this chap-  
36 ter, the director may, in lieu of or in addition to suspension or revocation,  
37 impose an administrative penalty upon the administrator pursuant to section  
38 41-117, Idaho Code.

39 SECTION 7. That Section 41-1016, Idaho Code, be, and the same is hereby  
40 amended to read as follows:

41 41-1016. ADMINISTRATIVE PENALTY -- SUSPENSION, REVOCATION, REFUSAL  
42 OF LICENSE. (1) The director may impose an administrative penalty not to  
43 exceed one thousand dollars (\$1,000), for deposit in the general fund of the  
44 state of Idaho, and may suspend for not more than twelve (12) months or may  
45 revoke or refuse to issue or continue any license issued under this chapter,  
46 chapter 27, title 41, Idaho Code (title insurance), chapter 11, title 41,  
47 Idaho Code (adjusters), or chapter 12, title 41, Idaho Code (surplus lines

- 1 brokers), if the director finds that as to the licensee or applicant any one  
2 (1) or more of the following causes or violations exist:
- 3 (a) Providing incorrect, misleading, incomplete or materially untrue  
4 information in the license application;
  - 5 (b) Violating any provision of title 41, Idaho Code, department rule,  
6 subpoena or order of the director or of another state's insurance direc-  
7 tor;
  - 8 (c) Obtaining or attempting to obtain a license through misrepresenta-  
9 tion or fraud;
  - 10 (d) Improperly withholding, misappropriating or converting any moneys  
11 or properties received in the course of doing insurance business;
  - 12 (e) Misrepresenting the terms of an actual or proposed insurance con-  
13 tract or application for insurance or misrepresenting any fact material  
14 to any insurance transaction or proposed transaction;
  - 15 (f) Being convicted of or pleading guilty to ~~any felony, or to a mis-~~  
16 ~~demeanor which evidences bad moral character, a crime that is deemed~~  
17 relevant in accordance with section 67-9411(1), Idaho Code or that evi-  
18 dences dishonesty, a lack of integrity and financial responsibility, or  
19 an unfitness and inability to provide acceptable service to the consum-  
20 ing public;
  - 21 (g) Admitting or being found to have committed any insurance unfair  
22 trade practice or fraud;
  - 23 (h) Using fraudulent, coercive or dishonest practices, or demonstrat-  
24 ing incompetence, untrustworthiness or financial irresponsibility, or  
25 being a source of injury and loss to the public or others, in the conduct  
26 of business in this state or elsewhere;
  - 27 (i) Having an insurance license denied, suspended or revoked in any  
28 other state, province, district or territory;
  - 29 (j) Forging another's name on an application for insurance or on any  
30 document related to an insurance transaction;
  - 31 (k) Improperly using notes or any other reference material to complete  
32 an examination for an insurance license;
  - 33 (l) Knowingly accepting insurance business from an individual who is  
34 not licensed;
  - 35 (m) Failing to comply with an administrative or court order imposing a  
36 child support obligation, provided however, that nothing in this pro-  
37 vision shall be deemed to abrogate or modify chapter 14, title 7, Idaho  
38 Code;
  - 39 (n) Failing to pay state income tax or to comply with any administrative  
40 or court order directing payment of state income tax; or
  - 41 (o) In the case of a bail agent, compensating or agreeing to compen-  
42 sate any incarcerated person to influence or encourage another incar-  
43 cerated person or other incarcerated persons to engage the bail agent's  
44 services or the services of the bail agent's company or of other bail  
45 agents employed by such bail company. For purposes of this subsection,  
46 compensating any incarcerated person shall include providing payment  
47 in any form to any person, organization or entity designated by the in-  
48 carcerated person to receive such payment.

1 (2) The director shall, without hearing, suspend for not more than  
2 twelve (12) months, or shall revoke or refuse to continue any license issued  
3 under this chapter to a nonresident where:

4 (a) The director has received a final order of suspension, revocation  
5 or refusal to continue from the insurance regulatory official or court  
6 of jurisdiction of the licensee's home state; or

7 (b) A nonresident no longer has a license in the licensee's home state  
8 because the home state license was:

9 (i) Voluntarily surrendered for any reason except relicensing as  
10 a resident in another state; or

11 (ii) Otherwise nonrenewed by the nonresident and remains nonre-  
12 newed for a period greater than ninety (90) days beyond its expira-  
13 tion date, and without notice to the director of relicensing as a  
14 resident in another state.

15 If cause under this provision exists after the expiration of the twelve  
16 (12) months, successive suspensions may be imposed by the director without  
17 hearing.

18 (3) The license of a business entity may be suspended, revoked or re-  
19 fused if the director finds that the violation of an individual licensee,  
20 who is registered to or acting on behalf of the business entity, was known  
21 or should have been known by one (1) or more of the owners, officers or man-  
22 agers acting on behalf of the business entity and that the violation was not  
23 reported to the director and no corrective action was taken.

24 (4) In addition to or in lieu of any applicable denial, suspension or  
25 revocation of a license, a person may, after hearing, be subject to a civil  
26 fine or administrative penalty pursuant to subsection (1) of this section or  
27 any other applicable section.

28 (5) The director shall retain the authority to enforce the provisions  
29 of and impose any penalty or remedy authorized by title 41, Idaho Code,  
30 against any person who is under investigation for or charged with a violation  
31 of title 41, Idaho Code, or department rule, even if the person's license or  
32 registration has been surrendered or has lapsed by operation of law, or if  
33 the person has never been licensed.

34 SECTION 8. That Section 41-1104, Idaho Code, be, and the same is hereby  
35 amended to read as follows:

36 41-1104. QUALIFICATIONS FOR ADJUSTER'S LICENSE. (1) Except as pro-  
37 vided in subsection (2) of this section, the director shall not issue,  
38 continue, or permit to exist any license as an adjuster as to any person not  
39 qualified therefor as follows:

40 (a) Must be a natural person not less than twenty-one (21) years of age.

41 (b) Must be trustworthy, and be of good character and reputation as to  
42 morals, integrity, and financial responsibility, and must not have been  
43 convicted of a ~~felony or of any crime involving moral turpitude~~ that is  
44 deemed relevant in accordance with section 67-9411(1), Idaho Code.

45 (c) Must be a salaried employee of a licensed adjuster, or must have had  
46 experience or special education or training as to the investigation and  
47 settlement of loss of claims under insurance contracts of sufficient

1 duration and extent reasonably to satisfy the director as to his compe-  
2 tence to fulfill the responsibilities of an adjuster.

3 (d) If required by the director, must pass a written examination to test  
4 his knowledge of the duties and responsibilities of an adjuster and of  
5 matters involved in transactions under an adjuster's license. The ex-  
6 amination shall be subject to the same applicable provisions as apply  
7 pursuant to title 41, Idaho Code, to examinations for license as insur-  
8 ance agent.

9 (2) A firm or corporation, whether or not organized under the laws of  
10 this state, may be licensed as an adjuster if each individual who is to ex-  
11 ercise the license powers in this state is separately licensed, or is named  
12 in the firm or corporation license, and is qualified as for an individual li-  
13 cense as adjuster under subsection (1) of this section. An additional full  
14 license fee shall be paid as to each individual in excess of one (1) so named  
15 in the firm or corporation license to exercise its powers.

16 SECTION 9. That Section 41-5811, Idaho Code, be, and the same is hereby  
17 amended to read as follows:

18 41-5811. LICENSE DENIAL, NONRENEWAL OR REVOCATION. (1) The department  
19 may place on probation, suspend, revoke or refuse to issue or renew a pub-  
20 lic adjuster's license or may levy a civil penalty in accordance with section  
21 41-1016, Idaho Code, or any combination of actions, for any one (1) or more of  
22 the following causes:

23 (a) Providing incorrect, misleading, incomplete or materially untrue  
24 information in the license application;

25 (b) Violating any insurance laws, or violating any rule, regulation,  
26 subpoena or order of the department or of another state's insurance de-  
27 partment;

28 (c) Obtaining or attempting to obtain a license through misrepresenta-  
29 tion or fraud;

30 (d) Improperly withholding, misappropriating or converting any moneys  
31 or properties received in the course of doing insurance business;

32 (e) Intentionally misrepresenting the terms of an actual or proposed  
33 insurance contract or application for insurance;

34 (f) Having been convicted of a ~~felony, or a misdemeanor which~~ crime that  
35 is deemed relevant in accordance with section 67-9411(1), Idaho Code,  
36 or that evidences bad moral character, dishonesty, a lack of integrity  
37 and financial responsibility, or an unfitness and inability to provide  
38 acceptable service to the consuming public;

39 (g) Having admitted to or been found to have committed any insurance un-  
40 fair trade practice or insurance fraud;

41 (h) Using fraudulent, coercive or dishonest practices; or demonstrat-  
42 ing incompetence, untrustworthiness or financial irresponsibility in  
43 the conduct of business in this state or elsewhere;

44 (i) Having an insurance license, or its equivalent, denied, suspended  
45 or revoked in any other state, province, district or territory;

46 (j) Forging another's name to an application for insurance or to any  
47 document related to an insurance transaction;

- 1 (k) Cheating, including improperly using notes or any other reference
- 2 material, to complete an examination for an insurance license;
- 3 (l) Knowingly accepting insurance business from an individual who is
- 4 not licensed but who is required to be licensed by the department;
- 5 (m) Failing to comply with an administrative or court order imposing a
- 6 child support obligation, provided however, that nothing in this pro-
- 7 vision shall be deemed to abrogate or modify chapter 14, title 7, Idaho
- 8 Code; or
- 9 (n) Failing to pay state income tax or comply with any administrative or
- 10 court order directing payment of state income tax.
- 11 (2) The license of a business entity may be suspended, revoked or re-
- 12 fused if the department finds, after hearing, that an individual licensee's
- 13 violation was known or should have been known by one (1) or more of the
- 14 partners, officers or managers acting on behalf of the business entity and
- 15 the violation was neither reported to the department nor corrective action
- 16 taken.
- 17 (3) In addition to or in lieu of any applicable denial, suspension or
- 18 revocation of a license, a person may, after hearing, be subject to a civil
- 19 fine or administrative penalty according to section 41-1016, Idaho Code.
- 20 (4) The department shall retain the authority to enforce the provisions
- 21 of and impose any penalty or remedy authorized by this chapter and title 41,
- 22 Idaho Code, against any person who is under investigation for or charged with
- 23 a violation of this chapter or title 41, Idaho Code, even if the person's li-
- 24 cense or registration has been surrendered or has lapsed by operation of law.

25 SECTION 10. That Section 50-1604, Idaho Code, be, and the same is hereby  
26 amended to read as follows:

- 27 50-1604. EXAMINATIONS -- QUALIFICATIONS OF APPLICANTS -- REQUIRES --  
28 CAUSES FOR REMOVAL, DISCHARGE OR SUSPENSION OF INCUMBENTS. (1) Except as  
29 provided in subsection (3) of this section, all applicants for places of  
30 employment in the classified civil service shall be subject to examination,  
31 which shall be public competitive and free and shall be held at such times  
32 and places as the civil service commission shall from time to time determine.  
33 Such examinations shall be for the purpose of determining the qualifications  
34 of applicants for positions and shall be practical and shall fairly test the  
35 fitness of the persons examined to discharge the duties of the position to  
36 which they seek appointment.
- 37 (2) The governing body of each city, having created a civil service com-
  - 38 mission, shall provide a job description for each civil service position of
  - 39 the city and shall determine and establish the standards and qualifications
  - 40 therefor to be met by each applicant before appointment.
  - 41 (3) Any applicant who, while in good standing, voluntarily terminated
  - 42 his or her employment with the agency with whom an appointment is sought may,
  - 43 upon written request to and approval from the appointing officer and in ac-
  - 44 cordance with the written policy of the civil service commission, be rehired
  - 45 without taking an examination provided:
  - 46 (a) The applicant is otherwise qualified for the position; and

1 (b) The written request for rehire is physically delivered, mailed or  
2 electronically transferred to the appointing officer within such time  
3 as provided by the written policy of the civil service commission.

4 (4) All incumbents and applicants thereafter appointed shall hold of-  
5 fice, place, position or employment only during good behavior, and any such  
6 person may be removed, discharged, suspended without pay, demoted, reduced  
7 in rank, deprived of vacation privileges or other special privileges for any  
8 of the following reasons, subject to the determination of the facts in each  
9 case by the commission:

10 (a) Incompetency, inefficiency or inattention to, or dereliction of  
11 duty;

12 (b) Dishonesty, intemperance, immoral conduct, insubordination, dis-  
13 courteous treatment of the public or a fellow employee, or any other act  
14 of omission or commission tending to injure the public service; willful  
15 failure on the part of the employee to properly conduct himself, or any  
16 other willful violation of the civil service rules and regulations;

17 (c) Mental or physical unfitness for the position which the employee  
18 holds;

19 (d) Dishonest, disgraceful, immoral or prejudicial conduct;

20 (e) Drunkenness or use of intoxicating liquors, narcotics, or any other  
21 habit forming drug, liquid or preparation to such extent that the use  
22 thereof interferes with the efficiency or mental or physical fitness of  
23 the employee or which prevents the employee from properly performing  
24 the functions and duties of any position under civil service;

25 (f) Conviction of a ~~felony or a misdemeanor involving moral turpitude~~  
26 crime that is deemed relevant in accordance with section 67-9411(1),  
27 Idaho Code;

28 (g) Any other act or failure to act, which in the judgment of the civil  
29 service commissioners is sufficient to show the offender to be an un-  
30 suitable and unfit person to be employed in the public service.

31 SECTION 11. That Section 54-206, Idaho Code, be, and the same is hereby  
32 amended to read as follows:

33 54-206. DEFINITIONS. As used in this chapter:

34 (1) "AICPA" means the American institute of certified public accoun-  
35 tants.

36 (2) "Applicant" means any person having the requisite qualifications  
37 who makes application to the board for examination, or for initial issuance  
38 or renewal or reinstatement of a license under the provisions of this chap-  
39 ter.

40 (3) "Attest" means providing the following professional services:

41 (a) Any audit or other engagement to be performed in accordance with the  
42 statements on auditing standards;

43 (b) Any review of a financial statement to be performed in accordance  
44 with the statements on standards for accounting and review services;

45 (c) Any examination of prospective financial information to be per-  
46 formed in accordance with the statements on standards for attestation  
47 engagements;

- 1 (d) Any engagement to be performed in accordance with the standards of  
2 the PCAOB; and
- 3 (e) Any examination, review or agreed-upon procedures engagement to be  
4 performed in accordance with the statements on standards for attesta-  
5 tion engagements, other than an examination described in paragraph (c)  
6 of this subsection.
- 7 (4) "Board" means the Idaho state board of accountancy.
- 8 (5) "Certificate" means that document issued by the board upon original  
9 approval of licensure. The original certificate does not constitute licen-  
10 sure and a person cannot represent himself or herself as a licensee unless a  
11 current and valid annual license has been issued by the board.
- 12 (6) "Certified public accountant" or "CPA" means any person who holds a  
13 valid, unrevoked and unsuspended license under the provisions of chapter 2,  
14 title 54, Idaho Code, or an equivalent provision of the laws of another state  
15 designating said person as a certified public accountant.
- 16 (7) "Client" means the person or entity that agrees with a licensee or  
17 licensee's employer to receive any professional services with or without  
18 compensation and shall include all affiliates and related entities in the  
19 financial statements of an attest or compilation engagement.
- 20 (8) "Compilation" means a service performed in accordance with state-  
21 ments on standards for accounting and review services that presents, in  
22 the form of historical or prospective financial statements, information  
23 that is the representation of management or owners without undertaking to  
24 express any assurance on the statements. The term "compilation" does not in-  
25 clude financial statements accompanied by the language set forth in section  
26 54-226(3), Idaho Code, whether used by a licensee or by a person not licensed  
27 under this chapter, as long as the financial statements are not accompanied  
28 by any other language of assurance or disclaimer.
- 29 (9) "Financial statements" means a presentation of historical or  
30 prospective financial data, which may include accompanying notes, intended  
31 to communicate an entity's economic resources or obligations at a point in  
32 time, or the changes therein for a period of time, in accordance with a com-  
33 prehensive basis of accounting.
- 34 (10) "Firm" means a proprietorship, partnership, professional corpora-  
35 tion, professional limited liability company, or any other form of profes-  
36 sional organization permitted by Idaho law, registered under the require-  
37 ments of section 54-214, Idaho Code.
- 38 (11) "Good moral character" means lack of a history of dishonest deal-  
39 ings or a ~~felonious act~~ conviction of a crime that is deemed relevant in ac-  
40 cordance with section 67-9411(1), Idaho Code.
- 41 (12) "License" means that authorization issued by the board upon origi-  
42 nal approval and on an annual basis permitting a qualified person to practice  
43 as a certified public accountant or licensed public accountant in the state  
44 of Idaho.
- 45 (13) "Licensed public accountant" or "LPA" means any person who holds a  
46 valid, unrevoked and unsuspended license under the provisions of chapter 2,  
47 title 54, Idaho Code, designating said person as a licensed public accoun-  
48 tant.
- 49 (14) "Licensee" means the holder of a current valid license.

1 (15) "Member" means a person who has been admitted to membership in a  
2 firm that is organized as a limited liability company.

3 (16) "PCAOB" means the public company accounting oversight board.

4 (17) "Peer review" means a board-approved study, appraisal or review of  
5 one (1) or more aspects of the professional work of a licensee or firm that  
6 performs attest services or issues compilation reports, by a person or per-  
7 sons licensed under this chapter or by another state and who are independent  
8 of the licensee or firm being reviewed.

9 (18) "Permit" means a permit to practice as a firm issued under corre-  
10 sponding provisions of the laws of other states.

11 (19) "Person" means any natural living person.

12 (20) "Professional services" means services arising out of or related  
13 to the specialized knowledge or skills associated with certified public ac-  
14 countants or licensed public accountants.

15 (21) "Report," when used with reference to financial statements, means  
16 an opinion or other form of language that states or implies assurance as to  
17 the reliability of any financial statements and that also includes or is ac-  
18 companied by any statement or implication that the person or firm issuing it  
19 has special knowledge or competence in accounting or auditing. Such a state-  
20 ment or implication of special knowledge or competence may arise from use by  
21 the issuer of the report of names or titles indicating that the person or firm  
22 is an accountant or auditor, or from the language of the report itself. The  
23 term "report" includes any form of language that disclaims an opinion when  
24 such form of language is conventionally understood to imply any positive as-  
25 surance as to the reliability of the financial statements referred to or spe-  
26 cial competence on the part of the person or firm issuing such language; and  
27 it includes any other form of language that is conventionally understood to  
28 imply such assurance or special knowledge or competence.

29 (22) "State" means any state of the United States, the District of Co-  
30 lumbia, Puerto Rico, the U.S. Virgin Islands, Commonwealth of the Northern  
31 Mariana Islands and Guam; except that "this state" means the state of Idaho.

32 (23) "Substantial equivalency" or "substantially equivalent" means a  
33 determination by the board that the education, examination and experience  
34 requirements contained in the statutes and administrative rules of another  
35 jurisdiction are comparable to or exceed the education, examination and ex-  
36 perience requirements for CPAs contained in this chapter or that an indi-  
37 vidual licensee's education, examination and experience qualifications are  
38 comparable to or exceed the education, examination and experience require-  
39 ments for CPAs contained in this chapter.

40 SECTION 12. That Section 54-219, Idaho Code, be, and the same is hereby  
41 amended to read as follows:

42 54-219. LICENSE -- RESTRICTION, REVOCATION, SUSPENSION OR DENIAL --  
43 CAUSES -- COST RECOVERY -- ADMINISTRATIVE PENALTIES. (1) After notice and  
44 opportunity for hearing in accordance with the provisions of chapter 52, ti-  
45 tle 67, Idaho Code, for cause shown, the board may revoke, suspend, refuse to  
46 renew, administratively penalize, reprimand, restrict or place on probation  
47 the holder of a certificate or license, or refuse to issue any certificate or  
48 any license to an applicant, for any one (1) of the following causes:



- 1 (a) Any false statement with the intent to mislead or deceive the board  
2 or its members in connection with any application; or, cheating or any  
3 attempt to cheat in an examination.
- 4 (b) Fraud or deceit in obtaining or renewing a certificate or license to  
5 practice as a certified public accountant or licensed public accountant  
6 under the provisions of this chapter.
- 7 (c) Dishonesty, fraud or gross negligence in the performance of pro-  
8 fessional services as a licensee or individual granted privileges under  
9 section 54-227, Idaho Code, or in the filing or failure to file his own  
10 income tax returns.
- 11 (d) Violation of any provision of this chapter, or any rule adopted by  
12 the board under authority granted by this chapter, or an order of the  
13 board directed specifically to the licensee.
- 14 (e) Conviction of or a guilty plea to a felony crime under the laws of  
15 any state or country that is deemed relevant in accordance with section  
16 67-9411 (1), Idaho Code.
- 17 (f) Conviction of or a guilty plea to any crime ~~involving moral turpi-~~  
18 ~~tude~~, an element of which is dishonesty or fraud, under the laws of any  
19 state or country, notwithstanding the form of the judgment or withheld  
20 judgment.
- 21 (g) Representing oneself as a certified public accountant or licensed  
22 public accountant during any period in which the license of the person  
23 so practicing has been suspended or revoked by the board.
- 24 (h) Cancellation, revocation, suspension or refusal to renew or grant  
25 a license or privileges under section 54-227, Idaho Code, for disci-  
26 plinary reasons by any other state for any cause.
- 27 (i) Practicing as a certified public accountant or licensed public ac-  
28 countant under a false or assumed name; provided, however, this para-  
29 graph shall have no application to practicing as a certified public ac-  
30 countant or licensed public accountant under the name of a firm, when  
31 such style or name is in conformity with a type or form approved by the  
32 rules of the board.
- 33 (j) Habitual use of drugs or intoxicants to such a degree as to render  
34 the licensee unreliable and unfit to practice as a certified public ac-  
35 countant or licensed public accountant.
- 36 (k) Suspension or revocation of the right to practice before any agency  
37 of the United States government or of the state of Idaho, for any cause  
38 other than failure to pay a registration or similar fee.
- 39 (l) Having been declared mentally incompetent by a court of competent  
40 jurisdiction; provided, however, that when a person's license shall  
41 have been revoked or suspended for this cause, such license shall be  
42 reinstated by the board when said disability is judicially removed.
- 43 (m) Representing oneself as qualified or authorized to practice as a  
44 certified public accountant or licensed public accountant in this state  
45 without holding a current, valid, unrevoked and unsuspended certifi-  
46 cate and license or privileges under section 54-227, Idaho Code.
- 47 (n) Performance of any fraudulent act while holding a certificate, li-  
48 cense, permit or privileges under this chapter.

1 (o) Any conduct reflecting adversely upon the licensee's fitness to  
2 perform services while a licensee, or individual granted privileges  
3 under section 54-227, Idaho Code.

4 (2) The expenses, including attorney's fees, incurred by the board for  
5 any or all proceedings initiated against a person for violation of any of the  
6 provisions of this chapter may be charged against such person by the board,  
7 upon the finding of a violation of this chapter, in addition to any admin-  
8 istrative penalties which may be levied by the board against such person.  
9 Administrative penalties levied by the board shall not exceed two thousand  
10 five hundred dollars (\$2,500) per violation.

11 (3) In lieu of or in addition to any remedy specifically provided, the  
12 board may require of a licensee or a firm:

13 (a) A peer review conducted in such fashion as the board may specify;

14 (b) Preissuance review;

15 (c) Satisfactory completion of such continuing professional education  
16 programs or examinations as the board may specify; and

17 (d) Other similar remedies.

18 (4) In any action brought under the provisions of this chapter, ev-  
19 idence of the commission of a single act prohibited in this chapter shall  
20 be sufficient to justify a suspension, revocation, fine, administrative  
21 penalty, restriction, reprimand, injunction, restraining order, conviction  
22 or any other remedy authorized in this chapter. Evidence of a general course  
23 of conduct shall not be required.

24 SECTION 13. That Section 54-608, Idaho Code, be, and the same is hereby  
25 amended to read as follows:

26 54-608. GROUNDS FOR SUSPENSION, DENIAL, REFUSAL TO RENEW OR REVOCATION  
27 OF LICENSE. No license may be issued, and a license previously issued  
28 may be suspended, revoked or otherwise disciplined, if the person applying  
29 or the person licensed is:

30 (1) Found guilty by a court of competent jurisdiction of a ~~felony or any~~  
31 ~~offense involving moral turpitude~~ crime that is deemed relevant in accor-  
32 dance with section 67-9411(1), Idaho Code;

33 (2) Found by the board to be a repeated and excessive abuser of any drug,  
34 including alcohol, or any controlled substance;

35 (3) Found by the board to be in violation of any provision of this chap-  
36 ter or the rules promulgated pursuant thereto;

37 (4) Found by the board to have used fraud or deception in the procuring  
38 of any license;

39 (5) Found by the board to have had any action, including denial of a li-  
40 cense or the voluntary surrender of or voluntary limitation on a license,  
41 taken against the licensee by any peer review body, any health care institu-  
42 tion, any professional medical society or association or any court, law en-  
43 forcement or governmental agency;

44 (6) Found by the board to have been unethical, unprofessional or dis-  
45 honorable in the practice of healing the sick; or

46 (7) Found by the board to have failed to comply with an order issued by  
47 the board.

1 SECTION 14. That Section 54-712, Idaho Code, be, and the same is hereby  
2 amended to read as follows:

3 54-712. DISCIPLINE BY THE BOARD -- GROUNDS. Any license or permit is-  
4 sued under the provisions of this chapter shall be subject to restriction,  
5 suspension, revocation or other discipline pursuant to the provisions of  
6 sections 54-707 and 54-713, Idaho Code, if the board finds that the licensee:

7 (1) Has been convicted, found guilty, received a withheld judgment  
8 or suspended sentence in this or any other state of ~~a felony or a crime~~  
9 involving moral turpitude that is deemed relevant in accordance with section  
10 67-9411(1), Idaho Code;

11 (2) Used false, fraudulent or forged statements or documents, diplo-  
12 mas or credentials in connection with any licensing or other requirements of  
13 this chapter or misrepresented or concealed a material fact in obtaining li-  
14 censing, renewal or reinstatement;

15 (3) Practiced chiropractic under a false or assumed name in this or any  
16 other state;

17 (4) Advertised the practice of chiropractic in a false, misleading or  
18 deceptive manner;

19 (5) Knowingly aided or abetted any person to practice chiropractic  
20 who is not authorized to practice chiropractic as provided in this chapter  
21 or failed to adequately supervise auxiliary staff who have contact with  
22 patients which creates or results in an unreasonable risk of harm to the  
23 patient;

24 (6) Is unable to obtain or renew a license to practice chiropractic, or  
25 whose license to practice chiropractic has been restricted, revoked or sus-  
26 pended by any other state, territory or district of the United States or for-  
27 eign jurisdiction; a certified copy of the order shall be conclusive evi-  
28 dence of any restriction, revocation or suspension of a license;

29 (7) Failed to safeguard the confidentiality of chiropractic records or  
30 other chiropractic information pertaining to identifiable clients, except  
31 as required or authorized by law;

32 (8) Practiced chiropractic when a license pursuant to this chapter is  
33 suspended, revoked, or inactive due to failure to renew the annual license  
34 within the time and manner required by the board;

35 (9) Refused to divulge to the board, upon demand, the means, method, de-  
36 vice or instrumentality used in the treatment of a disease, injury, ailment,  
37 or infirmity;

38 (10) Has engaged in any conduct which constitutes an abuse or exploita-  
39 tion of a patient arising out of the trust and confidence placed in the li-  
40 censee by the patient;

41 (11) Has committed any act which constitutes ~~a felony or has committed~~  
42 ~~any act which constitutes a crime involving moral turpitude~~ that is deemed  
43 relevant in accordance with section 67-9411(1), Idaho Code;

44 (12) Is unable to practice chiropractic with reasonable skill and  
45 safety by reason of:

46 (a) Mental illness; or

47 (b) Physical illness including, but not limited to, physical deterio-  
48 ration which adversely affects cognitive, motor or perceptive skills;

49 or

- 1 (c) Habitual or excessive use or abuse of drugs defined in law as controlled substances, alcohol, or any other substances which impair ability; or
- 2
- 3
- 4 (d) Having a communicable, contagious or infectious disease which endangers the health of patients;
- 5
- 6 (13) Has violated the standard of care or code of ethics as adopted by the board or misrepresented or committed fraud in any aspect of the business or practice of chiropractic;
- 7
- 8
- 9 (14) Promoted unnecessary or inefficacious treatment, procedures, devices or services or practiced in an incompetent or negligent manner resulting in or creating an unreasonable risk of harm; or
- 10
- 11
- 12 (15) Has violated any provision of this act or any rule promulgated by the board for the administration or enforcement of this act, interfered with the board's conduct of investigations, hearings or any other matters relating to discipline including, but not limited to, misrepresenting facts, attempting to influence witnesses or failing to answer subpoenas, or otherwise failed to cooperate with the board in the fulfillment of its duties.
- 13
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18 SECTION 15. That Section 54-915, Idaho Code, be, and the same is hereby amended to read as follows:

20 54-915. QUALIFICATIONS REQUIRED FOR DENTIST, DENTAL THERAPIST, OR DENTAL HYGIENIST LICENSURE. No person hereafter shall be eligible for licensure to practice dentistry, dental therapy, or dental hygiene in this state unless the applicant:

- 24 (1) Is of good moral character and has not pled guilty to or been convicted of ~~any felony, or of any misdemeanor involving moral turpitude~~ a crime that is deemed relevant in accordance with section 67-9411(1), Idaho Code, unless the person demonstrates that he has been sufficiently rehabilitated to warrant the public trust;
- 25
- 26
- 27
- 28
- 29 (2) Shall, for dentistry, have successfully completed the course of study in dentistry, and graduated and received a degree of doctor of dental surgery or doctor of dental medicine from a dental school accepted and approved by the board;
- 30
- 31
- 32
- 33 (3) Shall, for dental therapy, have:
  - 34 (a) Successfully completed a course of study in dental therapy;
  - 35 (b) Graduated from a dental therapy school accredited by the commission on dental accreditation of the American dental association, provided that such school has been accepted and approved by the board; and
  - 36 (c) Completed five hundred (500) hours of supervised clinical practice under the direct supervision of a dentist;
  - 37
  - 38
  - 39
- 40 (4) Shall, for dental hygiene, have successfully completed the course of study in dental hygiene, and received a degree from a dental hygiene school accepted and approved by the board;
- 41
- 42
- 43 (5) Shall, for dentistry, dental therapy, and dental hygiene, pass the examinations provided for in section 54-918, Idaho Code.
- 44

45 SECTION 16. That Section 54-923, Idaho Code, be, and the same is hereby amended to read as follows:

1 54-923. REVOCATION FOR CONVICTIONS OF CRIME. A certificate or other  
2 evidence of qualification and right to practice dentistry, a dental spe-  
3 cialty, dental therapy, or dental hygiene, and a license, may be revoked  
4 by the board whenever it shall be shown to the board that the holder of such  
5 certificate or other evidence of qualification, right to practice or license  
6 has been convicted of a felony, ~~or of a misdemeanor involving moral turpitude~~  
7 crime that is deemed relevant in accordance with section 67-9411(1), Idaho  
8 Code, whether such conviction shall have occurred before or after qualifica-  
9 tion, or accrual of such right, or the issuance of such certificate or other  
10 evidence of qualification, or of such license. A person licensed to practice  
11 dentistry, a dental specialty, dental therapy, or dental hygiene who is con-  
12 victed of a felony in any jurisdiction shall notify the board within thirty  
13 (30) days of conviction by submitting a copy of the judgment of conviction to  
14 the board.

15 SECTION 17. That Section 54-1116, Idaho Code, be, and the same is hereby  
16 amended to read as follows:

17 54-1116. DENIAL, SUSPENSION, OR REVOCATION OF LICENSES -- GROUNDS --  
18 PROBATION. The board may refuse to issue or may refuse to renew or may suspend  
19 or may revoke any license, or may place the holder thereof on a term of proba-  
20 tion, after proper hearing, upon finding that the holder of such license com-  
21 mitted any of the following acts or omissions:

22 (1) Conviction of a crime ~~involving moral turpitude~~ that is deemed rel-  
23 evant in accordance with section 67-9411(1), Idaho Code.

24 (2) ~~Conviction of a felony.~~

25 ~~(3) Unprofessional conduct, which is hereby defined to include:~~

26 (a) Misrepresentation or fraud in the conduct of mortician or funeral  
27 director services;

28 (b) False or misleading advertising as the holder of a license for the  
29 practice of mortician or funeral director services; advertising or us-  
30 ing the name of a person who is not an employee of the establishment in  
31 connection with that of any establishment;

32 (c) Solicitation of dead human bodies by the licensee, his agents, as-  
33 sistants or employees, whether such solicitation occurs before death or  
34 after death; provided, that this shall not be deemed to prohibit general  
35 advertising;

36 (d) Employment by the licensee of persons known as "cappers," or  
37 "steerers," or "solicitors," or other such persons to solicit or obtain  
38 agreements with the public for the performance of mortician services;

39 (e) Employment directly or indirectly, of any resident trainee, agent,  
40 assistant, employee, or other person, on part or full time, or on com-  
41 mission, for the purpose of calling upon individuals or institutions  
42 by whose influence dead human bodies may be turned over to a particular  
43 mortician, funeral director or establishment;

44 (f) The direct or indirect payment, or offer of payment, of a commission  
45 by the licensee, his agents, assistants, or employees for the purpose of  
46 securing business;

47 (g) Gross immorality;

- 1 (h) Aiding or abetting an unlicensed person to practice mortician or
- 2 funeral director services;
- 3 (i) Using profane, indecent or obscene language in the presence of a
- 4 dead human body, or within the immediate hearing of the family or rel-
- 5 atives of a deceased, whose body has not yet been interred or otherwise
- 6 disposed of;
- 7 (j) Violation of any of the provisions of this chapter;
- 8 (k) Violation of any state law, or municipal or county ordinance, or
- 9 rule authorized under this chapter affecting the handling, custody,
- 10 care, processing or transportation of dead human bodies;
- 11 (l) Fraud or misrepresentation in obtaining or renewing a license;
- 12 (m) Refusing to promptly surrender the custody of a dead human body
- 13 upon the express order of the person lawfully entitled to the custody
- 14 thereof;
- 15 (n) Solicitation or acceptance, directly or indirectly, of a request,
- 16 before need, for an agreement to provide mortician services or funeral
- 17 supplies at a price less than that offered by such person to others at
- 18 time of need;
- 19 (o) Violation of any statutes of any state having to do with prearrange-
- 20 ment or prefinancing of mortician services or funeral supplies.

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

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

- 30 (a) Made, or caused to be made, a false, fraudulent or forged state-
- 31 ment or representation in procuring or attempting to procure a license
- 32 to practice nursing;
- 33 (b) Practiced nursing under a false or assumed name;
- 34 (c) Is convicted of a ~~felony or of any offense involving moral turpitude~~
- 35 crime that is deemed relevant in accordance with section 67-9411(1),
- 36 Idaho Code;
- 37 (d) Is or has been grossly negligent or reckless in performing nursing
- 38 functions;
- 39 (e) Habitually uses alcoholic beverages or drugs as defined by rule;
- 40 (f) Is physically or mentally unfit to practice nursing;
- 41 (g) Violates the provisions of this chapter or rules and standards of
- 42 conduct and practice as may be adopted by the board;
- 43 (h) Otherwise engages in conduct of a character likely to deceive,
- 44 defraud or endanger patients or the public, which includes, but is not
- 45 limited to, failing or refusing to report criminal conduct or other con-
- 46 duct by a licensee that endangers patients;

- 1 (i) Has been disciplined by a nursing regulatory authority in any ju-  
2 risdiction. A certified copy of the order entered by the jurisdiction  
3 shall be prima facie evidence of such discipline;
- 4 (j) Failure to comply with the terms of any board order, negotiated set-  
5 tlement or probationary agreement of the board, or to pay fines or costs  
6 assessed in a prior disciplinary proceeding;
- 7 (k) Engaging in conduct with a patient that is sexual, sexually ex-  
8 ploitative, sexually demeaning or may reasonably be interpreted as  
9 sexual, sexually exploitative or sexually demeaning; or engaging in  
10 conduct with a former patient that is sexually exploitative or may  
11 reasonably be interpreted as sexually exploitative. It would not be a  
12 violation under this subsection for a nurse to continue a sexual rela-  
13 tionship with a spouse or individual of majority if a consensual sexual  
14 relationship existed prior to the establishment of the nurse-patient  
15 relationship; or
- 16 (l) Failure to comply with the requirements of the abortion complica-  
17 tions reporting act, chapter 95, title 39, Idaho Code.
- 18 (2) Separate offense. Each day an individual violates any of the provi-  
19 sions of this chapter or rules and standards of conduct and practice as may be  
20 adopted by the board shall constitute a separate offense.
- 21 (3) Proceedings.
- 22 (a) The executive director shall conduct such investigations and ini-  
23 tiate such proceedings as necessary to ensure compliance with this  
24 section. The board may accept the voluntary surrender of a license  
25 from any nurse under investigation and accordingly enter an order re-  
26 voking or suspending such license and/or imposing such conditions,  
27 limitations, or restrictions on the practice of any such nurse as may  
28 be appropriate in the discretion of the board. Otherwise, every person  
29 subject to disciplinary proceedings shall be afforded an opportunity  
30 for hearing after reasonable notice. All proceedings hereunder shall  
31 be in accordance with chapter 52, title 67, Idaho Code.
- 32 (b) Hearings shall be conducted by the board or by persons appointed  
33 by the board to conduct hearings and receive evidence. The board and  
34 any person duly appointed by the board to conduct hearings shall have  
35 all powers as are necessary and incident to orderly and effective re-  
36 ceipt of evidence including, but not limited to, the power to administer  
37 oaths and to compel by subpoena attendance of witnesses and production  
38 of books, records and things at the hearing or at a deposition taken by a  
39 party in accordance with the Idaho rules of civil procedure. Any party  
40 shall be entitled to the use of subpoena upon application therefor.
- 41 (c) In the event any person fails to comply with a subpoena personally  
42 served upon him or refuses to testify to any matter regarding which he  
43 may be lawfully interrogated, the board shall petition the district  
44 court in the county where such failure or refusal occurred or where  
45 such person resides, to enforce such subpoena or compel such testimony.  
46 Proceedings before the district court shall be for contempt in the same  
47 nature as contempt of court for failure or refusal to comply with an  
48 order of the court, and the court shall have the same powers to secure  
49 compliance with subpoena and testimony or to impose penalties as in con-  
50 tempt of court proceedings.

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

5 (4) Probation/subsequent review. Any order of the board entered un-  
6 der this section may be withheld or suspended for a probationary period to be  
7 fixed by the board upon such terms and conditions as may be appropriate in or-  
8 der to regulate, monitor and/or supervise the practice of nursing by the li-  
9 censee subject to such order for the prescribed probationary period. Any or-  
10 der of the board entered under this section may be withdrawn, reversed, mod-  
11 ified or amended upon a showing by the person subject to the order that the  
12 grounds for discipline no longer exist or that he is rehabilitated, quali-  
13 fied and competent to practice nursing and that he is not likely to violate  
14 this chapter or rules adopted hereunder in the future.

15 (5) Reporting investigative information.

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

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

24 SECTION 19. That Section 54-1510, Idaho Code, be, and the same is hereby  
25 amended to read as follows:

26 54-1510. REVOCATION OF LICENSES -- GROUNDS. Every license issued un-  
27 der the provisions of this chapter shall be subject to suspension, revoca-  
28 tion or other discipline upon any of the following grounds pursuant to the  
29 procedures set forth in chapter 52, title 67, Idaho Code. All hearings con-  
30 ducted pursuant to this section, whether before the board or a hearing offi-  
31 cer, shall be held in Ada county unless otherwise designated by the board.

32 (1) Fraud or deception in procuring license.

33 (2) Practicing optometry under a false or assumed name or as a repre-  
34 sentative or agent of any person, firm or corporation other than another li-  
35 censed optometrist, a physician licensed to practice medicine and surgery  
36 under chapter 18, title 54, Idaho Code, or a professional entity, which has  
37 been incorporated under the authority of part 9, chapter 21, title 30, Idaho  
38 Code, by persons licensed to practice optometry under chapter 15, title 54,  
39 Idaho Code, or licensed to practice medicine and surgery under chapter 18,  
40 title 54, Idaho Code.

41 (3) Having been convicted or having received a withheld judgment  
42 or suspended sentence in this or any other state of ~~a felony~~, a crime  
43 involving moral turpitude that is deemed relevant in accordance with section  
44 67-9411(1), Idaho Code, or any act related to the qualifications, functions  
45 or duties of an optometrist.

46 (4) Gross incompetency.

47 (5) Inability to practice optometry with reasonable skill and safety by  
48 reason of:



- 1 (a) Mental illness;
- 2 (b) Physical illness including, but not limited to, physical deterior-
- 3 ration which adversely affects cognitive, motor or perceptive skills;
- 4 (c) Habitual or excessive use or abuse of drugs defined in law as con-
- 5 trolled substances, alcohol, or any other substances which impair abil-
- 6 ity; or
- 7 (d) Having a communicable, contagious or infectious disease which en-
- 8 dangers the health of patients.
- 9 (6) Failure to pay to the board or the bureau of occupational licenses
- 10 the annual fee and to secure a renewal license, whereupon after twenty (20)
- 11 days' notice by registered mail the license of such delinquent may be re-
- 12 voked; but the payment of such fee at or before the time of hearing, with such
- 13 additional sum, not exceeding twenty-five dollars (\$25.00) as may be fixed
- 14 by the board of optometry, shall excuse the default.
- 15 (7) Any practice or behavior of a character likely to deceive or defraud
- 16 the public.
- 17 (8) Obtaining of any fee or compensation by fraud, deceit or misrepre-
- 18 sentation.
- 19 (9) Employing, either directly or indirectly, any suspended or unli-
- 20 censed optometrist to do optometric work.
- 21 (10) Advertising the practice of optometry in a false, misleading or de-
- 22 ceptive manner.
- 23 (11) Employment or use of what are known as "cappers" or "steerers."
- 24 (12) Consistently accepting referrals that violate the laws of the
- 25 state of Idaho.
- 26 (13) For willfully permitting or allowing or causing a person who is
- 27 not a licensed optometrist or a licensed physician or surgeon to use the op-
- 28 tometrist's prescription or optometric finding to fit contact lenses upon a
- 29 person or member of the public.
- 30 (14) For violation of any of the provisions of this chapter or the rules
- 31 or code of ethics made and promulgated by the state board of optometry, as
- 32 authorized in section 54-1509, Idaho Code.
- 33 (15) For willfully attempting to violate, directly or indirectly, con-
- 34 spiring to violate, or assisting or participating in or abetting the viola-
- 35 tion of any of the provisions of this chapter or the rules or code of ethics
- 36 made, prescribed or promulgated by the state board of optometry pursuant to
- 37 the authority granted in this chapter.
- 38 (16) Having engaged in any conduct which constitutes an abuse or ex-
- 39 ploitation of a patient arising out of the trust and confidence placed in the
- 40 licensee by the patient.
- 41 (17) Having committed ~~any act which constitutes a felony or has com-~~
- 42 ~~mitted any act which constitutes a crime involving moral turpitude~~ that is
- 43 deemed relevant in accordance with section 67-9411(1), Idaho Code.

44 SECTION 20. That Section 54-1726, Idaho Code, be, and the same is hereby  
45 amended to read as follows:

46 54-1726. GROUNDS FOR DISCIPLINE. (1) The board of pharmacy may refuse  
47 to issue or renew, or may suspend, revoke or restrict the license or regis-

1 tration of any person, pursuant to the procedures set forth in chapter 52,  
2 title 67, Idaho Code, upon one (1) or more of the following grounds:

3 (a) Unprofessional conduct as that term is defined by the rules of the  
4 board;

5 (b) Incapacity of a nature that prevents a pharmacist from engaging in  
6 the practice of pharmacy with reasonable skill, competence and safety  
7 to the public;

8 (c) Being found guilty, convicted or having received a withheld judg-  
9 ment or suspended sentence by a court of competent jurisdiction in this  
10 state or any other state of one (1) or more of the following:

11 (i) Any felony crime that is deemed relevant in accordance with  
12 section 67-9411(1), Idaho Code;

13 (ii) Any act ~~involving moral turpitude, gross immorality or which~~  
14 ~~is~~ that is related to the qualifications, functions or duties of a  
15 licensee; or

16 (iii) Violations of the pharmacy or drug laws of this state or  
17 rules pertaining thereto, or of statutes, rules or regulations of  
18 any other state, or of the federal government;

19 (d) Fraud or intentional misrepresentation by a licensee in securing  
20 the issuance or renewal of a license.

21 (e) Engaging or aiding and abetting an individual to engage in the prac-  
22 tice of pharmacy without a license, or falsely using the title of phar-  
23 macist.

24 (f) Being found by the board to be in violation of any of the provisions  
25 of this chapter, chapter 27, title 37, Idaho Code, or rules adopted pur-  
26 suant to either chapter.

27 (2) Nonresident licensees and registrants shall be held accountable to  
28 the board for violations by its agents and employees and subject to the same  
29 grounds for discipline and penalties for their actions as set forth herein.

30 SECTION 21. That Section 54-1844, Idaho Code, be, and the same is hereby  
31 amended to read as follows:

32 54-1844. DEFINITIONS. As used in this compact:

33 (1) "Bylaws" means those bylaws established by the interstate commis-  
34 sion pursuant to section 54-1853, Idaho Code, for its governance, or for di-  
35 recting and controlling its actions and conduct.

36 (2) "Commissioner" means the voting representative appointed by each  
37 member board pursuant to section 54-1853, Idaho Code.

38 (3) "Conviction" means a finding by a court that an individual is guilty  
39 of a criminal offense through adjudication, or entry of a guilty or equiva-  
40 lent plea to the charge by the offender. Evidence of an entry of a conviction  
41 of a criminal offense by the court shall be considered final for purposes of  
42 disciplinary action by a member board.

43 (4) "Expedited license" means a full and unrestricted medical license  
44 granted by a member state to an eligible physician through the process set  
45 forth in the compact.

46 (5) "Interstate commission" means the interstate commission created  
47 pursuant to section 54-1853, Idaho Code.

- 1 (6) "License" means authorization by a state for a physician to engage  
2 in the practice of medicine, which would be unlawful without the authoriza-  
3 tion.
- 4 (7) "Medical practice act" means laws and rules governing the practice  
5 of allopathic and osteopathic medicine within a member state.
- 6 (8) "Member board" means a state agency in a member state that acts in  
7 the sovereign interests of the state by protecting the public through licen-  
8 sure, regulation and education of physicians as directed by the state gov-  
9 ernment.
- 10 (9) "Member state" means a state that has enacted the compact.
- 11 (10) "Offense" means a ~~felony, gross misdemeanor or crime of moral~~  
12 turpitude that is deemed relevant in accordance with section 67-9411(1),  
13 Idaho Code.
- 14 (11) "Physician" means any person who:
  - 15 (a) Is a graduate of a medical school accredited by the liaison commit-  
16 tee on medical education, the commission on osteopathic college accred-  
17 itation or a medical school listed in the international medical educa-  
18 tion directory or its equivalent;
  - 19 (b) Passed each component of the United States medical licensing exam-  
20 ination (USMLE) or the comprehensive osteopathic medical licensing ex-  
21 amination (COMLEX-USA) within three (3) attempts, or any of its prede-  
22 cessor examinations accepted by a state medical board as an equivalent  
23 examination for licensure purposes;
  - 24 (c) Successfully completed graduate medical education approved by the  
25 accreditation council for graduate medical education or the American  
26 osteopathic association;
  - 27 (d) Holds specialty certification or a time-unlimited specialty cer-  
28 tificate recognized by the American board of medical specialties or the  
29 American osteopathic association's bureau of osteopathic specialists;
  - 30 (e) Possesses a full and unrestricted license to engage in the practice  
31 of medicine issued by a member board;
  - 32 (f) Has never been convicted or received adjudication, deferred ad-  
33 judication, community supervision or deferred disposition for any  
34 offense by a court of appropriate jurisdiction;
  - 35 (g) Has never held a license authorizing the practice of medicine sub-  
36 jected to discipline by a licensing agency in any state, federal or fore-  
37 eign jurisdiction, excluding any action related to nonpayment of fees  
38 related to a license;
  - 39 (h) Has never had a controlled substance license or permit suspended  
40 or revoked by a state or the United States drug enforcement administra-  
41 tion; and
  - 42 (i) Is not under active investigation by a licensing agency or law en-  
43 forcement authority in any state, federal or foreign jurisdiction.
- 44 (12) "Practice of medicine" means the clinical prevention, diagnosis or  
45 treatment of human disease, injury or condition requiring a physician to ob-  
46 tain and maintain a license in compliance with the medical practice act of a  
47 member state.
- 48 (13) "Rule" means a written statement by the interstate commission pro-  
49 mulgated pursuant to section 54-1853, Idaho Code, that is of general appli-  
50 cability, implements, interprets, or prescribes a policy or provision of the

1 compact or an organizational, procedural or practice requirement of the in-  
2 terstate commission, and has the force and effect of statutory law in a mem-  
3 ber state, and includes the amendment, repeal, or suspension of an existing  
4 rule.

5 (14) "State" means any state, commonwealth, district or territory of  
6 the United States.

7 (15) "State of principal license" means a member state where a physi-  
8 cian holds a license to practice medicine and which has been designated as  
9 such by the physician for purposes of registration and participation in the  
10 compact.

11 SECTION 22. That Section 54-1910, Idaho Code, be, and the same is hereby  
12 amended to read as follows:

13 54-1910. EXAMINATIONS, QUALIFICATIONS AND APPLICATIONS. Under such  
14 rules as the board may adopt, the administrator shall have the power and  
15 authority to investigate, classify, and to qualify applicants for licenses  
16 under this chapter, by written or oral examinations, or both.

17 The qualifications to be required of an applicant by the board are as  
18 follows:

19 (a) Such degree of experience, and such general knowledge of the build-  
20 ing, safety, health and lien laws of the state, and of the rudimentary ad-  
21 ministrative principles of the contracting business, as may be deemed neces-  
22 sary by the board for the safety and protection of the public. The applicant  
23 if an individual may qualify as to the aforementioned experience and knowl-  
24 edge by personal appearance or by the appearance of his responsible managing  
25 employee, and if a copartnership or corporation, limited liability company,  
26 limited liability partnership and any other combination or organization, by  
27 the appearance of the responsible managing officer or member of the person-  
28 nel of such applicant. If the person qualifying by examination as to expe-  
29 rience and knowledge shall, for any reason whatsoever, cease to be connected  
30 with the licensee to whom the license is issued, such licensee shall so no-  
31 tify the administrator in writing within ten (10) days from such cessation.  
32 If such notice is given, the license shall remain in force for a reasonable  
33 length of time, to be determined by rules of the board. If such licensee  
34 fails to so notify the administrator within said ten (10) day period, then  
35 at the end of such ten (10) day period, the license of such licensee shall be  
36 automatically suspended. A suspended license shall be reinstated upon the  
37 filing with the administrator of an affidavit executed by the licensee or a  
38 member of the suspended firm, to the effect that the individual originally  
39 examined for the firm has been replaced by another individual who has been  
40 qualified by examination as herein provided, and who shall not have had a li-  
41 cense suspended or revoked, nor have been connected with any licensee who has  
42 had a license suspended or revoked for reasons that should preclude him from  
43 personally qualifying as to good character as herein required of an appli-  
44 cant.

45 (b) The possession by the applicant of good character. Lack of charac-  
46 ter may be established by showing any of the following:

- 1 (1) That the applicant has committed or done any act which, if committed
- 2 or done by any licensed contractor, would be grounds for the suspension
- 3 or revocation of a contractor's license; or
- 4 (2) That the applicant has committed or done any act involving dis-
- 5 honesty, fraud or deceit whereby the applicant has been benefited or
- 6 whereby some injury has been sustained by another; or
- 7 (3) That the applicant bears a bad reputation for honesty and in-
- 8 tegrity; or
- 9 (4) That the applicant has been convicted of a felony crime that is
- 10 deemed relevant in accordance with section 67-9411(1), Idaho Code.
- 11 (c) That he has never been refused a license or had a license revoked for
- 12 reasons that would preclude the granting of the license applied for.
- 13 (d) No license shall be issued to a corporation, copartnership, limited
- 14 liability company, limited liability partnership or other combination or
- 15 organization if any responsible officer of such corporation, or other com-
- 16 bination or organization, or any member of such copartnership does not meet
- 17 the qualifications required of an applicant other than those qualifications
- 18 relating to knowledge and experience.
- 19 (e) To obtain an original license under this chapter, the applicant
- 20 shall submit to the administrator, on such forms as the administrator shall
- 21 prescribe, accompanied by the required fee for the class of license applied
- 22 for, and in accordance with such rules as may be deemed necessary and adopted
- 23 by the board in order to carry out the foregoing provisions of this section,
- 24 a sworn written application for such license, containing the statement that
- 25 applicant desires the issuance of a license under the terms of this chap-
- 26 ter. The information contained in such application forms shall include a
- 27 complete statement of the general nature of applicant's contracting busi-
- 28 ness, and stating concisely applicant's experience and qualifications as a
- 29 contractor; the value and character of contract work completed and for whom
- 30 performed during the three (3) year period prior to filing the application;
- 31 a general description of applicant's machinery and equipment; a complete
- 32 financial statement which may include a letter from applicant's bonding
- 33 company stating the amount of the applicant's bonding capability per project
- 34 and in the aggregate, on such forms and disclosing such information as shall
- 35 be required by the administrator, together with such additional information
- 36 as may be required by the administrator to determine the applicant's fit-
- 37 ness for a license under this chapter. The application shall contain, if
- 38 by an individual, the individual's name, social security number and busi-
- 39 ness address; if by a copartnership, its business address and the names and
- 40 addresses of all partners; and if by a corporation, association, limited
- 41 liability company, limited liability partnership or other organization, its
- 42 business address and the names and addresses of the president, vice presi-
- 43 dent, secretary, and chief construction managing officers, or responsible
- 44 managing employee. A request for a licensing class higher than that for
- 45 which the applicant qualifies must go to the administrator for review and may
- 46 be approved up to the bond limit. A final appeal of a decision of the adminis-
- 47 trator may be made to the board.

48 SECTION 23. That Section 54-2103, Idaho Code, be, and the same is hereby  
49 amended to read as follows:

- 1           54-2103. DEFINITIONS. As used in this chapter:
- 2           (1) "Accredited continuing education activity" means a provider and
- 3 course, seminar, scientific program or any other activity approved by the
- 4 board or its designees for continuing education credit.
- 5           (2) "Accredited or approved school of veterinary medicine" means any
- 6 veterinary college or division of a university or college inside or outside
- 7 the United States or Canada that offers the degree of doctor of veterinary
- 8 medicine, veterinary medicine doctor, or its equivalent and is accredited or
- 9 approved by the council on education of the American veterinary medical as-
- 10 sociation or other accrediting agency or association approved by the board.
- 11           (3) "Allied health professional" means a person holding a current ac-
- 12 tive license, in good standing, in any state to practice one (1) of the heal-
- 13 ing arts including, but not limited to, medicine, dentistry, osteopathy,
- 14 chiropractic, acupuncture and podiatry.
- 15           (4) "Anesthetized" means any condition of general anesthesia, caused
- 16 by the administration of a drug or combination of drugs in sufficient quan-
- 17 tity to produce a state of unconsciousness or disassociation and blocked re-
- 18 sponse to a given pain or alarm stimulus.
- 19           (5) "Animal" means any animal other than man and includes fowl, birds,
- 20 fish and reptiles, wild or domestic, living or dead.
- 21           (6) "Assistant" means any individual, other than a certified veteri-
- 22 nary technician or a licensed veterinarian, who is utilized by a licensed
- 23 veterinarian to assist in the performance of acts pertaining to the practice
- 24 of veterinary medicine.
- 25           (7) "Board" means the state board of veterinary medicine.
- 26           (8) "Certified euthanasia agency" or "CEA" means a law enforcement
- 27 agency, an animal control agency or a society for the prevention of cruelty
- 28 to animals, which has been inspected and certified by the committee on humane
- 29 euthanasia or the board.
- 30           (9) "Certified euthanasia technician" or "CET" means a person employed
- 31 by a certified euthanasia agency who is instructed and certified by the com-
- 32 mittee on humane euthanasia or the board as defined in the rules of the board,
- 33 but not to include an individual employed as a technician by animal research
- 34 laboratories.
- 35           (10) "Certified veterinary technician" means a person who has fulfilled
- 36 the certification requirements prescribed by board rule and has been certi-
- 37 fied by the board to practice veterinary technology in this state.
- 38           (11) "Consultation" means a deliberation between two (2) or more vet-
- 39 erinarians concerning the diagnosis of a disease or the proper management of
- 40 the case.
- 41           (12) "Credit hour" means fifty (50) minutes of participation in an ac-
- 42 credited continuing education activity.
- 43           (13) "Dentistry" is the practice of veterinary medicine and means the
- 44 application or use of any instrument or device to any portion of an animal's
- 45 tooth, gum or any related tissue for the prevention, cure or relief of any
- 46 wound, fracture, injury, disease or other condition of an animal's tooth,
- 47 gum or related tissue. Dentistry includes, but is not limited to:
- 48           (a) "Preventive dental procedures" including, but not limited to, the
- 49 removal of calculus, soft deposits, plaque, stains, and floating to

- 1 shape the teeth above the gum line or the smoothing, filing or polishing  
2 of tooth surfaces above the gum line; and
- 3 (b) "Operative dentistry/oral surgery" or any other dental procedure  
4 that invades the hard or soft oral tissue including a procedure that al-  
5 ters the structure of one (1) or more teeth, or repairs damaged and dis-  
6 eased teeth, or the deliberate extraction of one (1) or more teeth.
- 7 (14) "Direct supervision" means the supervising veterinarian is on the  
8 premises where the animal is being treated, is quickly and easily available  
9 and the animal has been examined by the supervising veterinarian as accept-  
10 able veterinary medical practice requires.
- 11 (15) "Discipline" means board action including, but not limited to:
- 12 (a) Refusing to issue, renew or reinstate a license, permit or certi-  
13 fication to practice as a licensed veterinarian, a certified veteri-  
14 nary technician, a certified euthanasia agency or a certified euthana-  
15 sia technician;
- 16 (b) Denial, revocation, suspension, sanction, probation or voluntary  
17 surrender of a license, permit or certification to practice as a li-  
18 censed veterinarian, a certified veterinary technician, a certified  
19 euthanasia agency or a certified euthanasia technician;
- 20 (c) The ability to enter into consent agreements and negotiated settle-  
21 ments with licensed veterinarians, certified veterinary technicians,  
22 certified euthanasia agencies and certified euthanasia technicians;
- 23 (d) The ability to bring an administrative or civil action against any  
24 person in or outside of this state who practices veterinary medicine,  
25 veterinary technology or who performs euthanasia within this state.
- 26 (16) "Emergency" means that the animal has been placed in a life-threat-  
27 ening condition where immediate treatment is necessary to sustain life.
- 28 (17) "Emergency veterinary facility" means any facility with the pri-  
29 mary function of receiving, treating, and monitoring emergency patients  
30 during its specified hours of operation or that displays to the public any  
31 sign, card, or advertisement that indicates it is an emergency veterinary  
32 clinic or hospital. An emergency veterinary facility may be an independent  
33 after-hours service, an independent twenty-four (24) hour service, or it may  
34 be part of a full-service veterinary medical facility.
- 35 (18) "Committee on humane euthanasia" means a committee established by  
36 the board for the purposes of training, examining, certifying and inspecting  
37 certified euthanasia agencies and certified euthanasia technicians.
- 38 (19) "Extra label use" means the actual or intended use of a human or  
39 veterinary drug in an animal in a manner that is not in accordance with the  
40 drug's labeling.
- 41 (20) "Floating" means shaping the posterior (cheek) teeth and the in-  
42 cisors (cutting teeth) in horses, mules and donkeys through the use of hand  
43 floats, rasps, burs, mechanical files or other file-like instruments to re-  
44 store balance, allow more efficient mastication, and reduce pain and trauma  
45 to the periodontal tissues.
- 46 (21) "Herd, litter or flock" of animals means animals managed as a group  
47 for purposes including, but not limited to, breeding, sale, show or food pro-  
48 duction.
- 49 (22) "Immediate supervision" means the supervising veterinarian is in  
50 the immediate area, in audible and visual range of the animal patient and the

1 person treating the patient and the animal has been examined by the supervis-  
2 ing veterinarian as acceptable veterinary medical practice requires.

3 (23) "In good standing" means, when used in reference to an applicant  
4 for licensure or certification, that an applicant:

5 (a) Has not been the recipient of any administrative penalties regard-  
6 ing his practice of veterinary medicine including, but not limited to,  
7 fines, formal reprimands, license suspensions or revocations (except  
8 for license revocations for nonpayment of license renewal fees) or pro-  
9 bationary limitations, or has not entered into any consent agreement or  
10 negotiated settlement that contains conditions placed by a board on his  
11 professional conduct and practice, including any voluntary surrender  
12 of a license; and

13 (b) Has never had his United States drug enforcement administration  
14 privileges restricted or revoked; and

15 (c) Is not currently under investigation by another veterinary licens-  
16 ing authority for acts which would provide a basis for disciplinary ac-  
17 tion in this state, as determined by the board; and

18 (d) Has no physical or mental impairment related to drugs, alcohol, or  
19 a finding of mental incompetence by a physician that would limit the ap-  
20 plicant's ability to undertake the practice of veterinary medicine in a  
21 manner consistent with the safety of a patient or the public; and

22 ~~(e) Has not been convicted of a felony as defined in chapter 1, title 18,~~  
23 ~~Idaho Code; and~~

24 ~~(f) Has no criminal conviction record or pending criminal charge re-~~  
25 ~~lating to an offense the circumstances of which substantially relate to~~  
26 ~~the practice of veterinary medicine or that is deemed relevant in accor-~~  
27 ~~dance with section 67-9411(1), Idaho Code. Applicants who have crim-~~  
28 ~~inal conviction records or pending criminal charges shall require ap-~~  
29 ~~propriate authorities to provide information about the record or charge~~  
30 ~~directly to the board in sufficient detail to enable the board to make a~~  
31 ~~determination whether the record or charge is substantially related to~~  
32 ~~the practice of veterinary medicine.~~

33 (24) "Indirect supervision" means the supervising veterinarian is not  
34 on the premises but is available for immediate contact by telephone, radio or  
35 other means, has given either written or oral instructions for treatment of  
36 the animal patient, the animal has been examined by the supervising veteri-  
37 narian as acceptable veterinary medical practice requires, and the animal,  
38 if previously anesthetized, has recovered to the point of being conscious  
39 and sternal.

40 (25) "Legend/Prescription drug" means any drug which, under federal  
41 law, regulation or rule, is required, prior to being distributed or deliv-  
42 ered, to be labeled with one (1) of the following statements: "Caution:  
43 Federal law restricts this drug to be used by or on the order of a licensed  
44 veterinarian," or "Caution: Federal law prohibits dispensing without a pre-  
45 scription," or "RX Only," or a drug which is required by any applicable state  
46 or federal law, rule or regulation to be distributed or dispensed pursuant to  
47 a prescription only, or is restricted to use by licensed practitioners only.

48 (26) "Licensed veterinarian" means a person who is validly and cur-  
49 rently licensed to practice veterinary medicine in this state.

50 (27) "Malpractice" means, but is not limited to:



- 1 (a) Treatment in a manner contrary to accepted veterinary practices and
- 2 with injurious results; or
- 3 (b) Any professional misconduct or unreasonable lack of professional
- 4 skill or fidelity in the performance of the professional practice of
- 5 veterinary medicine; or
- 6 (c) Failure to provide adequate supervision, except in an emergency
- 7 situation; or
- 8 (d) Allowing an unqualified individual to perform a procedure that is
- 9 part of the practice of veterinary medicine; or
- 10 (e) The negligent practice of veterinary medicine, as determined by the
- 11 standard of practice for the area, that results in injury, unnecessary
- 12 suffering or death.
- 13 (28) "Medical incompetence" means lacking in sufficient medical knowl-
- 14 edge or skills or both to a degree likely to endanger the health of patients.
- 15 (29) "Mobile clinic" means a vehicle including, but not limited to, a
- 16 camper, motor home, trailer or mobile home, used as a veterinary medical fa-
- 17 cility. A mobile clinic is not required for house calls or farm calls.
- 18 (30) "On-call emergency service" means a veterinary medical facility
- 19 that is available to provide emergency veterinary services as requested if
- 20 a veterinarian is available.
- 21 (31) "Owner/Ownership" means ownership as defined by the laws of prop-
- 22 erty and ownership, chapter 1, title 55, Idaho Code, and chapter 1, title 73,
- 23 Idaho Code.
- 24 (32) "Person" means any individual, firm, partnership, association,
- 25 joint venture, cooperative and corporation, or any other group or combi-
- 26 nation acting in concert; and whether or not acting as principal, trustee,
- 27 fiduciary, receiver, or as any other kind of legal or personal representa-
- 28 tive, or as the successor in interest, assignee, agent, factor, servant,
- 29 employee, director, officer, or any other representative of such person.
- 30 (33) "Physical or mental incompetence" means the veterinarian's abil-
- 31 ity to practice veterinary medicine with reasonable skill and safety is
- 32 impaired by reason of illness, excessive use of alcohol, drugs, narcotics,
- 33 chemicals or any other substance, or as a result of any mental or physical
- 34 disability.
- 35 (34) "Practice of veterinary medicine" in this state, through tele-
- 36 phonic, electronic or other means, regardless of the location of the veteri-
- 37 narian, includes veterinary surgery, obstetrics, dentistry, and all other
- 38 branches or specialties of veterinary medicine and means:
- 39 (a) To directly or indirectly diagnose, treat, correct, change, re-
- 40 lieve or prevent animal disease, deformity, defect, injury or other
- 41 physical or mental conditions; including the prescribing, dispensing,
- 42 delivering or administering of any drug, medicine, biologic, apparatus
- 43 application, anesthetic or other therapeutic or diagnostic substance
- 44 or technique, or the use of any obstetrical procedure or any manual or
- 45 mechanical procedure for artificial insemination, for testing or exam-
- 46 ining for pregnancy, fertility evaluation, embryo transplant, grading
- 47 of fresh semen, or to render advice or recommendation with regard to any
- 48 of the above.

1 (b) To represent, directly or indirectly, publicly or privately, an  
2 ability and willingness to do any act described in paragraph (a) of this  
3 subsection.

4 (c) To use any title, words, abbreviations or letter in a manner or un-  
5 der circumstances which induce the belief that the person using them is  
6 qualified to do any act described in paragraph (a) of this subsection,  
7 except where such person is a licensed veterinarian.

8 (35) "Professional supervision" means the supervising veterinarian is  
9 in daily contact by telephone, radio or other means with the temporary li-  
10 censee.

11 (36) "Referral" means the transfer of responsibility for diagnosis and  
12 treatment from the referring veterinarian to the receiving veterinarian, or  
13 from the referring veterinarian to the board-certified specialist, or from  
14 the referring veterinarian to an allied health professional.

15 (37) "Regular employee" means a person who performs services for the an-  
16 imal's owner other than, or in addition to, feeding, boarding, castrating  
17 and dehorning, but does not include independent contractors or agents.

18 (38) "Supervision" means the action or process of a supervising veteri-  
19 narian in directing activities or a course of action for those individuals to  
20 whom activities or functions have been assigned or delegated.

21 (39) "Supervising veterinarian" means a licensed veterinarian utiliz-  
22 ing the services of a temporary licensee, certified veterinary technician,  
23 veterinary technician, veterinary technician with a temporary certifica-  
24 tion, veterinary assistant, certified euthanasia technician, or as provided  
25 by rule. A supervising veterinarian shall be individually responsible and  
26 liable, regardless of the supervision provided, for all damages arising out  
27 of his own acts or omissions and for the performance of any acts and omissions  
28 pertaining to the practice of veterinary medicine that are delegated to the  
29 temporary licensee, certified veterinary technician, veterinary techni-  
30 cian, veterinary assistant or certified euthanasia technician. Nothing  
31 herein shall be construed to deprive the board of its disciplinary authority  
32 with respect to the temporary licensees, certified veterinary technicians,  
33 veterinary technicians, veterinary assistants or certified euthanasia  
34 technicians.

35 (40) "Unethical or unprofessional conduct" means to knowingly engage in  
36 conduct of a character likely to deceive or defraud the public, false or mis-  
37 leading advertising or solicitation, obtaining any fee or compensation by  
38 fraud or misrepresentation, sharing office space and working in conjunction  
39 with any person illegally practicing veterinary medicine, employing either  
40 indirectly or directly an unlicensed or uncertified person to perform acts  
41 pertaining to the practice of veterinary medicine, except as provided by law  
42 or rule, or the violation of any law or rules adopted by the board pertain-  
43 ing to unethical or unprofessional conduct, or that provide a code of profes-  
44 sional conduct to be followed and carried out by persons licensed or certi-  
45 fied by the board.

46 (41) "Unlicensed practice" means:

47 (a) The practice of veterinary medicine in this state, through tele-  
48 phonic, electronic or other means, regardless of the location of the  
49 veterinarian, without a valid, unexpired, unrevoked, and unsuspended

1 active license or certification in this state to do so, except as pro-  
2 vided by law or rule; or

3 (b) Representing one's self through offerings, advertisements or use  
4 of professional titles or designations as being qualified to practice  
5 veterinary medicine.

6 (42) "Veterinarian" means a person who has received a doctor's degree  
7 in veterinary medicine from an accredited or approved school of veterinary  
8 medicine or as otherwise provided by law or rule.

9 (43) "Veterinarian on call" means a veterinarian is not present at the  
10 veterinary medical facility, but is able to respond within a reasonable time  
11 to requests for emergency veterinary services.

12 (44) "Veterinarian on premises" means a veterinarian is present at the  
13 veterinary medical facility and is prepared and qualified to render veteri-  
14 nary services.

15 (45) "Veterinary medical facility" means any premises, office, unit,  
16 structure, mobile unit, or area utilized for the practice of veterinary  
17 medicine other than the premises of an owner when used for treatment of the  
18 owner's animal.

19 (46) "Veterinary technician" means a person who has graduated from a  
20 veterinary technology program accredited or approved by the committee on  
21 veterinary technician education and activities of the American veterinary  
22 medical association, or other accrediting agency approved by the board, or a  
23 person who has received equivalent training as set forth in the rules of the  
24 board.

25 (47) "Veterinary technology" means the performance of services within  
26 the practice of veterinary medicine by a person working under the direction  
27 of a supervising veterinarian to perform duties that require an understand-  
28 ing of veterinary medicine in order to carry out the orders of the veteri-  
29 narian. Veterinary technology does not include prognosis, diagnosis, oper-  
30 ative dentistry, deliberate tooth extraction procedures or the prescribing  
31 of treatment or performing surgery of any kind.

32 SECTION 24. That Section 54-2508, Idaho Code, be, and the same is hereby  
33 amended to read as follows:

34 54-2508. LICENSE -- APPLICATION THEREFOR -- TYPE AND NUMBER OF RACES  
35 -- FEE PER DAY -- REFUND -- CANCELLATION -- HEARING -- SIMULCAST PURSE MONEYS  
36 FUND. It shall be unlawful for any person to hold any race meet in this state  
37 without having first obtained and having in force and effect a license issued  
38 by the commission as in this chapter provided. Every person making appli-  
39 cation for a license to hold a race meet, under the provisions of this chap-  
40 ter, shall file an application with the commission which shall set forth the  
41 time, place and number of days such will continue, an agreement with a horse-  
42 men's group as the term "horsemen's group" is defined in section 54-2502,  
43 Idaho Code, and such other information as the commission may require. The  
44 agreement shall be reached voluntarily or pursuant to binding arbitration  
45 in conformance with chapter 9, title 7, Idaho Code, and shall address, but  
46 not be limited to, number of live race days and percentage of the live race  
47 and simulcast handle that is dedicated to the live horse race purse struc-  
48 ture. In addition, the agreement shall provide that all simulcast purse mon-

1 eys that are accrued as required by the horsemen's agreement be held in the  
2 simulcast purse moneys fund created pursuant to the provisions of this sec-  
3 tion. Race days agreed upon shall be submitted to the Idaho racing commis-  
4 sion for its approval.

5 No person who has been convicted of any crime ~~involving moral turpitude~~  
6 that is deemed relevant in accordance with section 67-9411(1), Idaho Code  
7 shall be issued a license of any kind, nor shall any license be issued to any  
8 person who has violated the terms or provisions of this chapter, or any of the  
9 rules of the commission, or who has failed to pay any of the fees, taxes or  
10 moneys required under the provisions of this chapter.

11 All applications to hold race meets shall be submitted to the commission  
12 which shall act upon such applications within thirty (30) days. The commis-  
13 sion shall be the sole judge of whether or not the race meet shall be licensed  
14 and the number of days the meet shall continue.

15 The license issued shall specify the kind and character of the race  
16 meets to be held, the number of days the race meet shall continue and the num-  
17 ber of races per day. For those licensees or facilities that have had a total  
18 race handle from both live races and simulcast races exceeding five million  
19 dollars (\$5,000,000) during the last calendar year in operation, the number  
20 of races per day shall not be less than eight (8), and the number of days of  
21 racing shall not be less than forty-six (46) unless otherwise agreed by the  
22 licensee and the horsemen's group. Provided however, the number of days of  
23 racing shall not be less than fifteen (15) and the number of days of racing  
24 shall be approved by the Idaho racing commission. For those licensees or fa-  
25 cilities that have had a total race handle from both live races and simulcast  
26 races of five million dollars (\$5,000,000) or less during the last calendar  
27 year in operation, the number of races per day shall not be less than six (6)  
28 and the number of days of racing shall not be less than two (2). The licensee  
29 shall pay in advance of the scheduled race meet to the state treasurer a fee  
30 of not less than twenty-five dollars (\$25.00) for each day of racing, which  
31 fees shall be placed in the public school income fund of the state of Idaho.  
32 Provided, that if unforeseen obstacles arise, which prevent the holding,  
33 or completion of any race meet, the license fee held may be refunded the li-  
34 censee, if the commission deems the reason for failure to hold or complete  
35 the race meet sufficient. Any unexpired license held by any person who vio-  
36 lates any of the provisions of this chapter, pursuant thereto, or who fails  
37 to pay to the commission any and all sums required under the provisions of  
38 this chapter, shall be subject to cancellation and revocation by the commis-  
39 sion. Such cancellation shall be made only after a summary hearing before  
40 the commission, of which three (3) days' notice in writing shall be given the  
41 licensee, specifying the grounds for the proposed cancellation, and at which  
42 hearing the licensee shall be given an opportunity to be heard in opposition  
43 to the proposed cancellation.

44 The simulcast purse moneys fund is hereby created in the state treasury.  
45 Moneys in the fund shall consist of all simulcast purse moneys that are ac-  
46 crued as required by horsemen's agreements. Moneys in the fund are hereby  
47 perpetually appropriated to the Idaho state racing commission for distri-  
48 bution pursuant to the provisions of horsemen's agreements and rules of the  
49 commission. The commission is authorized to promulgate rules providing for  
50 the receipt, deposit, withdrawal and distribution of such moneys. The state

1 treasurer shall invest idle moneys in the fund and any interest received on  
2 those investments shall be returned to the fund.

3 SECTION 25. That Section 54-2819, Idaho Code, be, and the same is hereby  
4 amended to read as follows:

5 54-2819. DISCIPLINE. (1) Grounds for discipline. The board shall have  
6 the power to deny any application for or renewal of a certificate of regis-  
7 tration or to revoke, suspend or otherwise discipline any registrant or reg-  
8 istration issued pursuant to this chapter and to limit or restrict the prac-  
9 tice of any registrant upon a determination by the board that the person:

10 (a) Made, or caused to be made, a false, fraudulent or forged statement,  
11 document, credentials or representation in procuring or attempting to  
12 procure a certificate of registration to practice geology; or

13 (b) Practiced geology under a false or assumed name; or

14 (c) Was convicted of, found guilty, received a withheld judgment or  
15 suspended sentence in this or any other state of action constituting a  
16 ~~felony or of a crime involving moral turpitude that is deemed relevant~~  
17 in accordance with section 67-9411(1), Idaho Code; or

18 (d) Violated the provisions of this chapter or rules, standards of con-  
19 duct and practice, or any ethical codes as may be adopted by the board;  
20 or

21 (e) Is or has been grossly negligent, incompetent, or reckless in the  
22 practice of geology; or

23 (f) Has had a license, certificate, or registration to practice as a  
24 professional geologist suspended or revoked in any jurisdiction. A  
25 certified copy of the order of suspension or revocation shall be prima  
26 facie evidence of such suspension or revocation.

27 (2) Proceedings. Every person subject to disciplinary proceedings  
28 shall be afforded an opportunity for hearing after reasonable notice.

29 (a) All proceedings hereunder shall be in accordance with chapter 52,  
30 title 67, Idaho Code, and the Idaho rules of administrative procedure of  
31 the attorney general (IDAPA 04.11.01).

32 (b) Hearings shall be conducted by the board or by persons appointed by  
33 the board to conduct hearings and receive evidence.

34 (3) Probation. Any order of the board entered under this section may be  
35 withheld or suspended for a probationary period to be fixed by the board upon  
36 such terms and conditions as may be appropriate in order to regulate, monitor  
37 or supervise the practice of geology by the registrant subject to such order  
38 for the prescribed probationary period.

39 (4) Subsequent review. Any order of the board entered under this sec-  
40 tion may be withdrawn, reversed, modified or amended upon a showing by the  
41 person subject to the order that the grounds for discipline no longer ex-  
42 ist or that he is rehabilitated, qualified and competent to practice profes-  
43 sional geology and that he is not likely to violate the provisions of this  
44 section or rules adopted hereunder in the future.

45 (5) Costs and fees. The board may, pursuant to an order of discipline  
46 or as a condition to withdrawal, reversal, modification or amendment of the  
47 order, require the person to pay all or part of the costs and fees incurred by  
48 the board in proceedings upon which the order was entered.

1 (6) Administrative fines. The board may, pursuant to an order of disci-  
2 pline, require the payment of an administrative fine not to exceed one thou-  
3 sand dollars (\$1,000) for each violation of the provisions of this section or  
4 rules adopted hereunder.

5 SECTION 26. That Section 54-2916A, Idaho Code, be, and the same is  
6 hereby amended to read as follows:

7 54-2916A. QUALIFICATIONS FOR LICENSURE -- SIGN LANGUAGE INTER-  
8 PRETER. To be eligible for licensure as a sign language interpreter, the  
9 applicant shall:

10 (1) File a written application with the board on forms prescribed and  
11 furnished by the board. A nonrefundable application fee shall accompany the  
12 completed written application. Such fees shall be established by the admin-  
13 istrative rules of the board and shall be in such amounts as are reasonable  
14 and necessary for the proper execution and enforcement of this chapter;

15 (2) Provide verification acceptable to the board of the following:

16 (a) Good moral character;

17 (b) Never having had a license or certification revoked or otherwise  
18 sanctioned as part of disciplinary action from this or any other state;

19 (c) Never having been convicted, found guilty or received a withheld  
20 judgment for any felony crime that is deemed relevant in accordance with  
21 section 67-9411(1), Idaho Code; and

22 (d) Never having been found by the board to have engaged in conduct pro-  
23 hibited by this chapter.

24 The board may take into consideration the rehabilitation of the applicant  
25 and other mitigating circumstances when considering applications for licen-  
26 sure.

27 (3) Provide evidence satisfactory to the board of having successfully  
28 passed a nationally recognized competency examination approved by the board  
29 or achieved certification defined by board rule;

30 (4) Provide educational documentation satisfactory to the board that  
31 the applicant has successfully graduated from a four (4) year course at an  
32 accredited high school or the equivalent; and

33 (5) Provide documentation that the applicant has successfully passed  
34 an examination approved by the board.

35 SECTION 27. That Section 54-3112, Idaho Code, be, and the same is hereby  
36 amended to read as follows:

37 54-3112. SUSPENSION AND REVOCATION OF TEMPORARY PERMIT OR CERTIFI-  
38 CATE. The board may refuse to issue, refuse to renew, suspend, revoke, or  
39 otherwise sanction a temporary permit or certified shorthand reporter cer-  
40 tificate for any of the following reasons:

41 (1) Conviction of a ~~felony or a misdemeanor involving moral turpitude~~  
42 crime that is deemed relevant in accordance with section 67-9411(1), Idaho  
43 Code. The record of conviction, or a certified copy thereof, shall be prima  
44 facie evidence of conviction in such cases.

45 (2) Fraud or misrepresentation resorted to in obtaining a certificate  
46 thereunder.

- 1 (3) Fraud, dishonesty, corruption, willful violation of duty, gross
- 2 incompetence in practice or unprofessional conduct in performing services
- 3 as a certified shorthand reporter.
- 4 (4) Persistent failure to perform duties.
- 5 (5) Any physical or mental disability materially interfering with the
- 6 performance of duties.
- 7 (6) The violation of the provisions of this chapter or rules, or any
- 8 ethical codes as may be adopted by the board.

9 SECTION 28. That Section 54-3211, Idaho Code, be, and the same is hereby  
10 amended to read as follows:

11 54-3211. REFUSAL TO ISSUE, REFUSAL TO RENEW, SUSPENSION OR REVOCATION  
12 OF LICENSE -- UNPROFESSIONAL CONDUCT. The board may refuse to issue, refuse  
13 to renew, may suspend, or may revoke any license issued under this chapter,  
14 or take other disciplinary action, upon proof, after a hearing, that the per-  
15 son has engaged in "unprofessional conduct." The words "unprofessional con-  
16 duct" as relating to persons licensed under this chapter are defined to in-  
17 clude but are not limited to:

- 18 (1) Conviction of a ~~felony, or of any offense involving moral turpitude~~  
19 crime that is deemed relevant in accordance with section 67-9411(1), Idaho  
20 Code.
- 21 (2) Habitual drunkenness or addiction to habit-forming drugs, either  
22 of which impairs the ability to perform his work without danger to himself or  
23 the public he serves.
- 24 (3) Fraud or deceit in connection with services rendered as a bachelor  
25 social worker, master social worker or clinical social worker or in estab-  
26 lishing qualifications for licensure under this chapter.
- 27 (4) Aiding or abetting any person not licensed under this chapter in the  
28 practice of social work in the state of Idaho.
- 29 (5) Failing to be licensed or continuing to represent himself as li-  
30 censed after the expiration of his license.
- 31 (6) Being found guilty of unprofessional conduct by the rules estab-  
32 lished by the board.
- 33 (7) Having had a license or registration to practice social work re-  
34 voked, suspended or otherwise disciplined in any state, territory or county.
- 35 (8) Failing to comply with a board order entered in a disciplinary ac-  
36 tion.
- 37 (9) Failing to comply with any of the provisions of this chapter.

38 SECTION 29. That Section 54-3510, Idaho Code, be, and the same is hereby  
39 amended to read as follows:

40 54-3510. GROUNDS FOR DISCIPLINE. The board, in accordance with the  
41 requirements of chapter 52, title 67, Idaho Code, may, upon recommendation  
42 of the licensure board, refuse to issue a license or permit, refuse to renew  
43 a license or permit, or may suspend, restrict or revoke a license or permit,  
44 under such conditions as the board may determine, if the licensee, permittee  
45 or applicant for license:

- 1 (1) Has been convicted of a ~~felony or crime involving moral turpitude,~~  
2 or has entered a plea of guilty to, or been found guilty of, the commission  
3 of a ~~felony or a crime involving moral turpitude~~ that is deemed relevant in  
4 accordance with section 67-9411(1), Idaho Code;
- 5 (2) Obtained a license or permit pursuant to this chapter by means of  
6 fraud, misrepresentation or concealment of material facts;
- 7 (3) Practiced dietetics under a false or an assumed name in this or any  
8 other state;
- 9 (4) Knowingly aided or abetted the unlicensed practice of dietetics;
- 10 (5) Engaged in the practice of dietetics in a manner that does not meet  
11 the generally accepted standards for the practice of dietetics within the  
12 state of Idaho;
- 13 (6) Divided fees or gifts or agreed to split or divide fees or gifts re-  
14 ceived for professional services with any person, institution or corpora-  
15 tion in exchange for a referral;
- 16 (7) Failed to maintain the confidentiality of medical records or other  
17 medical information pertaining to identifiable patients, except as required  
18 or authorized by law;
- 19 (8) Engaged in any conduct that constitutes an abuse or exploitation of  
20 a patient arising out of the trust and confidence placed in the dietitian by  
21 the patient;
- 22 (9) Failed to supervise the activities of a provisionally licensed di-  
23 etitian;
- 24 (10) Continued to practice as a dietitian when a license pursuant to  
25 this chapter was suspended, revoked or inactive;
- 26 (11) Practiced as a dietitian in violation of a voluntary restriction or  
27 terms of probation pursuant to this chapter;
- 28 (12) Continued to practice as a dietitian when registration by the CDR  
29 or its successor organization was not renewed or was suspended or revoked; or  
30 (13) Failed to comply with a board order.

31 SECTION 30. That Section 54-3804, Idaho Code, be, and the same is hereby  
32 amended to read as follows:

33 54-3804. DENIAL, SUSPENSION, OR REVOCATION OF LICENSES -- GROUNDS --  
34 PROBATION. The board may refuse to issue or may refuse to renew or may suspend  
35 or may revoke any license, or may place the holder thereof on a term of proba-  
36 tion, after proper hearing, upon finding that the holder of such license com-  
37 mitted any of the following acts or omissions:

- 38 (1) Conviction of, being found guilty of, pleading guilty to or receiv-  
39 ing withheld judgment for a crime ~~involving moral turpitude~~ that is deemed  
40 relevant in accordance with section 67-9411(1), Idaho Code.
- 41 ~~(2) Conviction of, being found guilty of, pleading guilty to or receiv-~~  
42 ~~ing withheld judgment for a felony.~~
- 43 ~~(3) Unprofessional conduct, which is hereby defined to include:~~
  - 44 (a) Misrepresentation or fraud in the conduct of cemetery services;
  - 45 (b) False or misleading advertising as a holder of a license for the ad-  
46 vertising or using the name of an unlicensed person in connection with  
47 that of any cemetery establishment;



- 1 (c) Employment directly or indirectly, of any resident trainee, agent,
- 2 assistant, employee, or other person, on part or full time, or on com-
- 3 mission, for the purpose of calling upon individuals or institutions
- 4 by whose influence dead human bodies may be turned over to a particular
- 5 cemetery establishment;
- 6 (d) Gross immorality;
- 7 (e) Aiding or abetting an unlicensed person to engage in practice as a
- 8 cemeterian;
- 9 (f) Violation of any of the provisions of section 54-1116, Idaho Code.
- 10 (g) Violation of any state law, or municipal or county ordinance, or
- 11 regulation authorized under this act affecting the handling, custody,
- 12 care, processing or transportation of dead human bodies;
- 13 (h) Fraud or misrepresentation in obtaining or renewing a license;
- 14 (i) Violation of statutes of any state having to do with prearrangement
- 15 or prefinancing of cemetery supplies or services.

16 SECTION 31. That Section 54-4013, Idaho Code, be, and the same is hereby  
17 amended to read as follows:

18 54-4013. DISCIPLINARY ACTION. The board may refuse to issue or renew  
19 or otherwise discipline a license holder for any of the following:

- 20 (1) The employment of fraud, deceit or misrepresentation in obtaining
- 21 or attempting to obtain a license or the renewal of a license;
- 22 (2) Practicing as a massage therapist when physical or mental abilities
- 23 are impaired as determined by the board;
- 24 (3) Conviction of ~~a felony, a crime involving moral turpitude or a crime~~
- 25 ~~under any municipal, state or federal narcotic or controlled substance law~~
- 26 ~~that is deemed relevant in accordance with section 67-9411(1), Idaho Code,~~
- 27 provided that the board has taken into consideration the rehabilitation of
- 28 the applicant or licensee and other mitigating circumstances;
- 29 (4) Having been adjudged mentally incompetent by a court of competent
- 30 jurisdiction;
- 31 (5) Engaging in any act or practice in violation of any of the provi-
- 32 sions of this chapter or any of the rules adopted by the board, or aiding,
- 33 abetting or assisting any other person in such a violation;
- 34 (6) The commission of an act of gross negligence or incompetence;
- 35 (7) Practice without a valid license;
- 36 (8) Engaging in any lewd, indecent, obscene or unlawful behavior with a
- 37 client;
- 38 (9) The employment of fraud, deceit, or misrepresentation when commu-
- 39 nicating with the general public, health care professionals or other busi-
- 40 ness professionals;
- 41 (10) Having had a license revoked or suspended, other disciplinary ac-
- 42 tion taken or an application for licensure refused, revoked or suspended by
- 43 the proper authorities of another state, territory or country, or omitting
- 44 such information from any application to the board, or failing to divulge
- 45 such information when requested by the board;
- 46 (11) A violation of the code of ethics or standards of practice as
- 47 adopted by the board; and
- 48 (12) Failure to comply with an order issued by the board.

1 SECTION 32. That Section 54-4711, Idaho Code, be, and the same is hereby  
2 amended to read as follows:

3 54-4711. SUSPENSION AND REVOCATION. To protect the health, safety and  
4 welfare of the public, the board, in accordance with the requirements of  
5 chapter 52, title 67, Idaho Code, may refuse to issue or may refuse to renew a  
6 license, certification or permit, or may suspend or revoke a license, cer-  
7 tification or permit, under such conditions as the board may require, if the  
8 applicant or holder of the license, certification or permit has:

9 (1) Been convicted of a ~~felonious act, or crime involving moral turpi-~~  
10 tude that is deemed relevant in accordance with section 67-9411(1), Idaho  
11 Code;

12 (2) Obtained or attempted to obtain the issuance or renewal of a li-  
13 cense, certification or permit pursuant to this chapter by means of fraud,  
14 misrepresentation or concealment of material facts;

15 (3) Engaged in the practice of acupuncture in a manner which does not  
16 meet the generally accepted standards for the practice of acupuncture within  
17 the state of Idaho;

18 (4) Failed to maintain the confidentiality of records or other informa-  
19 tion pertaining to an identifiable client, except as required or authorized  
20 by law;

21 (5) Engaged in any conduct that constitutes an abuse or exploitation of  
22 a client arising out of the trust and confidence placed in the acupuncturist  
23 by the client;

24 (6) Engaged in conduct that violates the provisions of this chapter,  
25 the rules of the board or the terms of any permit issued by the board; or

26 (7) Failed to comply with a board order entered in a disciplinary mat-  
27 ter.

28 SECTION 33. That Section 54-4805, Idaho Code, be, and the same is hereby  
29 amended to read as follows:

30 54-4805. REGISTRATION AS ATHLETE AGENT -- APPLICATION -- REQUIREMENTS  
31 -- RECIPROCAL REGISTRATION. (1) An applicant for registration as an athlete  
32 agent shall submit an application for registration to the bureau in a form  
33 prescribed by the bureau. The applicant must be an individual, and the ap-  
34 plication must be signed by the applicant under penalty of perjury. An ap-  
35 plication filed under this section is a public record. The application must  
36 contain at least the following:

37 (a) The name and date and place of birth of the applicant and the follow-  
38 ing contact information for the applicant:

39 (i) The address of the applicant's principal place of business;

40 (ii) Work and mobile telephone numbers; and

41 (iii) Any means of communicating electronically, including a fac-  
42 simile number, electronic-mail address and personal and business  
43 or employer websites;

44 (b) The name of the applicant's business or employer, if applicable,  
45 including for each business or employer, its mailing address, telephone  
46 number, type of business organization and the nature of the business;

- 1 (c) Each social media account with which the applicant or the appli-
- 2 cant's business or employer is affiliated;
- 3 (d) Each business or occupation in which the applicant engaged within
- 4 five (5) years before the date of the application, including self-em-
- 5 ployment and employment by others, and any professional or occupational
- 6 license, registration or certification held by the applicant during
- 7 that time;
- 8 (e) A description of the applicant's:
  - 9 (i) Formal training as an athlete agent;
  - 10 (ii) Practical experience as an athlete agent; and
  - 11 (iii) Educational background relating to the applicant's activi-
  - 12 ties as an athlete agent;
- 13 (f) The name of each student athlete for whom the applicant acted as an
- 14 athlete agent within five (5) years before the date of the application
- 15 or, if the individual is a minor, the name of the parent or guardian of
- 16 the minor, together with the athlete's sport and last known team;
- 17 (g) The name and address of each person that:
  - 18 (i) Is a partner, member, officer, manager, associate or profit
  - 19 sharer or directly or indirectly holds an equity interest of five
  - 20 percent (5%) or greater of the athlete agent's business if it is
  - 21 not a corporation; and
  - 22 (ii) Is an officer or director of a corporation employing the ath-
  - 23 lete agent or a shareholder having an interest of five percent (5%)
  - 24 or greater in the corporation;
- 25 (h) A description of the status of any application by the applicant, or
- 26 any person named under paragraph (g) of this subsection, for a state or
- 27 federal business, professional or occupational license, other than as
- 28 an athlete agent, from a state or federal agency, including any denial,
- 29 refusal to renew, suspension, withdrawal or termination of the license
- 30 and any reprimand or censure related to the license;
- 31 (i) Whether the applicant, or any person named under paragraph (g) of
- 32 this subsection, has pleaded guilty or no contest to; has been convicted
- 33 of; entered an Alford plea for; received a withheld judgment, suspended
- 34 sentence or deferred prosecution for; or has charges pending for, a
- 35 crime ~~that would involve moral turpitude or be a felony if committed in~~
- 36 ~~this state~~ and, if so, identification of:
  - 37 (i) The crime;
  - 38 (ii) The law enforcement agency involved; and
  - 39 (iii) If applicable, the date of the conviction and the fine or
  - 40 penalty imposed;
- 41 (j) Whether, within fifteen (15) years before the date of application,
- 42 the applicant, or any person named under paragraph (g) of this subsec-
- 43 tion, has been a defendant or respondent in a civil proceeding, includ-
- 44 ing a proceeding seeking an adjudication of legal incompetence and, if
- 45 so, the date and a full explanation of each proceeding;
- 46 (k) Whether the applicant, or any person named under paragraph (g) of
- 47 this subsection, has an unsatisfied judgment or a judgment of continu-
- 48 ing effect, including spousal support or a domestic order in the nature
- 49 of child support, that is not current at the date of the application;

- 1 (l) Whether, within ten (10) years before the date of application, the
- 2 applicant, or any person named under paragraph (g) of this subsection,
- 3 was adjudicated bankrupt or was an owner of a business that was adjudi-
- 4 cated bankrupt;
- 5 (m) Whether there has been any administrative or judicial determina-
- 6 tion that the applicant, or any person named under paragraph (g) of this
- 7 subsection, made a false, misleading, deceptive or fraudulent repre-
- 8 sentation;
- 9 (n) Each instance in which conduct of the applicant, or any person named
- 10 under paragraph (g) of this subsection, resulted in the imposition of a
- 11 sanction, suspension or declaration of ineligibility to participate in
- 12 an interscholastic, intercollegiate or professional athletic event on
- 13 a student athlete or a sanction on an educational institution;
- 14 (o) Each sanction, suspension or disciplinary action taken against the
- 15 applicant, or any person named under paragraph (g) of this subsection,
- 16 arising out of occupational or professional conduct;
- 17 (p) Whether there has been a denial of an application for, suspension
- 18 or revocation of, refusal to renew or abandonment of the registration of
- 19 the applicant, or any person named under paragraph (g) of this subsec-
- 20 tion, as an athlete agent in any state;
- 21 (q) Each state in which the applicant currently is registered as an ath-
- 22 lete agent or has applied to be registered as an athlete agent;
- 23 (r) If the applicant is certified or registered by a professional
- 24 league or players association:
  - 25 (i) The name of the league or association;
  - 26 (ii) The date of certification or registration and the date of ex-
  - 27 piration of the certification or registration, if any; and
  - 28 (iii) If applicable, the date of any denial of an application for,
  - 29 suspension or revocation of, refusal to renew, withdrawal of, or
  - 30 termination of the certification or registration, or any reprim-
  - 31 and or censure related to the certification or registration; and
  - 32 (s) Any additional information requested by the bureau.
- 33 (2) Instead of proceeding under subsection (1) of this section, an in-
- 34 dividual registered as an athlete agent in another state may apply for regis-
- 35 tration as an athlete agent in this state by submitting to the bureau:
  - 36 (a) A copy of the application for registration in the other state;
  - 37 (b) A statement that identifies any material change in the information
  - 38 on the application or verifies there is no material change in the infor-
  - 39 mation, signed under penalty of perjury; and
  - 40 (c) A copy of the certificate of registration from the other state.
- 41 (3) The bureau shall issue a certificate of registration to an individ-
- 42 ual who applies for registration under subsection (2) of this section, if the
- 43 bureau determines:
  - 44 (a) The application and registration requirements of the other state
  - 45 are substantially similar to or more restrictive than this chapter; and
  - 46 (b) The registration has not been revoked or suspended and no action in-
  - 47 volving the individual's conduct as an athlete agent is pending against
  - 48 the individual or the individual's registration in any state.
- 49 (4) For purposes of implementing subsection (3) of this section, the
- 50 bureau shall:

- 1 (a) Cooperate with national organizations concerned with athlete agent
- 2 issues, and agencies in other states that register athlete agents, to
- 3 develop a common registration form and determine which states have laws
- 4 that are substantially similar to or more restrictive than this chap-
- 5 ter; and
- 6 (b) Exchange information, including information related to actions
- 7 taken against registered athlete agents or their registrations, with
- 8 those organizations and agencies.

9 SECTION 34. That Section 54-4806, Idaho Code, be, and the same is hereby  
10 amended to read as follows:

11 54-4806. CERTIFICATE OF REGISTRATION -- ISSUANCE OR DENIAL -- RE-  
12 NEWAL. (1) Except as otherwise provided in subsection (2) of this section,  
13 the bureau shall issue a certificate of registration to an applicant for  
14 registration who complies with section 54-4805(1), Idaho Code.

15 (2) The bureau may refuse to issue a certificate of registration to an  
16 applicant for registration under section 54-4805(1), Idaho Code, if the bu-  
17 reau determines that the applicant has engaged in conduct that significantly  
18 adversely reflects on the applicant's fitness to act as an athlete agent. In  
19 making the determination, the bureau may consider whether the applicant has:

20 (a) Pledaded guilty or no contest to; has been convicted of; entered an  
21 Alford plea for; received a withheld judgment, suspended sentence or  
22 deferred prosecution for; or has charges pending for, a crime that ~~would~~  
23 involve moral turpitude or be a felony if committed in this state is  
24 deemed relevant in accordance with section 67-9411(1), Idaho Code;

25 (b) Made a materially false, misleading, deceptive or fraudulent rep-  
26 resentation in the application or as an athlete agent;

27 (c) Engaged in conduct that would disqualify the applicant from serving  
28 in a fiduciary capacity;

29 (d) Engaged in conduct prohibited by section 54-4814, Idaho Code;

30 (e) Had a registration as an athlete agent suspended, revoked or denied  
31 in any state;

32 (f) Been refused renewal of registration as an athlete agent in any  
33 state;

34 (g) Engaged in conduct resulting in imposition of a sanction, suspen-  
35 sion or declaration of ineligibility to participate in an interscholas-  
36 tic, intercollegiate or professional athletic event on a student ath-  
37 lete or a sanction on an educational institution; or

38 (h) Engaged in conduct that adversely reflects on the applicant's cred-  
39 ibility, honesty or integrity.

40 (3) In making a determination under subsection (2) of this section, the  
41 bureau shall consider:

42 (a) How recently the conduct occurred;

43 (b) The nature of the conduct and the context in which it occurred; and

44 (c) Other relevant conduct of the applicant.

45 (4) An athlete agent registered under subsection (1) of this section  
46 may apply to renew the registration by submitting an application for renewal  
47 in a form prescribed by the bureau. The applicant shall sign the application

1 for renewal under penalty of perjury and include current information on all  
2 matters required in an original application for registration.

3 (5) An athlete agent registered under section 54-4805(3), Idaho Code,  
4 may renew the registration by proceeding under subsection (4) of this sec-  
5 tion or, if the registration in the other state has been renewed, by submit-  
6 ting to the bureau copies of the application for renewal in the other state  
7 and the renewed registration from the other state. The bureau shall renew  
8 the registration if the bureau determines:

9 (a) The registration requirements of the other state are substantially  
10 similar to or more restrictive than this chapter; and

11 (b) The renewed registration has not been suspended or revoked and  
12 no action involving the individual's conduct as an athlete agent is  
13 pending against the individual or the individual's registration in any  
14 state.

15 (6) A certificate of registration or renewal of registration under this  
16 chapter is valid for two (2) years.

17 SECTION 35. That Section 54-5303, Idaho Code, be, and the same is hereby  
18 amended to read as follows:

19 54-5303. DEFINITIONS. (1) "Board" means the liquefied petroleum gas  
20 safety board.

21 (2) "Bureau" means the bureau of occupational licenses.

22 (3) "Department" means the department of self-governing agencies.

23 (4) "Good moral character" means the absence of any behavior that vio-  
24 lates accepted standards of the community including, but not limited to:

25 (a) Conviction or plea of guilty to a ~~felony or other crime involving~~  
26 moral turpitude that is deemed relevant in accordance with section  
27 67-9411(1), Idaho Code;

28 (b) Habitual use of drugs or intoxicants to such a degree as to render a  
29 person unfit and unreliable to practice;

30 (c) Revocation or suspension or other restriction of any license or  
31 certificate in any state in the previous five (5) years; and

32 (d) Failure to pay final judgments in any state in the previous seven  
33 (7) years.

34 (5) "License" means a physical document issued by the bureau certifying  
35 that a person or facility has met the appropriate qualifications and has been  
36 granted the authority to practice or operate in Idaho under the provisions of  
37 this chapter.

38 (6) "Liquefied petroleum gas" or "LPG" or "LP-Gas" means any material  
39 that is composed predominantly of or by the mixture of any of the following  
40 hydrocarbons: propane, propylene, butanes, isobutanes and butylenes.

41 (7) "LPG facility" means any facility at a fixed location licensed pur-  
42 suant to this chapter whose activities include selling, filling, refilling,  
43 or commercial handling or commercial storage of LPG.

44 (8) "LPG dealer" means any person licensed pursuant to this chapter who  
45 engages in LPG dealer practice.

46 (9) "LPG dealer practice" means a person engaging in the selling, fill-  
47 ing, refilling, transporting, delivering, or commercial handling of LPG, or

1 engaging in the installation or maintenance of systems, equipment, pipes or  
2 containers for the use or storage of LPG.

3 (10) "LPG code" means the liquefied petroleum gas code adopted by the  
4 national fire protection association, inc., commonly known as NFPA 58.

5 SECTION 36. That Section 54-5307, Idaho Code, be, and the same is hereby  
6 amended to read as follows:

7 54-5307. QUALIFICATIONS FOR A DEALER'S LICENSE. Except as herein oth-  
8 erwise provided, the following shall be considered minimum requirements for  
9 a dealer's license. All applicants shall:

- 10 (1) Provide verification acceptable to the board of:  
11 (a) Being at least eighteen (18) years of age; and  
12 (b) Good moral character; and  
13 (c) Never having had a license revoked or otherwise sanctioned as part  
14 of disciplinary action from this or any other state; and  
15 (d) Never having been convicted, found guilty, or received a withheld  
16 judgment for any ~~felony~~ crime that is deemed relevant in accordance with  
17 section 67-9411(1), Idaho Code; and  
18 (e) Never having been found by the board to have engaged in conduct pro-  
19 hibited by this chapter.

20 The board may take into consideration the rehabilitation of the applicant  
21 and other mitigating circumstances when considering applications for a li-  
22 cense.

23 (2) Provide documentation satisfactory to the board that the appli-  
24 cant has successfully completed a certified educational training program  
25 approved by the board.

26 (3) Provide documentation satisfactory to the board that the applicant  
27 has successfully completed such experience as may be required by the board.

28 (4) Provide documentation that the applicant has successfully passed  
29 an examination approved by the board.

30 (5) Prior to July 1, 2006, the board may deem other education, experi-  
31 ence, or examinations equivalent to the licensing requirements set forth in  
32 this chapter, provided that the board is satisfied, and the applicant pro-  
33 vides documentation acceptable to the board that such applicant has:

- 34 (a) Documented experience in this state prior to July 1, 2005, in the  
35 LPG industry; and  
36 (b) Practiced for not less than five (5) years in the field for which  
37 such applicant is applying for a license; and  
38 (c) Applied for a license prior to July 1, 2006.

39 SECTION 37. That Section 54-5408, Idaho Code, be, and the same is hereby  
40 amended to read as follows:

41 54-5408. DISCIPLINE. (1) Grounds for discipline. The board shall have  
42 the power to deny any application for or renewal of a license or to revoke,  
43 suspend or otherwise sanction any such license issued pursuant to this chap-  
44 ter and to limit or restrict the practice of any driving instructor or driv-  
45 ing business upon a determination by the board that the person or business:

- 1 (a) Was convicted, found guilty, received a withheld judgment or sus-  
2 pended sentence in this or any other state, of any action constituting  
3 ~~a felony or of a crime involving moral turpitude~~ that is deemed relevant  
4 in accordance with section 67-9411 (1), Idaho Code;
- 5 (b) Violated the provisions of this chapter or rules, standards of con-  
6 duct and practice, or any ethical codes as may be adopted by the board;
- 7 (c) Is or has been negligent or reckless in the practice of driver edu-  
8 cation; or
- 9 (d) Has had any license, certificate or registration to work as a driv-  
10 ing instructor or operate as a driving business suspended or revoked in  
11 any jurisdiction. A certified copy of the order of suspension or revo-  
12 cation shall be prima facie evidence of such suspension or revocation.
- 13 (2) Every person or business subject to disciplinary proceedings shall  
14 be afforded an opportunity for hearing.
- 15 (a) All proceedings hereunder shall be in accordance with chapter 52,  
16 title 67, Idaho Code.
- 17 (b) Hearings shall be conducted by the board or by persons appointed by  
18 the board to conduct hearings and receive evidence.
- 19 (3) The board may, pursuant to an order of discipline, require the per-  
20 son or business to pay all or part of the costs and fees incurred by the board  
21 in proceedings upon which the order was entered.
- 22 (4) The board may, pursuant to an order of discipline, require the per-  
23 son or business to pay an administrative fine not to exceed one thousand dol-  
24 lars (\$1,000) for each violation identified in the order.

25 SECTION 38. That Section 67-5309, Idaho Code, be, and the same is hereby  
26 amended to read as follows:

- 27 67-5309. RULES OF THE DIVISION OF HUMAN RESOURCES AND THE PERSONNEL  
28 COMMISSION. The administrator of the division of human resources shall have  
29 the power and authority to adopt, amend, or rescind such rules as may be nec-  
30 essary for proper administration of this chapter. Such rules shall include:
- 31 (a) A rule requiring the administrator, after consulting with each de-  
32 partment, to develop, adopt, and make effective a job classification system  
33 for positions covered by this chapter, based upon an analysis of the duties  
34 and responsibilities of the positions. The job classification shall include  
35 an appropriate title for each class and a description of duties and responsi-  
36 bilities of positions in the classes and the requirements of minimum train-  
37 ing, experience and other qualifications suitable for the performance of du-  
38 ties of the position.
  - 39 (b) A rule describing the relevant labor markets and benchmark job  
40 classifications used in the administrator's salary surveys.
  - 41 (c) A rule requiring that all classes of positions which are common to  
42 the departments concerned shall have the same titles, minimum requirements  
43 and compensation ranges.
  - 44 (d) A rule providing for review by the administrator of the personnel  
45 system including classifications and compensation policies and procedures.
  - 46 (e) A rule that, notwithstanding the procedure for examination and  
47 ranking of eligibles on a register provided in subsection (f) of this sec-  
48 tion, an agency may appoint an individual directly into an entrance or



1 promotional probation if the division of vocational rehabilitation, Idaho  
2 commission for the blind and visually impaired or the industrial commission  
3 certifies, with the concurrence of division of human resources staff, that  
4 the individual: (1) has a disability or handicap as defined under state or  
5 federal law; (2) is qualified to perform the essential functions of a par-  
6 ticular classified position with or without reasonable accommodation; and  
7 (3) lacks competitiveness in the examination process due to the disability  
8 or handicap. The probationary period as provided in subsection (j) of this  
9 section shall be the sole examination for such individuals.

10 (f) A rule requiring fair and impartial selection of appointees to all  
11 positions other than those defined as nonclassified in this chapter, on the  
12 basis of open competitive merit examinations or evaluations. An applica-  
13 tion for an examination will be accepted after the closing date of the exam-  
14 ination from a person who was serving in the armed forces or undergoing ser-  
15 vice-connected hospitalization up to one (1) year following discharge. The  
16 application must be submitted within one hundred twenty (120) days of separa-  
17 tion from the armed forces or hospitalization and prior to the expiration  
18 of the register established as a result of the examination. A disabled vet-  
19 eran may file an application at any time up until a selection has been made  
20 for any position for which the division maintains a register as a source for  
21 future job openings or for which a register is about to be established, pro-  
22 vided he or she has not already been examined twice for the same position and  
23 grade for which application is made, does not have current eligibility on  
24 that register, or is not serving in a competitive position in the same grade  
25 for which application is made. Examinations may be assembled or unassembled  
26 and may include various examining techniques such as rating of training and  
27 experience, written tests, oral interviews, recognition of professional li-  
28 censing, performance tests, investigations and any other measure of ability  
29 to perform the duties of the position. Examinations shall be scored objec-  
30 tively. Five (5) points shall be added to the earned rating of any veteran as  
31 defined in section 65-502, Idaho Code, and the widow or widower of any vet-  
32 eran as defined in section 65-502, Idaho Code, as long as he or she remains  
33 unmarried. Pursuant to section 65-504, Idaho Code, ten (10) points shall  
34 be added to the earned rating of any disabled veteran as defined in section  
35 65-502, Idaho Code, the widow or widower of any disabled veteran as long as he  
36 or she remains unmarried, or the spouse of any eligible disabled veteran who  
37 cannot qualify for any public employment because of a service-connected dis-  
38 ability. Employment registers shall be established in order of final score  
39 except that the names of all five (5) and ten (10) point preference eligi-  
40 bles resulting from any merit system or civil service examination shall be  
41 placed on the register in accordance with their augmented rating. Certifi-  
42 cation of eligibility for appointment to vacancies shall be in accordance  
43 with a formula that limits selection by the hiring department from among the  
44 twenty-five (25) top ranking available eligibles plus the names of all in-  
45 dividuals with scores identical to the twenty-fifth ranking eligible on the  
46 register. A register with at least five (5) eligibles shall be adequate. Se-  
47 lective certification shall be permitted when justified by the hiring de-  
48 partment, under rules to be made by the division defining adequate justifi-  
49 cation based on the duties and requirements of the positions. Such examina-  
50 tions need not be held until after the rules have been adopted, the service

1 classified and a pay plan established, but shall be held not later than one  
2 (1) year after departments commence participation in the personnel system.

3 (g) A rule that, whenever practicable, a vacancy in a classified posi-  
4 tion shall be filled by the promotion of a qualified employee of the agency  
5 in which the vacancy occurs. An interagency promotion shall be made through  
6 competitive examination and all qualified state employees shall have the  
7 opportunity to compete for such promotions. If an employee's name appears  
8 within certifiable range on a current register for a higher class of posi-  
9 tion, he shall be eligible for a transfer and promotion.

10 (h) A rule for development and maintenance of a system of service rat-  
11 ings and the use of such ratings by all departments in connection with pro-  
12 motions, demotions, retentions, separations and reassignments. The rule  
13 shall require that an evaluation of each classified employee shall be made  
14 after each two thousand eighty (2,080) hour period of credited state service  
15 and that a copy of the evaluation shall be filed with the division.

16 (i) A rule prohibiting disqualification of any person from taking an  
17 examination, from appointment to a position, from promotion, or from holding  
18 a position because of race or national origin, color, sex, age, political or  
19 religious opinions or affiliations, and providing for right of appeal.

20 (j) A rule establishing a probation period not to exceed one thousand  
21 forty (1,040) hours of credited state service for all appointments and pro-  
22 motions, except that peace officers as defined in section 19-5101, Idaho  
23 Code, shall be subject to a probation period of two thousand eighty (2,080)  
24 hours of credited state service, and for the appointing authority to pro-  
25 vide the employee and the administrator a performance evaluation indicating  
26 satisfactory or unsatisfactory performance not later than thirty (30) days  
27 after the expiration of the probationary period. The rule shall provide that  
28 if the appointing authority fails to provide a performance evaluation within  
29 thirty (30) days after the expiration of the probationary period, the em-  
30 ployee shall be deemed to have satisfactorily completed the probation unless  
31 the appointing authority receives approval from the administrator to extend  
32 the probationary period for good cause for an additional specified period  
33 not to exceed one thousand forty (1,040) hours of credited state service. If  
34 an employee is performing in an unsatisfactory manner during the entrance  
35 probationary period, the appointing authority shall ask the employee to re-  
36 sign and, if no resignation is submitted, shall terminate the employment of  
37 such employee without the right of grievance or appeal.

38 (k) A rule concerning temporary appointments.

39 (l) A rule governing the employment of consultants and persons retained  
40 under independent contract.

41 (m) A rule for the disciplinary dismissal, demotion, suspension or  
42 other discipline of employees only for cause with reasons given in writing.  
43 Such rule shall provide that any of the following reasons shall be proper  
44 cause for the disciplinary dismissal, demotion or suspension of any employee  
45 in the state classified service:

- 46 1. Failure to perform the duties and carry out the obligations imposed  
47 by the state constitution, state statutes and rules of the employee's  
48 department, or rules of the administrator or the division.

- 1 2. Inefficiency, incompetency, or negligence in the performance of
- 2 duties, or job performance that fails to meet established performance
- 3 standards.
- 4 3. Physical or mental incapability for performing assigned duties.
- 5 4. Refusal to accept a reasonable and proper assignment from an autho-
- 6 rized supervisor.
- 7 5. Insubordination or conduct unbecoming a state employee or conduct
- 8 detrimental to good order and discipline in the employee's department.
- 9 6. Intoxication on duty.
- 10 7. Careless, negligent, or improper use or unlawful conversion of state
- 11 property, equipment or funds.
- 12 8. Use of any influence that violates the principles of the merit system
- 13 in an attempt to secure a promotion or privileges for individual advan-
- 14 tage.
- 15 9. Conviction of official misconduct in office, or conviction of any
- 16 ~~felony, or conviction of any other crime involving moral turpitude~~
- 17 crime that is deemed relevant in accordance with section 67-9411(1),
- 18 Idaho Code.
- 19 10. Acceptance of gifts in exchange for influence or favors given in the
- 20 employee's official capacity.
- 21 11. Habitual pattern of failure to report for duty at the assigned place
- 22 and time.
- 23 12. Habitual improper use of sick leave privileges.
- 24 13. Unauthorized disclosure of confidential information from official
- 25 records.
- 26 14. Absence without leave.
- 27 15. Misstatement or deception in the application for the position.
- 28 16. Failure to obtain or maintain a current license or certificate law-
- 29 fully required as a condition for performing the duties of the job.
- 30 17. Prohibited participation in political activities.
- 31 (n) A rule to establish procedures for maintenance of a record of the
- 32 employment history and appropriate information relating to performance of
- 33 all employees under the personnel system. For the purposes of this rule, the
- 34 state shall be considered one (1) employer.
- 35 (o) Rules to provide for recruitment programs in cooperation with de-
- 36 partment heads and the employment security agency in keeping with current
- 37 employment conditions and labor market trends.
- 38 (p) Rules to establish procedures for examinations as necessary for the
- 39 purpose of maintaining current registers from which to fill employment va-
- 40 cancies.
- 41 (q) Other rules not inconsistent with the foregoing provisions of this
- 42 section as may be necessary and proper for the administration and enforce-
- 43 ment of this chapter.
- 44 (r) A rule concerning "project exempt" appointments.
- 45 (s) Rules relating to leave for state employees from official duties
- 46 including, but not limited to, sick leave, military leave, jury duty, leaves
- 47 of absence without compensation and such other forms of absence from perfor-
- 48 mance of duties in the course of state employment as may be necessary.
- 49 (t) A rule providing up to twenty-five percent (25%) shift differential
- 50 pay based on local market practices.

1 (u) A rule to establish guidelines for awarding employee suggestion  
2 awards set forth in sections 59-1603 and 67-5309D, Idaho Code.

3 (v) A rule to establish the reimbursement of moving expenses for a cur-  
4 rent or newly hired state employee.

5 (w) A rule to allow, at the request of the hiring agency, temporary ser-  
6 vice time to count toward fulfilling entrance probationary requirements as  
7 established in subsection (j) of this section.

8 (x) A rule to allow, at the request of the hiring agency, acting ap-  
9 pointment service time to count toward fulfilling promotional probationary  
10 requirements as established in subsection (j) of this section.