

MINUTES
Approved by the Committee
Occupational Licensing and Certification Laws Committee
Thursday, October 22, 2020
2:00 P.M.
Video Conference / Room WW54
Boise, Idaho

Cochair Lakey called the meeting to order at 2:00 p.m.; a roll call was requested - all members/presenters/staff participated via video conference.

Members present: Cochair Senator Todd Lakey and Senators Lori Den Hartog and Grant Burgoyne; Cochair Representative Gayann DeMordaunt and Representatives Randy Armstrong, Julianne Young, and Elaine Smith; LSO staff Make Drake, Christine Otto, and Jennifer Kish; Absent: Senator Fred Martin.

Additional attendees: Tammie Perreault - Defense--State Liaison Office for Dept. of Defense; Marty Anderson - USAF, City of Mountain Home; Russell Barron, Robert McQuade - Idaho Division of Occupational and Professional Licenses; Haley Holik, Josh Archambault - Foundation for Government Accountability.

NOTE: presentations and materials distributed to members are posted to the Idaho Legislature's website: <https://legislature.idaho.gov/sessioninfo/2020/interim>; and copies of those items are on file with the Legislative Services Office located in the State Capitol.

Cochair Lakey requested a motion to approve the minutes of the September 29, 2020, meeting. **Cochair DeMordaunt moved to approve the minutes of the Sept. 29 meeting; motion was seconded by Sen. Burgoyne; minutes were approved by a majority vote.**

At 2:07 p.m., Cochair Lakey called upon Tammie Perreault, Northwest Regional Liaison for the Defense--State Liaison Office within the Dept. of Defense, for her presentation [Working with State Policymakers to Support Military Families](#). Ms. Perreault's presentation focused on the importance of occupational licensing requirements for military families who often have to relicense due to spousal reassignment to military bases.

- Sen. Burgoyne observed from Ms. Perreault's presentation that state compacts were endorsed to promote portability. Ms. Perreault agreed and noted that compacts were helpful in streamlining licensing, however, not every state participated in compacts and not every profession had one. and his angst against the requirement and added fees for licensees to be re-fingerprinted for each application. Sen. Burgoyne wondered whether being part of the FBI's permanent placement of fingerprints program would enhance the employability of military spouses. Ms. Perreault acknowledged that she was not familiar with the program but would look into it.

At 2:22 p.m., Marty Anderson, CMSgt (Ret) USAF - Military Liaison Officer for the City of Mountain Home, was introduced for his comments to the committee. Mr. Anderson explained that his job was to explore opportunities to grow, sustain, or develop Mountain Home AFB and its military ranges. He reported that a \$1 million annual impact to the state was created for every 100 airmen added to the base. Mr. Anderson listed the four main growth projects the base was focused on: the [water project](#), increasing available housing, providing education programs/facilities, and identifying better job opportunities for military spouses. He noted that, with 13 reassignments during his service, he was very familiar with the impact on military families.

At 2:25 p.m., Russ Barron, Administrator for the Idaho Division of Professional and Occupational and Professional Licenses, was recognized for comments to the committee on the proposed legislation [DRMDD029]. Mr. Barron recognized the need to cut through "red tape" for military families and

supported the current draft. He was in favor of the 15-day time frame referenced, of doing this for all professions when possible, and of participating in compacts for expediting licensing.

- Sen. Burgoyne requested that the committee members be provided the list of compacts and professions to which Idaho did participate, like the list provided by Ms. Perreault [[slide #7](#)]. Mr. Barron acknowledged that there would be proposed legislation this upcoming session for the advanced nurse practitioner compact and that he would provide a list of other compacts to the committee. Cochair Lakey inquired whether Idaho's participation in a compact required legislation. Mr. Barron agreed that it did and he commented that it was a benefit when Idaho did participate because professionals were able to be employed in other states as well.
- Rep. Young inquired whether a compact was superior to practice under and therefore licensees would not renew a license under Idaho. Mr. Barron explained that it was beneficial when an individual lived/worked on the state border or, in the example of telehealth, the individual was not required to relocate.
- Cochair DeMordaunt asked whether universal licensing and participation in a compact were of equal worth in the eyes of the DoD. Ms. Perreault reported that the rating was a 2-part evaluation: how many compacts a state had passed and how effective the alternative attempts to license individuals without compacts was working. She surmised that the universal licensing should put Idaho in the "green" category.

At 2:38 p.m., the cochair called upon Matt Drake, Legislative Drafting Attorney for LSO, to present [DRMDD029](#) and identify changes from the previous version.

- Sen. Burgoyne inquired whether the regulating boards could be relied upon to recognize the differences from state to state or was legislation required to request that information from the applicant for the boards. Mr. Barron felt that board members were experts in their field and therefor should be able to determine an applicant's scope of practice. Mr. Barron hoped that a better online system or application would assist with these issues.
- Sen. Burgoyne asked about the previously discussed issue of receiving notification of disciplinary proceedings in progress from another state and how that would be disclosed. Mr. Drake acknowledged that he did need to look further into language on that issue. Cochair Lakey commented that language could be added to subsection (2)(b) as a requirement for "disclosure of any pending proceedings" and then add some direction to a board on how to deal with that.
- Cochair DeMordaunt inquired about the scope of practice [section (4)] where an applicant might opt to take an exam to prove one's scope of practice. Mr. Drake noted that the language was taken from Idaho's universal licensing law and that lines 15-20 dealt with the limit of the license until further requirements were met; however, it may be necessary to state what a board was not allowed to require. Sen. Burgoyne commented that the option to get a "free pass" by opting to take an exam may be beneficial to the applicant. Mr. Drake reminded the committee that the original intent was to move away from creating more requirements and to streamline the process for military applicants who simply had to provide a military-related condition and that their license was in good standing.
- Rep. Young inquired how often a license was required to be renewed. Mr. Barron reported that it varied among professions - some were annual and some were every two years.
- Rep. Armstrong wondered whether there was an actual individual charged with checking an individual's license per the boards or per the Division of Occupational Licensing. Mr. Barron explained that the process varied per profession and state. He noted that it was easiest to verify those records when there were electronic systems for licensing; such systems would identify whether an individual was in good standing, under disciplinary review, etc.
- Sen. Burgoyne wondered how close they were to applying this expedited concept to all professions. Cochair Lakey was in favor of doing that but felt that it needed another year to be tested. Cochair DeMordaunt agreed and cautioned giving boards the right balance of discretion

to ensure the public's safety without being onerous to the applicant. Sen. Burgoyne noted the amount of individuals at the federal and state level (i.e., universities) who follow a spouse for employment opportunities and could see how it was applicable to many others, not just those within military families.

At 3:12 p.m., Mr. Drake began discussion on the [Sunrise Review Application](#) and recent edits.

- Cochair Lakey inquired about the wording "hold a public hearing" (p. 1, bullet #3) and did not see a need for it to be public. He also inquired whether the recommendation was to be delivered to "the appropriate germane committee" (p. 2, bullet #1) was correct. Mr. Drake clarified that the statute required the recommendation to be delivered to leadership and then assigned to the appropriate germane committee. Cochair Lakey asked for that clarity to be added. He also requested that the wording "for consideration" be stricken because it was a chairperson's option to hear legislation, not an expectation.

At 3:19 p.m., Mr. Drake presented [DRMDD026](#) regarding a sunset review process of licensing authorities.

- Sen. Burgoyne suggested to insert "or governor" (p. 1, l. 20) after "Legislator", to add the option for a minority report, unless this was already provided for in committee rules, and the option for a rebuttal to be submitted by the applicant in subsection (4). He then asked how many occupations would be reviewed if there were six groups established as per the proposed draft. Mr. Barron noted that some agencies would not be as difficult to review while others were very large. Sen. Burgoyne wondered whether the language needed to allow the review committee to make that decision based on work load or relevancy of the profession. Cochair DeMordaunt surmised that some professions would almost never be sunset, while new professions would arise and be added to the load for review. She noted that the flexibility might be appropriate but there also needed to be some predictability of review for the licensing boards. Cochair Lakey agreed with the option for the governor to provide a request, to provide a minority report, and to have the regulatory review pre-established but with some flexibility.
- Cochair Lakey asked for clarity between the language on page 1, line 11 and line 18. Mr. Drake agreed that there was a better way to word that requirement.
- Rep. Young wondered whether the option to request a review was opening the door for unfair scrutiny on professions. Cochair Lakey hoped that the sunrise checkpoints would keep the focus on the necessity of the profession. Sen. Den Hartog commented on the fact that a legislator would still need to sponsor the bill and follow the normal process to get it to the floor. She also noted that a review could help whittle regulations due to changes in the evolution of a profession's scope of practice.
- Cochair Lakey noted that the big decision was who would be the *entity* to perform the sunset review. Sen. Burgoyne suggested that the sunrise committee should be the sunset review committee as they would best understand the criteria at both ends; however, a discussion was needed whether that assignment would be perceived as having too much authority in one committee. Cochair DeMordaunt expressed a desire to converse with legislative colleagues and research other states' review committees.
- Rep. Young inquired who was the sunrise committee currently. Cochair Lakey commented that the committee was, as yet, unnamed/unstaffed and that would be accomplished during the upcoming 2021 session. Mr. Drake noted that IC 67-9408 dealt with the creation of the committee and subsection (2) explained the composition of the committee.

At 4:05 p.m., Haley Holik, Senior Fellow with the Foundation for Government Accountability, was called upon for comments to the committee about apprenticeships. Ms. Holik explained that apprenticeships created a different path for individuals to achieve employment and the opportunity to "earn while you learn" was a benefit. She reported that apprenticeships were developed in partnership with businesses and a state's department of labor so that, upon completion, a

certification would be issued. Ms. Holik shared that the main components of an apprenticeship included: paid time, mentorship, on-the-job training, classroom instruction, and the issuance of a certification or credential. The committee discussed [DRMDD028](#) on apprenticeships.

- Cochair DeMordaunt was in favor of this opportunity, noting that it was very applicable to many types of employment and currently was needed for those looking to re-employ.
- Sen. Burgoyne was also in favor of this opportunity but felt it needed more in the draft language to differentiate this type of apprenticeship from an internship (i.e., medical related).
- Cochair Lakey commented that the language was more focused on trades than professions. Ms. Holik responded that most states referred to federal statute per apprenticeships and she wondered how that practice fared in Idaho. Cochair Lakey requested that Mr. Drake look further into any federal references regarding the issue. Sen. Den Hartog commented that Mr. Drake should consider areas of Idaho code that already dealt with apprenticeships (i.e., title 54, chapter 58) but didn't recognize federal code. Sen. Burgoyne inquired of Mr. Barron whether the licensing boards should be encouraged to study whether these methods could supplant licensing requirements. Mr. Barron was not familiar with the type of apprenticeships being discussed, but he was familiar with other apprenticeships per the professions.
- Rep. Young requested more explanation of the definition "a nationally-recognized or industry-recognized credential" as found in subsection (1)(e). Ms. Holik noted that the term was varied and relative to each profession's standards.
- Rep. Armstrong supported this idea, especially in regard to the amount of debt students acquire by attending college instruction.
- Rep. Smith also supported this concept, having seen firsthand the skills and benefits her grandson had experienced in an apprenticeship as a weld inspector.
- Sen. Den Hartog wondered whether Idaho's Workforce Development Council could be of assistance since it had done work on apprenticeships.
- Rep. Young noted that there may be apprenticeship opportunities at the private level, as well as the state and federal levels as discussed.

At 4:43 p.m., Josh Archambault, Senior Fellow with the Foundation for Government Accountability, was recognized for comments to the committee about barriers to telehealth regarding occupational licensing. The COVID pandemic had exposed a need for a more flexible use of telehealth, and Idaho's executive order along with the Board of Medicine's proclamation allowed for additional providers during the pandemic, though it was limited to physicians, physicians assistants, and respiratory therapists. Mr. Archambault requested that limits be broadened to allow care across state lines without an Idaho license and to allow more types of providers to perform care across state lines.

- Cochair DeMordaunt inquired what other states had endorsed these allowances. Mr. Archambault reported that there were five states that had passed laws to allow the process and there were more than 35 states that had permitted the practice by way of executive orders. Cochair DeMordaunt requested that he provide that information to the committee for further review.
- Rep. Young asked how other states addressed the issue of not controlling the tools (thermometer, scale, tests, etc.) to provide medical measurement during telehealth. Mr. Archambault responded that those issues were determined by the profession. He noted that there were many advancements in health that could monitor one's health (such as wearable monitors, medical patches, phone apps, etc.) without having the patient to make multiple visits. He admitted that telehealth was not a replacement for care but rather a supplement.
- Rep. Armstrong, noting that local doctors in his district expressed opposition to telemedicine, inquired about the response of other medical providers. Mr. Archambault reported that he had seen a shift in its acceptance. He noted that it was not intended to replace in-person visits but under current circumstances it was a beneficial option rather than having no care at all.

- Sen. Burgoyne recognized that telehealth was a very convenient service but was concerned about having medical professionals who were not licensed in the state of Idaho providing service within the state. Mr. Archambault noted that assurances were in place by states to guard against malpractice or poor practice. Cochair DeMordaunt observed that one method of protection for telehealth services was that insurance companies were willing to provide coverage for these types of services. She did caution that more information was needed to better understand procedures for disciplinary action or standard of care that was harmful or inadequate under this type of care.
- Sen. Den Hartog inquired how individuals were being connected to telehealth services. Mr. Archambault stated that technologically they were connected by the use of phone apps and web cameras; whereas socially, it was one's physician providing a reference, an internet search on a provider's website, or simply the notification that a telehealth benefit was added to one's insurance coverage.

Cochair Lakey noted that the committee's tenure expired at the end of November. The committee decided to set meeting dates for November 13th and 20th with the intention of both meetings to be held via video conference.

With no further business, the meeting was adjourned at 5:20 p.m.