

# **FINAL REPORT**

## **Occupational Licensing and Certification Laws Committee HCR 037 (2020)**

### **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 Randy Armstrong  
Representative Julianne Young  
Representative Elaine Smith

### **Staff**

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

November 30, 2020

## I. **Committee Charge**

The Occupational Licensing and Certification Laws Committee, authorized by House Concurrent Resolution 037 in 2020, 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 using wholly/partially remote electronic meeting technology on the following dates:

1. September 29, 2020;
2. October 22, 2020;
3. November 13, 2020;
4. November 20, 2020; and
5. November 30, 2020.

## III. **Scope of Study**

On September 29<sup>th</sup>, the Committee met and identified its legislative priorities for the interim. The Committee then heard an update from Greg Wilson, Office of Governor Little, and Alex Adams, Division of Financial Management, regarding executive branch actions and updates regarding the Division of Occupational and Professional Licenses (DOPL). The committee also heard a presentation from Iris Hentze, a policy specialist at NCSL, regarding sunset review. The committee next discussed improving the licensure by endorsement process for military members, military spouses, and veterans under 67-9406, Idaho Code.

On October 22<sup>nd</sup>, the Committee met and reviewed draft legislation regarding: licensure by endorsement for military members, military spouses, and veterans; sunset review; and apprenticeships. The Committee also considered the application to be used by the Occupational and Professional Licensure (Sunrise) Review Committee pursuant to 67-9408, Idaho Code. The committee heard remarks regarding licensure by endorsement for military members, military spouses, and veterans from: Tammie Perreault, Defense-State Liaison Office, Department of Defense; Marty Anderson, CMSgt (Ret) - USAF, Military Liaison Officer City of Mountain Home; Russ Barron, DOPL Administrator; and Robert McQuade, Jr., DOPL Legal Counsel. The committee heard a presentation regarding apprenticeships from Haley Holik, Senior Fellow, Foundation for Government Accountability. The committee also heard a presentation from Josh Archambault, Senior Fellow, Foundation for Government Accountability, regarding telehealth access.

On November 13<sup>th</sup>, the Committee reviewed draft legislation regarding: licensure by endorsement for military members, military spouses, and veterans; sunset review;

apprenticeships; and telehealth. The Committee also gave further consideration to the application to be used by the Occupational and Professional Licensure (Sunrise) Review Committee pursuant to 67-9408, Idaho Code.

On November 20<sup>th</sup>, the Committee reviewed and proposed further modifications to the draft legislation regarding: licensure by endorsement for military members, military spouses, and veterans; sunset review; apprenticeships; and telehealth. The Committee also gave further consideration to the application to be used by the Occupational and Professional Licensure (Sunrise) Review Committee pursuant to 67-9408, Idaho Code.

On November 30<sup>th</sup>, the Committee met to hear public testimony and to discuss its recommendations to the Legislature, including with respect to the draft legislation considered during the interim. The Committee voted to recommend four pieces of draft legislation. The committee also voted to approve the application to be used by the Occupational and Professional Licensure (Sunrise) Review Committee pursuant to 67-9408, Idaho Code.

#### **IV. Recommendation**

The Committee recommends that legislative drafts DRMDD075, DRMDD076, DRMDD084, and DRMDD088 be considered and enacted by the Legislature during the 2021 legislative session. The Committee further recommends that it be reauthorized to continue its work during the 2021 interim in conjunction with the Occupational and Professional Licensure (Sunrise) Review Committee to be established pursuant to 67-9408, Idaho Code.

Draft legislation is included in Appendix I of this report.

## **APPENDIX I**

### Proposed Legislation

#### **DRMDD075**

To provide for licensure by endorsement for military members,  
military spouses, and veterans

#### **DRMDD076**

To provide for sunset review

#### **DRMDD084**

To provide for certain apprenticeship programs

#### **DRMDD088**

To provide for telehealth access

### Other Documents

#### **Sunrise Review Application**

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 LEGISLATURE OF THE STATE OF IDAHO  
 Sixty-sixth Legislature First Regular Session - 2021  
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1 AN ACT  
 2 RELATING TO LICENSURE BY ENDORSEMENT -- MEMBERS OF THE MILITARY, VETERANS,  
 3 AND SPOUSES; AMENDING SECTION 67-9406, IDAHO CODE, TO REVISE PROVISIONS  
 4 REGARDING LICENSURE BY ENDORSEMENT FOR MILITARY MEMBERS, VETERANS, AND  
 5 SPOUSES.

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

7 SECTION 1. That Section 67-9406, Idaho Code, be, and the same is hereby  
 8 amended to read as follows:

9 67-9406. LICENSURE BY ENDORSEMENT -- MEMBERS OF THE MILITARY, VETER-  
 10 ANS, AND SPOUSES. (1) A licensing authority shall establish a procedure ~~for~~  
 11 ~~the issuance of~~ to grant licensure by endorsement to a member of the mili-  
 12 tary, a former member of the military after discharge under honorable condi-  
 13 tions, a veteran, or a spouse of any such person, ~~if such person who~~ possesses  
 14 current, valid, and unrestricted licensure in another state, district, or  
 15 territory of the United States, or in any branch of the armed forces or the  
 16 national guard. Such procedure shall be intended to provide licensure by en-  
 17 endorsement to qualifying persons within fifteen (15) business days after such  
 18 person's application for licensure under this section, provided that the ap-  
 19 plicant is able to validate his qualifications pursuant to subsection (2) of  
 20 this section within such time frame. Each licensing authority shall ~~may~~ pro-  
 21 mulgate applicable rules to implement the provisions of this subsection, if  
 22 necessary.

23 (2) Each applicant for licensure by endorsement under this section  
 24 shall apply to the applicable licensing authority for relevant licensure to  
 25 validate:

26 (a) The applicant's status as a member of the military, a former member  
 27 of the military after discharge under honorable conditions, a veteran,  
 28 or a spouse of any such person; and

29 (b) The applicant's current, valid, and unrestricted licensure in  
 30 another state, district, or territory of the United States, or in any  
 31 branch of the armed forces or the national guard.

32 (3) An applicant for licensure by endorsement pursuant to this section  
 33 shall disclose all current, pending, or subsequent disciplinary proceed-  
 34 ings related to the applicant's licensure in another state, district, or  
 35 territory of the United States, or in any branch of the armed forces or the  
 36 national guard. A licensing authority shall have discretion regarding  
 37 whether to withhold, revoke, or place conditions on an applicant's licensure  
 38 by endorsement related to such disciplinary proceeding and any information  
 39 obtained by the licensing authority related to such proceedings. An ap-  
 40 plicant's failure to disclose a current, pending, or future disciplinary  
 41 proceeding pursuant to this subsection shall be grounds for a licensing au-

1 thority to withhold, revoke, or place conditions on licensure by endorsement  
2 pursuant to this section.

3 (4) With respect to an applicant under this section, each licensing  
4 authority shall implement a condensed military application form to verify  
5 the requirements of subsection (2) of this section. A condensed application  
6 shall not request additional information unless such information is deemed  
7 critical by the applicable licensing authority to verify the applicant's  
8 qualification for an Idaho-specific aspect of practice or to determine the  
9 applicable scope of practice pursuant to subsection (5) of this section. As  
10 part of a condensed military application, a licensing authority shall not  
11 require:

12 (a) The taking of all or a portion of an examination, even if such exami-  
13 nation is required of other applicants for the same type of licensure in  
14 Idaho; or

15 (b) The payment of an application fee.

16 (5) With respect to applicants for licensure by endorsement under this  
17 section, a licensing authority may, at its discretion, compare the autho-  
18 riized scope of practice in the applicable jurisdiction, or jurisdictions,  
19 where the applicant currently holds licensure to the authorized scope of  
20 practice in Idaho. If such licensing authority determines that the au-  
21 thorized scope of practice in Idaho is broader than the scope of practice  
22 authorized in the jurisdiction, or jurisdictions, where the applicant cur-  
23 rently holds licensure, such licensing authority may issue a limited license  
24 to such applicant pending completion of the additional education, training,  
25 and any other requirements determined necessary by the licensing authority.  
26 A limited license issued under this section shall restrict the applicant's  
27 practice in Idaho to the scope of practice authorized in the state where the  
28 applicant holds prior licensure until such time that the applicant satisfies  
29 the education, training, or other requirements deemed necessary by the li-  
30 censing authority for a limited period of time necessary for an applicant to  
31 meet the qualifications for a full license. Notwithstanding subsection (4),  
32 a licensing authority may administer an examination or partial examination  
33 to an applicant pursuant to this subsection for the purpose of ascertain-  
34 ing whether an applicant possesses the requisite qualifications for a full  
35 license. Such examination shall be narrowly tailored to the additional  
36 knowledge or skills required for the applicant to prove that he is qualified  
37 for a full license.

38 (6) Subsection (1) of this section shall not apply to a person who is a  
39 member of a profession or occupation covered by an interstate licensure com-  
40 pact that the person's home state and Idaho have each adopted. In such a sit-  
41 uation, a person shall apply for licensure pursuant to the terms of the ap-  
42 plicable licensure compact rather than through licensure by endorsement. A  
43 person from a state that has not adopted an interstate licensure compact that  
44 Idaho has adopted is eligible for licensure by endorsement, provided that  
45 such person is otherwise eligible for licensure by endorsement under this  
46 section; however, such licensure shall be valid only in Idaho. A licensing  
47 authority for a profession or occupation affected by an interstate licensure  
48 compact that Idaho has adopted shall promulgate applicable rules to imple-  
49 ment the provisions of this subsection. This section shall not restrict a  
50 person who is a member of a profession or occupation covered by an applicable

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DRMDD075

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1 interstate licensure compact or applicable reciprocity agreement from seek-  
2 ing licensure by endorsement pursuant to this section. In such a situation,  
3 a person may apply for licensure by endorsement under this section or may ap-  
4 ply for licensure pursuant to the terms of the applicable licensure compact  
5 or reciprocity agreement.

6 (7) An applicant under this section shall be subject to the laws reg-  
7 ulating the person's practice in Idaho and is subject to the applicable li-  
8 ensing authority's jurisdiction. For purposes of this section, the term  
9 "licensure" means a license, certificate, registration, permit, or other  
10 authorization to practice a profession or occupation.

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DRMDD076

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LEGISLATURE OF THE STATE OF IDAHO  
Sixty-sixth Legislature First Regular Session - 2021  
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AN ACT

1 RELATING TO THE OCCUPATIONAL LICENSING REFORM ACT; AMENDING SECTION  
2 67-9408, IDAHO CODE, TO ESTABLISH A PROCESS FOR REVIEW OF LICENSING AU-  
3 THORITIES AND RELATED LAWS AND REGULATIONS.  
4

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

6 SECTION 1. That Section 67-9408, Idaho Code, be, and the same is hereby  
7 amended to read as follows:

8 67-9408. OCCUPATIONAL AND PROFESSIONAL LICENSURE REVIEW COMMIT-  
9 TEE. (1) In order to establish oversight of occupational and professional  
10 licensure and related issues in Idaho, there is hereby established an occu-  
11 pational and professional licensure review committee.

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

25 (3) In addition to conducting sunrise and sunset reviews as set forth in  
26 this section, the committee is authorized to study and review occupational  
27 licensing and certification laws in general in order to determine, as appli-  
28 cable, how the legislature may be able to ease occupational licensing barriers  
29 while still protecting the public health and safety. The committee shall  
30 meet as often as may be necessary for the proper performance of its duties  
31 upon the call of the cochairs.

32 ~~(4) The committee shall operate for three (3) years and shall make a re-~~  
33 ~~port to the first regular session of the sixty-seventh Idaho legislature in~~  
34 ~~2023. The legislature may take subsequent action to extend the duration of~~  
35 ~~the committee or to make it permanent.~~

36 ~~(5)~~ Beginning January 1, 2021, the committee shall conduct a sunrise  
37 review upon request that a lawful profession or occupational group that is  
38 not licensed become licensed. For purposes of this section, a profession  
39 or occupation becoming "licensed" means adding a requirement that a person  
40 must hold a license, certificate, registration, permit, or other authoriza-  
41 tion issued by a licensing authority to engage in such profession or occupa-  
42 tion. Sunrise review by the committee shall be required prior to the intro-



1 duction of any proposed legislation that a lawful profession or occupational  
2 group that is not licensed become licensed; provided, however, that a ger-  
3 mane committee of the legislature later considering such proposed legisla-  
4 tion shall not be bound by the recommendation of the committee. The sunrise  
5 review process shall be as follows:

6 (a) The legislative services office shall prepare and publish an appli-  
7 cation form to be approved by the committee and used for the sunrise re-  
8 view process.

9 (b) A requestor shall, prior to the introduction of any proposed leg-  
10 islation, submit the application for sunrise review to the legislative  
11 services office. The application shall be submitted by May 1 for review  
12 and processing prior to the next regular legislative session.

13 (c) In addition to any other information requested by the committee or  
14 staff, the application shall include a copy of the applicant's proposed  
15 draft legislation and a description of:

16 (i) The requestor's identity and relationship to the profession  
17 or occupational group;

18 (ii) Why licensing or other regulation of the profession or occu-  
19 pation is necessary to protect against present, recognizable, and  
20 sufficient harm to the health, safety, or welfare of the public to  
21 warrant the regulation proposed;

22 (iii) Why the proposed licensing or other regulation is the least  
23 restrictive regulation necessary to protect against present, rec-  
24 ognizable, and sufficient harm to the health, safety, or welfare  
25 of the public to warrant the regulation proposed;

26 (iv) Why the public cannot be effectively protected by other  
27 means;

28 (v) Whether the overall cost-effectiveness and economic impact  
29 of the proposed regulation, including the direct and indirect  
30 costs to consumers, will be outweighed by the benefits of the pro-  
31 posed licensing or other regulation;

32 (vi) Whether the proposed licensing or other regulation will have  
33 an unreasonably negative effect on job creation, job retention, or  
34 wages in the state or will place unreasonable restrictions on the  
35 ability of individuals who seek to practice or who are practicing a  
36 given profession or occupation to continue to practice or to find  
37 employment; and

38 (vii) Any other relevant information.

39 (d) With respect to an application timely received by the legislative  
40 services office by May 1:

41 (i) By August 1, the legislative services office shall submit a  
42 report with factual analysis to the committee and the applicant.  
43 Such report shall be made available to the public. Such report  
44 shall verify the contents of an application and submitted informa-  
45 tion and address any other related factual matters, but shall not  
46 contain a recommendation.

47 (ii) By October 1, the committee shall review such application and  
48 submitted information and the associated report prepared by the  
49 legislative services office, along with any other relevant infor-

1 mation, and hold a ~~public hearing on~~ meeting to consider such ap-  
2 plication.

3 (iii) By November 1, the committee shall prepare a written rec-  
4 ommendation as to whether a requested occupation or profession  
5 should be licensed in the manner set forth in the application and  
6 shall deliver such recommendation to the president pro tempore  
7 of the senate and the speaker of the house of representatives for  
8 subsequent delivery to the appropriate germane committee chair-  
9 persons. Such written recommendation may include nonmandatory  
10 suggestions as to how the application, including the proposed  
11 legislation, may be improved. An applicant receiving such sugges-  
12 tions shall be encouraged to follow the recommended suggestions  
13 of the committee before offering the legislation for introduction  
14 during the next legislative session.

15 (e) The committee shall conduct sunrise reviews for two (2) years and  
16 shall make a report to the first regular session of the sixty-seventh  
17 Idaho legislature in 2023. The legislature may take subsequent action  
18 to extend the duration of the committee's sunrise review responsibili-  
19 ties or to make them permanent.

20 (5) Beginning in 2022, the committee shall engage in a process of re-  
21 viewing each licensing authority on a rotating basis. Review of a licensing  
22 authority shall include review of the existing laws and regulations related  
23 to a licensing authority.

24 (a) The sunset review process established by this subsection shall be  
25 conducted as follows:

26 (i) Licensing authorities shall be divided into six (6) groups to  
27 be determined by the committee;

28 (ii) The committee shall endeavor to review at least one (1) group  
29 each year, depending on the priorities and workload of the commit-  
30 tee;

31 (iii) Each licensing authority shall be reviewed at least every  
32 five (5) years; and

33 (iv) A licensing authority may be reviewed out of order if the gov-  
34 ernor or a member of the legislature make a written request to the  
35 committee and the cochairs of the committee approve such request.

36 (b) After all groups have been reviewed one (1) time, the committee  
37 shall continue to review the groups as described in this subsection and  
38 according to the priorities and workload of the committee.

39 (c) The review process shall include an opportunity for stakeholder  
40 participation, in such manner as determined by the committee.

41 (d) Upon completion of the review process established in this section,  
42 the committee shall issue a report regarding its findings. The report  
43 shall include the committee's findings as to whether, with respect to  
44 each licensing authority under consideration:

45 (i) The existing licensing or other regulation is necessary to  
46 protect against present, recognizable, and sufficient harm to the  
47 health, safety, or welfare of the public to warrant the regula-  
48 tion;

49 (ii) The existing licensing or other regulation is the least re-  
50 strictive regulation necessary to protect against present, recog-

1           nizable, and sufficient harm to the health, safety, or welfare of  
2           the public to warrant the regulation proposed;  
3           (iii) The public can be effectively protected by other means;  
4           (iv) The overall cost-effectiveness and economic impact of the  
5           existing licensing or other regulation of the profession or occu-  
6           vation, including the direct and indirect costs to consumers, is  
7           outweighed by the benefits of the licensing or other regulation;  
8           (v) The existing licensing or other regulation has had an unrea-  
9           sonably negative effect on job creation, job retention, or wages  
10           in the state or has placed unreasonable restrictions on the abil-  
11           ity of individuals who seek to practice or who are practicing a  
12           given profession or occupation to continue to practice or to find  
13           employment; and  
14           (vi) Other relevant information should be considered.  
15           (e) Based on the committee's findings with respect to the factors pro-  
16           vided in paragraph (d) with respect to each licensing authority under  
17           review, the committee's report shall include a recommendation as to  
18           whether:  
19           (i) The existing licensing or other regulation should be re-  
20           pealed;  
21           (ii) The existing licensing or other regulation should be amended  
22           to reduce barriers to licensure;  
23           (iii) Other legislative reforms are recommended; or  
24           (iv) No legislative reforms are recommended.  
25           (f) The committee is authorized to draft legislation regarding recom-  
26           ended legislative actions, if any, and may attach such draft legisla-  
27           tion to its report.  
28           (g) Upon completion of the review process established in this section,  
29           the committee shall deliver its report, along with any related draft  
30           legislation, to the president pro tempore of the senate and the speaker  
31           of the house of representatives for subsequent delivery to the appro-  
32           priate germane committee chairpersons.  
33           (h) A germane committee of the legislature shall not be bound by a rec-  
34           ommendation of the committee.

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LEGISLATURE OF THE STATE OF IDAHO  
Sixty-sixth Legislature First Regular Session - 2021  
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AN ACT

1 RELATING TO APPRENTICESHIP PROGRAMS; AMENDING CHAPTER 94, TITLE 67, IDAHO  
2 CODE, BY THE ADDITION OF A NEW SECTION 67-9412, IDAHO CODE, TO PROVIDE  
3 FOR APPLICABLE APPRENTICESHIPS TO FULFILL CERTAIN EDUCATIONAL REQUIRE-  
4 MENTS.  
5

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

7 SECTION 1. That Chapter 94, Title 67, Idaho Code, be, and the same is  
8 hereby amended by the addition thereto of a NEW SECTION, to be known and des-  
9 ignated as Section 67-9412, Idaho Code, and to read as follows:

10 67-9412. TREATMENT OF APPRENTICESHIP PROGRAMS FOR LICENSING PUR-  
11 POSES. (1) For purposes of this section, "applicable apprenticeship pro-  
12 gram" means a paid on-the-job learning program that has been adopted by  
13 an Idaho licensing authority or the United States department of labor or a  
14 standards recognition entity recognized by the United States department of  
15 labor.

16 (2) A licensing authority shall grant a license to any applicant who  
17 has:

- 18 (a) Completed an applicable apprenticeship program;
- 19 (b) Passed an applicable examination, if required by a licensing au-  
20 thority;
- 21 (c) Paid any applicable fees; and
- 22 (d) Met any other criteria unrelated to training and education that are  
23 ordinarily required by a licensing authority.

24 (3) If a licensing authority denies licensure to an applicant on the ba-  
25 sis that the applicant's apprenticeship is not an applicable apprenticeship  
26 program, such licensing authority shall issue such denial in writing and ex-  
27 plain why the applicant's apprenticeship program has been deemed inapplica-  
28 ble by the licensing authority. Such decision shall be a final administra-  
29 tive action and shall be subject to judicial review.

30 (4) If a licensing authority requires an examination, it shall require  
31 the same passing score for applicants under this section as for non-appren-  
32 tice applicants. If a relevant licensing authority does not require an ex-  
33 amination, no examination shall be required for applicants seeking to obtain  
34 licensure through an applicable apprenticeship program.

35 (5) A licensing authority shall use the same licensing fee for appli-  
36 cants under this section as for applicants under the standard licensing  
37 process. If a licensing authority does not require a fee, no fee shall be  
38 required for applicants who obtain licensure through an applicable appren-  
39 ticeship program.

40 (6) A licensing authority shall not establish increased education or  
41 training requirements, including increased hour requirements, for appli-

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1 cants who have completed an applicable apprenticeship program under this  
2 section.

3 (7) Licensing authorities may work with the relevant agencies, such as  
4 the state department of education, workforce development council, and ca-  
5 reer technical education division to ensure that applicable apprenticeship  
6 programs are available and known to secondary and post-secondary students.

7 (8) Licensing authorities without applicable apprenticeship programs  
8 may consider apprenticeship programs as a path to licensure if, in the dis-  
9 cretion of a licensing authority, apprenticeship is appropriate.

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LEGISLATURE OF THE STATE OF IDAHO  
Sixty-sixth Legislature First Regular Session - 2021  
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AN ACT

RELATING TO TELEHEALTH ACCESS; AMENDING CHAPTER 57, TITLE 54, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 54-5714, IDAHO CODE, TO PROVIDE FOR INTER-STATE TELEHEALTH.

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

SECTION 1. That Chapter 57, Title 54, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 54-5714, Idaho Code, and to read as follows:

54-5714. INTERSTATE TELEHEALTH. (1) A provider who is not licensed in Idaho may provide telehealth services to an Idaho resident or person located in Idaho pursuant to the requirements and limitations of this section.

(2) A provider who engages in interstate telehealth services pursuant to this section, shall:

(a) Hold current, valid, and unrestricted licensure from an applicable health care licensing authority in a state, district, or territory of the United States that has substantially similar requirements for licensure as the corresponding Idaho licensing authority;

(b) Not be subject to any past or pending disciplinary proceedings, excluding any action related to non-payment of fees related to a license;

(c) Act in full compliance with all applicable laws, rules, and regulations, including this chapter and applicable laws and rules of the applicable Idaho licensing authority regarding such health care practice;

(d) Act in compliance with existing Idaho requirements regarding the maintenance of liability insurance;

(e) Consent to Idaho jurisdiction;

(f) If applicable, hold a controlled substance license or permit that has never been suspended or revoked by a state, district, or territory of the United States or the United States drug enforcement administration; and

(g) Obtain an Idaho credential to provide telehealth services.

(3) The standard of care under this section shall be the Idaho community standard of care.

(4) A provider who fails to comply with applicable Idaho laws, rules, and regulations shall be subject to investigation and disciplinary action by an applicable Idaho licensing authority. Disciplinary action by an Idaho licensing authority may include, but is not limited to, revoking the provider's Idaho practice privileges and referring the matter to licensing authorities in any states where the provider possesses licensure.

(5) Venue for a civil or administrative action initiated by the department of health and welfare, the licensing authority, or a patient who re-

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1 ceives telehealth services from an out-of-state provider shall be located in  
2 the patient's county of residence or in any other applicable county in Idaho.

3 (6) Nothing in this section shall shield a provider from personal ju-  
4 risdiction in Idaho.

5 (7) Nothing in this section shall shield a provider from any privacy  
6 safeguards under the health insurance portability and accountability act of  
7 1996.

8 (8) Any licensing authority responsible for issuing licenses to pro-  
9 vide health care services in this state may promulgate rules if necessary to  
10 implement this section.

11 (9) If a licensing authority responsible for issuing a credential un-  
12 der this section finds that grounds for discipline against a provider exist,  
13 such licensing authority may impose upon the practice privileges of the cre-  
14 dential holder any of the penalties that such licensing authority is autho-  
15 rized to impose pursuant to Idaho Code.

16 (10) A licensing authority responsible for issuing a credential under  
17 this section shall promptly notify licensing authorities in any states where  
18 the provider possesses licensure of any action taken against the telehealth  
19 credential practice privileges of a licensee.

## SUNRISE REVIEW APPLICATION

### **Introduction**

Beginning January 1, 2021, any occupational group or other interested party proposing the regulation of an unregulated occupational group in the State of Idaho is required to undergo sunrise review by the Occupational and Professional Licensure Review Committee of the Idaho Legislature (“Sunrise Committee”). The sunrise review process is required prior to the introduction of any legislation that would add a requirement that a person hold a license, certificate, registration, permit, or other authorization issued by a licensing authority to engage in a profession or occupation.

Sunrise review is a process that takes place before legislation is enacted. An applicant who wants to regulate an occupation or profession must outline the potential impacts, costs, and benefits of that regulation. Lawmakers review that information before recommending whether the legislation should proceed.

Although the sunrise review process is mandatory, a germane committee of the Legislature is not bound by the Sunrise Committee’s recommendation. Thus, the legislation at issue would still go through the regular legislative process after sunrise review.

### **Idaho Sunrise Review Submission, Processing, and Consideration Timeline**

The sunrise review process is as follows:

- By May 1<sup>st</sup>, the applicant must complete and submit the Sunrise Review Application and may attach any other relevant information. Completed applications must be submitted to the Legislative Services Office (LSO).
- By August 1<sup>st</sup>, LSO will review the application materials and submit a report with factual analysis to the Sunrise Committee. The report will verify the contents of the application and any other submitted information. It will not contain a recommendation. LSO will provide a copy of the report to the applicant and make it available to the public.
- By October 1<sup>st</sup>, the Sunrise Committee will:
  - Review the application materials and the report prepared by LSO; and
  - Hold a meeting on the application.
- By November 1<sup>st</sup>, the Sunrise Committee will issue a written recommendation as to whether a requested occupation or profession should be licensed in the manner set forth in the proponent’s application.



- The Sunrise Committee's recommendation will be delivered to the president pro tempore of the senate and the speaker of the house of representatives for subsequent delivery to the appropriate germane committee chairpersons.

### Sunrise Review Application

Thoroughly respond to the following questions in the order presented. If the information requested does not exist or cannot be obtained, please explain.

1. The requestor's name, address, telephone number, and organizational affiliation, as well as his or her relationship to the professional or occupational group seeking regulation.
2. What is the professional or occupational group for which the applicant is seeking regulation? Is this group known by more than one name? If so, please specify.
3. What is the applicant seeking to gain through regulation of the occupational or professional group?
4. Estimate the number of Idaho practitioners and explain how this estimate was derived.
5. Describe the functions performed by members of this occupational group. Note which functions are unsupervised or supervised and by whom. In addition, indicate functions that are similar to those performed by other groups and identify those groups.
6. Describe the minimum competencies necessary to enter this profession or occupation.
7. Describe the client group(s) with which this occupational or professional group deals.
8. Describe and provide examples of typical work settings of this occupational or professional group.
9. Does the applicant propose licensure, certification, registration, permitting, or another type of regulation to engage in the profession or occupation? Why? [Note: Under licensure, it is illegal for anyone to engage in an occupation or profession without a license, and only persons who possess certain qualifications are licensed. Certification protects specific occupational or professional titles of persons who have met certain educational and experiential standards. Only persons certified in that occupation or profession may use the protected title, although anyone may practice the occupation. Under registration, any person may engage in an occupation, but he or she is required to submit information concerning the location, nature, and operation of the practice.]

10. Explain why licensure, certification, registration, or other type of regulation of the profession or occupation is necessary to protect against present, recognizable, and sufficient harm to the health, safety, or welfare of the public.
11. Explain why the proposed licensing or other regulation is the least restrictive regulation necessary to protect against present, recognizable, and sufficient harm to the health, safety, or welfare of the public to warrant the regulation proposed.
12. Indicate how the public would be protected by regulation of this occupational or professional group and explain why the public is not protected by other means.
13. Estimate the impact of the proposed regulation on the supply of practitioners in the occupation or profession, including the degree to which existing practitioners would be precluded from practice. Would the regulation place unreasonable restrictions on the ability of such individuals to practice or to find employment?
14. Describe the anticipated impact of the proposed licensing or other regulation on job creation, job retention, and wages in the state.
15. Describe any anticipated disqualifications from licensure, certification, relicensure, or recertification and how those disqualifications would serve public safety, commercial, or consumer protection interests.
16. To what degree would the proposed regulation either directly or indirectly affect the cost of goods or services provided by the occupational or professional group? Specify those costs as they exist now and as they would change after the imposition of regulation.
17. Describe how the benefits of the proposed licensing or other regulation would outweigh the overall cost and economic impact of the proposed regulation, including the direct and indirect costs to consumers.
18. Within the usual practice of this occupation, document the physical, emotional or financial harm to clients that could result from a practitioner's failure to provide adequate service. Give specific, verifiable examples.
19. Does the current lack of regulation of this group make its practitioners ineligible for payments or grants that they would otherwise be eligible to receive?
20. List institutions, program titles, and contact information for such programs offering accredited and nonaccredited programs in Idaho to prepare practitioners for entry into this occupation or profession. What is the cost of completing these programs? If programs are not available in Idaho, what is the cost of out-of-state programs? If no formal training or education is required, how does the practitioner learn the occupation?
21. Is there an examination currently used to measure qualifications for entry? If so, who constructs and administers the examination? Please submit documentation on the validity and reliability of such exams with this application.
22. Is this occupational or professional group affiliated with an association that sets and enforces standards? If so, please explain the process and standards. Identify

any associations, organizations, or other groups presently representing the practitioners of the occupational group. Provide contact information for each organization and an estimated number of Idaho members.

23. What federal, Idaho state, county, or local laws currently apply to the practice of this occupational or professional group? Please submit copies of the relevant statutes, ordinances, and rules with this application.
24. What type of private credentialing is or could be available as an alternative to government regulation?
25. Is mandatory continuing education included in the proposed regulation? Please describe any proposed continuing education requirements.
26. Has the occupational or professional group previously been regulated in Idaho? If so, explain why the applicant is requesting re-regulation. If applicable, please submit documentation of any harm to consumers since deregulation that necessitates re-regulation by the state with this application.
27. In how many other states is the occupation or profession regulated? Identify the states where such regulation presently exists and submit a source for that information with this application.
28. Provide any other relevant information that the applicant believes will be useful for the Sunrise Committee to review.