

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 28

BY HEALTH AND WELFARE COMMITTEE

AN ACT

1 RELATING TO THE IDAHO BOARD OF LONG-TERM CARE ADMINISTRATORS; REPEALING  
2 CHAPTER 16, TITLE 54, IDAHO CODE, RELATING TO NURSING HOME ADMINIS-  
3 TRATORS; REPEALING CHAPTER 42, TITLE 54, IDAHO CODE, RELATING TO THE  
4 IDAHO RESIDENTIAL CARE ADMINISTRATORS ACT; AMENDING TITLE 54, IDAHO  
5 CODE, BY THE ADDITION OF A NEW CHAPTER 16, TITLE 54, IDAHO CODE, TO  
6 PROVIDE A SHORT TITLE, TO DEFINE TERMS, TO PROVIDE FOR SUPERVISION BY  
7 A LICENSED ADMINISTRATOR, TO PROVIDE FOR THE IDAHO BOARD OF LONG-TERM  
8 CARE ADMINISTRATORS, TO PROVIDE FOR QUALIFICATIONS FOR EXAMINATION FOR  
9 LICENSEES, TO PROVIDE FOR THE SUBJECT MATTER OF EXAMINATION, TO PROVIDE  
10 FOR THE ISSUANCE OF LICENSES, TO PROVIDE FOR EXEMPTIONS, TO PROVIDE FOR  
11 ATTENDANCE AT CONTINUING EDUCATION PROGRAMS, TO PROVIDE FOR THE EN-  
12 DORSEMENT OF LICENSES, TO PROVIDE FOR ADMINISTRATORS-IN-TRAINING, TO  
13 PROVIDE FOR RESIDENTIAL CARE FACILITY ADMINISTRATOR PROVISIONAL PER-  
14 MITS, TO PROVIDE FOR CERTAIN MISDEMEANORS AND PENALTIES, TO PROVIDE FOR  
15 DISCIPLINARY ACTION, TO PROVIDE FOR THE REISSUANCE OF REVOKED LICENSES  
16 OR PERMITS, TO PROVIDE FOR JUDICIAL REVIEW OF BOARD ACTIONS, AND TO PRO-  
17 VIDE FOR THE DISPOSITION OF FUNDS; AMENDING SECTION 6-2301, IDAHO CODE,  
18 TO PROVIDE FOR THE BOARD OF LONG-TERM CARE ADMINISTRATORS; AMENDING  
19 SECTION 6-2302, IDAHO CODE, TO PROVIDE FOR THE BOARD OF LONG-TERM CARE  
20 ADMINISTRATORS; AMENDING SECTION 6-2303, IDAHO CODE, TO PROVIDE FOR  
21 THE BOARD OF LONG-TERM CARE ADMINISTRATORS; AMENDING SECTION 39-3505,  
22 IDAHO CODE, TO PROVIDE A CORRECT CODE REFERENCE AND TO MAKE A TECHNICAL  
23 CORRECTION; AND DECLARING AN EMERGENCY AND PROVIDING AN EFFECTIVE DATE.  
24

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

26 SECTION 1. That Chapter 16, Title 54, Idaho Code, be, and the same is  
27 hereby repealed.

28 SECTION 2. That Chapter 42, Title 54, Idaho Code, be, and the same is  
29 hereby repealed.

30 SECTION 3. That Title 54, Idaho Code, be, and the same is hereby amended  
31 by the addition thereto of a NEW CHAPTER, to be known and designated as Chap-  
32 ter 16, Title 54, Idaho Code, and to read as follows:

33 CHAPTER 16

34 IDAHO BOARD OF LONG-TERM CARE ADMINISTRATORS ACT

35 54-1601. SHORT TITLE. This chapter shall be known and may be cited as  
36 the "Idaho Board of Long-Term Care Administrators Act."

37 54-1602. DEFINITIONS. As used in this chapter:

38 (1) "Administrator designee" means a qualified individual filling a  
39 vacant nursing home administrator position pursuant to a signed agreement.

1 (2) "Board" means the Idaho board of long-term care administrators, in-  
2 cluding both nursing home and residential care facility administrators.

3 (3) "Hearing officer" means a person appointed by the board to hear a  
4 contested case.

5 (4) "Long-term care administrator" means any individual that qualifies  
6 as a nursing home administrator or residential care facility administrator.

7 (5) "Long-term care facility" means any nursing home or residential  
8 care facility.

9 (6) "Nursing home" means a facility whose design and function shall  
10 provide area, space, and equipment to meet the health needs of two (2) or  
11 more individuals who, at a minimum, require inpatient care and services for  
12 twenty-four (24) or more consecutive hours for unstable chronic health prob-  
13 lems requiring daily professional nursing supervision and licensed nursing  
14 care on a twenty-four (24) hour basis, restorative, rehabilitative care, and  
15 assistance in meeting daily living needs. Medical supervision is necessary  
16 on a regular, but not daily, basis.

17 (7) "Nursing home administrator" means any individual responsible for  
18 planning, organizing, directing, and controlling nursing home operations,  
19 or who in fact performs such functions, whether such functions are shared by  
20 one (1) or more other persons, and who is licensed under the provisions of  
21 this chapter.

22 (8) "Nursing home administrator-in-training" means an individual reg-  
23 istered as such under the provisions of this chapter.

24 (9) "Practice of nursing home administration" means the planning, or-  
25 ganizing, directing, and control of nursing home operations.

26 (10) "Practice of residential care facility administration" means the  
27 planning, organizing, directing, and control of residential care facility  
28 operations.

29 (11) "Provisional permit" means a temporary permit issued to a provi-  
30 sional residential care facility administrator under the provisions of this  
31 chapter.

32 (12) "Provisional residential care facility administrator" means an  
33 individual who has been issued a permit as such under the provisions of this  
34 chapter.

35 (13) "Residential care facility" means a residential or assisted living  
36 facility or residence, however named, operated on either a profit or non-  
37 profit basis for the purpose of providing necessary supervision, personal  
38 assistance, meals, and lodging to three (3) or more elderly, developmentally  
39 disabled, physically disabled or mentally ill adults not related to the  
40 owner.

41 (14) "Residential care facility administrator" means any individual  
42 responsible for planning, organizing, directing, and controlling resi-  
43 dential care facility operations, or who in fact performs such functions,  
44 whether such functions are shared by one (1) or more other persons, and who is  
45 licensed under the provisions of this chapter.

46 54-1603. FACILITY SUPERVISION BY LICENSED ADMINISTRATOR REQUIRED --  
47 EXCEPTION FOR ADMINISTRATOR DESIGNEE -- PRACTICE BY UNLICENSED PERSON PRO-  
48 HIBITED. (1) No nursing home or residential care facility shall be operated  
49 in Idaho unless it is under the supervision of:

- 1 (a) An administrator who holds licensure that is current and valid;  
2 (b) A person who is an authorized administrator designee; or  
3 (c) A person who holds a provisional permit issued to a residential care  
4 facility administrator pursuant to this chapter.
- 5 (2) No person shall practice or offer to practice long-term care admin-  
6 istration in this state or use any title, sign, card, or device to indicate  
7 that the person is a long-term care administrator unless such person:
- 8 (a) Is duly licensed;  
9 (b) Has a current provisional permit; or  
10 (c) Is an administrator designee.
- 11 (3) In the event of a vacancy in a nursing home administrator position,  
12 a nursing home may operate under a responsible person authorized by a signed  
13 agreement to act as an administrator designee. The administrator designee  
14 shall be qualified by documented experience to assume delegated duties and  
15 shall not act for more than eight (8) continuous weeks unless an exception is  
16 granted by the board.
- 17 (4) Any individual acting as an administrator designee shall enter into  
18 a written agreement with an Idaho-licensed administrator. Such agreement  
19 shall be submitted to the board.

20 54-1604. IDAHO BOARD OF LONG-TERM CARE ADMINISTRATORS. (1) There is  
21 hereby established in the division of occupational and professional li-  
22 censes the Idaho board of long-term care administrators.

23 (2) The board shall oversee both nursing home and residential care fa-  
24 cility administrators.

25 (3) The board shall consist of five (5) members and shall be composed  
26 of one (1) duly licensed nursing home administrator, one (1) duly licensed  
27 residential care facility administrator, one (1) member from any other pro-  
28 fession, agency, or institution concerned with the care of individuals who  
29 are chronically ill or infirm or individuals requiring assistance with daily  
30 activities, one (1) licensed nurse from the nursing profession, and one (1)  
31 member representative of the public at large. No more than two (2) members  
32 of the board shall be officials or full-time employees of state or local gov-  
33 ernments, except that they may be administrators of publicly owned nursing  
34 homes.

35 (4) The term of office for each member of the board shall be four (4)  
36 years, and all board members shall serve at the pleasure of the governor.

37 (5) Appointments to the board shall be made by the governor, who may  
38 consider recommendations for appointment from any organized and generally  
39 recognized group concerned with long-term care administration and from any  
40 individual residing in this state.

41 (6) Members of the board shall hold office until the expiration of the  
42 term to which the member was appointed and until a successor has been duly  
43 appointed.

44 (7) Members of the board shall be compensated as provided by section  
45 59-509(p), Idaho Code.

46 (8) The board shall elect annually from its membership a chair and vice  
47 chair. The board shall hold one (1) or more meetings each year. A majority of  
48 the board membership shall constitute a quorum.

1 (9) The board shall exercise its powers and perform its duties and func-  
2 tions as specified by this chapter.

3 (10) The board may, by written agreement, authorize the division of oc-  
4 cupational and professional licenses to act in its interest.

5 54-1605. FUNCTIONS AND DUTIES OF BOARD -- FEE FOR LICENSE APPLICANTS  
6 -- RULES. (1) It shall be the function and duty of the board to:

7 (a) Develop, impose, and enforce standards for receiving and retaining  
8 a license or permit as a long-term care administrator. Such standards  
9 shall be designed to ensure that long-term care administrators are of  
10 good character, suitably qualified through training or experience, and  
11 capable of performing their duties in the field of long-term care admin-  
12 istration;

13 (b) Determine whether an individual meets the standards for receiving  
14 and retaining a license or permit as a long-term care administrator and  
15 to develop and apply appropriate techniques, including examinations  
16 and investigations, for making such determinations;

17 (c) Revoke or suspend licenses and permits based on violation of stan-  
18 dards, misconduct, or failure to meet ongoing qualification require-  
19 ments;

20 (d) Issue provisional permits to individuals who meet certain criteria  
21 set forth by the board. Such provisional permits shall allow individu-  
22 als who receive them to practice as a residential care facility adminis-  
23 trator on a provisional basis;

24 (e) Establish and carry out procedures to ensure that licensed long-  
25 term care administrators comply with the established standards;

26 (f) Ensure that all individuals with provisional permits comply with  
27 all applicable standards and regulations during their permit period;  
28 and

29 (g) Receive, investigate, and take appropriate action on any charges or  
30 complaints regarding a licensed long-term care administrator's failure  
31 to comply with standards.

32 (2) The board shall establish by rule a fee schedule for applications,  
33 licenses, provisional permits, renewals, and endorsements of a license is-  
34 sued by another state, not to exceed four hundred dollars (\$400).

35 (3) The board, any committee or member thereof, and any designated  
36 hearing officer shall have powers and duties as provided by law. They shall  
37 not be bound by strict rules of evidence in proceedings, but determinations  
38 shall be based on sufficient legal evidence.

39 (4) The board has the authority to make rules, subject to approval by  
40 the legislature, for the proper performance of its duties and the authority  
41 to adopt a code of ethics for long-term care administrators.

42 (5) The board shall take actions necessary to enable the state to meet  
43 federal requirements, including those set forth in section 1908 of the so-  
44 cial security act and related federal regulations.

45 (6) The board may collect from the state association representing nurs-  
46 ing homes in Idaho an amount necessary to reimburse the board for expenses  
47 related to prelitigation hearing panels conducted pursuant to chapter 23,  
48 title 6, Idaho Code. These funds shall be deposited into the occupational  
49 licenses fund.

1 54-1606. QUALIFICATIONS FOR EXAMINATION FOR LICENSE. (1) The board  
2 shall approve for the licensing examination any long-term care administra-  
3 tor candidate who:

4 (a) Submits the required application and pays a fee as determined by the  
5 board;

6 (b) Has not been convicted, found guilty, or received a withheld judg-  
7 ment or a suspended sentence in this state or any other state of a crime  
8 deemed relevant in accordance with section 67-9411(1), Idaho Code; and

9 (c) Meets the specific age, education, and experience requirements for  
10 the type of care facility as outlined in subsections (2) and (3) of this  
11 section.

12 (2) (a) For residential care facility administrators, the candidate  
13 must:

14 (i) Be at least twenty-one (21) years of age;

15 (ii) Submit evidence of successfully completing specialized  
16 courses or a program of study in residential care facility admin-  
17 istration as approved by the board; and

18 (iii) Meet one (1) of the following combinations of education and  
19 experience:

20 1. A high school diploma or equivalent and eight hundred  
21 (800) hours of on-site experience in a residential care fa-  
22 cility under the supervision of a licensed administrator;

23 2. An associate degree from an accredited college or univer-  
24 sity and four hundred (400) hours of on-site experience in  
25 a residential care facility under the supervision of a li-  
26 censed administrator; or

27 3. A bachelor's degree from an accredited college or uni-  
28 versity and two hundred (200) hours of on-site experience in  
29 a residential care facility under the supervision of a li-  
30 censed administrator.

31 (b) Alternatively, a candidate who does not meet the education and  
32 experience requirements may submit evidence of satisfactory practical  
33 experience obtained in residential care facility administration or in a  
34 medical or health care facility as approved by the board.

35 (3) (a) For nursing home administrators, the candidate must:

36 (i) Be at least eighteen (18) years of age;

37 (ii) Hold a baccalaureate degree from an accredited institution  
38 of higher learning or its equivalent; and

39 (iii) Complete an administrator-in-training program as described  
40 in section 54-1612, Idaho Code.

41 (b) Alternatively, a candidate who does not meet the educational re-  
42 quirements may submit evidence of obtaining two (2) years of satisfac-  
43 tory practical experience in management in a nursing home for each year  
44 of required post-high school education.

45 54-1607. SUBJECT MATTER OF EXAMINATION. (1) The board shall determine  
46 the subjects of examination for applicants for licensure as long-term care  
47 administrators.

48 (2) The scope, content, and format of such examination shall be the  
49 same for all candidates within each category of licensure. The examination

1 shall include an assessment of the applicant's proficiency in the practice  
2 of long-term care administration and knowledge of applicable rules of health  
3 and safety within the state.

4 54-1608. ISSUANCE OF NURSING HOME ADMINISTRATOR LICENSES. Nursing  
5 home administrator applicants who meet the requirements of section 54-1606,  
6 Idaho Code, and, if applicable, section 54-1611, Idaho Code, and who pass the  
7 examination provided for in section 54-1607, Idaho Code, shall be issued a  
8 license by the board.

9 54-1609. EXEMPTION -- EDUCATIONAL PROGRAMS -- ADMINISTRATION OF FED-  
10 ERAL FUNDS BY BOARD. (1) Nothing in this chapter or the rules established  
11 pursuant to this chapter shall be construed to require an applicant for a  
12 long-term care administrator license to demonstrate proficiency in medical  
13 techniques or to meet medical standards that are inconsistent with the care  
14 and treatment practices of any such institution.

15 (2) Nothing in this chapter or the rules established pursuant to this  
16 chapter shall be construed to require a person who is certified as belonging  
17 to a recognized church or religious denomination that relies solely on spir-  
18 itual means for healing to meet medical standards that are inconsistent with  
19 the care and treatment practices of any such institution.

20 (3) If the board finds that the existing training and instructional  
21 programs within the state are insufficient for nursing home administrators  
22 to meet the established requirements, it shall initiate and conduct, or  
23 arrange for others to conduct, one (1) or more such programs. Such programs  
24 must be made accessible to appropriate state residents. The board may also  
25 approve programs conducted both within and outside the state to meet the  
26 educational and training requirements. For purposes of this subsection, the  
27 board is authorized to receive and disburse federal funds for these programs  
28 under the social security act.

29 54-1610. LICENSE RENEWAL -- CONTINUING EDUCATION -- DISCIPLINE. (1)  
30 Every licensed long-term care administrator shall apply for license renewal  
31 biennially, reporting required information on forms provided by the board.

32 (2) Applicants for license renewal shall submit evidence of completing  
33 a continuing education program or course of study as required by board rules.

34 (3) The board shall issue a license renewal upon receipt of the renewal  
35 application, fee, and evidence of continuing education.

36 (4) Licensed long-term care administrators who fail to comply with  
37 these requirements and continue to act as administrators are subject to dis-  
38 ciplinary action by the board.

39 (5) License renewal and reinstatement for long-term care administra-  
40 tors shall follow the procedures as described in section 67-2614, Idaho  
41 Code, including timelines, fee schedules, and requirements for maintaining  
42 current information with the division of occupational and professional li-  
43 censes.

44 54-1611. ENDORSEMENT OF LICENSES. The board, in its discretion and  
45 subject to the provisions and rules of this chapter, may endorse a long-term  
46 care administrator license or registration issued by the proper authorities

1 of any other state upon payment of a fee and submission of evidence meeting  
2 the qualifications established by the board.

3 54-1612. ADMINISTRATORS-IN-TRAINING -- EXAMINATIONS AFTER ONE THOU-  
4 SAND HOURS -- REPORTS -- EXCEPTIONS. (1) Every applicant for a nursing home  
5 administrator license who shall have otherwise qualified under the provi-  
6 sions of section 54-1606, Idaho Code, except as provided for in this section,  
7 shall serve for one thousand (1,000) hours under the direct supervision of a  
8 duly licensed nursing home administrator in accordance with the rules of the  
9 board. Upon completion of the one thousand (1,000) hour training period, the  
10 applicant shall be eligible to take the nursing home administrator examina-  
11 tion. An administrator-in-training program shall not exceed a period of two  
12 (2) years, except as approved by the board for good cause.

13 (2) The nursing home administrator-in-training shall submit reports on  
14 forms provided by the board.

15 (3) This section shall not apply to individuals with:

16 (a) A master's degree in health care administration related to long-  
17 term care from an accredited institution; or

18 (b) A master's degree from an accredited institution that includes an  
19 emphasis on health care and one (1) year of management experience in an  
20 inpatient health care facility.

21 (4) Nursing home administrators-in-training shall register the fact of  
22 such training with the board in accordance with the rules and on forms pro-  
23 vided by the board.

24 (5) An applicant may begin the one thousand (1,000) hour training pe-  
25 riod as a nursing home administrator-in-training prior to completion of a  
26 baccalaureate degree.

27 54-1613. RESIDENTIAL CARE FACILITY ADMINISTRATOR PROVISIONAL PER-  
28 MITS. (1) The board may issue a residential care facility administrator  
29 provisional permit, not exceeding three (3) months, to an applicant pending  
30 license issuance if the applicant files a written application and meets the  
31 requirements of section 54-1606(2) (a), Idaho Code, and is applying to fill a  
32 vacancy on an emergency basis.

33 (2) Any individual holding a valid Idaho nursing home administrator li-  
34 cense in good standing may meet the requirements for a residential care fa-  
35 cility administrator license and be issued one upon application and payment  
36 of appropriate fees.

37 54-1614. MISDEMEANORS -- PENALTIES. (1) It shall be a misdemeanor for  
38 any person to:

39 (a) Sell or fraudulently obtain or furnish any license or aid or abet  
40 such actions;

41 (b) Practice as a long-term care administrator under cover of any  
42 license or permit illegally or fraudulently obtained or unlawfully is-  
43 sued;

44 (c) Practice as a long-term care administrator or use in connection  
45 with the person's name any designation tending to imply that the person  
46 is a long-term care administrator unless duly licensed under the provi-  
47 sions of this chapter;

1 (d) Practice as a long-term care administrator during the time the per-  
 2 son's license or permit issued under the provisions of this chapter is  
 3 suspended or revoked; or

4 (e) Otherwise violate any of the provisions of this chapter.

5 (2) A misdemeanor under this section shall be punishable by a fine of  
 6 not more than five hundred dollars (\$500) or by imprisonment in the county  
 7 jail for not more than ninety (90) days, or by both such fine and imprison-  
 8 ment.

9 54-1615. DISCIPLINARY ACTIONS FOR LONG-TERM CARE ADMINISTRATORS. (1)  
 10 The board may revoke, suspend, refuse to renew, or refuse to issue any li-  
 11 cense or permit issued under the provisions of this chapter or may reprimand,  
 12 censure, or otherwise discipline the holder of a license or permit in the  
 13 following cases, after due hearing:

14 (a) Upon proof that the licensee is reasonably unfit to operate a long-  
 15 term care facility;

16 (b) Upon proof of the willful or repeated violation of any provisions of  
 17 this chapter or the rules enacted in accordance with it, or of willful or  
 18 repeated actions inconsistent with the health and safety of patients;

19 (c) Upon proof that the licensee has committed fraud or deceit in the  
 20 practice of long-term care administration or related activities, or in  
 21 the licensee's admission to such practice;

22 (d) Upon proof that the licensee has permitted the unauthorized disclo-  
 23 sure of information relating to a resident in the long-term care facil-  
 24 ity under the administration of the licensee;

25 (e) Upon conviction of, pleading guilty or nolo contendere to, or re-  
 26 ceiving a withheld judgment of a felony or any crime involving dishon-  
 27 esty or the health or safety of a person; or

28 (f) Upon proof that the administrator had a license to practice a health  
 29 care profession or occupation in another state or jurisdiction and such  
 30 license was suspended or revoked or that the administrator has other-  
 31 wise been disciplined.

32 (2) The board or a designated hearing officer shall have jurisdiction  
 33 to hear all charges brought under this section against long-term care ad-  
 34 ministrators. The board shall make a determination on such charges based on  
 35 their merits and may impose disciplinary actions as deemed appropriate.

36 (3) Proceedings shall be initiated by filing charges with the board in  
 37 writing and under oath. The board may also initiate charges on its own motion  
 38 following an investigation. The procedures for notification and hearings,  
 39 unless dismissed by the board as unfounded or trivial, shall be conducted  
 40 pursuant to the provisions of chapter 52, title 67, Idaho Code.

41 54-1616. REISSUANCE OF REVOKED LICENSE OR PERMIT. The board may, in  
 42 its discretion, reissue a license or permit to any person whose license or  
 43 permit has been revoked.

44 54-1617. JUDICIAL REVIEW OF BOARD ACTION. Anyone aggrieved by an ac-  
 45 tion of the board may seek judicial review thereof in accordance with the  
 46 provisions of chapter 52, title 67, Idaho Code.



1           54-1618. DISPOSITION OF FUNDS. All fees received under the provisions  
2 of this chapter shall be paid to the division of occupational and profes-  
3 sional licenses and deposited in the state treasury to the credit of the oc-  
4 cupational licenses fund and all costs and expenses incurred under the pro-  
5 visions of this chapter shall be a charge against and paid from said fund.

6           SECTION 4. That Section 6-2301, Idaho Code, be, and the same is hereby  
7 amended to read as follows:

8           6-2301. PRELITIGATION HEARING PANEL -- LICENSED NURSING FACILI-  
9 TIES. In the event of an alleged negligence or wrongful death case involving  
10 a claim for damages against a licensed nursing facility operating in the  
11 state of Idaho, the Idaho ~~state board of examiners of nursing home~~ board of  
12 long-term care administrators is directed to cooperate in providing a pre-  
13 litigation hearing panel. The panel shall operate in the nature of a special  
14 civil grand jury and procedure for prelitigation consideration of personal  
15 injury and wrongful death claims for damages arising out of the provision of  
16 or alleged failure to provide medical, nursing, or health care services in  
17 the state of Idaho. The proceedings shall be informal and nonbinding, but  
18 shall be compulsory as a condition precedent to litigation. Proceedings  
19 conducted or maintained under the authority of this chapter shall at all  
20 times be subject to disclosure according to chapter 1, title 74, Idaho Code.  
21 Formal rules of evidence shall not apply and all proceedings shall be expedi-  
22 tious and informal.

23           SECTION 5. That Section 6-2302, Idaho Code, be, and the same is hereby  
24 amended to read as follows:

25           6-2302. APPOINTMENT OF HEARING PANEL. The board of ~~examiners of nurs-~~  
26 ~~ing home~~ long-term care administrators shall provide for and appoint an ap-  
27 propriate panel or panels to accept and hear complaints of negligence and  
28 damages, made by or on behalf of any patient who is an alleged victim of neg-  
29 ligence. The panels shall include one (1) person who is a then serving li-  
30 censed administrator of a licensed nursing facility in the state of Idaho.  
31 One (1) additional member of each such panel shall be appointed by the com-  
32 missioners of the Idaho state bar, which person shall be a resident lawyer  
33 licensed to practice law in the state of Idaho, and shall serve as chairman  
34 of the panel. The panelists so appointed shall select by unanimous decision  
35 a layman panelist who shall not be a lawyer, doctor or nursing facility em-  
36 ployee but who shall be a responsible adult citizen of Idaho. All panelists  
37 shall swear under oath that they are without bias or conflict of interest as  
38 respects any matter under consideration.

39           SECTION 6. That Section 6-2303, Idaho Code, be, and the same is hereby  
40 amended to read as follows:

41           6-2303. FEES -- CONFIDENTIALITY. The Idaho ~~state board of examiners of~~  
42 ~~nursing home~~ board of long-term care administrators shall provide, by uni-  
43 form policy of the board, for the payment of fees and expenses of members of  
44 panels, such payment to be made from the occupational licenses fund. Panel  
45 members shall serve upon the sworn commitment that all related matters shall

1 be subject to disclosure or privilege according to chapter 1, title 74, Idaho  
2 Code, ~~and privileged.~~

3 SECTION 7. That Section 39-3505, Idaho Code, be, and the same is hereby  
4 amended to read as follows:

5 39-3505. RULES. The board shall have the power and it shall be its duty  
6 to promulgate appropriate rules necessary to implement and enforce the stan-  
7 dards for certified family homes pursuant to this chapter, including but not  
8 limited to the following:

9 (1) The care provider shall admit or retain no more than two (2) res-  
10 idents concurrently in the certified family home. However, the department  
11 may grant a variance for up to four (4) residents to receive care in the cer-  
12 tified family home upon application by the care provider and upon a finding  
13 by the department that the certified family home is able to comply with the  
14 requirements of section 39-3507, Idaho Code. The department shall not grant  
15 a variance for requests to admit or retain more than two (2) residents who  
16 require nursing facility level of care as described in section 39-1301(b),  
17 Idaho Code. A variance to exceed the two (2) resident limit in a certified  
18 family home shall not be transferable to another resident or care provider.  
19 Certified family homes issued a variance to exceed the two (2) resident limit  
20 shall be subject to all statutes and rules governing certified family homes  
21 but shall not be subject to the residential care facility administrator li-  
22 censing requirements of chapter 42 16, title 54, Idaho Code, or the require-  
23 ments of section 39-3340, Idaho Code. Nothing in this subsection shall be  
24 construed to authorize increased group size for providers of any form of care  
25 other than certified family homes.

26 (2) The care provider shall live in the certified family home as the  
27 care provider's primary residence.

28 (3) An individual cannot be approved as a care provider operating a  
29 certified family home if the individual charges room or board to any person  
30 staying in the home who is not a resident, a relative of the care provider, or  
31 full-time staff. A variance may be granted by the department for the spouse  
32 of a resident when the resident's spouse does not require personal assis-  
33 tance.

34 (4) A home cannot be approved as a certified family home and for child  
35 foster care at the same time unless a variance is granted by the department.

36 (5) The care provider, care provider's relative, or other adult living  
37 in the home shall not be the legal guardian of the resident unless the legal  
38 guardian is a relative of the resident. A variance may be granted by the de-  
39 partment when it determines the guardianship is in the best interest of the  
40 nonrelative resident.

41 (6) The care provider must have sufficient resources to maintain the  
42 home and the services offered.

43 (7) Information obtained by the care provider about current or prospec-  
44 tive residents shall be held confidential as described under section  
45 39-3516(7), Idaho Code.

46 (8) The board may implement recordkeeping and reporting requirements  
47 as deemed necessary.

48 (a) The certified family home shall maintain and keep current a record  
49 of at least the following information for each resident:

- 1 (i) Admission records, including but not limited to the admission  
2 agreement, assessment, plan of service, history and physical ex-  
3 amination, review of resident rights policy, emergency contacts,  
4 advance directives if so formulated by the resident, and a list of  
5 belongings the resident or resident representative chooses to in-  
6 ventory; and  
7 (ii) Ongoing resident records as applicable, including but not  
8 limited to: medication management; incidents, accidents, or  
9 changes in the resident's condition and the care provider's re-  
10 sponse; and financial accounting records for use of the resident's  
11 funds when the care provider is deemed to be managing such funds on  
12 behalf of the resident.
- 13 (b) The care provider shall report at least the following:
- 14 (i) To the certifying agent: any incident of house fire in the  
15 certified family home; any criminal investigation or conviction,  
16 or child protection or adult protection investigation, when the  
17 alleged perpetrator is the care provider, a substitute caregiver,  
18 or any adult member of the household; any critical incident; and  
19 any resident discharge from the home;
- 20 (ii) To the Idaho commission on aging: in accordance with section  
21 39-5303, Idaho Code, any abuse, neglect, or exploitation of a vul-  
22 nerable adult when the care provider has reasonable cause to be-  
23 lieve that such has occurred; and  
24 (iii) To local law enforcement: any serious physical injury to or  
25 the death of a resident when there is reasonable cause to believe  
26 the harm was due to abuse or neglect.
- 27 (9) The board may implement requirements to ensure the safety and ade-  
28 quate care of residents. The care provider shall be responsible for ensuring  
29 appropriate and adequate supervision is provided to each resident based on  
30 the resident's plan of service.
- 31 (10) The board may implement requirements for management of medica-  
32 tions, including:
- 33 (a) Development of acceptable policies and procedures regarding the  
34 following:
- 35 (i) Following the orders of the resident's health care profes-  
36 sionals;
- 37 (ii) Maintaining evidence of such orders; and  
38 (iii) Training guidance that must be completed prior to any indi-  
39 vidual assisting the resident with medications;
- 40 (b) For residents who wish to self-administer their own medications,  
41 the evaluation and approval criteria that shall be met prior to the care  
42 provider allowing the resident to self-administer medications; and  
43 (c) For residents who need assistance with medications:
- 44 (i) Conditions under which certified family home staff may offer  
45 assistance, taking into consideration the resident's health statu-  
46 s, level of assistance needed, and scope of any professional li-  
47 cense held by the individual offering assistance;
- 48 (ii) Storage and safeguarding of medications, including taking  
49 regular inventory of narcotic medications;
- 50 (iii) Documentation of assistance; and

1           (iv) Proper and timely disposal of discontinued, unused, loose,  
2           or expired medications.

3           (11) The certified family home staff shall allow certifying agents to  
4 inspect and investigate the certified family home as necessary to determine  
5 compliance with this chapter and the department's rules.

6           (12) The board may establish rules for the revocation of certification  
7 or other enforcement actions.

8           SECTION 8. An emergency existing therefor, which emergency is hereby  
9 declared to exist, this act shall be in full force and effect on and after  
10 July 1, 2025.