

TITLE 67
STATE GOVERNMENT AND STATE AFFAIRS

CHAPTER 94
OCCUPATIONAL LICENSING REFORM ACT

67-9301 [67-9401]. SHORT TITLE. This chapter shall be known and may be cited as the "Occupational Licensing Reform Act."

[67-9301 [67-9401], added 2019, ch. 296, sec. 1, p. 878.]

67-9302 [67-9402]. DECLARATION OF POLICY. The Idaho legislature, recognizing a need for occupational licensing reform, declares it to be the policy of the state to adopt a comprehensive and proactive approach to reducing occupational licensing constraints and barriers.

[67-9302 [67-9402], added 2019, ch. 296, sec. 1, p. 878.]

67-9303 [67-9403]. DEFINITIONS. As used in this chapter:

(1) "Honorable conditions" means an honorable discharge or a general discharge "under honorable conditions."

(2) "Licensing authority" means any agency, bureau, commission, department, division, or professional or occupational licensing board charged with granting, suspending, or revoking the license, certificate, registration, permit, or other authorization of any person to practice a profession or occupation, including but not limited to the professional and occupational licensing boards within the department of self-governing agencies.

(3) "Licensure" means a license, certificate, registration, permit, or other authorization of any person to practice a profession or occupation.

(4) "Military" means the armed forces or reserves of the United States, including the army, navy, marine corps, coast guard, air force, and the reserve components thereof, the national guard of any state, the military reserves of any state, or the naval militia of any state.

(5) "Veteran" means any person who has been discharged or released from active duty in the armed forces under honorable conditions provided the person has served on active duty for a minimum of one hundred eighty (180) consecutive days.

[67-9303 [67-9403], added 2019, ch. 296, sec. 1, p. 878.]

67-9304 [67-9404]. MILITARY EDUCATION, TRAINING, AND SERVICE -- QUALIFICATIONS FOR LICENSURE. A licensing authority shall accept relevant and applicable military education, training, or service by an individual as a member of the armed forces or a veteran toward the qualifications to receive licensure. Each licensing authority shall promulgate applicable rules to implement the provisions of this section.

[67-9304 [67-9404], added 2019, ch. 296, sec. 1, p. 879.]

67-9305 [67-9405]. EXPEDITED APPLICATION -- MEMBERS OF THE MILITARY, VETERANS, AND SPOUSES. A licensing authority shall expedite the application of a member of the military, a former member of the military after discharge under honorable conditions, a veteran, or a spouse of any such person, to re-

ceive licensure if such member, former member, veteran, or spouse possesses necessary education, qualifications, licensure, or certification from another state, district, or territory of the United States, or in any branch of the armed forces or the national guard. Each licensing authority shall promulgate applicable rules to implement the provisions of this section.

[67-9305 [67-9405], added 2019, ch. 296, sec. 1, p. 879.]

67-9306 [67-9406]. LICENSURE BY ENDORSEMENT -- MEMBERS OF THE MILITARY, VETERANS, AND SPOUSES. (1) A licensing authority shall establish a procedure for the issuance of licensure by endorsement to a member of the military, a former member of the military after discharge under honorable conditions, a veteran, or a spouse of any such person, if such person possesses current, valid, and unrestricted licensure in another state, district, or territory of the United States, or in any branch of the armed forces or the national guard. Each licensing authority shall promulgate applicable rules to implement the provisions of this subsection.

(2) Subsection (1) of this section shall not apply to a person who is a member of a profession or occupation covered by an interstate licensure compact that the person's home state and Idaho have each adopted. In such a situation, a person shall apply for licensure pursuant to the terms of the applicable licensure compact rather than through licensure by endorsement. A person from a state that has not adopted an interstate licensure compact that Idaho has adopted is eligible for licensure by endorsement, provided that such person is otherwise eligible for licensure by endorsement under this section; however, such licensure shall be valid only in Idaho. A licensing authority for a profession or occupation affected by an interstate licensure compact that Idaho has adopted shall promulgate applicable rules to implement the provisions of this subsection.

[67-9306 [67-9406], added 2019, ch. 296, sec. 1, p. 879.]

67-9307 [67-9407]. REPORT TO LEGISLATURE. A licensing authority shall, by January 1, 2020, prepare and deliver to an appropriate germane legislative committee information regarding the rules, if any, implemented under this chapter.

[67-9307 [67-9407], added 2019, ch. 296, sec. 1, p. 880.]

67-9408. OCCUPATIONAL AND PROFESSIONAL LICENSURE REVIEW COMMITTEE. (1) In order to establish oversight of occupational and professional licensure and related issues in Idaho, there is hereby established an occupational and professional licensure review committee.

(2) The committee shall consist of eight (8) members, with four (4) members from the senate, one (1) of whom shall be cochair of the committee, and four (4) members from the house of representatives, one (1) of whom shall be cochair of the committee. Members from the senate shall be appointed by the president pro tempore of the senate, and members from the house of representatives shall be appointed by the speaker of the house of representatives. No more than three (3) members from the senate and no more than three (3) members from the house of representatives shall be from the same political party. Appointments to the committee shall be for the term of office of the member appointed. Any vacancy shall be filled in a manner consistent with the appointment procedure set forth in this subsection, except the appoint-

ment shall be for the remainder of the unexpired term. A committee member may be reappointed to the committee.

(3) In addition to conducting sunrise reviews as set forth in this section, the committee is authorized to study and review occupational licensing and certification laws in general 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. The committee shall meet as often as may be necessary for the proper performance of its duties upon the call of the cochairs.

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

(5) Beginning January 1, 2021, the committee shall conduct a sunrise review upon request that a lawful profession or occupational group that is not licensed become licensed. For purposes of this section, a profession or occupation becoming "licensed" means adding a requirement that a person must hold a license, certificate, registration, permit, or other authorization issued by a licensing authority to engage in such profession or occupation. Sunrise review by the committee shall be required prior to the introduction of any proposed legislation that a lawful profession or occupational group that is not licensed become licensed; provided, however, that a germane committee of the legislature later considering such proposed legislation shall not be bound by the recommendation of the committee. The sunrise review process shall be as follows:

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

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

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

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

(ii) Why licensing or other 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 to warrant the regulation proposed;

(iii) 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;

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

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

(vi) Whether the proposed licensing or other regulation will have an unreasonably negative effect on job creation, job retention, or

wages in the state or will place unreasonable restrictions on the ability of individuals who seek to practice or who are practicing a given profession or occupation to continue to practice or to find employment; and

(vii) Any other relevant information.

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

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

(ii) By October 1, the committee shall review such application and submitted information and the associated report prepared by the legislative services office, along with any other relevant information, and hold a public hearing on such application.

(iii) By November 1, the committee shall prepare a written recommendation as to whether a requested occupation or profession should be licensed in the manner set forth in the application and shall deliver such recommendation 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. Such written recommendation may include nonmandatory suggestions as to how the application, including the proposed legislation, may be improved. An applicant receiving such suggestions shall be encouraged to follow the recommended suggestions of the committee before offering the legislation for introduction during the next legislative session.

[67-9408, added 2020, ch. 175, sec. 1, p. 502.]

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

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

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

(2) Each applicant for universal licensure under this section must apply to the applicable licensing authority for relevant licensure. An applicant under this section shall be subject to the laws regulating the person's practice in Idaho and is subject to the applicable licensing authority's jurisdiction. For purposes of this section, the term "licensure" means a license, certificate, registration, permit, or other authorization to practice a profession or occupation.

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

(4) In addition to the requirements set forth in this section, if it administers an examination as part of the application requirements, a licensing authority may require an applicant to take and pass all or a portion of

such examination as may be necessary to demonstrate competence to practice in Idaho.

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

(6) A licensing authority may, at its discretion, compare the authorized scope of practice in the state, or states, where the applicant currently holds licensure to the authorized scope of practice in Idaho. If such licensing authority determines that the authorized scope of practice in Idaho is broader than the scope of practice authorized in the state, or states, where the applicant currently holds licensure, such licensing authority may, instead of issuing a denial on the basis of the difference in scope of practice, issue a limited license to such applicant pending completion of the additional education, training, and any other requirements determined necessary by the licensing authority. A limited license issued under this section shall restrict the applicant's practice in Idaho to the scope of practice authorized in the state where the applicant holds prior licensure until such time that the applicant satisfies the education, training, or other requirements deemed necessary by the licensing authority for a limited period of time necessary for an applicant to meet the qualifications for a full license.

(7) This section shall not restrict a person who is a member of a profession or occupation covered by an applicable interstate licensure compact or applicable reciprocity agreement from seeking licensure pursuant to this section. In such a situation, a person may apply for universal licensure under this section or may apply for licensure pursuant to the terms of the applicable licensure compact or reciprocity agreement. A licensing authority may promulgate applicable rules if necessary to implement the provisions of this section.

[67-9409, added 2020, ch. 175, sec. 1, p. 504.]

67-9410. INQUIRY REGARDING THE POTENTIAL IMPACT OF A CRIMINAL CONVICTION. (1) An individual who has been convicted of a criminal offense may request, at any time, that a licensing authority opine as to whether the individual's criminal conviction could disqualify the individual from obtaining a license, certificate, registration, permit, or other authorization to practice a profession or occupation issued or conferred by the licensing authority. An individual making such an inquiry shall include details of the individual's criminal record and any payment required by the licensing authority. A licensing authority may charge a fee of no more than twenty-five dollars (\$25.00) for each inquiry made under this section to reimburse the costs it incurs in issuing the opinion.

(2) No later than sixty (60) days or at the next regular meeting after receiving an inquiry under this section, the licensing authority shall inform the individual whether, based on the criminal record information submitted, the individual is disqualified from receiving or holding the license about which the individual inquired.

(3) A licensing authority shall not be bound by an opinion issued under this section if it later determines that the facts and circumstances submitted in the individual's inquiry were not complete and accurate, that the individual's criminal background is different than described in the inquiry, that a subsequent criminal offense or other relevant conduct occurred after

the inquiry was submitted, or that a change in law or regulation requires a different determination.

[67-9410, added 2020, ch. 175, sec. 1, p. 504.]

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

- (a) The nature and seriousness of the crime for which the individual was convicted;
- (b) The relationship of the crime to the ability, capacity, and fitness required to perform the duties and discharge the responsibilities of the occupation;
- (c) The passage of time since the commission of the crime;
- (d) Any evidence of rehabilitation or treatment undertaken by the individual; and
- (e) Any other relevant factor.

(2) A licensing authority shall not deny a license, certificate, registration, permit, or other authorization to practice a profession or occupation to an applicant on the basis of vague or generic terminology related to a criminal conviction, including but not limited to "moral turpitude" or "moral character." Where such terms appear in code or rule with respect to a criminal conviction, a licensing authority shall conduct a relevancy evaluation pursuant to subsection (1) of this section.

[67-9411, added 2020, ch. 175, sec. 1, p. 505.]