

IN THE SENATE

SENATE BILL NO. 1012

BY COMMERCE AND HUMAN RESOURCES COMMITTEE

AN ACT

1 RELATING TO DENTISTS; AMENDING SECTION 54-912, IDAHO CODE, TO REMOVE A RE-
2 PORTING REQUIREMENT; REPEALING SECTION 54-914, IDAHO CODE, RELATING TO
3 DENTISTS AND DENTAL HYGIENISTS PREVIOUSLY QUALIFIED; REPEALING SECTION
4 54-917, IDAHO CODE, RELATING TO ALLOWANCE OR REJECTION OF APPLICANT;
5 AMENDING SECTION 54-924, IDAHO CODE, TO PROHIBIT CERTAIN LIMITATIONS ON
6 COMPLAINT FILING AND TO MAKE A TECHNICAL CORRECTION; AND REPEALING SEC-
7 TION 54-932, IDAHO CODE, RELATING TO LOST OR DESTROYED CERTIFICATES OR
8 LICENSES.
9

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

11 SECTION 1. That Section 54-912, Idaho Code, be, and the same is hereby
12 amended to read as follows:

13 54-912. BOARD OF DENTISTRY -- POWERS AND DUTIES. The board shall have
14 the following powers and duties:

15 (1) To ascertain the qualifications and fitness of applicants to prac-
16 tice dentistry, a dental specialty, dental therapy, or dental hygiene; to
17 prepare, conduct and grade qualifying examinations; to require and accept
18 passing results of written and clinical examinations from approved dental,
19 dental therapy, and dental hygiene testing organizations; to issue in the
20 name of the board a certificate of qualification to applicants found to be
21 fit and qualified to practice dentistry, dental therapy, or dental hygiene.

22 (2) To prescribe rules for a fair and wholly impartial method of li-
23 censure and examination of applicants to practice dentistry, a dental spe-
24 cialty, dental therapy, or dental hygiene.

25 (3) To define by rule what shall constitute accepted and approved
26 schools, colleges, institutions, universities or departments thereof for
27 the teaching of dentistry, dental therapy, or dental hygiene and to deter-
28 mine, accept and approve those that comply therewith.

29 (4) To promulgate other rules required by law or necessary or desirable
30 for its enforcement and administration; to define by rule the terms unpro-
31 fessional conduct or practices injurious to the public as the terms are used
32 in section 54-924, Idaho Code, to furnish applications, certificates, li-
33 censes and other necessary forms.

34 (5) To inspect or cause to be inspected the offices or operating rooms
35 of all persons licensed under this chapter.

36 (6) (a) Upon its own motion or upon any complaint, to initiate and
37 conduct investigations on all matters relating to the practice of den-
38 tistry, dental therapy, or dental hygiene and to conduct hearings or
39 proceedings on its own or through its designated hearing officer, to re-
40 voke, suspend or otherwise condition certificates of qualification or
41 licenses of persons practicing dentistry, dental therapy, or dental hy-
42 giene and, on such terms as the board shall deem appropriate, to revoke,

1 suspend, or otherwise condition such licenses, provided such hearings
2 and proceedings shall be had in conformance with the provisions of chap-
3 ter 52, title 67, Idaho Code. Final decisions of the board shall be sub-
4 ject to judicial review as provided in chapter 52, title 67, Idaho Code.

5 (b) Whenever it appears that grounds for discipline exist under this
6 chapter and the board finds that there is an immediate danger to the
7 public health, safety or welfare, the board is authorized to commence
8 emergency proceedings for revocation or other action. Such proceed-
9 ings shall be promptly instituted and processed, including the right
10 to contest the emergency proceedings and appeal, under the applicable
11 provisions of chapter 52, title 67, Idaho Code.

12 (7) The board, its designated hearing officer, or representative shall
13 have power to administer oaths, the power to engage in discovery as provided
14 in the Idaho rules of civil procedure and chapter 52, title 67, Idaho Code,
15 including, but not limited to, the power to take depositions of witnesses
16 within or without the state in the manner provided by law in civil cases, and
17 shall have power throughout the state of Idaho to require the attendance of
18 witnesses and the production of books, records and papers as it may desire
19 at any hearing before it of any matter which it has authority to investigate,
20 and for that purpose the board or its designated hearing officer may issue
21 a subpoena for any witness or a subpoena duces tecum to compel the produc-
22 tion of any books, records or papers, directed to the sheriff of any county of
23 the state of Idaho, where the witness resides, or may be found, which shall
24 be served and returned in the same manner as a subpoena in a criminal case is
25 served and returned. The fees and mileage of the witnesses shall be the same
26 as that allowed in the district courts in criminal cases and shall be paid
27 from the state board of dentistry fund in the same manner as other expenses of
28 the board are paid. In any case of disobedience to, or neglect of, any sub-
29 poena or subpoena duces tecum served upon any person, or the refusal of any
30 witness to testify to any matter regarding which he may lawfully be interro-
31 gated, it shall be the duty of the district court, or any judge thereof, of
32 any county in this state in which the disobedience, neglect or refusal oc-
33 curs, upon application by the board to compel obedience by proceedings for
34 contempt as in the case of disobedience of the requirements of a subpoena is-
35 sued from the court or for refusal to testify. The licensed person accused
36 in the proceedings shall have the same right of subpoena upon making applica-
37 tion to the board.

38 (8) The board shall establish an office and may appoint an executive di-
39 rector and may employ other personnel, including attorneys and hearing offi-
40 cers, as may be necessary to assist the board. The board shall prescribe the
41 duties of the executive director and these duties shall include the prepara-
42 tion of all papers and records under law for the board, and shall include en-
43 forcement activities as to the board may from time to time appear advisable,
44 and the executive director shall act for and on behalf of the board in such
45 manner as the board may authorize, keep records, property and equipment of
46 the board and discharge other duties as the board may from time to time pre-
47 scribe. The compensation of the executive director or other personnel shall
48 be determined by the board and the executive director shall be bonded to the
49 state in the time, form and manner prescribed in chapter 8, title 59, Idaho
50 Code.

1 (9) ~~To report annually to the associations on the status of the state~~
2 ~~board of dentistry fund and furnish the associations a written report on all~~
3 ~~receipts and expenditures during the preceding year.~~

4 ~~(10)~~ Provide, by rule, for reasonable fees for administrative costs and
5 assess costs reasonably and necessarily incurred in the enforcement of this
6 chapter when a licensee has been found to be in violation of this chapter.

7 SECTION 2. That Section [54-914](#), Idaho Code, be, and the same is hereby
8 repealed.

9 SECTION 3. That Section [54-917](#), Idaho Code, be, and the same is hereby
10 repealed.

11 SECTION 4. That Section 54-924, Idaho Code, be, and the same is hereby
12 amended to read as follows:

13 54-924. OTHER GROUNDS OF REFUSAL, REVOCATION OR SUSPENSION OF DEN-
14 TISTS -- PROBATION AGREEMENTS. The board may refuse to issue or renew a den-
15 tal license, or may revoke, suspend, place on probation, reprimand or take
16 other disciplinary action with respect to a dental license as the board may
17 deem proper, including administrative penalties not to exceed ten thousand
18 dollars (\$10,000) per violation and assessment of the costs of disciplinary
19 proceedings in the event a dentist shall:

20 (1) Intentionally misstate, or fail fully to disclose, a fact mate-
21 rial to determination of fitness and qualification in an application for
22 licensure to practice dentistry, or cheat in an examination to practice
23 dentistry; or procure a certificate or finding of qualification to practice
24 dentistry or subsequently a license by false, fraudulent or deceitful means
25 or in any other name than his own true name; or

26 (2) Practice dentistry under any name other than his own true name ex-
27 cept as a professional service corporation or professional limited liabil-
28 ity company or as a limited managed care plan pursuant to chapter 39, title
29 41, Idaho Code; or

30 (3) Practice or in any manner or by any means or at any place hold out
31 or represent himself as practicing dentistry in or under the name of, or as
32 a member, representative, agent or employee of, or in connection with, any
33 company, association, or corporation, or under any trade, fictitious or
34 business name except as a professional service corporation or professional
35 limited liability company or as a limited managed care plan pursuant to chap-
36 ter 39, title 41, Idaho Code, except for a dentist practicing dentistry as an
37 employee or contracting dentist providing dentistry services to any health
38 center as defined and authorized in section 330 of the public health service
39 act, codified as amended at 42 U.S.C. 254b; or

40 (4) (a) Make, or cause to be made, or assist in making, any fraudulent,
41 false, or misleading statement as to his own, or an employee's, asso-
42 ciate's, or other dentist's, dental therapist's, or dental hygienist's
43 skill or lack of skill, or method of practice; or

44 (b) Claim to practice dentistry without causing pain; or

45 (c) Claim superiority over other dentists; or

46 (d) Publish, advertise, or circulate reports, letters, certificates,
47 endorsements, or evidence of cures or corrections of dental conditions

1 by such dentist, his employee or associate by reason of his or their
 2 skill, experience, or ability or of his or their use of any system,
 3 method, technique, device, drug, medicine, material, manipulation or
 4 machine; or

5 (e) Advertise the use of, or use, any system, method, technique, de-
 6 vice, drug, medicine, material or machine, which is either falsely ad-
 7 vertised or misnamed; or

8 (5) Use intoxicants or drugs to such a degree as to render him unfit to
 9 practice; or

10 (6) Commit malpractice, that is, to provide dental care which fails to
 11 meet the standard of dental care provided by other qualified dentists in the
 12 same community or similar communities, taking into account his training, ex-
 13 perience and the degree of expertise to which he holds himself out to the pub-
 14 lic; or

15 (7) Engage in unprofessional conduct, as defined by board rules; or

16 (8) Advertise in such way as to deceive or defraud, or probably deceive
 17 or defraud, the public or patrons; or

18 (9) Employ or permit any person not a dentist to practice dentistry, or
 19 any person not a dentist or dental therapist to practice dental therapy, or
 20 any person not a dentist or dental hygienist to practice dental hygiene, in
 21 his office or under his control or direction; or

22 (10) Fail, neglect or refuse to keep his office or equipment, or oth-
 23 erwise conduct his work in accordance with current state and federal laws,
 24 rules and regulations; or

25 (11) Violate any other provisions of law or rules adopted by the board;
 26 or

27 (12) Falsely identify himself to the public as a specialist in a spe-
 28 cialty area of dentistry as defined by rule; or

29 (13) Engage in the practice of dentistry as a member, stockholder, em-
 30 ployee, director, partner or proprietor in any business entity in which a
 31 person, not duly licensed to practice dentistry in this state, holds an own-
 32 ership interest. The provisions of this subsection shall not apply to such
 33 engagement in a limited managed care plan pursuant to chapter 39, title 41,
 34 Idaho Code, or to a dentist practicing dentistry for any health care center
 35 as defined and authorized in section 330 of the public health service act,
 36 codified as amended at 42 U.S.C. 254b-; or

37 (14) Supervise more than three (3) dental therapists-; or

38 (15) Require directly, or as a member, representative, contracted
 39 agent, or employee of or in connection with any company, association, corpo-
 40 ration, or partnership, that a patient sign an agreement limiting his right
 41 or ability to file a complaint with the board.

42 SECTION 5. That Section [54-932](#), Idaho Code, be, and the same is hereby
 43 repealed.