

IN THE SENATE

SENATE BILL NO. 1351, As Amended

BY JUDICIARY AND RULES COMMITTEE

AN ACT

1 RELATING TO OCCUPATIONAL LICENSING REFORM; AMENDING TITLE 67, IDAHO CODE,  
2 BY THE ADDITION OF A NEW CHAPTER 94, TITLE 67, IDAHO CODE, TO PROVIDE  
3 FOR THE CREATION OF AN OCCUPATIONAL AND PROFESSIONAL LICENSURE REVIEW  
4 COMMITTEE, TO PROVIDE FOR UNIVERSAL LICENSURE, TO PROVIDE FOR CERTAIN  
5 INQUIRIES REGARDING THE POTENTIAL IMPACT OF A CRIMINAL CONVICTION, AND  
6 TO ESTABLISH PROVISIONS REGARDING THE EVALUATION OF CRIMINAL CONVIC-  
7 TIONS WITH RESPECT TO MORAL CHARACTER REQUIREMENTS; AMENDING SECTION  
8 26-2227, IDAHO CODE, TO REMOVE OBSOLETE LANGUAGE, TO PROVIDE THAT A DIS-  
9 QUALIFYING CRIMINAL OFFENSE MUST BE DEEMED RELEVANT, AND TO MAKE TECH-  
10 NICAL CORRECTIONS; AMENDING SECTION 30-907, IDAHO CODE, TO REMOVE OBSO-  
11 LETE LANGUAGE AND TO PROVIDE THAT A DISQUALIFYING CRIMINAL OFFENSE MUST  
12 BE DEEMED RELEVANT; AMENDING SECTION 33-1208, IDAHO CODE, TO REMOVE OB-  
13 SOLETE LANGUAGE, TO PROVIDE THAT A DISQUALIFYING CRIMINAL OFFENSE MUST  
14 BE DEEMED RELEVANT, AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SEC-  
15 TION 38-1218, IDAHO CODE, TO REMOVE OBSOLETE LANGUAGE, TO PROVIDE THAT  
16 A DISQUALIFYING CRIMINAL OFFENSE MUST BE DEEMED RELEVANT, AND TO MAKE  
17 TECHNICAL CORRECTIONS; AMENDING SECTION 41-327, IDAHO CODE, TO REMOVE  
18 OBSOLETE LANGUAGE, TO PROVIDE THAT A DISQUALIFYING CRIMINAL OFFENSE  
19 MUST BE DEEMED RELEVANT, AND TO MAKE TECHNICAL CORRECTIONS; AMENDING  
20 SECTION 41-915, IDAHO CODE, TO REMOVE OBSOLETE LANGUAGE AND TO PROVIDE  
21 THAT A DISQUALIFYING CRIMINAL OFFENSE MUST BE DEEMED RELEVANT; AMENDING  
22 SECTION 41-1016, IDAHO CODE, TO REMOVE OBSOLETE LANGUAGE AND TO PROVIDE  
23 THAT A DISQUALIFYING CRIMINAL OFFENSE MUST BE DEEMED RELEVANT; AMENDING  
24 SECTION 41-1104, IDAHO CODE, TO REMOVE OBSOLETE LANGUAGE AND TO PROVIDE  
25 THAT A DISQUALIFYING CRIMINAL OFFENSE MUST BE DEEMED RELEVANT; AMENDING  
26 SECTION 41-5811, IDAHO CODE, TO REMOVE OBSOLETE LANGUAGE AND TO PROVIDE  
27 THAT A DISQUALIFYING CRIMINAL OFFENSE MUST BE DEEMED RELEVANT; AMENDING  
28 SECTION 50-1604, IDAHO CODE, TO REMOVE OBSOLETE LANGUAGE, TO PROVIDE  
29 THAT A DISQUALIFYING CRIMINAL OFFENSE MUST BE DEEMED RELEVANT, AND TO  
30 MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 54-206, IDAHO CODE, TO  
31 REVISE A DEFINITION; AMENDING SECTION 54-219, IDAHO CODE, TO REMOVE  
32 OBSOLETE LANGUAGE, TO PROVIDE THAT A DISQUALIFYING CRIMINAL OFFENSE  
33 MUST BE DEEMED RELEVANT, AND TO MAKE A TECHNICAL CORRECTION; AMENDING  
34 SECTION 54-608, IDAHO CODE, TO REMOVE OBSOLETE LANGUAGE AND TO PRO-  
35 VIDE THAT A DISQUALIFYING CRIMINAL OFFENSE MUST BE DEEMED RELEVANT;  
36 AMENDING SECTION 54-712, IDAHO CODE, TO REMOVE OBSOLETE LANGUAGE AND TO  
37 PROVIDE THAT A DISQUALIFYING CRIMINAL OFFENSE MUST BE DEEMED RELEVANT;  
38 AMENDING SECTION 54-915, IDAHO CODE, TO REMOVE OBSOLETE LANGUAGE AND  
39 TO PROVIDE THAT A DISQUALIFYING CRIMINAL OFFENSE MUST BE DEEMED RELE-  
40 VANT; AMENDING SECTION 54-923, IDAHO CODE, TO REMOVE OBSOLETE LANGUAGE  
41 AND TO PROVIDE THAT A DISQUALIFYING CRIMINAL OFFENSE MUST BE DEEMED  
42 RELEVANT; AMENDING SECTION 54-1116, IDAHO CODE, TO REMOVE OBSOLETE  
43 LANGUAGE, TO PROVIDE THAT A DISQUALIFYING CRIMINAL OFFENSE MUST BE  
44 DEEMED RELEVANT, AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION  
45

1 54-1128, IDAHO CODE, TO PROVIDE A CORRECT CODE REFERENCE AND TO MAKE A  
2 TECHNICAL CORRECTION; AMENDING SECTION 54-1413, IDAHO CODE, TO REMOVE  
3 OBSOLETE LANGUAGE, TO PROVIDE THAT A DISQUALIFYING CRIMINAL OFFENSE  
4 MUST BE DEEMED RELEVANT, AND TO MAKE A TECHNICAL CORRECTION; AMENDING  
5 SECTION 54-1510, IDAHO CODE, TO REMOVE OBSOLETE LANGUAGE, TO PROVIDE  
6 THAT A DISQUALIFYING CRIMINAL OFFENSE MUST BE DEEMED RELEVANT, AND TO  
7 MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 54-1726, IDAHO CODE, TO  
8 REMOVE OBSOLETE LANGUAGE, TO PROVIDE THAT A DISQUALIFYING CRIMINAL  
9 OFFENSE MUST BE DEEMED RELEVANT, AND TO MAKE TECHNICAL CORRECTIONS;  
10 AMENDING SECTION 54-1844, IDAHO CODE, TO REVISE A DEFINITION AND TO  
11 MAKE A TECHNICAL CORRECTION; AMENDING SECTION 54-1910, IDAHO CODE, TO  
12 REMOVE OBSOLETE LANGUAGE, TO PROVIDE THAT A DISQUALIFYING CRIMINAL  
13 OFFENSE MUST BE DEEMED RELEVANT, AND TO MAKE TECHNICAL CORRECTIONS;  
14 AMENDING SECTION 54-2103, IDAHO CODE, TO REVISE A DEFINITION AND TO MAKE  
15 TECHNICAL CORRECTIONS; AMENDING SECTION 54-2508, IDAHO CODE, TO REMOVE  
16 OBSOLETE LANGUAGE, TO PROVIDE THAT A DISQUALIFYING CRIMINAL OFFENSE  
17 MUST BE DEEMED RELEVANT, AND TO MAKE TECHNICAL CORRECTIONS; AMENDING  
18 SECTION 54-2819, IDAHO CODE, TO REMOVE OBSOLETE LANGUAGE, TO PROVIDE  
19 THAT A DISQUALIFYING CRIMINAL OFFENSE MUST BE DEEMED RELEVANT, AND TO  
20 MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 54-2916A, IDAHO CODE, TO  
21 REVISE A PROVISION REGARDING ELIGIBILITY REQUIREMENTS; AMENDING SEC-  
22 TION 54-3112, IDAHO CODE, TO REMOVE OBSOLETE LANGUAGE AND TO PROVIDE  
23 THAT A DISQUALIFYING CRIMINAL OFFENSE MUST BE DEEMED RELEVANT; AMENDING  
24 SECTION 54-3211, IDAHO CODE, TO REMOVE OBSOLETE LANGUAGE AND TO PROVIDE  
25 THAT A DISQUALIFYING CRIMINAL OFFENSE MUST BE DEEMED RELEVANT; AMENDING  
26 SECTION 54-3510, IDAHO CODE, TO REMOVE OBSOLETE LANGUAGE AND TO PROVIDE  
27 THAT A DISQUALIFYING CRIMINAL OFFENSE MUST BE DEEMED RELEVANT; AMENDING  
28 SECTION 54-3804, IDAHO CODE, TO REMOVE OBSOLETE LANGUAGE, TO PROVIDE  
29 THAT A DISQUALIFYING CRIMINAL OFFENSE MUST BE DEEMED RELEVANT, AND TO  
30 MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 54-4013, IDAHO CODE, TO  
31 REMOVE OBSOLETE LANGUAGE, TO PROVIDE THAT A DISQUALIFYING CRIMINAL  
32 OFFENSE MUST BE DEEMED RELEVANT, AND TO MAKE A TECHNICAL CORRECTION;  
33 AMENDING SECTION 54-4711, IDAHO CODE, TO REMOVE OBSOLETE LANGUAGE, TO  
34 PROVIDE THAT A DISQUALIFYING CRIMINAL OFFENSE MUST BE DEEMED RELEVANT,  
35 AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 54-4805, IDAHO  
36 CODE, TO REMOVE OBSOLETE LANGUAGE AND TO MAKE A TECHNICAL CORRECTION;  
37 AMENDING SECTION 54-4806, IDAHO CODE, TO REMOVE OBSOLETE LANGUAGE, TO  
38 PROVIDE THAT A DISQUALIFYING CRIMINAL OFFENSE MUST BE DEEMED RELEVANT,  
39 AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 54-5303, IDAHO  
40 CODE, TO REVISE A DEFINITION; AMENDING SECTION 54-5307, IDAHO CODE, TO  
41 REVISE A PROVISION REGARDING QUALIFICATIONS; AMENDING SECTION 54-5408,  
42 IDAHO CODE, TO REMOVE OBSOLETE LANGUAGE, TO PROVIDE THAT A DISQUALIFY-  
43 ING CRIMINAL OFFENSE MUST BE DEEMED RELEVANT, AND TO MAKE A TECHNICAL  
44 CORRECTION; AND AMENDING SECTION 67-5309, IDAHO CODE, TO REMOVE OBSO-  
45 LETE LANGUAGE AND TO PROVIDE THAT A DISQUALIFYING CRIMINAL OFFENSE MUST  
46 BE DEEMED RELEVANT.

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

1 SECTION 1. That Title 67, Idaho Code, be, and the same is hereby amended  
2 by the addition thereto of a NEW CHAPTER, to be known and designated as Chap-  
3 ter 94, Title 67, Idaho Code, and to read as follows:

4 CHAPTER 94  
5 OCCUPATIONAL LICENSING REFORM ACT

6 67-9408. OCCUPATIONAL AND PROFESSIONAL LICENSURE REVIEW COMMIT-  
7 TEE. (1) In order to establish oversight of occupational and professional  
8 licensure and related issues in Idaho, there is hereby established an occu-  
9 pational and professional licensure review committee.

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

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

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

34 (5) Beginning January 1, 2021, the committee shall conduct a sunrise  
35 review upon request that a lawful profession or occupational group that is  
36 not licensed become licensed. For purposes of this section, a profession  
37 or occupation becoming "licensed" means adding a requirement that a person  
38 must hold a license, certificate, registration, permit, or other authoriza-  
39 tion issued by a licensing authority to engage in such profession or occupa-  
40 tion. Sunrise review by the committee shall be required prior to the intro-  
41 duction of any proposed legislation that a lawful profession or occupational  
42 group that is not licensed become licensed; provided, however, that a ger-  
43 mane committee of the legislature later considering such proposed legisla-  
44 tion shall not be bound by the recommendation of the committee. The sunrise  
45 review process shall be as follows:

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

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

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

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

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

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

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

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

24 (vi) Whether the proposed licensing or other regulation will have  
25 an unreasonably negative effect on job creation, job retention, or  
26 wages in the state or will place unreasonable restrictions on the  
27 ability of individuals who seek to practice or who are practicing a  
28 given profession or occupation to continue to practice or to find  
29 employment; and

30 (vii) Any other relevant information.

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

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

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

43 (iii) By November 1, the committee shall prepare a written rec-  
44 ommendation as to whether a requested occupation or profession  
45 should be licensed in the manner set forth in the application and  
46 shall deliver such recommendation to the president pro tempore  
47 of the senate and the speaker of the house of representatives for  
48 subsequent delivery to the appropriate germane committee chair-  
49 persons. Such written recommendation may include nonmandatory  
50 suggestions as to how the application, including the proposed

1           legislation, may be improved. An applicant receiving such sugges-  
2           tions shall be encouraged to follow the recommended suggestions  
3           of the committee before offering the legislation for introduction  
4           during the next legislative session.

5           67-9409. UNIVERSAL LICENSURE. (1) A licensing authority shall estab-  
6           lish a procedure for the issuance of licensure to a person who:

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

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

11          (2) Each applicant for universal licensure under this section must ap-  
12          ply to the applicable licensing authority for relevant licensure. An appli-  
13          cant under this section shall be subject to the laws regulating the person's  
14          practice in Idaho and is subject to the applicable licensing authority's ju-  
15          risdiction. For purposes of this section, the term "licensure" means a li-  
16          cense, certificate, registration, permit, or other authorization to prac-  
17          tice a profession or occupation.

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

24          (4) In addition to the requirements set forth in this section, if it ad-  
25          ministers an examination as part of the application requirements, a licens-  
26          ing authority may require an applicant to take and pass all or a portion of  
27          such examination as may be necessary to demonstrate competence to practice  
28          in Idaho.

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

32          (6) A licensing authority may, at its discretion, compare the au-  
33          thorized scope of practice in the state, or states, where the applicant  
34          currently holds licensure to the authorized scope of practice in Idaho. If  
35          such licensing authority determines that the authorized scope of practice  
36          in Idaho is broader than the scope of practice authorized in the state, or  
37          states, where the applicant currently holds licensure, such licensing au-  
38          thority may, instead of issuing a denial on the basis of the difference in  
39          scope of practice, issue a limited license to such applicant pending com-  
40          pletion of the additional education, training, and any other requirements  
41          determined necessary by the licensing authority. A limited license issued  
42          under this section shall restrict the applicant's practice in Idaho to the  
43          scope of practice authorized in the state where the applicant holds prior  
44          licensure until such time that the applicant satisfies the education, train-  
45          ing, or other requirements deemed necessary by the licensing authority for a  
46          limited period of time necessary for an applicant to meet the qualifications  
47          for a full license.

48          (7) This section shall not restrict a person who is a member of a pro-  
49          fession or occupation covered by an applicable interstate licensure compact

1 or applicable reciprocity agreement from seeking licensure pursuant to this  
2 section. In such a situation, a person may apply for universal licensure un-  
3 der this section or may apply for licensure pursuant to the terms of the ap-  
4 plicable licensure compact or reciprocity agreement. A licensing authority  
5 may promulgate applicable rules if necessary to implement the provisions of  
6 this section.

7 67-9410. INQUIRY REGARDING THE POTENTIAL IMPACT OF A CRIMINAL CONVIC-  
8 TION. (1) An individual who has been convicted of a criminal offense may re-  
9 quest, at any time, that a licensing authority opine as to whether the in-  
10 dividual's criminal conviction could disqualify the individual from obtain-  
11 ing a license, certificate, registration, permit, or other authorization to  
12 practice a profession or occupation issued or conferred by the licensing au-  
13 thority. An individual making such an inquiry shall include details of the  
14 individual's criminal record and any payment required by the licensing au-  
15 thority. A licensing authority may charge a fee of no more than twenty-five  
16 dollars (\$25.00) for each inquiry made under this section to reimburse the  
17 costs it incurs in issuing the opinion.

18 (2) No later than sixty (60) days or at the next regular meeting after  
19 receiving an inquiry under this section, the licensing authority shall in-  
20 form the individual whether, based on the criminal record information sub-  
21 mitted, the individual is disqualified from receiving or holding the license  
22 about which the individual inquired.

23 (3) A licensing authority shall not be bound by an opinion issued under  
24 this section if it later determines that the facts and circumstances submit-  
25 ted in the individual's inquiry were not complete and accurate, that the in-  
26 dividual's criminal background is different than described in the inquiry,  
27 that a subsequent criminal offense or other relevant conduct occurred after  
28 the inquiry was submitted, or that a change in law or regulation requires a  
29 different determination.

30 67-9411. EVALUATION OF CRIMINAL CONVICTIONS. (1) A licensing author-  
31 ity shall not deny a license, certificate, registration, permit, or other  
32 authorization to practice a profession or occupation to an applicant on the  
33 basis of such applicant having a prior conviction of a crime, unless such  
34 conviction is currently relevant to the applicant's fitness to engage in  
35 such profession or occupation as determined by the licensing authority. The  
36 licensing authority shall make its determination based on consideration of  
37 the following factors:

38 (a) The nature and seriousness of the crime for which the individual was  
39 convicted;

40 (b) The relationship of the crime to the ability, capacity, and fit-  
41 ness required to perform the duties and discharge the responsibilities  
42 of the occupation;

43 (c) The passage of time since the commission of the crime;

44 (d) Any evidence of rehabilitation or treatment undertaken by the indi-  
45 vidual; and

46 (e) Any other relevant factor.

47 (2) A licensing authority shall not deny a license, certificate, reg-  
48 istration, permit, or other authorization to practice a profession or occu-

1 pation to an applicant on the basis of vague or generic terminology related  
 2 to a criminal conviction, including but not limited to "moral turpitude" or  
 3 "moral character." Where such terms appear in code or rule with respect to a  
 4 criminal conviction, a licensing authority shall conduct a relevancy evalu-  
 5 ation pursuant to subsection (1) of this section.

6 SECTION 2. That Section 26-2227, Idaho Code, be, and the same is hereby  
 7 amended to read as follows:

8 26-2227. DENIAL, SUSPENSION OR REVOCATION OF LICENSE. (1) An applica-  
 9 tion for a license may be denied or, after notice and the opportunity for a  
 10 hearing, a license may be suspended or revoked by the director if he finds  
 11 that facts or conditions exist which would have justified the director in re-  
 12 fusing to grant a license had such facts or conditions been known to exist at  
 13 the time the license was issued, or that the licensee or the applicant, or any  
 14 officer, member, owner, manager or agent of a licensee or applicant:

15 (a) Has violated any provision of this act, the federal fair debt col-  
 16 lection practices act, 15 U.S.C. ~~section~~ 1692, et seq., as amended, or  
 17 any rule or order of the director under this act;

18 (b) Is not legally qualified to do business in this state;

19 (c) Has failed to retain a natural person with three (3) years of ex-  
 20 perience related to the type of business conducted by the licensee un-  
 21 der this act to supervise each office from which business activities are  
 22 conducted under this act;

23 (d) Has failed, refused or neglected to pay or remit to any creditor  
 24 client the agreed portion of any sum collected by the applicant or li-  
 25 censee on any bill, claim, account or other indebtedness entrusted to  
 26 such applicant or licensee for collection;

27 (e) Has failed to return to a debtor an amount that was not owed on his  
 28 debt;

29 (f) Has made a material misstatement in the application for such li-  
 30 cense or renewal;

31 (g) Has obtained or attempted to obtain a license or renewal by fraud or  
 32 misrepresentation;

33 (h) Has misappropriated or converted to his own use or improperly with-  
 34 held moneys collected or held for any other person, except that a col-  
 35 lection agency licensee may convert into business funds his portion of  
 36 any moneys collected on behalf of a creditor client, pursuant to a writ-  
 37 ten agreement with the creditor client and in compliance with this act;

38 (i) Has falsely represented himself as a licensee for the purpose of so-  
 39 liciting for or representing any business covered in this act;

40 (j) Has been convicted of, or a court of competent jurisdiction has en-  
 41 tered a withheld judgment for any felony, or for a misdemeanor, a crime  
 42 that is deemed relevant in accordance with section 67-9411(1), Idaho  
 43 Code, including a crime involving financial wrongdoing or moral turpi-  
 44 tude;

45 (k) Has had a license substantially equivalent to a license under this  
 46 act issued by another state revoked, suspended or denied; or

47 (l) Demonstrates a lack of fitness to engage in business activities au-  
 48 thorized for a licensee under this act.

1 (2) The director may, after notice and the opportunity for a hearing,  
2 impose upon any licensee, or person required to be licensed under this act, a  
3 civil penalty of not more than five thousand dollars (\$5,000) for each viola-  
4 tion of this act.

5 (3) The director may, after notice and the opportunity for a hearing,  
6 impose upon a licensee, or person required to be licensed under this act, any  
7 sanction authorized by this section if the director finds that an agent of  
8 the licensee, or person required to be licensed under this act, has violated  
9 any provision of this act.

10 (4) The director may, in his discretion, and by an order issued in ac-  
11 cordance with chapter 52, title 67, Idaho Code, prohibit a licensee from us-  
12 ing an individual as an agent if the individual has violated any provision of  
13 this act, or any similar statute or rule of another state.

14 (5) Any denial, suspension or revocation of any license issued under  
15 this act shall be governed by chapter 52, title 67, Idaho Code.

16 SECTION 3. That Section 30-907, Idaho Code, be, and the same is hereby  
17 amended to read as follows:

18 30-907. DIRECTOR'S ISSUANCE OR DENIAL OF LICENSE. (1) The director  
19 shall receive and act upon all applications for licenses to engage in busi-  
20 ness as an escrow agency under this chapter. If the director finds that all  
21 requirements of statute and rule have been met and all applicable fees paid,  
22 and the applicant is not otherwise unqualified for licensure, the director  
23 shall issue a license to the applicant.

24 (2) An application for a license as an escrow agency shall be in writ-  
25 ing and filed with the director in such form as is prescribed by the direc-  
26 tor, shall include such information as the director may reasonably require,  
27 and shall be verified on oath by the applicant. Such information shall be up-  
28 dated and filed with the director as necessary to keep the information cur-  
29 rent. The application for licensure shall be accompanied by an application  
30 fee of three hundred fifty dollars (\$350). When an application for licensure  
31 is denied or withdrawn, the director shall retain all fees paid by the appli-  
32 cant.

33 (3) An application for an escrow agency license under this chapter may  
34 be denied if the director finds that:

35 (a) The escrow agency's business was or will be formed for any business  
36 other than legitimate escrow services, or proposes to use a name that is  
37 misleading or in conflict with the name of an existing licensee;

38 (b) Any incorporator, officer, director, member, general partner, em-  
39 ployee, or agent of the escrow agency applicant has been:

40 ~~(i) Convicted of, or received a withheld judgment for, any~~  
41 ~~felony; or~~

42 ~~(ii) Convicted of, or received a withheld judgment for, a misde-~~  
43 ~~meanor involving dishonesty or moral turpitude; or~~

44 ~~(iii) Committed any crime or act involving dishonesty, fraud or~~  
45 ~~deceit, which crime or act is substantially related to the qual-~~  
46 ~~ifications, functions, or duties of a person engaged in an escrow~~  
47 ~~business or which crime is otherwise deemed relevant in accordance~~  
48 with section 67-9411(1), Idaho Code;



1 (c) There is no natural person possessing a minimum of three (3) years  
2 of supervisory experience in relation to an escrow business supervising  
3 each escrow agency office;

4 (d) The applicant or any officer, director, member, general partner,  
5 employee or agent of the applicant has demonstrated lack of fitness to  
6 transact escrow business;

7 (e) The applicant has made any false statement of a material fact in the  
8 application for a license; or

9 (f) The applicant, any officer, director, member, general partner or  
10 any person owning or controlling, directly or indirectly, ten percent  
11 (10%) or more of the outstanding equity securities of the applicant has  
12 violated any provision of this chapter or rules promulgated thereunder,  
13 or any similar regulatory scheme in this state or in any foreign juris-  
14 diction.

15 SECTION 4. That Section 33-1208, Idaho Code, be, and the same is hereby  
16 amended to read as follows:

17 33-1208. REVOCATION, SUSPENSION, DENIAL, OR PLACE REASONABLE CONDI-  
18 TIONS ON CERTIFICATE -- GROUNDS. 1. The professional standards commission  
19 may deny, revoke, suspend, or place reasonable conditions on any certificate  
20 issued or authorized under the provisions of section 33-1201, Idaho Code,  
21 upon any of the following grounds:

22 a. Gross neglect of duty;

23 b. Incompetency;

24 c. Breach of the teaching contract;

25 d. Making any material statement of fact in the application for a cer-  
26 tificate, ~~which that~~ the applicant knows to be false;

27 e. Revocation, suspension, denial or surrender of a certificate in an-  
28 other state for any reason constituting grounds for revocation in this  
29 state;

30 f. Conviction, finding of guilt, withheld judgment or suspended sen-  
31 tence, ~~in this or any other state of a crime involving moral turpitude~~  
32 that is deemed relevant in accordance with section 67-9411(1), Idaho  
33 Code;

34 g. Conviction, finding of guilt, withheld judgment, or suspended sen-  
35 tence in this state or any other state for the delivery, manufacture or  
36 production of controlled substances or simulated controlled substances  
37 as those terms are defined in section 37-2701, Idaho Code;

38 h. A guilty plea or a finding of guilt, notwithstanding the form of the  
39 judgment or withheld judgment, ~~in this or any other state,~~ of the crime  
40 of involuntary manslaughter, section 18-4006 2. or section 18-4006 3.,  
41 Idaho Code;

42 i. Any disqualification ~~which that~~ would have been sufficient grounds  
43 for refusing to issue or authorize a certificate, if the disqualifica-  
44 tion existed or had been known at the time of its issuance or authoriza-  
45 tion;

46 j. Willful violation of any professional code or standard of ethics or  
47 conduct, ~~adopted by the state board of education;~~

48 k. The kidnapping of a child, section 18-4503, Idaho Code;

1 1. Conviction, finding of guilt, withheld judgment, or suspended sen-  
2 tence, in this state or any other state of any ~~felony crime that is~~  
3 deemed relevant in accordance with section 67-9411(1), Idaho Code, the  
4 commission of which renders the certificated person unfit to teach or  
5 otherwise perform the duties of the certificated person's position.

6 2. The professional standards commission shall permanently revoke any  
7 certificate issued or authorized under the provisions of section 33-1201,  
8 Idaho Code, and shall deny the application for issuance of a certificate of  
9 a person who pleads guilty to or is found guilty of, notwithstanding the form  
10 of the judgment or withheld judgment, any of the following felony offenses  
11 against a child:

12 a. The aggravated assault of a child, section 18-905, Idaho Code, or the  
13 assault with intent to commit a serious felony against a child, section  
14 18-909, Idaho Code.

15 b. The aggravated battery of a child, section 18-907, Idaho Code, or the  
16 battery with intent to commit a serious felony against a child, section  
17 18-911, Idaho Code.

18 c. The injury or death of a child, section 18-1501, Idaho Code.

19 d. The sexual abuse of a child under sixteen (16) years of age, section  
20 18-1506, Idaho Code.

21 e. The ritualized abuse of a child under eighteen (18) years of age,  
22 section 18-1506A, Idaho Code.

23 f. The sexual exploitation of a child, section 18-1507, Idaho Code.

24 g. Lewd conduct with a child under the age of sixteen (16) years, sec-  
25 tion 18-1508, Idaho Code.

26 h. The sexual battery of a minor child sixteen (16) or seventeen (17)  
27 years of age, section 18-1508A, Idaho Code.

28 i. The sale or barter of a child for adoption or other purposes, section  
29 18-1511, Idaho Code.

30 j. The murder of a child, section 18-4003, Idaho Code, or the voluntary  
31 manslaughter of a child, section 18-4006 1., Idaho Code.

32 k. The kidnapping of a child, section 18-4502, Idaho Code.

33 l. The importation or exportation of a juvenile for immoral purposes,  
34 section 18-5601, Idaho Code.

35 m. The abduction of a person under eighteen (18) years of age for pros-  
36 titution, section 18-5610, Idaho Code.

37 n. The rape of a child, section 18-6101, Idaho Code.

38 The general classes of felonies listed in this subsection ~~2. of this section~~  
39 shall include equivalent laws of federal or other state jurisdictions. For  
40 the purpose of this subsection, "child" means a minor or juvenile as defined  
41 by the applicable state or federal law.

42 3. The professional standards commission may investigate and follow  
43 the procedures set forth in section 33-1209, Idaho Code, for any allegation  
44 of inappropriate conduct as defined in this section, by a holder of a cer-  
45 tificate whether or not the holder has surrendered his certificate without a  
46 hearing or failed to renew his certificate. In those cases where the holder  
47 of a certificate has surrendered or failed to renew his certificate and it  
48 was found that inappropriate conduct occurred, the commission shall record  
49 such findings in the permanent record of the individual and shall deny the  
50 issuance of a teaching certificate.

1           4. Any person whose certificate may be or has been revoked, suspended  
2 or denied under the provisions of this section shall be afforded a hearing  
3 according to the provisions of section 33-1209, Idaho Code.

4           5. The professional standards commission may deny the issuance of a  
5 certificate for any reason that would be a ground for revocation or suspen-  
6 sion.

7           SECTION 5. That Section 38-1218, Idaho Code, be, and the same is hereby  
8 amended to read as follows:

9           38-1218. REVOCATION OR SUSPENSION OF CERTIFICATE. The board shall  
10 have power to (1) revoke the certificate of registration or, (2) ~~to~~ suspend  
11 the certificate of registration, for a period of time not exceeding two (2)  
12 years, of any registrant who is found guilty of:

13           (a) The practice of any fraud or deceit in obtaining a certificate of  
14 registration;

15           (b) Gross negligence, incompetency, habitual intemperance, insanity,  
16 conviction of a ~~felony, moral turpitude~~ crime that is deemed relevant in ac-  
17 cordance with section 67-9411(1), Idaho Code, or misconduct in the practice  
18 of professional scaling as a registered professional scaler.

19           Any person may prefer charges, based on any of the ~~above~~ grounds listed  
20 in this section, against any registrant. Such charges shall be in writing,  
21 and shall be sworn to by the person making them and shall be filed with the  
22 secretary of the board.

23           All charges, unless dismissed by the board as unfounded or trivial,  
24 shall be heard by the board as soon as possible but not to exceed three (3)  
25 months after the date on which they shall have been preferred.

26           The time and place for said hearing shall be fixed by the board and a copy  
27 of the charges, together with a notice of the time and place of hearing, shall  
28 be personally served on, or mailed to the last known address of, such regis-  
29 trant, at least thirty (30) days before the date fixed for the hearing. At  
30 any hearing, the accused registrant shall have the right to appear person-  
31 ally and by counsel, to cross-examine witnesses in his own defense.

32           If, after such hearing, three (3) or more members of the board vote in  
33 favor of finding the accused guilty, the board shall revoke or suspend, as  
34 herein provided, the certificate of registration of such registered profes-  
35 sional scaler.

36           In addition to the foregoing, provisions contained in chapter 52, title  
37 67, Idaho Code, shall also apply.

38           SECTION 6. That Section 41-327, Idaho Code, be, and the same is hereby  
39 amended to read as follows:

40           41-327. ADMINISTRATIVE PENALTY -- SUSPENSION OR REVOCATION OF CER-  
41 TIFICATE OF AUTHORITY -- DISCRETIONARY AND SPECIAL GROUNDS. (1) The director  
42 may, in his discretion, impose an administrative penalty not to exceed five  
43 thousand dollars (\$5,000), for deposit in the general fund of the state of  
44 Idaho, or refuse to continue or suspend or revoke an insurer's certificate of  
45 authority if he finds after a hearing thereon that the insurer has violated  
46 or failed to comply with any lawful order of the director, or any provision of  
47 this code other than those for which suspension or revocation is mandatory.

1 (2) The director shall suspend or revoke an insurer's certificate of  
 2 authority on any of the following grounds if he finds after a hearing thereon  
 3 that the insurer:

4 (a) Is in unsound condition, or in such condition or using such methods  
 5 and practices in the conduct of its business, as to render its further trans-  
 6 action of insurance in this state hazardous or injurious to its policyhold-  
 7 ers or to the public.

8 (b) Has failed, after written request therefor by the director, to  
 9 remove or discharge an officer or director who has been convicted of any  
 10 crime involving fraud, dishonesty, or ~~like moral turpitude~~ that is otherwise  
 11 deemed relevant in accordance with section 67-9411 (1), Idaho Code.

12 (c) With such frequency as to indicate its general business practice in  
 13 this state, has without just cause refused to pay claims arising under cov-  
 14 erages provided by its policies, whether the claim is in favor of an insured  
 15 or is in favor of a third person with respect to the liability of an insured  
 16 to such third person, or, with like frequency, without just cause compels in-  
 17 sureds or claimants to accept less than the amount due them or to employ at-  
 18 torneys or to bring suit against the insurer or such an insured to obtain full  
 19 payment or settlement of such claims.

20 (d) Is affiliated with and under the same general management, or inter-  
 21 locking directorate, or ownership as another insurer which transacts direct  
 22 insurance in this state without having a certificate of authority therefor,  
 23 except as permitted under this code.

24 (e) Refuses to be examined, or if its directors, officers, employees,  
 25 or representatives refuse to submit to examination relative to its affairs,  
 26 or to produce its accounts, records, and files for examination by the direc-  
 27 tor when required, or refuses to perform any legal obligation relative to the  
 28 examination.

29 (f) Has failed to pay any final judgment rendered against it in this  
 30 state upon any policy, bond, recognizance, or undertaking issued or guar-  
 31 anteed by it, within thirty (30) days after the judgment became final, or  
 32 within thirty (30) days after time for taking an appeal has expired, or  
 33 within thirty (30) days after dismissal of an appeal before final determina-  
 34 tion, whichever date is ~~the later~~ latest.

35 (3) The director may, in his discretion and without advance notice or  
 36 a hearing thereon, immediately suspend the certificate of authority of any  
 37 insurer as to which proceedings for receivership, conservatorship, rehabil-  
 38 itation, or other delinquency proceedings, have been commenced in any state  
 39 by the public insurance supervisory official of such state.

40 SECTION 7. That Section 41-915, Idaho Code, be, and the same is hereby  
 41 amended to read as follows:

42 41-915. GROUNDS FOR DENIAL, SUSPENSION OR REVOCATION OF LICENSE. (1)  
 43 The license of an administrator shall be denied, suspended or revoked if the  
 44 director finds that the administrator:

45 (a) Is in an unsound financial condition;

46 (b) Is using such methods or practices in the conduct of its business so  
 47 as to render its further transaction of business in this state hazardous  
 48 or injurious to insured persons or the public; or

1 (c) Has failed to pay any judgment rendered against it in this state  
2 within sixty (60) days after the judgment has become final.

3 (2) The director may deny, suspend or revoke the license of an adminis-  
4 trator if the director finds that the administrator:

5 (a) Has violated any lawful rule or order of the director or any provi-  
6 sion of title 41, Idaho Code;

7 (b) Has refused to be examined or to produce its accounts, records and  
8 files for examination, or if any individual responsible for the con-  
9 duct of affairs of the administrator, including members of the board of  
10 directors, board of trustees, executive committee or other governing  
11 board or committee, the principal officers in the case of a corporation  
12 or the partners or members in the case of a partnership, association or  
13 limited liability company, any shareholder or member holding directly  
14 or indirectly ten percent (10%) or more of the voting stock, voting se-  
15 curities or voting interest of the administrator and any other person  
16 who exercises control or influence over the affairs of the administra-  
17 tor, has refused to give information with respect to its affairs or has  
18 refused to perform any other legal obligation as to an examination, when  
19 required by the director;

20 (c) Has, without just cause, refused to pay proper claims or perform  
21 services arising under its contracts or has, without just cause, caused  
22 covered individuals to accept less than the amount due them or caused  
23 covered individuals to employ attorneys or bring suit against the ad-  
24 ministrator to secure full payment or settlement of such claims;

25 (d) Fails, at any time, to meet any qualification for which issuance  
26 of the license could have been refused had the failure then existed and  
27 been known to the director;

28 (e) Or any of the individuals responsible for the conduct of its af-  
29 fairs, including members of the board of directors, board of trustees,  
30 executive committee or other governing board or committee, the princi-  
31 pal officers in the case of a corporation or the partners or members in  
32 the case of a partnership, association or limited liability company,  
33 any shareholder or member holding directly or indirectly ten percent  
34 (10%) or more of its voting stock, voting securities or voting inter-  
35 est and any other person who exercises control or influence over its  
36 affairs, has been convicted of, or has entered a plea of guilty or nolo  
37 contendere to any ~~felony, or to a misdemeanor that evidences bad moral~~  
38 ~~character,~~ crime that is deemed relevant in accordance with section  
39 67-9411(1), Idaho Code, or that evidences dishonesty, a lack of in-  
40 tegrity and financial responsibility, or an unfitness and inability to  
41 provide acceptable service to the consuming public without regard to  
42 whether adjudication was withheld; or

43 (f) Is under suspension or revocation in another state.

44 (3) The director may, in his discretion and without advance notice or  
45 hearing, immediately suspend the license of an administrator if the director  
46 finds that one (1) or more of the following circumstances exist:

47 (a) The administrator is insolvent or impaired;

48 (b) A proceeding for receivership, conservatorship, rehabilitation or  
49 other delinquency proceeding regarding the administrator has been com-  
50 menced in any state;

1 (c) The financial condition or business practices of the administrator  
2 otherwise pose an imminent threat to the public health, safety or wel-  
3 fare of the residents of this state; or

4 (d) A final order suspending or revoking the administrator's license in  
5 its home state has been entered.

6 (4) If the director finds that one (1) or more grounds exist for the sus-  
7 pension or revocation of a license issued under the provisions of this chap-  
8 ter, the director may, in lieu of or in addition to suspension or revocation,  
9 impose an administrative penalty upon the administrator pursuant to section  
10 41-117, Idaho Code.

11 SECTION 8. That Section 41-1016, Idaho Code, be, and the same is hereby  
12 amended to read as follows:

13 41-1016. ADMINISTRATIVE PENALTY -- SUSPENSION, REVOCATION, REFUSAL  
14 OF LICENSE. (1) The director may impose an administrative penalty not to  
15 exceed one thousand dollars (\$1,000), for deposit in the general fund of the  
16 state of Idaho, and may suspend for not more than twelve (12) months or may  
17 revoke or refuse to issue or continue any license issued under this chapter,  
18 chapter 27, title 41, Idaho Code (title insurance), chapter 11, title 41,  
19 Idaho Code (adjusters), or chapter 12, title 41, Idaho Code (surplus lines  
20 brokers), if the director finds that as to the licensee or applicant any one  
21 (1) or more of the following causes or violations exist:

22 (a) Providing incorrect, misleading, incomplete or materially untrue  
23 information in the license application;

24 (b) Violating any provision of title 41, Idaho Code, department rule,  
25 subpoena or order of the director or of another state's insurance direc-  
26 tor;

27 (c) Obtaining or attempting to obtain a license through misrepresenta-  
28 tion or fraud;

29 (d) Improperly withholding, misappropriating or converting any moneys  
30 or properties received in the course of doing insurance business;

31 (e) Misrepresenting the terms of an actual or proposed insurance con-  
32 tract or application for insurance or misrepresenting any fact material  
33 to any insurance transaction or proposed transaction;

34 (f) Being convicted of or pleading guilty to ~~any felony, or to a misde-~~  
35 ~~meanor which evidences bad moral character, a crime that is deemed rel-~~  
36 ~~evant in accordance with section 67-9411(1), Idaho Code, or that evi-~~  
37 ~~dences dishonesty, a lack of integrity and financial responsibility, or~~  
38 ~~an unfitness and inability to provide acceptable service to the consum-~~  
39 ~~ing public;~~

40 (g) Admitting or being found to have committed any insurance unfair  
41 trade practice or fraud;

42 (h) Using fraudulent, coercive or dishonest practices, or demonstrat-  
43 ing incompetence, untrustworthiness or financial irresponsibility, or  
44 being a source of injury and loss to the public or others, in the conduct  
45 of business in this state or elsewhere;

46 (i) Having an insurance license denied, suspended or revoked in any  
47 other state, province, district or territory;

48 (j) Forging another's name on an application for insurance or on any  
49 document related to an insurance transaction;

1 (k) Improperly using notes or any other reference material to complete  
2 an examination for an insurance license;

3 (l) Knowingly accepting insurance business from an individual who is  
4 not licensed;

5 (m) Failing to comply with an administrative or court order imposing a  
6 child support obligation, provided however, that nothing in this pro-  
7 vision shall be deemed to abrogate or modify chapter 14, title 7, Idaho  
8 Code;

9 (n) Failing to pay state income tax or to comply with any administrative  
10 or court order directing payment of state income tax; or

11 (o) In the case of a bail agent, compensating or agreeing to compen-  
12 sate any incarcerated person to influence or encourage another incar-  
13 cerated person or other incarcerated persons to engage the bail agent's  
14 services or the services of the bail agent's company or of other bail  
15 agents employed by such bail company. For purposes of this subsection,  
16 compensating any incarcerated person shall include providing payment  
17 in any form to any person, organization or entity designated by the in-  
18 carcerated person to receive such payment.

19 (2) The director shall, without hearing, suspend for not more than  
20 twelve (12) months, or shall revoke or refuse to continue any license issued  
21 under this chapter to a nonresident where:

22 (a) The director has received a final order of suspension, revocation  
23 or refusal to continue from the insurance regulatory official or court  
24 of jurisdiction of the licensee's home state; or

25 (b) A nonresident no longer has a license in the licensee's home state  
26 because the home state license was:

27 (i) Voluntarily surrendered for any reason except relicensing as  
28 a resident in another state; or

29 (ii) Otherwise nonrenewed by the nonresident and remains nonre-  
30 newed for a period greater than ninety (90) days beyond its expira-  
31 tion date, and without notice to the director of relicensing as a  
32 resident in another state.

33 If cause under this provision exists after the expiration of the twelve (12)  
34 months, successive suspensions may be imposed by the director without hear-  
35 ing.

36 (3) The license of a business entity may be suspended, revoked or re-  
37 fused if the director finds that the violation of an individual licensee,  
38 who is registered to or acting on behalf of the business entity, was known  
39 or should have been known by one (1) or more of the owners, officers or man-  
40 agers acting on behalf of the business entity and that the violation was not  
41 reported to the director and no corrective action was taken.

42 (4) In addition to or in lieu of any applicable denial, suspension or  
43 revocation of a license, a person may, after hearing, be subject to a civil  
44 fine or administrative penalty pursuant to subsection (1) of this section or  
45 any other applicable section.

46 (5) The director shall retain the authority to enforce the provisions  
47 of and impose any penalty or remedy authorized by title 41, Idaho Code,  
48 against any person who is under investigation for or charged with a violation  
49 of title 41, Idaho Code, or department rule, even if the person's license or

1 registration has been surrendered or has lapsed by operation of law, or if  
2 the person has never been licensed.

3 SECTION 9. That Section 41-1104, Idaho Code, be, and the same is hereby  
4 amended to read as follows:

5 41-1104. QUALIFICATIONS FOR ADJUSTER'S LICENSE. (1) Except as pro-  
6 vided in subsection (2) of this section, the director shall not issue,  
7 continue, or permit to exist any license as an adjuster as to any person not  
8 qualified therefor as follows:

9 (a) Must be a natural person not less than twenty-one (21) years of age.

10 (b) Must be trustworthy, and be of good character and reputation as to  
11 morals, integrity, and financial responsibility, and must not have been  
12 convicted of ~~a felony or of any crime involving moral turpitude~~ that is  
13 deemed relevant in accordance with section 67-9411(1), Idaho Code.

14 (c) Must be a salaried employee of a licensed adjuster, or must have had  
15 experience or special education or training as to the investigation and  
16 settlement of loss of claims under insurance contracts of sufficient  
17 duration and extent reasonably to satisfy the director as to his compe-  
18 tence to fulfill the responsibilities of an adjuster.

19 (d) If required by the director, must pass a written examination to test  
20 his knowledge of the duties and responsibilities of an adjuster and of  
21 matters involved in transactions under an adjuster's license. The ex-  
22 amination shall be subject to the same applicable provisions as apply  
23 pursuant to title 41, Idaho Code, to examinations for license as insur-  
24 ance agent.

25 (2) A firm or corporation, whether or not organized under the laws of  
26 this state, may be licensed as an adjuster if each individual who is to ex-  
27 ercise the license powers in this state is separately licensed, or is named  
28 in the firm or corporation license, and is qualified as for an individual li-  
29 cense as adjuster under subsection (1) of this section. An additional full  
30 license fee shall be paid as to each individual in excess of one (1) so named  
31 in the firm or corporation license to exercise its powers.

32 SECTION 10. That Section 41-5811, Idaho Code, be, and the same is hereby  
33 amended to read as follows:

34 41-5811. LICENSE DENIAL, NONRENEWAL OR REVOCATION. (1) The department  
35 may place on probation, suspend, revoke or refuse to issue or renew a pub-  
36 lic adjuster's license or may levy a civil penalty in accordance with section  
37 41-1016, Idaho Code, or any combination of actions, for any one (1) or more of  
38 the following causes:

39 (a) Providing incorrect, misleading, incomplete or materially untrue  
40 information in the license application;

41 (b) Violating any insurance laws, or violating any rule, regulation,  
42 subpoena or order of the department or of another state's insurance de-  
43 partment;

44 (c) Obtaining or attempting to obtain a license through misrepresenta-  
45 tion or fraud;

46 (d) Improperly withholding, misappropriating or converting any moneys  
47 or properties received in the course of doing insurance business;



1 (e) Intentionally misrepresenting the terms of an actual or proposed  
2 insurance contract or application for insurance;

3 (f) Having been convicted of a ~~felony, or a misdemeanor which crime that~~  
4 is deemed relevant in accordance with section 67-9411(1), Idaho Code,  
5 or that evidences bad moral character, dishonesty, a lack of integrity  
6 and financial responsibility, or an unfitness and inability to provide  
7 acceptable service to the consuming public;

8 (g) Having admitted to or been found to have committed any insurance un-  
9 fair trade practice or insurance fraud;

10 (h) Using fraudulent, coercive or dishonest practices; or demonstrat-  
11 ing incompetence, untrustworthiness or financial irresponsibility in  
12 the conduct of business in this state or elsewhere;

13 (i) Having an insurance license, or its equivalent, denied, suspended  
14 or revoked in any other state, province, district or territory;

15 (j) Forging another's name to an application for insurance or to any  
16 document related to an insurance transaction;

17 (k) Cheating, including improperly using notes or any other reference  
18 material, to complete an examination for an insurance license;

19 (l) Knowingly accepting insurance business from an individual who is  
20 not licensed but who is required to be licensed by the department;

21 (m) Failing to comply with an administrative or court order imposing a  
22 child support obligation, provided however, that nothing in this pro-  
23 vision shall be deemed to abrogate or modify chapter 14, title 7, Idaho  
24 Code; or

25 (n) Failing to pay state income tax or comply with any administrative or  
26 court order directing payment of state income tax.

27 (2) The license of a business entity may be suspended, revoked or re-  
28 fused if the department finds, after hearing, that an individual licensee's  
29 violation was known or should have been known by one (1) or more of the  
30 partners, officers or managers acting on behalf of the business entity and  
31 the violation was neither reported to the department nor corrective action  
32 taken.

33 (3) In addition to or in lieu of any applicable denial, suspension or  
34 revocation of a license, a person may, after hearing, be subject to a civil  
35 fine or administrative penalty according to section 41-1016, Idaho Code.

36 (4) The department shall retain the authority to enforce the provisions  
37 of and impose any penalty or remedy authorized by this chapter and title 41,  
38 Idaho Code, against any person who is under investigation for or charged with  
39 a violation of this chapter or title 41, Idaho Code, even if the person's li-  
40 cense or registration has been surrendered or has lapsed by operation of law.

41 SECTION 11. That Section 50-1604, Idaho Code, be, and the same is hereby  
42 amended to read as follows:

43 50-1604. EXAMINATIONS -- QUALIFICATIONS OF APPLICANTS -- REQUIRES --  
44 CAUSES FOR REMOVAL, DISCHARGE OR SUSPENSION OF INCUMBENTS. (1) Except as  
45 provided in subsection (3) of this section, all applicants for places of  
46 employment in the classified civil service shall be subject to examination,  
47 which shall be public competitive and free and shall be held at such times  
48 and places as the civil service commission shall from time to time determine.  
49 Such examinations shall be for the purpose of determining the qualifications

1 of applicants for positions and shall be practical and shall fairly test the  
 2 fitness of the persons examined to discharge the duties of the position to  
 3 which they seek appointment.

4 (2) The governing body of each city, having created a civil service com-  
 5 mission, shall provide a job description for each civil service position of  
 6 the city and shall determine and establish the standards and qualifications  
 7 therefor to be met by each applicant before appointment.

8 (3) Any applicant who, while in good standing, voluntarily terminated  
 9 his or her employment with the agency with whom an appointment is sought may,  
 10 upon written request to and approval from the appointing officer and in ac-  
 11 cordance with the written policy of the civil service commission, be rehired  
 12 without taking an examination, provided:

13 (a) The applicant is otherwise qualified for the position; and

14 (b) The written request for rehire is physically delivered, mailed or  
 15 electronically transferred to the appointing officer within such time  
 16 as provided by the written policy of the civil service commission.

17 (4) All incumbents and applicants thereafter appointed shall hold of-  
 18 fice, place, position or employment only during good behavior, and any such  
 19 person may be removed, discharged, suspended without pay, demoted, reduced  
 20 in rank, deprived of vacation privileges or other special privileges for any  
 21 of the following reasons, subject to the determination of the facts in each  
 22 case by the commission:

23 (a) Incompetency, inefficiency or inattention to, or dereliction of  
 24 duty;

25 (b) Dishonesty, intemperance, immoral conduct, insubordination, dis-  
 26 courteous treatment of the public or a fellow employee, or any other act  
 27 of omission or commission tending to injure the public service; willful  
 28 failure on the part of the employee to properly conduct himself, or any  
 29 other willful violation of the civil service rules and regulations;

30 (c) Mental or physical unfitness for the position which the employee  
 31 holds;

32 (d) Dishonest, disgraceful, immoral or prejudicial conduct;

33 (e) Drunkenness or use of intoxicating liquors, narcotics, or any other  
 34 habit-forming drug, liquid or preparation to such extent that the use  
 35 thereof interferes with the efficiency or mental or physical fitness of  
 36 the employee or which prevents the employee from properly performing  
 37 the functions and duties of any position under civil service;

38 (f) Conviction of a ~~felony or a misdemeanor involving moral turpitude~~  
 39 crime that is deemed relevant in accordance with section 67-9411(1),  
 40 Idaho Code;

41 (g) Any other act or failure to act, which in the judgment of the civil  
 42 service commissioners is sufficient to show the offender to be an un-  
 43 suitable and unfit person to be employed in the public service.

44 SECTION 12. That Section 54-206, Idaho Code, be, and the same is hereby  
 45 amended to read as follows:

46 54-206. DEFINITIONS. As used in this chapter:

47 (1) "AICPA" means the American institute of certified public accoun-  
 48 tants.

1 (2) "Applicant" means any person having the requisite qualifications  
2 who makes application to the board for examination, or for initial issuance  
3 or renewal or reinstatement of a license under the provisions of this chap-  
4 ter.

5 (3) "Attest" means providing the following professional services:

6 (a) Any audit or other engagement to be performed in accordance with the  
7 statements on auditing standards;

8 (b) Any review of a financial statement to be performed in accordance  
9 with the statements on standards for accounting and review services;

10 (c) Any examination of prospective financial information to be per-  
11 formed in accordance with the statements on standards for attestation  
12 engagements;

13 (d) Any engagement to be performed in accordance with the standards of  
14 the PCAOB; and

15 (e) Any examination, review or agreed-upon procedures engagement to be  
16 performed in accordance with the statements on standards for attesta-  
17 tion engagements, other than an examination described in paragraph (c)  
18 of this subsection.

19 (4) "Board" means the Idaho state board of accountancy.

20 (5) "Certificate" means that document issued by the board upon original  
21 approval of licensure. The original certificate does not constitute licen-  
22 sure and a person cannot represent himself or herself as a licensee unless a  
23 current and valid annual license has been issued by the board.

24 (6) "Certified public accountant" or "CPA" means any person who holds a  
25 valid, unrevoked and unsuspended license under the provisions of chapter 2,  
26 title 54, Idaho Code, or an equivalent provision of the laws of another state  
27 designating said person as a certified public accountant.

28 (7) "Client" means the person or entity that agrees with a licensee or  
29 licensee's employer to receive any professional services with or without  
30 compensation and shall include all affiliates and related entities in the  
31 financial statements of an attest or compilation engagement.

32 (8) "Compilation" means a service performed in accordance with state-  
33 ments on standards for accounting and review services that presents, in  
34 the form of historical or prospective financial statements, information  
35 that is the representation of management or owners without undertaking to  
36 express any assurance on the statements. The term "compilation" does not in-  
37 clude financial statements accompanied by the language set forth in section  
38 54-226(3), Idaho Code, whether used by a licensee or by a person not licensed  
39 under this chapter, as long as the financial statements are not accompanied  
40 by any other language of assurance or disclaimer.

41 (9) "Financial statements" means a presentation of historical or  
42 prospective financial data, which may include accompanying notes, intended  
43 to communicate an entity's economic resources or obligations at a point in  
44 time, or the changes therein for a period of time, in accordance with a com-  
45 prehensive basis of accounting.

46 (10) "Firm" means a proprietorship, partnership, professional corpora-  
47 tion, professional limited liability company, or any other form of profes-  
48 sional organization permitted by Idaho law, registered under the require-  
49 ments of section 54-214, Idaho Code.

1 (11) "Good moral character" means lack of a history of dishonest deal-  
2 ings or a ~~felonious act~~ conviction of a crime that is deemed relevant in ac-  
3 cordance with section 67-9411(1), Idaho Code.

4 (12) "License" means that authorization issued by the board upon origi-  
5 nal approval and on an annual basis permitting a qualified person to practice  
6 as a certified public accountant or licensed public accountant in the state  
7 of Idaho.

8 (13) "Licensed public accountant" or "LPA" means any person who holds a  
9 valid, unrevoked and unsuspended license under the provisions of chapter 2,  
10 title 54, Idaho Code, designating said person as a licensed public account-  
11 tant.

12 (14) "Licensee" means the holder of a current valid license.

13 (15) "Member" means a person who has been admitted to membership in a  
14 firm that is organized as a limited liability company.

15 (16) "PCAOB" means the public company accounting oversight board.

16 (17) "Peer review" means a board-approved study, appraisal or review of  
17 one (1) or more aspects of the professional work of a licensee or firm that  
18 performs attest services or issues compilation reports, by a person or per-  
19 sons licensed under this chapter or by another state and who are independent  
20 of the licensee or firm being reviewed.

21 (18) "Permit" means a permit to practice as a firm issued under corre-  
22 sponding provisions of the laws of other states.

23 (19) "Person" means any natural living person.

24 (20) "Professional services" means services arising out of or related  
25 to the specialized knowledge or skills associated with certified public ac-  
26 countants or licensed public accountants.

27 (21) "Report," when used with reference to financial statements, means  
28 an opinion or other form of language that states or implies assurance as to  
29 the reliability of any financial statements and that also includes or is ac-  
30 companied by any statement or implication that the person or firm issuing it  
31 has special knowledge or competence in accounting or auditing. Such a state-  
32 ment or implication of special knowledge or competence may arise from use by  
33 the issuer of the report of names or titles indicating that the person or firm  
34 is an accountant or auditor, or from the language of the report itself. The  
35 term "report" includes any form of language that disclaims an opinion when  
36 such form of language is conventionally understood to imply any positive as-  
37 surance as to the reliability of the financial statements referred to or spe-  
38 cial competence on the part of the person or firm issuing such language; and  
39 it includes any other form of language that is conventionally understood to  
40 imply such assurance or special knowledge or competence.

41 (22) "State" means any state of the United States, the District of Co-  
42 lumbia, Puerto Rico, the U.S. Virgin Islands, Commonwealth of the Northern  
43 Mariana Islands and Guam; except that "this state" means the state of Idaho.

44 (23) "Substantial equivalency" or "substantially equivalent" means a  
45 determination by the board that the education, examination and experience  
46 requirements contained in the statutes and administrative rules of another  
47 jurisdiction are comparable to or exceed the education, examination and ex-  
48 perience requirements for CPAs contained in this chapter or that an indi-  
49 vidual licensee's education, examination and experience qualifications are

1 comparable to or exceed the education, examination and experience require-  
2 ments for CPAs contained in this chapter.

3 SECTION 13. That Section 54-219, Idaho Code, be, and the same is hereby  
4 amended to read as follows:

5 54-219. LICENSE -- RESTRICTION, REVOCATION, SUSPENSION OR DENIAL --  
6 CAUSES -- COST RECOVERY -- ADMINISTRATIVE PENALTIES. (1) After notice and  
7 opportunity for hearing in accordance with the provisions of chapter 52, ti-  
8 tle 67, Idaho Code, for cause shown, the board may revoke, suspend, refuse to  
9 renew, administratively penalize, reprimand, restrict or place on probation  
10 the holder of a certificate or license, or refuse to issue any certificate or  
11 any license to an applicant, for any one (1) of the following causes:

12 (a) Any false statement with the intent to mislead or deceive the board  
13 or its members in connection with any application; or, cheating or any  
14 attempt to cheat in an examination.

15 (b) Fraud or deceit in obtaining or renewing a certificate or license to  
16 practice as a certified public accountant or licensed public accountant  
17 under the provisions of this chapter.

18 (c) Dishonesty, fraud or gross negligence in the performance of pro-  
19 fessional services as a licensee or individual granted privileges under  
20 section 54-227, Idaho Code, or in the filing of or failure to file his  
21 own income tax returns.

22 (d) Violation of any provision of this chapter, or any rule adopted by  
23 the board under authority granted by this chapter, or an order of the  
24 board directed specifically to the licensee.

25 (e) Conviction of or a guilty plea to a ~~felony~~ crime under the laws of  
26 any state or country that is deemed relevant in accordance with section  
27 67-9411 (1), Idaho Code.

28 (f) Conviction of or a guilty plea to any crime ~~involving moral turpi-~~  
29 ~~tude~~, an element of which is dishonesty or fraud, under the laws of any  
30 state or country, notwithstanding the form of the judgment or withheld  
31 judgment.

32 (g) Representing oneself as a certified public accountant or licensed  
33 public accountant during any period in which the license of the person  
34 so practicing has been suspended or revoked by the board.

35 (h) Cancellation, revocation, suspension or refusal to renew or grant  
36 a license or privileges under section 54-227, Idaho Code, for disci-  
37 plinary reasons by any other state for any cause.

38 (i) Practicing as a certified public accountant or licensed public ac-  
39 countant under a false or assumed name; provided, however, this para-  
40 graph shall have no application to practicing as a certified public ac-  
41 countant or licensed public accountant under the name of a firm, when  
42 such style or name is in conformity with a type or form approved by the  
43 rules of the board.

44 (j) Habitual use of drugs or intoxicants to such a degree as to render  
45 the licensee unreliable and unfit to practice as a certified public ac-  
46 countant or licensed public accountant.

47 (k) Suspension or revocation of the right to practice before any agency  
48 of the United States government or of the state of Idaho, for any cause  
49 other than failure to pay a registration or similar fee.

1 (1) Having been declared mentally incompetent by a court of competent  
2 jurisdiction; provided, however, that when a person's license shall  
3 have been revoked or suspended for this cause, such license shall be  
4 reinstated by the board when said disability is judicially removed.

5 (m) Representing oneself as qualified or authorized to practice as a  
6 certified public accountant or licensed public accountant in this state  
7 without holding a current, valid, unrevoked and unsuspended certifi-  
8 cate and license or privileges under section 54-227, Idaho Code.

9 (n) Performance of any fraudulent act while holding a certificate, li-  
10 cense, permit or privileges under this chapter.

11 (o) Any conduct reflecting adversely upon the licensee's fitness to  
12 perform services while a licensee, or individual granted privileges  
13 under section 54-227, Idaho Code.

14 (2) The expenses, including attorney's fees, incurred by the board for  
15 any or all proceedings initiated against a person for violation of any of the  
16 provisions of this chapter may be charged against such person by the board,  
17 upon the finding of a violation of this chapter, in addition to any admin-  
18 istrative penalties which may be levied by the board against such person.  
19 Administrative penalties levied by the board shall not exceed two thousand  
20 five hundred dollars (\$2,500) per violation.

21 (3) In lieu of or in addition to any remedy specifically provided, the  
22 board may require of a licensee or a firm:

23 (a) A peer review conducted in such fashion as the board may specify;

24 (b) Preissuance review;

25 (c) Satisfactory completion of such continuing professional education  
26 programs or examinations as the board may specify; and

27 (d) Other similar remedies.

28 (4) In any action brought under the provisions of this chapter, ev-  
29 idence of the commission of a single act prohibited in this chapter shall  
30 be sufficient to justify a suspension, revocation, fine, administrative  
31 penalty, restriction, reprimand, injunction, restraining order, conviction  
32 or any other remedy authorized in this chapter. Evidence of a general course  
33 of conduct shall not be required.

34 SECTION 14. That Section 54-608, Idaho Code, be, and the same is hereby  
35 amended to read as follows:

36 54-608. GROUNDS FOR SUSPENSION, DENIAL, REFUSAL TO RENEW OR REVOCATION  
37 OF LICENSE. No license may be issued, and a license previously issued  
38 may be suspended, revoked or otherwise disciplined, if the person applying  
39 or the person licensed is:

40 (1) Found guilty by a court of competent jurisdiction of a ~~felony or any~~  
41 ~~offense involving moral turpitude~~ crime that is deemed relevant in accor-  
42 dance with section 67-9411(1), Idaho Code;

43 (2) Found by the board to be a repeated and excessive abuser of any drug,  
44 including alcohol, or any controlled substance;

45 (3) Found by the board to be in violation of any provision of this chap-  
46 ter or the rules promulgated pursuant thereto;

47 (4) Found by the board to have used fraud or deception in the procuring  
48 of any license;

1 (5) Found by the board to have had any action, including denial of a li-  
 2 cense or the voluntary surrender of or voluntary limitation on a license,  
 3 taken against the licensee by any peer review body, any health care institu-  
 4 tion, any professional medical society or association or any court, law en-  
 5 forcement or governmental agency;

6 (6) Found by the board to have been unethical, unprofessional or dis-  
 7 honorable in the practice of healing the sick; or

8 (7) Found by the board to have failed to comply with an order issued by  
 9 the board.

10 SECTION 15. That Section 54-712, Idaho Code, be, and the same is hereby  
 11 amended to read as follows:

12 54-712. DISCIPLINE BY THE BOARD -- GROUNDS. Any license or permit is-  
 13 sued under the provisions of this chapter shall be subject to restriction,  
 14 suspension, revocation or other discipline pursuant to the provisions of  
 15 sections 54-707 and 54-713, Idaho Code, if the board finds that the licensee:

16 (1) Has been convicted, found guilty, received a withheld judgment  
 17 or suspended sentence in this or any other state of ~~a felony or a crime~~  
 18 ~~involving moral turpitude~~ that is deemed relevant in accordance with section  
 19 67-9411 (1), Idaho Code;

20 (2) Used false, fraudulent or forged statements or documents, diplo-  
 21 mas or credentials in connection with any licensing or other requirements of  
 22 this chapter or misrepresented or concealed a material fact in obtaining li-  
 23 censing, renewal or reinstatement;

24 (3) Practiced chiropractic under a false or assumed name in this or any  
 25 other state;

26 (4) Advertised the practice of chiropractic in a false, misleading or  
 27 deceptive manner;

28 (5) Knowingly aided or abetted any person to practice chiropractic  
 29 who is not authorized to practice chiropractic as provided in this chapter  
 30 or failed to adequately supervise auxiliary staff who have contact with  
 31 patients which creates or results in an unreasonable risk of harm to the  
 32 patient;

33 (6) Is unable to obtain or renew a license to practice chiropractic, or  
 34 whose license to practice chiropractic has been restricted, revoked or sus-  
 35 pended by any other state, territory or district of the United States or for-  
 36 eign jurisdiction; a certified copy of the order shall be conclusive evi-  
 37 dence of any restriction, revocation or suspension of a license;

38 (7) Failed to safeguard the confidentiality of chiropractic records or  
 39 other chiropractic information pertaining to identifiable clients, except  
 40 as required or authorized by law;

41 (8) Practiced chiropractic when a license pursuant to this chapter is  
 42 suspended, revoked, or inactive due to failure to renew the annual license  
 43 within the time and manner required by the board;

44 (9) Refused to divulge to the board, upon demand, the means, method, de-  
 45 vice or instrumentality used in the treatment of a disease, injury, ailment,  
 46 or infirmity;

47 (10) Has engaged in any conduct which constitutes an abuse or exploita-  
 48 tion of a patient arising out of the trust and confidence placed in the li-  
 49 censee by the patient;

1 (11) Has committed any act which constitutes ~~a felony or has committed~~  
 2 ~~any act which constitutes a crime involving moral turpitude~~ that is deemed  
 3 relevant in accordance with section 67-9411(1), Idaho Code;

4 (12) Is unable to practice chiropractic with reasonable skill and  
 5 safety by reason of:

6 (a) Mental illness; or

7 (b) Physical illness including, but not limited to, physical deterior-  
 8 ration which adversely affects cognitive, motor or perceptive skills;  
 9 or

10 (c) Habitual or excessive use or abuse of drugs defined in law as con-  
 11 trolled substances, alcohol, or any other substances which impair abil-  
 12 ity; or

13 (d) Having a communicable, contagious or infectious disease which en-  
 14 dangers the health of patients;

15 (13) Has violated the standard of care or code of ethics as adopted by  
 16 the board or misrepresented or committed fraud in any aspect of the business  
 17 or practice of chiropractic;

18 (14) Promoted unnecessary or inefficacious treatment, procedures, de-  
 19 vices or services or practiced in an incompetent or negligent manner result-  
 20 ing in or creating an unreasonable risk of harm; or

21 (15) Has violated any provision of this act or any rule promulgated by  
 22 the board for the administration or enforcement of this act, interfered with  
 23 the board's conduct of investigations, hearings or any other matters relat-  
 24 ing to discipline including, but not limited to, misrepresenting facts, at-  
 25 tempting to influence witnesses or failing to answer subpoenas, or otherwise  
 26 failed to cooperate with the board in the fulfillment of its duties.

27 SECTION 16. That Section 54-915, Idaho Code, be, and the same is hereby  
 28 amended to read as follows:

29 54-915. QUALIFICATIONS REQUIRED FOR DENTIST, DENTAL THERAPIST, OR  
 30 DENTAL HYGIENIST LICENSURE. No person hereafter shall be eligible for licen-  
 31 sure to practice dentistry, dental therapy, or dental hygiene in this state  
 32 unless the applicant:

33 (1) Is of good moral character and has not pled guilty to or been con-  
 34 victed of ~~any felony, or of any misdemeanor involving moral turpitude~~ a crime  
 35 that is deemed relevant in accordance with section 67-9411(1), Idaho Code,  
 36 unless the person demonstrates that he has been sufficiently rehabilitated  
 37 to warrant the public trust;

38 (2) Shall, for dentistry, have successfully completed the course of  
 39 study in dentistry, and graduated and received a degree of doctor of dental  
 40 surgery or doctor of dental medicine from a dental school accepted and ap-  
 41 proved by the board;

42 (3) Shall, for dental therapy, have:

43 (a) Successfully completed a course of study in dental therapy;

44 (b) Graduated from a dental therapy school accredited by the commis-  
 45 sion on dental accreditation of the American dental association, pro-  
 46 vided that such school has been accepted and approved by the board; and

47 (c) Completed five hundred (500) hours of supervised clinical practice  
 48 under the direct supervision of a dentist;



1 (4) Shall, for dental hygiene, have successfully completed the course  
 2 of study in dental hygiene, and received a degree from a dental hygiene  
 3 school accepted and approved by the board;

4 (5) Shall, for dentistry, dental therapy, and dental hygiene, pass the  
 5 examinations provided for in section 54-918, Idaho Code.

6 SECTION 17. That Section 54-923, Idaho Code, be, and the same is hereby  
 7 amended to read as follows:

8 54-923. REVOCATION FOR CONVICTIONS OF CRIME. A certificate or other  
 9 evidence of qualification and right to practice dentistry, a dental spe-  
 10 cialty, dental therapy, or dental hygiene, and a license, may be revoked  
 11 by the board whenever it shall be shown to the board that the holder of such  
 12 certificate or other evidence of qualification, right to practice or license  
 13 has been convicted of a ~~felony, or of a misdemeanor involving moral turpitude~~  
 14 crime that is deemed relevant in accordance with section 67-9411(1), Idaho  
 15 Code, whether such conviction shall have occurred before or after qualifica-  
 16 tion, or accrual of such right, or the issuance of such certificate or other  
 17 evidence of qualification, or of such license. A person licensed to practice  
 18 dentistry, a dental specialty, dental therapy, or dental hygiene who is con-  
 19 victed of a felony in any jurisdiction shall notify the board within thirty  
 20 (30) days of conviction by submitting a copy of the judgment of conviction to  
 21 the board.

22 SECTION 18. That Section 54-1116, Idaho Code, be, and the same is hereby  
 23 amended to read as follows:

24 54-1116. DENIAL, SUSPENSION, OR REVOCATION OF LICENSES -- GROUNDS --  
 25 PROBATION. The board may refuse to issue or may refuse to renew or may suspend  
 26 or may revoke any license, or may place the holder thereof on a term of proba-  
 27 tion, after proper hearing, upon finding that the holder of such license com-  
 28 mitted any of the following acts or omissions:

29 (1) Conviction of a crime ~~involving moral turpitude~~ that is deemed rel-  
 30 evant in accordance with section 67-9411(1), Idaho Code.

31 (2) ~~Conviction of a felony.~~

32 ~~(3)~~ Unprofessional conduct, which is hereby defined to include:

33 (a) Misrepresentation or fraud in the conduct of mortician or funeral  
 34 director services;

35 (b) False or misleading advertising as the holder of a license for the  
 36 practice of mortician or funeral director services; advertising or us-  
 37 ing the name of a person who is not an employee of the establishment in  
 38 connection with that of any establishment;

39 (c) Solicitation of dead human bodies by the licensee, his agents, as-  
 40 sistants or employees, whether such solicitation occurs before death or  
 41 after death; provided, that this shall not be deemed to prohibit general  
 42 advertising;

43 (d) Employment by the licensee of persons known as "cappers," or  
 44 "steerers," or "solicitors," or other such persons to solicit or obtain  
 45 agreements with the public for the performance of mortician services;

46 (e) Employment, directly or indirectly, of any resident trainee,  
 47 agent, assistant, employee, or other person, on part or full time, or on

1 commission, for the purpose of calling upon individuals or institutions  
2 by whose influence dead human bodies may be turned over to a particular  
3 mortician, funeral director or establishment;

4 (f) The direct or indirect payment, or offer of payment, of a commission  
5 by the licensee, his agents, assistants, or employees for the purpose of  
6 securing business;

7 (g) Gross immorality;

8 (h) Aiding or abetting an unlicensed person to practice mortician or  
9 funeral director services;

10 (i) Using profane, indecent or obscene language in the presence of a  
11 dead human body, or within the immediate hearing of the family or rel-  
12 atives of a deceased, whose body has not yet been interred or otherwise  
13 disposed of;

14 (j) Violation of any of the provisions of this chapter;

15 (k) Violation of any state law, or municipal or county ordinance, or  
16 rule authorized under this chapter affecting the handling, custody,  
17 care, processing or transportation of dead human bodies;

18 (l) Fraud or misrepresentation in obtaining or renewing a license;

19 (m) Refusing to promptly surrender the custody of a dead human body  
20 upon the express order of the person lawfully entitled to the custody  
21 thereof;

22 (n) Solicitation or acceptance, directly or indirectly, of a request,  
23 before need, for an agreement to provide mortician services or funeral  
24 supplies at a price less than that offered by such person to others at  
25 time of need;

26 (o) Violation of any statutes of any state having to do with prearrange-  
27 ment or prefinancing of mortician services or funeral supplies.

28 SECTION 19. That Section 54-1128, Idaho Code, be, and the same is hereby  
29 amended to read as follows:

30 54-1128. VIOLATIONS CONSTITUTING MISDEMEANORS -- EXCEPTIONS -- EN-  
31 FORCEMENT. Any person who knowingly violates any provision of this chapter,  
32 or any licensee under this chapter who shall commit an act of unprofessional  
33 conduct as defined and designated under the provisions of subsection (32)  
34 of section 54-1116, Idaho Code, except ~~subsections~~ paragraphs (g) and (i)  
35 thereof, shall be guilty of a misdemeanor unless such conduct is punishable  
36 as a felony elsewhere under the law. It shall be the duty of the board of mor-  
37 ticians to see that the provisions of this chapter are properly administered  
38 and enforced throughout the state, and all peace officers and prosecuting  
39 attorneys shall aid in their several capacities in discharge of these du-  
40 ties.

41 SECTION 20. That Section 54-1413, Idaho Code, be, and the same is hereby  
42 amended to read as follows:

43 54-1413. DISCIPLINARY ACTION. (1) Grounds for discipline. The board  
44 shall have the power to refuse to issue, renew or reinstate a license issued  
45 pursuant to this chapter and may revoke, suspend, place on probation, reprimand,  
46 limit, restrict, condition or take other disciplinary action against  
47 the licensee as it deems proper, upon a determination by the board that

1 the licensee engaged in conduct constituting any one (1) of the following  
2 grounds:

- 3 (a) Made, or caused to be made, a false, fraudulent or forged state-  
4 ment or representation in procuring or attempting to procure a license  
5 to practice nursing;
- 6 (b) Practiced nursing under a false or assumed name;
- 7 (c) Is convicted of a ~~felony or of any offense involving moral turpitude~~  
8 crime that is deemed relevant in accordance with section 67-9411(1),  
9 Idaho Code;
- 10 (d) Is or has been grossly negligent or reckless in performing nursing  
11 functions;
- 12 (e) Habitually uses alcoholic beverages or drugs as defined by rule;
- 13 (f) Is physically or mentally unfit to practice nursing;
- 14 (g) Violates the provisions of this chapter or rules and standards of  
15 conduct and practice as may be adopted by the board;
- 16 (h) Otherwise engages in conduct of a character likely to deceive,  
17 defraud or endanger patients or the public, which includes, but is not  
18 limited to, failing or refusing to report criminal conduct or other con-  
19 duct by a licensee that endangers patients;
- 20 (i) Has been disciplined by a nursing regulatory authority in any ju-  
21 risdiction. A certified copy of the order entered by the jurisdiction  
22 shall be prima facie evidence of such discipline;
- 23 (j) Failure to comply with the terms of any board order, negotiated set-  
24 tlement or probationary agreement of the board, or to pay fines or costs  
25 assessed in a prior disciplinary proceeding;
- 26 (k) Engaging in conduct with a patient that is sexual, sexually ex-  
27 ploitative, sexually demeaning or may reasonably be interpreted as  
28 sexual, sexually exploitative or sexually demeaning; or engaging in  
29 conduct with a former patient that is sexually exploitative or may  
30 reasonably be interpreted as sexually exploitative. It would not be a  
31 violation under this subsection for a nurse to continue a sexual rela-  
32 tionship with a spouse or individual of majority if a consensual sexual  
33 relationship existed prior to the establishment of the nurse-patient  
34 relationship; or
- 35 (1) Failure to comply with the requirements of the abortion complica-  
36 tions reporting act, chapter 95, title 39, Idaho Code.
- 37 (2) Separate offense. Each day an individual violates any of the provi-  
38 sions of this chapter or rules and standards of conduct and practice as may be  
39 adopted by the board shall constitute a separate offense.
- 40 (3) Proceedings.
- 41 (a) The executive director shall conduct such investigations and ini-  
42 tiate such proceedings as necessary to ensure compliance with this  
43 section. The board may accept the voluntary surrender of a license  
44 from any nurse under investigation and accordingly enter an order re-  
45 voking or suspending such license and/or imposing such conditions,  
46 limitations, or restrictions on the practice of any such nurse as may  
47 be appropriate in the discretion of the board. Otherwise, every person  
48 subject to disciplinary proceedings shall be afforded an opportunity  
49 for hearing after reasonable notice. All proceedings hereunder shall  
50 be in accordance with chapter 52, title 67, Idaho Code.

1 (b) Hearings shall be conducted by the board or by persons appointed by  
2 the board to conduct hearings and receive evidence. The board and any  
3 person duly appointed by the board to conduct hearings shall have all  
4 powers as are necessary and incident to the orderly and effective re-  
5 ceipt of evidence including, but not limited to, the power to administer  
6 oaths and to compel by subpoena attendance of witnesses and production  
7 of books, records and things at the hearing or at a deposition taken by a  
8 party in accordance with the Idaho rules of civil procedure. Any party  
9 shall be entitled to the use of subpoena upon application therefor.

10 (c) In the event any person fails to comply with a subpoena personally  
11 served upon him or refuses to testify to any matter regarding which he  
12 may be lawfully interrogated, the board shall petition the district  
13 court in the county where such failure or refusal occurred or where  
14 such person resides, to enforce such subpoena or compel such testimony.  
15 Proceedings before the district court shall be for contempt in the same  
16 nature as contempt of court for failure or refusal to comply with an  
17 order of the court, and the court shall have the same powers to secure  
18 compliance with subpoena and testimony or to impose penalties as in con-  
19 tempt of court proceedings.

20 (d) The assessment of costs and attorney's fees incurred in the inves-  
21 tigation and prosecution or defense of an administrative proceeding  
22 against a licensee under this chapter shall be governed by the provi-  
23 sions of section 12-117(5), Idaho Code.

24 (4) Probation/subsequent review. Any order of the board entered un-  
25 der this section may be withheld or suspended for a probationary period to be  
26 fixed by the board upon such terms and conditions as may be appropriate in or-  
27 der to regulate, monitor and/or supervise the practice of nursing by the li-  
28 censee subject to such order for the prescribed probationary period. Any or-  
29 der of the board entered under this section may be withdrawn, reversed, mod-  
30 ified or amended upon a showing by the person subject to the order that the  
31 grounds for discipline no longer exist or that he is rehabilitated, quali-  
32 fied and competent to practice nursing and that he is not likely to violate  
33 this chapter or rules adopted hereunder in the future.

34 (5) Reporting investigative information.

35 (a) Nothing in section 74-106(8) and (9), Idaho Code, shall be con-  
36 strued as limiting the authority of the board to report current  
37 significant investigative information to the coordinated licensure  
38 information system for transmission to states that are parties to any  
39 multistate agreements or compacts regarding nurse licensure.

40 (b) The executive director of the board may, in the administration of  
41 this chapter, share information and otherwise cooperate with govern-  
42 ment regulatory and law enforcement agencies.

43 SECTION 21. That Section 54-1510, Idaho Code, be, and the same is hereby  
44 amended to read as follows:

45 54-1510. REVOCATION OF LICENSES -- GROUNDS. Every license issued un-  
46 der the provisions of this chapter shall be subject to suspension, revoca-  
47 tion or other discipline upon any of the following grounds pursuant to the  
48 procedures set forth in chapter 52, title 67, Idaho Code. All hearings con-

1 ducted pursuant to this section, whether before the board or a hearing offi-  
2 cer, shall be held in Ada county unless otherwise designated by the board.

3 (1) Fraud or deception in procuring license.

4 (2) Practicing optometry under a false or assumed name or as a repre-  
5 sentative or agent of any person, firm or corporation other than another li-  
6 censed optometrist, a physician licensed to practice medicine and surgery  
7 under chapter 18, title 54, Idaho Code, or a professional entity, ~~which that~~  
8 has been incorporated under the authority of part 9, chapter 21, title 30,  
9 Idaho Code, by persons licensed to practice optometry under chapter 15, ti-  
10 tle 54, Idaho Code, or licensed to practice medicine and surgery under chap-  
11 ter 18, title 54, Idaho Code.

12 (3) Having been convicted or having received a withheld judgment  
13 or suspended sentence in this or any other state of ~~a felony~~, a crime  
14 ~~involving moral turpitude~~ that is deemed relevant in accordance with section  
15 67-9411(1), Idaho Code, or any act related to the qualifications, functions  
16 or duties of an optometrist.

17 (4) Gross incompetency.

18 (5) Inability to practice optometry with reasonable skill and safety by  
19 reason of:

20 (a) Mental illness;

21 (b) Physical illness including, but not limited to, physical deterio-  
22 ration which adversely affects cognitive, motor or perceptive skills;

23 (c) Habitual or excessive use or abuse of drugs defined in law as con-  
24 trolled substances, alcohol, or any other substances which impair abil-  
25 ity; or

26 (d) Having a communicable, contagious or infectious disease which en-  
27 dangers the health of patients.

28 (6) Failure to pay to the board or the bureau of occupational licenses  
29 the annual fee and to secure a renewal license, whereupon after twenty (20)  
30 days' notice by registered mail the license of such delinquent may be re-  
31 voked; but the payment of such fee at or before the time of hearing, with such  
32 additional sum, not exceeding twenty-five dollars (\$25.00) as may be fixed  
33 by the board of optometry, shall excuse the default.

34 (7) Any practice or behavior of a character likely to deceive or defraud  
35 the public.

36 (8) Obtaining of any fee or compensation by fraud, deceit or misrepre-  
37 sentation.

38 (9) Employing, either directly or indirectly, any suspended or unli-  
39 censed optometrist to do optometric work.

40 (10) Advertising the practice of optometry in a false, misleading or de-  
41 ceptive manner.

42 (11) Employment or use of what are known as "cappers" or "steerers."

43 (12) Consistently accepting referrals that violate the laws of the  
44 state of Idaho.

45 (13) For willfully permitting or allowing or causing a person who is  
46 not a licensed optometrist or a licensed physician or surgeon to use the op-  
47 tometrist's prescription or optometric finding to fit contact lenses upon a  
48 person or member of the public.

1 (14) For violation of any of the provisions of this chapter or the rules  
2 or code of ethics made and promulgated by the state board of optometry, as  
3 authorized in section 54-1509, Idaho Code.

4 (15) For willfully attempting to violate, directly or indirectly, con-  
5 spiring to violate, or assisting or participating in or abetting the viola-  
6 tion of any of the provisions of this chapter or the rules or code of ethics  
7 made, prescribed or promulgated by the state board of optometry pursuant to  
8 the authority granted in this chapter.

9 (16) Having engaged in any conduct which constitutes an abuse or ex-  
10 ploitation of a patient arising out of the trust and confidence placed in the  
11 licensee by the patient.

12 (17) Having committed ~~any act which constitutes a felony or has commit-~~  
13 ~~ted any act which~~ that constitutes a crime ~~involving moral turpitude~~ that is  
14 deemed relevant in accordance with section 67-9411(1), Idaho Code.

15 SECTION 22. That Section 54-1726, Idaho Code, be, and the same is hereby  
16 amended to read as follows:

17 54-1726. GROUNDS FOR DISCIPLINE. (1) The board of pharmacy may refuse  
18 to issue or renew, or may suspend, revoke or restrict the license or regis-  
19 tration of any person, pursuant to the procedures set forth in chapter 52,  
20 title 67, Idaho Code, upon one (1) or more of the following grounds:

21 (a) Unprofessional conduct as that term is defined by the rules of the  
22 board;

23 (b) Incapacity of a nature that prevents a pharmacist from engaging in  
24 the practice of pharmacy with reasonable skill, competence and safety  
25 to the public;

26 (c) Being found guilty, convicted or having received a withheld judg-  
27 ment or suspended sentence by a court of competent jurisdiction in this  
28 state or any other state of one (1) or more of the following:

29 (i) Any felony crime that is deemed relevant in accordance with  
30 section 67-9411(1), Idaho Code;

31 (ii) ~~Any act involving moral turpitude, gross immorality or which~~  
32 ~~that~~ is related to the qualifications, functions or duties of a li-  
33 icensee; or

34 (iii) Violations of the pharmacy or drug laws of this state or  
35 rules pertaining thereto, or of statutes, rules or regulations of  
36 any other state, or of the federal government;

37 (d) Fraud or intentional misrepresentation by a licensee in securing  
38 the issuance or renewal of a license;

39 (e) Engaging or aiding and abetting an individual to engage in the prac-  
40 tice of pharmacy without a license, or falsely using the title of phar-  
41 macist; and

42 (f) Being found by the board to be in violation of any of the provisions  
43 of this chapter, chapter 27, title 37, Idaho Code, or rules adopted pur-  
44 suant to either chapter.

45 (2) Nonresident licensees and registrants shall be held accountable to  
46 the board for violations by its agents and employees and subject to the same  
47 grounds for discipline and penalties for their actions as set forth herein.

1 SECTION 23. That Section 54-1844, Idaho Code, be, and the same is hereby  
2 amended to read as follows:

3 54-1844. DEFINITIONS. As used in this compact:

4 (1) "Bylaws" means those bylaws established by the interstate commis-  
5 sion pursuant to section 54-1853, Idaho Code, for its governance, or for di-  
6 recting and controlling its actions and conduct.

7 (2) "Commissioner" means the voting representative appointed by each  
8 member board pursuant to section 54-1853, Idaho Code.

9 (3) "Conviction" means a finding by a court that an individual is guilty  
10 of a criminal offense through adjudication, or entry of a guilty or equiva-  
11 lent plea to the charge by the offender. Evidence of an entry of a conviction  
12 of a criminal offense by the court shall be considered final for purposes of  
13 disciplinary action by a member board.

14 (4) "Expedited license" means a full and unrestricted medical license  
15 granted by a member state to an eligible physician through the process set  
16 forth in the compact.

17 (5) "Interstate commission" means the interstate commission created  
18 pursuant to section 54-1853, Idaho Code.

19 (6) "License" means authorization by a state for a physician to engage  
20 in the practice of medicine, which would be unlawful without the authoriza-  
21 tion.

22 (7) "Medical practice act" means laws and rules governing the practice  
23 of allopathic and osteopathic medicine within a member state.

24 (8) "Member board" means a state agency in a member state that acts in  
25 the sovereign interests of the state by protecting the public through licen-  
26 sure, regulation and education of physicians as directed by the state gov-  
27 ernment.

28 (9) "Member state" means a state that has enacted the compact.

29 (10) "Offense" means a ~~felony, gross misdemeanor or crime of moral~~  
30 ~~turpitude~~ that is deemed relevant in accordance with section 67-9411(1),  
31 Idaho Code.

32 (11) "Physician" means any person who:

33 (a) Is a graduate of a medical school accredited by the liaison commit-  
34 tee on medical education, the commission on osteopathic college accred-  
35 itation or a medical school listed in the ~~international medical educa-~~  
36 ~~tion directory~~ world directory of medical schools or its equivalent;

37 (b) Passed each component of the United States medical licensing exam-  
38 ination (USMLE) or the comprehensive osteopathic medical licensing exam-  
39 ination (COMLEX-USA) within three (3) attempts, or any of its prede-  
40 cessor examinations accepted by a state medical board as an equivalent  
41 examination for licensure purposes;

42 (c) Successfully completed graduate medical education approved by the  
43 accreditation council for graduate medical education or the American  
44 osteopathic association;

45 (d) Holds specialty certification or a time-unlimited specialty cer-  
46 tificate recognized by the American board of medical specialties or the  
47 American osteopathic association's bureau of osteopathic specialists;

48 (e) Possesses a full and unrestricted license to engage in the practice  
49 of medicine issued by a member board;

1 (f) Has never been convicted or received adjudication, deferred ad-  
2 judication, community supervision or deferred disposition for any  
3 offense by a court of appropriate jurisdiction;

4 (g) Has never held a license authorizing the practice of medicine sub-  
5 jected to discipline by a licensing agency in any state, federal or for-  
6 eign jurisdiction, excluding any action related to nonpayment of fees  
7 related to a license;

8 (h) Has never had a controlled substance license or permit suspended  
9 or revoked by a state or the United States drug enforcement administra-  
10 tion; and

11 (i) Is not under active investigation by a licensing agency or law en-  
12 forcement authority in any state, federal or foreign jurisdiction.

13 (12) "Practice of medicine" means the clinical prevention, diagnosis or  
14 treatment of human disease, injury or condition requiring a physician to ob-  
15 tain and maintain a license in compliance with the medical practice act of a  
16 member state.

17 (13) "Rule" means a written statement by the interstate commission pro-  
18 mulgated pursuant to section 54-1853, Idaho Code, that is of general appli-  
19 cability, implements, interprets, or prescribes a policy or provision of the  
20 compact or an organizational, procedural or practice requirement of the in-  
21 terstate commission, and has the force and effect of statutory law in a mem-  
22 ber state, and includes the amendment, repeal, or suspension of an existing  
23 rule.

24 (14) "State" means any state, commonwealth, district or territory of  
25 the United States.

26 (15) "State of principal license" means a member state where a physi-  
27 cian holds a license to practice medicine and which has been designated as  
28 such by the physician for purposes of registration and participation in the  
29 compact.

30 SECTION 24. That Section 54-1910, Idaho Code, be, and the same is hereby  
31 amended to read as follows:

32 54-1910. EXAMINATIONS, QUALIFICATIONS AND APPLICATIONS. Under such  
33 rules as the board may adopt, the administrator shall have the power and  
34 authority to investigate, classify, and to qualify applicants for licenses  
35 under this chapter, by written or oral examinations, or both.

36 The qualifications to be required of an applicant by the board are as  
37 follows:

38 (a) Such degree of experience, and such general knowledge of the build-  
39 ing, safety, health and lien laws of the state, and of the rudimentary ad-  
40 ministrative principles of the contracting business, as may be deemed neces-  
41 sary by the board for the safety and protection of the public. The applicant  
42 if an individual may qualify as to the aforementioned experience and knowl-  
43 edge by personal appearance or by the appearance of his responsible managing  
44 employee, and if a copartnership or corporation, limited liability company,  
45 limited liability partnership and any other combination or organization, by  
46 the appearance of the responsible managing officer or member of the person-  
47 nel of such applicant. If the person qualifying by examination as to expe-  
48 rience and knowledge shall, for any reason whatsoever, cease to be connected  
49 with the licensee to whom the license is issued, such licensee shall so no-



1 tify the administrator in writing within ten (10) days from such cessation.  
2 If such notice is given, the license shall remain in force for a reasonable  
3 length of time, to be determined by rules of the board. If such licensee  
4 fails to so notify the administrator within said ten (10) day period, then  
5 at the end of such ten (10) day period, the license of such licensee shall be  
6 automatically suspended. A suspended license shall be reinstated upon the  
7 filing with the administrator of an affidavit executed by the licensee or a  
8 member of the suspended firm, to the effect that the individual originally  
9 examined for the firm has been replaced by another individual who has been  
10 qualified by examination as herein provided, and who shall not have had a li-  
11 cense suspended or revoked, nor have been connected with any licensee who has  
12 had a license suspended or revoked for reasons that should preclude him from  
13 personally qualifying as to good character as herein required of an appli-  
14 cant.

15 (b) The possession by the applicant of good character. Lack of charac-  
16 ter may be established by showing any of the following:

17 (1) That the applicant has committed or done any act which, if committed  
18 or done by any licensed contractor, would be grounds for the suspension  
19 or revocation of a contractor's license; or

20 (2) That the applicant has committed or done any act involving dis-  
21 honesty, fraud or deceit whereby the applicant has been benefited or  
22 whereby some injury has been sustained by another; or

23 (3) That the applicant bears a bad reputation for honesty and in-  
24 tegrity; or

25 (4) That the applicant has been convicted of a ~~felony~~ crime that is  
26 deemed relevant in accordance with section 67-9411 (1), Idaho Code.

27 (c) That he has never been refused a license or had a license revoked for  
28 reasons that would preclude the granting of the license applied for.

29 (d) No license shall be issued to a corporation, copartnership, limited  
30 liability company, limited liability partnership or other combination or  
31 organization if any responsible officer of such corporation, or other com-  
32 bination or organization, or any member of such copartnership does not meet  
33 the qualifications required of an applicant other than those qualifications  
34 relating to knowledge and experience.

35 (e) To obtain an original license under this chapter, the applicant  
36 shall submit to the administrator, on such forms as the administrator shall  
37 prescribe, accompanied by the required fee for the class of license applied  
38 for, and in accordance with such rules as may be deemed necessary and adopted  
39 by the board in order to carry out the foregoing provisions of this section,  
40 a sworn written application for such license, containing the statement  
41 that the applicant desires the issuance of a license under the terms of this  
42 chapter. The information contained in such application forms shall include  
43 a complete statement of the general nature of the applicant's contracting  
44 business, and stating concisely the applicant's experience and qualifica-  
45 tions as a contractor; the value and character of contract work completed  
46 and for whom performed during the three (3) year period prior to filing the  
47 application; a general description of the applicant's machinery and equip-  
48 ment; a complete financial statement ~~which~~ that may include a letter from the  
49 applicant's bonding company stating the amount of the applicant's bonding  
50 capability per project and in the aggregate, on such forms and disclosing

1 such information as shall be required by the administrator, together with  
 2 such additional information as may be required by the administrator to  
 3 determine the applicant's fitness for a license under this chapter. The ap-  
 4 plication shall contain, if by an individual, the individual's name, social  
 5 security number and business address; if by a copartnership, its business  
 6 address and the names and addresses of all partners; and if by a corporation,  
 7 association, limited liability company, limited liability partnership or  
 8 other organization, its business address and the names and addresses of the  
 9 president, vice president, secretary, and chief construction managing of-  
 10 ficers, or responsible managing employee. A request for a licensing class  
 11 higher than that for which the applicant qualifies must go to the administra-  
 12 tor for review and may be approved up to the bond limit. A final appeal of a  
 13 decision of the administrator may be made to the board.

14 SECTION 25. That Section 54-2103, Idaho Code, be, and the same is hereby  
 15 amended to read as follows:

16 54-2103. DEFINITIONS. As used in this chapter:

17 (1) "Accredited continuing education activity" means a provider and  
 18 course, seminar, scientific program or any other activity approved by the  
 19 board or its designees for continuing education credit.

20 (2) "Accredited or approved school of veterinary medicine" means any  
 21 veterinary college or division of a university or college inside or outside  
 22 the United States or Canada that offers the degree of doctor of veterinary  
 23 medicine, veterinary medicine doctor, or its equivalent and is accredited or  
 24 approved by the council on education of the American veterinary medical as-  
 25 sociation or other accrediting agency or association approved by the board.

26 (3) "Allied health professional" means a person holding a current ac-  
 27 tive license, in good standing, in any state to practice one (1) of the heal-  
 28 ing arts including, but not limited to, medicine, dentistry, osteopathy,  
 29 chiropractic, acupuncture and podiatry.

30 (4) "Anesthetized" means any condition of general anesthesia, caused  
 31 by the administration of a drug or combination of drugs in sufficient quan-  
 32 tity to produce a state of unconsciousness or disassociation and blocked re-  
 33 sponse to a given pain or alarm stimulus.

34 (5) "Animal" means any animal other than man and includes fowl, birds,  
 35 fish and reptiles, wild or domestic, living or dead.

36 (6) "Assistant" means any individual, other than a certified veteri-  
 37 nary technician or a licensed veterinarian, who is utilized by a licensed  
 38 veterinarian to assist in the performance of acts pertaining to the practice  
 39 of veterinary medicine.

40 (7) "Board" means the state board of veterinary medicine.

41 (8) "Certified euthanasia agency" or "CEA" means a law enforcement  
 42 agency, an animal control agency or a society for the prevention of cruelty  
 43 to animals, which has been inspected and certified by the committee on humane  
 44 euthanasia or the board.

45 (9) "Certified euthanasia technician" or "CET" means a person employed  
 46 by a certified euthanasia agency who is instructed and certified by the com-  
 47 mittee on humane euthanasia or the board as defined in the rules of the board,  
 48 but not to include an individual employed as a technician by animal research  
 49 laboratories.

1 (10) "Certified veterinary technician" means a person who has fulfilled  
2 the certification requirements prescribed by board rule and has been certi-  
3 fied by the board to practice veterinary technology in this state.

4 (11) "Consultation" means a deliberation between two (2) or more vet-  
5 erinarians concerning the diagnosis of a disease or the proper management of  
6 the case.

7 (12) "Credit hour" means fifty (50) minutes of participation in an ac-  
8 credited continuing education activity.

9 (13) "Dentistry" is the practice of veterinary medicine and means the  
10 application or use of any instrument or device to any portion of an animal's  
11 tooth, gum or any related tissue for the prevention, cure or relief of any  
12 wound, fracture, injury, disease or other condition of an animal's tooth,  
13 gum or related tissue. Dentistry includes, but is not limited to:

14 (a) "Preventive dental procedures" including, but not limited to, the  
15 removal of calculus, soft deposits, plaque, stains, and floating to  
16 shape the teeth above the gum line or the smoothing, filing or polishing  
17 of tooth surfaces above the gum line; and

18 (b) "Operative dentistry/oral surgery" or any other dental procedure  
19 that invades the hard or soft oral tissue including a procedure that al-  
20 ters the structure of one (1) or more teeth, or repairs damaged and dis-  
21 eased teeth, or the deliberate extraction of one (1) or more teeth.

22 (14) "Direct supervision" means the supervising veterinarian is on the  
23 premises where the animal is being treated, is quickly and easily available,  
24 and the animal has been examined by the supervising veterinarian as accept-  
25 able veterinary medical practice requires.

26 (15) "Discipline" means board action including, but not limited to:

27 (a) Refusing to issue, renew or reinstate a license, permit or certi-  
28 fication to practice as a licensed veterinarian, a certified veteri-  
29 nary technician, a certified euthanasia agency or a certified euthana-  
30 sia technician;

31 (b) Denial, revocation, suspension, sanction, probation or voluntary  
32 surrender of a license, permit or certification to practice as a li-  
33 censed veterinarian, a certified veterinary technician, a certified  
34 euthanasia agency or a certified euthanasia technician;

35 (c) The ability to enter into consent agreements and negotiated settle-  
36 ments with licensed veterinarians, certified veterinary technicians,  
37 certified euthanasia agencies and certified euthanasia technicians;

38 (d) The ability to bring an administrative or civil action against any  
39 person in or outside of this state who practices veterinary medicine,  
40 veterinary technology or who performs euthanasia within this state.

41 (16) "Emergency" means that the animal has been placed in a life-threat-  
42 ening condition where immediate treatment is necessary to sustain life.

43 (17) "Emergency veterinary facility" means any facility with the pri-  
44 mary function of receiving, treating, and monitoring emergency patients  
45 during its specified hours of operation or that displays to the public any  
46 sign, card, or advertisement that indicates it is an emergency veterinary  
47 clinic or hospital. An emergency veterinary facility may be an independent  
48 after-hours service, an independent twenty-four (24) hour service, or it may  
49 be part of a full-service veterinary medical facility.

1 (18) "Committee on humane euthanasia" means a committee established by  
2 the board for the purposes of training, examining, certifying and inspecting  
3 certified euthanasia agencies and certified euthanasia technicians.

4 (19) "Extra label use" means the actual or intended use of a human or  
5 veterinary drug in an animal in a manner that is not in accordance with the  
6 drug's labeling.

7 (20) "Floating" means shaping the posterior (cheek) teeth and the in-  
8 cisors (cutting teeth) in horses, mules and donkeys through the use of hand  
9 floats, rasps, burs, mechanical files or other file-like instruments to re-  
10 store balance, allow more efficient mastication, and reduce pain and trauma  
11 to the periodontal tissues.

12 (21) "Herd," "litter," or "flock" of animals means animals managed as  
13 a group for purposes including, but not limited to, breeding, sale, show or  
14 food production.

15 (22) "Immediate supervision" means the supervising veterinarian is in  
16 the immediate area, in audible and visual range of the animal patient and the  
17 person treating the patient, and the animal has been examined by the super-  
18 vising veterinarian as acceptable veterinary medical practice requires.

19 (23) "In good standing" means, when used in reference to an applicant  
20 for licensure or certification, that an applicant:

21 (a) Has not been the recipient of any administrative penalties regard-  
22 ing his practice of veterinary medicine including, but not limited to,  
23 fines, formal reprimands, license suspensions or revocations (except  
24 for license revocations for nonpayment of license renewal fees) or pro-  
25 bationary limitations, or has not entered into any consent agreement or  
26 negotiated settlement that contains conditions placed by a board on his  
27 professional conduct and practice, including any voluntary surrender  
28 of a license; and

29 (b) Has never had his United States drug enforcement administration  
30 privileges restricted or revoked; and

31 (c) Is not currently under investigation by another veterinary licens-  
32 ing authority for acts ~~which~~ that would provide a basis for disciplinary  
33 action in this state, as determined by the board; and

34 (d) Has no physical or mental impairment related to drugs, ~~or~~ or alcohol,  
35 or a finding of mental incompetence by a physician that would limit the  
36 applicant's ability to undertake the practice of veterinary medicine in  
37 a manner consistent with the safety of a patient or the public; and

38 ~~(e) Has not been convicted of a felony as defined in chapter 1, title 18,~~  
39 ~~Idaho Code; and~~

40 ~~(f) Has no criminal conviction record or pending criminal charge relat-~~  
41 ~~ing to an offense, the circumstances of which substantially relate to~~  
42 ~~the practice of veterinary medicine or that is deemed relevant in accor-~~  
43 ~~dance with section 67-9411(1), Idaho Code. Applicants who have crim-~~  
44 ~~inal conviction records or pending criminal charges shall require ap-~~  
45 ~~propriate authorities to provide information about the record or charge~~  
46 ~~directly to the board in sufficient detail to enable the board to make a~~  
47 ~~determination whether the record or charge is substantially related to~~  
48 ~~the practice of veterinary medicine.~~

49 (24) "Indirect supervision" means the supervising veterinarian is not  
50 on the premises but is available for immediate contact by telephone, radio or

1 other means, has given either written or oral instructions for treatment of  
2 the animal patient, the animal has been examined by the supervising veteri-  
3 narian as acceptable veterinary medical practice requires, and the animal,  
4 if previously anesthetized, has recovered to the point of being conscious  
5 and sternal.

6 (25) "Legend/~~P~~prescription drug" means any drug which, under federal  
7 law, regulation or rule, is required, prior to being distributed or deliv-  
8 ered, to be labeled with one (1) of the following statements: "Caution: Fed-  
9 eral law restricts this drug to be used by or on the order of a licensed vet-  
10 erinarian," or "Caution: Federal law prohibits dispensing without a pre-  
11 scription," or "RX Only," or a drug which is required by any applicable state  
12 or federal law, rule or regulation to be distributed or dispensed pursuant to  
13 a prescription only, or is restricted to use by licensed practitioners only.

14 (26) "Licensed veterinarian" means a person who is validly and cur-  
15 rently licensed to practice veterinary medicine in this state.

16 (27) "Malpractice" means, but is not limited to:

17 (a) Treatment in a manner contrary to accepted veterinary practices and  
18 with injurious results; or

19 (b) Any professional misconduct or unreasonable lack of professional  
20 skill or fidelity in the performance of the professional practice of  
21 veterinary medicine; or

22 (c) Failure to provide adequate supervision, except in an emergency  
23 situation; or

24 (d) Allowing an unqualified individual to perform a procedure that is  
25 part of the practice of veterinary medicine; or

26 (e) The negligent practice of veterinary medicine, as determined by the  
27 standard of practice for the area, that results in injury, unnecessary  
28 suffering or death.

29 (28) "Medical incompetence" means lacking in sufficient medical knowl-  
30 edge or skills or both to a degree likely to endanger the health of patients.

31 (29) "Mobile clinic" means a vehicle including, but not limited to, a  
32 camper, motor home, trailer or mobile home, used as a veterinary medical fa-  
33 cility. A mobile clinic is not required for house calls or farm calls.

34 (30) "On-call emergency service" means a veterinary medical facility  
35 that is available to provide emergency veterinary services as requested if  
36 a veterinarian is available.

37 (31) "Owner/~~O~~ownership" means ownership as defined by the laws of prop-  
38 erty and ownership, chapter 1, title 55, Idaho Code, and chapter 1, title 73,  
39 Idaho Code.

40 (32) "Person" means any individual, firm, partnership, association,  
41 joint venture, cooperative and corporation, or any other group or combina-  
42 tion acting in concert, and whether or not acting as principal, trustee,  
43 fiduciary, receiver, or as any other kind of legal or personal representa-  
44 tive, or as the successor in interest, assignee, agent, factor, servant,  
45 employee, director, officer, or any other representative of such person.

46 (33) "Physical or mental incompetence" means the veterinarian's abil-  
47 ity to practice veterinary medicine with reasonable skill and safety is  
48 impaired by reason of illness, excessive use of alcohol, drugs, narcotics,  
49 chemicals or any other substance, or as a result of any mental or physical  
50 disability.

1 (34) "Practice of veterinary medicine" in this state, through tele-  
2 phonic, electronic or other means, regardless of the location of the veteri-  
3 narian, includes veterinary surgery, obstetrics, dentistry, and all other  
4 branches or specialties of veterinary medicine and means:

5 (a) To directly or indirectly diagnose, treat, correct, change, re-  
6 lieve or prevent animal disease, deformity, defect, injury or other  
7 physical or mental conditions, including the prescribing, dispensing,  
8 delivering or administering of any drug, medicine, biologic, apparatus  
9 application, anesthetic or other therapeutic or diagnostic substance  
10 or technique, or the use of any obstetrical procedure or any manual or  
11 mechanical procedure for artificial insemination, for testing or exam-  
12 ining for pregnancy, fertility evaluation, embryo transplant, grading  
13 of fresh semen, or to render advice or recommendation with regard to any  
14 ~~of the above~~ act described in this paragraph.

15 (b) To represent, directly or indirectly, publicly or privately, an  
16 ability and willingness to do any act described in paragraph (a) of this  
17 subsection.

18 (c) To use any title, words, abbreviations or letter in a manner or  
19 under circumstances ~~which~~ that induce the belief that the person using  
20 them is qualified to do any act described in paragraph (a) of this sub-  
21 section, except where such person is a licensed veterinarian.

22 (35) "Professional supervision" means the supervising veterinarian is  
23 in daily contact by telephone, radio or other means with the temporary li-  
24 censee.

25 (36) "Referral" means the transfer of responsibility for diagnosis and  
26 treatment from the referring veterinarian to the receiving veterinarian, or  
27 from the referring veterinarian to the board-certified specialist, or from  
28 the referring veterinarian to an allied health professional.

29 (37) "Regular employee" means a person who performs services for the an-  
30 imal's owner other than, or in addition to, feeding, boarding, castrating  
31 and dehorning, but does not include independent contractors or agents.

32 (38) "Supervision" means the action or process of a supervising veteri-  
33 narian in directing activities or a course of action for those individuals to  
34 whom activities or functions have been assigned or delegated.

35 (39) "Supervising veterinarian" means a licensed veterinarian utiliz-  
36 ing the services of a temporary licensee, certified veterinary technician,  
37 veterinary technician, veterinary technician with a temporary certifica-  
38 tion, veterinary assistant, certified euthanasia technician, or as provided  
39 by rule. A supervising veterinarian shall be individually responsible and  
40 liable, regardless of the supervision provided, for all damages arising out  
41 of his own acts or omissions and for the performance of any acts and omissions  
42 pertaining to the practice of veterinary medicine that are delegated to the  
43 temporary licensee, certified veterinary technician, veterinary techni-  
44 cian, veterinary assistant or certified euthanasia technician. Nothing  
45 herein shall be construed to deprive the board of its disciplinary authority  
46 with respect to the temporary licensees, certified veterinary technicians,  
47 veterinary technicians, veterinary assistants or certified euthanasia  
48 technicians.

49 (40) "Unethical or unprofessional conduct" means to knowingly engage in  
50 conduct of a character likely to deceive or defraud the public, false or mis-

1 leading advertising or solicitation, obtaining any fee or compensation by  
 2 fraud or misrepresentation, sharing office space and working in conjunction  
 3 with any person illegally practicing veterinary medicine, employing either  
 4 indirectly or directly an unlicensed or uncertified person to perform acts  
 5 pertaining to the practice of veterinary medicine, except as provided by law  
 6 or rule, or the violation of any law or rules adopted by the board pertain-  
 7 ing to unethical or unprofessional conduct, or that provide a code of profes-  
 8 sional conduct to be followed and carried out by persons licensed or certi-  
 9 fied by the board.

10 (41) "Unlicensed practice" means:

11 (a) The practice of veterinary medicine in this state, through tele-  
 12 phonic, electronic or other means, regardless of the location of the  
 13 veterinarian, without a valid, unexpired, unrevoked, and unsuspended  
 14 active license or certification in this state to do so, except as pro-  
 15 vided by law or rule; or

16 (b) Representing ~~one's self~~ oneself through offerings, advertisements  
 17 or use of professional titles or designations as being qualified to  
 18 practice veterinary medicine.

19 (42) "Veterinarian" means a person who has received a doctor's degree  
 20 in veterinary medicine from an accredited or approved school of veterinary  
 21 medicine or as otherwise provided by law or rule.

22 (43) "Veterinarian on call" means a veterinarian is not present at the  
 23 veterinary medical facility, but is able to respond within a reasonable time  
 24 to requests for emergency veterinary services.

25 (44) "Veterinarian on premises" means a veterinarian is present at the  
 26 veterinary medical facility and is prepared and qualified to render veteri-  
 27 nary services.

28 (45) "Veterinary medical facility" means any premises, office, unit,  
 29 structure, mobile unit, or area utilized for the practice of veterinary  
 30 medicine other than the premises of an owner when used for treatment of the  
 31 owner's animal.

32 (46) "Veterinary technician" means a person who has graduated from a  
 33 veterinary technology program accredited or approved by the committee on  
 34 veterinary technician education and activities of the American veterinary  
 35 medical association, or other accrediting agency approved by the board, or a  
 36 person who has received equivalent training as set forth in the rules of the  
 37 board.

38 (47) "Veterinary technology" means the performance of services within  
 39 the practice of veterinary medicine by a person working under the direction  
 40 of a supervising veterinarian to perform duties that require an understand-  
 41 ing of veterinary medicine in order to carry out the orders of the veteri-  
 42 narian. Veterinary technology does not include prognosis, diagnosis, oper-  
 43 ative dentistry, deliberate tooth extraction procedures, or the prescribing  
 44 of treatment or performing surgery of any kind.

45 SECTION 26. That Section 54-2508, Idaho Code, be, and the same is hereby  
 46 amended to read as follows:

47 54-2508. LICENSE -- APPLICATION THEREFOR -- TYPE AND NUMBER OF RACES  
 48 -- FEE PER DAY -- REFUND -- CANCELLATION -- HEARING -- SIMULCAST PURSE MONEYS  
 49 FUND. It shall be unlawful for any person to hold any race meet in this state

1 without having first obtained and having in force and effect a license issued  
2 by the commission as in this chapter provided. Every person making appli-  
3 cation for a license to hold a race meet, under the provisions of this chap-  
4 ter, shall file an application with the commission which shall set forth the  
5 time, place and number of days such will continue, an agreement with a horse-  
6 men's group as the term "horsemen's group" is defined in section 54-2502,  
7 Idaho Code, and such other information as the commission may require. The  
8 agreement shall be reached voluntarily or pursuant to binding arbitration  
9 in conformance with chapter 9, title 7, Idaho Code, and shall address, but  
10 not be limited to, number of live race days and percentage of the live race  
11 and simulcast handle that is dedicated to the live horse race purse struc-  
12 ture. In addition, the agreement shall provide that all simulcast purse mon-  
13 eys that are accrued as required by the horsemen's agreement be held in the  
14 simulcast purse moneys fund created pursuant to the provisions of this sec-  
15 tion. Race days agreed upon shall be submitted to the Idaho state racing com-  
16 mission for its approval.

17 No person who has been convicted of any crime ~~involving moral turpitude~~  
18 that is deemed relevant in accordance with section 67-9411(1), Idaho Code,  
19 shall be issued a license of any kind, nor shall any license be issued to any  
20 person who has violated the terms or provisions of this chapter, or any of the  
21 rules of the commission, or who has failed to pay any of the fees, taxes or  
22 moneys required under the provisions of this chapter.

23 All applications to hold race meets shall be submitted to the commis-  
24 sion, which shall act upon such applications within thirty (30) days. The  
25 commission shall be the sole judge of whether or not the race meet shall be  
26 licensed and the number of days the meet shall continue.

27 The license issued shall specify the kind and character of the race  
28 meets to be held, the number of days the race meet shall continue and the  
29 number of races per day. For those licensees or facilities that have had a  
30 total race handle from both live races and simulcast races exceeding five  
31 million dollars (\$5,000,000) during the last calendar year in operation, the  
32 number of races per day shall not be less than eight (8), and the number of  
33 days of racing shall not be less than forty-six (46) unless otherwise agreed  
34 by the licensee and the horsemen's group. Provided however, the number of  
35 days of racing shall not be less than fifteen (15) and the number of days of  
36 racing shall be approved by the Idaho state racing commission. For those li-  
37 censees or facilities that have had a total race handle from both live races  
38 and simulcast races of five million dollars (\$5,000,000) or less during the  
39 last calendar year in operation, the number of races per day shall not be less  
40 than six (6) and the number of days of racing shall not be less than two (2).  
41 The licensee shall pay in advance of the scheduled race meet to the state  
42 treasurer a fee of not less than twenty-five dollars (\$25.00) for each day  
43 of racing, which fees shall be placed in the public school income fund of the  
44 state of Idaho. Provided, that if unforeseen obstacles arise, ~~which that~~  
45 prevent the holding, or completion of any race meet, the license fee held may  
46 be refunded to the licensee, if the commission deems the reason for failure  
47 to hold or complete the race meet sufficient. Any unexpired license held  
48 by any person who violates any of the provisions of this chapter, pursuant  
49 thereto, or who fails to pay to the commission any and all sums required under  
50 the provisions of this chapter, shall be subject to cancellation and revoca-



1 tion by the commission. Such cancellation shall be made only after a summary  
 2 hearing before the commission, of which three (3) days' notice in writing  
 3 shall be given the licensee, specifying the grounds for the proposed cancel-  
 4 lation, and at which hearing the licensee shall be given an opportunity to be  
 5 heard in opposition to the proposed cancellation.

6 The simulcast purse moneys fund is hereby created in the state treasury.  
 7 Moneys in the fund shall consist of all simulcast purse moneys that are ac-  
 8 crued as required by horsemen's agreements. Moneys in the fund are hereby  
 9 perpetually appropriated to the Idaho state racing commission for distri-  
 10 bution pursuant to the provisions of horsemen's agreements and rules of the  
 11 commission. The commission is authorized to promulgate rules providing for  
 12 the receipt, deposit, withdrawal and distribution of such moneys. The state  
 13 treasurer shall invest idle moneys in the fund and any interest received on  
 14 those investments shall be returned to the fund.

15 SECTION 27. That Section 54-2819, Idaho Code, be, and the same is hereby  
 16 amended to read as follows:

17 54-2819. DISCIPLINE. (1) Grounds for discipline. The board shall have  
 18 the power to deny any application for or renewal of a certificate of regis-  
 19 tration or to revoke, suspend or otherwise discipline any registrant or reg-  
 20 istration issued pursuant to this chapter and to limit or restrict the prac-  
 21 tice of any registrant upon a determination by the board that the person:

22 (a) Made, or caused to be made, a false, fraudulent or forged statement,  
 23 document, credentials or representation in procuring or attempting to  
 24 procure a certificate of registration to practice geology; or

25 (b) Practiced geology under a false or assumed name; or

26 (c) Was convicted ~~of~~, found guilty, received a withheld judgment or  
 27 suspended sentence in this or any other state of action constituting a  
 28 felony or of a crime involving moral turpitude that is deemed relevant  
 29 in accordance with section 67-9411(1), Idaho Code; or

30 (d) Violated the provisions of this chapter or rules, standards of con-  
 31 duct and practice, or any ethical codes as may be adopted by the board;  
 32 or

33 (e) Is or has been grossly negligent, incompetent, or reckless in the  
 34 practice of geology; or

35 (f) Has had a license, certificate, or registration to practice as a  
 36 professional geologist suspended or revoked in any jurisdiction. A  
 37 certified copy of the order of suspension or revocation shall be prima  
 38 facie evidence of such suspension or revocation.

39 (2) Proceedings. Every person subject to disciplinary proceedings  
 40 shall be afforded an opportunity for hearing after reasonable notice.

41 (a) All proceedings hereunder shall be in accordance with chapter 52,  
 42 title 67, Idaho Code, and the Idaho rules of administrative procedure of  
 43 the attorney general (IDAPA 04.11.01).

44 (b) Hearings shall be conducted by the board or by persons appointed by  
 45 the board to conduct hearings and receive evidence.

46 (3) Probation. Any order of the board entered under this section may be  
 47 withheld or suspended for a probationary period to be fixed by the board upon  
 48 such terms and conditions as may be appropriate in order to regulate, monitor

1 or supervise the practice of geology by the registrant subject to such order  
2 for the prescribed probationary period.

3 (4) Subsequent review. Any order of the board entered under this sec-  
4 tion may be withdrawn, reversed, modified or amended upon a showing by the  
5 person subject to the order that the grounds for discipline no longer ex-  
6 ist or that he is rehabilitated, qualified and competent to practice profes-  
7 sional geology and that he is not likely to violate the provisions of this  
8 section or rules adopted hereunder in the future.

9 (5) Costs and fees. The board may, pursuant to an order of discipline  
10 or as a condition to withdrawal, reversal, modification or amendment of the  
11 order, require the person to pay all or part of the costs and fees incurred by  
12 the board in proceedings upon which the order was entered.

13 (6) Administrative fines. The board may, pursuant to an order of disci-  
14 pline, require the payment of an administrative fine not to exceed one thou-  
15 sand dollars (\$1,000) for each violation of the provisions of this section or  
16 rules adopted hereunder.

17 SECTION 28. That Section 54-2916A, Idaho Code, be, and the same is  
18 hereby amended to read as follows:

19 54-2916A. QUALIFICATIONS FOR LICENSURE -- SIGN LANGUAGE INTER-  
20 PRETER. To be eligible for licensure as a sign language interpreter, the  
21 applicant shall:

22 (1) File a written application with the board on forms prescribed and  
23 furnished by the board. A nonrefundable application fee shall accompany the  
24 completed written application. Such fees shall be established by the admin-  
25 istrative rules of the board and shall be in such amounts as are reasonable  
26 and necessary for the proper execution and enforcement of this chapter;

27 (2) Provide verification acceptable to the board of the following:

28 (a) Good moral character;

29 (b) Never having had a license or certification revoked or otherwise  
30 sanctioned as part of disciplinary action from this or any other state;

31 (c) Never having been convicted, found guilty or received a withheld  
32 judgment for any ~~felony~~ crime that is deemed relevant in accordance with  
33 section 67-9411(1), Idaho Code; and

34 (d) Never having been found by the board to have engaged in conduct pro-  
35 hibited by this chapter.

36 The board may take into consideration the rehabilitation of the applicant  
37 and other mitigating circumstances when considering applications for licen-  
38 sure.

39 (3) Provide evidence satisfactory to the board of having successfully  
40 passed a nationally recognized competency examination approved by the board  
41 or achieved certification defined by board rule;

42 (4) Provide educational documentation satisfactory to the board that  
43 the applicant has successfully graduated from a four (4) year course at an  
44 accredited high school or the equivalent; and

45 (5) Provide documentation that the applicant has successfully passed  
46 an examination approved by the board.

47 SECTION 29. That Section 54-3112, Idaho Code, be, and the same is hereby  
48 amended to read as follows:

1           54-3112. SUSPENSION AND REVOCATION OF TEMPORARY PERMIT OR CERTIFI-  
2 CATE. The board may refuse to issue, refuse to renew, suspend, revoke, or  
3 otherwise sanction a temporary permit or certified shorthand reporter cer-  
4 tificate for any of the following reasons:

5           (1) Conviction of a ~~felony or a misdemeanor involving moral turpitude~~  
6 crime that is deemed relevant in accordance with section 67-9411(1), Idaho  
7 Code. The record of conviction, or a certified copy thereof, shall be prima  
8 facie evidence of conviction in such cases.

9           (2) Fraud or misrepresentation resorted to in obtaining a certificate  
10 thereunder.

11           (3) Fraud, dishonesty, corruption, willful violation of duty, gross  
12 incompetence in practice or unprofessional conduct in performing services  
13 as a certified shorthand reporter.

14           (4) Persistent failure to perform duties.

15           (5) Any physical or mental disability materially interfering with the  
16 performance of duties.

17           (6) The violation of the provisions of this chapter or rules, or any  
18 ethical codes as may be adopted by the board.

19           SECTION 30. That Section 54-3211, Idaho Code, be, and the same is hereby  
20 amended to read as follows:

21           54-3211. REFUSAL TO ISSUE, REFUSAL TO RENEW, SUSPENSION OR REVOCATION  
22 OF LICENSE -- UNPROFESSIONAL CONDUCT. The board may refuse to issue, refuse  
23 to renew, may suspend, or may revoke any license issued under this chapter,  
24 or take other disciplinary action, upon proof, after a hearing, that the per-  
25 son has engaged in "unprofessional conduct." The words "unprofessional con-  
26 duct" as relating to persons licensed under this chapter are defined to in-  
27 clude but are not limited to:

28           (1) Conviction of a ~~felony, or of any offense involving moral turpitude~~  
29 crime that is deemed relevant in accordance with section 67-9411(1), Idaho  
30 Code.

31           (2) Habitual drunkenness or addiction to habit-forming drugs, either  
32 of which impairs the ability to perform his work without danger to himself or  
33 the public he serves.

34           (3) Fraud or deceit in connection with services rendered as a bachelor  
35 social worker, master social worker or clinical social worker or in estab-  
36 lishing qualifications for licensure under this chapter.

37           (4) Aiding or abetting any person not licensed under this chapter in the  
38 practice of social work in the state of Idaho.

39           (5) Failing to be licensed or continuing to represent himself as li-  
40 censed after the expiration of his license.

41           (6) Being found guilty of unprofessional conduct by the rules estab-  
42 lished by the board.

43           (7) Having had a license or registration to practice social work re-  
44 voked, suspended or otherwise disciplined in any state, territory or county.

45           (8) Failing to comply with a board order entered in a disciplinary ac-  
46 tion.

47           (9) Failing to comply with any of the provisions of this chapter.

1 SECTION 31. That Section 54-3510, Idaho Code, be, and the same is hereby  
2 amended to read as follows:

3 54-3510. GROUNDS FOR DISCIPLINE. The board, in accordance with the  
4 requirements of chapter 52, title 67, Idaho Code, may, upon recommendation  
5 of the licensure board, refuse to issue a license or permit, refuse to renew  
6 a license or permit, or may suspend, restrict or revoke a license or permit,  
7 under such conditions as the board may determine, if the licensee, permittee  
8 or applicant for license:

9 (1) ~~Has been convicted of a felony or crime involving moral turpitude,~~  
10 ~~or has entered a plea of guilty to, or been found guilty of, the commission~~  
11 ~~of a felony or a crime involving moral turpitude that is deemed relevant in~~  
12 accordance with section 67-9411(1), Idaho Code;

13 (2) Obtained a license or permit pursuant to this chapter by means of  
14 fraud, misrepresentation or concealment of material facts;

15 (3) Practiced dietetics under a false or an assumed name in this or any  
16 other state;

17 (4) Knowingly aided or abetted the unlicensed practice of dietetics;

18 (5) Engaged in the practice of dietetics in a manner that does not meet  
19 the generally accepted standards for the practice of dietetics within the  
20 state of Idaho;

21 (6) Divided fees or gifts or agreed to split or divide fees or gifts re-  
22 ceived for professional services with any person, institution or corpora-  
23 tion in exchange for a referral;

24 (7) Failed to maintain the confidentiality of medical records or other  
25 medical information pertaining to identifiable patients, except as required  
26 or authorized by law;

27 (8) Engaged in any conduct that constitutes an abuse or exploitation of  
28 a patient arising out of the trust and confidence placed in the dietitian by  
29 the patient;

30 (9) Failed to supervise the activities of a provisionally licensed di-  
31 etitian;

32 (10) Continued to practice as a dietitian when a license pursuant to  
33 this chapter was suspended, revoked or inactive;

34 (11) Practiced as a dietitian in violation of a voluntary restriction or  
35 terms of probation pursuant to this chapter;

36 (12) Continued to practice as a dietitian when registration by the CDR  
37 or its successor organization was not renewed or was suspended or revoked; or

38 (13) Failed to comply with a board order.

39 SECTION 32. That Section 54-3804, Idaho Code, be, and the same is hereby  
40 amended to read as follows:

41 54-3804. DENIAL, SUSPENSION, OR REVOCATION OF LICENSES -- GROUNDS --  
42 PROBATION. The board may refuse to issue or may refuse to renew or may suspend  
43 or may revoke any license, or may place the holder thereof on a term of proba-  
44 tion, after proper hearing, upon finding that the holder of such license com-  
45 mitted any of the following acts or omissions:

46 (1) Conviction of, being found guilty of, pleading guilty to or receiv-  
47 ing withheld judgment for a crime ~~involving moral turpitude~~ that is deemed  
48 relevant in accordance with section 67-9411(1), Idaho Code.

1           (2) ~~Conviction of, being found guilty of, pleading guilty to or receiving withheld judgment for a felony.~~

2  
3           ~~(3) Unprofessional conduct, which is hereby defined to include:~~

4           (a) Misrepresentation or fraud in the conduct of cemetery services;

5           (b) False or misleading advertising as a holder of a license for the advertising or using the name of an unlicensed person in connection with  
6 that of any cemetery establishment;

7  
8           (c) Employment, directly or indirectly, of any resident trainee, agent, assistant, employee, or other person, on part or full time, or on  
9 commission, for the purpose of calling upon individuals or institutions  
10 by whose influence dead human bodies may be turned over to a particular  
11 cemetery establishment;

12           (d) Gross immorality;

13           (e) Aiding or abetting an unlicensed person to engage in practice as a  
14 cemeterian;

15           (f) Violation of any of the provisions of section 54-1116, Idaho Code;

16           (g) Violation of any state law, or municipal or county ordinance, or  
17 regulation authorized under this act affecting the handling, custody, care,  
18 processing or transportation of dead human bodies;

19           (h) Fraud or misrepresentation in obtaining or renewing a license;

20           (i) Violation of statutes of any state having to do with prearrangement  
21 or prefinancing of cemetery supplies or services.  
22

23           SECTION 33. That Section 54-4013, Idaho Code, be, and the same is hereby  
24 amended to read as follows:

25           54-4013. DISCIPLINARY ACTION. The board may refuse to issue or renew  
26 or otherwise discipline a license holder for any of the following:

27           (1) The employment of fraud, deceit or misrepresentation in obtaining  
28 or attempting to obtain a license or the renewal of a license;

29           (2) Practicing as a massage therapist when physical or mental abilities  
30 are impaired as determined by the board;

31           (3) ~~Conviction of a felony, a crime involving moral turpitude or a crime~~  
32 ~~under any municipal, state or federal narcotic or controlled substance law~~  
33 ~~that is deemed relevant in accordance with section 67-9411(1), Idaho Code,~~  
34 ~~provided that the board has taken into consideration the rehabilitation of~~  
35 ~~the applicant or licensee and other mitigating circumstances;~~

36           (4) Having been adjudged mentally incompetent by a court of competent  
37 jurisdiction;

38           (5) Engaging in any act or practice in violation of any of the provi-  
39 sions of this chapter or any of the rules adopted by the board, or aiding,  
40 abetting or assisting any other person in such a violation;

41           (6) The commission of an act of gross negligence or incompetence;

42           (7) ~~Practice~~ Practicing without a valid license;

43           (8) Engaging in any lewd, indecent, obscene or unlawful behavior with a  
44 client;

45           (9) The employment of fraud, deceit, or misrepresentation when commu-  
46 nicating with the general public, health care professionals or other busi-  
47 ness professionals;

48           (10) Having had a license revoked or suspended, other disciplinary ac-  
49 tion taken or an application for licensure refused, revoked or suspended by

1 the proper authorities of another state, territory or country, or omitting  
 2 such information from any application to the board, or failing to divulge  
 3 such information when requested by the board;

4 (11) A violation of the code of ethics or standards of practice as  
 5 adopted by the board; and

6 (12) Failure to comply with an order issued by the board.

7 SECTION 34. That Section 54-4711, Idaho Code, be, and the same is hereby  
 8 amended to read as follows:

9 54-4711. SUSPENSION AND REVOCATION. To protect the health, safety and  
 10 welfare of the public, the board, in accordance with the requirements of  
 11 chapter 52, title 67, Idaho Code, may refuse to issue or may refuse to renew a  
 12 license, certification or permit, or may suspend or revoke a license, cer-  
 13 tification or permit, under such conditions as the board may require, if the  
 14 applicant or holder of the license, certification or permit has:

15 (1) Been convicted of a ~~felonious act, or crime involving moral turpi-~~  
 16 ~~tude that is deemed relevant in accordance with section 67-9411(1), Idaho~~  
 17 Code;

18 (2) Obtained or attempted to obtain the issuance or renewal of a li-  
 19 cense, certification or permit pursuant to this chapter by means of fraud,  
 20 misrepresentation or concealment of material facts;

21 (3) Engaged in the practice of acupuncture in a manner ~~which that~~ does  
 22 not meet the generally accepted standards for the practice of acupuncture  
 23 within the state of Idaho;

24 (4) Failed to maintain the confidentiality of records or other informa-  
 25 tion pertaining to an identifiable client, except as required or authorized  
 26 by law;

27 (5) Engaged in any conduct that constitutes an abuse or exploitation of  
 28 a client arising out of the trust and confidence placed in the acupuncturist  
 29 by the client;

30 (6) Engaged in conduct that violates the provisions of this chapter,  
 31 the rules of the board or the terms of any permit issued by the board; or

32 (7) Failed to comply with a board order entered in a disciplinary mat-  
 33 ter.

34 SECTION 35. That Section 54-4805, Idaho Code, be, and the same is hereby  
 35 amended to read as follows:

36 54-4805. REGISTRATION AS ATHLETE AGENT -- APPLICATION -- REQUIREMENTS  
 37 -- RECIPROCAL REGISTRATION. (1) An applicant for registration as an athlete  
 38 agent shall submit an application for registration to the bureau in a form  
 39 prescribed by the bureau. The applicant must be an individual, and the ap-  
 40 plication must be signed by the applicant under penalty of perjury. An ap-  
 41 plication filed under this section is a public record. The application must  
 42 contain at least the following:

43 (a) The name and date and place of birth of the applicant and the follow-  
 44 ing contact information for the applicant:

45 (i) The address of the applicant's principal place of business;

46 (ii) Work and mobile telephone numbers; and

- 1 (iii) Any means of communicating electronically, including a fac-  
2 simile number, electronic-mail address and personal and business  
3 or employer websites;
- 4 (b) The name of the applicant's business or employer, if applicable,  
5 including for each business or employer, its mailing address, telephone  
6 number, type of business organization and the nature of the business;
- 7 (c) Each social media account with which the applicant or the appli-  
8 cant's business or employer is affiliated;
- 9 (d) Each business or occupation in which the applicant engaged within  
10 five (5) years before the date of the application, including self-em-  
11 ployment and employment by others, and any professional or occupational  
12 license, registration or certification held by the applicant during  
13 that time;
- 14 (e) A description of the applicant's:  
15 (i) Formal training as an athlete agent;  
16 (ii) Practical experience as an athlete agent; and  
17 (iii) Educational background relating to the applicant's activi-  
18 ties as an athlete agent;
- 19 (f) The name of each student athlete for whom the applicant acted as an  
20 athlete agent within five (5) years before the date of the application  
21 or, if the individual is a minor, the name of the parent or guardian of  
22 the minor, together with the athlete's sport and last known team;
- 23 (g) The name and address of each person that:  
24 (i) Is a partner, member, officer, manager, associate or profit  
25 sharer or directly or indirectly holds an equity interest of five  
26 percent (5%) or greater of the athlete agent's business if it is  
27 not a corporation; and  
28 (ii) Is an officer or director of a corporation employing the ath-  
29 lete agent or a shareholder having an interest of five percent (5%)  
30 or greater in the corporation;
- 31 (h) A description of the status of any application by the applicant, or  
32 any person named under paragraph (g) of this subsection, for a state or  
33 federal business, professional or occupational license, other than as  
34 an athlete agent, from a state or federal agency, including any denial,  
35 refusal to renew, suspension, withdrawal or termination of the license  
36 and any reprimand or censure related to the license;
- 37 (i) Whether the applicant, or any person named under paragraph (g) of  
38 this subsection, has pleaded guilty or no contest to; has been convicted  
39 of; entered an Alford plea for; received a withheld judgment, suspended  
40 sentence or deferred prosecution for; or has charges pending for, a  
41 ~~crime that would involve moral turpitude or be a felony if committed in~~  
42 ~~this state~~ and, if so, identification of:  
43 (i) The crime;  
44 (ii) The law enforcement agency involved; and  
45 (iii) If applicable, the date of the conviction and the fine or  
46 penalty imposed;
- 47 (j) Whether, within fifteen (15) years before the date of application,  
48 the applicant, or any person named under paragraph (g) of this subsec-  
49 tion, has been a defendant or respondent in a civil proceeding, includ-

1 ing a proceeding seeking an adjudication of legal incompetence and, if  
2 so, the date and a full explanation of each proceeding;

3 (k) Whether the applicant, or any person named under paragraph (g) of  
4 this subsection, has an unsatisfied judgment or a judgment of continu-  
5 ing effect, including spousal support or a domestic order in the nature  
6 of child support, that is not current at the date of the application;

7 (l) Whether, within ten (10) years before the date of application, the  
8 applicant, or any person named under paragraph (g) of this subsection,  
9 was adjudicated bankrupt or was an owner of a business that was adjudi-  
10 cated bankrupt;

11 (m) Whether there has been any administrative or judicial determina-  
12 tion that the applicant, or any person named under paragraph (g) of this  
13 subsection, made a false, misleading, deceptive or fraudulent repre-  
14 sentation;

15 (n) Each instance in which conduct of the applicant, or any person named  
16 under paragraph (g) of this subsection, resulted in the imposition of a  
17 sanction, suspension or declaration of ineligibility to participate in  
18 an interscholastic, intercollegiate or professional athletic event on  
19 a student athlete or a sanction on an educational institution;

20 (o) Each sanction, suspension or disciplinary action taken against the  
21 applicant, or any person named under paragraph (g) of this subsection,  
22 arising out of occupational or professional conduct;

23 (p) Whether there has been a denial of an application for, suspension  
24 or revocation of, refusal to renew or abandonment of the registration of  
25 the applicant, or any person named under paragraph (g) of this subsec-  
26 tion, as an athlete agent in any state;

27 (q) Each state in which the applicant currently is registered as an ath-  
28 lete agent or has applied to be registered as an athlete agent;

29 (r) If the applicant is certified or registered by a professional  
30 league or players association:

31 (i) The name of the league or association;

32 (ii) The date of certification or registration and the date of ex-  
33 piration of the certification or registration, if any; and

34 (iii) If applicable, the date of any denial of an application for,  
35 suspension or revocation of, refusal to renew, withdrawal of, or  
36 termination of the certification or registration, or any reprim-  
37 and or censure related to the certification or registration; and

38 (s) Any additional information requested by the bureau.

39 (2) Instead of proceeding under subsection (1) of this section, an in-  
40 dividual registered as an athlete agent in another state may apply for regis-  
41 tration as an athlete agent in this state by submitting to the bureau:

42 (a) A copy of the application for registration in the other state;

43 (b) A statement that identifies any material change in the information  
44 on the application or verifies there is no material change in the infor-  
45 mation, signed under penalty of perjury; and

46 (c) A copy of the certificate of registration from the other state.

47 (3) The bureau shall issue a certificate of registration to an individ-  
48 ual who applies for registration under subsection (2) of this section, if the  
49 bureau determines:



1 (a) The application and registration requirements of the other state  
2 are substantially similar to or more restrictive than this chapter; and

3 (b) The registration has not been revoked or suspended and no action in-  
4 volving the individual's conduct as an athlete agent is pending against  
5 the individual or the individual's registration in any state.

6 (4) For purposes of implementing subsection (3) of this section, the  
7 bureau shall:

8 (a) Cooperate with national organizations concerned with athlete agent  
9 issues, and agencies in other states that register athlete agents, to  
10 develop a common registration form and determine which states have laws  
11 that are substantially similar to or more restrictive than this chap-  
12 ter; and

13 (b) Exchange information, including information related to actions  
14 taken against registered athlete agents or their registrations, with  
15 those organizations and agencies.

16 SECTION 36. That Section 54-4806, Idaho Code, be, and the same is hereby  
17 amended to read as follows:

18 54-4806. CERTIFICATE OF REGISTRATION -- ISSUANCE OR DENIAL -- RE-  
19 NEWAL. (1) Except as otherwise provided in subsection (2) of this section,  
20 the bureau shall issue a certificate of registration to an applicant for  
21 registration who complies with section 54-4805(1), Idaho Code.

22 (2) The bureau may refuse to issue a certificate of registration to an  
23 applicant for registration under section 54-4805(1), Idaho Code, if the bu-  
24 reau determines that the applicant has engaged in conduct that significantly  
25 adversely reflects on the applicant's fitness to act as an athlete agent. In  
26 making the determination, the bureau may consider whether the applicant has:

27 (a) Pled guilty or no contest to; has been convicted of; entered an  
28 Alford plea for; received a withheld judgment, suspended sentence or  
29 deferred prosecution for; or has charges pending for, ~~a crime that would~~  
30 ~~involve moral turpitude or be a felony if committed in this state~~ is  
31 deemed relevant in accordance with section 67-9411(1), Idaho Code;

32 (b) Made a materially false, misleading, deceptive or fraudulent rep-  
33 resentation in the application or as an athlete agent;

34 (c) Engaged in conduct that would disqualify the applicant from serving  
35 in a fiduciary capacity;

36 (d) Engaged in conduct prohibited by section 54-4814, Idaho Code;

37 (e) Had a registration as an athlete agent suspended, revoked or denied  
38 in any state;

39 (f) Been refused renewal of registration as an athlete agent in any  
40 state;

41 (g) Engaged in conduct resulting in imposition of a sanction, suspen-  
42 sion or declaration of ineligibility to participate in an interscholas-  
43 tic, intercollegiate or professional athletic event on a student ath-  
44 lete or a sanction on an educational institution; or

45 (h) Engaged in conduct that adversely reflects on the applicant's cred-  
46 ibility, honesty or integrity.

47 (3) In making a determination under subsection (2) of this section, the  
48 bureau shall consider:

49 (a) How recently the conduct occurred;

1 (b) The nature of the conduct and the context in which it occurred; and

2 (c) Other relevant conduct of the applicant.

3 (4) An athlete agent registered under subsection (1) of this section  
4 may apply to renew the registration by submitting an application for renewal  
5 in a form prescribed by the bureau. The applicant shall sign the application  
6 for renewal under penalty of perjury and include current information on all  
7 matters required in an original application for registration.

8 (5) An athlete agent registered under section 54-4805(3), Idaho Code,  
9 may renew the registration by proceeding under subsection (4) of this sec-  
10 tion or, if the registration in the other state has been renewed, by submit-  
11 ting to the bureau copies of the application for renewal in the other state  
12 and the renewed registration from the other state. The bureau shall renew  
13 the registration if the bureau determines:

14 (a) The registration requirements of the other state are substantially  
15 similar to or more restrictive than this chapter; and

16 (b) The renewed registration has not been suspended or revoked and  
17 no action involving the individual's conduct as an athlete agent is  
18 pending against the individual or the individual's registration in any  
19 state.

20 (6) A certificate of registration or renewal of registration under this  
21 chapter is valid for two (2) years.

22 SECTION 37. That Section 54-5303, Idaho Code, be, and the same is hereby  
23 amended to read as follows:

24 54-5303. DEFINITIONS. (1) "Board" means the liquefied petroleum gas  
25 safety board.

26 (2) "Bureau" means the bureau of occupational licenses.

27 (3) "Department" means the department of self-governing agencies.

28 (4) "Good moral character" means the absence of any behavior that vio-  
29 lates accepted standards of the community including, but not limited to:

30 (a) Conviction or plea of guilty to a ~~felony or other crime involving~~  
31 ~~moral turpitude that is deemed relevant in accordance with section~~  
32 67-9411(1), Idaho Code;

33 (b) Habitual use of drugs or intoxicants to such a degree as to render a  
34 person unfit and unreliable to practice;

35 (c) Revocation or suspension or other restriction of any license or  
36 certificate in any state in the previous five (5) years; and

37 (d) Failure to pay final judgments in any state in the previous seven  
38 (7) years.

39 (5) "License" means a physical document issued by the bureau certifying  
40 that a person or facility has met the appropriate qualifications and has been  
41 granted the authority to practice or operate in Idaho under the provisions of  
42 this chapter.

43 (6) "Liquefied petroleum gas" or "LPG" or "LP-Gas" means any material  
44 that is composed predominantly of or by the mixture of any of the following  
45 hydrocarbons: propane, propylene, butanes, isobutanes and butylenes.

46 (7) "LPG facility" means any facility at a fixed location licensed pur-  
47 suant to this chapter whose activities include selling, filling, refilling,  
48 or commercial handling or commercial storage of LPG.

1 (8) "LPG dealer" means any person licensed pursuant to this chapter who  
2 engages in LPG dealer practice.

3 (9) "LPG dealer practice" means a person engaging in the selling, fill-  
4 ing, refilling, transporting, delivering, or commercial handling of LPG, or  
5 engaging in the installation or maintenance of systems, equipment, pipes or  
6 containers for the use or storage of LPG.

7 (10) "LPG code" means the liquefied petroleum gas code adopted by the  
8 national fire protection association, inc., commonly known as NFPA 58.

9 SECTION 38. That Section 54-5307, Idaho Code, be, and the same is hereby  
10 amended to read as follows:

11 54-5307. QUALIFICATIONS FOR A DEALER'S LICENSE. Except as herein oth-  
12 erwise provided, the following shall be considered minimum requirements for  
13 a dealer's license. All applicants shall:

14 (1) Provide verification acceptable to the board of:

15 (a) Being at least eighteen (18) years of age; and

16 (b) Good moral character; and

17 (c) Never having had a license revoked or otherwise sanctioned as part  
18 of disciplinary action from this or any other state; and

19 (d) Never having been convicted, found guilty, or received a withheld  
20 judgment for any ~~felony~~ crime that is deemed relevant in accordance with  
21 section 67-9411(1), Idaho Code; and

22 (e) Never having been found by the board to have engaged in conduct pro-  
23 hibited by this chapter.

24 The board may take into consideration the rehabilitation of the applicant  
25 and other mitigating circumstances when considering applications for a li-  
26 cense.

27 (2) Provide documentation satisfactory to the board that the appli-  
28 cant has successfully completed a certified educational training program  
29 approved by the board.

30 (3) Provide documentation satisfactory to the board that the applicant  
31 has successfully completed such experience as may be required by the board.

32 (4) Provide documentation that the applicant has successfully passed  
33 an examination approved by the board.

34 (5) Prior to July 1, 2006, the board may deem other education, experi-  
35 ence, or examinations equivalent to the licensing requirements set forth in  
36 this chapter, provided that the board is satisfied, and the applicant pro-  
37 vides documentation acceptable to the board that such applicant has:

38 (a) Documented experience in this state prior to July 1, 2005, in the  
39 LPG industry; and

40 (b) Practiced for not less than five (5) years in the field for which  
41 such applicant is applying for a license; and

42 (c) Applied for a license prior to July 1, 2006.

43 SECTION 39. That Section 54-5408, Idaho Code, be, and the same is hereby  
44 amended to read as follows:

45 54-5408. DISCIPLINE. (1) Grounds for discipline. The board shall have  
46 the power to deny any application for or renewal of a license or to revoke,  
47 suspend or otherwise sanction any such license issued pursuant to this chap-

1 ter and to limit or restrict the practice of any driving instructor or driv-  
2 ing business upon a determination by the board that the person or business:

3 (a) Was convicted, found guilty, received a withheld judgment or sus-  
4 pended sentence in this or any other state, of any action constituting  
5 a felony or of a crime involving moral turpitude that is deemed relevant  
6 in accordance with section 67-9411 (1), Idaho Code;

7 (b) Violated the provisions of this chapter or rules, standards of con-  
8 duct and practice, or any ethical codes as may be adopted by the board;

9 (c) Is or has been negligent or reckless in the practice of driver edu-  
10 cation; or

11 (d) Has had any license, certificate or registration to work as a driv-  
12 ing instructor or operate as a driving business suspended or revoked in  
13 any jurisdiction. A certified copy of the order of suspension or revo-  
14 cation shall be prima facie evidence of such suspension or revocation.

15 (2) Every person or business subject to disciplinary proceedings shall  
16 be afforded an opportunity for hearing.

17 (a) All proceedings hereunder shall be in accordance with chapter 52,  
18 title 67, Idaho Code.

19 (b) Hearings shall be conducted by the board or by persons appointed by  
20 the board to conduct hearings and receive evidence.

21 (3) The board may, pursuant to an order of discipline, require the per-  
22 son or business to pay all or part of the costs and fees incurred by the board  
23 in proceedings upon which the order was entered.

24 (4) The board may, pursuant to an order of discipline, require the per-  
25 son or business to pay an administrative fine not to exceed one thousand dol-  
26 lars (\$1,000) for each violation identified in the order.

27 SECTION 40. That Section 67-5309, Idaho Code, be, and the same is hereby  
28 amended to read as follows:

29 67-5309. RULES OF THE DIVISION OF HUMAN RESOURCES AND THE PERSONNEL  
30 COMMISSION. The administrator of the division of human resources shall have  
31 the power and authority to adopt, amend, or rescind such rules as may be nec-  
32 essary for proper administration of this chapter. Such rules shall include:

33 (a) A rule requiring the administrator, after consulting with each de-  
34 partment, to develop, adopt, and make effective a job classification system  
35 for positions covered by this chapter, based upon an analysis of the duties  
36 and responsibilities of the positions. The job classification shall include  
37 an appropriate title for each class and a description of duties and responsi-  
38 bilities of positions in the classes and the requirements of minimum train-  
39 ing, experience and other qualifications suitable for the performance of du-  
40 ties of the position.

41 (b) A rule describing the relevant labor markets and benchmark job  
42 classifications used in the administrator's salary surveys.

43 (c) A rule requiring that all classes of positions which are common to  
44 the departments concerned shall have the same titles, minimum requirements  
45 and compensation ranges.

46 (d) A rule providing for review by the administrator of the personnel  
47 system including classifications and compensation policies and procedures.

48 (e) A rule that, notwithstanding the procedure for examination and  
49 ranking of eligibles on a register provided in subsection (f) of this sec-

1 tion, an agency may appoint an individual directly into an entrance or  
2 promotional probation if the division of vocational rehabilitation, Idaho  
3 commission for the blind and visually impaired or the industrial commission  
4 certifies, with the concurrence of division of human resources staff, that  
5 the individual: (1) has a disability or handicap as defined under state or  
6 federal law; (2) is qualified to perform the essential functions of a par-  
7 ticular classified position with or without reasonable accommodation; and  
8 (3) lacks competitiveness in the examination process due to the disability  
9 or handicap. The probationary period as provided in subsection (j) of this  
10 section shall be the sole examination for such individuals.

11 (f) A rule requiring fair and impartial selection of appointees to all  
12 positions other than those defined as nonclassified in this chapter, on the  
13 basis of open competitive merit examinations or evaluations. An applica-  
14 tion for an examination will be accepted after the closing date of the exam-  
15 ination from a person who was serving in the armed forces or undergoing ser-  
16 vice-connected hospitalization up to one (1) year following discharge. The  
17 application must be submitted within one hundred twenty (120) days of separa-  
18 tion from the armed forces or hospitalization and prior to the expiration  
19 of the register established as a result of the examination. A disabled veter-  
20 eran may file an application at any time up until a selection has been made  
21 for any position for which the division maintains a register as a source for  
22 future job openings or for which a register is about to be established, pro-  
23 vided he or she has not already been examined twice for the same position and  
24 grade for which application is made, does not have current eligibility on  
25 that register, or is not serving in a competitive position in the same grade  
26 for which application is made. Examinations may be assembled or unassembled  
27 and may include various examining techniques such as rating of training and  
28 experience, written tests, oral interviews, recognition of professional li-  
29 censing, performance tests, investigations and any other measure of ability  
30 to perform the duties of the position. Examinations shall be scored objec-  
31 tively. Five (5) points shall be added to the earned rating of any veteran as  
32 defined in section 65-502, Idaho Code, and the widow or widower of any vet-  
33 eran as defined in section 65-502, Idaho Code, as long as he or she remains  
34 unmarried. Pursuant to section 65-504, Idaho Code, ten (10) points shall  
35 be added to the earned rating of any disabled veteran as defined in section  
36 65-502, Idaho Code, the widow or widower of any disabled veteran as long as he  
37 or she remains unmarried, or the spouse of any eligible disabled veteran who  
38 cannot qualify for any public employment because of a service-connected dis-  
39 ability. Employment registers shall be established in order of final score  
40 except that the names of all five (5) and ten (10) point preference eligi-  
41 bles resulting from any merit system or civil service examination shall be  
42 placed on the register in accordance with their augmented rating. Certifi-  
43 cation of eligibility for appointment to vacancies shall be in accordance  
44 with a formula that limits selection by the hiring department from among the  
45 twenty-five (25) top ranking available eligibles plus the names of all in-  
46 dividuals with scores identical to the twenty-fifth ranking eligible on the  
47 register. A register with at least five (5) eligibles shall be adequate. Se-  
48 lective certification shall be permitted when justified by the hiring de-  
49 partment, under rules to be made by the division defining adequate justifi-  
50 cation based on the duties and requirements of the positions. Such examina-

1 tions need not be held until after the rules have been adopted, the service  
2 classified and a pay plan established, but shall be held not later than one  
3 (1) year after departments commence participation in the personnel system.

4 (g) A rule that, whenever practicable, a vacancy in a classified posi-  
5 tion shall be filled by the promotion of a qualified employee of the agency  
6 in which the vacancy occurs. An interagency promotion shall be made through  
7 competitive examination and all qualified state employees shall have the  
8 opportunity to compete for such promotions. If an employee's name appears  
9 within certifiable range on a current register for a higher class of posi-  
10 tion, he shall be eligible for a transfer and promotion.

11 (h) A rule for development and maintenance of a system of service rat-  
12 ings and the use of such ratings by all departments in connection with pro-  
13 motions, demotions, retentions, separations and reassignments. The rule  
14 shall require that an evaluation of each classified employee shall be made  
15 after each two thousand eighty (2,080) hour period of credited state service  
16 and that a copy of the evaluation shall be filed with the division.

17 (i) A rule prohibiting disqualification of any person from taking an  
18 examination, from appointment to a position, from promotion, or from holding  
19 a position because of race or national origin, color, sex, age, political or  
20 religious opinions or affiliations, and providing for right of appeal.

21 (j) A rule establishing a probation period not to exceed one thousand  
22 forty (1,040) hours of credited state service for all appointments and pro-  
23 motions, except that peace officers as defined in section 19-5101, Idaho  
24 Code, shall be subject to a probation period of two thousand eighty (2,080)  
25 hours of credited state service, and for the appointing authority to pro-  
26 vide the employee and the administrator a performance evaluation indicating  
27 satisfactory or unsatisfactory performance not later than thirty (30) days  
28 after the expiration of the probationary period. The rule shall provide that  
29 if the appointing authority fails to provide a performance evaluation within  
30 thirty (30) days after the expiration of the probationary period, the em-  
31 ployee shall be deemed to have satisfactorily completed the probation unless  
32 the appointing authority receives approval from the administrator to extend  
33 the probationary period for good cause for an additional specified period  
34 not to exceed one thousand forty (1,040) hours of credited state service. If  
35 an employee is performing in an unsatisfactory manner during the entrance  
36 probationary period, the appointing authority shall ask the employee to re-  
37 sign and, if no resignation is submitted, shall terminate the employment of  
38 such employee without the right of grievance or appeal.

39 (k) A rule concerning temporary appointments.

40 (l) A rule governing the employment of consultants and persons retained  
41 under independent contract.

42 (m) A rule for the disciplinary dismissal, demotion, suspension or  
43 other discipline of employees only for cause with reasons given in writing.  
44 Such rule shall provide that any of the following reasons shall be proper  
45 cause for the disciplinary dismissal, demotion or suspension of any employee  
46 in the state classified service:

- 47 1. Failure to perform the duties and carry out the obligations imposed  
48 by the state constitution, state statutes and rules of the employee's  
49 department, or rules of the administrator or the division.

- 1 2. Inefficiency, incompetency, or negligence in the performance of
- 2 duties, or job performance that fails to meet established performance
- 3 standards.
- 4 3. Physical or mental incapability for performing assigned duties.
- 5 4. Refusal to accept a reasonable and proper assignment from an autho-
- 6 rized supervisor.
- 7 5. Insubordination or conduct unbecoming a state employee or conduct
- 8 detrimental to good order and discipline in the employee's department.
- 9 6. Intoxication on duty.
- 10 7. Careless, negligent, or improper use or unlawful conversion of state
- 11 property, equipment or funds.
- 12 8. Use of any influence that violates the principles of the merit system
- 13 in an attempt to secure a promotion or privileges for individual advan-
- 14 tage.
- 15 9. Conviction of official misconduct in office, or conviction of any
- 16 ~~felony, or conviction of any other crime involving moral turpitude~~
- 17 crime that is deemed relevant in accordance with section 67-9411(1),
- 18 Idaho Code.
- 19 10. Acceptance of gifts in exchange for influence or favors given in the
- 20 employee's official capacity.
- 21 11. Habitual pattern of failure to report for duty at the assigned place
- 22 and time.
- 23 12. Habitual improper use of sick leave privileges.
- 24 13. Unauthorized disclosure of confidential information from official
- 25 records.
- 26 14. Absence without leave.
- 27 15. Misstatement or deception in the application for the position.
- 28 16. Failure to obtain or maintain a current license or certificate law-
- 29 fully required as a condition for performing the duties of the job.
- 30 17. Prohibited participation in political activities.
- 31 (n) A rule to establish procedures for maintenance of a record of the
- 32 employment history and appropriate information relating to performance of
- 33 all employees under the personnel system. For the purposes of this rule, the
- 34 state shall be considered one (1) employer.
- 35 (o) Rules to provide for recruitment programs in cooperation with de-
- 36 partment heads and the employment security agency in keeping with current
- 37 employment conditions and labor market trends.
- 38 (p) Rules to establish procedures for examinations as necessary for the
- 39 purpose of maintaining current registers from which to fill employment va-
- 40 cancies.
- 41 (q) Other rules not inconsistent with the foregoing provisions of this
- 42 section as may be necessary and proper for the administration and enforce-
- 43 ment of this chapter.
- 44 (r) A rule concerning "project exempt" appointments.
- 45 (s) Rules relating to leave for state employees from official duties
- 46 including, but not limited to, sick leave, military leave, jury duty, leaves
- 47 of absence without compensation and such other forms of absence from perfor-
- 48 mance of duties in the course of state employment as may be necessary.
- 49 (t) A rule providing up to twenty-five percent (25%) shift differential
- 50 pay based on local market practices.

1 (u) A rule to establish guidelines for awarding employee suggestion  
2 awards set forth in sections 59-1603 and 67-5309D, Idaho Code.

3 (v) A rule to establish the reimbursement of moving expenses for a cur-  
4 rent or newly hired state employee.

5 (w) A rule to allow, at the request of the hiring agency, temporary ser-  
6 vice time to count toward fulfilling entrance probationary requirements as  
7 established in subsection (j) of this section.

8 (x) A rule to allow, at the request of the hiring agency, acting ap-  
9 pointment service time to count toward fulfilling promotional probationary  
10 requirements as established in subsection (j) of this section.