

IN THE SENATE

SENATE BILL NO. 1109

BY JUDICIARY AND RULES COMMITTEE

AN ACT

RELATING TO THE IDAHO UNIFORM BUSINESS ORGANIZATIONS CODE; REPEALING CHAPTER 4, TITLE 30, IDAHO CODE, RELATING TO THE IDAHO REGISTERED AGENTS ACT; REPEALING CHAPTER 13, TITLE 30, IDAHO CODE, RELATING TO PROFESSIONAL SERVICE CORPORATIONS; REPEALING CHAPTER 5, TITLE 53, IDAHO CODE, RELATING TO ASSUMED BUSINESS NAMES; REPEALING CHAPTER 7, TITLE 53, IDAHO CODE, RELATING TO THE UNIFORM UNINCORPORATED NONPROFIT ASSOCIATION ACT; AMENDING SECTION 41-3921, IDAHO CODE, TO REMOVE A PROVISION RELATING TO PROFESSIONAL SERVICE ORGANIZATIONS; AMENDING SECTION 54-1235, IDAHO CODE, TO PROVIDE A CORRECT CODE REFERENCE; AMENDING SECTION 54-1510, IDAHO CODE, TO REVISE TERMINOLOGY AND TO PROVIDE A CORRECT CODE REFERENCE; AMENDING SECTION 54-2113, IDAHO CODE, TO REVISE TERMINOLOGY AND TO PROVIDE A CORRECT CODE REFERENCE; AMENDING SECTION 54-3003, IDAHO CODE, TO PROVIDE A CORRECT CODE REFERENCE; AND PROVIDING AN EFFECTIVE DATE.

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

SECTION 1. That Chapter 4, Title 30, Idaho Code, be, and the same is hereby repealed.

SECTION 2. That Chapter 13, Title 30, Idaho Code, be, and the same is hereby repealed.

SECTION 3. That Chapter 5, Title 53, Idaho Code, be, and the same is hereby repealed.

SECTION 4. That Chapter 7, Title 53, Idaho Code, be, and the same is hereby repealed.

SECTION 5. That Section 41-3921, Idaho Code, be, and the same is hereby amended to read as follows:

41-3921. STATUTORY CONSTRUCTION AND RELATIONSHIP TO OTHER LAWS. (1) Except as stated in this chapter, provisions of title 41, Idaho Code, applicable to disability insurers shall be applicable to the lawful transactions and business of an organization offering a managed care plan for which a certificate of authority is required pursuant to this chapter.

(2) With respect to all managed care organizations, the provision of factually accurate information regarding coverage, rates, locations and hours of service, names of affiliated institutions, and credentials of participating providers by the organization or its personnel to potential members shall not constitute a violation of any law relating to solicitation or advertising by health care professionals.

(3) ~~All managed care organizations and professionals associated with them shall be exempt from the provisions of section 30-1315, Idaho Code, pro-~~

~~hibiting persons from simultaneously being shareholders of more than one (1) professional service organization.~~

~~(4)~~ Any managed care organization which contracts with a health care facility or enters into arrangements with one (1) or more groups of providers organized on a group practice or individual practice basis shall not by virtue of such contracts or arrangements be deemed to have entered into a "conspiracy in restraint of trade".

(54) Except as expressly and specifically stated in this chapter, the provisions of chapter 34, title 41, Idaho Code, are not amended, repealed or otherwise affected by this chapter.

SECTION 6. That Section 54-1235, Idaho Code, be, and the same is hereby amended to read as follows:

54-1235. PRACTICE BY A BUSINESS ENTITY. (1) The practice of or offer to practice professional engineering or professional land surveying, as defined in this chapter, by professional engineers or professional land surveyors, through a business entity, or by a business entity through professional engineers or professional land surveyors, as employees, or officers, is permitted subject to the provisions of this chapter, provided that all personnel of such business entity, who act in its behalf as professional engineers or professional land surveyors in this state are licensed as provided by this chapter, or are persons lawfully practicing under the exemptions enumerated in this chapter, and further provided that said business entity, except utilities regulated by the Idaho public utilities commission, has been issued a certificate of authorization by the board as provided by this chapter. No business entity shall be relieved of responsibility for the conduct or acts of its employees or officers by reason of its compliance with the provisions of this chapter, nor shall any individual practicing professional engineering or professional land surveying as defined in this chapter, be relieved of responsibility for engineering or land surveying services performed by reason of his employment or relationship with such business entity. All final drawings, specifications, plats, reports, or other engineering or land surveying papers or documents involving the practice of professional engineering or professional land surveying as defined in this chapter, which shall have been prepared or approved for the use of or for delivery to any person or for public record within this state shall be dated and bear the signature and seal of the professional engineer or professional land surveyor who prepared or approved them.

(2) A business entity organized pursuant to this section may provide or offer to provide allied professional services as defined in section 30-~~1303~~21-901, Idaho Code, in connection with the providing of engineering or land surveying services, by persons licensed in allied professions acting as employees or officers, provided such persons are duly licensed or otherwise legally authorized to render such allied professional services within this state.

(3) A business entity desiring a certificate of authorization for engineering, for land surveying, or for both, shall file with the board a description of the engineering or land surveying service to be offered or practiced in the state, an application upon a form to be prescribed by the board

1 and the designation required by the following paragraph, accompanied by the
2 application fee.

3 (4) Such business entity shall file with the board a designation of an
4 individual or individuals duly licensed to practice professional engineer-
5 ing or professional land surveying in this state who shall be in responsi-
6 ble charge of the practice of professional engineering or land surveying,
7 as applicable, by said business entity in this state. In the event there
8 shall be a change in the individual or individuals in responsible charge,
9 such changes shall be designated in writing and filed with the board within
10 thirty (30) days after the effective date of such change.

11 If all requirements of this chapter are met, the board shall issue to
12 such business entity a certificate of authorization for professional en-
13 gineering, for land surveying, or for both; provided, however, the board
14 may refuse to issue a certificate if any facts exist which would entitle the
15 board to suspend or revoke an existing certificate.

16 A professional engineer or professional land surveyor who renders oc-
17 casional, part-time or consulting engineering or land surveying services to
18 or for a business entity may not be designated as the person in responsible
19 charge for the professional activities of the business entity.

20 (5) The secretary of state shall not accept for filing from any person
21 any assumed business name which includes within its name any of the words
22 "engineer," "engineering," "land surveyor," "land surveying," or any modi-
23 fication or derivation thereof, unless the board shall have issued a letter
24 indicating that the person has a licensed professional in responsible charge
25 of the professional activities of the sole proprietorship or business en-
26 tity. The board may notify the secretary of state, in writing, that it waives
27 any objection to the name if the person is clearly not governed by chapter
28 12, title 54, Idaho Code. The secretary of state shall not accept for fil-
29 ing the organizational documents of an Idaho business entity, or authorize
30 the transaction of business by any foreign business entity which includes,
31 among objects for which it is established or within its name, any of the words
32 "engineer," "engineering," "land surveyor," "land surveying," or any modi-
33 fication or derivation thereof, unless the board shall have issued for said
34 applicant a certificate of authorization or a letter indicating the eligi-
35 bility of said applicant to receive such certificate. The board may notify
36 the secretary of state, in writing, that it waives any objection to the name
37 or purpose of any business entity if it is clearly not governed by chapter 12,
38 title 54, Idaho Code. The business entity applying shall include such cer-
39 tificate or letter from the board with any filings submitted to the secretary
40 of state.

41 SECTION 7. That Section 54-1510, Idaho Code, be, and the same is hereby
42 amended to read as follows:

43 54-1510. REVOCATION OF LICENSES -- GROUNDS. Every license issued un-
44 der the provisions of this chapter shall be subject to suspension, revoca-
45 tion or other discipline upon any of the following grounds pursuant to the
46 procedures set forth in chapter 52, title 67, Idaho Code. All hearings con-
47 ducted pursuant to this section, whether before the board or a hearing offi-
48 cer, shall be held in Ada county unless otherwise designated by the board.

49 (1) Fraud or deception in procuring license.

(2) Practicing optometry under a false or assumed name or as a representative or agent of any person, firm or corporation other than another licensed optometrist, a physician licensed to practice medicine and surgery under chapter 18, title 54, Idaho Code, or a professional ~~service corporation~~ entity, which has been incorporated under the authority of part 9, chapter 13 21, title 30, Idaho Code, by persons licensed to practice optometry under chapter 15, title 54, Idaho Code, or licensed to practice medicine and surgery under chapter 18, title 54, Idaho Code.

(3) Having been convicted or having received a withheld judgment or suspended sentence in this or any other state of a felony, a crime involving moral turpitude, or any act related to the qualifications, functions or duties of an optometrist.

(4) Gross incompetency.

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

(a) Mental illness;

(b) Physical illness including, but not limited to, physical deterioration which adversely affects cognitive, motor or perceptive skills;

(c) Habitual or excessive use or abuse of drugs defined in law as controlled substances, alcohol, or any other substances which impair ability; or

(d) Having a communicable, contagious or infectious disease which endangers the health of patients.

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

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

(8) Obtaining of any fee or compensation by fraud, deceit or misrepresentation.

(9) Employing, either directly or indirectly, any suspended or unlicensed optometrist to do optometric work.

(10) Advertising the practice of optometry in a false, misleading or deceptive manner.

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

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

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

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

(15) For willfully attempting to violate, directly or indirectly, conspiring to violate, or assisting or participating in or abetting the violation of any of the provisions of this chapter or the rules or code of ethics

1 made, prescribed or promulgated by the state board of optometry pursuant to
2 the authority granted in this chapter.

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

6 (17) Having committed any act which constitutes a felony or has commit-
7 ted any act which constitutes a crime involving moral turpitude.

8 SECTION 8. That Section 54-2113, Idaho Code, be, and the same is hereby
9 amended to read as follows:

10 54-2113. CORPORATE PRACTICE. (1) A veterinary medical practice may
11 be conducted only as a sole proprietorship, as a partnership or as a pro-
12 fessional ~~service corporation~~ entity as defined in part 9, chapter 21,
13 title 30, Idaho Code. No business corporation, other than a professional
14 ~~service corporation~~ entity, shall be organized for the practice of veteri-
15 nary medicine or shall provide veterinary medical services.

16 (2) A not-for-profit corporation may own property in connection with
17 a veterinary medical facility or animal shelter, provided that an actively
18 licensed veterinarian makes all the decisions pertaining to diagnosis, care
19 and treatment of the patients.

20 SECTION 9. That Section 54-3003, Idaho Code, be, and the same is hereby
21 amended to read as follows:

22 54-3003. QUALIFICATIONS -- EXAMINATIONS -- BOARD -- LICENSES -- FEES
23 -- ENDORSEMENT -- EXEMPTIONS -- INDIVIDUALS, PARTNERSHIPS AND CORPORATIONS
24 -- RESTRICTION ON USE OF NAME -- SEAL. (1) Application and practice. In or-
25 der to safeguard human health and property, and to promote the public wel-
26 fare, any person in either public or private capacity practicing or offer-
27 ing to practice landscape architecture, shall be required to submit evidence
28 of qualifications to practice and shall be issued a license under the provi-
29 sions of this chapter.

30 (2) Qualifications. For licensure as a landscape architect, evidence
31 must be submitted to the board that the applicant:

32 (a) Is eighteen (18) years of age or older;

33 (b) Has graduated from a college or school of landscape architecture
34 approved by the board. In lieu of graduation from an approved college or
35 school of landscape architecture, an applicant may present evidence of
36 at least eight (8) years of actual, practical experience in landscape
37 architecture of a grade and character satisfactory to the board, as
38 established by rule, that the applicant is competent to practice land-
39 scape architecture; and

40 (c) Has successfully passed an examination approved by the board.

41 (3) Examinations. The board shall adopt rules covering the subjects
42 and scope of the examinations. Every applicant for license as a landscape
43 architect shall be required, in addition to all other requirements, to es-
44 tablish by written examination his competency to plan, design, specify and
45 supervise the installation and construction of landscape architectural
46 projects. Each written examination may be supplemented by such oral exami-
47 nations as the board may determine.

1 (4) The board.

2 (a) There is hereby created in the department of self-governing agen-
3 cies an Idaho state board of landscape architects. The board shall con-
4 sist of three (3) landscape architects. Members of the board shall be
5 appointed by the governor and must be residents of this state, have the
6 qualifications of landscape architects required by this chapter, and
7 after the initial board is organized be licensed hereunder. The terms
8 of the members of the board shall be for four (4) years. Each member
9 shall hold office until the appointment and qualification of his suc-
10 cessor. Vacancies occurring prior to the expiration of the term shall
11 be filled by appointment in like manner for the unexpired term.

12 (b) The board shall have, in addition to the powers set forth elsewhere
13 in this chapter, the following powers and duties:

14 (i) To authorize, by written agreement, the bureau of occupa-
15 tional licenses to act as agent in its interest, and to make such
16 rules as shall be necessary in the performance of its duties;

17 (ii) To adopt rules of professional responsibility;

18 (iii) To adopt rules requiring the completion of continuing educa-
19 tion by each licensee on an annual basis;

20 (iv) The board, or its duly appointed hearing officer, shall have
21 the power in any disciplinary proceeding against a licensee under
22 this chapter, to administer oaths, take depositions of witnesses
23 within or outside of the state in the manner provided by law in
24 civil cases, and to apply to any district court of this state for
25 a subpoena to require the attendance of such witnesses and the pro-
26 duction of such books, records and papers as the board deems neces-
27 sary in a disciplinary proceeding against a licensee. The fees and
28 mileage of the witnesses shall be the same as that allowed in the
29 district courts in criminal cases, which fees and mileage shall
30 be paid in the same manner as other board expenses. In any case
31 of disobedience to, or neglect of, any subpoena or subpoena duces
32 tecum served upon any person, or refusal of any witness to tes-
33 tify to any matter about which he may lawfully be interrogated, it
34 shall be the duty of any district court in this state on applica-
35 tion by the board to compel compliance with the subpoena by con-
36 ducting proceedings for contempt, as in the case of disobedience
37 of the requirements of a subpoena issued from such court or for re-
38 fusals to testify therein. The licensed person accused in such pro-
39 ceedings shall have the same right of subpoena.

40 (c) The board shall elect, at its first meeting of every calendar year,
41 a chairman from its members. In carrying out the provisions of this
42 chapter, all members of the board shall be compensated as provided by
43 section 59-509(m), Idaho Code. Payment of travel and other expenses
44 shall be made from the occupational licenses fund.

45 (5) Renewal and reinstatement -- Revenue.

46 (a) All licenses issued under the provisions of this chapter shall be
47 subject to annual renewal and shall expire unless renewed in the manner
48 prescribed by the board regarding applications for renewal, continuing
49 education, and fees. License renewal and reinstatement shall be in ac-
50 cordance with section 67-2614, Idaho Code.

1 (b) Amounts. The amount of fees shall be as determined by the board
2 within the following stated limits:

3 (i) The application fee not to exceed one hundred dollars (\$100).

4 (ii) The fee for examination to be established by board rule not to
5 exceed that charged by the council of landscape architectural reg-
6 istration board plus a fifty dollar (\$50.00) processing fee. The
7 board may recover the actual costs associated with an applicant's
8 review of a failed examination.

9 (iii) The fee for an original license and the annual license fee
10 not to exceed two hundred dollars (\$200).

11 (c) Refund. Fees shall be nonrefundable.

12 (d) Deposit. All fees received under the provisions of this chapter
13 shall be deposited in the state treasury to the credit of the occupa-
14 tional licenses fund and all costs and expenses incurred by the board
15 under the provisions of this chapter shall be a charge against and paid
16 from said fund for such purposes, and the funds collected hereunder
17 shall be immediately available for the administration of this chapter,
18 the provisions of any other law notwithstanding. In no instance will
19 the occupational licenses fund be obligated to pay any claims that in
20 aggregate with claims already paid exceed the income to the occupa-
21 tional licenses fund which has been derived by the application of this
22 chapter.

23 (e) Appropriation. The money paid into the occupational licenses fund
24 is continuously appropriated to the board for expenditure in the manner
25 prescribed herein to defray the expenses of the board and in carrying
26 out and enforcing the provisions of this chapter.

27 (6) Endorsement provisions. The board may approve for licensure:

28 (a) An individual with a current council of landscape architecture reg-
29 istration board (CLARB) certification; or

30 (b) With limited examination an applicant who is legally registered or
31 licensed as a landscape architect in any other state or country whose
32 requirements for registration or licensure are at least substantially
33 equivalent to the requirements of this state.

34 (7) Exemptions.

35 (a) None of the provisions of this chapter shall prevent employees of
36 those lawfully practicing as landscape architects from acting under the
37 instruction, control or supervision of their employers.

38 (b) None of the provisions of this chapter shall apply to the business
39 conducted in this state by any land use planner, horticulturist, nurs-
40 eryman, or landscape nurseryman, gardener, landscape gardener, land-
41 scape designer, or landscape contractor, as these terms are generally
42 used, or any other person, including, but not limited to, their right to
43 plan and supervise in connection therewith, except that no such person
44 shall use the designation "landscape architect," "landscape architec-
45 ture," or any description tending to convey the impression that they are
46 a licensed landscape architect unless they are registered as provided
47 in this chapter.

48 (c) This chapter shall not apply to architects, professional engi-
49 neers, geologists, and land surveyors, licensed to practice their
50 respective professions.

(8) This chapter applies to individuals only.

(a) All licenses shall be issued to individuals only but nothing contained in this chapter shall prevent a duly licensed landscape architect from rendering professional services for a corporation, firm, partnership or association.

(b) Partners. Each partner in a partnership of landscape architects shall be licensed to practice landscape architecture or to provide allied professional services as defined in section 30-~~1303~~21-901, Idaho Code. Subject to this requirement, a partnership of landscape architects may use a partnership name if such name consists of:

(i) The names of two (2) or more landscape architects.

(ii) The names of one (1) or more landscape architects and one (1) or more professional engineers or architects.

(c) Any person applying to the official of any county or city for a business license to practice landscape architecture shall at the time of such application exhibit to such official satisfactory evidence that such applicant possesses a current Idaho license. The business license shall not be granted until such evidence is presented, any contrary provision of any special act or general act notwithstanding.

(9) Qualifications for practice -- Seal:

(a) No person shall use the designation "landscape architect" or "landscape architecture" or advertise any title or description tending to convey the impression that the person is a landscape architect, or practicing landscape architecture, unless such person is a licensed landscape architect. Every holder of a license shall display it in the principal office, place of business or place of employment.

(b) Every landscape architect shall have a seal approved by the board, which shall contain the name of the landscape architect and the words "Licensed Landscape Architect, State of Idaho," and such other words or figures as the board may deem necessary and prescribe.

(i) The seal may be a rubber stamp or an electronically applied seal. Whenever the seal is applied, the licensee's written signature and the date shall be adjacent to or across the seal. The seal, signature and date shall be placed on all final reports, drawings and title pages of specifications, design information and calculations. Whenever presented to a client or to the public, such documents that are not final and do not contain a seal, signature and date, shall be clearly marked as "preliminary," "draft," "not for construction" or similar words to distinguish the documents from a finished product.

(ii) The application of the licensee's seal, signature and the date shall constitute certification that the work thereon was prepared by such landscape architect or under the supervision of such landscape architect. Each plan or drawing sheet shall be sealed and signed by the licensee or the licensee's agent responsible for each sheet. The principal landscape architect in charge shall sign and seal the title or first sheet. Copies of electronically produced documents listed in paragraph (b) (i) of this subsection that are distributed for informational use, such as for bidding purposes or working copies, may be issued with the licensee's

1 seal and a notice that the original document is on file with the
2 licensee's signature and date. The words "original signed by:"
3 and "date signed:" shall be placed adjacent to or across the seal
4 of the electronic original. The storage location of the original
5 documents shall also be provided. Only the title page of reports,
6 specifications and like documents need bear the seal and signature
7 of the licensee and the date.

8 (iii) Nothing contained herein shall be construed to permit a
9 landscape architect to practice as a licensed architect, a li-
10 censed professional engineer or a licensed land surveyor as these
11 professions are defined by Idaho Code; provided however, nothing
12 contained herein shall be construed to prevent a landscape archi-
13 tect from practicing landscape architecture.

14 SECTION 10. This act shall be in full force and effect on and after July
15 1, 2015, and upon passage of Senate Bill No. 1025, as enacted by the First
16 Regular Session of the Sixty-third Idaho Legislature.