

TITLE 3
ATTORNEYS AND COUNSELORS AT LAW

CHAPTER 4
BOARD OF COMMISSIONERS OF THE IDAHO STATE BAR

3-401. PURPOSE OF CHAPTER. Recognizing that the practice of the legal profession is a privilege granted by the state and not a natural right of the individual, it is deemed necessary as a matter of business policy and in the interests of the public to provide laws and provisions covering the granting of that privilege and its subsequent use, control and regulation to the end that the public shall be properly protected against unprofessional, improper and unauthorized practice of law and unprofessional conduct of members of the bar.

[(3-401) 1923, ch. 211, sec. 1, p. 343; I.C.A., sec. 3-401.]

3-402. ESTABLISHMENT OF BOARD -- MEMBERS -- TERM OF OFFICE -- ELECTION. In order to more effectively carry out the purposes and intents of this act, there is hereby established in the department of self-governing agencies a board of commissioners of the Idaho State Bar, consisting of five (5) members to hold office for a term of three (3) years each and until their successors are elected and qualify, and to be elected in the manner hereinafter provided. There shall be one (1) member of the board of commissioners from each of the northern, eastern and western divisions of Idaho, and two (2) members of the board of commissioners from the central division. Each commissioner must be a member of the Idaho State Bar residing in or maintaining an office from which he primarily practices law in the state of Idaho, within the division from which he is selected at the time of his election and during his term of office, and shall have appointed an agent for service of process within the state of Idaho.

[(3-402) 1923, ch. 211, sec. 2, p. 343; am. 1925, ch. 89, sec. 1, p. 124; I.C.A., sec. 3-402; am. 1974, ch. 13, sec. 15, p. 138; am. 1974, ch. 42, sec. 1, p. 1079; am. 1985, ch. 189, sec. 2, p. 488.]

3-403. TIME AND MANNER OF ELECTION. The board of commissioners shall be elected by the members of the Idaho State Bar who are eligible to vote in the election and who shall vote by ballot. The candidate from any division receiving the greatest number of votes of that division shall thereby be elected commissioner from such division. Only residents of or members of the Idaho State Bar maintaining an office in a division may vote for candidates for commissioner of that division. The ballots shall be deposited in person or by mail with the executive director of the board, or such other officer as it may designate. There shall be an annual election by the members of the Idaho State Bar eligible to vote for the purpose of electing successors to the commissioners whose terms expire. A commissioner shall be elected during 1974 and every third year thereafter from each of the northern and central divisions; during 1975 and every third year thereafter from each [of] the western and central divisions; and during 1976 and every third year thereafter from the eastern division. The board shall fix the time for holding the annual election and prescribe rules and regulations in regard thereto not in conflict with the provisions of this act. The board shall, in accordance with its rules, give at least sixty (60) days' notice by mail of

the time for holding the election each year. In the event a vacancy shall occur on said board otherwise than by expiration of the term of a commissioner, such vacancy shall be filled by appointment by the remaining members of said board. Such vacancy shall be so filled from the members of the bar residing, or maintaining an office from which they primarily practice law in the state of Idaho in the division where such vacancy occurs and who have appointed an agent for service of process within the state.

[(3-403) 1923, ch. 211, sec. 3, p. 343; am. 1925, ch. 89, sec. 2, p. 124; I.C.A., sec. 3-403; am. 1935, ch. 8, sec. 1, p. 60; am. 1974, ch. 42, sec. 2, p. 1079; am. 1985, ch. 189, sec. 3, p. 488.]

3-404. DIVISIONS OF IDAHO STATE BAR. For the purposes of this act, the northern division of the Idaho State Bar will consist of Boundary, Bonner, Kootenai, Benewah, Shoshone, Latah, Nez Perce, Lewis, Clearwater and Idaho counties and all counties hereafter created therefrom. The western division shall consist of Payette, Gem, Washington, Canyon, Owyhee, Twin Falls, Jerome, Lincoln, Gooding, Camas, Blaine, Cassia, Adams and Minidoka counties, and all counties hereafter created therefrom. The central division shall consist of Ada, Boise, Elmore and Valley counties and all counties hereafter created therefrom. The eastern division shall consist of Lemhi, Custer, Butte, Clark, Fremont, Jefferson, Madison, Teton, Bonneville, Bingham, Bannock, Caribou, Power, Oneida, Franklin and Bear Lake counties, and all counties hereafter created therefrom.

[(3-404) 1923, ch. 211, sec. 4, p. 343; am. 1925, ch. 89, sec. 3, p. 124; am. 1929, ch. 98, sec. 1, p. 159; I.C.A., sec. 3-404; am. 1974, ch. 42, sec. 3, p. 1079.]

3-405. MEMBER OF THE IDAHO STATE BAR DEFINED. All persons who have been heretofore, or shall hereafter be, duly admitted to practice law before the supreme court of this state, and who have not been disbarred or suspended therefrom, and who shall have paid the license fee in this chapter provided for, and all attorney magistrates, judges of the district court and court of appeals, and supreme court justices of this state, and of the district court of the United States for Idaho, are hereby declared to be members of the Idaho state bar.

[(3-405) 1923, ch. 211, sec. 4A, as added by 1925, ch. 89, sec. 8, p. 124; I.C.A., sec. 3-405; am. 2010, ch. 27, sec. 1, p. 47.]

3-406. NOMINATIONS TO OFFICE OF COMMISSIONER. Nomination to the office of commissioner shall be by the written petition of not less than five (5) or more than ten (10) members of the Idaho State Bar in good standing. Any number of candidates may be nominated on a single petition. Such nominating petition shall be mailed to the executive director within a period to be fixed by the rules made by the board of commissioners. Attorneys residing, or maintaining an office from which they primarily practice law in the state of Idaho and who have appointed an agent for service of process within the state of Idaho, in one division shall alone have the right to nominate persons for the office of commissioner from that division.

[(3-406) 1923, ch. 211, sec. 7, p. 343; 1925, ch. 89, sec. 4, p. 124; I.C.A., sec. 3-407; am. 1963, ch. 33, sec. 1, p. 176; am. 1985, ch. 189, sec. 4, p. 489.]

3-407. ORGANIZATION OF THE BOARD. On the fourth Tuesday following the certification of their names the first commissioners shall meet at the office of the clerk of the Supreme Court and organize by the election of the following officers of the Idaho State Bar and its board of commissioners, namely: a president, a vice-president and a secretary. The commissioners first elected shall hold office for one (1), two (2) and three (3) years respectively and at the first meeting their terms shall be determined by lot. Their successors shall hold office for three (3) years and until the appointment of successors. After each appointment the board shall again select officers. The secretary and such other assistants as the board may require may be selected either from within or without the board, and shall be paid such compensation as the board shall determine.

[(3-407) 1923, ch. 211, sec. 7, p. 343; 1925, ch. 89, sec. 4, p. 124; I.C.A., sec. 3-407.]

3-408. ADMISSION TO PRACTICE AND DISBARMENT PROCEEDINGS -- RULES AND BYLAWS -- POWER OF BOARD TO ADOPT -- SUPERVISORY POWER OF SUPREME COURT. The board of commissioners shall have power to determine, by rules, subject to the approval of the supreme court, the qualifications and requirements for admission to the practice of the law and to conduct investigation and examination of applicants, and it shall from time to time certify to the supreme court the names of those applicants found to be qualified. The investigation shall include a fingerprint-based criminal history check of the Idaho central criminal history database and the federal bureau of investigation criminal history database. Each person listed as an applicant on an initial application shall submit a full set of fingerprints with the application. The approval by the supreme court of the applicants whose names are so certified, shall entitle them to enrollment, as members of the bar of this state, and to practice law upon their paying the required fees and taking the oath. The board shall formulate rules governing the conduct of all persons admitted to practice and shall investigate and pass upon all complaints that may be made concerning the professional conduct of any person admitted to the practice of the law. In all cases in which the investigation, in the opinion of a majority of the board, justifies such a course, it shall recommend to the supreme court such disciplinary action by public or private reprimand, suspension from the practice of the law, or exclusion and disbarment therefrom, as the case shall in its judgment warrant. Upon the making of any recommendation by the board reprimanding, suspending or excluding or disbarring any member of the Idaho state bar from the practice of the law, the board shall cause the record of proceedings in said matter or a copy thereof certified by its secretary or president to be filed with the clerk of the supreme court. The supreme court shall thereupon enter such judgment in said matter as it deems proper. The board of commissioners shall also have power to make rules and bylaws, subject to the approval of the supreme court, not in conflict with any of the terms of this act concerning the selection and tenure of its officers and committees and their powers and duties, and generally for the control and regulation of the business of the board and of the Idaho state bar.

The board of commissioners shall also have power after proceedings as in other cases of discipline to recommend to the supreme court the discipline of its officers and the members of its committees in the event of refusal, neglect, failure or corrupt or wrongful performance of their respective duties.

[(3-408) 1923, ch. 211, sec. 8, p. 343; am. 1929, ch. 98, sec. 2, p. 159; I.C.A., sec. 3-408; am. 2002, ch. 297, sec. 1, p. 852.]

3-409. LICENSE FEES AND APPROPRIATIONS. (1) Every person practicing, or holding himself out as practicing law within this state, or holding himself out to the public as a person qualified to practice or carry on the calling of a lawyer within this state, except state and United States judges of the courts of record within this state, shall, prior to so doing and no later than February 1 of each year pay to the board of commissioners of the Idaho state bar a license fee as provided in this section.

(2) For the year 2011, license fees shall be in the following amounts:

(a) Active members and house counsel:

(i) For the calendar year of admission to the practice of law in the state of Idaho if admitted prior to July 1: one hundred fifty-five dollars (\$155);

(ii) For the calendar year of admission to the practice of law in the state of Idaho if admitted after July 1: one hundred dollars (\$100);

(iii) Each year for the next three (3) calendar years following the calendar year of admission: two hundred eighty-five dollars (\$285);

(iv) Each year after the third full year of admission: three hundred eighty dollars (\$380);

(v) Each year following the calendar year of the lawyer's seventy-second birthday: sixty dollars (\$60.00).

(b) Affiliate and emeritus members:

(i) For each calendar year: one hundred thirty-five dollars (\$135);

(ii) Each year following the calendar year of the lawyer's seventy-second birthday: sixty dollars (\$60.00).

(3) For the year 2012 and each year thereafter, license fees shall be in the following amounts:

(a) Active members and house counsel:

(i) For the calendar year of admission to the practice of law in the state of Idaho if admitted prior to July 1: one hundred seventy-five dollars (\$175);

(ii) For the calendar year of admission to the practice of law in the state of Idaho if admitted after July 1: one hundred fifteen dollars (\$115);

(iii) Each year for the next three (3) calendar years following the calendar year of admission: three hundred twenty dollars (\$320);

(iv) Each year after the third full year of admission: four hundred twenty-five dollars (\$425);

(v) Each year following the calendar year of the lawyer's seventy-second birthday: seventy dollars (\$70.00).

(b) Inactive and emeritus members:

(i) For each calendar year: one hundred fifty dollars (\$150);

(ii) Each year following the calendar year of the lawyer's seventy-second birthday: seventy dollars (\$70.00).

(c) Senior members: for each calendar year, seventy dollars (\$70.00).

(4) The moneys thus collected, together with other revenues shall be administered under the direction of the board of commissioners of the Idaho state bar for the purpose of administering the Idaho state bar, encouraging local bar associations, promoting legal education seminars, fostering relations between the public and the bar and for the purpose of establishing and maintaining a clients' assistance fund which shall be administered by the Idaho state bar commissioners under rules approved by the supreme court, provided that the clients' assistance fund shall be funded by assessment of the members of the Idaho state bar not to exceed twenty dollars (\$20.00) per member per year, independent of the license fee. All moneys received and expended by the commissioners of the Idaho state bar shall be audited annually by a certified public accountant.

[(3-409) added 1923, ch. 211, sec. 9, p. 346; am. 1925, ch. 90, sec. 1, p. 128; I.C.A., sec. 3-409; am. 1939, ch. 48, sec. 1, p. 89; am. 1945, ch. 50, sec. 1, p. 65; am. 1951, ch. 59, sec. 1, p. 87; am. 1955, ch. 48, p. 65; am. 1963, ch. 47, sec. 1, p. 198; am. 1969, ch. 245, sec. 1, p. 770; am. 1970, ch. 117, sec. 1, p. 279; am. 1975, ch. 257, sec. 1, p. 702; am. 1976, ch. 143, sec. 1, p. 528; am. 1981, ch. 232, sec. 1, p. 471; am. 1985, ch. 190, sec. 1, p. 490; am. 1989, ch. 78, sec. 1, p. 140; am. 1998, ch. 66, sec. 1, p. 259; am. 2002, ch. 138, sec. 1, p. 390; am. 2003, ch. 118, sec. 1, p. 361; am. 2010, ch. 40, sec. 1, p. 70; am. 2012, ch. 81, sec. 1, p. 232.]

3-410. RECEIPTS AND LICENSE -- ISSUANCE. The secretary of the board shall issue a receipt to each person paying said license fee and shall, if such person shall have theretofore been admitted to practice law in this state by the Supreme Court and not disbarred or then under suspension, thereupon issue to such person a license in such form as the board shall prescribe, for the year for which license fees were paid.

[(3-410) 1923, ch. 211, sec. 9A, as added by 1925, ch. 90, sec. 2, p. 128; I.C.A., sec. 3-410; am. 1970, ch. 117, sec. 2, p. 279.]

3-411. DISBURSEMENTS -- POWER OF BOARD -- COMPENSATION AND EXPENSES. For the purpose of carrying out the objects of this chapter, and in the exercise of the powers therein granted and duties hereby imposed, the board shall have power to make orders concerning disbursements; no member of the board shall receive any compensation for his services as such member but members of the board, and persons acting under the direction of said board shall be paid their actual necessary expenses, approved by said board, connected with the performance of the objects, powers or duties provided by this chapter. This act is expressly exempted from the provisions of sections [67-2007](#) and [67-2008](#) Idaho Code (Standard Travel Pay and Allowance Act of 1949).

[(3-411) 1923, ch. 211, sec. 10, p. 343; I.C.A., sec. 3-411; am. 1939, ch. 48, sec. 2, p. 89; am. 1951, ch. 59, sec. 2, p. 87; am. 1970, ch. 117, sec. 3, p. 279.]

3-412. DISCIPLINARY PROCEDURE -- ADOPTION OF RULES -- SUPERVISORY POWER OF SUPREME COURT. The board of commissioners shall establish rules, subject to the approval of the Supreme Court, governing procedure in cases and investigations involving alleged misconduct of members of the Idaho State Bar, and to make and create committees for the purpose of investigating complaints and charges, which committees may be empowered to recommend to the board discipline, including reprimand, suspension or disbarment from the practice of law, in the same manner as the board itself, and the board shall thereafter consider the action of the committee and make its recommendation to the Supreme Court. The board or any such committee may designate any officer authorized by law to take depositions, to take testimony under oath in any such proceedings or investigations.

[(3-412) 1923, ch. 211, sec. 11, p. 343; am. 1929, ch. 98, sec. 3, p. 159; I.C.A., sec. 3-412.]

3-413. APPROVAL OF RULES BY SUPREME COURT REQUIRED. The rules and regulations made by the board shall, before becoming effective, be submitted to and approved by the Supreme Court of the state of Idaho.

[(3-413) 1923, ch. 211, sec. 12, p. 343; am. 1925, ch. 89, sec. 7, p. 124; I.C.A., sec. 3-413.]

3-414. POWER OF SUBPOENA. In the investigation of charges of professional misconduct the board, and any committee appointed by it for this purpose, shall have the power to summon and examine witnesses under oath and compel their attendance and the production of books, papers, documents and other writings necessary or material to the inquiry. Such summons or subpoena shall be issued under the hand of the secretary of the board, or any member of the board, or any member of a committee appointed by the board to conduct such investigation or hearing, and shall have the force and effect of a subpoena issued by a court of competent jurisdiction, and any witness or other person who shall refuse or neglect to appear in obedience thereto or who shall refuse to be sworn or testify or produce books, papers, documents or other writings demanded, shall be liable to attachment upon application to the Supreme Court of the state or to any judge of any court of record for the district where the investigation is conducted, as in cases of contempt.

[(3-414) 1923, ch. 211, sec. 13, p. 343; I.C.A., sec. 3-414.]

3-415. RIGHTS OF ACCUSED MEMBER. Any member of the Idaho State Bar complained of shall have notice and opportunity to defend by the introduction of evidence and the examination of witnesses called against him, and the right to be represented by counsel. He shall also have the right to summon witnesses to appear and testify or produce books, papers, documents or other writings necessary or material to his defense in like manner as provided in section [3-414](#). In case of suspension or disbarment from practice the accused shall have the right to have the order of the board reviewed by the Supreme Court.

[(3-415) 1923, ch. 211, sec. 14, p. 343; I.C.A., sec. 3-415.]

3-416. RECORD OF PROCEEDINGS. A complete record of the proceedings and evidence taken by the board, committee or commissioner shall be made and preserved by the board.

[(3-416) 1923, ch. 211, sec. 15, p. 343; I.C.A., sec. 3-416.]

3-417. ANNUAL MEETING OF THE BAR -- ELECTION -- SPECIAL MEETINGS -- NOTICE OF MEETINGS. There shall be an annual meeting of the Idaho State Bar presided over by the president of the board, and open to all members of the Idaho State Bar in good standing, and held at such time and place as the board of commissioners may designate, for the discussion of the affairs of the bar and the administration of justice. At noon on the first day of such meeting, the annual election shall close and the ballots be canvassed and the result announced. The commissioners thereby appointed shall take office immediately. Special meetings of the Idaho State Bar may be held at such times and places as the board of commissioners may designate. Notice of all meetings shall be given by mail to all members of the Idaho State Bar not less than fifteen days prior to the date of said meeting.

[(3-417) 1923, ch. 211, sec. 16, p. 343; am. 1925, ch. 89, sec. 5, p. 124; I.C.A., sec. 3-417; am. 1935, ch. 27, sec. 1, p. 43.]

3-418. ADMINISTRATION OF JUSTICE -- INVESTIGATIONS, STUDY AND RECOMMENDATIONS OF BOARD. The governor, Supreme Court, or the legislature of the state of Idaho, may request of the board an investigation and study of and recommendations upon any matter relating to the courts of this state, practice and procedure therein, practice of the law, and the administration of justice in Idaho, and thereupon it shall be the duty of said board to cause such investigation and study to be made, reported to an annual meeting of the Idaho State Bar, and, after the action of said meeting thereon, to report the same to the officer or body making the request. The board may, without such request, cause an investigation and study upon the same subject-matters, and after a report thereon to an annual meeting of the Idaho State Bar, report the same and the action of said meeting thereon to the governor, Supreme Court, or the legislature of the state of Idaho.

[(3-418) 1923, ch. 211, sec. 16A, as added by 1929, ch. 98, sec. 4, p. 159; I.C.A., sec. 3-418.]

3-419. ADVANCEMENT OF JURISPRUDENCE -- IMPROVEMENT OF ADMINISTRATION OF JUSTICE. The Idaho State Bar and its board of commissioners shall have the power and authority to aid in the advancement of the science of jurisprudence and in the improvement of the administration of justice.

[(3-419) 1923, ch. 211, sec. 16B, as added by 1929, ch. 98, sec. 5, p. 159; I.C.A., sec. 3-419.]

3-420. UNLAWFUL PRACTICE OF LAW -- PENALTY. If any person shall, without having become duly admitted and licensed to practice law within this state or whose right or license to practice therein shall have terminated either by disbarment, suspension, failure to pay his license or otherwise, practice or assume to act or hold himself out to the public as a person qualified to practice or carry on the calling of a lawyer within this state, he shall be guilty of an offense under this act, and on conviction thereof

be fined not to exceed five hundred dollars (\$500), or be imprisoned for a period of not to exceed six (6) months, or both, and if he shall have been admitted to practice law he shall in addition be subject to suspension under the proceedings provided by this act.

[(3-420) 1923, ch. 211, sec. 17, p. 343; am. 1925, ch. 89, sec. 6, p. 124; I.C.A., sec. 3-420.]