

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 613

BY BUSINESS COMMITTEE

AN ACT

1 RELATING TO THE OCCUPATIONAL LICENSING PROTECTION ACT; AMENDING TITLE 67,  
2 IDAHO CODE, BY THE ADDITION OF A NEW CHAPTER 97, TITLE 67, IDAHO CODE,  
3 TO PROVIDE A SHORT TITLE, TO DEFINE TERMS, TO PROVIDE FOR CERTAIN LI-  
4 CENSING PROTECTION, AND TO PROVIDE THAT VACCINATION RECORDS SHALL NOT  
5 BE USED FOR OCCUPATIONAL LICENSING PURPOSES; PROVIDING SEVERABILITY;  
6 AND DECLARING AN EMERGENCY.  
7

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

9 SECTION 1. That Title 67, Idaho Code, be, and the same is hereby amended  
10 by the addition thereto of a NEW CHAPTER, to be known and designated as Chap-  
11 ter 97, Title 67, Idaho Code, and to read as follows:

12 CHAPTER 97  
13 OCCUPATIONAL LICENSING PROTECTION ACT

14 67-9701. SHORT TITLE. This chapter shall be known and may be cited as  
15 the "Occupational Licensing Protection Act."

16 67-9702. DEFINITIONS. As used in this chapter:

17 (1) "Advanced practice registered nurse" means a clinical nurse spe-  
18 cialist or a certified nurse practitioner with prescriptive authority pur-  
19 suant to chapter 14, title 54, Idaho Code.

20 (2) "Care facility" means a hospital, nursing facility, or residential  
21 care or assisted living facility.

22 (3) "Coronavirus" means:

23 (a) Severe acute respiratory syndrome coronavirus 2;

24 (b) The disease caused by severe acute respiratory syndrome coron-  
25 avirus 2; or

26 (c) Any subsequently identified mutation, modification, or strain of  
27 coronavirus if the transmission of said virus among humans rises to the  
28 level of an epidemic or pandemic and qualifies for an emergency declara-  
29 tion under applicable Idaho law.

30 (4) "Hospital" shall have the meaning provided for in section 39-1301,  
31 Idaho Code.

32 (5) "Licensing authority" means any agency, bureau, commission, de-  
33 partment, division, or professional or occupational licensing board charged  
34 with granting, suspending, or revoking the license, certificate, registra-  
35 tion, permit, or other authorization of any person to practice a profession  
36 or occupation, including but not limited to the professional and occupa-  
37 tional licensing boards within the department of self-governing agencies.

38 (6) "Nursing facility" shall have the meaning provided for in section  
39 39-1301, Idaho Code.

1 (7) "Pharmacist" means an individual licensed pursuant to chapter 17,  
2 title 54, Idaho Code, to engage in the practice of pharmacy or a pharmacist  
3 registered by this state who is located in another state, territory, or the  
4 District of Columbia and engaged in the practice of pharmacy into Idaho, un-  
5 less exempted.

6 (8) "Physician" means any person who holds a license to practice  
7 medicine and surgery, osteopathic medicine and surgery, or osteopathic  
8 medicine pursuant to chapter 18, title 54, Idaho Code.

9 (9) "Physician assistant" means any person licensed by the Idaho board  
10 of medicine to render patient services under the direction of a supervising  
11 and alternate supervising physician pursuant to chapter 18, title 54, Idaho  
12 Code.

13 (10) "Residential care or assisted living facility" shall have the  
14 meaning provided for in section 39-3302, Idaho Code.

15 67-9703. LICENSING PROTECTION. (1) A licensing authority shall not  
16 revoke, fail to renew, suspend, or take an action against a physician's,  
17 physician assistant's, or advanced practice registered nurse's license  
18 based solely on the physician's, physician assistant's, or advanced prac-  
19 tice registered nurse's recommendation to a patient regarding treatment  
20 for coronavirus, including the prescribing of a drug that the United States  
21 food and drug administration (FDA) has not approved to treat coronavirus, as  
22 long as the physician, physician assistant, or advanced practice registered  
23 nurse exercised independent medical judgment and believes that the medical  
24 treatment is in the best interest of the patient and the patient provides  
25 written, informed consent.

26 (2) A pharmacist shall not block or attempt to block a patient's access  
27 to a drug prescribed by a physician, physician assistant, or advanced prac-  
28 tice registered nurse on the basis that the FDA has not approved such drug  
29 to treat coronavirus. However, a pharmacist may elect not to fill a pre-  
30 scription described under this section if another pharmacist is available  
31 and willing to do so without delay to the patient.

32 (3) A licensing authority shall not revoke, fail to renew, suspend, or  
33 take an action against a pharmacist's license based solely on the pharma-  
34 cist's dispensing of a drug prescribed by a physician, physician assistant,  
35 or advanced practice registered nurse that the FDA has not approved to treat  
36 coronavirus.

37 (4) Notwithstanding any provision of law or rule to the contrary, if a  
38 patient has requested and is prescribed a drug to treat coronavirus by a per-  
39 son with valid prescriptive authority in Idaho and the FDA has not approved  
40 such drug for the treatment of coronavirus, a care facility shall allow such  
41 prescription.

42 67-9704. VACCINATION RECORDS -- OCCUPATIONAL LICENSING PURPOSES. (1)  
43 A licensing authority shall not deny an applicant a license on the basis of  
44 whether the applicant has or has not received a specific vaccination, or  
45 a series of vaccinations, as shown in the applicant's vaccination history  
46 record. A licensing authority shall not require the submission of docu-  
47 ments containing medical information for the sole purpose of ascertaining  
48 an applicant's vaccination history record as part of an application process

1 for licensure. A licensing authority shall not use any documents provided  
2 or information gathered tending to show a vaccination history record as the  
3 basis to deny the applicant a license.

4 (2) A licensing authority shall not suspend, revoke, decline to renew,  
5 decline to reinstate, or take any disciplinary action against a licensee on  
6 the basis of whether the licensee has or has not received a specific vacci-  
7 nation, or a series of vaccinations, as shown in the licensee's vaccination  
8 history record.

9 (3) A licensing authority shall not suspend, revoke, decline to renew,  
10 decline to reinstate, or take any disciplinary action against a licensee on  
11 the basis of any adverse employment action taken against such licensee due to  
12 the licensee's vaccination history record or refusal of any vaccination.

13 (4) A person who is denied the issuance, reinstatement, or renewal of a  
14 license or who is disciplined by a licensing authority in violation of this  
15 section may bring a civil action in district court against the licensing au-  
16 thority to obtain any of the following remedies:

17 (a) Injunctive relief;

18 (b) Issuance, renewal, or reinstatement of licensure; and

19 (c) Any other relief deemed appropriate.

20 SECTION 2. SEVERABILITY. The provisions of this act are hereby declared  
21 to be severable, and if any provision of this act or the application of such  
22 provision to any person or circumstance is declared invalid for any reason,  
23 such declaration shall not affect the validity of the remaining portions of  
24 this act.

25 SECTION 3. An emergency existing therefor, which emergency is hereby  
26 declared to exist, this act shall be in full force and effect on and after its  
27 passage and approval.