

IN THE SENATE

SENATE BILL NO. 1098

BY HEALTH AND WELFARE COMMITTEE

AN ACT

1 RELATING TO NURSES; AMENDING SECTION 54-1413, IDAHO CODE, TO REVISE PROVI-
2 SIONS RELATING TO THE AUTHORITY OF THE BOARD OF NURSING TO REPORT INVES-
3 TIGATIVE INFORMATION AND TO PROVIDE PROVISIONS RELATING TO THE AUTHOR-
4 ITY OF THE EXECUTIVE DIRECTOR OF THE BOARD OF NURSING TO COOPERATE WITH
5 REGULATORY AND LAW ENFORCEMENT AGENCIES.
6

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

8 SECTION 1. That Section 54-1413, Idaho Code, be, and the same is hereby
9 amended to read as follows:

10 54-1413. DISCIPLINARY ACTION. (1) Grounds for discipline. The board
11 shall have the power to refuse to issue, renew or reinstate a license is-
12 sued pursuant to this chapter, and may revoke, suspend, place on probation,
13 reprimand, limit, restrict, condition or take other disciplinary action
14 against the licensee as it deems proper, including assessment of the costs
15 of investigation and discipline against the licensee, upon a determination
16 by the board that the licensee engaged in conduct constituting any one (1) of
17 the following grounds:

18 (a) Made, or caused to be made, a false, fraudulent or forged state-
19 ment or representation in procuring or attempting to procure a license
20 to practice nursing;

21 (b) Practiced nursing under a false or assumed name;

22 (c) Is convicted of a felony or of any offense involving moral turpi-
23 tude;

24 (d) Is or has been grossly negligent or reckless in performing nursing
25 functions;

26 (e) Habitually uses alcoholic beverages or drugs as defined by rule;

27 (f) Is physically or mentally unfit to practice nursing;

28 (g) Violates the provisions of this chapter or rules and standards of
29 conduct and practice as may be adopted by the board;

30 (h) Otherwise engages in conduct of a character likely to deceive,
31 defraud or endanger patients or the public, which includes, but is not
32 limited to, failing or refusing to report criminal conduct or other con-
33 duct by a licensee that endangers patients;

34 (i) Has had a license to practice nursing suspended or revoked in any
35 jurisdiction. A certified copy of the order of suspension or revocation
36 shall be prima facie evidence of such suspension or revocation; or

37 (j) Failure to comply with the terms of any board order, negotiated set-
38 tlement or probationary agreement of the board, or to pay fines or costs
39 assessed in a prior disciplinary proceeding.

40 (2) Separate offense. Each day an individual violates any of the provi-
41 sions of this chapter or rules and standards of conduct and practice as may be
42 adopted by the board shall constitute a separate offense.

1 (3) Proceedings.

2 (a) The executive director shall conduct such investigations and ini-
3 tiate such proceedings as necessary to ensure compliance with this
4 section. The board may accept the voluntary surrender of a license
5 from any nurse under investigation and accordingly enter an order re-
6 voking or suspending such license and/or imposing such conditions,
7 limitations, or restrictions on the practice of any such nurse as may
8 be appropriate in the discretion of the board. Otherwise, every person
9 subject to disciplinary proceedings shall be afforded an opportunity
10 for hearing after reasonable notice. All proceedings hereunder shall
11 be in accordance with chapter 52, title 67, Idaho Code.

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

21 (c) In the event any person fails to comply with a subpoena personally
22 served upon him or refuses to testify to any matter regarding which he
23 may be lawfully interrogated, the board shall petition the district
24 court in the county where such failure or refusal occurred or where
25 such person resides, to enforce such subpoena or compel such testimony.
26 Proceedings before the district court shall be for contempt in the same
27 nature as contempt of court for failure or refusal to comply with an
28 order of the court and the court shall have the same powers to secure
29 compliance with subpoena and testimony or to impose penalties as in con-
30 tempt of court proceedings.

31 (4) Probation/Subsequent review. Any order of the board entered un-
32 der this section may be withheld or suspended for a probationary period to be
33 fixed by the board upon such terms and conditions as may be appropriate in or-
34 der to regulate, monitor and/or supervise the practice of nursing by the li-
35 censee subject to such order for the prescribed probationary period. Any or-
36 der of the board entered under this section may be withdrawn, reversed, mod-
37 ified or amended upon a showing by the person subject to the order that the
38 grounds for discipline no longer exist or that he is rehabilitated, quali-
39 fied and competent to practice nursing and that he is not likely to violate
40 this chapter or rules adopted hereunder in the future. The board may, as a
41 condition to withdrawal, reversal, modification or amendment of the order,
42 require the person to pay all or part of the costs incurred by the board in
43 proceedings upon which the order was entered.

44 (5) Reporting investigative information. ~~Nothing in section 9-340C(8)~~
45 ~~and (9) Notwithstanding any provision of chapter 3, title 9, Idaho Code,~~
46 ~~shall be construed as limiting the authority to the contrary, the executive~~
47 ~~director of the board to~~ may, in the administration of this chapter, report
48 current significant investigative information to the coordinated licensure
49 information system for transmission to states that are parties to any multi-
50 state agreements or compacts regarding nurse licensure.

1 (6) Cooperation with regulatory and law enforcement agencies.
2 Notwithstanding any provision of chapter 3, title 9, Idaho Code, to the
3 contrary, the executive director of the board may, in the administration of
4 this chapter, share investigative or disciplinary information and otherwise
5 cooperate with government regulatory and law enforcement agencies.