

IN THE SENATE

SENATE BILL NO. 1038, As Amended

BY COMMERCE AND HUMAN RESOURCES COMMITTEE

AN ACT

RELATING TO DENTISTS; AMENDING SECTION 54-912, IDAHO CODE, TO PROVIDE THAT THE BOARD OF DENTISTRY MAY COMMENCE EMERGENCY PROCEEDINGS AGAINST A LICENSEE UNDER CERTAIN CIRCUMSTANCES.

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

SECTION 1. That Section 54-912, Idaho Code, be, and the same is hereby amended to read as follows:

54-912. BOARD OF DENTISTRY -- POWERS AND DUTIES. The board shall have the following powers and duties:

(1) To ascertain the qualifications and fitness of applicants to practice dentistry, a dental specialty or dental hygiene; to prepare, conduct and grade qualifying examinations; to require and accept passing results of written and clinical examinations from approved dental and dental hygiene testing organizations; to issue in the name of the board a certificate of qualification to applicants found to be fit and qualified to practice dentistry or dental hygiene.

(2) To prescribe rules for a fair and wholly impartial method of licensure and examination of applicants to practice dentistry, a dental specialty or dental hygiene.

(3) To define by rule what shall constitute accepted and approved schools, colleges, institutions, universities or departments thereof for the teaching of dentistry or dental hygiene and to determine, accept and approve those that comply therewith.

(4) To promulgate other rules required by law or necessary or desirable for its enforcement and administration; to define by rule the terms unprofessional conduct or practices injurious to the public as the terms are used in section 54-924, Idaho Code, to furnish applications, certificates, licenses and other necessary forms.

(5) To inspect or cause to be inspected the offices or operating rooms of all persons licensed under this chapter.

(6) (a) Upon its own motion or upon any complaint, to initiate and conduct investigations on all matters relating to the practice of dentistry or dental hygiene and to conduct hearings or proceedings on its own or through its designated hearing officer, to revoke, suspend or otherwise condition certificates of qualification or licenses of persons practicing dentistry or dental hygiene and, on such terms as the board shall deem appropriate, to revoke, suspend, or otherwise condition such licenses, provided such hearings and proceedings shall be had in conformance with the provisions of chapter 52, title 67, Idaho Code. Final decisions of the board shall be subject to judicial review as provided in chapter 52, title 67, Idaho Code.

1 (b) Whenever it appears that grounds for discipline exist under this
2 chapter and the board finds that there is an immediate danger to the
3 public health, safety or welfare, the board is authorized to commence
4 emergency proceedings for revocation or other action. Such proceed-
5 ings shall be promptly instituted and processed, including the right
6 to contest the emergency proceedings and appeal, under the applicable
7 provisions of chapter 52, title 67, Idaho Code.

8 (7) The board, its designated hearing officer, or representative shall
9 have power to administer oaths, the power to engage in discovery as provided
10 in the Idaho rules of civil procedure and chapter 52, title 67, Idaho Code,
11 including, but not limited to, the power to take depositions of witnesses
12 within or without the state in the manner provided by law in civil cases, and
13 shall have power throughout the state of Idaho to require the attendance of
14 witnesses and the production of books, records and papers as it may desire
15 at any hearing before it of any matter which it has authority to investigate,
16 and for that purpose the board or its designated hearing officer may issue
17 a subpoena for any witness or a subpoena duces tecum to compel the produc-
18 tion of any books, records or papers, directed to the sheriff of any county of
19 the state of Idaho, where the witness resides, or may be found, which shall
20 be served and returned in the same manner as a subpoena in a criminal case is
21 served and returned. The fees and mileage of the witnesses shall be the same
22 as that allowed in the district courts in criminal cases and shall be paid
23 from the state board of dentistry fund in the same manner as other expenses of
24 the board are paid. In any case of disobedience to, or neglect of, any sub-
25 poena or subpoena duces tecum served upon any person, or the refusal of any
26 witness to testify to any matter regarding which he may lawfully be interro-
27 gated, it shall be the duty of the district court, or any judge thereof, of
28 any county in this state in which the disobedience, neglect or refusal oc-
29 curs, upon application by the board to compel obedience by proceedings for
30 contempt as in the case of disobedience of the requirements of a subpoena is-
31 sued from the court or for refusal to testify. The licensed person accused
32 in the proceedings shall have the same right of subpoena upon making applica-
33 tion to the board.

34 (8) The board shall establish an office and may appoint an executive di-
35 rector and may employ other personnel, including attorneys and hearing offi-
36 cers, as may be necessary to assist the board. The board shall prescribe the
37 duties of the executive director and these duties shall include the prepara-
38 tion of all papers and records under law for the board, and shall include en-
39 forcement activities as to the board may from time to time appear advisable,
40 and the executive director shall act for and on behalf of the board in such
41 manner as the board may authorize, keep records, property and equipment of
42 the board and discharge other duties as the board may from time to time pre-
43 scribe. The compensation of the executive director or other personnel shall
44 be determined by the board and the executive director shall be bonded to the
45 state in the time, form and manner prescribed in chapter 8, title 59, Idaho
46 Code.

47 (9) To report annually to the associations on the status of the state
48 board of dentistry fund and furnish the associations a written report on all
49 receipts and expenditures during the preceding year.

1 (10) Provide, by rule, for reasonable fees for administrative costs and
2 assess costs reasonably and necessarily incurred in the enforcement of this
3 chapter when a licensee has been found to be in violation of this chapter.