

**MINUTES**  
(Subject to Approval by the Committee)  
**Occupational Licensing and Certification Laws Committee**  
**Monday, November 30, 2020**  
**1:30 P.M.**  
**Room WW54 for viewing**  
**Boise, Idaho**

Cochair Lakey called the meeting to order at 1:37 p.m.; a roll call was requested - all members/staff participated via video conference.

Members present: Cochair Senator Todd Lakey and Senators Fred Martin, Lori Den Hartog, and Grant Burgoyne; Cochair Representative Gayann DeMordaunt and Representatives Randy Armstrong, Julianne Young, and Elaine Smith; LSO staff Make Drake, Christine Otto, and Jennifer Kish.

NOTE: presentations and materials distributed to members are posted to the Idaho Legislature's website: <https://legislature.idaho.gov/sessioninfo/2020/interim>; and copies of those items are on file with the Legislative Services Office located in the State Capitol.

After opening remarks by both cochairs, Cochair Lakey requested a motion to approve the minutes of the previous meeting. **Sen. Martin moved to approve the minutes of the November 20 meeting as presented; motion was seconded by Cochair DeMordaunt; with the roll being called, the minutes were approved by a unanimous vote.**

At 1:44 p.m., public testimony was heard on the proposed telehealth legislation [DRMDD083](#).

- Kyle Zebley, representing the American Telemedicine Association, testified in favor of the legislation.
- Fred Birnbaum, representing the Idaho Freedom Foundation, testified in favor of the legislation.
- Lori Lodge, representing the Idaho Counseling Association, testified against the legislation. Rep. Young asked about the recourse for an individual who practiced counseling without an Idaho license. Ms. Lodge responded that a complaint would be filed with the appropriate DOPL board and action would be taken within that individual's state.
- Blake Youde, representing the Idaho Medical Association, testified against the legislation. Rep. Young asked about the recourse for an individual who practiced medicine without an Idaho license. Mr. Youde responded that Idaho Code 54-1804 stated that such action was a felony. Sen. Den Hartog inquired whether interstate compacts increased access to care. Mr. Youde explained that the interstate medical licensure compact covered 30 states and approximately 80% of physicians in the U.S.; this agreement expedites the ability to provide care and provides for liability during practice and discipline for any improper care.
- Kim Keller, representing the Idaho State Dental Association, testified against the legislation. Rep. Young asked about the recourse for an individual who practiced dental care without an Idaho license. Mr. Keller referenced Title 54 of the Idaho Code.
- Ernest Meshack-Hart, representing the Idaho State Dental Association, testified against the legislation. Rep. Young asked about the recourse for an individual who practiced dental care without an Idaho license. Mr. Meshack-Hart echoed Mr. Keller's response.
- Kevin Hamblin, president of the Idaho State Dental Association and practicing dentist for over 33 years, testified against the legislation.
- Josh Archambault, representing the Foundation for Government Accountability, testified in favor of the legislation. Rep. Young requested Mr. Archambault provide documentation that supported his response to her question about recourse for an individual who practiced without an Idaho license.
- Jeffrey Singer, a general surgeon and private practitioner for 35+ years in Arizona and representing the Cato Institute, testified in favor of the legislation.
- Scott Dunn M.D., a family physician from Sand Point who has practiced for 27 years and

represented physicians in general, testified against the legislation.

- Laura Lineberry, representing the Idaho State Dental Association, testified against the legislation. Sen. Den Hartog inquired whether the requirements for dental licensure were similar among most states. Ms. Lineberry responded that the requirements were very similar but orthodontists could not truly treat without a visit.

- John Hinsel, representing himself and the Idaho State Dental Association, testified against the legislation.

At 2:53 p.m., Matt Drake, LSO Legislative Drafting Attorney, submitted [DRMDD075](#) *Licensure by Endorsement - Members of the Military, Veterans, and Spouses* for the committee's discussion. There were no questions from the members. **Sen. Burgoyne moved that the committee recommend DRMDD075; Sen. Martin seconded the motion; the motion carried by a unanimous roll call vote.**

At 2:55 p.m., Matt Drake submitted [DRMDD076](#) *Occupational and Professional Licensure Review Committee* for the committee's discussion and remarked that he had not had an opportunity to discuss staffing of the review committee with Director Milstead. There were no questions from the members. **Cochair DeMordaunt moved for DRMDD076 to be considered by the Legislature; Sen. Den Hartog seconded the motion; the motion carried by a unanimous roll call vote.**

At 2:58 p.m., Matt Drake submitted [DRMDD084](#) *Treatment of Apprenticeship Programs for Licensing Purposes* to the committee.

- Sen. Burgoyne proposed substitute language for subsection (1): For purposes of this section, "applicable apprenticeship program" means a paid an on-the-job learning program that has been adopted by an Idaho licensing authority or is registered with the United States department of labor of apprenticeships or a licensing authority that has been recognized by the United States department of labor as a standards recognition entity. Cochair Lakey felt that the language covered the federal aspect but that it excluded a state board's ability to recognize a program and suggested that edits should retain the original language also. Cochair DeMordaunt was in favor of keeping the language in its original format.
- Sen. Martin inquired about the committee's intentions on supported draft language regarding the upcoming legislative session. Cochair Lakey responded that the committee was making recommendations on the language and that the cochairs would discuss with committee members about who wished to carry which pieces of approved draft language. Cochair DeMordaunt put forth that a committee member was not obligated to carry any of the legislation and also that committee members were not bound to their original vote during the committee meetings.
- Sen. Burgoyne amended his edit to read: For purposes of this section, "applicable apprenticeship program" means a paid on-the-job learning program that has been adopted by an Idaho licensing authority ~~or,~~ the United States department of labor or a standards recognition entity recognized by the United States department of labor.
- **Sen. Burgoyne moved that the committee recommend DRMDD084 with the edits to: (p. 1, l. 13) strike the "or" and insert ","; and (p. 1, l. 13) after "labor" insert "or a standards recognition entity recognized by the United States department of labor"; Sen. Martin seconded the motion.** Rep. Armstrong inquired whether the suggested edit was adding additional steps. Sen. Burgoyne clarified that it allowed three *alternative* methods. Rep. Armstrong felt all three "or"s were necessary for the language to be clear. **Sen. Burgoyne amended his original motion to leave the initial "or"; Sen. Martin agreed to the change; the motion carried by a unanimous roll call vote.**

At 3:18 p.m., Cochair Lakey moved the discussion to [DRMDD083](#) *Interstate Telehealth*.

- Sen. Martin observed that most groups opposed to the legislation were Idaho-based and those in favor were not based in Idaho. He noted that there were some health care groups that were not licensed in Idaho due to previous vetting by legislative committees.

- Sen. Burgoyne noted the importance of telehealth during the pandemic and recognized the request to return to normal standards pre-pandemic. He observed that no one testified about the difficulty of obtaining a license to practice health care in Idaho and that revealed that there was not a dire need to make this change to telehealth requirements. He recommended that all telehealth legislation be reviewed by the health and welfare committees.
- Cochair DeMordaunt suggested these edits to the draft language: (p. 1, l. 16) after "that" strike "is not subject to any past or pending disciplinary proceedings, excluding any action related to non-payment of fees related to a license" and insert "has substantially similar requirements for licensure as the corresponding Idaho licensing authority"; add a paragraph (g) within subsection (2) to read: "(g) Obtain an Idaho credential to provide telehealth services."; and add subsections (9) and (10) to read: "(9) If a licensing authority responsible for issuing a credential under this section finds that grounds for discipline against a provider exist, such licensing authority may impose upon the practice privileges of the credential holder any of the penalties that such licensing authority is authorized to impose pursuant to Idaho Code. [tab indent] (10) A licensing authority responsible for issuing a credential under this section shall promptly notify licensing authorities in any states where the provider possesses licensure of any action taken against the telehealth credential practice privileges of a licensee." Sen. Den Hartog supported the edits to address some of the committee's concerns but noted that there were still barriers for individuals in seeking health care.
- Rep. Young observed that those not required to be licensed in Idaho were able to practice freely within Idaho. She also noted that individuals who practiced within the state when there was a requirement to be licensed were unlawfully practicing health care and that there were consequences already established for those situations.
- Rep. Armstrong supported the edits put forth by Cochair DeMordaunt. He noted that most of those who testified were in support of telehealth but had concerns about the draft legislation as it was originally presented.
- **Sen. Den Hartog moved that the committee recommend to the full legislature a version of DRMDD083 with Cochair DeMordaunt's suggested edits (DRMDD088); Rep. Young seconded the motion. Sen. Martin proposed a *substitute motion* that this telehealth bill be sent to the germane committee with the recommendation that this and/or all improvements to the Telehealth Access Act be considered and passed by those committees; Sen. Burgoyne seconded the substitute motion; the motion failed: 3 ayes, 5 nays. The original motion was approved by a majority roll call vote: 5 ayes, 3 nays.**

At 3:57 p.m., Cochair Lakey submitted the [Sunrise Review Application](#) for action. **Sen. Martin moved that the committee approve the Sunrise Review Application as presented; Sen. Den Hartog seconded the motion; the motion carried by a unanimous roll call vote.**

In conclusion, Mr. Drake summarized that the committee wished to substitute DRMDD088 for DRMDD083 within the Final Report and to include the other approved draft legislation pieces. **Cochair DeMordaunt moved that the committee accept the Final Report as prepared with the approved draft legislation to be included; Sen. Den Hartog seconded the motion; the motion carried by a unanimous roll call vote.**

The meeting was adjourned at 4:01 p.m.