

**MINUTES**  
**Approved by the Committee**  
**Occupational Licensing and Certification Laws Committee**  
**Friday, June 22, 2018**  
**11:00 A.M.**  
**State Capitol EW42**  
**Boise, Idaho**

Cochair Senator Lakey called the meeting to order at 11:02 a.m. and requested the roll to be called. Members present: Senators Martin and Den Hartog; Representative (Cochair) DeMordaunt; Representative Smith (by phone). Absent and excused: Senator Burgoyne and Representatives Monks and Manwaring.

Others in attendance: Elizabeth Bowen, Matt Drake, Maggie Smith, Christine Otto, and Jennifer Kish - Legislative Services Office (LSO) committee staff; John Foster - Kestrel West; Lisa Tordjman - Department of Insurance; Tana Cory and Lizzie Kukla - Bureau of Occupational Licenses; Craig Boyack - Real Estate Commission; Representative Phylis King - Idaho House of Representatives; Alex Adams - Board of Pharmacy; Shasta Kilminster-Hadley and Anne Lawler - Board of Medicine; Warren Wing - Department of Building Safety; Phil Haunschild - Idaho Freedom Foundation; Carlie Foster - Lobby Idaho; Dennis Stevenson and Brad Hunt - Office of the Administrative Rules Coordinator.

Note: Copies of presentations, reference material, and handouts provided by the speakers/presenters are posted to the Idaho Legislature website: <https://legislature.idaho.gov/sessioninfo/2018/interim/>; and copies of those items are on file at the Legislative Services Office located in the State Capitol.

Cochair Lakey noted that minutes from the March 13 and March 20 meetings by the Regulatory Reform Subcommittee, which was comprised of the same members as this committee, would be circulated to the members accompanied by a buckslip for approval.

Cochair Lakey then called upon Greg Wilson, Chief of Staff for Lt. Governor Little, for his comments on [Executive Order 2017-06](#), which required a comprehensive review of Idaho's licensing requirements and processes. Mr. Wilson explained that the executive order required all Idaho executive branch agencies, boards, and commissions that issue professional licenses to submit a report, no later than July 1, 2018, as to whether licensure requirements were necessary and in the public's best interest and to provide improvements, modifications, or deletions within the process. Information to be evaluated included: prerequisites for the license; the cost to apply for application or renewal of the license; the time frame in which a license was granted/denied; requirements for accepting/denying a license renewal; renewal requirements; reasons for suspension, revocation, or other disciplinary action; and the cost involved for administering the licensing process by the entity. Additionally, he reported, the public and licensees were invited to provide comments on the licensure process per their experiences. Mr. Wilson thanked the agencies and those involved in the licensure process for their efforts in gathering/providing the requested information.

- Cochair Lakey noted that the executive order and the committee's focus were very similar and that he looked forward to sharing information that would lead to improvements to the process.
- Senator Den Hartog inquired whether the individual agencies or the lieutenant governor's office would conduct the analysis of the collected data. Mr. Wilson testified that the reporting groups would be providing their own suggestions for improvement, but his office would focus on the overarching elements that could benefit from legislative action.
- Cochair DeMordaunt asked whether the licensee and public individual comments would be included in the final reports. Mr. Wilson stated that he would be compiling all comments from the individual agency websites, the Bureau of Licensing, and both the lieutenant governor and governor offices as an appendix to the report.

- Cochair Lakey questioned whether the individual comments would be identified with the agency to which they were submitted. Mr. Wilson noted that the comments may be added already to the agency, board, or commission reports, but otherwise the comments would be added in a summary appendix.
- Cochair Lakey asked Mr. Wilson to provide the final report's anticipated release date. Mr. Wilson submitted that, since the submittal date was July 1, the data had yet to be compiled, but he anticipated a mid-July or end-of-July release.

At 11:14 a.m., Cochair Lakey invited Tana Cory, Chief of the Idaho Bureau of Occupational Licenses (IBOL), to provide her comments related to the information being gathered per Executive Order 2017-06. She shared the process that IBOL used to gather the requested information from the agencies that the bureau assisted as part of the Department of Self-Governing Agencies (DSGA). Chief Cory noted that the entities within the DSGA are permitted to contract with IBOL for assistance or may contract their own staff; currently, 30 boards/commissions are contracted with IBOL to provide administrative, fiscal, legal, and investigative services. She reported that the bureau had collected data from May 19, 2017, to May 19, 2018; comments from the public were solicited on the individual entities' websites and on the bureau's website, were solicited in conjunction with renewal mailings to their licensees, and were requested by a placard located in the main lobby of the bureau. Chief Cory explained that IBOL created a template for all of its members to use for the data collection, and a member of each entity was designated as the lead person to collect and submit the data and comments to IBOL. She noted that all 30 entities had completed and submitted their reports to IBOL.

- Cochair Lakey asked whether Ms. Cory had read any of the received responses and comments. Chief Cory acknowledged that she had tried to read comments as they were collected in order to address items of importance, but that all comments would be included in the reports for an accurate representation of the public's thoughts. She noted that each of the reports would be posted to the individual website of each board, agency, or commission. She also added that, even though the deadline for collection of data had passed, she hoped the public felt comfortable enough to always convey comments to the bureau and board members or even to attend the meetings.
- Senator Den Hartog inquired whether there was any way to identify when comments came from individuals who were not actually in a licensed profession due to a hindrance with the procedures. Chief Cory explained that some comments previously led the entities to introduce legislation and prompted new changes as a direct result of the feedback regarding hurdles within the licensure procedure, and the reports would identify those incidents.
- Senator Martin questioned whether the proposed changes would occur at the board's level or at a legislative level. Chief Cory reported that proposed changes related to the boards served by the bureau would be needed at both the statute and rule levels. She also submitted that some of the changes would simplify the process, such as written exams being held twice a year in Boise but are now being held year-round and offered online.

At 11:30 a.m., Cochair Lakey invited Albert Downs, Policy Specialist from the National Conference of State Legislatures (NCSL), to the podium for his presentation "[Occupational Licensing from a National Perspective.](#)" Mr. Downs reminded the audience that NCSL was a bipartisan organization that assisted staff and members of legislatures within the states, territories, and commonwealths of the United States. He reported that NCSL, in partnership with the National Governor's Association and the Council of State Governments (CSG), was awarded a grant from the US Department of Labor in 2017 to fund a three-year study on license policies and practices. The study was to identify licensing criteria and determine whether licensing criteria created unnecessary barriers for individuals in obtaining employment and whether licensing was transient across state lines. Mr. Downs explained that licensure was required to ensure that individuals do not practice a profession without the proper training or skills, thereby protecting the public from fraudulent or negligent behavior.

Summarizing points:

- Many states have created committees to evaluate effectiveness of current regulations.
  - Why licensing is a negative: inconvenient to transient licensees (financially, time consuming); technology advances ahead of training requirements; hindrance to employment for well-qualified but unlicensed individuals.
  - Solutions for easing the burden: sunrise/sunset requirements on regulations; centralize/digitize training/testing; reevaluate the amount of training required; create reciprocity among jurisdictions; move to competency-based testing for meeting standards.
  - Online efforts lead to unintentional benefit for those for whom English is not their first language, thereby easing testing burdens.
  - State licensing intersects with 2015 ruling in *North Carolina State Board of Dental Examiners v. Federal Trade Commission* stating that licensing boards were subject to federal anti-trust laws.
  - Populations receiving special considerations: military veterans (verify military training equivalent to licensing requirements, permitting licensure to those with dishonorable discharge for offenses unrelated to profession); military spouses (permitting reciprocity in licensing due to transient nature, awareness of reciprocity or allowances due to situation); individuals with criminal records (unnecessary blanket exclusions with no appeal, no recognition for training/skills obtained while incarcerated).
  - Challenges to having independent reform: budget/personnel available, interstate agreements possibly undermined, unwavering political hurdles.
  - Resource: NCSL sponsored multi-state Occupational Licensing Policy Learning Consortium (AR, CO, CT, DE, IL, IN, KY, MD, NV, UT, WI)  
[<http://www.ncsl.org/research/labor-and-employment/occupational-licensing-multi-state-consortium-meeting>].
  - Resource: NCSL occupational licensing database of statutes  
[<http://www.ncsl.org/research/labor-and-employment/occupational-licensing-statute-database>].
  - Resource: NCSL legislative tracker of legislation current to date  
[<http://www.ncsl.org/research/labor-and-employment/occupational-licensing>].
  - Upcoming "deep-dive" reports from NCSL on the effects of licensing on military spouses and veterans, individuals with a criminal record, long-term unemployed, and immigrants with work authorization expected for July release.
- Senator Den Hartog wondered why licensing requirements for an occupation would be eliminated. Mr. Downs submitted that such an occasion occurred when an occupation was very narrow in its training (pool installer, produce packer) or was ruled to no longer have justification for the licensure because the profession was regulated in another manner (by the industry, professional degree now required).
  - Cochair Lakey asked whether there was any state that required analysis on a per-legislation, per-rule situation. Mr. Downs reported that several states do, mostly using the sunrise/sunset approach. He noted that Utah legislators are members of the occupational licensing review committees; Vermont--one of the least licensed states--and Colorado both have administrative procedures that allow members to review rules and new licensing procedures before they become effective. Cochair Lakey commented that it would be helpful to see what criteria other states use to evaluate whether a licensing requirement was burdensome. Mr. Downs noted that in the publication "[The State of Occupational Licensing: Research, State Policies and Trends](#)" a checklist of just such criteria (p. 14 *What are Least Restrictive Regulations?*) was provided from the state of Mississippi.

- Cochair DeMordaunt inquired what states have adopted a "lateral licensing" policy, that of recognizing the validity of licenses issued by other states. Mr. Downs explained that it was most often done per occupation; for example, realtors may be required to pass only the exam and forgo any additional training or fees. He noted that any overall application most often was related to a population, such as in Utah where military spouses who were licensed in another state and had no limiting factors on their "good-standing" were permitted to practice within the state.
- Cochair DeMordaunt commented that Idaho did have a provision for active military and veterans in section 67-2602, Idaho Code, but she queried whether there was a provision for military spouses. Chief Cory, IBOL, reported that there was a provision that allowed for the expediting of licenses for military spouses.
- Cochair Lakey asked Mr. Downs to explain how "The State of Occupational Licensing: Research, State Policies and Trends" report was put together and to summarize what information it provided. Mr. Downs explained that it provided the early history on how licensing began, a highlight of current policies, and articles/comments by academia on the issue.
- Senator Den Hartog inquired whether, as a trend, recent requests for licensure were concerned more with a professional's skill enhancement rather than public safety. Mr. Downs submitted that almost all US legislatures cited public safety and welfare as the main reason for licensure; however, European licensing traditionally cited that it was more for the licensee and employment protection.

At 12:24 p.m., Cochair Lakey invited Patrick Grace, Regional Manager for the Idaho Division of Building Safety (IDBS), to present his comments to the committee. Mr. Grace informed the committee that IDBS operates with 146 employees, has a \$14 million annual budget, and performed approximately 93,000 inspections in the mechanical (i.e. HVAC), electrical, and plumbing (MEP) fields, which did not include additional inspections for buildings, elevators, manufactured homes, or industrial plant operations. Mr. Grace noted that the division administers 13 major programs with only five of those requiring licensing (mechanical, electrical, plumbing, public works, and manufactured homes). He reported that IDBS had eight boards comprised of 72 volunteer members. The division issues approximately 31,000 licenses, of which 28,000 are in the MEP fields. Licenses issued do not include those serving at the apprentice level. Mr. Grace explained that data requested by Executive Order 2017-06 was solicited on the IBOL website and Facebook account; by board members to their membership and related contractor organizations; and by holding public meetings at three different locations within the state, which included the use of teleconferencing. He noted that the licenses that IDBS issues were recognized on a state-wide level and the standards were established by professionals within the industries who served on those boards. The required reports were complete and had been submitted to IBOL. He anticipated that some of the observations would lead to recommendations for changes within the rules and/or statute; some items that had gained support after the evaluation were a push for multiple-year licenses, extension of expiration time frames, and more practical testing methods rather than the method of paper test-taking.

- Cochair Lakey inquired whether IDBS felt that Idaho's rules for recognizing licenses from other states were sufficient or whether reciprocity could be improved. Mr. Grace submitted that it was an important issue, especially in light of the critical need for employees in the home-building field. He reported that the majority of boards were in not favor of it, unless the training within other states had equal or better requirements; additionally, licensees within the state balked at having different requirements for those out-of-state licensees. Cochair Lakey echoed the support for licensees exhibiting competency rather than time requirements of training.
- Cochair Lakey spoke of an email received from Jack Lyman of the Idaho Housing Alliance regarding a letter that had been submitted to IDBS; Cochair Lakey requested that Mr. Lyman's letter be forwarded to the committee. Mr. Grace told the members he would forward a copy of the letter and that the letter was included already in the IDBS report.

- Senator Martin and Cochair DeMordaunt separately thanked Mr. Grace for his extensive detail about IDBS' efforts in collecting data for the report.

Cochair Lakey led the discussion on how the committee should proceed in anticipation of the reports from the licensing boards being reviewed and summarized by the lieutenant governor's office. Cochair DeMordaunt proposed that each committee member meet with a selection of each board's point of contact and discuss the reports on an individual basis. Cochair Lakey supported that idea, suggesting that committee members submit selections to the cochairs and they would assign/divvy up the boards.

Senator Den Hartog expressed further interest on the topic of the sunrise act process and on establishing a method to analyze whether new occupations warranted licensure. She also expressed a need for the Legislature to look at licensure in an overall picture. Cochair Lakey echoed support for the idea of having criteria to consider whether licensing was necessary. Cochair DeMordaunt added her support to the sunrise/sunset approach, having had discussions with members of the Utah Legislature; she cited it as an appropriate technique in relation to the committee's focus.

The committee discussed a future meeting date in regard to the report summary being released mid-July by the lieutenant governor's office and having time to review those reports.

The meeting was adjourned at 1:03 p.m.