

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 352

BY HEALTH AND WELFARE COMMITTEE

AN ACT

1 RELATING TO OCCUPATIONAL LICENSING; AMENDING SECTION 54-1804, IDAHO CODE,  
2 TO PROVIDE A LICENSURE EXCEPTION FOR CERTAIN PHYSICIANS OR PHYSI-  
3 CIAN ASSISTANTS AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION  
4 54-3512, IDAHO CODE, TO PROVIDE THAT DIETITIANS LICENSED IN OTHER JU-  
5 RISDICTIONS MAY PRACTICE IN IDAHO UNDER CERTAIN CIRCUMSTANCES; AND  
6 AMENDING SECTION 54-3905, IDAHO CODE, TO REVISE PROVISIONS REGARDING  
7 LICENSURE EXCEPTIONS FOR ATHLETIC TRAINERS.  
8

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

10 SECTION 1. That Section 54-1804, Idaho Code, be, and the same is hereby  
11 amended to read as follows:

12 54-1804. UNLICENSED PRACTICE -- PENALTIES AND REMEDIES RELATING TO  
13 UNLICENSED PRACTICE. (1) Under the circumstances described and subject in  
14 each case to limitations stated, the following persons, though not holding  
15 a license to practice medicine in this state, may engage in activities in-  
16 cluded in the practice of medicine:

17 (a) A medical officer of the armed forces of the United States, of the  
18 United States public health service, or of the United States department  
19 of veterans affairs, while engaged in the performance of his official  
20 duties;

21 (b) A person residing in another state or country and authorized to  
22 practice medicine there, who is called in consultation by a person li-  
23 censed in this state to practice medicine, or who for the purpose of  
24 furthering medical education is invited into this state to conduct a  
25 lecture, clinic, or demonstration, while engaged in activities in con-  
26 nection with the consultation, lecture, clinic, or demonstration, ~~so~~ as  
27 long as he does not open an office or appoint a place to meet patients or  
28 receive calls in this state;

29 (c) A person authorized to practice medicine in another state or coun-  
30 try while rendering medical care in a time of disaster or while caring  
31 for an ill or injured person at the scene of an emergency and while con-  
32 tinuing to care for such person;

33 (d) An extern, intern or resident who is registered with the board as  
34 provided in this chapter and while engaged in programs authorized pur-  
35 suant to rules of the board or a physician assistant licensed by the  
36 board;

37 (e) A person authorized or licensed by this state to engage in activi-  
38 ties which may involve the practice of medicine;

39 (f) A person engaged in good faith in the practice of the religious  
40 tenets of any church or religious beliefs;

41 (g) A person administering a remedy, diagnostic procedure or advice as  
42 specifically directed by a physician;

1 (h) A person rendering aid in an emergency, where no fee for the service  
 2 is contemplated, charged or received. This exception shall specifi-  
 3 cally include ski patrollers who are members of the national ski patrol  
 4 system, inc., and are trained in and holding a current outdoor emergency  
 5 care (OEC) credential, as issued by the national ski patrol system,  
 6 inc., while rendering aid in accordance with the standards of train-  
 7 ing of such credential, where no fee for the service is contemplated,  
 8 charged or received, and in the course of alpine, nordic or cross-coun-  
 9 try skiing and other recreational activities conducted in whole or in  
 10 part at ski areas in the state of Idaho;

11 (i) A person administering a family remedy to a member of the family;

12 (j) A person who administers treatment or provides advice regarding the  
 13 human body and its functions that:

14 (i) Does not use legend drugs or prescription drugs in such prac-  
 15 tice;

16 (ii) Uses natural elements such as air, heat, water and light;

17 (iii) Only uses class I or class II nonprescription, approved,  
 18 medical devices as defined in section 513 of the federal food, drug  
 19 and cosmetic act;

20 (iv) Only uses vitamins, minerals, herbs, natural food products  
 21 and their extracts, and nutritional supplements; and who

22 (v) Does not perform surgery;

23 (vi) Requires each person receiving services to sign a decla-  
 24 ration of informed consent which includes an overview of the  
 25 health care provider's education which states that the health care  
 26 provider is not an "M.D." or "D.O." and is not licensed under the  
 27 provisions of this chapter; or

28 (k) A physician or physician assistant licensed and in good standing  
 29 in another jurisdiction of the United States or credentialed in another  
 30 country who:

31 (i) Is affiliated with or employed by an established athletic  
 32 team, athletic organization or performing arts company temporar-  
 33 ily practicing, competing or performing in this state for no more  
 34 than sixty (60) days in a calendar year; and

35 (ii) Is practicing only on patients, clients or team staff affili-  
 36 ated with or employed by such team, organization or company.

37 (2) Nothing in subsection (1) (k) of this section shall be construed to  
 38 permit a physician or physician assistant to provide care or consultation  
 39 to any person residing in this state, other than a person specified in sub-  
 40 section (1) (k) of this section. Further, nothing in subsection (1) (k) of  
 41 this section shall be construed to permit a physician or physician assistant  
 42 to practice at a licensed health care facility in this state or to have pre-  
 43 scriptive rights in this state unless in accordance with federal law.

44 (23) Except as provided in subsection (1) of this section, it shall con-  
 45 stitute a felony for any person to practice medicine in this state without a  
 46 license and upon conviction thereof shall be imprisoned in the state prison  
 47 for a period not to exceed five (5) years, or shall be fined ~~not~~ no more than  
 48 ten thousand dollars (\$10,000), or shall be punished by both such fine and  
 49 imprisonment.

1           (34) Except as provided in subsections (1) (a), (1) (b), and (1) (c)  
 2 above, it is unlawful for any person to assume or use the title or designation  
 3 "medical doctor," "medical physician," "osteopathic doctor," "osteopathic  
 4 physician," "M.D." or "D.O." or any other title, designation, words, let-  
 5 ters, abbreviation, sign, card, or device to indicate to the public that  
 6 such person is licensed to practice medicine pursuant to this chapter unless  
 7 such person is so licensed, and upon conviction thereof, such person shall  
 8 be imprisoned not to exceed one (1) year, or shall be fined ~~not~~ no more than  
 9 three thousand dollars (\$3,000), or shall be punished by both fine and im-  
 10 prisonment.

11           (45) When a person has been the recipient of services constituting the  
 12 unlawful practice of medicine, whether or not he knew the rendition of the  
 13 services was unlawful, proof of the rendition of such unlawful services  
 14 by the recipient or his personal representative in an action against the  
 15 provider of such services for damages allegedly caused by the services con-  
 16 stitutes prima facie evidence of negligence shifting the burden of proof to  
 17 such provider of unlawful services. The following damages in addition to any  
 18 other remedies provided by law may be recovered in such an action:

19           (a) The amount of any fees paid for the unlawful services.

20           (b) Reasonable attorney's fees and court costs.

21           (56) The board shall refer all violations of this section made known to  
 22 it to appropriate prosecuting attorneys. The board may render assistance to  
 23 a prosecuting attorney in the prosecution of a case pursuant to this section.

24           SECTION 2. That Section 54-3512, Idaho Code, be, and the same is hereby  
 25 amended to read as follows:

26           54-3512. INAPPLICABILITY OF CHAPTER. (1) This chapter shall not be  
 27 construed to prevent any person from rendering advice, guidance or counsel  
 28 regarding medical nutrition service, therapeutic nutrition care, nutri-  
 29 tional assessments, nutrition therapy counseling, weight control services,  
 30 or from providing nutrition information in connection with the marketing and  
 31 distribution of a food product, dietary supplement, or wellness/exercise  
 32 program.

33           (2) This chapter shall not be construed to prevent any person licensed  
 34 or registered in this state, pursuant to any other law of the state, from en-  
 35 gaging in the profession or occupation for which such person is licensed or  
 36 registered.

37           (3) This chapter shall not be construed to prevent a dietitian licensed  
 38 and in good standing in another jurisdiction of the United States or cre-  
 39 dentialed in another country from practicing, within this state, activities  
 40 that are within the scope of such dietitian's license or credentials, when  
 41 the dietitian:

42           (a) Is affiliated with or employed by an established athletic team,  
 43 athletic organization or performing arts company temporarily practic-  
 44 ing, competing or performing in this state for no more than sixty (60)  
 45 days in a calendar year; and

46           (b) Is practicing only on patients, clients or team staff affiliated  
 47 with or employed by such team, organization or company.

1 SECTION 3. That Section 54-3905, Idaho Code, be, and the same is hereby  
2 amended to read as follows:

3 54-3905. EXCEPTIONS TO LICENSURE REQUIREMENT. (1) Nothing in this  
4 chapter shall be construed as preventing or restricting the practice, ser-  
5 vices or activities or requiring licensure pursuant to this chapter of:

6 (1a) Any person licensed in this state by any other law, from engag-  
7 ing in the profession or occupation for which such person is licensed or  
8 registered or otherwise regulated; ~~or~~

9 (2b) Any person employed as an athletic trainer by the government of the  
10 United States or any agency thereof, if such person provides athletic  
11 trainer services solely under the direction or control of the govern-  
12 ment agency by which such person is employed; ~~or~~

13 (3c) Any person pursuing a supervised course of study leading to a de-  
14 gree, licensure or registration as athletic trainer in an accredited  
15 or approved educational program, if the person is designated by a title  
16 which clearly indicates a student or trainee status; ~~or~~

17 (4d) Any person fulfilling supervised fieldwork experience require-  
18 ments as prescribed by the board; ~~or~~

19 ~~(5) For purposes of continuing education, consulting, and/or training,~~  
20 ~~any person performing athletic trainer services in the state, if these ser-~~  
21 ~~vices are performed for no more than sixty (60) days in a calendar year in as-~~  
22 ~~sociation with an athletic trainer licensed under this chapter, if:~~

23 ~~(a) The person is licensed, registered or certified and in good stand-~~  
24 ~~ing as an athletic trainer in another state; or~~

25 ~~(b) The person is certified and in good standing as an athletic trainer~~  
26 ~~by the national athletic trainers' association board of certification~~  
27 ~~or by a nationally recognized credentialing agency, accepted by the~~  
28 ~~board~~

29 (e) Any person residing in another state or country and authorized to  
30 practice as an athletic trainer there who is called in consultation by  
31 a person licensed in this state to practice as an athletic trainer or  
32 who, for the purpose of furthering athletic training education, is in-  
33 vited to this state to conduct a lecture, clinic or demonstration, while  
34 engaged in activities in connection with the consultation, lecture,  
35 clinic or demonstration, as long as the athletic trainer does not open  
36 an office or appoint a place to meet patients or receive calls in this  
37 state; or

38 (f) An athletic trainer licensed and in good standing in another ju-  
39 risdiction of the United States or credentialed in another country who  
40 practices in this state within the scope of such license or credentials,  
41 and who:

42 (i) Is affiliated with or employed by an established athletic  
43 team, athletic organization or performing arts company temporar-  
44 ily practicing, competing or performing in this state for no more  
45 than sixty (60) days in a calendar year; and

46 (ii) Is practicing only on patients, clients or team staff affili-  
47 ated with or employed by such team, organization or company.

1           (62) Nothing herein shall be construed to require registration of ele-  
2   mentary or secondary school teachers, coaches or authorized volunteers who  
3   do not hold themselves out to the public as athletic trainers.

4           (73) This ~~act~~ chapter shall not be construed as to require licensure by  
5   persons assisting in an emergency or in providing aid or service for which no  
6   fee for service is contemplated, charged or received, provided that the per-  
7   son providing the service or assisting in the emergency does not hold himself  
8   out as an athletic trainer.