



Montana Legislative Services Division
Office of Research and Policy Analysis
David D. Bohyer, Director

September 6, 2012

TO: Members of the Select Committee on Efficiency in Government
FROM: Dave Bohyer *Dave*
RE: Health care licensing reciprocity

At the June 2012 meeting of the Select Committee on Efficiency in Government (SCEG) staff were asked to research the status of reciprocal licensing of health care professionals, primarily doctors, between Montana and other states. Please accept this memorandum as the staff's response.

Montana law allows licensing boards to enter into reciprocal agreements with other licensing jurisdictions. Section 37-1-304, MCA, is the enabling section:

37-1-304. Licensure of out-of-state applicants -- reciprocity. (1) A board may issue a license to practice without examination to a person licensed in another state if the board determines that:

- (a) the other state's license standards at the time of application to this state are substantially equivalent to or greater than the standards in this state; and
- (b) there is no reason to deny the license under the laws of this state governing the profession or occupation.

(2) The license may be issued if the applicant affirms or states in the application that the applicant has requested verification from the state or states in which the person is licensed that the person is currently licensed and is not subject to pending charges or final disciplinary action for unprofessional conduct or impairment. If the board or its screening panel finds reasonable cause to believe that the applicant falsely affirmed or stated that the applicant has requested verification from the other state or states, the board may summarily suspend the license pending further action to discipline or revoke the license.

(3) This section does not prevent a board from entering into a reciprocity agreement with the licensing authority of another state or jurisdiction. The agreement may not permit out-of-state licensees to obtain a license by reciprocity within this state if the license applicant has not met standards that are substantially

equivalent to or greater than the standards required in this state as determined by the board on a case-by-case basis.

An inquiry to the Montana Department of Labor, Business and Occupational Licensing Bureau, resulted in a response from the Bureau Chief, Ms. Jeannie Worsech, that none of the boards responsible for the licensure of health care related professionals has entered into a reciprocal agreement with any other state.¹

Ms. Worsech also provided some insightful history on reciprocity:

Prior to 1995 many board's had reciprocity agreements with other states, especially neighboring states, ID, WY, ND etc. But in 1995, the legislature passed the Uniform licensing act, which by the way was a department bill to overhaul and attempt to standardize many processes especially complaints and discipline of licensees. In any case, we failed to include the authority for board's to enter into such agreements in 37-1-304. When this was discovered legal counsel, at the time, advised boards could not enter into any reciprocal agreements and had to terminate the current ones. However, it was an unintended consequence of the new legislation. During the 1997 session, the department returned to the legislature and amended the statute to allow the board's to enter into reciprocity agreements with another state or jurisdiction, if the standards in that state were substantially equivalent or greater than the standards in Montana. However, many of the board's chose not to create new agreements, since the standards needed to meet or exceed those in Montana.

So, while Montana's boards responsible for licensing health care professionals have statutory authority to enter into reciprocal agreements, none has chosen to do at this time.

Montana law also allows the licensing boards to issue "temporary practice permits". These permits allow a qualified practitioner to practice until the practitioner either becomes fully licensed in Montana or fails the requirements to become fully licensed. The enabling statute is section 37-1-305, MCA.

¹ Email from Jeannie Worsech, Chief, Business and Occupational Licensing Bureau, to Dave Bohyer, July 26, 2012. Ms. Worsech notes that electrical board has 16 state agreements and the plumbing board has four reciprocal agreements.

37-1-305. Temporary practice permits. (1) A board may issue a temporary practice permit to a person licensed in another state that has licensing standards substantially equivalent to those of this state if the board determines that there is no reason to deny the license under the laws of this state governing the profession or occupation. The person may practice under the permit until a license is granted or until a notice of proposal to deny a license is issued. The permit may be issued in the board's discretion if the applicant verifies or states in the application that the applicant has requested verification from the state or states in which the person is licensed that the person is currently licensed and is not subject to pending charges or final disciplinary action for unprofessional conduct or impairment. If the board or its screening panel finds reasonable cause to believe that the applicant falsely affirmed or stated that the applicant has requested verification from the other state or states, the board may summarily suspend the license pending further action to discipline or revoke the license.

(2) A board may issue a temporary practice permit to a person seeking licensure in this state who has met all licensure requirements other than passage of the licensing examination. Except as provided in 37-68-311 and 37-69-306, a permit is valid until the person either fails the first license examination for which the person is eligible following issuance of the permit or passes the examination and is granted a license.²

It is unclear how frequently any of the boards governing health care licensing approves a temporary practice permit or the duration of approved temporary permits.

Respectfully submitted.

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² The exceptions provided in 37-38-311 is for electricians and in 37-69-306 is for plumbers.