



AN ACT GENERALLY REVISING PROFESSIONS AND OCCUPATIONS LAW; REVISING LICENSE VERIFICATION REQUIREMENTS FOR OUT-OF-STATE APPLICANTS; PROVIDING THAT A SCREENING PANEL IS AN AGENCY FOR THE PURPOSE OF SUMMARY SUSPENSIONS; REVISING DEFINITIONS AND THE ADMINISTRATION OF ANESTHESIA PERTAINING TO DENTISTRY; ELIMINATING THE REFERENCE TO A STATE EXAMINATION WITH RESPECT TO PODIATRISTS; REVISING BARBER AND COSMETOLOGIST LAW REGARDING BOOTH RENTAL, INSTRUCTOR TRAINING, AND LICENSING; EXPANDING THE AUTHORITY OF THE BOARD OF OUTFITTERS TO APPROVE LICENSE SUCCESSORS; REVISING DUTIES OF THE BOARD OF OUTFITTERS AND ELIMINATING RESTRICTIONS ON THE BOARD'S HIRING OF INVESTIGATORS; REVISING REALTY LAWS PERTAINING TO EDUCATION AND LICENSING REQUIREMENTS; REVISING PRIVATE SECURITY LAW DEFINITIONS AND RULEMAKING; AMENDING PROFESSIONAL ENGINEERING AND LAND SURVEYOR LAWS WITH RESPECT TO OUT-OF-STATE APPLICANTS; EXPANDING RECIPROCITY WITH RESPECT TO CRANE OPERATORS; REPEALING THE REQUIREMENT THAT PHARMACIES POST CERTAIN PRESCRIPTION DRUG PRICES; AMENDING SECTIONS 37-1-304, 37-1-305, 37-1-307, 37-3-310, 37-4-101, 37-4-511, 37-6-302, 37-31-305, 37-31-309, 37-31-312, 37-47-202, 37-47-310, 37-47-351, 37-51-204, 37-51-308, 37-51-605, 37-60-101, 37-60-202, 37-60-303, 37-67-306, 37-67-312, 37-67-313, AND 50-76-113, MCA; AND REPEALING SECTION 37-7-204, MCA.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 37-1-304, MCA, is amended to read:

"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 ~~not be issued until the board receives~~ 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."

Section 2. Section 37-1-305, MCA, is amended to read:

"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 ~~not be issued until the board receives~~ 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."

Section 3. Section 37-1-307, MCA, is amended to read:

"37-1-307. Board authority. (1) A board may:

(a) hold hearings as provided in this part;

(b) issue subpoenas requiring the attendance of witnesses or the production of documents and administer oaths in connection with investigations and disciplinary proceedings under this part. Subpoenas must be relevant to the complaint and must be signed by a member of the board. Subpoenas may be enforced as provided in 2-4-104.

(c) authorize depositions and other discovery procedures under the Montana Rules of Civil Procedure in connection with an investigation, hearing, or proceeding held under this part;

(d) establish a screening panel to determine whether there is reasonable cause to believe that a licensee has violated a particular statute, rule, or standard justifying disciplinary proceedings. A screening panel is an agency for purposes of summary suspensions under 2-4-631. A screening panel shall specify in writing the particular statute, rule, or standard that the panel believes may have been violated. The screening panel shall also state in writing the reasonable grounds that support the panel's finding that a violation may have occurred. The assigned board members may not subsequently participate in a hearing of the case. The final decision on the case must be made by a majority of the board members who did not serve on the screening panel for the case.

(e) grant or deny a license and, upon a finding of unprofessional conduct by an applicant or license holder, impose a sanction provided by this chapter.

(2) Each board is designated as a criminal justice agency within the meaning of 44-5-103 for the purpose of obtaining confidential criminal justice information, as defined in 44-5-103, regarding the board's licensees and license applicants and regarding possible unlicensed practice, but the board may not record or retain any confidential criminal justice information without complying with the provisions of the Montana Criminal Justice Information Act of 1979, Title 44, chapter 5.

(3) A board may contact and request information from the department of justice, which is designated as a criminal justice agency within the meaning of 44-5-103, for the purpose of obtaining criminal history record information regarding the board's licensees and license applicants and regarding possible unlicensed practice.

(4) (a) A board that is statutorily authorized to obtain a criminal background check as a prerequisite to the issuance of a license shall require the applicant to submit fingerprints for the purpose of fingerprint checks

by the Montana department of justice and the federal bureau of investigation.

(b) The applicant shall sign a release of information to the board and is responsible to the department of justice for the payment of all fees associated with the criminal background check.

(c) Upon completion of the criminal background check, the department of justice shall forward all criminal history record information, as defined in 44-5-103, in any jurisdiction to the board as authorized in 44-5-303.

(d) At the conclusion of any background check required by this section, the board must receive the criminal background check report but may not receive the fingerprint card of the applicant. Upon receipt of the criminal background check report, the department of justice shall promptly destroy the fingerprint card of the applicant.

[(5) Each board shall require a license applicant to provide the applicant's social security number as a part of the application. Each board shall keep the social security number from this source confidential, except that a board may provide the number to the department of public health and human services for use in administering Title IV-D of the Social Security Act.] (Bracketed language terminates on occurrence of contingency--sec. 1, Ch. 27, L. 1999.)"

Section 4. Section 37-3-310, MCA, is amended to read:

"37-3-310. Notice of change of address or name -- applicants -- licensees. When a person applies for a license of any type to practice medicine in this state, the person shall designate in the application the person's correct and official address to which the department shall send communications, notices, orders, citations, or other process, if any, affecting the person. A person licensed to practice medicine in this state shall keep the department advised at all times of the person's correct mailing address and of the person's correct name. If the person changes the person's address or when the name of a licensee is changed by marriage or otherwise, the person shall within 30 days notify the department electronically or in writing of the old and new address or of the former name and new name. This information must be entered promptly by the department in the official records of the department."

Section 5. Section 37-4-101, MCA, is amended to read:

"37-4-101. Definitions -- practice of dentistry. (1) Unless the context requires otherwise, in this chapter, the following definitions apply:

(a) "Board" means the board of dentistry provided for in 2-15-1732.

~~(b) "Conscious sedation" means a minimally depressed level of consciousness in which the patient breathes normally without assistance, retains protective reflexes, and responds to physical stimulation or verbal command in a manner appropriate to the patient's cognitive level. Conscious sedation is not a form of general anesthesia, and brief interludes of unconsciousness during conscious sedation do not bring conscious sedation within the scope of general anesthesia.~~

(b) "Deep sedation" means a drug-induced depression of consciousness during which patients cannot be easily aroused but respond purposefully following repeated or painful stimulation. The ability to independently maintain ventilatory function may be impaired. Patients may require assistance in maintaining a patent airway, and spontaneous ventilation may be inadequate. Cardiovascular function is usually maintained.

(c) "Department" means the department of labor and industry provided for in Title 2, chapter 15, part 17.

~~(d) "General anesthesia" means a state of unconsciousness intentionally produced by anesthetic agents, with absence of pain sensation over the entire body and a greater or lesser degree of muscular relaxation. The drugs producing this state can be administered by inhalation, intravenously, intramuscularly, or via the gastrointestinal tract. General anesthesia is divided into:~~

~~—— (i) full general anesthesia, which means a level of consciousness in which the patient is without intact protective reflexes, is unable to maintain an airway, and is incapable of rational response to query or command; and~~

~~—— (ii) light general anesthesia, which means a level of consciousness in which the patient breathes normally without assistance and retains protective reflexes throughout most of the procedure. drug-induced loss of consciousness during which patients are not arousable, even by painful stimulation. The ability to independently maintain ventilatory function is often impaired. Patients often require assistance in maintaining a patent airway, and positive pressure ventilation may be required because of depressed spontaneous ventilation or drug-induced depression of neuromuscular function. Cardiovascular function may be impaired.~~

~~—— (e) (i) "General anesthetic" means any recognized anesthetic agent, sedative, hypnotic, tranquilizer, or narcotic used in sufficient prescribed dosages for the purpose of inducing general anesthesia.~~

~~—— (ii) The term does not include a nitrous oxide and oxygen mixture or any other anesthetic administered to produce conscious sedation.~~

(2) Except for the provisions of 37-4-104, a person is practicing dentistry under this chapter if the person:

(a) performs, attempts, advertises to perform, causes to be performed by the patient or any other person, or instructs in the performance of dental operations, oral surgery, or dental service of any kind gratuitously or for a salary, fee, money, or other remuneration paid or to be paid, directly or indirectly, to the person, any other person, or any agency;

(b) is a manager, proprietor, operator, or conductor of a place where dental operations, oral surgery, or dental services are performed, unless the person is the personal representative of the estate of a deceased dentist or the personal representative of a disabled dentist, as provided in 37-4-104;

(c) directly or indirectly, by any means or method, furnishes, supplies, constructs, reproduces, or repairs a prosthetic denture, bridge, appliance, or other structure to be worn in the human mouth;

(d) places the appliance or structure in the human mouth or attempts to adjust it;

(e) advertises to the public, by any method, to furnish, supply, construct, reproduce, or repair a prosthetic denture, bridge, appliance, or other structure to be worn in the human mouth;

(f) diagnoses, professes to diagnose, prescribes for, professes to prescribe for, treats, or professes to treat disease, pain, deformity, deficiency, injury, or physical condition of human teeth, jaws, or adjacent structures;

(g) extracts or attempts to extract human teeth or corrects, attempts, or professes to correct malpositions of teeth or of the jaw;

(h) gives or professes to give interpretations or readings of dental roentgenograms;

(i) administers an anesthetic of any nature, subject to the limitations provided in 37-4-511, in connection with a dental operation;

(j) uses the words "dentist", "dental surgeon", or "oral surgeon", the letters "D.D.S." or "D.M.D.", or any other words, letters, title, or descriptive matter that in any way represents the person as being able to diagnose, treat, prescribe, or operate for any disease, pain, deformity, deficiency, injury, or physical condition of human teeth, jaws, or adjacent structures;

(k) states, advertises, or permits to be stated or advertised, by sign, card, circular, handbill, newspaper, radio, or otherwise, that the person can perform or will attempt to perform dental operations or render a diagnosis in connection with dental operations; or

(l) engages in any of the practices included in the curricula of recognized dental colleges."

Section 6. Section 37-4-511, MCA, is amended to read:

"37-4-511. Limitations on administration of general anesthetics and practices involving regarding deep sedation or general anesthesia. ~~(1) A person engaged in the practice of dentistry or oral surgery may not perform any dental or surgical procedure upon another person if a general anesthetic is administered unless the anesthetic is administered and monitored by:~~

- ~~—— (a) an anesthesiologist licensed to practice medicine by the state board of medical examiners;~~
- ~~—— (b) a nurse anesthetist recognized in that specialty by the state board of nursing; or~~
- ~~—— (c) another health professional who has received at least 1 year of postgraduate training in the administration of general anesthesia.~~

~~—— (2) A person engaged in the practice of dentistry or oral surgery may not conduct any dental or surgical procedure upon another person under full general anesthesia unless the vital signs of the patient are continually monitored by another health professional who meets the qualifications for an anesthesiologist, nurse anesthetist, or other trained health professional as provided for in subsection (1).~~

~~(3)(1) A person engaged in the practice of dentistry or oral surgery may not conduct any dental or surgical procedure upon another person under light deep sedation or general anesthesia unless the vital signs of the patient are continually monitored by another person who has been examined by the board or its agent in life support skills and who has demonstrated a satisfactory level of proficiency as established by the board trained health care professional.~~

~~(4) A person engaged in the practice of dentistry or oral surgery may not administer a general anesthetic to any other person unless the administering person satisfies the requirements for a person qualified to administer a general anesthetic, as provided in subsection (1), and meets any additional standards established by the board of dentistry for training in the administration of general anesthesia and in the treatment of the complications of general anesthesia. This subsection does not affect the requirements for monitoring of vital signs by another health professional under subsection (2) or (3).~~

~~(5)(2) The facility in which deep sedation or general anesthesia is to be administered as part of a dental or surgical procedure must be equipped with proper drugs and equipment to safely administer anesthetic agents, to monitor the well-being of the patient under deep sedation or general anesthesia, and to treat the complications that may arise from deep sedation or general anesthesia."~~

Section 7. Section 37-6-302, MCA, is amended to read:

"37-6-302. Qualifications for licensure. (1) A person who wishes to begin the practice of podiatry in this state shall make application, on a form authorized by the board and furnished by the department, for a license to practice podiatry.

(2) A person may not be granted a license to practice podiatry in this state unless the person:

(a) is of good moral character as determined by the board;

(b) is a graduate of a school of podiatry approved by the board;

(c) has completed at least 1 year of postgraduate training or has had equivalent experience or training approved by the board;

(d) has made a personal appearance before the board; and

(e) has passed an examination administered by the national board of podiatry examiners and is a diplomate of the national board of podiatry examiners; ~~and~~

~~_____ (f) has obtained a score of at least 75% on an examination administered by the board.~~

(3) The board may waive the requirements described in ~~subsections~~ subsection (2)(d) and (2)(f)."

Section 8. Section 37-31-305, MCA, is amended to read:

"37-31-305. Qualifications of applicants for license to teach. (1) Before a person may teach ~~manicuring or esthetics to persons seeking only to be licensed to practice manicuring or esthetics or to teach cosmetology,~~ or instruct in a school of barbering, cosmetology, electrology, esthetics, or manicuring, the person shall obtain from the department a license to teach ~~cosmetology.~~

(2) To be eligible to ~~take an examination to obtain a license to teach cosmetology~~ for a license to teach barbering, cosmetology, electrology, esthetics, or manicuring, a person must:

~~(a)~~ (a) be a graduate of high school or possess an equivalent of a high school diploma that is recognized by the superintendent of public instruction; ~~and;~~

~~(b) (i)~~ (b) have a license to practice ~~cosmetology~~ issued by the department in the particular area of practice in which the person plans to teach ~~and have received a diploma from a licensed school of cosmetology approved by the board, certifying satisfactory completion of 650 hours of student teacher training; or~~

~~(ii)~~ (c) have been actively engaged ~~as a cosmetologist in that particular area of practice~~ for ~~3~~ 12 continuous ~~years immediately~~ months before taking the teacher's examination; and

(d) have received a diploma from a licensed school approved by the board, certifying satisfactory

completion of 650 hours of student teacher training.

~~(3) Before a person may teach manicuring to a person seeking only to be licensed to practice manicuring, the person shall, unless already licensed to teach cosmetology, obtain a license from the department to teach manicuring.~~

~~_____ (4) To be eligible to take an examination to obtain a license to teach manicuring, a person must:~~

~~_____ (a) be a graduate of high school or possess an equivalent of a high school diploma recognized by the superintendent of public instruction; and~~

~~_____ (b) (i) have a license to practice manicuring or cosmetology issued by the department and have received a diploma from a school licensed as a teacher-training unit certifying satisfactory completion of 650 hours of student teacher training; or~~

~~_____ (ii) have been actively engaged as a manicurist or a cosmetologist for 3 continuous years immediately before taking the teacher's examination.~~

~~_____ (5) Before a person may teach esthetics to a person seeking only to be licensed to practice esthetics, the person shall, unless already licensed to teach cosmetology, obtain a license from the department to teach esthetics.~~

~~_____ (6) To be eligible to take an examination to obtain a license to teach esthetics, a person must:~~

~~_____ (a) be a graduate of high school or possess an equivalent of a high school diploma recognized by the superintendent of public instruction; and~~

~~_____ (b) (i) have a license to practice esthetics or cosmetology issued by the department and have received a diploma from a school licensed as a teacher-training unit certifying satisfactory completion of 650 hours of student teacher training; or~~

~~_____ (ii) have been actively engaged as an esthetician or a cosmetologist for 3 continuous years immediately before taking the teacher's examination.~~

~~_____ (7) To be eligible to take an examination to obtain a license to teach barbering, a person must:~~

~~_____ (a) be a graduate of high school or possess an equivalent of a high school diploma recognized by the superintendent of public instruction; and~~

~~_____ (b) (i) have a license to practice barbering issued by the department and have received a diploma from a school licensed as a teacher-training unit certifying satisfactory completion of 500 hours of student teacher training; or~~

~~(ii) have been actively engaged as a barber for 3 continuous years immediately before taking the teacher's examination;~~

~~(8) To be eligible to take an examination for a license to teach electrology, a person must:~~

~~(a) be a high school graduate or possess an equivalent of a high school diploma recognized by the superintendent of public instruction;~~

~~(b) have a 100-hour teacher certificate; and~~

~~(c) have been actively engaged as an electrologist for 3 continuous years immediately preceding taking the teacher's examination."~~

Section 9. Section 37-31-309, MCA, is amended to read:

"37-31-309. Booth rental license. (1) ~~A~~ ~~No~~ person may not receive a booth rental license under 37-31-302 without proving to the satisfaction of the board that the booth will be used and maintained in compliance with the rules and regulations promulgated by the board, including sanitary rules prescribed under 37-31-204.

(2) A booth rental license that is not renewed within 1 year of the most recent renewal date automatically terminates. The terminated license may not be reactivated, and a new original license must be obtained. The provisions of 37-1-141 do not apply to this subsection."

Section 10. Section 37-31-312, MCA, is amended to read:

"37-31-312. Inspection -- temporary permits. (1) The department shall appoint one or more inspectors, each of whom shall devote time to inspecting salons or shops and performing other duties as the department, in cooperation with the board, may direct. The inspectors may enter a salon or shop, booth, school of barbering, school of cosmetology, school of electrology, school of esthetics, or school of manicuring during business hours for the purpose of inspection, and the refusal of a licensee or school to permit the inspection during business hours is cause for revocation of a licensee's or school's license.

(2) When an owner or operator applies for a shop or salon license and pays licensure and inspection fees prescribed by the board, the board:

- (a) may authorize the department to grant to a new salon or shop a temporary operating permit; or
- (b) shall, in order to avoid a disruption of business, authorize the department to grant a temporary

operating permit to an existing shop or salon whose owner or operator is currently in good standing with the board, as defined by the board, and who is relocating to a new location. An owner or operator of an existing shop or salon may not receive a temporary operating permit under this section within 90 days of a license renewal date.

(3) A temporary operating permit granted pursuant to subsection (2) authorizes the salon or shop to operate ~~for a period not to exceed 90 days or until the inspector is able to make the inspection, whichever comes first~~ until an inspection is conducted of the salon or shop and the salon or shop owner or manager has had 30 days to respond in writing to all inspection report violations to the board office. A license will not be granted to a salon or shop if the board does not receive a response within 30 days from the date of the inspection or the response received does not indicate that all of the inspection violations have been corrected, in which case a new license application must be filed. A temporary permit is not renewable.

(4) The department shall require an inspector appointed under subsection (1) to conduct an annual inspection of each salon or shop in the state."

Section 11. Section 37-47-202, MCA, is amended to read:

"37-47-202. Executive director ~~— powers and duties.~~ ~~(4)~~ The department may hire an executive director to assist the board in carrying out its duties under this chapter.

~~(2) The duties of the executive director include:~~

- ~~— (a) processing and investigating applications for licensure as an outfitter or guide;~~
- ~~— (b) conducting investigations of outfitters and guides that involve violations of this chapter or rules of the board and reporting to the board regarding complaints and investigations of complaints;~~
- ~~— (c) coordinating inspections, investigations, and training activities of investigators under this chapter; and~~
- ~~— (d) coordinating investigations with other local, state, and federal agencies."~~

Section 12. Section 37-47-310, MCA, is amended to read:

"37-47-310. Transfer or amendment of outfitter's license -- transfer of river-use days to new owner of fishing outfitter business. (1) An outfitter's license may not be transferred.

(2) An individual person may, upon proper showing, have that person's outfitter's license amended to indicate that the license is being held for the use and benefit of a named proprietorship, partnership, or corporation.

(3) Subject to approval by the board, a person designated by the family of ~~a deceased licensed outfitter~~ may continue to outfit for the ~~deceased outfitter's unexpired license year or until the heirs or personal representative of the estate sells the outfitting business or obtains relicensure of the business~~ an outfitter who is deceased or incapacitated due to physical or mental disease or injury or who is unable to carry out the responsibilities of an outfitter due to the outfitter's status as an active member of the military may continue to provide outfitting services for the outfitter's unexpired license year, or until the family sells the outfitting business, until the designee obtains an outfitter license.

(4) When a fishing outfitter's business is sold or transferred in its entirety, any river-use days that have been allocated to that fishing outfitter through the fishing outfitter's historic use of or activities on restricted-use streams are transferable to the new owner of the fishing outfitter's business. Upon the sale or transfer of a fishing outfitter's business, the outfitter who sells or transfers the business shall notify the new owner that the use of any transferred river-use days is subject to change pursuant to rules adopted by the fish, wildlife, and parks commission and that a property right does not attach to the transferred river-use days."

Section 13. Section 37-47-351, MCA, is amended to read:

"37-47-351. Investigators -- qualifications. ~~(1)~~ The department may hire investigators to assist the board in investigations and inspections authorized by this chapter.

~~(2) To qualify as an investigator, a person must:~~

- ~~—— (a) be a citizen of the United States and be a Montana resident;~~
- ~~—— (b) have knowledge of outfitting and guiding through prior experience as a licensed outfitter, guide, or professional guide or as a regulator of the outfitting profession; and~~
- ~~—— (c) have not less than 2 years' experience as a licensed private investigator or as an investigator, detective, special agent, or peace officer of a city, county, or state or of a federal agency."~~

Section 14. Section 37-51-204, MCA, is amended to read:

"37-51-204. Educational programs. (1) The board may, subject to 37-1-101, conduct, hold, or assist in conducting or holding real estate clinics, meetings, courses, or institutes and incur necessary expenses in this connection.

(2) Except as provided in 37-51-302 and subsection (3) of this section, the board may not require

examinations of licensees.

(3) The board may require specified performance levels of a licensee with respect to the subject matter of a continuing education course required by the board when the licensee and the instructor of the course are not physically present in the same facility at the time the licensee receives the instruction.

(4) Education information obtained electronically by the board or stored in the board's databases may be used to determine compliance with education requirements established by the board. The use of the information may not be considered an audit for purposes of compliance with 37-1-131."

Section 15. Section 37-51-308, MCA, is amended to read:

"37-51-308. Broker's office -- notice to department of change of address. (1) A ~~resident~~ licensed broker shall maintain a ~~fixed office in this state. The~~ designated physical address where the original license of the broker and the original license of each salesperson associated or under contract with the broker ~~shall~~ must be prominently displayed ~~in the office. The~~ designated address of the ~~office and any branch office shall~~ broker must be ~~designated~~ indicated on the broker's license.

(2) In case of removal from the designated address, the ~~licensee~~ broker shall notify the department before removal or within 10 days ~~thereafter~~ after removal, designating the new ~~location of this office~~ physical address and paying the required fee, whereupon a license for the new location must be issued for the unexpired period."

Section 16. Section 37-51-605, MCA, is amended to read:

"37-51-605. Property manager's office -- notice of change of address. A property manager shall maintain a fixed office in this state at which the original license of the property manager must be prominently displayed. ~~The office manager must be designated on the license. If the property manager changes the location of the office, the property manager shall notify the department of the new address within 10 days after the change of address."~~

Section 17. Section 37-60-101, MCA, is amended to read:

"37-60-101. Definitions. As used in this chapter, the following definitions apply:

(1) "Alarm response runner" means an individual employed by an electronic security company, a contract

security company, or a proprietary security organization to respond to security alarm system signals.

(2) "Armed" means an individual who at any time wears, carries, or possesses a firearm in the performance of professional duties.

(3) "Armed carrier service" means any person or security company who transports or offers to transport under armed private security guard from one place to another any currency, documents, papers, maps, stocks, bonds, checks, or other items of value that require expeditious delivery.

(4) "Armed private investigator" means a private investigator who at any time wears, carries, or possesses a firearm in the performance of the individual's duties.

(5) "Armed private security guard" means an individual employed by a contract security company or a proprietary security organization whose duty or any portion of whose duty is that of a security guard, armored car service guard, or carrier service guard and who at any time wears or carries a firearm in the performance of the individual's duties.

(6) "Armored car service" means any person or security company who transports or offers to transport under armed private security guard from one place to another any currency, jewels, stocks, bonds, paintings, or other valuables of any kind in a specially equipped motor vehicle that offers a high degree of security.

(7) "Board" means the board of private security provided for in 2-15-1781.

(8) "Branch office" means any office of a licensee within the state, other than its principal place of business within the state.

(9) "Contract security company" means any person who undertakes to provide a private security guard, alarm response runner, armored car service, street patrol service, or armed carrier service on a contractual basis to another person who exercises no direction and control over the performance of the details of the services rendered.

(10) "Department" means the department of labor and industry provided for in 2-15-1701.

(11) (a) "Electronic security company" means a person who sells, installs, services, or maintains a security alarm system and who undertakes to hire, employ, and provide alarm response runners and security alarm installers on a contractual basis to another person who does not exercise direction and control over the performance of the services rendered.

(b) The term does not include a person whose primary business is that of a locksmith and who may also install closed-circuit television cameras and battery-operated door devices.

(12) "Firearms course" means the course approved by the board and conducted by a firearms instructor.

(13) "Firearms instructor" means an individual who has been approved by the board to instruct firearms courses in the use of weapons.

(14) "Insurance adjuster" means a person employed by an insurance company, other than a private investigator, who for any consideration conducts investigations in the course of adjusting or otherwise participating in the disposal of any claims in connection with a policy of insurance but who does not perform surveillance activities or investigate crimes against the United States or any state or territory of the United States.

(15) "Licensee" means a person licensed under this chapter.

(16) "Paralegal" or "legal assistant" means a person qualified through education, training, or work experience to perform substantive legal work that requires knowledge of legal concepts and that is customarily but not exclusively performed by a lawyer and who may be retained or employed by one or more lawyers, law offices, governmental agencies, or other entities or who may be authorized by administrative, statutory, or court authority to perform this work.

(17) "Person" means an individual, firm, company, association, organization, partnership, or corporation.

(18) "Private investigator" means a person other than an insurance adjuster who for any consideration makes or agrees to make any investigation with reference to:

- (a) crimes against the United States or any state or territory of the United States;
- (b) the identity, habits, conduct, business, occupation, honesty, integrity, trustworthiness, efficiency, loyalty, activity, movement, location, affiliations, associations, transactions, reputation, or character of any person;
- (c) the location, disposition, or recovery of lost or stolen property;
- (d) the cause or responsibility for fires, libels, losses, accidents, or injury to persons or property; or
- (e) gathering evidence to be used before any court, board, officer, or investigating committee.

(19) "Private security guard" means an individual employed or assigned duties to protect a person or property or both a person and property from criminal acts and whose duties or any portion of whose duties include but are not limited to the prevention of unlawful entry, theft, criminal mischief, arson, or trespass on private property or the direction of the movements of the public in public areas.

(20) "Process server" means a person described in 25-1-1101(1).

(21) "Proprietary security organization" means any person who employs a private security guard, alarm response runner, armored car service, street patrol service, or armed carrier service on a routine basis solely for

the purposes of that person and exerts direction and control over the performance of the details of the service rendered.

(22) "Resident manager" means the person appointed to exercise direct supervision, control, charge, management, or operation of each ~~branch~~ office located in this state where the business of the licensee is conducted.

(23) (a) "Security alarm installer" means an individual who sells, installs, services, or maintains security alarm systems to detect and signal unauthorized intrusion, movement, break-in, or criminal acts and is employed by an electronic security company.

(b) The term does not include a person whose primary business is that of a locksmith and who may also install closed-circuit television cameras and battery-operated door devices.

(24) (a) "Security alarm system" means an assembly of equipment and devices or a single device or a portion of a system intended to detect or signal or to both detect and signal unauthorized intrusion, movement, or criminal acts at a location.

(b) The term does not include systems that monitor temperature, humidity, or any other atmospheric condition not directly related to the detection of an unauthorized intrusion or criminal act at a location.

(25) "Security company" means an electronic security company, a proprietary security organization, or a contract security company.

(26) "Street patrol service" means a person providing patrols by means of foot, vehicle, or other method of transportation using public streets, thoroughfares, or property in the performance of the person's duties and responsibilities.

(27) "Unarmed private investigator" means a private investigator who does not wear, carry, or possess a firearm in the performance of the individual's duties.

(28) "Unarmed private security guard" means an individual who is employed by a contract security company or a proprietary security organization, whose duty or any portion of whose duty is that of a private security guard, armored car service guard, or alarm response runner, and who does not wear, carry, or possess a firearm in the performance of those duties."

Section 18. Section 37-60-202, MCA, is amended to read:

"37-60-202. Rulemaking power. The board shall adopt and enforce rules:

- (1) fixing the qualifications of resident managers, licensees, holders of identification cards, and process servers, in addition to those prescribed in Title 25, chapter 1, part 11, and in this chapter, necessary to promote and protect the public welfare;
- (2) establishing, in accordance with 37-1-134, application fees for original licenses and identification cards, and providing for refunding of any fees;
- (3) (a) requiring approval of the board prior to the establishment of branch offices of any licensee; and
 (b) establishing qualification requirements and license fees for branch offices identified in subsection (3)(a);
- (4) for the certification of private investigator, private security guard, security alarm installer, and alarm response runner training programs, including the certification of firearms training programs;
- (5) for the licensure of firearms instructors;
- (6) for the approval of weapons;
- ~~(7) requiring the maintenance of records;~~
- ~~(8)(7)~~ requiring licensees, except process servers, to file an insurance policy with the board; and
- ~~(9)(8)~~ providing for the issuance of probationary identification cards for private investigators and security alarm installers who do not meet the requirements for age, employment experience, or written examination."

Section 19. Section 37-60-303, MCA, is amended to read:

"37-60-303. License or registration qualifications. (1) Except as provided in subsection (7)(a), an applicant for licensure under this chapter or an applicant for registration as a process server under this chapter is subject to the provisions of this section and shall submit evidence ~~under oath~~ that the applicant:

- (a) is at least 18 years of age;
- (b) is a citizen of the United States or a legal, permanent resident of the United States;
- (c) has not been convicted in any jurisdiction of any felony or any crime involving moral turpitude or illegal use or possession of a dangerous weapon, for which a full pardon or similar relief has not been granted;
- (d) has not been judicially declared incompetent by reason of any mental defect or disease or, if so declared, has been fully restored;
- (e) is not suffering from habitual drunkenness or from narcotics addiction or dependence;
- (f) is of good moral character; and

(g) has complied with other experience qualifications as may be set by the rules of the board.

(2) In addition to meeting the qualifications in subsection (1), an applicant for licensure as a private security guard, security alarm installer, or alarm response runner shall:

(a) complete the requirements of a training program certified by the board and provide, on a form prescribed by the ~~board~~ department, written notice of satisfactory completion of the training; and

(b) fulfill other requirements as the board may by rule prescribe.

(3) In addition to meeting the qualifications in subsection (1), each applicant for a license to act as a private investigator shall submit evidence ~~under oath~~ under oath that the applicant:

(a) is at least 21 years of age;

(b) has at least a high school education or the equivalent;

(c) has not been dishonorably discharged from any branch of the United States military service; and

(d) has fulfilled any other requirements as the board may by rule prescribe.

(4) The board may require an applicant to demonstrate by written examination additional qualifications as the board may by rule require.

(5) An applicant for a license as a private security patrol officer or private investigator who will wear, carry, or possess a firearm in performance of the applicant's duties shall submit written notice of satisfactory completion of a firearms training program certified by or satisfactory to the board, as the board may by rule prescribe.

(6) Except for an applicant subject to the provisions of subsection (7)(a), the board shall require a background investigation of each applicant for licensure or registration under this chapter that includes a fingerprint check by the Montana department of justice and the federal bureau of investigation.

(7) (a) A firm, company, association, partnership, limited liability company, corporation, or other entity that intends to engage in business governed by the provisions of this chapter must be incorporated under the laws of this state or qualified to do business within this state and must be licensed by the board or, if doing business as a process server, must be registered by the board.

(b) Individual employees, officers, directors, agents, or other representatives of an entity described in subsection (7)(a) who engage in duties that are subject to the provisions of this part must be licensed pursuant to the requirements of this part or, if doing business as a process server, must be registered by the board."

Section 20. Section 37-67-306, MCA, is amended to read:

"37-67-306. Qualifications of applicant for licensure as professional engineer. The following is considered minimum evidence satisfactory to the board that the applicant is qualified for licensure as a professional engineer:

(1) A graduate of an engineering or engineering technology curriculum of 4 years or more approved by the board as being of satisfactory standing, with a specific record of an additional 4 years or more of progressive experience on engineering projects under the direct supervision of a professional engineer, unless exempt under 37-67-320(2), and ~~who has passed examinations of a grade and character that~~ whose qualifications indicate to the board that the applicant may be competent to practice engineering, must be admitted to an 8-hour written examination in the fundamentals of engineering and an 8-hour written examination in the principles and practices of engineering. Upon passing the examinations, the applicant must be granted a license to practice engineering in this state if the applicant is otherwise qualified.

(2) A graduate of a related science curriculum of 4 years or more, other than engineering or engineering technology, with a specific record of 8 years or more of progressive experience on engineering projects of a grade and character that indicate to the board that the applicant may be competent to practice engineering, may be admitted to an 8-hour written examination in the fundamentals of engineering and an 8-hour written examination in the principles and practices of engineering. Upon passing the examinations, the applicant must be granted a license to practice engineering in this state if the applicant is otherwise qualified.

(3) A graduate of an engineering or related science curriculum of 4 years or more, with a specific record of 20 years or more of progressive experience on engineering projects, of which at least 10 of those years the applicant has been in charge of important engineering projects, of a grade and character that indicate to the board that the applicant may be competent to practice engineering, must be admitted to an 8-hour written examination in the principles and practices of engineering. Upon passing the examination, the applicant must be granted a license to practice engineering in this state if the applicant is otherwise qualified.

(4) Teaching engineering in a college or university offering an approved engineering curriculum of 4 years or more may be considered as engineering experience in these requirements if research, product development, or consulting has been a concurrent activity.

(5) A person who holds a doctorate degree in engineering from an institution with an engineering program approved by the board and the engineering accreditation commission of the accreditation board for

engineering and technology or the Canadian engineering accreditation board and who provides a specific record of at least 4 years of progressive experience on engineering projects of a grade and character that indicate to the board that the applicant may be competent to practice engineering must be admitted to an 8-hour written examination in the principles and practices of engineering. Upon passing the examination, the applicant must be issued a license to practice engineering in this state if the applicant is otherwise qualified."

Section 21. Section 37-67-312, MCA, is amended to read:

"37-67-312. Licensure of professional engineers without examination by comity or endorsement.

(1) A person holding a certificate of registration to engage in the practice of engineering issued to the person by a proper authority of a state, territory, or possession of the United States, the District of Columbia, or any foreign country, based on requirements that do not conflict with the provisions of this chapter and that were of a standard not lower than that specified in the applicable registration act in effect in this state at the time the certificate was issued, may upon application be licensed without further examination.

(2) A person holding a certificate of qualification issued by the committee on national engineering certification of the national council of examiners for engineering and surveying and whose qualifications meet the requirements of this chapter may upon application be licensed without further examination.

(3) A person holding a license to engage in the practice of engineering in another state, territory, or possession of the United States, the District of Columbia, or any foreign country may be issued a license in this state if the person applies in the manner required by the board, meets the qualifications provided in 37-67-306, and has taken and passed the examinations provided for in 37-67-306 and 37-67-311. The experience requirements of 37-67-306 may be met with experience gained after initial licensure that indicates to the board that the applicant is competent to practice engineering."

Section 22. Section 37-67-313, MCA, is amended to read:

"37-67-313. Comity consideration for land surveyors from other states. (1) A person holding a certificate of registration to engage in the practice of land surveying issued by a proper authority of a state, territory, or possession of the United States or the District of Columbia, based on requirements that do not conflict with the provisions of this chapter and that were of a standard not lower than that specified in the applicable registration act in effect in this state at the time the certificate was issued, will be given comity consideration.

However, the person may be asked to meet the conditions for taking examinations and to take them as the board considers necessary to determine the person's qualifications. In any event, the person shall pass a written examination that includes questions on laws, procedures, and practices pertaining to the practice of land surveying in this state.

(2) A person holding a license to engage in the practice of land surveying in another state, territory, or possession of the United States, the District of Columbia, or any foreign country may be issued a license in this state if the person applies in the manner required by the board, meets the qualifications provided in 37-67-309, has taken and passed the examinations provided for in 37-67-309 and 37-67-311, and has taken and passed a written examination that includes questions on laws, procedures, and practices pertaining to the practice of land surveying in this state. The experience requirements of 37-67-309 may be met with experience gained after initial licensure that indicates to the board that the applicant is competent to practice land surveying."

Section 23. Section 50-76-113, MCA, is amended to read:

"50-76-113. Recognition of national certification. (1) The department shall issue a first-class or second-class crane and hoist engineer's license to any individual who is certified by the national commission for the certification of crane operators or any other similar certifying organization that has been approved by the department as having qualifications that are at least substantially equivalent to the requirements of this state for licensing as a first-class or second-class crane and hoist engineer.

(2) An individual licensed under this section is subject to all requirements of this chapter pertaining to licensed first-class or second-class crane and hoist engineers, including license fees, biennial physical exams, and 5-year reexaminations."

Section 24. Repealer. The following section of the Montana Code Annotated is repealed:

37-7-204. Posting of prescription drug prices -- adoption of list by rule.

- END -

I hereby certify that the within bill,
HB 0094, originated in the House.

Chief Clerk of the House

Speaker of the House

Signed this _____ day
of _____, 2011.

President of the Senate

Signed this _____ day
of _____, 2011.

HOUSE BILL NO. 94
INTRODUCED BY E. ARNTZEN
BY REQUEST OF THE DEPARTMENT OF LABOR AND INDUSTRY

AN ACT GENERALLY REVISING PROFESSIONS AND OCCUPATIONS LAW; REVISING LICENSE VERIFICATION REQUIREMENTS FOR OUT-OF-STATE APPLICANTS; PROVIDING THAT A SCREENING PANEL IS AN AGENCY FOR THE PURPOSE OF SUMMARY SUSPENSIONS; REVISING DEFINITIONS AND THE ADMINISTRATION OF ANESTHESIA PERTAINING TO DENTISTRY; ELIMINATING THE REFERENCE TO A STATE EXAMINATION WITH RESPECT TO PODIATRISTS; REVISING BARBER AND COSMETOLOGIST LAW REGARDING BOOTH RENTAL, INSTRUCTOR TRAINING, AND LICENSING; EXPANDING THE AUTHORITY OF THE BOARD OF OUTFITTERS TO APPROVE LICENSE SUCCESSORS; REVISING DUTIES OF THE BOARD OF OUTFITTERS AND ELIMINATING RESTRICTIONS ON THE BOARD'S HIRING OF INVESTIGATORS; REVISING REALTY LAWS PERTAINING TO EDUCATION AND LICENSING REQUIREMENTS; REVISING PRIVATE SECURITY LAW DEFINITIONS AND RULEMAKING; AMENDING PROFESSIONAL ENGINEERING AND LAND SURVEYOR LAWS WITH RESPECT TO OUT-OF-STATE APPLICANTS; EXPANDING RECIPROCITY WITH RESPECT TO CRANE OPERATORS; REPEALING THE REQUIREMENT THAT PHARMACIES POST CERTAIN PRESCRIPTION DRUG PRICES; AMENDING SECTIONS 37-1-304, 37-1-305, 37-1-307, 37-3-310, 37-4-101, 37-4-511, 37-6-302, 37-31-305, 37-31-309, 37-31-312, 37-47-202, 37-47-310, 37-47-351, 37-51-204, 37-51-308, 37-51-605, 37-60-101, 37-60-202, 37-60-303, 37-67-306, 37-67-312, 37-67-313, AND 50-76-113, MCA; AND REPEALING SECTION 37-7-204, MCA.